



DEDICATED TO TEACHERS™

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PD Offering: Continuum of Literacy Learning
Custom PD Follow-Up

Date(s): 5/23/2016 - 5/23/2016
5/24/2016 – 5/24/2016

Location: Brick, NJ

Number of Participants: 35 (per session)

Total Fee: \$7925

Contact: Susan McNamara

Organization: Brick Township Public Schools

The fee for the Engagement is inclusive of the consultant’s fee and expenses, any handouts related to the seminar and a copy of the related Heinemann title for a maximum of 35 participants.

Contract and Purchase Order is due for the full amount of this agreement by: 5/12/2016. The above date(s) are not secured until Heinemann has received the required purchase order.

ACCEPTED AND AGREED

Signed: _____ Date: _____

Name (print): _____ Title: _____

COUNTERSIGNED

Cherie Bartlett, Manager of Professional Development, On-Site

AGREEMENT TERMS

This agreement by and between Heinemann Professional Development and the Client sets forth the agreement between the parties. When used herein, "Agreement" shall be understood to include this agreement, and any attached exhibits or any other documents made a part hereof or incorporated by reference, including any written amendments hereto.

Upon receipt of this Letter Agreement, you shall return by U.S. mail, to Heinemann Professional Development, two (2) copies of this Letter Agreement fully initialed and signed within fifteen (15) business days from the date of issue.

1. SERVICES

Heinemann will provide to Client professional services related to professional development, as set forth more fully in Exhibit A (the "Services") on page one of this Agreement. In performance of the Services at the scheduled event (the "Engagement"), Heinemann will employ a third-party Consultant/Consulting Author, as described in Exhibit A (first page of Agreement).

2. FEES

The Fee, as set forth in Exhibit A, shall be payable as follows:

(a) Upon execution of this Agreement, Client shall provide a purchase order for the full amount listed on Exhibit A. Purchase Order should be made out to Heinemann, 361 Hanover Street, Portsmouth, NH 03801-2912, Federal ID #06-1154537.

(b) The signed contract and purchase order shall be mailed to Heinemann Professional Development, 361 Hanover Street, Portsmouth, New Hampshire 03801-2912.

(c) Client shall pay the invoiced Fee balance to Heinemann within forty-five (45) business days following Heinemann's final delivery of service.

(d) Client acknowledges and agrees that in certain instances, should the number of participants increase, Client could be charged additional fees, as set forth in Exhibit A.

(e) All payments required by the Client under this Agreement are exclusive of all federal, state, local and foreign taxes, levies, and assessments. The Client agrees to bear and be responsible for the payment of all such taxes, levies and assessments imposed by any taxing authority.

3. RIGHT TO CANCEL; REFUNDS

If, before the date of the Engagement, Heinemann finds that either the Client has failed, neglected or refused to perform any other contract with Heinemann or the Client's financial credit has been materially impaired, then Heinemann shall have the right to cancel this Agreement upon notice to Client.

(a) In the event that the Client cancels this Agreement within sixty (60) days of the scheduled Engagement, for any reason other than as set forth below, Client shall be fully liable for half of the Fee. The parties acknowledge and agree that payment of the Fee upon improper cancellation shall serve as liquidated damages and not as a penalty, to compensate Heinemann for lost income due to the time reserved in good faith by Heinemann to undertake their obligations with respect to the Engagement.

4. FORCE MAJEURE

No party shall have any liability to another in the event of the cancellation of the Engagement if such cancellation is caused by or due to the physical disability of the Consultant/Consulting Author, or acts or regulations of public authorities, labor difficulties, civil tumult, terrorist attack or threats, government warnings, strike, epidemic, interruption or delay of transportation service or any other cause beyond the reasonable control of a party. In the event of a cancellation for "force majeure" the parties will attempt to reschedule the Engagement, or if rescheduling is not feasible or desirable, Heinemann will refund any Fee paid with respect to the cancelled presentation. In the event of Force Majeure, please contact Marie Calvi as soon as possible at marie.calvi@heinemann.com.

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5. **NO RECORDATION**

No audio, visual, radio, television, recording or transmitting devices may be used during the Engagement in any manner or form without the prior written consent of Heinemann.

6. **INSURANCE**

Client shall procure and maintain for the site of the presentation, with respect to the Engagement described herein, comprehensive liability insurance with a limit of coverage not less than One Million Dollars (\$1,000,000) per occurrence.

7. **NON-COMPETITION AND NO OTHER BROKER**

It is understood among all parties that any additional consulting work stemming from the Services provided will be contracted through Heinemann. Client will not use any broker, bureau or agent to book the Consultant or Consulting Author for any future Services or Engagements, other than Heinemann.

8. **OWNERSHIP OF INTELLECTUAL PROPERTY**

Heinemann and/or the Consultant/Consulting Author own all right, title and interest in and to their respective programs and products (the "Materials") including, but not limited to, worldwide copyright in all languages and in all forms and media now or hereafter known. Client and the participants are strictly prohibited from reproduction or distribution of the Materials without prior written permission from Heinemann. Client and the participants may not make use of the Materials in any manner other than the use intended by Heinemann through its provision of the Services. For the avoidance of doubt, no right, title, or license in the Materials is granted to the Client, except for the limited, personal, non-transferable right and license for the Client to use the Materials for the Client's own internal use and benefit without reproducing them in any medium.

9. **INDEPENDENT CONTRACTOR**

Heinemann, the Consultant/Consulting Author, and the Client are not partners or joint venturers and nothing contained herein shall be construed as creating an employment, partnership, joint venture, agency, or any other relationship whatsoever, except that of independent contractors, between Heinemann, the Consultant/Consulting Author, and Client. The Consultant/Consulting Author is responsible for all statements made by the Consultant/Consulting Author in connection with the Engagement.

10. **LIMITED WARRANTY AND DISCLAIMER**

Heinemann warrants that the Services will be performed in a professional and diligent manner. Except for the express warranty stated in this section, to the maximum extent permitted by applicable law, Heinemann makes no additional warranty, express or implied, statutory or otherwise, as to any matter whatsoever and all warranties of marching ability, fitness for a particular purpose and non-infringement of third party rights are expressly disclaimed and excluded.

11. **ENTIRE AGREEMENT**

This agreement, including any attachments or exhibits, constitutes the entire agreement between the parties concerning the Services, and can only be supplemented, amended or revised in writing by agreement of the parties.

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A. Notwithstanding any language contained in the Agreement, to the contrary, Heinemann and the Consultant/Consulting Author hereinafter referred to as Company and the Client (Brick Township Board of Education) agree as follows:

B. The Company shall conduct all of these activities in accordance with all state, local and federal guidelines, regulations and laws.

C. Company agrees to defend and indemnify and hold harmless the Client, its affiliates, officers, agents, servants and employees from and against any and all claims and liabilities (including reasonable attorney's fees and expenses, including expert fees, incurred in the defense thereof) relating to personal injury or property damage or any other claim arising out of the acts or omissions, including negligence or malpractice, of the Company, or of any of its officers, directors, employees, agents, servants or independent contractors in connections with their responsibilities under this Agreement. The Company liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

D. Throughout the term of this Agreement, Company agrees to provide and maintain General Liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate, per year, and Licensed Professional Liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate, per year. Company shall provide the Board of Education with evidence of such coverage upon request.

E. INTERPRETATIONS OF SPECIFICATIONS AND CONTRACT:

This Contract shall be construed pursuant to the laws of the State of New Jersey. Any litigation with respect to the interpretation of the terms of this Contract shall be within the sole jurisdiction of the Courts of the State of New Jersey and venue shall be in Ocean County.

F. NOTICES. All notices, requests, demands and other communications hereunder shall be written, and shall be deemed to have been duly given if delivered or mailed, by certified mail, return receipts requested, to the parties hereto at the addresses stated on the first page of this contract.

G. COUNTERPARTS. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

H. BENEFIT. This Agreement shall be binding upon, and inure to the benefit of the legal representatives, successors and assigns of the parties hereto.

I. ENTIRE AGREEMENT. This Agreement contains and sets forth the entire understanding of the parties. It shall not be altered or modified except by a written instrument signed by all of the parties hereto.

J. BUSINESS REGISTRATION CERTIFICATE. The parties to this Contract agree to comply with the provisions of P.L. 2004, c. 57 and P.L. 2009, c. 315 in regards to Business Registration Certificate.

K. The effective date of this Agreement shall be the date upon which it is executed by the last party to sign same and it shall be the obligation of the party to insert the date and deliver the copies of the Agreement to all parties who are signatories hereto.

L. In the event that any court of competent jurisdiction shall declare any section of this Agreement invalid for any reason, all other sections shall remain in full force and effect.