

November 8, 2016

Atlantic City Board of Education
Attn: Celeste Ricketts, Business Administrator
1300 Atlantic Avenue, 5th Floor
Atlantic City, NJ 08401

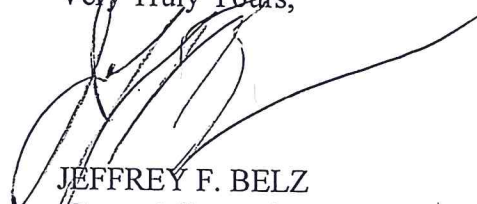
Re: S4Teacher Placement Agreement

Dear Ms. Ricketts:

Please find enclosed herein a fully signed copy of the above referenced agreement.

Thank you!

Very Truly Yours,



JEFFREY F. BELZ
General Counsel

S4TEACHERS LLC

SUBSTITUTE STAFF PLACEMENT AGREEMENT

This is an Agreement, entered into as of October 20, 2016 by and between **S4Teachers LLC**, a Delaware limited liability company, d/b/a **Source4Teachers** (the "**Company**") located at 800 North Kings Highway, Suite 405, Cherry Hill, New Jersey 08034 and the **Atlantic City Public School District Board of Education** located at 1300 Atlantic Avenue 5th Floor, Atlantic City, New Jersey 08401 (hereinafter referred to as "**LEA**" for Local Education Agency).

Background

The Company is in the business of providing substitute teachers for LEAs, as well as other related staffing services. The LEA desires to engage the services of the Company on the terms and conditions set forth in this Agreement.

NOW THEREFORE, intending to be legally bound and acknowledging the receipt of adequate consideration, the parties hereby agree as follows:

1. Provision of Substitute Staff. The Company shall be the exclusive provider of substitute teachers and other staff listed in Exhibit "A" (hereinafter "**Substitute Staff**") to fill positions at the request of the LEA on an as-needed basis, using such request mechanism(s), policies and procedures as may be established by the Company from time to time. The Company makes no guarantee that it will be able to fill all requests made by the LEA.

1.1 The LEA agrees that the Company shall be the exclusive contract provider of Substitute Staff to the LEA. All or any placement of Substitute Staff shall be made pursuant to this Agreement and the processes and procedures established by the Company, be paid by the Company, and be invoiced back to the LEA by Company.

1.2 The LEA may provide a list of Substitute Staff which the LEA has employed prior to the Agreement which the LEA desires to remain in the pool of Substitute Staff assigned by the Company to the LEA. The LEA shall provide a written list of such personnel and may update said list, by written addition or deletion of all changes, as appropriate. Subject to the interview, training, background checks and certification requirements included elsewhere in the Agreement, and normal employee responsibilities attendant to employment, the Company will accept such persons for assignment to the LEA. However, as part of the transition process, the LEA certifies that the aforementioned former Substitute Staff of the LEA meet the state requirements to serve as Substitute Staff (ex. Criminal history, TB Test) for the first 90 days after Company begins services, unless Company is otherwise notified by LEA. The LEA acknowledges that the Substitute Staff will be ineligible to accept substitute assignments after said 90 day period if they are determined to be non-compliant with the laws governing educational employees in the State, which shall be Company's responsibility to determine pursuant to the terms of the Agreement. LEA further agrees to forward to Company any report of criminal activity regarding these Substitute Staff from local, state or federal law enforcement or other governmental authorities.

2. Treatment of Substitute Staff as Employees of the Company All Substitute Staff provided

by the Company will be treated by the LEA as employees of the Company, and not as employees of the LEA, for all purposes, including but not limited to Federal and State income tax purposes. Without limiting the preceding sentence:

2.1 The Company shall maintain all necessary personnel and payroll records for the Substitute Staff;

2.2 The LEA shall not be responsible for the payment of the wages and fringe benefits (if any) of the Substitute Staff; The Company shall withhold applicable taxes from the wages of the Substitute Staff, and shall be responsible for any payroll tax liabilities of an "employer" with respect to the Substitute Staff;

2.3 The Company shall provide applicable workers' compensation insurance coverage for the Substitute Staff in such amounts as may be required by law; and

2.4 Substitute Staff shall not be eligible for tenure with the LEA or be entitled to participate in any of the LEA's employee benefit plans, including pension, 403(b), profit sharing, retirement, deferred compensation, welfare, health insurance, disability, bonus, vacation pay, severance pay and other similar plans, programs and agreements, whether or not reduced to writing.

2.5. In order to provide certain Substitute Staff who are obtaining the required initial or renewal State certifications, depending upon state requirements, the LEA recognizes that it may be required to execute certificate/permit/license applications and other related documents, such as a criminal history request as a representative of or on behalf of the Company. If necessary, the LEA designates the Company as its designee to submit a Substitute Staff's credentials to the county or state department of education office to obtain the Substitute Staff certifications. The LEA recognizes that it may be required to execute certain documents to allow the Company to perform its function as its designee. In such instances, the LEA is not responsible for any of the obligations of the Company as the employer included in this Paragraph 2.

3. The Company's Obligations

3.1 The Company will act in good faith to provide Substitute Staff who, if needed or applicable, (a) hold a current license and certification for the positions requested by the LEA, (b) have had a completed criminal history and child abuse background check as required by law and/or the applicable Department of Education, (c) have appropriate health screenings, inoculations and tuberculosis testing as required by the state and (d) who shall render services in accordance with applicable laws and procedures of the state and this Agreement.

3.2 In selecting Substitute Staff, the Company shall apply such screening and evaluation criteria as it may determine in its sole discretion and as may be required by the applicable law of the jurisdiction in which the services of Substitute Staff will be performed. The Company will conduct any additional screening that may be mutually agreed by the Company and the LEA, with an appropriate increase in the Company's fees.

3.3 The Company seeks to provide Substitute Staff that are trained for the requested positions. The Company will provide Substitute Staff training as required by the State, including

as applicable, classroom management, general rules and procedures applicable to the position, and other pertinent matters prior to any assignment of said Substitute Staff. The Company shall provide training for existing LEA Substitute Staff as requested by the LEA at the Company's actual cost.

3.4 The Company expects that the Substitute Staff assigned to the LEA will perform their services satisfactorily. If the LEA notifies the Company in writing that a Substitute Staff has not performed satisfactorily within the reasonable discretion of the LEA, along with the clear reasons therefor, the Company will honor the LEA's request not to assign specific Substitute Staff. This section will in no way affect the right of Company, in its sole discretion as employer, to hire, assign, reassign, discipline and/or terminate its own employees. The LEA understands that declining the services of a specific Substitute Staff may result in the Company's inability to secure an acceptable alternate if timely notice of the request is not provided.

3.5 In the event of a complaint concerning Substitute Staff, Company and LEA agree to cooperate and reasonably permit each other's involvement in any investigatory activities or proceedings.

4. The LEA's Obligations. In connection with Substitute Staff provided by the Company pursuant to this Agreement, the LEA shall:

4.1 Provide information to the Substitute Staff as needed to allow the Substitute Staff to fully understand the duties and responsibilities of the placement and promptly report to Company any suspicious, unusual, inappropriate behavior or unsatisfactory performance;

4.2 Provide a safe and suitable workplace that complies with all applicable governmental safety and health standards, statutes, and regulations;

4.3 Provide Substitute Staff with (i) adequate information, training, and safety equipment with respect to hazardous substances and any inherent dangers of the workplace, (ii) emergency procedures, and (iii) school rules and protocols, policies and procedures regarding student disciplinary actions, and confidentiality of student records. Further, the LEA will provide all Substitute Staff with any training appropriate to the needs, duties, responsibilities or knowledge unique to the LEA or otherwise different than would generally be appropriate in other LEAs.

4.4 Not assign Substitute Staff to assignments which (i) have sole custody of a single student for an extended period without LEA oversight, (ii) have sole responsibility for more than one classroom of students at a time, (iii) administer or maintain custody of any student medications, (iv) have custody of cash, negotiable valuables, merchandise, credit cards, check writing materials, keys or similar property, except for student lunch money that may be collected in the normal course of business, (v) use any vehicle on behalf of the LEA; (vi) work more than eight (8) hours in a day or more than forty (40) hour per week without notice to Company;

4.5 Assign Substitute Staff only to tasks for which they have been requested, unless written consent has been given by the Company. Heavy labor, lifting, or physical activity is prohibited unless required and accepted in the job description.

4.6 Not assign Substitute Staff to travel or perform duties off the normal school premises of the LEA except for class trips which are supervised by a LEA teacher;

4.7 If Substitute Staff is assigned duties in connection with the LEA's computer systems, maintain appropriate pass word security and backup copies of all data;

4.8 Maintain appropriate written internal control policies and procedures to ensure the confidentiality of all student records and appropriately limit the access of Substitute Staff to such records;

4.9 Not promise any Substitute Staff an increased rate of compensation;

4.10 Comply with any reasonable restrictions imposed by the Company on the responsibilities to be assigned to any Substitute Staff;

4.11 Approve and sign paper or electronic forms supplied by the Company documenting the amount of time worked by Substitute Staff or, if representatives of the LEA are not available to approve and sign such forms, authorize such forms to be executed by representatives of the Company on behalf of the LEA;

4.12 Be responsible for keeping the Company promptly informed by email (if available) of all Substitute Staff on-site changes and any changes in the LEA or building supervisory contact information;

4.13 To the extent possible, notify the Company as soon as possible, but no later than the earlier of before 6 a.m. daily or 3 hours prior to the start of the class, through the protocols established by the Company for such notice, of the need for Substitute Staff for that day; provided, however, the Company and the LEA recognize that the need for a substitute may occur after the above times and that in such cases the Company will use best efforts to find a substitute for such LEA requests;

4.14 Comply with all Company policies and procedures to accurately invoice the LEA, process the daily record keeping and other tasks necessary for the Company to administer and track Substitute Staff, including but not limited to, sign in and out procedures and related records;

4.15 The LEA shall be solely responsible to control teacher absences and any budgetary impact resulting therefrom;

4.16 LEA represents that its actions under this Agreement do not violate its obligations under any agreement that LEA has with any labor union;

4.17 LEA shall cooperate with Company with respect to Company's recruiting efforts and activities, including but not limited to, (i) promptly sharing applications for LEA positions with Company and (ii) adding a link on the front page and employment page of the LEA's website to Company's website;

4.18 If allowable by state procurement law, other public bodies may utilize this Agreement if mutually agreeable to Company.

5. Indemnification and Limitations of Liability.

5.1 Indemnification of the LEA by the Company. The Company shall indemnify and hold the LEA's Board, and its agents, employees and Board members harmless from and against all claims or losses incurred, including reasonable attorney's fees, that are proximately caused by the acts or omissions of the Company, Substitute Staff, or other employees or authorized agents of the Company, or by the Company's breach of this Agreement, except that such indemnification shall not apply to any claims or losses for which the Company is entitled to indemnification by the LEA. In addition, the Company's indemnification for any and all claims here under this Agreement shall be expressly limited to the extent of insurance coverage that is paid to the Company for such claims, if any, under the Company's insurance policies required under this Agreement.

5.2 Indemnification of the Company by the LEA. The LEA shall indemnify and hold the Company harmless from and against all claims or losses incurred by the Company, including reasonable attorney's fees, (i) that are proximately caused by the acts or omissions of the LEA or its employees or authorized agents, or by the LEA's breach of this Agreement; or (ii) arise from any injury to Substitute Staff or other persons on the premises of the LEA or while performing services on behalf of the LEA and not caused by the acts or omissions of the Company, Substitute Staff, or other employees or authorized agents of the Company. Such indemnification shall not apply to any direct claim for workers' compensation benefits for job-related benefits for job-related bodily injury or death against the Company by any of the Company's employees or their representatives.

5.3 Notification; Right to Defend. A party incurring any claim or loss for which indemnification may be provided pursuant to this section 5 shall promptly notify the other party in writing. The recipient of such notice may, at its own cost and expense, thereupon assume the defense of any third party claim using counsel reasonably satisfactory to the notifying party.

5.4 Limitation of Damages. Under no circumstances shall the Company be liable for special, indirect, consequential, punitive, expectancy, lost profit or goodwill damages, or for damages caused by the unsatisfactory performance of Substitute Staff that does not result in a finally adjudicated claim of damages against the LEA brought by a third party.

5.5 Complete Agreement. The parties agree that this section 5 sets forth their complete agreement with respect to any possible indemnification claim, and waive their right to assert any common-law indemnification or contribution claim against the other.

6. Fees and Payment.

6.1 The Company's Pricing Plan, attached hereto as Exhibit A and made a part of this Agreement, is accepted by the LEA. The Company shall submit to the LEA a weekly invoice showing in reasonable detail the services provided.

6.2 Changes to Pricing Plan. In the event that the LEA determines to increase the established pay rate for Substitute Staff from that specifically listed on Exhibit A or if the LEA determines to establish a new Substitute Staff classification or new pay rate to be paid to some or all of the Substitute Staff (e.g., for improved recruitment, retention or for other reasons) not identified on Exhibit A then, the billing rate to the LEA shall be determined by using the markup

used on Exhibit A. The LEA shall provide the Company fourteen (14) days prior written notice of its decision to change an existing pay rate or establish a new Substitute Staff classification and pay rate.

6.3 The Company may change the Pricing Plan contained on Exhibit A in the event that government (local, state or federal) mandated labor costs, including but not limited to, family leave benefits, minimum wage, or payroll taxes, which are required by law, regulation or mandate are enacted, implemented, become effective or are increased after the date of this Agreement. The Pricing Plan shall be adjusted as of the effective date of the law, regulation or mandate to reflect the actual cost increase to the Company reasonably calculated on a direct or pro rata basis. For multi-year Agreements or whenever this Agreement is extended, the Pricing Plan will be modified to reflect a cost of living adjustment equal to the greater of 2% or the applicable consumer price index rate for the LEA for the twelve months preceding the most recent quarterly rate.

6.4 Deleted.

6.5 **Use of Substitute Staff by the LEA Directly.** Company maintains the right to manage the schedule of its employees. Accordingly, if the LEA engages the services of any Substitute Staff other than through the Company on a per-diem, hourly or other basis, whether for services covered in this Agreement or otherwise, the LEA shall promptly notify the Company in writing and provide all information as the Company may reasonably request. Furthermore, if LEA hires Substitute Staff for services which are provided by Company in accordance with this Agreement, for the lesser of the period for which such Company employee is engaged or the term of this Agreement, the LEA shall calculate and pay to the Company any amounts due by using the markup used on Exhibit A. This payment requirement shall not apply to any Substitute Staff who is hired as a full-time, permanent employee of the LEA.

6.6 **Payment.** The LEA shall pay the Company monthly in United States currency by check (regularly payable in the normal course of banking transactions) or electronic transfer monthly within five (5) business days following the Board of Education Monthly Action Meeting ("Due Date") for all invoices submitted by the second week of the month (or such other timeline as agreed to on Exhibit A.) Any adjustments will not delay payment and will be applied to the following month's invoice. In the event that the LEA fails to pay any fee to the Company when due (i) the LEA shall be liable for a late charge equal to 1½% per month on the outstanding amounts, commencing on the Due Date; and (ii) the LEA shall be liable for all of the Company's reasonable costs of collection, including reasonable attorneys' fees, both (i) and (ii) to apply without any prior notice requirement.

6.7 **Sales and Use Tax.** The LEA represents that it is currently exempt from any sales and use taxes or similar governmental charges or value added tax imposed with respect to the services provided by the Company. If any such taxes or charges are otherwise due or are imposed or become due, they will be the responsibility of the LEA.

7. **Term.** The term of this Agreement shall begin on July 1, 2016 and shall remain in effect through June 30, 2018. Notwithstanding the preceding sentence, either party may terminate this Agreement if (i) the other party breaches a material provision of this Agreement and such breach is not cured within 30 days following written notice or, in the case of a breach that by the terms of

the breach cannot be cured within 30 days, the breaching party has not instituted measures to cure such breach within 10 days and fully cured such breach within 90 days. Further, the Company has the right to terminate this Agreement should any student physically or verbally assault or injure a Company's employee, and the LEA does not respond to the incident to the Company's satisfaction. In the event either party terminates this Agreement, the LEA shall pay all amounts due under the terms of this Agreement to the Company for services provided through the date of termination.

8. Insurance Coverage. Each party shall, at its own cost and expense, maintain insurance coverage reasonably appropriate for the activities it conducts and the risks it assumes. The insurance coverage maintained by the Company shall include:

8.1 Workers' compensation coverage of such types and in such amounts as may be required by the laws of the jurisdiction in which the services of Substitute Staff are performed;

8.2 Commercial general liability coverage, including personal injury, blanket contractual liability, and broad form property damage, with a \$2,000,000 combined single limit per occurrence;

8.3 Umbrella coverage with a \$3,000,000 combined single limit per occurrence.

9. Confidentiality & Non-Disparagement. During the course of the business relationship, each party may be given access to proprietary or confidential information of the other, including, but not limited to, pricing policies, the identity and social security numbers of employees, and business policies and systems ("Confidential Information"). Each party shall hold Confidential Information of the other party in confidence, treating such Confidential Information with no less care than it treats its own, and shall not disclose such Confidential Information to any third party or use such Confidential Information for any purpose other than as contemplated by this Agreement. Upon termination of this Agreement, or sooner if requested by either party, each party shall return all Confidential Information of the other party in its possession, without retaining copies of such Confidential Information. This section shall not apply to information (i) that is in the public domain, or (ii) required to be disclosed by law or legal process.

At no time during or after the term of this Agreement and for a period of two (2) years thereafter shall either party directly or indirectly disparage the commercial business, professional or financial, as the case may be, reputation of the other party or any of their employees, management, owners or officers.

10. Data and Intellectual Property. The Company owns all employee and absence management information data. Additionally all intellectual property including Company process, procedures and knowhow, trademarks and copy rights is and shall remain the sole property of the Company.

11. Miscellaneous

11.1 Amendments; Waivers. No amendment, modification, or waiver of any provision of this Agreement shall be binding unless in writing and signed by the party against whom the operation of such amendment, modification, or waiver is sought to be enforced. No delay in the exercise of any right shall be deemed a waiver thereof, nor shall the waiver of a right or remedy in a particular instance constitute a waiver of such right or remedy generally.

11.2 **Notices.** Any notice or document required or permitted to be given under this Agreement shall be deemed to be given on the date such notice is (i) deposited in the United States mail, postage prepaid, certified mail, return receipt requested, (ii) deposited with a commercial overnight delivery service with delivery fees paid, or (iii) transmitted by facsimile or electronic mail with transmission acknowledgment, to the principal business address of the recipient or such other address or addresses as the parties may designate from time to time by notice satisfactory under this section. A copy of any notice to the Company shall be sent to the attention of the Company's president at the regular business address of the Company.

11.3 **Governing Law.** This Agreement shall be governed by the internal laws of the LEA's state without giving effect to the principles of conflicts of laws. Each party hereby consents to the personal jurisdiction of the federal or state courts located in LEA's County, and agrees that all disputes arising from this Agreement shall be prosecuted in such courts. Each party hereby agrees that any such court shall have in personam jurisdiction over such party and consents to service of process by notice sent by regular mail to the address set forth above and/or by any means authorized by the law of the LEA's state.

11.4 **Language Construction.** The language of this Agreement shall be construed in accordance with its fair meaning and not for or against any party. The parties acknowledge that each party and its counsel have reviewed and had the opportunity to participate in the drafting of this Agreement and, accordingly, that the rule of construction that would resolve ambiguities in favor of non-drafting parties shall not apply to the interpretation of this Agreement.

11.5 **Payment of Fees.** In the event of a dispute arising under this Agreement finally resolved through litigation or alternate dispute resolution, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

11.6 **Force Majeure.** Neither party shall be responsible for delays or failure to perform caused by acts of God (including fire, flood, storm, or other natural disturbances), war, civil war, riot, epidemic, acts of foreign enemies, terrorist activities, government sanction, strikes or other labor disputes (it being specifically understood that the existence of any picket line by a collective bargaining unit shall be considered as within this definition of force majeure), interruption or failure of electric, telephone or similar service or other causes beyond such party's control.

11.7 **Signature in Counterparts.** This Agreement may be signed in counterparts, each of which shall be deemed to be a fully-executed original.

11.8 **Signature by Facsimile.** An original signature transmitted by facsimile shall be deemed to be original for purposes of this Agreement.

11.9 **Assignment.** No party to this Agreement shall assign its rights or duties hereunder, without the prior written consent of the other parties, except that the Company may assign its rights and duties in connection with a sale or other disposition of all or substantially all of its business.

11.10 **No Third Party Beneficiaries.** Except as otherwise specifically provided in this Agreement, this Agreement is made for the sole benefit of the parties. No other persons shall have any rights or remedies by reason of this Agreement against any of the parties or shall be considered to be third party beneficiaries of this Agreement in any way.

11.11 **Binding Effect.** This Agreement shall inure to the benefit of the respective heirs, legal representatives and permitted assigns of each party, and shall be binding upon the heirs, legal representatives, successors and assigns of each party.

11.12 **Titles and Captions.** All article, section and paragraph titles and captions contained in this Agreement are for convenience only and are not deemed a part of the context hereof.

11.13 **Pronouns and Plurals.** All pronouns and any variations thereof are deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require.

11.14 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior discussions, agreements, understandings and negotiations. The LEA and Company agree that in the event that any provision of this Agreement shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid any other provision of this Agreement.

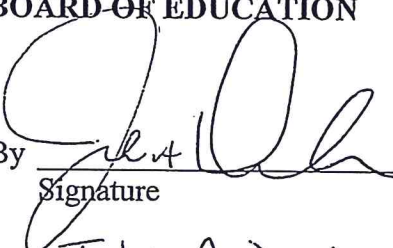
[INTENTIONALLY LEFT BLANK; SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

S4TEACHERS, LLC

By 
W. Andrew Hall, C.O.O.

**ATLANTIC CITY PUBLIC
SCHOOL DISTRICT
BOARD OF EDUCATION**

By 
Signature
John A. Dealin, President
Name and Title

Date 11/1/16

EXHIBIT A

PRICING PAID BY THE LOCAL EDUCATION AGENCY TO COMPANY

<u>Substitute Position</u>	<u>Daily Pay Rate</u>	<u>Company Pricing</u>
Teacher – Certified (Full Day)	\$95.00 per day	\$127.21 per day
Teacher – Certified (Half Day)	\$47.50 per day	\$63.61 per day
Teacher – Non Certified (Full Day)	\$85.00 per day	\$113.82 per day
Teacher – Non-Certified (Half Day)	\$42.50 per day	\$56.91 per day
Long Term Teacher – Days 1-30 (Full Day)	\$125.00 per day	\$167.38 per day
Long Term Teacher – Days 1-30 (Half Day)	\$62.50 per day	\$83.69 per day
Long Term Teacher – Days 31-60 (Full Day)	\$175.00 per day	\$234.33 per day
Long Term Teacher – Days 31-60 (Half Day)	\$87.50 per day	\$117.17 per day
Long Term Teacher – Days 61-90 (Full Day)	\$225.00 per day	\$301.28 per day
Long Term Teacher – Days 61-90 (Half Day)	\$112.50 per day	\$150.64 per day
Long Term Teacher – Days 91+ (Full Day)	\$250.00 per day	\$334.75 per day
Long Term Teacher – Days 91+ (Half Day)	\$125.00 per day	\$167.38 per day
Paraprofessional – Certified (Full Day)	\$95.00 per day	\$127.21 per day
Paraprofessional – Certified (Half Day)	\$47.50 per day	\$63.61 per day
Paraprofessional – Non Certified (Full Day)	\$85.00 per day	\$113.82 per day
Paraprofessional – Non Certified (Half Day)	\$42.50 per day	\$56.91 per day