

Enclosure 09.02
November 17, 2011

Contract for 2011 – 2012 Supplemental Educational Services

Between

ATS Project Success

and

Horseheads Central School District

This contract is entered into by the *Horseheads Central School District*, hereafter referred to as the “District” and ATS Project Success, a provider for Supplemental Educational Services, hereafter referred to as the “SES Provider”.

SECTION I: GENERAL. The SES Provider agrees to provide the service for each individual student as set forth in the Supplemental Education Services Agreement (blank copy attached) and Individual Achievement Plan, which will be signed by a District representative, the SES Provider, the Parent/Guardian, and the Student.

The SES Provider further agrees:

1. That the requirements of the Independent Contractor Declaration Form, as outlined in Section III, IRS Standards, are met and will be adhered to.
2. That the SES Provider carries malpractice or liability insurance to cover his or her own acts and the acts of any person he or she may employ to fulfill this contract. The SES Provider will also carry Workers' Compensation insurance and any other coverage necessary for his or her employees. It is specifically agreed and understood that neither the SES Provider nor his or her employees will be afforded the legal defense or judgment protection provided District employees in the normal course and scope of business.
3. That the SES Provider ensures that staff members hired to work with students have undergone the appropriate background checks necessary to ensure the safety of the students served.
4. That the SES Provider provides the necessary staff to complete the services and shall not be entitled to use District facilities, secretarial services, office computers and equipment, letterhead or photocopy facilities.
5. That the SES Provider will furnish any and all necessary equipment, materials, tests, (when applicable) and any other supplies used by the SES Provider personally or his or her employees.
6. That the SES Provider will maintain any records and submit reports deemed necessary by District. It is further agreed and understood that while the District may supply some standardized reporting forms to be used for the record-keeping convenience of the District or to satisfy state or federal reporting mandates, any report customarily provided on letterhead, will be

record-keeping convenience of the District or to satisfy state or federal reporting mandates, any report customarily provided on letterhead, will be provided on the SES Provider's letterhead. Records are to be done in accordance with normal professional standards pertaining to the SES Provider involved and are not subject to review or editing by the District.

7. That the SES Provider will be responsible for the safety and liability of participating students during such time that the child has been released into the care of the SES Provider. This includes the supervision of each child until such time that the child is returned to the care of the parent/guardian or other designee as so determined by the parent/guardian.
8. That the SES Provider maintains confidentiality for all identifiable information.
9. The hourly rate for services is \$60 per hour.

In consideration of this agreement, the District agrees to pay the maximum sum of \$1,140.00 per child, operating from *November 21st, 2011 until August 31st, 2012*, upon completion of the number of sessions as defined by the Individual Supplemental Education Services Agreement (ISSA). Payments shall be processed on a monthly basis upon verification of services performed, billed and forwarded to the District.

SECTION II: SERVICES

The District agrees to provide the following:

- Opportunities for the SDE approved SES Provider to present to parents their available services.
- Parents the opportunity to select their SES Providers in writing.
- A list of names, addresses, and emergency information for the parents/students who requested SES as defined under NCLB.
- Opportunities for school representatives and the provider to communicate as these relate to appropriate classroom goals.
- Payment upon receipt of invoice of approved student.

Contractor agrees to the following:

- Special conditions as defined by the Individual Supplemental Education Services Agreement developed for each participating student.
- Development of an Individual Achievement Plan with the District and the parent (for each student served), which includes the purpose, frequency of the service, and type of service to be provided.

This agreement will terminate upon completion of services contracted for and shall not automatically renew. This agreement may also be terminated immediately by mutual agreement of the parties, by either party, or at the request of the parent.

Renee Weaver-Wright, President	
SES Provider's Name/Representative (Please Print and Sign)	Date

20674 Hall Road	800-297-2119
Address	Telephone #

Clinton Township, MI 48038
City/State/Zip

38-2709553
SS#/Fed. ID Tax Number

Brian Lynch, HCSD Board President	
School District	Date

One Raider Lane	607-739-5601
Address	Telephone

Horseheads, NY 14845
City/State/Zip



CLUB Z! IN-HOME TUTORING SERVICES INC.

**Agreement between Club Z! In-Home Tutoring Services, Inc.
~and~ Horseheads Central School District**

THIS AGREEMENT is made this 2nd day of November 2011, between Horseheads Central School District (hereinafter referred to as the "District") and Club Z! In Home Tutoring Services Inc.

WHEREAS, the No Child Left Behind Act, Title I, Section 1116(e) provides that the District may contract with organizations, public and private, to provide supplemental educational services to students who have not made adequate yearly progress (AYP); and

WHEREAS, Club Z! represents that it has been approved by the State's Department of Education to provide such services; and

WHEREAS, the parties desire to enter into the Contract in order to provide such services; and

WHEREAS, this Contract is executed and delivered by the parties hereto for the purpose of defining their respective rights and responsibilities hereunder.

NOW THEREFORE, Club Z! In Home Tutoring Services Inc. and the District agree as follows:

1. **TERM:** The term of this Agreement shall commence on Aug 2011 and shall end on Aug 31, 2013.
2. **STATEMENT OF GOALS:** For each eligible student whose parent elects to receive SES from Club Z!, Club Z! shall develop a Statement of Goals in consultation with the student's parent. Club Z! will make no changes to, or terminate, any student's Statement of Goals without written consent from the student's parent.

3. **PROGRESS REPORTS:** For each student to whom Club Z! gives services under this Agreement, Club Z! shall send the District and the student's parent a written report describing the student's progress toward achieving the stated goals on at least a weekly – parents/ other – district (when invoices are submitted) (*weekly, monthly, other*) basis.
4. **MEASUREMENT OF PROGRESS:** Club Z! will measure the student's progress toward achieving the goals stated by the following method(s):
Pre and Post Assessments
5. **TERMINATION:** This Agreement may be terminated by the District at any time. To terminate this Agreement, the District shall give Club Z! thirty (30) calendar days written notice prior to the date of the termination.
6. **METHOD OF PAYMENT:** Club Z! shall submit to the District monthly invoices itemized by name and address of student, service provided, and amount owed. Such invoices shall be submitted within thirty (30) days of the rendering of services. District shall process payment to Club Z! within thirty (30) days of submission of such invoices. Club Z! may receive up to \$ 1140.00 for the 2011-2012 school year for supplemental services for each student at a rate of \$60 per student per hour.
7. **RECORDS OF ATTENDANCE:** For each invoice, Club Z! will submit monthly records of student attendance on a form or forms provided by the District, including the name, address, and school of student; the hourly rate for the service given to the student; the name of Club Z!'s tutor who rendered the service; the amount of time of such service for each day (measured to the nearest five minutes); the total number of hours of such service for the month; and the amount due.
8. **STUDENT RECORD SECURITY:** All student records shall be kept in a secure location preventing access by unauthorized individuals. Club Z! shall not forward to any person other than parent or the District any student record, including, but not limited to, the student's identity, without the written consent of the parent and District. Upon termination of the Agreement, Club Z! shall turn over to the District all student records of the District's eligible students to whom Club Z! has provided services under this Agreement.
9. **SECULAR, NEUTRAL, NONIDEALOGICAL:** All supplemental educational services given by Club Z! under this Agreement shall be secular, neutral, and

nonideological in instruction and content.

10. **PROVIDER RECORDS:** Club Z! shall provide access to all records or reports, or other matter relating to the Agreement upon request by the District.
11. **NON-DISCRIMINATION:** Club Z! agrees to not discriminate on matters related to race, sex, handicap, age, marital status, or national origin.
12. **AMENDMENT:** This Agreement may be amended only with the mutual consent of the parties. All amendments must be in writing.
13. **ASSIGNMENT:** Neither the District nor Club Z! may assign or transfer any interest in this Agreement without the prior written consent of the other party.
14. **SIGNATURES:** We hereby certify that we have read, understood, and will abide by this Supplemental Educational Services Agreement.

District:

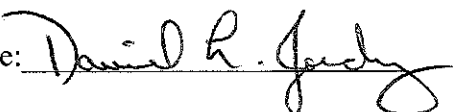
Signature: _____

Date: _____

Printed Name: _____

Title: _____

Club Z! In-Home Tutoring Services, Inc. Provider:

Signature: _____

Date: 11/2/2011

Printed Name: David Jordy

Title: Regional Director

ACORD CERTIFICATE OF LIABILITY INSURANCEOP ID ND
CLUBZ-0DATE (MM/DD/YYYY)
11/02/11

PRODUCER Jackson, Dieken & Associates 27893 Clemens Road, Suite #1 Westlake OH 44145-1169 Phone: 440-250-6873 Fax: 440-250-6874		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED ClubZ! In-Home Tutoring Services, Inc., 15310 Amberly Drive Tampa FL 33647		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A: Philadelphia Insurance Co	23850
		INSURER B: The Hanover Insurance Company	22292
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	PHPK755060	08/28/11	08/28/12	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 10,000
	Deductible \$0				PERSONAL & ADV INJURY	\$ 1,000,000
A	<input checked="" type="checkbox"/> Abuse & Molest	PHPK755060	08/28/11	08/28/12	GENERAL AGGREGATE	\$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG	\$ 2,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				Prof Liab	1,000,000
A	AUTOMOBILE LIABILITY	PHPK755060	08/28/11	08/28/12	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS					
	<input checked="" type="checkbox"/> NON-OWNED AUTOS					
A	Deductible \$0					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
					AUTO ONLY: AGG	\$
A	EXCESS/UMBRELLA LIABILITY	PHUB354888	08/28/11	08/28/12	EACH OCCURRENCE	\$ 5,000,000
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$ 5,000,000
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input checked="" type="checkbox"/> RETENTION \$10,000					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$
					E.L. DISEASE - POLICY LIMIT	\$
A	OTHER	PHSD655734	08/28/11	08/28/12	Crime	\$1,000,000
B	Philadelphia	LHW9178265	06/14/11	06/14/12	D&O/EPLI	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Abuse/Molestation Limits \$1,000,000/\$2,000,000. Third Party Crime Coverage \$1,000,000 with \$1,000 Deductible. Blanket Additional Insured when required written contract. Waiver of subrogation applies.

CERTIFICATE HOLDER

HORSEHE Horseheads Central School District 1 Raider Lane Horseheads NY 14845	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE Christopher J. Wollmann

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

NOTEPAD:

INSURED'S NAME ClubZ! In-Home Tutoring

CLUBZ-0

OP ID ND

PAGE 3

DATE 11/02/11

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)
Blanket Additional Insured where required by written contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf.

- A.** In the performance of your ongoing operations; or
- B.** In connection with your premises owned by or rented to you.

Blanket Waiver Item #8

- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and

- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

B. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return) Club Z! In-Home Tutoring Services, Inc.	
Business name/disregarded entity name, if different from above	
Check appropriate box for federal tax classification (required): <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input checked="" type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
<input type="checkbox"/> Exempt payee	
Address (number, street, and apt. or suite no.) 15310 Amberly Drive, Suite 110	Requester's name and address (optional)
City, state, and ZIP code Tampa, FL 33647	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number									
			-						
Employer identification number									
6	5	-	1	2	6	2	9	4	0

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person ▶ 

Date ▶ 6/2/2011

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (the “**Agreement**”) is made and entered into as of the _____ 1st _____ day of _____ November, 2011 _____ (the “**Effective Date**”) by and between the Horseheads Central School District (hereinafter referred to as the “**District**”) and **EDUCATE ONLINE LEARNING, LLC**, a Delaware corporation (hereinafter referred to as “**Educate Online**”).

WHEREAS, the District desires to obtain instructional services that fulfill the requirements of Section 1116, subsection (e) of the No Child Left Behind Act of 2001, entitled “Supplemental Educational Services;” and

WHEREAS, Educate provides instructional services that meet the requirements of Section 1116, subsection (e) of the No Child Left Behind Act of 2001, entitled “Supplemental Educational Services;”

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1 TERM

The term of this Agreement (the “**Term**”) shall commence on the Effective Date and terminate on August 31, 2011 unless earlier terminated in accordance with Section 7 hereof.

2 SCOPE OF WORK and EDUCATE RESPONSIBILITIES

The Program

- 2.1 Upon the terms and conditions set forth herein, Educate shall provide an instructional program (the “**Program**”) in Reading or Math as determined by students’ needs and program availability. The Program shall be provided during the Term of this Agreement by qualified staff utilizing Educate’s proprietary systems, teaching techniques, diagnostic tests, academic courses and materials. The Program will be delivered to students performing at grade levels three (3) through nine (9) in reading or grade levels three (3) through eight (8) in math via Educate’s proprietary online learning platform. The Program schedule will be determined by Educate based on students’ needs and Educate’s capacity. Participating students shall have the opportunity to attend at least two 1-hour sessions per week for the duration of the Program.
- 2.2 Pursuant to the Americans With Disabilities Act (“**ADA**”), Educate shall make reasonable modifications to its policies, practices, and procedures to ensure nondiscrimination on the basis of disability, including providing auxiliary aids and services, unless to do so would fundamentally alter the nature of the Program or would result in an undue burden. In such a case, Educate will work with the District to accommodate disabled students.
- 2.3 Each student shall take a self-administered assessment prior to placement in the Educate instructional program. The results of the initial assessment will be used to inform the Summary of Diagnostic Assessment and the initial Progress Update, which will contain a list of specific achievement goals.

- 2.4 Students shall receive direct instruction at a student to teacher ratio not to exceed three to one (3:1).
- 2.5 An Educate teacher (the “**Program Teacher**”) shall be prepared to provide all instructional services as described herein.
- 2.6 References to “**Parent**” throughout this Agreement shall mean the natural or adoptive parent, legal guardian, or responsible party as identified by the District or Educate. The parent shall be available to help a student access the program and will access to student records for review of student progress.
- 2.7 Generally, students will be scheduled to attend the Program two (2) to four (4) hours per week, but parents may choose to accelerate that schedule. A student schedule will be jointly developed by an Educate Manager and the Parent. This plan will provide the necessary structure to ensure that students have the opportunity to attend the Program on a fixed schedule to receive a total of 15 hours of instruction and assessment.

Personnel

- 2.8 Educate will engage only qualified individuals to perform as Program Teachers. In addition, every Program Teacher engaged in direct instruction must satisfy the requirements for criminal background checks and FBI fingerprint clearances prior to working with students in the Program.

Reporting

- 2.9 The Summary of Diagnostic Assessment will be available online to Parent(s) at the beginning of the Program as a baseline assessment of skills. The Progress Update will be made available online throughout the Program as an ongoing measurement of student progress.
- 2.10 Educate will report skill mastery data for students who participate in the instructional Program. Skill mastery results are reported, on an ongoing basis, to students and Parents online.
- 2.11 An End of Program report, summarizing student performance data, will be provided to the District as the final Program service.

General Responsibilities

- 2.12 Educate shall order, configure, ship and confirm delivery of all necessary hardware components to the parent/guardian of each participating student. Educate shall not be required to send more than one package of hardware components to the same residence during any two-year period. If multiple students residing at the same address participate in the Program within a two-year period, the students will share one set of hardware components. All hardware, including but not limited to Educate computers remains the property of Educate until the student completes the Program. As such, Educate retains the right to repossess said hardware from students who do not complete the Program.
- 2.13 Educate shall provide each student who does not already have Internet access with services from an Internet Service Provider (ISP) throughout the duration of the program.

- 2.14 Educate Online shall establish hardware delivery and internet connectivity timeframes to enable timely Program operations at each site.
- 2.15 Educate Online shall provide participating parent/guardians with a Toll-Free Customer Service line to provide technical and installation support.
- 2.16 Educate Online shall apply, to an extent practicable and to the extent that it does not interfere with transmission of the course material, content filtering and access controls which will provide a safe computing environment for all users throughout the duration of the program.
- 2.17 Educate Online shall commence providing services on or before a date six (6) weeks from the Effective Date of this Agreement or six (6) weeks from being given a student list from the District, including all of the information listed in Section 3.2 and Section 3.6, whichever is later.
- 2.18 Educate Online reserves the right to refuse service to students who do not return the Student and Family Agreement and Initial Student Plan or students whose home does not have electricity or phone service.
- 2.19 Educate Online will appoint a Program Manager to function as a point of contact for the District regarding the management of the Program.

3 DISTRICT RESPONSIBILITIES

Project Management

- 3.1 The District shall provide a project manager to work with Educate Online to coordinate program implementation, facilitate relations with schools and function as a general point of contact for all matters regarding the Program.
- 3.2 The District and the Schools shall provide Educate Online with a list of students to be enrolled in the Program at least six (6) weeks prior to commencement of services. In addition to the name of each student, the list shall include, birth date, grade, school, official student identification number or code, grade, and parent/guardian's contact information including name, address and phone number. To the extent possible, the District shall provide the identified data in electronic format.
- 3.3 In order to facilitate clear and effective evaluations of the Program the District shall authorize the release of all relevant individual student data, including standardized test results, to Educate Online.
- 3.4 The District shall provide Educate Online with background information on standardized test data referenced in Section 3.3, including but not limited to, technical manuals, teacher guidebooks, test objectives and item alignments.

Parental Notification and Student Enrollment

- 3.5 In order for Educate Online to adequately plan for service delivery, the District shall, in the period following dissemination of parental notice and prior to commencement of service delivery, report to Educate Online, on a weekly basis, the number of students that have selected Educate Online's services.

- 3.6 District shall make available to Educate Online all contact information for parents of students enrolled in Educate Online's program. This includes full name of parent(s)/guardian(s), street address, city, zip code, phone number. This information shall remain confidential in accordance with Section 6.3 and will be used by Educate Online solely for delivering materials, hardware, information to parents regarding service delivery, maximization of student participation, and notification of parents regarding student progress.
- 3.7 A student is considered approved by the District for participation in Educate Online's program when Educate Online is notified by the district or school in writing of the student's eligibility for Supplemental Educational Services. A student is considered enrolled in Educate Online's program when the student has been approved by the district and Educate Online has been able to confirm parent selection by phone.
- 3.8 Educate Online may register eligible students in cooperation with the District for its program in addition to those that register directly with the District. Educate Online understands that final determination of student eligibility will be the responsibility of the District.
- 3.9 District and Educate Online may continue to enroll new students into Educate Online's program throughout the course of the school year, as long as Educate Online determines that there is capacity to serve additional students. Lack of capacity includes, but is not limited to, lack of teacher availability to serve additional students and lack of time remaining in the school year to accommodate the required program hours.
- 3.10 Notwithstanding the District's obligations to notify and enroll students in the Program, Educate Online reserves the right to engage in community outreach activities designed to increase the number of participants in the Program.

4 FUNDING, FEES, BILLING AND PAYMENT

- 4.1 Educate Online shall deliver the Program, as described herein, to the District and in return, the District shall pay Educate Online a fee not to exceed One Thousand One Hundred Forty dollars (\$1140) per student (the "Fee"). The Fee shall consist of:

- 4.1.1 The Program Charge of Seventy-Eight dollars and Eighty-Seven cents (\$78.87) per hour.

- 4.2 Educate Online shall invoice the District monthly based on the number of sessions delivered to Enrolled Students and the number of instructional sessions attended by students during the previous month. All invoiced amounts are due and payable by the District within thirty-days (30 days) of receipt of an invoice from Educate Online.

Educate may assess late payment charges equal to no more than 9% a year or portion thereof that any amount payable by the District hereunder remains outstanding after payment thereof is due.

5 CONFIDENTIAL AND PROPRIETARY INFORMATION

- 5.1 The District acknowledges that Educate's programs, courses, diagnostic tests and techniques for preparation of individualized courses of instruction are proprietary in nature and the confidential and exclusive property of Educate and that the District has no right, by virtue of this Agreement or otherwise to have access to or to disclose said property except as may be required for monitoring purposes, in which case, prior written approval of disclosure must be obtained from an officer of Educate.
- 5.2 In the event that any proprietary or confidential information is disclosed intentionally or otherwise to the District, its employees, agents or assigns, the District agrees to hold same in strictest confidence and not to disclose same to any other person for any reasons nor utilize same within the District without prior written approval by Educate.
- 5.3 The District further agrees to use all efforts at its disposal to assure that its employees, agents or assigns are aware of the confidential and proprietary nature of the subject matter, and do not disclose same to any other person for any reasons nor utilize same without prior written approval by Educate. Educate asserts that unauthorized disclosure of Educate's proprietary and confidential information may cause Educate irreparable harm and may entitle Educate to injunctive relief in a court of competent jurisdiction.

6 STUDENT RECORDS and CONFIDENTIALITY

- 6.1 Student Records "Educate Student Records" for the purpose of this Agreement shall constitute all Educate tests, attendance records and student diagnostic summaries. Educate shall maintain the confidentiality of all students' records in compliance with applicable federal and state laws.
- 6.2 Educate's records may be used as proof that services have been delivered, if such proof is requested by the District.
- 6.3 Educate shall not disclose to the public any of the following, without the written permission of the parents of such student:
 - 6.3.1 The identity of any student eligible for, or receiving services; or
 - 6.3.2 The instructional needs or progress of any student eligible for, or receiving services.

7 BREACH AND TERMINATION

- 7.1 This Agreement may be terminated by either party if the other party is in breach of any material provision of this Agreement, but only after written notice of default and an opportunity to cure has been given to the breaching party. The notice of default must give the breaching party an opportunity to cure of at least thirty (30) days in the case of a non-monetary default and at least ten (10) days in the case of a monetary default. If the breaching party has not cured the breach before the cure date stated in the notice of default, the party giving notice may terminate this Agreement by giving the breaching party written notice of termination stating the date on which the termination is to be effective. Notwithstanding the delivery of a notice of default or notice of termination under this Section, the parties shall continue to observe and perform their respective obligations under this Agreement until the effective date of termination.

- 7.2 In the event either party elects to terminate this Agreement pursuant to Section 7.1, Educate shall be entitled to all fees for services rendered up to the date of termination. A school district cannot pay for services not rendered.

7.3 **8 INDEMNIFICATION**

- 8.1 The District shall defend, indemnify and hold harmless Educate against and from all costs, expenses, damages, injury or loss to which Educate may be subject by reason of any wrongdoing, misconduct, want of care, skill, negligence or default by the District, its agents, employees or assigns in the execution or performance of this Agreement.
- 8.2 Educate shall defend, indemnify and hold harmless the District against and from all costs, expenses, damages, injury or loss to which the District may be subjected by reason of any wrongdoing, misconduct, want of care, skill, negligence or default by Educate, its agents, employees or assigns in the execution or performance of this Agreement.
- 8.3 If a claim for indemnification (a "Claim") is to be made by a party entitled to indemnification hereunder against the indemnifying party, the party claiming such indemnification shall give written notice (a "Claim Notice") to the indemnifying party as soon as practicable after the party entitled to indemnification becomes aware of any fact, condition or event which may give rise to damages for which indemnification may be sought under this Section. Such Claim Notice shall specify the nature and amount of the Claim asserted if actually known to the party entitled to indemnification hereunder. If any lawsuit or enforcement action is filed against any party entitled to the benefit of indemnity hereunder, written notice thereof shall be given to the indemnifying party as promptly as practicable (and in any event within fifteen (15) days after the service of the citation or summons). Subject to the limitations of this Section the failure of any indemnified party to give timely notice hereunder shall not affect rights to indemnification hereunder, except to the extent that the indemnifying party demonstrates actual damage caused by such failure. After such notice, if the indemnifying party shall acknowledge in writing to the indemnified party that the indemnifying party shall be obligated under the terms of its indemnity hereunder in connection with such lawsuit or action, then the indemnifying party shall be entitled, if it so elects at its own cost and expense, (A) to take control of the defense and investigation of such lawsuit or action, (B) to employ and engage attorneys of its own choice, who shall be reasonably satisfactory to the indemnified party, to handle and defend the same unless the named parties to such action or proceeding include both the indemnifying party and the indemnified party and the indemnified party has been advised in writing by counsel that there may be one or more legal defenses available to such indemnified party that are different from or additional to those available to the indemnifying party, in which event the indemnified party shall be entitled, at the indemnifying party's cost and expense, to separate counsel of its own choosing, and (C) to compromise or settle such claim, which compromise or settlement shall be made only with the written consent of the indemnified party, such consent not to be unreasonably withheld or delayed; provided, however, that any such compromise or settlement shall give each indemnified party a full, complete and unconditional release of any and all liability by all relevant parties relating thereto. If the indemnifying party fails to assume the defense of such claim within thirty (30) calendar days after receipt of the Claim Notice, the indemnified party against which such claim has been asserted shall (upon delivering notice to such effect to the indemnifying party) have the right to undertake, at the indemnifying party's cost and expense, the defense, compromise or settlement of such claim on behalf of and for the account and risk of the indemnifying party; provided, however, that such Claim

shall not be compromised or settled without the written consent of the indemnifying party, which consent shall not be unreasonably withheld or delayed. In the event the indemnified party assumes the defense of the claim, the indemnified party will keep the indemnifying party reasonably informed of the progress of any such defense, compromise or settlement. The indemnifying party shall be liable for any settlement of any action effected pursuant to and in accordance with and subject to the limitations of this Section and for any final judgment (subject to any right of appeal).

In the event that any action, suit, proceeding or investigation relating hereto or to the transactions contemplated by this Agreement is commenced, the parties hereto agree to immediately notify each other in writing of the pending action, suit, proceeding or investigation and to cooperate to the extent possible to defend against and respond thereto and make available to each other such personnel, witnesses, books, records, documents or other information within its control that are reasonably necessary or appropriate for such defense.

9 INSURANCE

- 9.1 Educate maintains and keeps in force such insurance as Compensation, Liability, and Property Damage as will protect it from claims under Workman's Compensation Acts and also such insurance as will protect it and the District from any other claims for damages for personal injury, including death and claims for damages to any property of the District or of the public, which may arise from operations under this Agreement, whether such operations be by Educate or by any subcontractor or anyone directly or indirectly employed by any of them.
- 9.2 Educate shall maintain and keep in force liability insurance which shall under no circumstances be less than One Million Dollars (\$1,000,000.00) for injuries sustained by any one person and Two Million Dollars (\$2,000,000.00) for injuries sustained by two or more persons in any one accident. The amount of property damage insurance shall not be less than One Million Dollars (\$1,000,000.00). Educate will submit to the District proof of such coverage prior to the start of services.
- 9.3 The District will maintain and keep in force such insurance as Compensation, Liability and Property Damage as will protect it from claims under Workman's Compensation Acts and also such insurance as will protect it and Educate from any other claims for damages for personal injury, including death and claims for damages to any property of Educate, which may arise from operations under this agreement, whether such operations be by the District or by any subcontractor or anyone directly or indirectly employed by any of them.

10 STATUS CHANGE

- 10.1 Educate shall inform the District of any and all circumstances which may impede the progress of the work or inhibit the performance of this Agreement including but not limited to bankruptcy, dissolution or liquidation, merger, sale of business, assignment, etc.
- 10.2 In addition, the District shall inform Educate of any and all circumstances which may directly or indirectly affect the performance of this Agreement including but not limited to change in District or school administration, decrease in original funding source, etc.

11 NOTICES

- 11.1 All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given to the party to whom intended if (i) delivered (with an acknowledgment) by hand, (ii) sent by facsimile machine or (iii) sent by certified or registered mail postage pre-paid, return receipt requested. Any notice so delivered or sent shall be deemed to have been duly given on the date of receipt.
- 11.2 Until changed by notice in the manner specified above the addresses and telephone numbers of the parties to this Agreement for purposes of this Paragraph shall be:

FOR THE DISTRICT:

Alice Learn, Assistant Superintendent
Horseheads Central School District
One Raider Lane
Horseheads, NY 14845
Telephone: (607) 739-5601

FOR EDUCATE:

John Mc Auliffe, CFO
Educate Online, LLC
1001 Fleet Street
Baltimore, MD 21202
Telephone: (410) 843-8000

12 MISCELLANEOUS

- 12.1 Force Majeure. Neither party will be liable to the other party hereunder or in default under this Agreement for failures of performance resulting from acts or events beyond the reasonable control of such party, including, by way of example and not limitation, acts of God, civil disturbances, war, and strikes.
- 12.2 No Agency. Nothing in this Agreement shall be deemed to create or give rise to a partnership or joint venture between the parties. Neither party shall have the authority to or shall attempt to bind or commit the other party for any purpose except as expressly provided herein.
- 12.3 Applicable Law. In providing all services under this Agreement, Educate shall abide by all applicable federal, state and local statutes, ordinances, rules, regulations and standards as well as the standards and requirements imposed upon the District by federal and/or state agencies providing funding to the District for the purchase of Educate services.
- 12.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York .
- 12.5 Arbitration. Except with respect to proprietary rights and obligations with respect to confidentiality including the right of a party to apply to a court of competent jurisdiction for a temporary restraining order, preliminary injunction or other equitable relief to preserve the status quo or prevent irreparable harm and for the right to bring suit for money due under the Agreement, all claims, disputes, controversies and other matters in question between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof which cannot be resolved by the parties through face-to-face negotiations, shall be settled by binding arbitration in accordance with the rules of the American Arbitration Association then in effect. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator shall be a neutral person who has never been employed (either as an employee or as an independent consultant) by either of the parties, any parent, subsidiary or affiliate thereof or any third party that supplied goods or services to either party hereto and shall be selected in

accordance with the rules of The American Arbitration Association. All arbitration proceedings shall be held in Chemung County New York_____,
_____. The cost of the arbitration shall be borne equally by the parties.

Either party to arbitration hereunder may bring an action for injunctive relief against the other party if necessary to preserve the arbitrators' jurisdiction or to maintain the status quo pending the arbitrators' decision.

- 12.6 Non-discrimination. Educate is an equal opportunity employer. It conducts all business activities including hiring, without regard to age, race, color, sex, disability, marital status, national origin, citizenship status or other legally protected category.
- 12.7 No Waiver. No failure on the part of either party to exercise, no delay in exercising and no course of dealing with respect to any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 12.8 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and all previous agreements or discussions between the parties relating to the subject matter hereof written or oral are hereby terminated and/or superseded by this Agreement. This Agreement may be amended or modified only by a written instrument signed by both parties. If any provision of this Agreement is held invalid, the validity of the remainder of this Agreement shall not be affected. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- 12.9 Publicity. Each party may disclose the existence, subject matter, size, and/or value of this Agreement in press releases and public announcements and in such connection may refer by name to the other party, subject to the other party's consent which consent shall not be unreasonably withheld.
- 12.10 Number and Gender. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and the masculine gender shall include the feminine and neutral genders.
- 12.11 Binding Effect. This Agreement will be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the Effective Date first above written.

Horseheads Central School District
"DISTRICT"

By: _____

Title: _____

Date: _____

EDUCATE ONLINE, LLC
“EDUCATE”

By: _____
John McAuliffe CFO &, Educate, Inc.

Date: _____



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 1, 2011

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 \$1140.00 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 31st, 2012.
- 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, 2012.
- 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, 2012.

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.

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

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

President, Board of Education
Brian Lynch
Horseheads Central School District
One Raider Lane
Horseheads, NY 14845
607-739-5601

Supplemental Educational Services Agreement

Agreement made this November 1, 2011 by and between the Horseheads Central School District (hereinafter referred to as DISTRICT) and Habitat for Learning Inc. D/B/A Sylvan Learning Center (hereinafter referred to as SYLVAN) for the provision of Supplemental Educational Services as follows:

1. TERM. The term of this AGREEMENT shall begin in November, 2011 and extend through and including August 31, 2012, provided however, that provisions of this AGREEMENT relating to fees and charges and to reports shall survive the agreement's termination date.

2. WORK. SYLVAN shall perform for DISTRICT instructional services per identified student, as specified on the student's Individual Learning Plan and chosen from the options listed in Appendix A.

3. REPORTS.

a. SYLVAN shall provide to DISTRICT an Individual Learning Plan for each student specifying achievement goals, a timetable for measurement of goals, and the initiation date, frequency, duration and location of services to be provided. For eligible students with disabilities, the goals method of measurement and timetable will be consistent with any individual education plan provided by the DISTRICT pursuant to the Individuals with Disabilities Education Act.

b. SYLVAN shall provide to DISTRICT copies of written progress reports that are provided regularly to parents at no less than quarterly intervals. Parent Progress Reports will be in a format, and to the extent practicable, in a language parents can understand.

c. SYLVAN shall provide to DISTRICT in a format prescribed by SED, a final written report that summarizes the progress of eligible students who were provided with Supplemental Education Services hereunder.

4. STUDENT RECORDS. DISTRICT agrees to provide SYLVAN with educational records for STUDENT as may be necessary or desirable for completion of WORK by SYLVAN, including but not limited to a student's Individualized Education Plan (IEP) for students with disabilities. SYLVAN agrees that it will not disclose, without prior written permission of the parents of the student, the identity or educational records of any student who is eligible for, or receiving, supplemental educational services, except as may be allowed by law.

5. LOCATION OF SERVICES: SYLVAN agrees to provide STUDENT with suitable instructional space at a SYLVAN facility, at no cost to DISTRICT, at which the WORK will be undertaken. SYLVAN agrees and warrants that such space will be accessible to persons with handicapping conditions. SYLVAN may, with prior arrangement through and approval of the DISTRICT, provide services at a DISTRICT facility at no cost to SYLVAN or at a District approved community location.

6. TERMINATION. DISTRICT may terminate this AGREEMENT in the event SYLVAN is unable to meet the goals and timetables set forth in Appendix A, Statement of Work, provided DISTRICT gives SYLVAN thirty (30) days written notice prior to the intended termination date. SYLVAN may terminate this AGREEMENT in the event DISTRICT fails to provide timely payments or meet any other responsibilities under this AGREEMENT provided SYLVAN gives DISTRICT thirty (30) days written notice prior to the intended termination date. Notwithstanding the above, this AGREEMENT will terminate immediately in the event SYLVAN is removed from the COMMISSIONER's list of approved supplemental educational services providers.

7. PERSONNEL. SYLVAN shall provide certified teachers for purposes of completing the WORK SYLVAN agrees to provide. SYLVAN shall confirm that all individuals employed by SYLVAN who have direct contact with students have been fingerprinted.

8. COMPENSATION. The DISTRICT agrees to pay for Services performed, and SYLVAN agrees to accept as full payment for the Services performed to this Agreement as follows:

- a. A per session hourly rate for each attended session as detailed on Schedule A.
- b. The total amount charged by SYLVAN is not to exceed the 2011/12 NYS maximum rate for the DISTRICT of \$1140.00 per student per school year.

9. PAYMENT. SYLVAN shall submit a monthly invoice to DISTRICT along with documentation describing the WORK performed. Within thirty (30) days of the date of receipt of an invoice the DISTRICT will pay SYLVAN for Services rendered under this Agreement.

10. NON-ASSIGNMENT. This AGREEMENT may not be assigned by either party, or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of both SYLVAN and DISTRICT and any attempts to assign the contract without such written consents are null and void.

11. GOVERNING LAW. This AGREEMENT shall be governed by, construed and enforced in accordance with the law of the State of New York.

12. GENERAL ASSURANCES.

- a. SYLVAN will provide supplemental educational services in a manner consistent with all applicable health, safety and civil rights laws.
- b. SYLVAN will ensure that supplemental educational services instruction and content is secular, neutral and non-ideological.
- c. SYLVAN will ensure that the instruction provided and the content used is consistent with those of the DISTRICT and the State and is aligned with State learning standards in the areas of English Language arts (including reading) and/or mathematics.

13. FORGE MAJEURE. SYLVAN shall not be responsible for failing to perform under this AGREEMENT where failure to perform is due to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar causes beyond the control of SYLVAN.

14. NOTICES. Any notices or other communications that must be given in connection with this AGREEMENT shall be in writing and shall be deemed to have been validly made or given when delivered personally or when received if properly deposited with the United States Postal Service, postage prepaid certified or registered mail return receipt requested or with a nationally recognized overnight courier service to the address set forth below; provided, however that notice shall be deemed sufficiently given upon such mailing or deposit with such courier service If delivery is refused by the intended recipient or cannot be completed because the intend recipient has not notified the sender of a changed address In accordance with this provision:

(a) If to DISTRICT: Horseheads Central Schools, 1 Raider Lane,
Horseheads, NY 14845

(b) If to SYLVAN: Sylvan Learning Center, 1A Pine West Plaza,
Albany, NY 12205

15. FULL AGREEMENT. This AGREEMENT. Including all appendices, constitutes the full agreement between the PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below:

Date: _____

Horseheads Central
School District

By: _____
Ralph Marino, Superintendent

Date: _____

Habitat for Learning Inc.
d/b/a Sylvan Learning Center

By: _____
Catherine E. Hull, CEO

Appendix A
Supplemental Educational Services Agreement
LEA: Horseheads Central School District
SES Provider: Habitat for Learning, Inc d/b/a Sylvan Learning Center
2011-12 School Year

Sylvan Online Tutoring in Academic Reading, Math Essentials or Algebra: The Sylvan Online program provides tutoring in Reading grades 3-12 or Math grades 3-8 or Algebra. The tutoring includes a pre-assessment, live scheduled tutoring based on individualized lesson plans, and a post-assessment. The assessment includes relevant portions of the California Achievement Test or other standardized assessment selected by Sylvan. In order to participate in the program the student needs access to a computer PC with internet connection. Sylvan provides a headset with microphone for the student to use to communicate with the teacher. Total Program Hours: 22 Hourly Rate: \$52

AGREEMENT FOR SUPPLEMENTAL EDUCATION SERVICES
UNDER "NO CHILD LEFT BEHIND"

THIS AGREEMENT, by and between the BOARD OF EDUCATION OF THE HORSEHEADS CENTRAL SCHOOL DISTRICT, having its principal office at One Raider lane, Horseheads, New York, 14845, hereinafter referred to as the "District", and the provider: Personal Educational Trainers, Inc. dba Sylvan Learning Center address: 3300 Monroe Avenue, Rochester, NY 14618 hereinafter referred to as the "ASESP", an entity recognized by the New York State Education Department ("SED") as an approved supplemental educational services provider;

WITNESSETH:

WHEREAS, the District desires to secure the professional services of the ASESP to provide Supplemental Educational Services (herein sometimes the "Services") to one or more eligible students whose parent(s) or Legal Guardian(s) have elected to have the ASESP provide such services to their Child under the No Child Left Behind Act of 2001 (the "NCLB"), P.L 107-110; and

WHEREAS, the ASESP covenants that it has the necessary equipment, personnel, expertise and legal authority to perform the Services;

NOW THEREFORE, in consideration of the terms and conditions contained herein, the parties do covenant and agree as follows:

Section 1. Description of ASESP's Services

- A. Provided that all conditions precedent are met, the ASESP shall upon receipt of a Notice to Proceed, or upon the commencement date specified in Section 2 hereof, whichever is earlier, perform in a skillful and professional manner to the reasonable satisfaction of the District, all of the Services described on Appendix "A" or reasonably required in order to carry out the Services set forth therein. Appendix "A" is required for each student and must be designated and approved by a certified teacher.
- B. Except as otherwise specified in this Agreement, all equipment, materials and supplies required to carry out the provisions of this Agreement and to perform the Services described above shall be furnished by the ASESP. All such equipment, materials and supplies shall be of merchantable quality and fit for their purpose to the reasonable satisfaction of the District.

Section 2. Terms

- A. The Services required of the ASESP pursuant to this Agreement shall commence following the approval of the Horseheads Board of Education and shall terminate no later than June 30, 2012 (the "Term").
- B. Failure to reach an agreement will preclude parties from entering into a contract. The District will not be liable under any circumstances for any cost incurred by any ASESP who elects to operate without a contract.

Section 3. Fee

- A. The per pupil allocation for the 2011-2012 school year is \$1,140.00. The parties agree that the ASESP's application to SED for status as an "approved provider" of Supplemental Education Services contemplated a specific service to be delivered to each eligible student whose parent(s) elected to have services delivered by the ASESP. That service fee is defined as: \$ 33.53 per instruction hour x 34 hours = \$1,140.00 (A maximum of 34 hours of instruction will be delivered).

- B. The District agrees to pay, and the ASEP agrees to accept as full payment for the Services performed pursuant to this Agreement, the lesser of the following:
1. The amount of the District's allocation under Title I, Part A, Subpart 2 of the NCLB, divided by the number of children from families below the poverty level counted under Section 1124(c)(1)(A) of the NCLB; or
 2. The actual cost of the supplemental education services plus a maximum of three (3) unexcused absences provided to the eligible student under this Agreement.
- The payment required under this provision shall be determined based upon student attendance and actual delivery of supplemental educational services. The ASEP shall record each student's attendance and may invoice the District on a monthly basis for Services delivered for the previous one (1) months. Within thirty (30) days of the date of receipt of an invoice and subject to the limitations expressed above in paragraph 3B and elsewhere herein, the District will pay the ASEP for Services rendered under this Agreement, not to exceed the per pupil allocation.
3. The ASEP understands, acknowledges and agrees that any false statement contained in an invoice, or in any of the attached materials, shall be punishable as a Class A Misdemeanor pursuant to the terms of the N.Y. Penal Law Section 210.45, in addition to any other infractions, crimes, or other offenses which may be proven.

- C. The Provider shall not seek payment at an hourly rate higher than agreed with the District.

- D. The District may withhold payment to ASEP when: (a) ASEP has failed to perform in whole or in part, under the terms of this contract; (b) ASEP was overpaid by the District as determined by inspection review, and/or audit of its program, work, and/or records; (c) education and/or related services are provided to the District students by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (d) the District has not received prior to closure, all documents concerning one or more students enrolled in ASEP's educational program; (e) ASEP has failed to submit an Individual Academic Achievement Plan (Appendix A) for each student enrolled in ASEP's educational program; (f) ASEP does not obtain the District's approval of an Individual Academic Achievement Plan (Appendix A); or (g) ASEP receives payment from another agency or funding source for a service provided to a District student. If the basis for the withholding is subsection (d), of this section, the District may withhold the proportionate amount of the bill related to that pupil for the time period after the violation occurred and until it is cured. If the basis for the withholding is subsection (a) and/or (b), the District may withhold the value of the service ASEP failed to perform or the amount of any overpayment. If the basis for the withholding is subsection (c), the District may only withhold payment for services provided by the unqualified individual. If the basis for withholding is subsections (e) or (f), the District may withhold payments for any services provided more than twelve (12) hours after commencement of that program. If the basis for withholding is subsection (g), the District may only withhold the amount paid to ASEP by the agency or funding source for the service provided to the District student.

If the District determines that cause exists to withhold payment to ASEP, the District shall provide to ASEP notice that the District is withholding payment. The notice shall describe the reasons for the withholding. Such notice shall specify the basis or bases for the District's withholding payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, ASEP shall take all necessary and appropriate action to correct the deficiencies, as correctable, which form the basis for District's withholding payment or submit a written request for extension to correct the deficiencies. Upon receipt of ASEP's written request showing good cause, the District shall extend ASEP's time to correct deficiencies otherwise payment will be denied. No payment shall be made except upon the submission of duly executed vouchers upon forms, which shall be supplied by the ASEP.

Section 4. Authorized Agents

A. The District designates:

Name: Mrs. Alice Learn
Title: Assistant Superintendent
Address: One Raider Lane
Horseheads, New York 14845

B. The ASESP designates:

Name: Mr. Scott B. Steron
Title: Director
Address: 3300 Monroe Avenue
Rochester, NY 14618

or their authorized representative in case of their absence as the Authorized Agent of the District or the ASESP for receipt of all notices, demands, vouchers, other communications and all orders, permissions, and directions pursuant to this Agreement, which shall be sufficiently communicated, given and/or delivered if dispatched by registered or certified mail, postage prepaid, or delivered personally to the Authorized Agents designated herein. The District hereby reserves the right to designate other or additional Authorized Agents upon written notice to the ASESP, which shall be signed by the Authorized Agent of the District.

Section 5. ASESP's liability

The ASESP hereby agrees to defend, indemnify, and save harmless the District against any and all liability, loss, damage, detriment, suit, claim, demand, costs, attorney's fees, and expenses of whatever kind or nature which the District may directly or indirectly incur, suffer or be required to pay by reason or in consequence of the intentional or negligent act or omission of the ASESP, its agents, employees or contractors, including defects in manufacture or installation of equipment. If a claim or action is made or brought against the District for which the ASESP may be responsible hereunder, in whole or in part; then the ASESP shall be notified and shall be permitted to handle or participate in the handling of the defense of such matters. This provision shall survive termination of this Agreement. Failure to provide any of the above mentioned documentation or failure to provide updated information to the District within the time period allowed may result in termination of this Agreement, at the District's option.

Section 6. Equal Employment Opportunity

The District reaffirms its policy of Equal Opportunity and its commitment to require all contractors, lessors, vendors and suppliers doing business with the District to follow a policy of Equal Employment Opportunity, in accordance with the requirements set forth therein.

Section 7. Compliance with all Laws

- A. The ASESP agrees that, during the performance of the work required pursuant to this Agreement, it and all employees working under its direction shall strictly comply with all local, state or federal laws, ordinances, rules or regulations controlling or limiting in any way, its actions during such performance of the work required by this Agreement, including but not limited to all local, State and Federal health, safety and civil rights laws. Furthermore, each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and this Agreement shall be read and enforced as though it were included herein. If, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon the application of either party this Agreement shall be forthwith physically amended to make such insertion or correction.

B. The ASESF also agrees to the following terms pursuant to the NCLB;

1. This Agreement shall terminate at the District's option if the ASESF is unable to meet the academic achievement goals and timetables specified for the student as discussed on Appendix "A" hereto, or if the ASESF fails to comply with any applicable health, safety or civil rights laws. At the request of the parent(s) of any student(s) referenced on Appendix "A" hereto, the District may notify the ASESF at any time that such student has withdrawn from the services, and the ASESF will no longer be permitted to charge for or provide services to such student(s).
2. This Agreement shall terminate automatically upon the ASESF's removal from the list of "approved supplemental educational services providers" published by SED. In the event of such removal, the ASESF shall promptly notify the District, and shall immediately return to the District any and all records which may have been provided to the ASESF in connection with the provision of services to the student as described on Appendix "A"; and shall cease from the delivery of Services to the Students.
3. The Attached Appendix A lists certain categories of information or data required to be included in this Agreement pursuant to the NCLB and State and Federal regulations and guidance promulgated pursuant thereto. The ASESF agrees to submit such information or data to the District and shall work with the District to develop such information. The ASESF further agrees that its failure to submit such information or data and cooperate with the District shall be grounds for termination of this Agreement, at the District's option.
4. All individuals employed by or otherwise associated with the ASESF, including all support staff and volunteers, who have or may have direct physical contact with students, are required to submit to a fingerprint and criminal history record check pursuant to New York State Law and Part 87 of the SED regulations (Commissioner's regulations). The fingerprint and criminal records check described herein shall be conducted at the expense of the ASESF, and no services shall be provided by the ASESF until such individuals have been checked.
5. Before the start of service, ASESF shall submit to District a copy of their SED approved application, a staff list, and all experience, current licenses, certificates, credentials, permits and/or other documents which entitle the holder to provide supplemental services by individuals employed, contracted, and/or otherwise hired by ASESF. ASESF shall ensure that all credentials are provided to the District. ASESF shall notify District in writing within five (5) school days when personnel changes occur which may affect the provision of supplemental services to District students. ASESF shall monitor the status of licenses, certificates, credentials, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired by ASESF. ASESF shall provide to District updated information regarding the status of licenses, credentials, permits and/or other documents each month during the Term.
6. The ASESF shall provide to the District, in a format prescribed by SED, a final written report that summarizes the progress of eligible students who were provided with supplemental educational services hereunder (and under similar agreements with respect to other students) by or before September 30 of each year.
7. Obligations of the ASESF after termination: The ASESF agrees that any and all obligations of the ASESF with respect to the provision of information concerning the performance of the ASESF and/or relating to student achievement in any way under this Agreement shall survive any termination of this Agreement, for such time as such information may be necessary or convenient to fulfill District's obligations under the law or governing regulations, or any other obligation of the District to a governing or regulatory body or to parents.
8. The ASESF agrees that it may not deliver Services to any student with respect to whom permission to release education records and other data has not been received from the parent(s) or legal guardian(s), nor shall the ASESF request the District to take any action which might constitute a violation of the Family Educational Rights and Privacy Act (FERPA), as the same is amended from time to time.
9. The ASESF is prohibited from making any offer or advertisement of rewards, gifts, incentives, gratuities, payments, or compensation of any kind to parents, students, LEA's, LEA staff and/or school staff for purposes of, or tending to have the effect of, soliciting enrollment, encouraging parents to switch providers once students are enrolled, and/or attempting to influence parents, students, LEA's, LEA staff and or school staff. However, the Commissioner of Education has approved certain nominal awards or incentives. The exceptions to the prohibition are as

follows: a) an award or incentive that does not exceed a total value of \$25 dollars per student per year, b) an award or incentive that is directly linked to documented meaningful attendance benchmarks and/or completion of the assessment and program objectives, and c) awards and incentives approved by the commissioner as part of the provider's instruction program.

Section 8. Audit

The ASEP agrees that the District shall, until the expiration of three (3) years after final payment, have access to and the right to examine any directly pertinent books, documents, papers and records of the ASEP and of any of the subcontractors engaged in the performance of and involving transactions related to this Agreement or any subcontracts.

Section 9. Prohibition Against Assignment

The ASEP agrees that it is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement or any of its contents, of its right, title or interest therein, or of its power to execute such contract to any other person or corporation without the previous consent, in writing, of the District.

Section 10. Contract Deemed Executory

The ASEP specifically agrees that this Agreement shall be deemed executory only to the extent of the monies available for the purpose of the written Agreement and that no liability shall be incurred by the District beyond the monies available for said purpose.

Section 11. Extent of Agreement: Authority to Act

- A. This Agreement constitutes the entire and integrated agreement between and among the parties hereto and supersedes any and all prior negotiations, agreements and conditions, whether written or oral. Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the party to be charged or by its Authorized Agent.
- B. The person signing this Agreement on behalf of the ASEP hereby certifies that (a) he or she is the individual authorized to act on behalf of the ASEP in entering into this Agreement, and (b) the organization will comply with all assurances contained in its application filed with SED and/or also contained herein.

Section 12. Status as Independent Contractor

The ASEP in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the District by reason hereof, and that it will not, by reason hereof, make any claim, demand or application to, or for any right or privilege applicable to an officer or employee of the District, including but not limited to, Workers' Compensation coverage, Unemployment Insurance benefits, Social Security coverage or Retirement Membership or credit.

Section 13. Additional Covenants of ASEP

The ASEP further covenants and agrees that:

- 1. The identity of any student eligible for, or receiving, supplemental educational services will not be disclosed without the written permission of the parent(s) of the student.
- 2. All instruction is to be provided under the general supervision of a New York State certified teacher.
- 3. The instruction is to be provided and the content to be used by the ASEP are consistent with those of the District and of the State, and are aligned with State learning standards in the areas of English Language Arts (including reading) and/or mathematics, as applicable.

4. It will provide parent(s), teachers and the District with information on the progress of the student(s) in increasing achievement, in a format and, to the extent practical, in a language or other mode of communication the parent can understand. This information shall be in such form and contain such detail, as the District shall determine.
5. The ASESPP shall prepare and disseminate a satisfaction survey to parents or legal guardians and return to the office of Federal Programs by June 30, 2012 a minimum number of completed surveys equal to five percent of the students serviced.
6. Supplemental Education Services instruction and content shall be secular, neutral and non-ideological.
7. The ASESPP will provide any and all information, data, assurances or any other evidences requested by the District from time to time to assist the District in its responsibility for monitoring the ASESPP's responsibilities as provided under Federal and New York State regulations and the NCLB. ASESPP shall allow access, including but not limited to unannounced visits, by the District to its facilities for periodic monitoring. Such monitoring will include, but not be limited to, a weekly record of attendance, academic achievement of students receiving services at least four times over the duration of the program, adherence to the timeline in the agreement, adherence to the other terms and conditions of this agreement and compliance with all assurances. Such information shall be maintained and available at all sites where and when the services are occurring.
8. The ASESPP will take all necessary steps to ensure its continued status as an "approved provider" of Supplemental Education Services by the SED. The ASESPP agrees to promptly notify the District if it has reason to believe that it will or may not be continued as such an "approved provider."
9. Staff Absences: If an ASESPP service provider is absent, ASESPP shall provide a qualified substitute. A substitute must meet the same qualifications as the provider he or she is substituting for. The District shall not pay for services unless a qualified substitute is provided.
10. Student Absence: ASESPP shall notify the District of the absence of an ASESPP student no later than the third day of the student's unexcused absence. The District is not responsible for the payment of services when a student is unexcused absent more than three days.
11. The ASESPP shall maintain current adequate insurance for liability, property loss and personal injury involving students receiving supplemental education services.

Section 14. Tax

The District is exempt from paying manufacturer's excise, floor or sales taxes of the United States, the State of New York, and of cities and counties for all materials or supplies pursuant to this agreement. This exemption may not apply to tools, machinery, equipment or other property purchased by, leased by or leased to the ASESPP or to supplies or materials not incorporated into the completed project. Under no circumstances will the District be required to pay nor will it accept invoices for the amount of such taxes.

Section 15. Workers' Compensation

This Agreement shall be void and of no effect unless the ASESPP shall secure compensation for the benefit of, and keep Insured during the life of this Agreement, any and all employees as are required to be insured under the provisions of the Workers' Compensation Law of the State of New York or the State of the ASESPP's residence, whichever may apply.

The above-stated requirement shall not apply if the ASESPP has no employees or whose employees are not required to be covered by Workers' Compensation. In such cases, a brief letter, on the ASESPP's letterhead, stating which of the above circumstances is applicable, should be attached to the contract. Such letter shall be subject to the approval of the District, in its sole discretion.

Section 16. Governing Law

This Agreement shall be governed by and under the laws of the State of New York. In the event that a dispute arises between the parties, venue for the resolution of such dispute shall be the County of Chemung, State of New York.

Section 17. Non-Waiver

In the event that the District does not strictly enforce the terms and conditions of this Agreement, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent the District from enforcing each and every term of this Agreement thereafter.

Section 18. Severability

If any provision of this Agreement is held invalid by a court of law, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the laws of the State of New York.

Section 19. Attachments

Incorporated into this Agreement is Appendix A, Individual Academic Achievement Plan; Appendix B, Supplemental Educational Services Quarterly Progress Report and Appendix C, Transportation.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day and year first above written.

For the ASEP:

For the District:

SYLVAN LEARNING
CENTER, #4218

BOARD OF EDUCATION OF THE HORSEHEADS
CENTRAL SCHOOL DISTRICT

By: _____

By:

Dated:

Dated: _____

ASEP's Corporate/Other Tax Identification No.



Initial Assessment Report

Initial Assessment Report

Student Name: Samantha

Subject: Reading

Current Grade : 7

Payor:

School/Site:

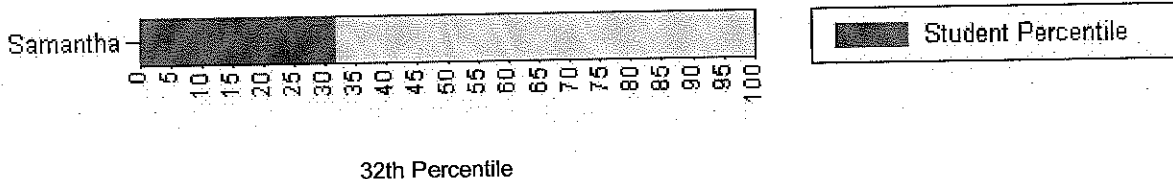
About the Assessment

On 3/9/2011, Samantha was administered the Group Reading Assessment and Diagnostic Evaluation (GRADE) in order to determine group placement in the Ace it! program and measure progress. The Ace it! program uses three pieces of information from this assessment: percentile ranks, Growth Scale Value scores, and grade equivalencies.

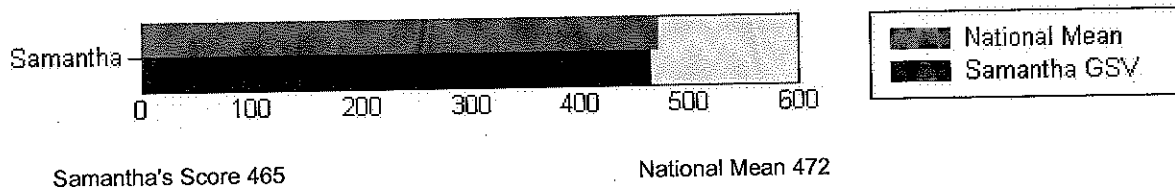
Initial Assessment Results

Percentile Rank	GSV	Grade Equivalency
Samantha's percentile rank is 32%. Samantha scored higher than 31% of 7 grade students on the GRADE.	Samantha scored 465 on the GRADE. The average GSV score for a 7 grade student on the initial assessment is 472.	Samantha received a GE of 6 on the GRADE.

The Percentile Rank is a score that compares your student to other students in the same peer group. Specifically, a percentile rank identifies the percentage of students in the same grade that your student's score surpassed. Ace it! uses percentile ranks to determine instructional placement.

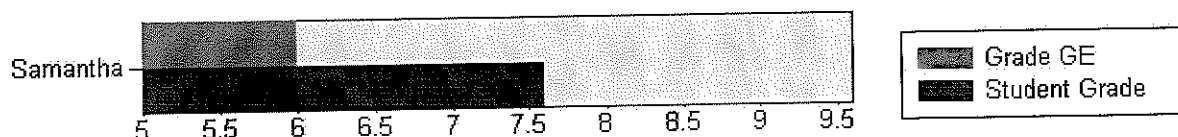


Growth Scale Values [GSVs] are a conversion of raw scores on a test (number correct) to a common scale that allows for comparison between students and versions of tests (pre and post assessments). GSVs are useful for comparing test scores over time, such as measuring growth of individual students or groups of students over the course of a program. Ace it! uses GSVs to measure achievement growth from the time the student takes an initial assessment to program completion.



7 Points below the mean

Grade Equivalencies (GE) are scores that compare students based on the performance of other students relative to the school year (grade and month). The GE represents the score a typical student at that grade level would have received, had they taken the assessment. For example, if a third grade student received a GE of 2.3 on an assessment, they performed at the same level that a second grade student in the third month of the school year would have on the third grade assessment. Ace it! uses GEs to estimate a student's developmental status in terms of grade level.



1.6 Less than Grade Level

The Ace it! program is designed to meet your child's individual needs, and we will place Samantha in an appropriate instructional group to meet her academic needs

Group Placement

Based on Samantha's scores, she will begin her Ace it! Reading program at Level 7. Samantha will be working with Ms. Smith. She is scheduled for xx hours of instruction.

Samantha's instructional Schedule:

TUE:03:15 PM- 5:15 PM

THU:03:15 PM- 5:15 PM

Learning Plan

The Ace it! Tutoring curriculum is designed to help students achieve competency in core skills. Samantha will be building proficiency in reading and working towards meeting New York state reading academic standards through intensive work on the following skills:

Learning Outcome	Skills
Comprehension Samantha will improve overall comprehension by applying specific reading strategies to stories and passages. Samantha will apply good reader strategies before, during, and after reading.	<ul style="list-style-type: none"> • Author's Purpose • Cause and Effect • Character Analysis • Compare and Contrast • Drawing Conclusions • Main Idea • Summarizing • Text Features • Tone and Mood <ul style="list-style-type: none"> • Good Reading Strategies • Prior Knowledge
Fluency Samantha will read with fluency, accuracy, and expression and monitor fluency rates over time.	<ul style="list-style-type: none"> • Fluency
Vocabulary Samantha will build a working vocabulary by identifying unfamiliar words in stories and passages and using new words in various contexts; Samantha will use context clues to identify the meanings of unfamiliar words.	<ul style="list-style-type: none"> • Content Vocabulary
Word Analysis Samantha will decode and define unfamiliar words by examining word composition.	<ul style="list-style-type: none"> • Prefixes • Roots • Suffixes • Syllabication

Please feel free to ask your Ace it! Tutoring teacher any questions you may have about the Initial Assessment or Samantha's instructional placement. You are an important part of Samantha's reading success!



Student Progress Report

Student Information

Student Name: [REDACTED]
 Subject: Reading
 Current Grade: 6th
 Contractee: [REDACTED]
 School/Site: [REDACTED]

Attendance

Kiara has attended 24.00 hours of instruction. She has missed 6.00 hours of instruction. Please be sure to encourage regular attendance.

Kiara's Instructional schedule:

TUE: 03:15 PM- 5:15 PM
 THU: 03:15 PM- 5:15 PM

Instruction

Kiara has been actively working with a group of 8 students and 1 teacher.

She is studying Phonics, Comprehension and Vocabulary.

Kiara has worked on the following skills:

Lesson	Word Analysis	Evaluation Score	Comprehension	Evaluation Score	Vocabulary	Evaluation Score
1-3	Syllabication - VC/CV	3	Main idea; Supporting Details	1	Content Vocabulary	1
4-6	Syllabication - V/CV and VC/V	2	Plot	2	Content Vocabulary	2
7-9	Roots	2	Predicting Outcomes	2	Content Vocabulary	2
10-12	Prefixes - uni-, bi-, tri-, multi-, semi-, pre- and pro-		Inferences		Content Vocabulary	
13-15	Suffixes - -er/-or, -en, -ward, -fy, -less, and -ness	3	Fact and Opinion	3	Content Vocabulary	3
16-18	Roots - dict, pos, pel.	2	Setting	2	Content Vocabulary	2
19-21	Prefixes - uni-, bi-, tri-, multi-, semi-, pre- and pro-	2	Summarizing	3	Content Vocabulary	3
22-24	Suffixes - -er/-or, -en, -ward, -fy, -less, and -ness	1	Cause and Effect	1	Content Vocabulary	2
25-27	Syllabication - Affixes	2	Character Analysis	2	Content Vocabulary	2
28-30	Syllabication - Inflectional Endings	2	Author's Purpose	2	Content Vocabulary	2
Average		2.1		2.0		2.1

**Score Key:

- 1 - Below Basic - Student demonstrates limited mastery of prerequisite knowledge and skills.
- 2 - Basic - Student demonstrates partial mastery of prerequisite knowledge and skills.
- 3 - Proficient - Student demonstrates competency over subject matter, including knowledge, skills, and application of skills & knowledge.



Student Progress Report

Additional Ideas to Improve

In addition to Kiara's Reading instruction at "Ace it!" Tutoring, here are a few things you can do to help improve your child's Reading ability.

Talk with her about what she did during the day, ask questions to have her describe school or "Ace it!" Tutoring learning activities, and encourage more than "yes or no" answers.

Encourage her to use her imagination. Have her write and illustrate her own stories.

Help her find and read books she enjoys. Book Adventure is a fun way to explore books. Book Adventure is a FREE online reading motivation program for children in grades K-8. Children create their own book lists from over 6,500 recommended titles, take multiple choice quizzes on the books they've read offline, and earn points and prizes for their literary successes. Go to www.bookadventure.com for details.

APPENDIX C

Transportation

The PROVIDER may choose to provide transportation to DISTRICT students for whom the PROVIDER is providing SES services under this Agreement contingent upon prior approval of this service in the PROVIDER'S NYS approved SES application, executing this amendment to the Agreement and subject to the conditions set forth herein. If the PROVIDER is permitted to provide such transportation, the PROVIDER shall do so solely at its own risk, subject to full defense and indemnification of the DISTRICT, and further subject to compliance with Automobile Liability Insurance requirements. The PROVIDER shall not provide transportation in any vehicle that is not insured pursuant to the Certificate of Insurance provided to the DISTRICT.

Auto Liability Insurance, applicable if PROVIDER is providing transportation for DISTRICT students to and/or from any SES services under this Agreement, shall insure the PROVIDER and its agents, employees, volunteers, officers, directors, owners, partners, subcontractors or any other representatives (the PROVIDERS'S "employees"), and the DISTRICT as additional insured during the operation of this Agreement, against any claims for bodily injury, including death and property damage as shall arise because of any transportation provided by the PROVIDER or its employees. The limit of liability under this automobile liability insurance coverage for owned, non-owned and hired vehicles shall be in an amount not less than two million dollars (\$2,000,000.00) Combined Single Limit (CSL) or equivalent converge.