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Agreement and Statement of Work

For

Randolph Township Schools Board of Education

July 2, 2014

My Learning Plan, Inc.
Agreement and Statement of
Work

My Learning Plan, Inc. ("MLP") **will** provide **Randolph Township Board of Education** ("Customer") with a Web-based professional development management system (the "Management System") through MLP's Web site, located at www.MyLearningPlan.com. The Management System will facilitate the maintenance and tracking of professional development and compliance participation by empowering employees to manage their personal professional development via an online learning plan. The provision of these services to Customer shall be subject to the contents of this Agreement and Statement of Work.

Management System Features:

The Management System is comprised of a Web server and a database server through which end users will be able to:

Manage and track professional development hours/credits.

Access and create customizable on-line forms and approvals for professional development activities.

Develop a private course catalog listing professional development activities available.

My Learning Plan, Inc. Responsibilities:

During the term of this agreement, MLP agrees to perform as follows:

Use all commercially reasonable efforts to provide 24 hour/seven-day access to the Management System.

Set-up the Management System for the Customer on the MyLearningPlan.com Web site.

Provide unlimited support for requests received through our website to System Operator and end-users.

Respond to emergency calls placed during normal business hours; provided that MLP shall be permitted a four-hour response time.

Maintain MLP's Web and database server(s) and associated hardware that supports the Management System.

As part of the setup and configuration, MLP agrees to:

Perform a one-time batch import of all Customer's participants and related information.

Make available to Customer a fully indexed database of user information in Microsoft Access or Excel format.

Set-up the Management System for the Customer on the _MyLearningPlan.com_ Web site.

Provide training to Customer's System Operator (as defined below) and assist with configuration tasks.

Customer's Responsibilities:

During the term of this agreement, Customer agrees to perform as follows:

Designate at least one of Customer's employees (or consultants) as system operator (the "System Operator"). This person will act as the liaison for all administrative and technical communications between MLP and Customer. The System Operator will be granted special administrator rights and **will** be responsible for configuring **the** Management System for Customer (user account, access rights, forms, approvals, etc).

The System Operator shall provide to MLP in an electronic format selected by MLP's technical support all required account information for the users of the Customer for completion of one-time batch import.

Subscription:

MLP grants and Customer accepts a nonassignable, nontransferable, non-exclusive subscription to use the Management System (including any revisions, derivations, upgrades and/or updates) and associated documentation and reference material. The Management System shall be used by Customer solely for Customer's own internal use and subject to the rights and requirements specified in this agreement. MLP may provide updates and enhancements which MLP at its sole discretion deems to be logical improvements to the Management System previously supplied to Customer under this agreement, and which MLP makes generally available to other Customers, and does not separately price or market. Any updates or enhancements that are provided to Customer shall be deemed part of the Management System and shall be used in accordance with the requirements and obligations set forth in this agreement.

Term and Termination:This agreement shall for be for a term of one year, commencing on the date set forth below (the "Effective Date"), and shall automatically renew for successive one-year terms unless one party notifies the other of its intention not to renew the agreement within   45 days of the expiration of the then current term as set forth below. MLP shall provide forty-five (45) days written notice to the Customer of the expiration of the contract period, at which time the Board shall inform MLP, in writing, of whether or not it intends to renew the Agreement subject to the terms herein. Any such renewal shall be subject to the availability and appropriation on an annual basis of sufficient funds by the Customer as will be required to meet the requirements of the extended Agreement. If the Customer does not indicate, in writing, whether or not it agrees to renew the services within the 45-day period after receipt of MLP's notice, the Agreement will renew automatically for a one-year period.

Either party may terminate this agreement for any reason with 90 days written notice. However, upon the breach of this agreement by one party, the other party may terminate this agreement immediately. If the Customer terminates this agreement, MLP will refund only the prorated portion

of the Annual User License Fees remaining on the contract. Upon the termination or expiration of this agreement for any reason, MLP will immediately remove all registered users of the Customer from the database and will cease to provide technical support and maintenance.

Fees:

In consideration for the services provided by MLP to Customer, Customer shall pay to MLP the fees set forth on <u>Schedule A</u>. Each access code provided by MLP to Customer shall be deemed a "<u>User</u>". Customer shall pay to MLP all fees upon the execution and delivery of this agreement. In the event that Customer automatically renews this agreement, Customer shall pay to MLP the Annual User License Fee within 30 days from the annual anniversary of the Effective Date of this agreement. Within 30 days from the anniversary of the Effective Date, MLP will send Customer an invoice that will reflect the addition or deletion of Users and changes to the Annual User License Fee, if any.

Ownership and Confidentiality

The Management System, including but not limited to the database, Web site source code, any programs, systems, data, and materials furnished by MLP to Customer including all trademarks, trade names, logos, characters and the look and feel of MLP's Internet site, including without limitation, all copyrights, trademarks, trade names and other proprietary rights inherent therein or appurtenant thereto, is and will remain the property of MLP and Customer will have no rights or interests in the Management System except as provided in this agreement. Customer's and its User's data is and will remain the property of Customer and, upon the termination of this agreement for any reason, such data will be returned by MLP to Customer, subject to Customer's payment of all fees due and owed by Customer to MLP. Customer's data will not be utilized by MLP for any purpose other than that of rendering services to Customer under this agreement, nor will Customer's Data or any part thereof be disclosed to third parties by MLP, its employees or agents. Each party agrees that all information communicated to it by the other will be held in strict confidence and will be used only for the purposes of this agreement and that no such information will be disclosed by the recipient party, its agents or employees without the prior written consent of the other party.

Non-Performance in Certain Cases

As with all Internet-based services, access to the Management System is sometimes interrupted due to conditions beyond MLP's control. Each party shall be excused from performance of this agreement, in whole or in part, as a result of delays caused by the other party or an act of God, or other cause beyond its reasonable control and which it could not have prevented by reasonable precautions, including failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment, and such nonperformance shall not be considered a breach of this agreement or grounds for termination.

Authority to Perform

Each party confirms to the other that it has all requisite power and authority to execute, deliver and perform its obligations under this agreement, and no approval authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this agreement.

Limitation of Liability

MLP shall not be liable for the acts or omissions of any third parties not within its control, including the acts or omissions of the Board, its agents or employees.

Disclaimer of Warranties

EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF MLP SET FORTH IN THIS AGREEMENT, MLP DISCLAIMS ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESSED OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Miscellaneous

This agreement represents the entire agreement of both parties involved, My Learning Plan, Inc. and the Customer. There are no other promises in any other agreement, whether oral or written, that will be conceived as valid.

This agreement shall be governed by and construed according to the laws of the State of New Jersey as applicable to agreements executed in and to be wholly performed within such State, excluding its principles of conflict of laws. In the event of any dispute arising under this agreement Customer and MLP irrevocably submits to the exclusive jurisdiction of the courts located in Morris County, State of New Jersey and waive any objection thereto based on lack of venue, forum non-conveniens or any similar-type grounds.

No delay or omission by either party to exercise any right or power it has under this agreement shall impair or be construed as a waiver of such right or power. A waiver by any party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. Waivers must be in writing and signed by the party waiving its rights.

If any provision of this agreement is held by a court of competent jurisdiction to be contrary to law, then the remaining provisions of this agreement will remain in full force and effect.

Agreed to and accepted this   day of   , 2014

MY LEARNING PLAN INC.	RANDOLPH TOWNSHIP SCHOOLS BOARD OF EDUCATION
Signature: _____	Signature: _____
Print Name: Betty Marmolego	Print Name: _____
Date: _____	Date: _____

SCHEDULE A

FEES

One Time Configuration and Setup Fee			
	MLP Setup and Configuration		$2,500
Annual Subscription Fees			
Number Users	Description	Price/User	Total
520	Instructional subscription fee – per instructional user	$15	$7,800
	Non-instructional subscription fee – per non-instructional user	$12	$
		Total Year One Cost:	$ 10.300

Optional Services		
	Historical data import fee (OPTIONAL)	$1,500

NOTES: