

**AGREEMENT FOR EDUCATIONAL STAFFING  
(TIPS Contract 230703 Staffing Services)**

**THIS AGREEMENT**, dated \_\_\_\_\_, \_\_\_\_\_, is between Kelly Services, Inc., with its principal offices located at 999 West Big Beaver Road, Troy, Michigan 48084 ("Kelly"), and DeKalb County School District, with its principal offices located at 1701 Mountain Industrial Blvd., Stone Mountain GA 30083 ("Customer").

**1) DESCRIPTION, LOCATION AND PRICING OF SERVICES**

Kelly will assign to the Customer Kelly temporary employees ("Assigned Employees"), through its service line, Kelly Educational Staffing, to provide education-related services, under the Customer's operational supervision, at the location(s) and for the pricing (and other related costs) described in Exhibits A and B (the "Services"). Exhibit B, the Customer Information Sheet, will be completed with Customer's collaboration and will provide detailed business requirements necessary to assist with meeting Customer needs. For instructional and paraprofessional positions, Customer agrees that Kelly shall be the exclusive contract provider of Assigned Employees to Customer. The pricing in Exhibit A is confidential between Kelly and Customer. Customer will be permitted to use Exhibit A in connection with its business operations, responses to Freedom of Information Act requests, and other uses as required by law. Should Customer determine that it may be legally obligated to disclose this information, Customer shall provide notice to Kelly at least five (5) business days in advance of producing any such information.

**2) KELLY GUARANTEE**

Kelly guarantees that the Assigned Employees it places with the Customer will satisfactorily perform the services ordered by Customer. If not, Kelly will cancel charges for unsatisfactory services and furnish a replacement as soon as possible when the Customer has provided notice of its dissatisfaction within the first sixteen (16) working hours of an Assigned Employee's assignment. If Kelly receives notice after an Assigned Employee's first sixteen (16) working hours, Kelly will furnish a replacement as soon as possible, but not cancel the charges for the unsatisfactory services.

**3) KELLY'S RESPONSIBILITIES**

As the provider of staffing services, Kelly will be the employer of Assigned Employees, and will be responsible for the staffing services listed below.

- (a) Source, recruit, select, and hire Assigned Employees;
- (b) Place Assigned Employees according to Customer's requirements;
- (c) Pay Assigned Employees their wages and provide them the benefits that Kelly offers, inclusive of any government mandated benefits, as Kelly employees;
- (d) Pay or withhold payroll taxes (e.g., FICA) and insurance premiums (e.g., Medicare) and fulfill its obligations for unemployment compensation (e.g., FUTA, SUTA);
- (e) Provide workers' compensation benefits and coverage for Assigned Employees;
- (f) Maintain Assigned Employees' personnel and payroll records related to their employment by Kelly;
- (g) Comply with laws, rules or regulations applicable to providers of staffing services;
- (h) Require Assigned Employees to agree in writing to protect the confidentiality of Customer's proprietary information;
- (i) Require Assigned Employees to execute agreements that Customer requests regarding intellectual property developed by them in performance of their work for Customer;
- (j) Require Assigned Employees to acknowledge in writing that they have no right to participate in Customer's employee benefit plans;
- (k) Require Assigned Employees to comply with all rules and policies of Customer (e.g., those relating to premises access and security);
- (l) Make legally required employment law disclosures to Assigned Employees; and
- (m) Comply with the Patient Protection and Affordable Care Act ("Affordable Care Act") and its regulations, as applicable, and have established internal procedures to review and maintain its compliance with the Affordable Care Act.

**4) CUSTOMER'S RESPONSIBILITIES**

As the recipient of Kelly's staffing services, the Customer will be responsible for controlling the environment in which Assigned Employees perform their work, the details of their work, and, teaching board-approved curriculum and approved lesson plans. The Customer also will:

- (a) Provide Assigned Employees with a safe and suitable workplace, including all required site-specific training related to the chemical, physical and biological hazards in the workplace, emergency and safety procedures, safe use of equipment, school rules and protocols, policies and procedures regarding student disciplinary actions, and the confidentiality of student records and information;
- (b) Provide Kelly with prompt notice of any injury suffered by an Assigned Employee;
- (c) Use Assigned Employees only in assignments that match the job descriptions for which Kelly places them, not give duties to an Assigned Employees that the Assigned Employee must perform outside of Customer's premises and take full responsibility for assignments or duties that differ from the Assigned Employees' mutually agreed upon job duties, responsibilities, work environment or location, unless mutually agreed to pursuant to paragraph 15(f) of this Agreement;
- (d) Notify Kelly and be solely responsible when Assigned Employees are required to use Customer provided timekeeping system or absence management system;
- (e) Provide adequate internal controls, supervision, security and instructions for Assigned Employees;
- (f) Supervise the performance of Assigned Employees using the same degree of diligence used to supervise its own employees;
- (g) Assume responsibility for Assigned Employees when they are required to handle keys, cash, confidential information and records of students and the Customer's regular employees;
- (h) Assume responsibility for the use of any vehicle, training and safe use of machinery, and/or equipment used by Assigned Employees in connection with their assignment (except for workers' compensation claims);
- (i) Assume sole responsibility for any bodily injury claims asserted against Kelly or its Assigned Employees by students, their parents or representatives, Customer personnel or business invitees, or other third parties (except to the extent that such claims are based on the negligence of Kelly or the failure of Kelly full time staff personnel to fulfill their obligations regarding the recruitment, screening, and hiring of the Assigned Employees);
- (j) Ensure that the Assigned Employees do not have sole custody of a single student, be solely responsible for supervising more than one classroom of students at a time, or administer or maintain custody of any student medications;
- (k) Be solely responsible for releasing students at the end of the school day to an authorized party;
- (l) Ensure Assigned Employees who are placed at Customer through Kelly shall not work directly for Customer, or a third party contracted by Customer, in any capacity where such Assigned Employees receive compensation during the same time period from Kelly, Customer or third party;
- (m) Provide Kelly with prompt, written notice of any concern or complaint about the conduct of an Assigned Employee by the end of the same day that it learns of the concern or complaint, and permit Kelly to actively participate in Customer's investigation of such a concern or complaint;
- (n) Provide Kelly with written notice within one (1) business day after the Customer learns of any formal or informal complaint, litigation, potential litigation, or an administrative or governmental charge, that involves an Assigned Employee, and permit Kelly a reasonable opportunity to participate actively in the matter, as Kelly sees fit;
- (o) Not request nor require any Assigned Employees to work at heights, perform heavy labor, lifting or physical activity unless required and accepted in the job description;
- (p) Notify Kelly as early as possible (either, for example, prior to 6:00 a.m. or three (3) hours prior to the start of the class), through the protocols established by Kelly for such notice, of the need for Assigned Employees for a given day; however, Kelly and Customer recognize that the need for a substitute may occur later than anticipated and that in such cases, Kelly will use its best efforts to find an Assigned Employee for such Customer requests;
- (q) Ensure that Assigned Employees do not actively or competitively participate in any physical activities, exercises, competitive games or sports with students or other faculty members at any time, including in school gymnasiums, classrooms, or on the playground. In the event an Assigned Employee is assigned to a physical education class, physical activity shall be limited to non-participation instructional purposes only;
- (r) As applicable, provide a list of employees Customer has employed prior to this Agreement that Customer wishes to remain in pool of Assigned Employees placed by Kelly to Customer. Customer shall provide a written list of such transitioned Assigned Employees and may update said list, by written addition or deletion of all changes, as appropriate. If Customer utilized another vendor prior to this Agreement, Customer will make a good faith effort to produce a list of transitioned Assigned Employees who provided services through such vendor; In addition, Customer understands that Kelly will rely on the accuracy of Customer's prior credentialing and screening. Customer further ensures that:
  - i) Transitioned Assigned Employees have worked for Customer within the last one hundred and fifty (150) days;
  - ii) Transitioned Assigned Employees have had accurate, comprehensive criminal background checks with favorable results in compliance with applicable laws at the time transitioned to Kelly;
  - iii) Transitioned Assigned Employees meet educational and medical testing requirements, as well as any other credential/screening requirements, in compliance with applicable laws at the time transitioned to Kelly; and,

- iv) Customer will provide Kelly with transitioned Assigned Employees' expiration dates regarding applicable state certifications or other mandatory requirements.

Section 2 does not apply to transitioned Assigned Employees.

- (s) Assume responsibility for the conduct of its own officers, employees, and agents; and
- (t) Comply with duties imposed on it by law, rule, or regulation.

## **5) CUSTOMER REPRESENTATIONS**

The Customer represents and warrants that:

- (a) Its actions under this Agreement do not violate or overlap its obligations under any agreement that Customer has with any labor union;
- (b) Kelly's responsibilities listed in this Agreement regarding screening, the payment of wages, and the provision of benefits to the Assigned Employees do not violate a policy or practice of the Customer;
- (c) The Customer has disclosed to Kelly all screening requirements that Customer would use for the positions covered by this Agreement if the Customer were directly employing individuals in such positions;
- (d) If Customer, not Kelly, is the recipient of the Assigned Employees' fingerprint background check clearance/suitability letter, Customer will provide Kelly with the clearance information and any updated information in a timely manner;
- (e) The Customer has the right, power, requisite authorization, and has satisfied any applicable procedural requirements necessary for it to be authorized to enter into this Agreement;
- (f) The Customer representative who is signing this Agreement has been delegated authority by the school board or district to execute this Agreement;
- (g) At the beginning of the school year, but at a minimum, not less than thirty (30) days prior, Customer will use best efforts to advise Kelly of all scheduled professional development days;
- (h) Customer acknowledges that Kelly is responsible for recruiting of Assigned Employees, however, Customer and Kelly will collaborate on marketing, advertisement, and recruitment methods. During the term of this Agreement, Customer agrees that Kelly can use Customer's branding, including but not limited to Services data, in its marketing and public relations programs;
- (i) If the Assigned Employees will use a Customer-provided timekeeping or absence management system or process, then a such timekeeping system, absence management system or process shall be compliant with all applicable legal requirements, including recording of time worked; and,
- (j) The Customer will neither request nor require that the Assigned Employees perform duties outside of Customer's premises (e.g., participate on field trips) unless Kelly gives its written consent in advance.

## **6) CONFIDENTIALITY/INTELLECTUAL PROPERTY/ASSIGNED EMPLOYEES' DATA**

All Kelly and Customer intellectual property, including processes, procedures, trademarks and copyrights, are and shall remain the sole property of each respective party. Customer will only use Assigned Employees' Data ("Assigned Employees' Data"), including, but not limited to, Assigned Employees' personal information, identity, U.S. mail or email address, contact information, social security number, phone number, personal health information, or absence management information data in connection with Services provided by Kelly in accordance with this Agreement. Customer acknowledges that Assigned Employees' Data is proprietary, personal and highly confidential, and Customer shall not disclose the information to any third parties unless legally required to do so. Should Customer determine that it may be legally obligated to disclose Assigned Employees' Data, Customer shall provide notice to Kelly at least five (5) business days in advance of producing any such information. To the extent Kelly utilizes Customer's absence management or other systems ("System"), Customer shall allow and authorized Kelly full access to the System throughout the term of the Agreement and for thirty (30) days after termination. In the event the Agreement is terminated, Kelly shall have thirty (30) days to remove Assigned Employee Data from the System.

For the avoidance of doubt, regardless of whether Kelly or Customer owns the contractual relationship of the absence management platform, all Assigned Employee Data housed within the absence management platform will be solely owned by Kelly. At no point may Customer provide access to the absence management platform to any third parties. Customer agrees that at the time of termination or expiration of the Agreement, Kelly shall have the option to remove all Assigned Employee Data from the absence management platform and Customer agrees that it may not retain any such Assigned Employee Data. To the extent that there is a conflict between the terms/obligations of this paragraph with any terms/obligations in an agreement between Customer and any third party, Customer agrees to honor the terms/obligations of this paragraph and the terms/obligations of this paragraph shall control. This section does not apply to transitioned Assigned Employees' Data.

## 7) BILLING & PAYMENT TERMS

- (a) **Invoices.** Kelly will invoice Customer each week for all compensable time in accordance with applicable laws, including but not limited to hours worked on assignment, training, testing or screening completed by Assigned Employees after hire, at agreed-upon rates. The rates at which Kelly will invoice the Customer (and any reimbursable expenses) are listed in Pricing Exhibit A. Service lines may be added by mutual agreement of the parties pursuant to Paragraph 15(f). Unless otherwise stated in Pricing Exhibit A, payment will be due upon Customer's receipt of the Kelly invoice. In the event of termination of this Agreement, Customer will pay Kelly promptly for Services performed up to the time of termination. If the Customer's rates are not set out in Pricing Exhibit A, Kelly and the Customer will agree on rates at the time of an order, which Kelly will record electronically in its systems. The services billed may be provided by Kelly Services Global, LLC or Kelly Services USA, LLC, affiliates of Kelly, or third-party staffing providers (collectively "Staffing Providers"). Staffing Providers may provide the Services under this Agreement, and in such cases, Kelly will act as a collection agent on behalf of such Staffing Providers and bears no extracontractual liability other than that of collection agent.
- (b) **Disputed Amounts.** If this Agreement is terminated by Kelly or Customer or Customer disputes any amount invoiced by Kelly, Kelly shall be timely paid (in accordance with the payment terms in Section 7 (a)) by Customer for all fees/services that are not in dispute. Any dispute to an invoice must be communicated within thirty (30) days of the due date of such invoice or Customer waives the right to object to the invoice and will be held accountable for payment.
- (c) **Procurement Card.** Customer will not use a procurement card as a source of payment to Kelly.
- (d) **Taxes.** Any sales or use taxes that apply to sales to Customer will be added to Customer's invoices.
- (e) **Pricing Adjustments.** Upon prior written notice, Kelly may adjust pricing:
- i) To reflect the impact of inflation upon our costs by an amount not to exceed the year over year change in the Consumer Price Index for the preceding twelve (12 months); or
  - ii) If any law, regulation and/or policy is enacted that is applicable to either Kelly or Customer that requires an increase and/or additional compensation and/or benefits to Assigned Employees, Kelly may change the pricing for the current school year(s) contained in Exhibit A. The pricing in Exhibit A shall be adjusted to reflect the actual cost increase to Kelly reasonably calculated on a direct or pro rata basis; or
  - iii) For changes in sales, use, or gross receipts taxes; or
  - iv) For changes in (a) the Customer's requirements (e.g., requisition, billing and invoicing processes; the introduction of third-party software systems and processes), (b) service levels, or (c) service delivery method; or
  - v) To ensure that the pay rates comply with federal and state laws and regulations regarding minimum wages and overtime compensation; or
  - vi) If market conditions dictate that Kelly must pay a higher wage in order to attract Assigned Employees.

The requirements of Paragraph 15(f) of this Agreement will not apply to price adjustments related to the Consumer Price Index and/or government mandated increases as described in this section and will be communicated and adjusted solely at the discretion of Kelly upon thirty (30) days' written notice to Customer (e.g. by e-mail or registered mail).

- (f) **Expenses.** Expenses (e.g., mileage) and all costs and administrative fees associated with required screenings and drug tests will be charged to the Customer, passed through without mark up.

## 8) TIME, BILLING AND AUTOMATED SCHEDULING

- (a) **Documentation of Time Worked.**

The Customer agrees to review documentation of time worked by the Assigned Employees in the designated scheduling system. In a system with a time approval feature, the Customer agrees to approve and sign, by signature or electronic means, record of time worked by the Assigned Employees and will designate one or more representatives to approve the time record on its behalf. If the Customer representative is unavailable, the Kelly representative responsible for the Customer assignment (or other Kelly representative authorized by Customer) may approve the record on Customer's behalf or it may be approved in accordance with (b) below. Customer will use reasonable efforts to assist Kelly in the retrieval of missing or unsubmitted substitute teacher time sheets.

- (b) **Submission and Approvals**

Electronic approvals in scheduling systems with time approval features require the following:

- i) Substitute teachers will submit time for approval each week. The Customer must approve time entries by Tuesday at 11:59 PM. The Customer will make reasonable efforts to ensure that approving managers take approval action on Tuesday and adhere to this schedule to expedite substitute payroll.
- ii) Approved time for a given week-ending date will be gathered from the system on Mondays, Tuesdays, and Wednesdays. On Wednesdays after 12:00 am, all non-rejected time sheets that have been submitted for approval will be considered approved-in-full by the school and sent for payroll processing.
- iii) All Customer representatives who approve the time entries of the Assigned Employees must have school-issued, active e-mail accounts.
- iv) Each school should assign an administrator to approve substitute time sheets each week. A backup administrator should also be designated to approve time sheets in the event of the first administrator's absence.
- v) All adjustments to approved time will be handled outside of the scheduling system. The scheduling system will not be updated to reflect the adjusted values.

(c) **Non-Exempt Assigned Employees and Overtime**

i) **Non-exempt Assigned Employees.**

Some Assigned Employees may be deemed as non-exempt employees under federal or state wage and hour laws (e.g., (1) states that designate teachers as non-exempt, (2) licensed teachers not performing the customary duties of a classroom teacher, or (3) Assigned Employees that are not licensed teachers and assigned to perform clerical, administrative, janitorial, or cafeteria duties). Assigned Employees who are designated as non-exempt or are performing non-exempt work are entitled to overtime pay.

ii) **Overtime; Meal and Rest Periods.**

Kelly shall pay nonexempt Assigned Employees overtime pay in accordance with applicable federal and state law at a rate of one and one-half times their regular rate of pay for all hours worked over 40 hours in any given workweek and bill the Customer accordingly.

Kelly shall adjust its overtime payments to comply with state laws that may impose additional or different requirements than federal law and bill the Customer accordingly. For example, under California's wage and hour law, nonexempt employees must be paid overtime for any hours worked in excess of eight hours in one workday or 40 hours in one workweek.

Kelly will base overtime pay on hours actually worked. For example, hours paid for vacation, holiday, sick, or paid time off will not be included in calculating overtime.

In those states that require non-exempt employees to have meal and rest periods, non-exempt Assigned Employees must accurately record their meal and rest periods in accordance with Section 8 (a) above.

(d) **Automated Scheduling**

- i) Kelly may provide a scheduling system for automated scheduling and absence reporting in some situations. Among other things, the program would enable Kelly to provide the Customer with certain reports and information related to regular teacher absences and substitute teacher staffing coverage and permit the Customer and its designated representatives to schedule regular teacher absences. Implementation of the scheduling system would require that the Customer provide certain information concerning the employment positions that the Agreement for Educational Staffing covers and the personnel currently in such positions.
- ii) Any information that the Customer provides Kelly for purposes of implementing the scheduling system will be used in connection with the educational staffing services that Kelly provides. Kelly will not use such information for any other purpose without the Customer's prior written consent.
- iii) Information in reports that Kelly furnishes to the Customer which are generated based on the scheduling system will contain information that the Customer's personnel provide upon accessing and using the scheduling system. Accordingly, the accuracy of such information depends on the accuracy of the information provided by the Customer's personnel. The Customer will be solely responsible for verifying the accuracy of such information.

**9) WORKERS' COMPENSATION AND LIABILITY INSURANCE**

Kelly will, at its own expense, provide and keep in full force and effect during the term of this Agreement the following kinds and minimum amounts of insurance:

- (a) **Workers' Compensation.** Workers' compensation statutory coverage as required by the laws of the jurisdiction in which the services are performed and includes alternate employer endorsement;
- (b) **Employer's Liability.** Employer's Liability insurance with a limit of \$1,000,000;
- (c) **Commercial General Liability.** Commercial general liability insurance with a \$1,000,000 per occurrence and includes bodily injury and property damage coverage;

- (d) **Commercial Automobile Liability.** Commercial automobile liability insurance with a \$2,000,000 combined single limit on vehicles owned, leased, or rented by Kelly while performing under this Agreement;
- (e) **Umbrella Liability Insurance.** Umbrella liability insurance to be used in excess of the liability policies with \$15,000,000 combined single limit per occurrence; and
- (f) **Commercial Blanket Bond.** A commercial blanket bond with limits of \$3,000,000 in the aggregate per occurrence and includes coverage of employee dishonesty to the extent Kelly failed in its responsibilities in Section 3 of this Agreement.

Kelly will provide Customer with a certificate of this insurance coverage upon request.

#### **10) INDEMNIFICATION BY KELLY**

- (a) Kelly will indemnify, defend and hold harmless Customer and its directors, officers, employees and agents, from and against all demands, claims, actions, losses, judgments, costs and expenses (including reasonable attorney fees) (collectively "Damages") imposed upon or incurred by Customer to the extent arising out of any of the following:
  - i) Kelly's failure to comply with its obligations under applicable employment-related laws, regulations or orders in Kelly's capacity as the general employer of the Assigned Employees;
  - ii) Breach of any obligation of Kelly contained in this Agreement; or
  - iii) Any direct claim for workers' compensation benefits for job-related bodily injury or death asserted against Customer by any Kelly employees (including Assigned Employees) or, in the event of death, by their personal representatives.
- (b) Kelly's obligation to indemnify, defend and hold harmless will not apply to: (i) indirect, special or consequential Damages (ii) claims that do not result in a finally adjudicated claim of damages against Customer brought by a third party, (iii) the extent that Damages are due to Customer's failure to fulfill its duties under Section 4, (iv) the extent that any Damages, except for the payment of workers' compensation benefits, are the result of any negligent act or omission or intentional misconduct of Customer, its officers, employees or agents, or (v) the extent that Customer is required to indemnify Kelly against such Damages under Section 11.

#### **11) INDEMNIFICATION BY CUSTOMER**

- (a) To the extent permitted by law, Customer will indemnify, defend and hold harmless Kelly and its directors, officers, employees and agents from and against all damages imposed upon or incurred by Kelly, other than for job-related bodily injury or death of an Assigned Employee, arising out of any of the following:
  - i) Customer's failure to comply with its obligations under applicable laws, regulations or orders; or
  - ii) Breach of any obligation of Customer contained in this Agreement;
- (b) Customer's obligation to indemnify, defend and hold harmless will not apply (i) to indirect, special or consequential damages or (ii) to the extent any damages are caused by any negligent act or omission or intentional misconduct of Kelly, its officers, employees or agents.

#### **12) NOTIFICATION OF CLAIMS**

- (a) Customer and Kelly agree (i) to notify each other in writing of any asserted claim within ten (10) days of either discovery of the occurrence upon which the claim may be based or learning of the claim, whichever occurs first, and (ii) to permit Kelly or Customer, as the case may be, to defend the claim at the option of the party against whom the claim is asserted, with counsel acceptable to such party, which consent will not be unreasonably refused.
- (b) Neither party will pay or agree to pay any asserted claim under this Agreement without prior written approval from the party against whom the claim is asserted, which approval will not be unreasonably withheld; provided that approval on behalf of Kelly must be obtained from the Kelly Law Department in Troy, Michigan.

#### **13) TERM; TERMINATION**

If all deadlines are met, the term of this Agreement begins as of the date first shown above and will continue in effect until canceled by either party upon allowing not less than ninety (90) days prior written notice to the other. Kelly reserves the right to terminate this Agreement immediately in the event of non-payment. Further, Kelly has the right to terminate this Agreement should any student or Customer employee physically or verbally assault or injure an Assigned Employee and Customer does not respond to the incident to Kelly's satisfaction. In the event of termination, this Agreement will continue to govern the parties' rights and obligations with respect to services performed prior to termination.

#### **14) NON-SOLICITATION**

Unless otherwise agreed to in writing, neither party shall hire or solicit the employment of the other party's regular, full-time employees (i.e. employee working for Kelly in a role other than as "Assigned Employee") during the term of this Agreement and for a period of twelve (12) months thereafter. This provision shall not apply to a party's generalized recruiting practices.

## **15) MISCELLANEOUS**

### **(a) Notices**

- i) Any notices, consents or other communications required or permitted under this Agreement must be in writing (including telecommunications) and delivered personally or sent by e-mail or other transmission (with request for assurance in a manner typical with respect to communication of that type), overnight air courier (postage prepaid), registered or certified mail (postage prepaid with return receipt requested), addressed as shown on the first page of this Agreement.
- ii) Unless otherwise stated in this Agreement, notices, consents or other communications will be deemed received (a) on the date delivered, if delivered personally or by wire transmission; (b) on the next business day after mailing or deposit with an overnight air courier; or (c) three business days after being sent, if sent by registered or certified mail.

### **(b) Severability; Waiver**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. Any delay or waiver by a party to declare a breach or seek any remedy available to it under this Agreement or by law will not constitute a waiver as to any past or future breaches or remedies.

### **(c) Assignment**

Kelly may assign this Agreement without the prior consent of Customer. This Agreement will be binding upon the parties hereto, and their successors, heirs and assigns, as permitted.

### **(d) Independent Contractor**

In its performance of this Agreement, Kelly will at all times act in its own capacity and right as an independent contractor, and nothing contained herein may be construed to make Kelly an agent, partner or joint venturer of Customer.

### **(e) Force Majeure**

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: (i) acts of God; (ii) flood, fire, pandemic, earthquake or explosion; (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (iv) government order or law; (v) actions, embargoes or blockades in effect on or after the date of this Agreement; (vi) action by any governmental authority; (vii) national or regional emergency; (viii) strikes, labor stoppages or slowdowns or other industrial disturbances; and (ix) shortage of adequate power or transportation facilities. The party suffering a force majeure event shall give notice within five (5) days of the force majeure event to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure the effects of such force majeure event are minimized.

### **(f) Amendments**

This Agreement may not be amended or supplemented in any way except in writing, dated and signed by authorized representatives of both parties.

### **(g) Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

### **(h) Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without giving effect to any choice or conflict of law provision or rule.

### **(i) Entire Agreement**

This Agreement, its exhibits (and any job descriptions signed by the Customer) are the entire understanding and agreement between the parties with respect to the subject matter covered, and all prior agreements, understandings,

covenants, promises, warranties and representations, oral or written, express or implied, not incorporated in this Agreement are superseded.

**KELLY SERVICES, INC.**

**DEKALB COUNTY SCHOOL DISTRICT**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

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

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