

Plano Independent School District



Bid #, Name of Bid & Submitting Company name must appear on the outside of the submittal envelope.

Bid # 2008-067
Bid Title: Sale of PPE Curriculum

Bid Opening Time/Date:
Opening Date: July 24th, 2008
Opening Time: 10:00 am

Contact: Raymond Weaver, CPPB
Phone: 469-752-0285
Fax: 469-752-0281
E-mail – ray.weaver@pisd.edu

Please Note the Following Information:

No late bids will be accepted
No faxed or electronic bids will be accepted
Please submit **original and two copies** to:
Plano ISD Purchasing Dept., 6600 Alma Drive, Plano, TX 75023

Bidder's Certification

The undersigned, by his/her signature, represents that he/she is authorized to bind the bidder to fully comply with the terms and conditions of this Invitation to Bid, including all forms and attachments included and/or referenced herein, for the amount(s) shown on the accompanying bid form(s).

NOTE: Bidder is strongly encouraged to read the entire Invitation to Bid prior to submitting. Failure to provide the above information in its entirety may be grounds for disqualification of response.

Please check here if you're submitting a NO BID for this project. However, to ensure that you remain in our database, please complete the information below.

Firm/Company Name: _____	Telephone #: _____
Address: _____	Fax #: _____
City: _____	Web Address: _____
State: _____ Zip: _____	E-mail address: _____
_____ (Signature of person authorized to sign bid)	Today's Date: _____
Printed Name: _____ (Please print or type)	Title: _____

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INSTRUCTIONS TO BIDDERS

CONTRACT

INSTRUCTIONS TO BIDDERS

SCOPE OF PROJECT

The Board of Trustees of Plano Independent School District, on June 17, 2008, declared the listed curriculum to be surplus and instructed Staff to offer the program for public bid. The bid will be based on a signed contract of sale that is incorporated into this document. All offers will be considered and the bid that provides the District with the best value will be awarded.

1. PART - GENERAL

1.1 RECEIPT AND OPENING OF BIDS

- A. Plano Independent School District (hereinafter referred to as the "Owner") invites Bids for the purchase of real property.
- B. SUBMISSION OF BIDS: Sealed Bids shall be submitted to:

Plano Independent School District
Purchasing Department
6600 Alma Drive
Plano, Texas 75023

BIDS SHALL BE SUBMITTED NO LATER THAN THE FOLLOWING TIME AND DATE:

July 24th, 2008 at 10:00 AM

ALL ENVELOPES CONTAINING BIDS SHALL BE MARKED WITH "**SALE OF PPE CURRICULUM**", **BID # 2008-067.**"

ALL BIDS MUST BE RECEIVED IN THE PURCHASING DEPARTMENT OF PLANO INDEPENDENT SCHOOL DISTRICT BEFORE OPENING DATE AND TIME.

For questions concerning the bidding process please contact:

Raymond Weaver
Purchasing Department
Fax 469-752-0281 or email rweaver1@pisd.edu

Questions must be in writing and will be responded to in the same medium. Questions that, the answer of, would give unfair advantage will be responded to by addenda and furnished to all bidders of record.

- C. LATE BIDS: Owner is not responsible for lateness of mail, carrier, etc. and time/date stamp clock in Plano Independent School District's office shall be the official time of receipt.
- D. BID OPENING: Bids will be opened and (unless obviously non-responsive) read aloud publicly.
- E. LOCATION OF BID OPENING: Bids will be publicly opened on dates and at times indicated previously. Bid openings will be at the following location:

Plano Independent School District
Purchasing Department
6600 Alma Drive
Plano, Texas 75023

- F. NO ORAL, telegraphic, telephonic or facsimile transmitted bid(s) will be considered.

1.2 METHOD OF BIDDING

- A. **BIDDING DOCUMENTS:** Complete sets of Bidding Documents must be used in preparing Bids; the Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- B. **ETHICS:** The bidder shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official or agent of Owner.
- C. **CONFLICT OF INTEREST:** No public official shall have personal interest in this bid or any resulting contract in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitled C, Chapter 171.
- D. **INDEMNIFICATION:** Successful bidder shall defend, indemnify and save harmless Owner and all its officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property arising out of the award of the contract or on account of any negligent act or fault of the successful bidder, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any Contract which may result from bid shall pay any judgment costs which may be obtained against Owner growing out of such injury or damages.
- E. **BID COMPLIANCE:** Bid must comply with all Federal, State, County and local laws.
- F. See Bid contract for specific requirements regarding bids.

1.3 PREPARATION OF BID

- A. Submit Bid(s) on forms furnished herein without alteration.
- B. Fill out blanks in ink or typewritten. If revised prior to opening, bidder must sign and date change.
- C. Make Bid in name of principal and if co-partnership, give names of all parties.
- D. Give bidder's complete address.
- E. If Bid(s) are submitted by an agent, provide satisfactory evidence of agency authority.
- F. Fill in all bid prices in both words and figures.
- G. Submit Bid in sealed envelope.
- H. Indicate on outside of envelope, name of bidder, bidders address, and name and number of project for which bid is submitted.

- I. If forwarded by mail, enclose sealed envelope containing bid in another envelope addressed as indicated.
- J. Bid(s) must be received prior to opening time. Any bid received after the designated bid opening date and time listed herein shall be returned unopened and will be considered void and unacceptable.

1.4 BID SECURITY

- A. No Deposit Required

1.5 WITHDRAWAL OR REVISION OF BID

- A. Bid may be withdrawn or revised prior to scheduled time for opening, under following terms:
 - 1. Bidder may, without prejudice to himself, withdraw Bid after it has been deposited, provided request for such withdrawal is received in writing before time set for opening.
 - 2. After opening, no Bid may be withdrawn for period indicated.
 - 3. Any interlineation, alteration, or erasure made before receiving time must be initialed and dated by the signer of the bid, guaranteeing authenticity.

1.6 NON-RESPONSIVE BID

- A. Bid(s) are considered NON-RESPONSIVE and may be rejected for following reasons unless otherwise provided by law:
 - 1. If form furnished is not used or is altered.
 - 2. If there are unauthorized additions, conditional bids, or irregularities of any kind which may tend to make Bid incomplete, indefinite, or ambiguous.
 - 3. If bidder adds any provisions reserving right to accept or reject any award, or to enter into Contract pursuant to an award.
- B. Owner reserves right to reject any or all Bids and to waive irregularities or informalities as may be deemed in Owner's interest.

1.7 INTERPRETATIONS

- A. If there is doubt as to the true meaning or intent of the BID Documents, Bidder must submit a written request for interpretation, directed to:

Plano Independent School District
Purchasing Department
Att: Raymond Weaver
6600 Alma Drive, Suite A
Plano, Texas 75023

Fax: 469-752-0281
or
Email: ray.weaver@pisd.edu

- B. Bidder submitting request is responsible for its prompt and actual delivery.
- C. Bidders finding errors, requests for additional information, omissions, or corrections that need to be made in the specifications shall contact the Purchasing Department in writing at least seven (7) days before the Bids are due. Requests for interpretations on the **SALE OF PPE CURRICULUM - 2008-067** must be received on or before seven (7) days prior to bid date or July 17, 2008 at 5:00 PM.
- D. All interpretations or clarifications considered necessary by Owner, in response to bidder's request, will be issued by written Addenda.
- E. Oral and other interpretations or clarifications will be without legal effect. Only questions answered by formal written Addenda will be binding.
- F. Owner is not responsible for any other explanation or interpretations which anyone presumes to make.
- G. Any interpretations, corrections, approvals, supplemental instructions or changes to the Bidding Documents will be made by written Addenda. Sole issuing authority of addenda shall be vested in the Plano Independent School District.
- H. Addenda will be posted to the District Web Page. You may obtain the addenda from our internet/web site address at www.Plano ISD.edu, by choosing "web site index", then "P", then "Purchasing", and from there you'll be able to link to our upcoming Bids. It is your responsibility to obtain any addenda that pertains to this proposal.
- I. Bidders shall acknowledge receipt of all Addenda.
- J. Failure to receive such Addendum does not relieve bidder from any obligation under his bid as submitted.
- K. All formal written Addenda become a part of the Bidding Documents.

1.8 METHOD OF AWARD

- A. In evaluating bids, Owner will consider whether or not the bids comply with the prescribed requirements.

MINIMUM STANDARDS FOR RESPONSIBLE BIDDERS. Bidders are required to affirmatively demonstrate their responsibility by meeting the following minimum requirements:

1. have adequate financial resources;
2. be able to comply with the required or proposed schedules;
3. have a satisfactory record of integrity and ethics; and
5. be otherwise qualified and eligible to receive an award.

The Owner may require other information sufficient to determine bidder's ability to meet these minimum standards listed above.

- B. In addition to requirements of the Bidding Documents, Owner may require additional information to establish responsibility of bidder. If requested, bidder must submit all data to Owner
- C. Owner may conduct such investigations, as Owner deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of bidder, to perform the contract in accordance with the Bidding Documents to Owner's satisfaction within the prescribed time.
- D. If the Contract is to be awarded, it will be awarded to the highest bid of the best-qualified bidder whose evaluation, by the Owner, indicates to be in the best interests of the District.
- E. Owner anticipates award within the scope of the Contract.

1.10 CONFIDENTIAL DATA

Any data that is to be considered as confidential in nature must be clearly marked as such by bidder and will be treated as confidential by Owner to the extent allowable by the Open Records Act.

1.11 ASSIGNMENT

- A. A successful bidder shall not sell, assign, transfer or convey this Contract, in whole or in part, without the prior written consent of Owner.

1.2 VENUE

- A. This agreement will be governed and construed according to the laws of the State of Texas. This agreement is performable in Collin County, Texas.

SALES AND LICENSE AGREEMENT

THIS SALES AND LICENSE AGREEMENT (the "Agreement" or "License Agreement") is made this ____ day of _____, 2008, by and between _____, a _____ ("Licensor"), and Plano Independent School District, an independent school district of the State of Texas ("Licensee"). Licensor and Licensee are sometimes referred to herein collectively as the "Parties" or singularly as a "Party".

ARTICLE 1 **Definitions**

1.1 Definitions.

As used herein, the following definitions shall apply:

- (a) "Licensed PPE Name" shall mean collectively the Practical Parent Education Logo, the Practical Parent Education Trademark Name and the Practical Parent Education Registered Domain (www.practicalparent.org) owned by Licensee and the use of the existing toll free number of 800-687-2823.
- (b) "Licensed Curriculum" shall mean the existing Practical Parent Education Curriculum, support materials and training modules owned by Licensee and more fully described on Exhibit "A". (Collectively, the Licensed PPE Name and the Licensed Curriculum shall be the "Licensed Products").
- (c) "Use" shall mean the reproduction, dissemination and utilization, including copying and sublicensing of the Licensed Products, individually or collectively, by Licensee.

ARTICLE 2 **Sale of PPE Curriculum**

2.1 Sale.

Licensee hereby sells and Licensor hereby purchases and agrees to pay for the Licensed PPE Name and Licensed Curriculum.

2.2 Purchase Price.

The purchase price (therein called the "Purchase Price") for said Licensed PPE Name and Licensed Curriculum shall be the sum of _____ and No/100ths Dollars (\$ _____), payable all in cash upon execution of the Agreement.

2.3 Disclaimer of Warranties.

LICENSOR ACCEPTS THE PROPERTY "AS IS", "WHERE IS" AND WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF LICENSEE AND LICENSOR TO EXPRESSLY NEGATE AND EXCLUDE ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO (i) SUITABILITY FOR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (ii) USE OF THE PROPERTY WITH RESPECT TO ANY PARTICULAR PURPOSE, DEVELOPMENTAL POTENTIAL OR OTHERWISE; (iii) ALL WARRANTIES CREATED BY ANY AFFIRMATION OF FACT OR PROMISE; AND, (iv) ALL OTHER WARRANTIES AND REPRESENTATIONS WHATSOEVER. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 3

Licensed PPE Name

3.1 License.

Licensors hereby grants to Licensee and Licensee hereby accepts an exclusive and non-transferable license to Use the Licensed PPE Name on all Licensed Curriculum. Licensors shall be responsible for all costs related to the Licensed PPE Name, including, but not limited to, payments to maintain the toll free number and all fees required to maintain the registered domain.

3.2 License Fees and Charges.

Licensee shall pay Licensors an annual fee of One and No/100 Dollars (\$1.00) which shall be paid on or before the ____ day of _____ beginning on _____ 2008 and due each year thereafter on or before _____.

3.3 Term of Licensed PPE Name.

The term of the Licensed PPE Name is _____ years; provided, however, Licensee may terminate the Licensed PPE Name, at its sole discretion and without liability, upon sixty (60) days written notice to the Licensee.

3.4 Termination of Licensed PPE Name.

Upon termination of the Licensed PPE Name, Licensee shall surrender all rights and licenses granted under the License Agreement and shall cease the use of the Licensors' Licensed PPE Name. In addition, Licensee shall return without delay all materials that relate to the Licensed PPE Name.

3.5 Protection of Licensed PPE Name.

Licensee acknowledges and agrees that the Licensed PPE Name is Licensors' exclusive property and constitutes a valuable asset of Licensors.

**ARTICLE 4
Licensed Curriculum**

4.1 License.

Licensors hereby grants to Licensee and Licensee hereby accepts an unrestricted, irrevocable, non-exclusive, transferable license to Use the Licensed Curriculum.

4.2 License Fees and Charges.

Licensee shall pay Licensors an annual fee of One and No/100 Dollars (\$1.00) which shall be paid on or before the ____ day of _____ beginning on _____ 2008 and due each year thereafter on or before _____.

4.3 Term of Licensed Curriculum.

The term of the Licensed Curriculum is _____ years; provided, however, Licensee may terminate the Licensed Curriculum, at its sole discretion and without liability, upon sixty (60) days written notice to the Licensor. In the event of a termination during the school year, Licensee may continue to serve its customers with whom it has contracts for the Licensed Curriculum until the end of the school year that notice of the termination was given.

4.4 Protection of Licensed Curriculum.

Licensee acknowledges and agrees that the Licensed Curriculum and all copies thereof are Licensor's exclusive property and constitute a valuable asset and trade secret of Licensor. Licensee may not disclose or make available to third parties, other than those for which the use is permitted above, the Licensed Curriculum or any portion thereof without Licensor's prior written approval. Licensee reserves the right to modify, revise and upgrade the Licensed Curriculum.

4.5 Reproduction of Licensed Curriculum.

Licensee may reproduce the Licensed Curriculum for Use. In no event shall Licensee have the right to duplicate, in whole or in part, the Licensed Curriculum for dissemination or disclosure to third parties not authorized herein.

4.6 Delivery of Licensed Curriculum.

The Licensed Curriculum shall be delivered to Licensee, and upon written receipt, Licensee shall assume all risk of loss therefor.

4.7 Termination of Licensed Curriculum.

Upon termination of the Licensed Curriculum, Licensee shall surrender all rights and licenses granted under the License Agreement and shall cease the use of the Licensor's Licensed Curriculum. In addition, Licensee shall return without delay all materials that relate to the Licensed Curriculum.

4.8 Proprietary Rights.

- (a) Licensor shall own the entire right, title and interest in and to all corrections, programs, information, work product, and enhancements conceived, created or developed, alone or with Licensee or others, as a result of or related to consulting or contract work, including all proprietary rights therein or based thereon.
- (b) Licensor grants to Licensee the right and license to make corrections or enhancements to the Licensed Curriculum.

4.9 Services From Licensor.

Licensee shall have a nonexclusive responsibility for the Use of the Licensed Curriculum. Licensor will provide Licensee with the access code for the software related to the PPE Curriculum. Licensor will provide to Licensee any updates of the PPE Curriculum at no cost to the Licensee. Licensor reserves the right to distribute, sell, license, or otherwise use the Licensed Curriculum in any manner Licensor deems appropriate, including the right of Licensee to use the Licensed Curriculum or license it to others.

4.10 Licensors Sale of Licensed Curriculum.

If Licensor sells the Licensed PPE Name and/or the Licensed Curriculum to a different entity, the Licensee shall receive ten (10) percent of the sales price. This provision shall survive the termination of this Agreement.

ARTICLE 5
Miscellaneous

5.1 Notices.

All notices, demands, payments and other communications required to be given or made hereunder shall be in writing and shall be duly given if delivered by hand, messenger, telecopy or reputable overnight courier or if mailed by certified or registered mail, first class postage prepaid, and shall be effectively received upon the date of such delivery or two (2) days after such mailing, to the intended recipient at its address set forth below, or to such other address furnished in writing to the other Party.

If to Licensee: Plano Independent School District
Attn: Jeff Bailey
2700 W. 15th Street
Plano, Texas 75075
Telephone: (469) 752-8001
Fax: (469) 752-8040
Attn: Deputy Superintendent

With a copy to: Abernathy, Roeder, Boyd & Joplin, P.C.
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75069
Telephone: (214) 544-4000
Fax: (214) 544-4044
Attn: Richard Abernathy

If to Licensor: _____

Attn: _____

With a copy to: _____

5.2 Successors and Assigns.

This License Agreement shall be binding upon and shall inure to the benefit of the Parties and their successors and assigns.

5.3 Amendment.

Neither this License Agreement nor any term hereof may be amended, waived, discharged or terminated, except by a written instrument signed by the Parties or as provided above.

5.4 Headings and Subheadings.

The headings of the articles, sections, paragraphs and subparagraphs of this License Agreement are for convenience or reference only and in no way define, limit, extend or describe the scope of this License Agreement or the intent of any provisions hereof.

5.5 Severability.

In the event one or more of the terms or provisions of this License Agreement or the application thereof to any Party or circumstances shall, to any extent, be held invalid, illegal or unenforceable, the remainder of this License Agreement, or the application of such term or provision to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this License Agreement shall be valid and enforceable to the fullest extent permitted by law.

5.6 Governing Law/Venue.

This License Agreement shall be governed by and construed in accordance with the laws of the State of Texas applicable to contracts entered into and to be fully performed therein, with regard to principles of conflicts of laws. The Parties agree that all actions or proceedings arising in connection with this License Agreement shall be tried and litigated only in the district of Collin County, Texas, or if jurisdictionally sufficient, the United States District Court for the Eastern District of Texas, and each Party hereto expressly and irrevocably submits the person of such Party to the jurisdiction of such courts in any such suit, action or proceeding. All payments due under the License Agreement shall be due in Collin County, Texas.

5.7 Indemnification.

LICENSOR, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES, CONTRACTORS, CAST, GUESTS, INVITEES AND/OR TRUSTEES, DOES HEREBY AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS LICENSEE AND ITS BOARD OF TRUSTEES, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY=S FEES AND EXPENSES (INCLUDING ATTORNEYS= FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF LICENSOR, ITS OFFICERS, DIRECTORS, PARTNERS CONTRACTORS, EMPLOYEES,

REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES, TRUSTEES, SUBCONTRACTORS, CONTRACTORS, CAST, GUESTS, LICENSEES, INVITEES AND/OR ANY OTHER THIRD PARTIES FOR WHOM LICENSOR IS LEGALLY RESPONSIBLE, IN ITS/THEIR EXERCISE OF THE RIGHTS GRANTED HEREUNDER AND/OR ITS/THEIR USE OF THE LICENSED PRODUCTS, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF LICENSEE (HEREINAFTER ACLAIMS@). IN THIS CONNECTION, LICENSOR, ITS OFFICERS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES, CONTRACTORS, CAST, GUESTS, INVITEES AND/OR TRUSTEES, AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS LICENSEE, ITS BOARD OF TRUSTEES, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES, FOR THE LICENSEE=S, ITS BOARD OF TRUSTEES, OFFICERS, AGENTS, REPRESENTATIVES AND/OR EMPLOYEES, OWN NEGLIGENCE, IN WHATEVER FORM, ARISING OUT OF ANY ACT OR OMISSION, TAKEN OR FAILED TO BE TAKEN BY LICENSEE, RELATING IN ANY MANNER TO THE LICENSED PRODUCTS, REGARDLESS OF CAUSE OR ANY CONCURRENT OR CONTRIBUTING FAULT OR NEGLIGENCE OF LICENSEE. LICENSOR IS EXPRESSLY REQUIRED TO DEFEND LICENSOR AGAINST ALL SUCH CLAIMS.

IN ITS SOLE DISCRETION, LICENSEE SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY LICENSOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY LICENSEE, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY LICENSEE IN WRITING. LICENSEE RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, LICENSEE IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY LICENSEE IS NOT TO BE CONSTRUED AS A WAIVER OF LICENSOR=S OBLIGATION TO DEFEND LICENSEE OR AS A WAIVER OF LICENSEE=S OBLIGATION TO INDEMNIFY LICENSEE PURSUANT TO THIS AGREEMENT. LICENSOR SHALL RETAIN LICENSEE-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF LICENSEE=S WRITTEN NOTICE THAT LICENSEE IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF LICENSOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, LICENSEE SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND LICENSOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY LICENSEE.

THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

5.8 Relationship of Parties.

Nothing contained herein shall be deemed or construed by the Parties or by any third party as creating the relationship of principal and agent, partnership, joint venture or any association between the Parties, it being understood and agreed that none of the provisions contained herein or any acts of the Parties in the performance of their respective obligations hereunder shall be deemed to create any relationship between the Parties other than the relationship of Licensee and Licensor. It is understood and agreed that this License Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose whatsoever. Neither Party shall in any way assume any of the liability of the other for acts of the other or obligations of the other. Each Party shall be responsible for any and all suits, demands, costs or actions proximately resulting from its own individual acts or omissions.

5.9 Non-Waiver.

No Party shall have or be deemed to have waived any default under this License Agreement by the other Party unless such waiver is embodied in a document signed by the waiving Party that describes the default that is being waived. Further, no Party shall be deemed to have waived its rights to pursue any remedies under this License Agreement, unless such

waiver is embodied in a document signed by such Party that describes any such remedy that is being waived.

5.10 Obligations to Defend Validity of License.

If litigation is filed by a third party against Licensor or Licensee in an effort to enjoin either Party’s performance of this License, Licensor shall have no obligation to take any action or steps to support and defend the validity and enforceability of this License. Licensee may, at its sole cost and expense, take any reasonable actions to support or defend the license in its own name or on Licensor’s behalf. Either Party may intervene in any such matter in which the other Party hereto has been named as a defendant. Each Party shall be responsible for their respective attorney’s fees and costs of litigation.

5.11 Entire Agreement.

This License Agreement (including the Exhibit attached hereto and incorporated herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subject matter hereof. There are no representations, promises or agreements of Licensee or Licensor regarding the subject matter of this License not contained in this License or the Exhibit attached hereto.

5.12 Counterparts.

This License Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

5.13 Waiver of Consequential Damages.

Notwithstanding anything in this License Agreement to the contrary, each Party hereby waives all claims for consequential damages, including without limitation claims for inconvenience, loss of business, rents or profits as a result of any injury or damage, whether or not caused by the willful or wrongful act of the other Party or its representatives, agents or employees.

IN WITNESS WHEREOF, the Parties have executed and delivered this License as of the date first set forth above.

**LICENSOR:
PLANO INDEPENDENT SCHOOL DISTRICT**

Jeff Bailey
Deputy Superintendent

LICENSEE:
_____,
a _____

By: _____

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared Jeff Bailey, Deputy Superintendent of the Plano Independent School District, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me on oath that such person executed the same for the purposes and consideration therein expressed and in the capacity therein stated, on behalf of such limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this ____ day of _____, 2008.

Notary Public in and for the State of Texas
My Commission Expires:_____

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared _____, President, _____, a Texas limited liability company, general partner of _____, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me on oath that such person executed the same for the purposes and consideration therein expressed and in the capacity therein stated, on behalf of such limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this ____ day of _____, 2008.

Notary Public in and for said County and State
My Commission Expires:_____

EXHIBIT A

[See attached]