

## INDEPENDENT CONTRACTOR SERVICE AGREEMENT

THIS AGREEMENT (hereinafter "Agreement") is between the undersigned Independent Contractor, **Electronic Maintenance Associates, Inc., (EMA)** (hereinafter "INDEPENDENT CONTRACTOR"), with a principal place of business at **5220 Langford Park Drive, Suite A, Norcross, GA 30071** and the DeKalb County School District (hereinafter "DCSD"), with its principal place of business at 1701 Mountain Industrial Blvd, Stone Mountain, GA 30083. The INDEPENDENT CONTRACTOR and DCSD are referred to herein jointly as the "Parties" and individually as a "Party." In consideration of the mutual agreements and covenants set forth and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties to this Agreement do hereby covenant and agree as follows:

- A. ENGAGEMENT:** Subject to the terms and conditions of this Agreement, DCSD hereby retains INDEPENDENT CONTRACTOR, as an independent contractor, to provide the "Services" described herein, and INDEPENDENT CONTRACTOR hereby accepts such engagement. INDEPENDENT CONTRACTOR shall furnish the Services to the DSCD from time to time on request throughout the term of this Agreement and INDEPENDENT CONTRACTOR shall use his/her/its best efforts to furnish the Services to the satisfaction of the DCSD and shall provide the Services at times and places as are necessary and appropriate.
  
- B. SERVICES:** INDEPENDENT CONTRACTOR agrees to render the following services (hereinafter "Services") as requested periodically through the Term:  
**Repair, service, and purchase of VFD drives**

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1. **Performance of Services.** INDEPENDENT CONTRACTOR will supply all tools and instrumentalities required to perform the Services under this Agreement and shall perform the Services in a workmanlike and professional manner and shall provide such warranties as are consistent with industry customs and standards. INDEPENDENT CONTRACTOR agrees to act with prudence and diligence and in a timely manner in the performance of his duties and responsibilities hereunder and in good faith and in the best interests of the DCSD. During the term of this Agreement, INDEPENDENT CONTRACTOR shall devote as much of his/her/its productive time, energy and abilities to the performance of his duties for DCSD as is necessary to perform the required duties in a timely and productive manner. Subject to any other written agreement between INDEPENDENT CONTRACTOR and DCSD, INDEPENDENT CONTRACTOR is free to engage in other independent contracting activities, provided that INDEPENDENT CONTRACTOR does not engage in any such activities which are inconsistent with or in conflict with INDEPENDENT CONTRACTOR's Services for DCSD, or that so occupy INDEPENDENT CONTRACTOR's attention as to interfere with the proper and efficient performance of INDEPENDENT CONTRACTOR's Services for the DCSD.

2. **Supervision of INDEPENDENT CONTRACTOR.** Independent Contractor warrants and represents that INDEPENDENT CONTRACTOR has the training, skills and acumen required to perform the Services. With respect to the duties and obligations of INDEPENDENT CONTRACTOR under this Agreement, INDEPENDENT CONTRACTOR hereby acknowledges and agrees that DCSD shall retain the right to require certain results in conformity with the Agreement. INDEPENDENT CONTRACTOR will determine the method, details, and means of performing the Services. INDEPENDENT CONTRACTOR agrees and acknowledges that DCSD has no right to and shall exercise no control over the time, manner, methods or means of INDEPENDENT CONTRACTOR's performance of the Services.

- C. TERM:** The term of this Agreement (the "Term") is as follows:

|                        |                           |                          |                          |
|------------------------|---------------------------|--------------------------|--------------------------|
| <b>Start Date:</b>     | <b>September 13, 2022</b> | <b>End Date:</b>         | <b>December 31, 2022</b> |
| <b>Renewal Date: *</b> | <b>January, 1, 2023</b>   | <b>Renewal End Date:</b> | <b>June 30, 2023</b>     |

\*This Agreement shall renew on the Renewal Date, unless DCS D terminates this Agreement by providing written notice of termination to Contractor prior to December 31<sup>st</sup> End Date. In no event shall the Term of this Agreement exceed twelve (12) months.

1. This Agreement may be terminated by DCS D at any time, for any reason, by written notice of such intent submitted thirty (30) days in advance. In such an event, INDEPENDENT CONTRACTOR will be paid for all services rendered prior to termination of this Agreement.

2. Within three business days of any such cancellation or termination of this Agreement by DCS D, INDEPENDENT CONTRACTOR will produce, submit and deliver to DCS D all documents, material, data and information gathered or developed by INDEPENDENT CONTRACTOR prior to cancellation or termination of this Agreement. Under no circumstances shall INDEPENDENT CONTRACTOR assert any lien or other claim over or relating to any such documents, material, data and information.

**D. CONTRACT FEES:** INDEPENDENT CONTRACTOR shall be paid the following contract fee for the Services to be rendered under this Agreement as follows: (check the appropriate compensation plan and complete blanks)

- \$ \_\_\_\_\_ for full payment upon completion of above services.
- \$ \_\_\_\_\_ per hour; maximum hours are to be \_\_\_\_\_.
- If full payment is not due upon submission of this contract, check this box and attach a payment schedule or fee schedule.**

**TOTAL CONTRACTED AMOUNT**

The total amount of payments by DCS D, including all fees, travel, or other expenses under this Agreement shall not exceed \$ **85,000.00** (hereinafter this amount is referred to as the "Total Contracted Amount"). The Total Contracted Amount shall not be modified except where evidence acceptable to DCS D of changed market conditions and indices is produced. Any such proposed price escalation of the Total Contracted Amount must be agreed to in writing by DCS D and must be presented in writing with substantiating proof to DCS D a minimum of ninety (90) days prior to the proposed effective date of any escalation or increase of the Total Contracted Amount.

1. **General.** DCS D will not be obligated to pay Independent Contractor any amount in addition to the charges set forth in an applicable Payment Schedule or Fee Schedule for Independent Contractor's provision of the Service.
2. **Invoices.** Independent Contractor shall prepare and submit to DCS D invoices for payment of all charges in accordance with the applicable attached Payment Schedule or Fee Schedule. Each invoice shall be in such detail and in such format as DCS D may reasonably require.
3. **Maximum Amount.** DCS D shall not be obligated to pay any amount in excess of the Total Contracted Amount for all Services under all invoices.
4. **No Acceptance of Nonconforming Work.** No payment of any invoice or any partial or entire use of the Services by DCS D constitutes acceptance of any Services.

**\*\*E-VERIFY AFFIDAVITS: Independent Contractor *MUST SIGN AND RETURN THE E-VERIFY AFFIDAVITS***

- E. INTENT:** It is mutually understood, acknowledged and agreed that the parties intend to create and are creating an independent contractor relationship under this Agreement. INDEPENDENT CONTRACTOR is an independent contractor for all purposes, having the right to exercise independent judgment as to time, place, and manner of executing the work and services hereunder and of otherwise carrying out the provisions of this Agreement and INDEPENDENT CONTRACTOR is not subject to the control of DCSD except as set forth herein. INDEPENDENT CONTRACTOR agrees that under no circumstances shall INDEPENDENT CONTRACTOR, or any of INDEPENDENT CONTRACTOR's employees, look to DCSD as his/her/its employer, or as a partner, agent or principal. DCSD does not authorize or empower INDEPENDENT CONTRACTOR to use the DCSD's name in any capacity other than as provided herein and INDEPENDENT CONTRACTOR shall not make any contract, agreement, warranty, or representation on the DCSD's behalf, incur any debt or other obligation in the DCSD's name, or sign the DCSD's name to any contracts, documents, receipts, bills, invoices or any other written instrument.
- F. NO BENEFITS:** INDEPENDENT CONTRACTOR acknowledges that INDEPENDENT CONTRACTOR is not eligible for or entitled to participate in any benefits provided by DCSD to its employees, regardless of the length of INDEPENDENT CONTRACTOR'S relationship with DCSD and regardless of whether INDEPENDENT CONTRACTOR is held to be a common-law employee of DCSD for any purpose. Neither INDEPENDENT CONTRACTOR, nor any of INDEPENDENT CONTRACTOR's employees, shall be entitled to any benefits accorded to DCSD's employees, including, but not limited to, health insurance, workers' compensation, disability insurance, vacation or sick pay. Therefore, with full knowledge and understanding, INDEPENDENT CONTRACTOR hereby expressly waives any claim or right that INDEPENDENT CONTRACTOR may have, now or in the future, to such benefits and agrees not to make any claim for such benefits. INDEPENDENT CONTRACTOR shall be responsible for providing, at INDEPENDENT CONTRACTOR's expense, and in INDEPENDENT CONTRACTOR's name, unemployment, disability, worker's compensation and other insurance, as well as licenses and permits usual or necessary for conducting the Services.
- G. TAXES AND REPORTING:** INDEPENDENT CONTRACTOR, is solely responsible for payment of all federal, state and local income taxes, self-employed Social Security taxes and any other similar obligations arising from the performance of the Services or receipt of fees therefore, including but not limited to workers' compensation or unemployment compensation. DCSD will not withhold any income or social security taxes from any fees payable hereunder to INDEPENDENT CONTRACTOR and will not pay any social security or employment security taxes for or on behalf of INDEPENDENT CONTRACTOR. DCSD shall report all fees paid to INDEPENDENT CONTRACTOR to the Internal Revenue Service (and other taxing agencies) on Form 1099 or other appropriate forms. INDEPENDENT CONTRACTOR acknowledges and agrees that it shall be the obligation of INDEPENDENT CONTRACTOR to report as income, and pay all taxes upon, all compensation received by INDEPENDENT CONTRACTOR pursuant to this Agreement. INDEPENDENT CONTRACTOR agrees to indemnify DCSD and hold it harmless to the extent of any obligation imposed on DCSD to pay any taxes or insurance, including without limitations, withholding taxes, social security, unemployment, or disability insurance, including the interest and penalties thereon, in connection with any payments made to INDEPENDENT CONTRACTOR by DCSD pursuant to this Agreement. INDEPENDENT CONTRACTOR agrees to pay, indemnify and hold DCSD harmless from any tax imposed by any governmental authority with respect to either or both of any payment to be made by DCSD under this Agreement or any item to be delivered by INDEPENDENT CONTRACTOR to DCSD under this Agreement, including, but not limited to, sales, use, excise, value added, withholding, or similar tax or any fees and penalties or interest associated with any of the foregoing.
- 1. ACA Compliance.** INDEPENDENT CONTRACTOR agrees that he/she is not an employee of DCSD for purposes of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001, et seq. ("ACA"), or for any other purpose. INDEPENDENT CONTRACTOR agrees that he/she will be responsible for all compliance and reporting requirements under the ACA and certifies that he/she has their own individual health plan coverage. INDEPENDENT CONTRACTOR agrees that he/she shall make the necessary federal, state, and local filings and returns as required by law at the appropriate times, including, but not limited to, federal,

state, and local income tax (including estimates), filings and returns required by the Self-Employment Contribution Act, and any other filing or return, required by federal, state, or local government. INDEPENDENT CONTRACTOR retains sole and exclusive liability for all contributions, taxes or payments required to be made on account of INDEPENDENT CONTRACTOR's employees under federal or state income tax laws, unemployment and workers' compensation acts, social security acts, and all other legislation requiring employer contributions or withholdings.

2. **ACA Reporting.** With respect to ACA compliance obligations, INDEPENDENT CONTRACTOR acknowledges and agrees that: a. INDEPENDENT CONTRACTOR is responsible for filing Form 1094-C and Form 1095-C with respect to all assigned workers assigned to DCSD; b. INDEPENDENT CONTRACTOR is responsible for compliance with Internal Revenue Code Section 4980H with respect to assigned workers; c. If requested by DCSD in connection with any governmental audit or inquiry, INDEPENDENT CONTRACTOR will cooperate in furnishing DCSD with detailed information on assigned workers as reasonably needed for DCSD to respond to such audit or inquiry, and at no additional charge; d. In addition to any existing indemnification obligations set forth in this Agreement, INDEPENDENT CONTRACTOR agrees to reimburse DCSD for any penalty or tax imposed against DCSD with respect to any assigned worker, and to indemnify and hold harmless DCSD against all liabilities, penalties and fees that may be imposed upon DCSD, under Internal Revenue Code Section 4980H(a) or (b); *provided* that DCSD will provide prompt notice to INDEPENDENT CONTRACTOR of its receipt of any notice of assessment of penalty or taxes under Code Section 4980H and INDEPENDENT CONTRACTOR will cooperate fully with DCSD in contesting such assessment and accepting responsibility for its assigned workers.

H. **NOTICES:** All notices shall be in writing, be deemed served on the date on which they are actually received, and shall be served by personal delivery, or United States First Class Mail, properly addressed with postage prepaid, or a nationally recognized overnight courier/delivery service, electronic mail transmission, or telephonic facsimile transmission. Invoices, Notices of Termination of this Agreement or of an election not to renew this Agreement shall be served directly upon DCSD or INDEPENDENT CONTRACTOR, as the case may be, addressed as set forth below.

DCSD's address and its contact person are:

DeKalb County School District  
1701 Mountain Industrial Blvd.  
Stone Mountain, GA 30083

Attention: **Richard H. Boyd, Interim Chief Operating Officer**

INDEPENDENT CONTRACTOR's address and its contact person are:

**Electronic Maintenance Associates, Inc. (EMA)**

**5220 Langford Park Drive, Suite A**

**Norcross, GA 30071**

Attention: **Megan Cosby, Customer Success Manager**

I. **WORKING RELATIONSHIP:** INDEPENDENT CONTRACTOR agrees that it will function in cooperation with DCSD's designated representative, **Richard H. Boyd**. INDEPENDENT CONTRACTOR will consult with DCSD's representative before finalizing recommendations or taking action at key decision points. INDEPENDENT CONTRACTOR shall fully cooperate with DCSD, and DCSD's representative or designee. Such cooperation shall include, without limitation, providing any requested information to DCSD's representative and advising, meeting with, consulting with, and coordinating with DCSD's representative.

1. DCSD shall have the right, at its sole discretion, to demand and require INDEPENDENT CONTRACTOR to remove any employee or subcontractor working on any provision of this Agreement and to replace the employee or subcontractor without cost or liability to the DCSD.

2. For purposes of safety and otherwise, INDEPENDENT CONTRACTOR, at all times, shall ensure its ability to thoroughly and clearly communicate, in any and all necessary languages, with DCSD's representative and with INDEPENDENT CONTRACTOR's employees, agents, representatives, and subcontractors.

3. INDEPENDENT CONTRACTOR shall ensure that any and all electronic devices, computers, software, hardware, equipment and other similar and related items that are utilized by INDEPENDENT CONTRACTOR, or any entity or person under INDEPENDENT CONTRACTOR's supervision or control, do not harm, or allow harm, to DCSD's computers, systems, networks, and technology. INDEPENDENT CONTRACTOR shall take any and all measures possible to protect DCSD's computers, systems, networks, and technology from viruses and other malicious codes.

**J. RESPONSIBILITY FOR SERVICES:** In the performance of this Agreement, INDEPENDENT CONTRACTOR warrants that it, and its consultants, shall consistently render its best efforts and shall exercise that degree of skill and care which others would exercise in like circumstances and that its services will be performed without errors or omissions.

1. If the services performed by INDEPENDENT CONTRACTOR, or by any consultant hired by INDEPENDENT CONTRACTOR, fail to meet the standards set forth in this Agreement, DCSD may elect to have INDEPENDENT CONTRACTOR re-perform, or cause to be re-performed, at no cost to DCSD any of the services which fail to meet said standards where: (i) such failure appears during the performance of INDEPENDENT CONTRACTOR's services or within one year from the date of completion of the services, and (ii) DCSD notifies INDEPENDENT CONTRACTOR of any such failure within sixty (60) days of the time that the failure becomes apparent. This paragraph shall not be interpreted to limit the right of DCSD to pursue and obtain any and all other remedies against INDEPENDENT CONTRACTOR at law or in equity.

2. INDEPENDENT CONTRACTOR warrants that any goods to be produced to or delivered to DCSD during the course and scope of work for this Agreement will be of merchantable quality, free from defects in materials and workmanship.

3. INDEPENDENT CONTRACTOR acknowledges that he/she shall be entitled to rely on the accuracy and currency of information supplied by DCSD any of DCSD's contractors or consultants, or available from generally accepted reputable sources.

4. DCSD makes no other warranties, express or implied.

**K. WORK FOR HIRE:** The Parties agree that the services have been specially ordered and commissioned by DCSD. To the extent that Services include materials subject to copyright, INDEPENDENT CONTRACTOR agrees that the Services are done as "work for hire" as that term is defined under U.S. copyright law, and that as a result, DCSD will own all copyrights in the Services. INDEPENDENT CONTRACTOR agrees to perform such Services in a diligent and workmanlike manner. The content, style, form and format of any work product of the Services shall be completely satisfactory to DCSD and shall be consistent with DCSD's standards. INDEPENDENT CONTRACTOR hereby grants DCSD the right, but not the obligation, to use and to license others the right to use INDEPENDENT CONTRACTOR and INDEPENDENT CONTRACTOR's employees' name, voice, signature, photograph, likeness and biographical information in connection with and related to the Services.

- L. OWNERSHIP OF WORK PRODUCT:** Any reports, recommendations, estimates, specifications, drawings, technical data, sketches, computer software, and all other information developed, created, procured or requested by INDEPENDENT CONTRACTOR, or its consultants, in connection with its performance under this Agreement (the "Information") shall be the property of DCSD. In entering into this Agreement, INDEPENDENT CONTRACTOR hereby transfers to DCSD all right, title, and interest, including the copyright, in and to the Information.
1. Any reports, recommendations, estimates, specification, drawings, technical data, sketches, computer software, and all other information developed by equipment vendors or other third parties that relate to this Agreement shall be the property of DCSD. This provision shall not act to transfer rights of owners of standard software or specification packages for which copyright is retained by the developer.
  2. All original technical data, evaluations, reports and other work product of INDEPENDENT CONTRACTOR shall be delivered to DCSD upon the completion, cancellation or termination of services under this Agreement within three (3) business days of such completion, cancellation or termination. INDEPENDENT CONTRACTOR may retain one (1) copy of all documents produced by it for its permanent file.
- M. ACCOUNTING AND RECORD KEEPING:** INDEPENDENT CONTRACTOR shall maintain a system of accounting and record keeping for all Services. Further, INDEPENDENT CONTRACTOR will allow DCSD's inspection of necessary supporting receipts and documentation for audit purposes for a period of six (6) years after completion of Services provided under this Agreement.
- N. COMPLIANCE WITH LAWS:** INDEPENDENT CONTRACTOR shall comply with all federal, state and local laws, regulations, ordinances, and DeKalb County Board of Education policies that are in any way applicable to the performance of its services under this Agreement including but not limited to laws governing health, safety, the protection or preservation of the environment, and occupational licensing.
- O. Background Checks.** If INDEPENDENT CONTRACTOR or any personnel/subcontractors of INDEPENDENT CONTRACTOR will have contact with students or will perform services in buildings or in close proximity to students, then a Background Check is required for each person providing said Services. Such background check shall be the same criminal background check, within the last 365 days, as required by DCSD employees. Such background checks will be performed by DCSD at the expense of the INDEPENDENT CONTRACTOR. Additionally, any charges against the INDEPENDENT CONTRACTOR, or personnel, may be deemed unacceptable in DCSD's sole discretion regardless of whether dismissed, expunged, sealed, removed from the record, treated as a "first offender" or dead docketed. Upon receipt and evaluation of DCSD's background check results, DCSD may demand that the personnel named in the check result, not provide services to DCSD premises. Any failure of the INDEPENDENT CONTRACTOR, or personnel, to obtain a criminal records background check through DCSD, as stated herein, may result in termination of any resulting contract between INDEPENDENT CONTRACTOR and DCSD.
- P. EQUAL EMPLOYMENT OPPORTUNITY:** INDEPENDENT CONTRACTOR will not discriminate against any worker, employee or applicant for employment because of race, color, religion, sex, national origin, age, citizenship status, veteran status, sexual orientation or handicap. INDEPENDENT CONTRACTOR will take affirmative action to ensure that applicants are employed, and that workers are treated during employment, without regard to their race, color, religion, sex, national origin, age, citizenship status, veteran status, sexual orientation or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- Q. CONTINGENCY FEES:** INDEPENDENT CONTRACTOR represents that it has not employed and shall not employ any person other than its own principals and employees to solicit this Agreement or any contract with DCSD, and that it has not and shall not pay any person other than its own principals and employees

any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement or any other contract with DCSD.

**R. SUBCONTRACTORS:** INDEPENDENT CONTRACTOR shall manage all work and services performed under this Agreement. Upon DCSD’s prior written consent, INDEPENDENT CONTRACTOR may subcontract all or part of the services to be provided. In such event, the rights and obligations of INDEPENDENT CONTRACTOR and DCSD will not be diminished.

1. All of INDEPENDENT CONTRACTOR’s subcontractors shall be directly responsible to INDEPENDENT CONTRACTOR and shall be under INDEPENDENT CONTRACTOR’s direct supervision. INDEPENDENT CONTRACTOR shall be as fully responsible and accountable to DCSD for the acts and omissions of INDEPENDENT CONTRACTOR’s subcontractors and of persons either directly or indirectly employed by any subcontractors in the performance of services under this Agreement as INDEPENDENT CONTRACTOR is for the acts and omissions of persons it directly employs. Other than DCSD being a third-party beneficiary to any agreement between INDEPENDENT CONTRACTOR and its subcontractors, no other contractual relationship between DCSD and any subcontractor is created by any provision contained in this Agreement. If INDEPENDENT CONTRACTOR utilizes subcontractor(s) with respect to this Agreement, then INDEPENDENT CONTRACTOR will require subcontractor(s) to comply with all terms and conditions of this Agreement including, but not limited to the insurance requirements. Any contractor shall require all subcontractors to supply a certificate of insurance as required herein before the subcontractor commences any work.

**S. SUCCESSORS AND ASSIGNS:** INDEPENDENT CONTRACTOR shall not assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of DCSD. Subject to the provisions of the immediately preceding sentence, each Party hereto binds itself, its successors, assigns and legal representatives to the other and to the successors, assigns and legal representatives of such other Party.

**T. INSURANCE:** INDEPENDENT CONTRACTOR and all subcontractors and consultants, shall maintain insurance in the types and coverage amounts shown below, which insurance shall provide coverage for INDEPENDENT CONTRACTOR during the term of this Agreement. On the date INDEPENDENT CONTRACTOR signs this Agreement, INDEPENDENT CONTRACTOR shall provide DCSD with (i) an endorsement from the insurer naming the DeKalb County School District and The DeKalb County Board of Education as an additional insured under the liability policies and (ii) certificate(s) verifying that these insurance coverages and limits are in force. Additional certificates of insurance shall be provided whenever individual policies are renewed (or replaced) on their anniversary date and at such other times as DCSD requests.

The insurance requirements of this Agreement are:

| Type of Insurance  | Coverage Limits  |
|--|--|
| Commercial General Liability<br>Including Contractual Liability,<br>Bodily Injury and Property Damage          | \$1,000,000 per occurrence<br>\$2,000,000 general aggregate<br>Products/Completed Operations Aggregate |
| Comprehensive Auto Liability<br>Bodily Injury and Property Damage<br>Covering Owned, Hired and Non-Owned Autos | \$1,000,000 Combined Single Limit (“CSL”)<br>each accident   |
| Umbrella Liability/Excess Liability  | \$2,000,000 per occurrence<br>\$2,000,000 aggregate  |

Workers Compensation and  
Employer's Liability

Statutory Coverage A  
Statutory Coverage B  
\$1,000,000 per accident

1. INDEPENDENT CONTRACTOR waives all rights, including rights of subrogation, against DCSD and its respective directors, officers, partners, Board Members, officials, agents, insurers, subcontractors, consultants and employees for damages covered by any type of insurance during and after the completion of the Work.
2. NO LIMITATION ON LIABILITY: The limits of the coverage as agreed upon by the Parties shall not be construed as a limit on INDEPENDENT CONTRACTOR'S potential liability to DCSD.

**U. INDEMNIFICATION:** INDEPENDENT CONTRACTOR agrees to hold harmless and indemnify the DeKalb County Board of Education, its members and officers, and DCSD, its employees and representatives (hereinafter the "Released Parties") from and against any and all liability, claims, actions, causes of action, losses, damages, demands, suits, judgments, costs and expenses arising out of bodily injury (including death) to persons, damage to property, including, but not limited to, any and all costs, expenses, legal fees and liabilities, incurred in and about investigation, defense or prosecution thereof, to the extent caused in whole or in part by a negligent act, error or omission of INDEPENDENT CONTRACTOR or any subcontractor(s), or as a result of defective services under this Agreement. INDEPENDENT CONTRACTOR agrees further to release, indemnify, defend and hold harmless the Released Parties from any and all claims, demands, rights, liabilities and causes of action inuring to INDEPENDENT CONTRACTOR from events over which the Released Parties exercise no control, such as Acts of God, strikes or government restrictions. The INDEPENDENT CONTRACTOR further agrees to indemnify, defend and hold harmless the Released Parties from any and all claims, demands, rights, liabilities and causes of action arising out of DCSD's performance under this Agreement.

**V. CONTRACT ADMINISTRATION:** To be binding against DCSD, and as a condition precedent thereto, any addition, deletion or modification to the terms of this Agreement must be in writing and signed by DCSD. INDEPENDENT CONTRACTOR acknowledges that DCSD does not, and will not be deemed to, waive this condition precedent under any circumstances.

1. Failure of DCSD or INDEPENDENT CONTRACTOR to insist in any one or more instances on performance of any of the terms and conditions of this Agreement, or to exercise any right or privilege contained in this Agreement, or the waiver of any breach of the terms and conditions of this Agreement, shall not be considered as creating or constituting a waiver of any such terms, conditions, rights or privileges, and the same shall continue and remain in force and effect.

2. INDEPENDENT CONTRACTOR will adhere to all applicable health and safety laws, rules and regulations including Occupational Safety and Health Administration's ("OSHA") Rules and Regulations effective at the time the work was performed.

3. This Agreement shall be governed by the laws of the State of Georgia. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement. A scanned or photocopy of an original signature shall be deemed an original for purposes of this Agreement.

**V. CAPTIONS:** The headings in this Agreement are for the convenience of the Parties hereto and shall in no way affect the construction or interpretation of this Agreement or any part hereof.

**W. ENTIRE AGREEMENT:** This Agreement (including any exhibits and schedules hereto) constitutes the entire and exclusive agreement between the Parties with reference to this contract and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements. This Agreement may be amended only by a writing signed by both DCSD and INDEPENDENT CONTRACTOR.

**X. CONFIDENTIAL INFORMATION:** INDEPENDENT CONTRACTOR, and all consultants and subcontractors, agree to keep confidential, to the extent allowed by law, all information, records and documents, obtained from DCSD, or created on behalf of DCSD, in conjunction with the performance of its duties under this Agreement. This confidential information includes but is not limited to data collected by INDEPENDENT CONTRACTOR and any student information, including but not limited to, student test scores, student test results, student attendance records, student assessments or student grades.

1. INDEPENDENT CONTRACTOR agrees not to use any confidential information received for any purpose other than in connection with the services provided herein. INDEPENDENT CONTRACTOR agrees to limit disclosure of the confidential information to its employees, officers, directors, affiliates and consultants with a bona fide need to know, but only to the extent necessary in connection with the services. All individuals receiving access to the confidential information must previously have entered into a confidentiality agreement with INDEPENDENT CONTRACTOR or otherwise be bound under terms at least as restrictive as those contained herein.

**Y. MISCELLANEOUS;**

1. Unless otherwise expressly provided to the contrary in this Agreement, the term "day" shall mean calendar day.
2. The exclusive venue for any civil action arising out of or related to this Agreement shall be in the federal, superior, or state courts of DeKalb County, Georgia. The parties may agree to participate in mediation prior to institution of any civil action.

**FOR COMPLETION BY THE INDEPENDENT CONTRACTOR**

The name and number stated below must appear exactly as approved by the Internal Revenue Service, and as shown on the IRS W-9 form submitted to DeKalb County School District.

**SOCIAL SECURITY NUMBER**

|  |  |  |    |  |  |    |  |  |  |  |
|--|--|--|----|--|--|----|--|--|--|--|
|  |  |  | -- |  |  | -- |  |  |  |  |
|--|--|--|----|--|--|----|--|--|--|--|

**EMPLOYER'S IDENTIFICATION NUMBER**

|   |   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|---|
| 5 | 8 | 1 | 8 | 9 | 4 | 0 | 6 | 2 |
|---|---|---|---|---|---|---|---|---|

5220 Langford Park Drive, Suite A  
Street Address

Norcross, GA 30071  
City, State and Zip Code

770-448-4644  
Telephone

Mcosby@emainc.net  
E-Mail Address

DEKALB COUNTY SCHOOL DISTRICT USE ONLY

\_\_\_\_\_  
School/Department Name and Location Number

Charge Code:

100.2600.543000.00011.7520.0000.8013.040.0000

THE ABOVE TERMS AND CONDITIONS ARE AGREED TO AND ACCEPTED BY:

**INDEPENDENT CONTRACTOR**

BY: \_\_\_\_\_

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

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**DEKALB COUNTY SCHOOL DISTRICT**

BY: \_\_\_\_\_

NAME: Dr. Vasanne S. Tinsley

TITLE: Interim Superintendent

DATE: \_\_\_\_\_