

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

LEARNING SCIENCES INTERNATIONAL LLC
(hereinafter referred to as "LSI"),
whose principal place of business is
175 Cornell Road, Suite 18
Blairsville, PA 15717.

WHEREAS, the Parties hereto desire to enter into a contractual agreement for professional development and learning services (hereinafter referred to as "Services") that will properly prepare teachers to implement demonstration classrooms that will provide a setting of intensive, job embedded training for principals and teachers as instructional leaders within multi-year pathway of professional development, coaching and data support.

WHEREAS, teachers will receive intensive professional development and coaching, to transform their classrooms into rigorous, standards-based places of student centered teaching and learning. Teachers will receive intensive professional development and coaching and will showcase their classrooms as laboratories of high-quality, tier-1 core instruction. In this way, their peer teachers will see, first hand, what the shift to rigor looks like and how to observe and measure student growth through demonstrated evidence of learning.

WHEREAS, LSI will provide the LSI Tracker platform for data collection, books and materials for teachers and principals on standards and achieving rigor, and materials reprint licenses for *Essentials for Achieving Rigor* professional development.

WHEREAS, SBBC will input into a web-based platform student information for teachers to identify students in order to track student progress on identified state standards and will include data listed on **Exhibit "A"**, such as student name, grade level, gender and ethnicity, and LSI will have access to the data for the purposes of any technology issues that may arise and to provide reports to SBBC.

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

Agreement with Learning Sciences International LLC

ARTICLE 1 - RECITALS

1.01 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon execution by all parties and conclude on August 30, 2017.

2.02 **Professional Development.** LSI shall provide professional development to 52 teachers and 13 school administrators by providing demonstration classrooms which shall offer a setting of intensive, job-embedded training for principals and teachers as instructional leaders within a multi-year pathway of professional development, coaching and data support by May 15, 2017. The first year will consist of the following and is included in **Exhibit “B”**, Work Plan:

(a) **Kickoff Meeting**

The principal and teachers will discuss desired outcomes and a recommended process for change before designing the implementation of Learning Sciences Marzano Center Essentials for Achieving Rigor training. Together they will discover how to build a culture of continuous improvement to enhance student achievement measured by short and mid-cycle metrics.

(b) **RigorWalk™**

Each participating classroom will receive a RigorWalk onsite analysis of conditions of the classroom environment, school leadership practices, growth mindset, professional learning community structure, formative assessment implementation, and standards-based instruction systems. Led by an expert Learning Sciences Consultant, the RigorWalk will be a collaborative experience with the principal and Demonstration Classroom teachers.

(c) **Virtual Principal Coaching for Implementation**

For each Essentials for Achieving Rigor professional development day, each principal will receive a one-on-one personalized hour of virtual coaching. Detailed monitoring and feedback with the Learning Sciences Consultant will provide specific, actionable guidance for school leaders that will lead to visible improvements in leadership and instructional practice.

(d) **Side-by-Side Principal Coaching**

To further support each principal of schools with Demonstration Classrooms, Learning Sciences will provide rotating rounds of Side-by-Side coaching. During these monthly half-day sessions, groups of 3-4 principals will take turns hosting the cohort within their buildings, walking their Demonstration Classrooms, and debriefing on the findings from their walks.

(e) Essentials for Achieving Rigor Professional Development

Data from the RigorWalk will inform the recommended professional development sessions from the Essentials for Achieving Rigor model of instruction, a series of research-based training from the Learning Sciences Marzano Center.

2.03 Technology-based Tools to Support Implementation. LSI will provide site licenses and access to the LSI Growth Tracker and Standards Tracker to the 13 schools involved in the pilot. The LSI Standards Tracker is a mobile-enabled application that empowers Demonstration Classroom teachers to quickly track student performance during a lesson, and identify what is (or isn't) working in their teaching so they can make real time instructional decisions each day to ensure that all students are meeting their learning targets and progressing toward mastery of the standards. Refer to **Exhibit "A"** for a description of the collected data and associated codes. LSI will be Clever compliant in order to use student data needed.

2.04 Ownership of Data. The collected student data shall remain the sole property of SBBC. Except as expressly provided in this agreement, LSI retains all right, title, interest in the collected student data as specified in these Terms and Conditions. LSI retains the right to include the student data in research publications or written reports whereby the results of the data are reported anonymously. Furthermore, data included in publications or reports will never be released in any way that would enable someone to identify students or teachers. Any materials published for the purposes of marketing must be approved by SBBC.

2.05 Collected Data. LSI agrees that all data collected and the resulting analysis of that data will be kept confidential and all electronic analysis of data will be performed on secure, password protected computers. LSI shall maintain confidentiality and safeguard the analysis of any data gathered as a result of this Agreement. LSI reserves all rights to publish the results of research and shall publish results without personally identifiable student or teacher information. SBBC has the right to review publications prior to submission but will have a maximum of ten (10) business days to review and provide a list of any requested changes to LSI for consideration. The district reserves the right to author an addendum to the manuscript to be included with the submission for publication or written report. LSI will submit a final copy to SBBC prior to publication.

2.06 Confidentiality of Student Information. The confidential student information will be used by researchers at LSI to analyze and provide pertinent information designed to improve instruction for children in Broward County Public Schools.

(a) To effect the transfer of data covered by FERPA, LSI agrees to use the collected data for no purpose other than research and analysis for SBBC authorized under Section 99.31 (a)(6) of Title 34 of the Code of Federal Regulations which allow disclosure of personally identifiable information from students' education records in connection with LSI conducting studies to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction. LSI further agrees not to share data received under this Amendment with any other entity without prior consent.

(b) LSI is subject to all School Board obligations relating to compliance with student records confidentiality laws. By signing these Terms and Conditions, LSI acknowledges

and agrees to comply with the Family Educational Rights and Privacy Act (FERPA) and all State and Federal Laws relating to the confidentiality of student records.

(c) Any research activities must be submitted to the District's Institutional Review Board (IRB)/Research Request review prior to the beginning of the activities.

2.07 **Family Educational Rights and Privacy Act (FERPA) Compliance.** In addition to the requirements under section 2.06, Confidentiality of Student Information, LSI will comply with the requirements of Exhibit "C", Safeguarding the Confidentiality of Student Records and Information.

2.08 **Authorized Representative.** LSI and SBBC shall designate in writing a single authorized representative able to request and share data according to these Terms and Conditions. The authorized representatives shall be responsible for transmitting all data requests and maintaining a log or other record of all data requested and received pursuant to this Agreement, including confirmation of the completion of any projects and the return or destruction data as requested by this Agreement.

(a) LSI designates Lindsey Devers Basileo, Ph.D., as the authorized representative of LSI's data. LSI or its agents may upon request review the records required to be kept under this section.

(b) SBBC designates Fabian Cone, Ed.D., as the authorized representative and point of contact for the data collection of data.

2.09 **Pricing.** Cost Proposals are good for 30 days from the date of proposal, unless otherwise stated in writing. All prices stated in USD unless otherwise noted. Pricing remains firm for the contract period. See Exhibit "D" for detailed cost proposal.

2.10 **Period of Performance.** This Agreement shall be fully binding and executed when all parties have signed and agreed to proposed services and fees within.

2.11 **Confidential and Proprietary Materials.** Any portion of this Agreement, confidential materials or proprietary information may not be released without prior written approval from LSI.

2.12 **Payment.** Purchase order is required prior to order fulfillment. Payment will be based on satisfactory services performed. Make checks payable in USD to "Learning Sciences International LLC" and submit to 175 Cornell Road, Suite 18, Blairsville, PA 15717.

2.13 **Purchase Orders.** Please reference proposal name and date (shown above) on all purchase orders. Purchase orders should be sent to Learning Sciences International LLC, 175 Cornell Road, Suite 18, Blairsville, PA 15717 or faxed to (724) 299-8133 or emailed to: AccountsReceivable@learningsciences.com

2.14 **Terms.** Standard payment terms are net 30 days from date of proper and appropriate invoice, unless otherwise agreed upon by the District and Learning Sciences International, LLC.

2.15 **Scheduling.** On-site training and professional development sessions requires 30 days advance notice. Signed contract, purchase order, or payment must be received before training dates can be reserved. Trainings scheduled at the Customer's request with less than 30 days advance notice are subject to availability and a \$500 expediting fee. All training sessions must be scheduled no later than 12 months following receipt of purchase order.

2.16 **Cancellation.** On-site training and professional development sessions may be rescheduled prior to 30 days in advance without penalty. A fee will be incurred if SBBC cancels/reschedules within the 30 day window will be charged a \$500 fee + travel expenses incurred (including cancellation and airline booking fees.)

2.17 **Shipping and Handling.** Shipping and Handling for print materials shown at standard ground rates. Please allow 7-10 business days for order processing and delivery. Expedited or overnight shipping available for some items. Additional fees may apply. LSI will fulfill your order based on the quantity of materials shown on your purchase order. Should you request additional copies of materials, you will be invoiced for the materials plus shipping and handling. Expedited or overnight shipping may apply.

2.18 **Materials Reprint Licenses.** Professional development sessions and related materials are revised periodically to reflect most current research and provide the best possible experience for the learners. Updates to materials covered under reprint licenses will be provided free of charge upon request during the terms of the license. SBBC is advised to print only sufficient quantities to cover their immediate training needs.

2.19 **Recording of Presentations.** All audio and video recording is prohibited without written consent from LSI.

2.20 **Inspection of LSI's Records by SBBC.** LSI shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All LSI's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by LSI or any of LSI's payees pursuant to this Agreement. LSI's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. LSI's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

- (a) LSI's Records Defined. For the purposes of this Agreement, the term "LSI's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.
- (b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to LSI's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to LSI's pursuant to this Agreement.
- (c) Notice of Inspection. SBBC's agent or its authorized representative shall provide LSI reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.
- (d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to LSI's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.
- (e) Failure to Permit Inspection. Failure by LSI to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any LSI's claims for payment by SBBC.
- (f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by LSI in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by LSI. If the audit discloses billings or charges to which LSI is not contractually entitled, LSI shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.
- (g) Inspection of Subcontractor's Records. LSI shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by LSI to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to LSI pursuant to this Agreement and such excluded costs shall become the liability of LSI.

(h) **Inspector General Audits.** LSI shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.21 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Chief of School Performance and Accountability
Pompano Administrative Center
610 NE 13 Avenue
Pompano Beach, FL 33060

To LSI : Michael Toth
175 Cornell Road, Suite 18
Blairsville, PA 15717

With a Copy to: Michelle Dean
175 Cornell Road, Suite 18
Blairsville, PA 15717

2.22 **Background Screening.** LSI agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of LSI or its personnel providing any services under the conditions described in the previous sentence. LSI shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to LSI and its personnel. The parties agree that the failure of LSI to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. LSI agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from LSI's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this Agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period,

this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 Annual Appropriation. The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 Excess Funds. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 Public Records. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 Student Records. Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and

employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal, state and laws, SBBC Policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By LSI: LSI agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by LSI, its agents, servants or employees; the equipment of LSI, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of LSI or the negligence of LSI's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by LSI, SBBC or otherwise.

3.27 **Insurance Requirements.** LSI shall comply with the following insurance requirements throughout the term of this Agreement.

A. **PROFESSIONAL LIABILITY/ERRORS & OMISSIONS.** Limit not less than \$1,000,000 per occurrence covering services provided under this contract. Deductible/SIR not to exceed \$50,000.

B. **ACCEPTABILITY OF INSURANCE CARRIERS.** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated at least A- VI by AM Best or Aa3 by Moody's Investor Service.

C. **VERIFICATION OF COVERAGE.** Proof of the required insurance must be furnished by an Awardee to SBBC Risk Management Department by Certificate of Insurance within 15 days of notification of award. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit Awardee time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.** (**Please include the Contract # and Title on the Certificate of Insurance.) **Certificate Holder: School Board of Broward County, Florida, 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301.**

D. **CANCELLATION OF INSURANCE.** Vendors are prohibited from providing services under this contract with SBBC without the minimum required insurance coverage and must notify SBBC within two business days if required insurance is cancelled.

3.28 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Dr. Rosalind Osgood, Chair

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of
Broward County, Florida, ou=The Office of the General Counsel,
email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.07.25 12:10:01 -0400

Office of the General Counsel

FOR LSI

(Corporate Seal)

Learning Sciences International LLC

ATTEST:

By [Signature]

_____, Secretary

-or-

[Signature]
Witness

[Signature]
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 21st day of July, 2016 by Bryan Toth of

Learning Sciences International, on behalf of the corporation/agency.

He/She is personally known to me or produced Florida Driver License as identification and did/did not first take an oath.

My Commission Expires:
June 27th, 2020

[Signature]
Signature - Notary Public

Suzanne Yagoub
Printed Name of Notary

(SEAL)

GG 006420
Notary's Commission No.

