



Supplemental Educational Services (SES) Contract  
NCLB Title I, Section 116(e) of ESEA  
Elementary and Secondary Education Act (as amended)

**Learner First**  
309 Development Court  
Kingston, NY 12401  
(845) 339-2008

**Horseheads Central School District**  
One Raider Lane  
Horseheads, NY, 14845  
607-739-5601

November 23, 2010

I. DEFINITIONS

- a. *Supplemental Educational Services (SES)* are additional academic instruction designed to increase the academic achievement of students in schools in need of improvement. These services may include academic assistance such as tutoring, remediation and other educational interventions, provided that such approaches are consistent with the content and instruction used by the local educational agency (LEA) and are aligned with the State's academic content standards. Supplemental educational services must be provided outside of the regular school day. Supplemental educational services must be high quality, research-based, and specifically designed to increase student academic achievement [Section 1116(e)(12)(C)].
- b. *Eligible Students* are all students from low-income families who attend Title I schools that are in their second year of school improvement, in corrective action, or in restructuring. Eligibility is not dependent on whether the student is a member of a subgroup that caused the school to not make AYP or whether the student is in a grade that takes the statewide assessments as required by Section 1111 of the ESEA.
- c. *Statement of Goals* is a statement of specific achievement goals for the student, that states how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 614(d) of the Individuals with Disabilities Education Act;
- d. *School District* refers to the school district with whom Learner First is entering into this contract with as stated on the first page of this contract.
- e. *Contract* refers to this contract between Learner First and the School District.
- f. *Initial Diagnostic Assessment* is a comprehensive evaluation used to develop the *Statement of Goals*

## II. SCOPE OF AGREEMENT

- a. Learner First LLC agrees to provide **online** Supplemental Education Services for up to 200 **eligible students** in the Horseheads Central School District for the lesser of \$55 per hour for online tutoring services or the Maximum Per Pupil Expenditure for the **School District** which is currently \$1278.00 per pupil per year.
- b. The services will commence within two weeks of Learner First receiving approval from the **School District** and end no later than August 15<sup>th</sup>, 2011.
- c. For each eligible student whose parents elect to receive SES from Learner First, a **Statement of Goals** shall be developed by Learner First in consultation with the School District and the parent/guardian of the student.
- d. All Supplemental Educational Services provided by Learner First shall be secular, neutral and non-ideological in instruction and content.
- e. In order to use this service, students must have access to a computer with internet access. Learner First will not provide computers or internet access to students; however, we will put students in touch with local organizations with free use of computers and internet access if they do not have access in their homes.
- f. Learner First will provide regular reporting of student progress to the parent and the school district as described in section IV below.
- g. Learner First shall require all of its employees, officers, directors, or agents having greater than five (5) days of contact with the participants as a result of services provided pursuant to this Agreement to submit to fingerprinting and a criminal history check in accordance with the Regulations of the Commission of Education.
- h. Learner First shall not assign, transfer, convey, or otherwise dispose of this Agreement or any of its contents, or its rights, title, or interest therein, or of its power to execute such contract to any other person, corporation, agency or other entity.
- i. Learner First shall not discriminate against any participants, students, or School District agents, officers, or employees on the basis of age, color, religion, creed, disability, marital status, national origin, race, gender, or sexual orientation, or other class protected by law.
- j. Learner First shall immediately notify the School District of any allegations of child abuse involving the student participation.
- k. Learner First shall comply with all Federal, State, and local laws and regulations, as well as relevant School District policies.
- l. The officers, employees, or agents of Learner First shall not be the employees of the School District for any purpose, including, but not limited to, the application of the Fair Labor Standards Act, provisions related to minimum wage and overtime payments, The Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the New York State Revenue and Taxation Act, the New York State Workers' Compensation Law, and the New York State Unemployment Insurance Law. The School District shall not be liable for obligations, if any, incurred by Learner First for unpaid wages or overtime premiums.

- m. Learner First shall purchase and maintain comprehensive general liability, professional liability, and other such insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, as is appropriate, for the services being performed and furnished hereunder, will maintain errors and omissions insurance with minimum policy limits of \$1,000,000 per occurrence and \$2,000,000 aggregate during the term of this agreement, and will provide protection from and against claims for damages due to bodily injury, sickness, death, and property damage due to loss of use resulting there from, which arises from the services being performed and furnished hereunder. Learner First shall, prior to performing services hereunder, deliver to the School District, a certificate of insurance that evidences that such insurance naming the School District as an additional insured is in full force and effect and shall maintain such insurance throughout the term of this Agreement.
- n. This agreement is 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, expressed or implied, not incorporated into this Agreement are superseded. This Agreement may not be amended or supplemented in any way, except in writing, dated, and signed by authorized representatives of both parties;
- o. If, for any reason, any provision of this Agreement is held unenforceable, all of the other provisions of this Agreement will remain in full force and effect, and the unenforceable provision shall be replaced by a mutually acceptable and enforceable provision in accordance with the parties' original intent.
- p. Claims, disputes, or other matters in question between the parties to this Agreement, arising out of or relating to the Agreement or breach thereof, shall be subject to and decided in accordance with the laws of the State of New York, and any such claims or causes arising out of or in connection with the Agreement shall be commenced in Supreme Court of the State of New York in Chemung County.
- q. This Agreement is subject to the approval of the School District's Board of Education.

### III. NATURE OF SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDED

- a. Each student to whom Learner First gives services under this contract shall be provided with the following:
  - i. One or more hours of online tutoring each week\* with a NYS certified teacher or a tutor who holds a valid teaching certificate from another state.
  - ii. Unlimited access 24 hours a day, 7 days a week (24/7) to Compass Learning Odyssey assessment and Individualized Learning Path.
  - iii. 24/7 online access to archive of tutoring sessions
- b. Tutoring shall be done in small groups of 2-5 students usually, but shall never be more than 10 students.
- c. Tutoring sessions shall take place either after school or on Saturdays or Sundays.

*\*Learner First follows the Kingston CSD School Calendar so Tutoring will not be provided during the weeks of school recess in December and April that are listed in the Kingston CSD School Calendar.*

#### IV. REPORTING

- a. For each student to whom Learner first gives services under this contract, Learner First shall provide, via email or regular mail, quarterly progress reports to the parents and the school district which includes benchmark data and a description of the student's progress toward the student's specific goals as stated in the student's **Statement of Goals**.
- b. For each student to whom Learner first gives services under this contract, Learner First shall provide, via email, a summary of the students progress toward that student's goals no later than August 31, 2011.
- c. Learner First shall provide the School District with a summary report of the progress made by all of the students from that district no later than August 31, 2011.

#### V. CONFIDENTIALITY REQUIRMENTS

- a. Learner First shall keep all student records in a secure location preventing access by unauthorized individuals.
- b. Learner First shall not forward to any person other than parent or School District any student record, including, but not limited to the student's identity, without the written consent of the parent and the School District.
- c. Learner First shall comply with NCLB Section 116(e)(3)(E) and the Family Education Rights and Privacy Act (FERPA).

#### VI. PAYMENTS

- a. The School District shall pay Learner First for their Services provided under this agreement against monthly invoices for services rendered within thirty (30) days of invoice.

#### VII. TERMINATION OF CONTRACT

- a. This Agreement may be terminated under the following circumstances:
  - i. This Agreement may be terminated at any time by mutual, written agreement of the parties;
  - ii. Either party may immediately terminate this Agreement upon a material breach of any of the provisions of this Agreement by the other party if said breach remains uncured for a period of thirty (30) days following written notice thereof. In such event, the termination of this Agreement shall only be applicable with respect to the specific student(s) to which the breach pertains.
- b. Termination of this Agreement shall not discharge the parties' existing obligations to each other as of the effective date of termination.

In Compliance with this contract, and to all the conditions imposed herein, the undersigned offers and agrees to furnish the services at the price indicated in section IIa above.



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Contract Administrator  
Valarie Carelli,  
*Vice President of Student Services*  
**Learner First**  
721 Broadway, Suite 205  
Kingston, NY 12401  
(845) 943-4028

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Contract Administrator  
Ralph Marino Jr.,  
*Superintendent of Schools*  
**Horseheads Central School District**  
One Raider Lane  
Horseheads, NY, 14845  
607-739-5601

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President, Board of Education  
Brian Lynch  
**Horseheads Central School District**  
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Horseheads, NY 14845  
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