

PO# _____

AGREEMENT

THIS AGREEMENT is made as of the 10 day of June, 2016, by and between Kenmore-Town of Tonawanda Union Free School District, having an address of 1500 Colvin Boulevard, Tonawanda, New York 14223 (the "District") and EL Education, having an address of 247 West 35th Street, Eighth Floor, New York, NY, 10001 (hereinafter called the "Provider").

FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Provision of Services. Provider agrees to provide the District with the services set forth on Schedule A attached hereto and made a part hereof (the "Services"). To the extent requested by the District, the Services will be provided by the Provider at such time and location as are determined by the District.
2. Payment for Services. The District shall pay the Provider compensation and/or fees as set forth on Schedule B for the performance of the Services.
3. Term/Termination. The term of this Agreement shall be from July 2, 2016 through June 30, 2017 ("Term"). The District may terminate this Agreement by giving ten (10) days prior written notice to the Provider, and if this Agreement is terminated, no compensation will be due under paragraph 2 of this Agreement for services that were to be rendered during the period following the termination date.
4. Non-Assignability. No party shall assign, transfer or otherwise dispose of its rights or obligations under this Agreement, in whole or in part, without the prior written consent of the other party.
5. Indemnification. Provider shall indemnify, defend and hold harmless the District, its Board of Education, officers, administrators, employees, agents and representatives from and against all claims, demands, causes of action, liabilities, losses, damages, judgments, penalties, costs and expenses (including reasonable attorney fees) arising out of the negligent or intentional acts or omissions of Provider, its officers, employees, agents and representatives.
6. Insurance. During the term of this Agreement, Provider shall maintain at its own expense:
 - (i) a commercial general liability policy, including contractual liability coverage, in amounts of 2 million dollars per occurrence, 2 million dollars aggregate, in occurrence coverage form, naming the District as an additional insured. The District shall be an additional insured by ISO additional insured endorsement CG 20 26 or equivalent.
 - (ii) Workers' Compensation and New York State Disability Benefits coverage on all representatives of Provider providing services under this Agreement.
 - (iii) professional liability coverage for each of Provider's employees providing services under this Agreement, in amounts of 2 million dollars per occurrence, 2 million dollars aggregate. In the event that the professional liability policy is a claims made policy, Provider shall purchase a "tail" policy for a period of no less than five (5) years from the termination date of the foregoing policy. Said "tail" policy shall have policy limits in an amount not less than the primary professional liability policy.
 - (iv) any other insurance legally required to protect its employees, agents, independent contractors, and representatives in the performance of their duties under this Agreement.



- (v) all insurance policies shall be with an insurance company acceptable to the District and additional insured endorsements shall be on a primary and non-contributory basis.

Provider shall provide the District with certificates of insurance regarding all such coverage, which will provide for 30 days advance written notice to the District prior to any cancellation, non-renewal or material modification of coverage.

7. Amendment. This Agreement shall not be amended, changed, or modified in any manner except by an instrument in writing signed by a duly authorized representative of each of the parties hereto.

8. Relationship Between The Parties. The parties are independent contractors under this Agreement. Neither party shall have the authority to commit the other party to any binding obligation or to execute, on behalf of the other party, any agreement or other document creating legal obligations on the part of the other party, and neither party shall represent to any third party that it has any such authority. Provider, as an independent contractor, and Provider's personnel, shall not be considered employees of the District for any purpose. Provider is solely responsible for scheduling, directing and completing the work and for furnishing all equipment, materials, supplies, personnel, and other resources necessary to perform the work. Under no circumstances will Provider or its personnel be eligible or allowed to receive or participate in any benefit available to the District's employees. Provider will be responsible for any federal income taxes due that may be associated with the fee paid to Provider pursuant to this Agreement.

9. Miscellaneous

- a. Provider shall comply with all federal, state and local laws, rules and regulations that apply to the performance of the work.
- b. Provider represents that it (i) possesses all of the licenses, certifications and permits necessary to perform the work, and (ii) is fully qualified by training and experience to perform the work.
- c. Section 2-d of the New York State Education Law requires that a Parents Bill of Rights for data privacy and security must be included with every contract an educational agency enters into with a third party contractor, where the third party contractor receives student data or teacher or principal data. Accordingly, this Agreement is deemed to incorporate by reference the District's Parents Bill of rights for data privacy and security (*see District's website – www.kenton.k12.ny.us*). The Contractor agrees to comply with all applicable provisions of Section 2-d of the Education Law, any rules and regulations of the New York State Education Department issued thereunder, and the District's Parents Bill of Rights for data privacy and security, including any amendments to any of these.
- d. If Provider's personnel are to work with the District's students directly, all such personnel shall receive background checks through State Education procedures, if and as required by law. Proof of State Education Department clearance shall be provided prior to provision of services to the students.
- e. This Agreement shall be governed by and be interpreted in accordance with the laws of the State of New York, disputes shall be venued in a court of competent jurisdiction in Erie County, New York, and the parties hereby consent to personal jurisdiction in any such court.
- f. This written Agreement, including the attached Schedules, contains the entire agreement between the parties. There are no other agreements or understandings concerning the terms of this Agreement.
- g. In the event of conflict between Sections 1 through 9 of this Agreement and the attached Schedules, the provisions of Sections 1 through 9 of this Agreement shall prevail.

- h. This Agreement shall be binding upon and inure to benefit the executors, administrators, heirs, successors and assigns of the respective parties.
- i. Whenever any notice is to be given pursuant to the terms and conditions of this Agreement, such notice shall be in writing and shall be considered given when (i) delivered personally, or (ii) sent by commercial overnight courier with written confirmation of delivery, or (iii) when delivered by United States mail, postage prepaid, certified mail, return receipt requested, addressed to the location below, or other location as has been designated by notice in accordance with this Agreement:

The District: Kenmore-Town of Tonawanda Union Free School District
1500 Colvin Boulevard
Buffalo, New York 14223

Attention: Assistant Superintendent for Finance

Provider: EL Education
247 West 35th Street, Eighth Floor
New York, NY 10001

Attention: Kemi Akinsanya-Rose

The parties' consent to this Agreement is indicated by their signatures below.

KENMORE-TOWN OF TONAWANDA
UNION FREE SCHOOL DISTRICT

BY: _____
Authorized Signatory

EL Education

BY:  _____
Authorized Signatory

Kipp Smith
Director, School Services



TAX ID # 06-1576405

247 West 35th Street
Eighth Floor
New York, NY. 10001
212-239-4455 tel
212-239-8287 fax

www.eleducation.org

May 26, 2016

Proposal to: Kenmore-Town of Tonawanda UFSD

EL Education is pleased to provide the following proposal for implementation of professional development services for Kenmore-Town of Tonawanda UFSD, located at 1500 Colvin Blvd., Buffalo, NY. 14223 at a cost of **\$45,000**.

Session Title	Session Description
Coaching Day	These coaching cycles are dual purpose -- they support quality teacher implementation and provide training in the leadership practices (coaching, using learning walks for progress monitoring and goal setting) that build capacity for school and district staff to deepen the work internally. Coaching cycles are supportive, not evaluative, although teachers and leaders may align the learning and evidence to the learning component of teacher evaluation.

Please see Exhibit A, Proposal Pricing Details, for a detailed breakdown of anticipated pricing and services.

Prices are inclusive of EL Education staff travel and prep time. Kenmore-Town of Tonawanda UFSD will be responsible for providing appropriate meeting space. EL Education does not provide meals or supplies to workshop participants. EL Education will provide printed handouts as needed to support the workshop(s).

Dates of service will be established between EL staff and the Kenmore-Town of Tonawanda UFSD.

Payment Schedule

EL Education requires a purchase order (P/O) or payment in full by using a payment plan as selected below.

EL Education will invoice Kenmore-Town of Tonawanda UFSD according to the payment plan. If Kenmore-Town of Tonawanda UFSD is making payment using a purchase order (P/O), payment in full must be received within 30 days of the service. Kenmore-Town of Tonawanda UFSD agrees to pay to EL Education the amount indicated in each invoice by the due date reflected on that invoice. If Kenmore-Town of Tonawanda UFSD fails to pay any invoice payments, late charges equal to 1.5% of billable invoice amount per month shall also be payable by Kenmore-Town of Tonawanda UFSD to EL Education. In addition, Kenmore-Town of Tonawanda UFSD failure to fully pay any fees within thirty (30) days after the applicable due date will be deemed a material breach of this Agreement and EL

Education may, in addition to any other remedy it may have, suspend its performance of the Services and/or terminate this Agreement. Any suspension or termination does not relieve Kenmore-Town of Tonawanda UFSD of obligations to past pay due fees or late charges.

Please Select the Appropriate Payment Plan:

☐ **PURCHASE ORDER OPTION:** Kenmore-Town of Tonawanda UFSD will make full payment using a purchase order (P/O). **EL Education encourages the use of Purchase Orders when possible. For schools/districts that can issue an official Purchase Order, the Purchase Order should be issued within 30 days of executing this agreement.** The (P/O) will be paid in full by the Kenmore-Town of Tonawanda UFSD on or before **August 1, 2016**. EL Education will invoice Kenmore-Town of Tonawanda UFSD up to 30 days prior to **September 1, 2016**.

☐ **PAYMENT PLAN OPTION 1:**

One payment of full amount is due on:

☐ **PAYMENT PLAN OPTION 2:**

An initial payment of:

is due on:

A final payment of:

is due on:

☐ **PAYMENT PLAN OPTION 3:**

An initial payment of:

is due on:

A second payment of:

is due on:

An final payment of:

is due on:

All payments should be sent to:

Annmarie Mahler
Controller, EL Education
247 West 35th Street, 8th Floor
New York, NY 10001
Phone: 212-239-4455 Fax: 212-239-8287

Attachment(s):

1. Exhibit A – Proposal Pricing Details
2. Exhibit B – Best Practices for Successful Institutes

Key Contacts

To be completed by Kenmore-Town of Tonawanda UFSD:

Contract/Billing Contact

Name	Billing Address	Email	Phone
Heather Lyons, Ph.D.	1500 Colvin Blvd Buffalo, NY 14223	hlyon@ktufsd.org	(716) 874-8400

Professional Development Liaison

Name	PD Liaison Address	Email	Phone


Reservation of Intellectual Property

All materials developed or provided by EL Education or its agents pursuant to this Agreement, and any know-how, methodologies, equipment, or processes used by EL Education to provide the Services to Kenmore-Town of Tonawanda UFSD including, without limitation, all copyrights, trademarks, trade secrets, and other proprietary rights are and will remain the sole and exclusive property of EL Education. Unauthorized copying, reverse engineering, and creating unauthorized derivative works based on such material is expressly forbidden except as outlined in this Agreement.

Agreement

EL Education and Kenmore-Town of Tonawanda UFSD agree to the above scope of services. This scope of services may only be changed in writing and must be signed by both parties.

By signing this agreement, you attest that you are authorized to sign on behalf of Kenmore-Town of Tonawanda UFSD.



EL Representative

Kenmore-Town of Tonawanda
UFSD Representative

Chief Operating Officer

Title

Title

May 26, 2016

Date

Date

Please return a signed copy of the entire agreement and the purchase order to pscontracts@eleducation.org or via fax at [413-461-3505](tel:413-461-3505).

Exhibit A**Proposal Schedule and Pricing Details**

Dates	Session Title	Max # of Participants	Rate
SY 16-17	Coaching Days (18)	Up to 15	\$45,000
Total			\$45,000

Multiple service dates are to be arranged with the EL Education staff assigned to provide the service.

Note: Should inclement weather impact service delivery, EL Education will make good faith efforts to reschedule with Kenmore-Town of Tonawanda UFSD. In the event that EL Education and Kenmore-Town of Tonawanda UFSD are unable to reschedule service dates, Kenmore-Town of Tonawanda UFSD will be billed 50% of rate.

Exhibit B

Best Practices for Successful Institutes

To ensure a successful institute, we want to inform you on our preparation process and provide you and your onsite team with guidelines to facilitate a seamless and efficient environment for professional development. These best practices can be used as a checklist for the onsite contact or team in advance of your institute(s). One of our staff will refer to this list in preparatory conversations leading up to your institute(s) to confirm readiness.

Materials Shipping and Storage

- ☐ Materials will arrive 2-4 business days in advance of your institute. Please provide EL Education with shipping details as well as the name of the recipient receiving the materials.
- ☐ Onsite contact should confirm receipt of materials with EL Education.
- ☐ Materials should be stored in a secure location.
- ☐ After the event, we may need to ship materials to another location. Provide details for placement/storage of materials for shipping via FedEx/UPS. Typically we request a pick up within two days of the session.

Room Selection and Setup

- ☐ Room(s) is/are ideally located in a low traffic area (i.e. away from busy halls, not used as a thoroughfare). The room(s) should be quiet with minimal ambient noise, such as that from appliances or HVAC systems. Ideally, restrooms are convenient to the PD room(s).
- ☐ The room(s) where the institute will be delivered should be set up by 7:00am the day of the institute(s). Any shipped materials should be in the room, along with all tables and chairs.
- ☐ When there are two (2) or more rooms/spaces in use, we recommend having a centrally located registration table for check-in.
- ☐ Our PD sessions encourage group discussion and activities. Round tables, when possible, should be arranged to seat 4-8 people. This helps facilitate discussion.

A/V Arrangements

- ☐ An LCD projector, power strip, and computer speakers should be available, setup, and tested prior to the facilitator(s) arriving for your institute. Please allow at least 1-2 days for this setup.
- ☐ If Wi-Fi is available, please provide a password to the facilitator. A web connection, not necessary for institute delivery, is preferred in case of participant requests for additional resources or to show supplementary materials or videos.
- ☐ Please provide an onsite contact to the facilitator(s) in case of troubleshooting needs.

Other Considerations

- ☐ What are recommended local lunch destinations and/or caterers?
- ☐ Should directional signs be provided to help participants locate the institute at your location?
- ☐ Is the facility ready for a group to utilize? In the summer months, consider building and maintenance staffing needs.

Special Considerations for Large Sessions

- ☐ Setup will vary by location and group size.
- ☐ Consider proximity of the rooms/spaces being used for your institute(s), as well as whether a registration table is necessary.