



Language Learning Network Services Agreement

This Services Agreement ("Agreement"), dated as of **July 13, 2023**, (the "Effective Date"), by and between **East Bay Innovation Academy** ("Client"), with an address of **3400 Malcolm Avenue, Oakland, CA 94605**, and **Language Learning Network (LLN)** ("Vendor"), a New Jersey corporation with an address of **PO Box 395, Rutherford, NJ 07070**, ("Parties") for the provision of LLN services ("Services"), as set forth in further detail below, relating to **onsite instruction** at the school operated by Client at the address set forth on Attachment A hereto, which shall be incorporated into the Agreement by reference hereof.

In consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Services: Client is contracting for the Services set forth in Attachment A hereto, and such Services are to be provided by Vendor in accordance with the terms of this Agreement. Client shall provide Vendor access to conduct Services at the Venue (as defined in Attachment A), as set forth by the terms hereunder.

2. Compensation and Payment Terms: Client shall promptly remit payment to Vendor for each Vendor-issued invoice ("Invoice") in accordance with Attachment A hereto and the terms herein. Client shall remit payment to Vendor within forty-five (45) calendar days of Client's electronic receipt of each Invoice. The Invoice shall be considered received by Client upon electronic transmission by Vendor, and the following calendar day thereafter shall trigger the beginning of the 45-day period. Client shall remit payment to Vendor in accordance with the method and manner set forth by Vendor on the face of the Invoice. In the event Vendor is unable to transmit an Invoice electronically, Vendor may elect to use USPS certified mail, return receipt requested, or overnight delivery through a nationally recognized courier. If Client receives an Invoice from Vendor through one of these alternative methods of transmission, the Invoice shall be considered received by Client upon the date of delivery receipt, at which point, Client shall have forty-five (45) calendar days thereafter to remit payment to Vendor in accordance with the terms on the face of the Invoice.

2.1. Expenses: Client shall reimburse Vendor for all reasonable expenses incurred by Vendor in accordance with Vendor's performance of Services for Client. If Vendor issues an Invoice to Client for reimbursement of expenses, Client shall remit payment within forty-five (45) calendar days of receipt, in accordance with the terms on the face of the Invoice, and subject to the terms of transmission and receipt set forth above for all Vendor Invoices. Vendor shall include receipts and reasonable supporting documentation in any Invoice Vendor issues to Client for expense reimbursement.

2.2. Late Fees, Attorneys' Fees and Costs: Client understands and agrees that Vendor, at its sole discretion, may charge interest at the rate of six percent (6%) per annum on all Invoices not paid in full within forty-five (45) calendar days. Client shall pay all attorneys' fees, costs, and/or additional expenses incurred by Vendor in connection with Vendor's effort to collect any of Client's past-due Invoices, and any and all interest, fees, costs, or expenses associated with Client's failure to timely pay under the terms of this Agreement.

3. Client Obligations: The Client shall:

(a) Designate one of its employees or agents to serve as Client's primary contact ("Primary Contact") who will act on behalf of Client as Client's authorized representative with respect to all matters pertaining to this Agreement, with such designation to remain in full force and effect unless and until a successor is appointed by Client and identified to Vendor in writing. If Client fails to choose a Primary Contact or notify Vendor of the identity of such Primary Contact in writing, Vendor may select any employee or agent of Client to serve as the de facto Primary Contact unless and until Client chooses its own Primary Contact and notifies Vendor of the identity of such Primary Contact in writing.

(b) Respond promptly to requests from Vendor, including, but not limited to, instructions, information, or approvals required by Vendor to provide Services to Client.

- (c) Cooperate with Vendor in its performance of Services and provide Vendor unobstructed access to the premises, employees, contractors, and equipment of Client, as is reasonably necessary to enable Vendor to provide Services to Client under the terms of this Agreement. If Vendor notifies Client of an issue or event impeding or affecting Vendor's performance of Services, and such issue or event is within the general supervision and control of Client, Client shall take all reasonable action within twenty-four (24) hours to remedy or mitigate such issue or event to the satisfaction of Vendor.
- (d) Use Vendor's preferred technology platform for any synchronous instruction.
- (e) Take proactive steps to accommodate and support Vendor's successful performance of Services under this Agreement, so as to avoid any foreseeable delays within Client's control, including, but not limited to, obtaining any necessary licenses, permits, or consents required for Vendor to perform Services for Client under this Agreement.
- (f) Allow Vendor to observe its instructors onsite in the classroom at Vendor's discretion.
- (g) Not engage in discrimination against Vendor or Vendor's employees, agents, and/or representatives on the basis of race, color, sex, gender identity, religion, creed, age, national origin or ancestry, sexual orientation, disability or different ability, marital status, parental status, pregnancy, military status, political activities/affiliations, or any other impermissible reason.
- (h) Provide a non-hostile work environment free from sexual harassment.
- (i) Treat Vendor, its employees, agents, and representatives with respect and dignity and protect them from physical and verbal harassment and abuse.
- (j) Correct any verbal or physical abuse or harassment by Client's students, employees, representatives, or agents within a reasonable amount of time, not to exceed two (2) business days.
- (k) In the event that Client requests state certification for Vendor's teachers, Client agrees to work with Vendor in good faith to obtain teacher certification by:
 - i. seeking reciprocity under the NASDTEC Interstate Agreement;
 - ii. requesting a state-approved provisional teaching certificate/license;
 - iii. requesting a state-approved emergency teaching certificate/license; and
 - iv. pursuing any and all state-approved pathways to teaching certification/licensure.

4. Term: Unless otherwise specified and consented to by the Parties in writing, the term of this Agreement ("Term") shall be defined by the Scope of Work and schedule identified in Attachment A hereto, subject to termination by either party, as set forth below in Section 7.1.

4.1. Automatic Renewal: Each Term shall automatically renew for a subsequent period of the same length as the initial Term unless either party gives the other advance written notice of intent to terminate the renewal ("Renewal Termination Notice") at least thirty (30) days prior to expiration of the current Term.

5. Insurance Requirements: During the Term herein, Vendor shall obtain, at its sole cost and expense, commercial general liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Vendor shall maintain workers' compensation insurance in the amounts statutorily required by the State of New Jersey, which shall include coverage for employers liability insurance with a limit of not less than \$500,000 bodily injury per accident, \$500,000 bodily injury by disease, each employee, and \$1,000,000 bodily injury in the aggregate. Vendor shall maintain a physical/sexual abuse or misconduct endorsement under the commercial general liability insurance or in a separate policy for such coverage, and such coverage shall maintain a limit of at least \$1,000,000, be maintained on a primary basis, and be non-contributory regardless of any insurance policy or self-insurance that may be maintained by Client for its own benefit.

5.1. Client as Insured: With the exception of workers' compensation, the insurance policy or policies required herein shall include Client as an additional insured and shall be issued by a company or companies authorized to do business in the State of New Jersey. At any time, Client may request a Certificate of Insurance from Vendor, together with a copy of the policy endorsement evidencing Client as an additional insured, where applicable. Vendor shall respond to such request within a reasonable time.

6. Independent Contractor: The Parties hereby acknowledge and agree that Vendor and all Vendor's employees, agents, and representatives shall be treated collectively as an independent contractor of Client, and shall not, under any circumstances, be considered an employee or employees of Client under this Agreement.

7. Suspension: In the event Client fails to pay an Invoice within forty-five (45) calendar days or otherwise breaches or fails to perform any term of this Agreement, Vendor shall have the right, at its sole option, upon ten (10) business days' written notice ("Suspension Notice"), to suspend delivery of Services until Vendor receives full payment from Client, and/or Client has cured its breach to Vendor's reasonable satisfaction. If Vendor initiates a suspension of Services, Client shall surrender its claim to any and all refunds or financial credits to which it may have otherwise been entitled under this Agreement.

7.1. Termination: This Agreement may be terminated as follows: (a) upon the natural expiration of the Term, provided that one of the parties has issued a timely Renewal Termination Notice, in accordance with the terms herein; (b) by Client upon thirty (30) days' prior written notice to Vendor; or (c) by Vendor, at its sole option, in the event Client: (i) fails to pay an Invoice within the time herein prescribed; or (ii) fails to cure a breach of any term of this Agreement to Vendor's reasonable satisfaction within thirty (30) days of Client's receipt of a Suspension Notice. A Suspension Notice shall be considered received by Client upon transmission, if sent electronically, or upon the date of return receipt, if sent by certified mail or overnight delivery by a nationally recognized courier.

7.2. Acceleration: In the event Client terminates this Agreement by written notice, subject to Section 7.1(b), or if Vendor terminates this Agreement as a result of Client's failure to pay or cure its breach, subject to Section 7.1(c), Client shall be responsible for all future monthly installments required in Attachment A of this Agreement, in addition to any and all past due Invoices for Services rendered, and any fees, costs, and expenses payable to Vendor pursuant to the terms herein, which shall be due and payable to Vendor within thirty (30) calendar days of Client's notice of termination. In the event Client terminates this Agreement subject to Section 7.1(b), or Vendor terminates as a result of Client's failure to pay or cure its breach, pursuant to Section 7.1(c), Client shall forego any financial credit that may have otherwise been payable to Client by Vendor at the end of the Term, pursuant to this Agreement.

7.3. Force Majeure: No refunds will be issued to Client where a class or classes are canceled or Services are not otherwise rendered in accordance with the terms hereunder as a result of a public health crisis, disease outbreak, war, acts of war, insurrections, riots, strikes, lockouts or other labor disturbances, or acts of God, including, but not limited to, fire, floods, earthquakes, tornadoes, hurricanes, tropical storms, snow storms, or other natural disasters. Vendor may work with Client to reschedule a class or classes canceled under these circumstances, but Vendor under no obligation to account for Client's loss of Services.

7.4. Client Cancellations: If Client cancels a class or classes as a result of an event or circumstances within Client's oversight and control, including, but not limited to, school assemblies, trips, and planned events, or any vacation, holiday, or event for which Client fails to provide advance written notice to Vendor, Vendor shall be under no obligation to reschedule the canceled class or classes, and Client will not be issued a refund for loss of Services.

7.5. Vendor Cancellations: In the event Vendor cannot provide Services as a result of an unanticipated event outside of Vendor's control not otherwise covered by Section 7.3, including, but not limited to, death in the family of a teacher ("Teacher"), sudden injury or illness of a Teacher, death of a Teacher, or other major crisis, Vendor shall work with Client in good faith to reschedule the class or classes and/or provide a substitute Teacher to perform Services for Client. If any of Vendor's Teachers' absences exceed three (3) consecutive school days for any single event covered by this Section, Client shall be entitled to a financial credit at the end of the Term in an amount commensurate with Client's loss of Services after the three (3) consecutive school days.

7.6. Foreseeable Events: If Vendor cannot provide Services as a result of a reasonably foreseeable event within Vendor's oversight and control, Vendor shall attempt to reschedule the class or classes as soon as practicable, subject to mutual agreement of the Parties. If the Parties cannot in good faith agree upon a date and time to reschedule the missed class or classes, Vendor shall issue a financial credit to Client at the end of the Term in an amount commensurate to Client's loss of Services under this Agreement.

7.7. Loss of Teacher: In the event Vendor loses one of its Teachers upon whom Client depends for Services for any reason other than Client's breach of this Agreement, Vendor shall work with Client in good faith to provide a substitute

Teacher within two (2) weeks. If Vendor cannot provide Client a Teacher within two (2) weeks under the circumstances herein provided, Vendor shall issue a financial credit to Client at the end of the Term in an amount commensurate to Client's loss of Services.

8. Criminal Background Checks: Vendor shall conduct criminal background checks for all Teachers who perform Services for Client under this Agreement. If Client chooses to utilize the archival process for background checks, Client shall be responsible for initiating, overseeing, and obtaining the results of the archival process, and Vendor shall cover the associated costs.

9. Non-Solicitation: During the Term of this Agreement and for a period of one (1) year thereafter (the "No Hire Period"), neither Client nor any affiliate or agent thereof shall, directly or indirectly, hire, contract, or solicit for employment, contract, or engagement, or cause or arrange for another individual or entity to hire, contract, or solicit for employment, contract, or engagement, any person who is or was a Teacher contracted or employed by Vendor during the Term of this Agreement. Client agrees that the covenant contained in this paragraph is reasonable in all respects. In the event this provision is violated or breached, Vendor shall be entitled to immediate injunctive relief against Client, its affiliates, and/or agents, prohibiting further actions in violation of the terms herein, and Client shall pay Vendor \$62,100.00 per violation as liquidated damages. This amount is not a penalty and represents the value of Vendor's economic loss of one (1) Teacher. The Parties hereby acknowledge that payment of these liquidated damages is reasonable and shall be due within thirty (30) days of Client's breach of this paragraph.

10. Intellectual Property and Confidentiality: Vendor shall have the sole and exclusive property right, title, and interest to all intellectual property ("Intellectual Property"), including, but not limited to, copyrights, trademarks, service marks, trade secrets, know-how, and other confidential information ("Confidential Information"), trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works, and all other rights (collectively, "Intellectual Property Rights") in and to all documents, work product and other materials that are delivered to Client by Vendor under this Agreement or prepared by or on behalf of Vendor in the course of its performance of Services under this Agreement, including, but not limited to, any items identified in Attachment A hereto (collectively, "Proprietary Information"). Client shall take any and all reasonable security measures to protect Vendor's Intellectual Property Rights in this Proprietary Information and any and all Confidential Information relating to Vendor, its employees, agents, and representatives, which Client has access to or knowledge of. This paragraph shall continue in full force and effect in perpetuity and shall survive the termination of this Agreement.

10.1. Return or Destroy: Upon termination of this Agreement, Client shall not use or disclose and shall immediately return to Vendor or destroy any and all Intellectual Property, Confidential Information, and Proprietary Information in Client's possession and/or control.

11. Indemnification: Each party shall protect, indemnify, defend, and hold the other party harmless from any and all claims, damages, losses, costs, expenses, and liability to third party claims for any loss of use, revenue, or profit, or diminution in value, or for any consequential incidental, indirect, exemplary, special, or punitive damages related to or arising from the Services provided under this Agreement.

12. Limitation on Liability: Vendor shall not be liable, subject to, or responsible for adhering to the terms of Client's code of conduct or any of Client's rules or regulations unless and until such code of conduct, rules or regulations are expressly provided to Vendor by written communication from Client and expressly agreed to and accepted by Vendor prior to the Effective Date of this Agreement. Vendor hereby disclaims all warranties, express or implied, not included in this Agreement.

13. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey, without regard to the rules of any other jurisdiction relating to conflicts of law. The Parties hereby agree to the personal jurisdiction and exclusive venues of the Superior Courts of New Jersey and the United States District Court for the District of New Jersey in any action arising from or related to this Agreement. The Parties hereby waive all defenses based upon the selection of jurisdiction and forum and agree to service of process by certified mail, return receipt requested, and/or overnight delivery by a nationally recognized courier.

14. Severability: If any part or provision of this Agreement is found to be void and unenforceable, it shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, which shall remain valid and enforceable. To the extent permitted by applicable law, the Parties hereby waive any provision of law which prohibits or renders void or unenforceable any provision hereunder.

15. Assignment: Client shall not assign, transfer, delegate, or subcontract any of its rights or obligations under this Agreement without the prior written consent of Vendor. Any purported assignment or delegation in violation of this paragraph shall be null and void. No assignment or delegation shall relieve Client of any of its obligations under this Agreement.

16. Third-Party Beneficiaries: This Agreement is binding on and inures solely to the benefit of the Parties hereto and their respective successors and/or permissible assignees. Nothing in this Agreement, expressed or implied, confers on any other individual, entity, or third party any legal or equitable right, benefit, or remedy of any nature whatsoever.

17. Notice: All notices, requests, consents, claims, demands, waivers, and other forms of communications made subject to and accordance with this Agreement (collectively, "Notice") shall be in writing and delivered by email, pre-paid overnight delivery by a nationally recognized courier, or certified mail, return receipt requested. Except as otherwise provided herein, proper Notice is effective only upon compliance with this paragraph.

18. Joint Preparation: This Agreement shall be deemed to have been jointly prepared by the Parties, and any defect, ambiguity, or omission shall not be held against the drafting party.

19. Amendments: No amendments to or modification of this Agreement shall be valid or binding unless made in writing and signed by the Parties.

20. Entire Agreement: This Agreement, including and together with Attachment A hereto, constitutes the sole and entire agreement between the Parties with respect to the subject matter contained herein and supersedes all prior and contemporaneous agreements, understandings, inducements, conditions, and representations, express or implied, oral or written, of any nature whatsoever with respect to the subject matter herein.

Vendor Representative & Title	Sean Kreyling, CEO
Vendor Signature	
Date	

Client Representative & Title	
Client Signature	
Date	

Attachment A Scope of Work

“Services” are indicated as follows:

Vendor will provide weekly **onsite Spanish I classes (15 hours a week)** to be conducted at **East Bay Innovation Academy**, located at **3400 Malcolm Avenue, Oakland, CA 94605**. Services will begin _____ school days after the Effective Date of this Agreement. Vendor will provide curriculum and all related planning materials, including any specific materials needed to conduct language classes.

Venue: Vendor will have access to the venue (*e.g., classroom, Google Classroom, systems/platforms, etc.*) (“Venue”) prior to and during the class schedule to ensure appropriate setup is completed in a timely manner so that Vendor is able to provide Services in accordance with the terms of this Agreement. Due to issues related to security, privacy, and connectivity, Client will allow Vendor to have full use of and access to all Venue facilities and materials, including, but not limited to, all available teaching materials and/or tools (*e.g., computers, printers, projectors, etc.*), at Client’s reasonable discretion.

Class Schedule/Live Session Schedule: Schedule will be determined at a later date unless attached hereto. If applicable, Class Schedule/Live Session Schedule may be changed at any time with the written consent of the Parties.

Compensation and Payment Terms:

The cost for the annual contract is **\$62,100.00**. Client will be billed in **9** monthly installments as follows:

Down payment: \$31,100.00 due on August 15, 2023.

Payment 1: \$3,875.00 due on September 15, 2023.

Payment 2: \$3,875.00 due on October 15, 2023.

Payment 3: \$3,875.00 due on November 15, 2023.

Payment 4: \$3,875.00 due on December 15, 2023.

Payment 5: \$3,875.00 due on January 15, 2024.

Payment 6: \$3,875.00 due on February 15, 2024.

Payment 7: \$3,875.00 due on March 15, 2024.

Payment 8: \$3,875.00 due on April 15, 2024.

Invoices will be emailed to Client at the email address provided by Client. Payments may be made online, per the Invoice instructions, or by check to **Language Learning Network, PO Box 395, Rutherford, NJ 07070.**