

TI MathForward™

Terms and Conditions of Service
Agreement # 06192013SaraCoFL

This Service Agreement ("Agreement"), the provisions of which shall be effective as of August 1, 2013 (the "Effective Date"), is made and entered into by and between TEXAS INSTRUMENTS INCORPORATED, a Delaware corporation with its principal address at 12500 TI Boulevard, Dallas, Texas 75243 ("TI"), and the School Board of Sarasota County ("District"), with its principal address at 1960 Landings Boulevard, Sarasota, FL 34231.

RECITALS

WHEREAS, the District has chosen to implement the TI MathForward™ Program (the "Program") using the **On-Ramp** model selected by the District with participating teachers in the following school(s): North Port High School and Venice High School ("Campus(es)"); and

WHEREAS, the District and TI have set out in this Agreement the mutual obligations of the parties in connection with the Program, and Exhibit A the Statement of Work ("SOW") to be performed in connection with the Program; and

WHEREAS, the District has the authority to execute this Agreement and to provide for the payment of the sums provided in this Agreement to TI as consideration for TI's services; and

WHEREAS, TI has been duly authorized to enter into this Agreement with the District;

NOW THEREFORE, in consideration of the Recitals set forth above, which are incorporated into the body of this Agreement, the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the **District and TI agree as follows:**

AGREEMENT

1. **Term.** This Agreement shall be effective from August 1, 2013 to July 31, 2014 (the "Term"), unless sooner terminated in accordance with the provisions of this Agreement or extended in writing by the inclusion of one or more additional SOWs. Should an additional SOW be entered into under this Agreement which extends a party's obligations beyond the stated Term, this Agreement shall remain in effect until thirty (30) days after completion of all such additional SOWs.

2. **Services to Be Performed by TI.**

2.1 **Training Services.** TI will provide to the District certain services ("Services") as set forth in each SOW attached hereto, in accordance with the schedule set forth therein or as otherwise agreed upon by the parties. The training will be conducted by educational professionals selected by TI, with whom TI has contracted to perform the Services.

2.2 **Training and Curriculum Materials.** As part of the Program, and subject to the terms and conditions of the license granted herein in Section 8, TI will provide the materials listed in the SOWs (the "Training Materials"). These are the only materials that TI will provide to the District, Campuses and Participating Teachers as part of the Program.

2.3 **Meetings.** TI will, upon request from the District, meet with District personnel to discuss any issues which may arise in connection with the Program or this Agreement.

2.4 **Contact Person.** TI designates the following person as TI's contact person in connection with the Program or this Agreement:

Name: Steven Bailey
Title: Director, North America Field Marketing
Address: 13532 N. Central Expressway, MS 3821, Dallas, Texas 75243
Telephone: 214-479-1342 **Fax:** 214-479-1505 **Email:** sbailey@ti.com

TI may change its designated contact person from time to time by giving the District written notice of the change.

2.5 Background Checks. TI agrees that before any of its employees or agents will be permitted on school grounds while students are present, such employees or agents will be fingerprinted and have their backgrounds checked as provided in by Florida law, unless such employees or agents are exempt from the requirement under Section 1012.468 of the Florida Statutes. TI's employees and agents will coordinate with the District to arrange a mutually convenient time for the District to conduct the fingerprinting. TI will bear the cost of the fingerprinting/background checks, if applicable. The District has the right to refuse entry onto its school grounds to any individual whose background check does not meet the requirements established by the District pursuant to Florida law.

3. District Obligations

3.1 Performance of SOW Requirements. The District will perform the District's obligations set out in the SOWs in a timely manner, and will require the Campus and the Participating Teachers to comply with any applicable implementation obligations set out in the SOWs. The parties acknowledge and agree that, as an essential element of the Program, each party must fulfill each and every implementation obligation assigned to it in the SOWs. Further, the parties agree that the schedule assigned to each element, as set forth in the SOWs, is a critical requirement under the obligations. Failure by either party to perform its obligations or to adhere to the schedule may adversely affect the effectiveness of the Program.

3.2. Payment. The District agrees to promptly pay TI in accordance with the terms of this Agreement.

3.3 Meetings. The District will, upon request from TI, meet in a timely manner to discuss any issues or concerns which may arise in connection with the Program or this Agreement.

3.4 Contact Person. The District designates the following persons to act as the District's contact for the Program and this Agreement:

PRIMARY CONTACT

Name: Steve Cantees

Title: Exec. Director of High Schools

Address: 1960 Landings Boulevard

Sarasota, FL 34231

Telephone: (941) 927-9000, ext. 31137

Fax: (941) 361-6173

Email:

Stephen.cantees@sarasotacountyschools.net

SECONDARY CONTACT

Name: Evie Eddins

Title: Mathematics Coordinator

Address: 1960 Landings Boulevard

Sarasota, FL 34231

Telephone: (941) 927-9000

Fax: (941) 927-4023

Email: Evie.eddins@sarasotacountyschools.net

The District may change its designated contact person from time to time by giving TI written notice of the change.

4. Compensation/Rates, Charges and Taxes

4.1 Compensation/Rates and Charges. As compensation for the Services provided by TI under this Agreement, the District shall pay TI the amounts set forth in the SOWs in accordance with the payment schedule provided therein or upon submission by TI of an invoice setting out the amount of payment due and describing the Services performed. It is understood and agreed that the District will be obligated to pay TI the payments owed under this Agreement from funds appropriated by the District (as described in Section 4.3 below).

4.2 Payments. Payments shall be due and payable within thirty (30) days from the date of TI's invoice. Payments not made when due shall accrue interest in accordance with the provisions of Florida law.

4.3 Appropriated Funds. The District hereby represents and warrants to TI, that the School Board of Sarasota County has appropriated and budgeted for payment under this Agreement, all funds necessary to meet the District's payment obligations under this Agreement for the Term.

4.4. Taxes. The amount of compensation shown in the SOW does not include the amount of any taxes to which the District may be subject. If the District is exempt from the payment of taxes in connection with the Program, the District shall provide to TI a sales tax exemption certificate or other appropriate documentation required to establish the tax exemption. If the District is subject to the payment of taxes on any portion of the Program, the District will promptly notify TI of this fact, and TI will add sales taxes to the compensation to be paid to TI as required by applicable law, and the District will pay such taxes in addition to the stated compensation.

5. Termination

5.1. **Termination for Convenience.** TI or the District may terminate this Agreement and any SOW hereunder for any reason, including but not limited to reasons of convenience, by providing the other party with at least thirty (30) days prior written notice.

5.2. **Termination for Breach.** In the event of a material breach of this Agreement by either party, the non-breaching party may notify the party in breach of such breach in writing and, if said breach is not cured within thirty (30) days after such notification, the non-breaching party may immediately terminate this Agreement. Notwithstanding the foregoing, either party may immediately terminate this Agreement by providing written notice and without giving the other party a chance to cure if the other party: (i) is involved in any voluntary or involuntary bankruptcy proceeding or any other proceeding concerning insolvency, dissolution, cessation of operations, reorganization or indebtedness or the like, and such proceeding is not dismissed within sixty (60) days; or (ii) becomes insolvent or is unable to pay its debts in the ordinary course of business or makes an assignment for the benefit of its creditors.

5.3. **Effect of Termination.** Upon receipt of notification of termination, whether for convenience or cause, (i) TI shall immediately cease performance of Services under this Agreement, (unless the parties agree to continued performance up to a specified date or activity), and (ii) the District shall pay TI for all Training Materials provided and Services performed by TI to the date of termination, within 30 days after the date of termination. The District may, however, offset any monies due to it by TI prior to payment.

6. Limitation of Liability and Damages

6.1. **WAIVER OF CONSEQUENTIAL DAMAGES.** THE FOREGOING NOTWITHSTANDING, THE DISTRICT HEREBY WAIVES ANY RIGHT IT MAY HAVE TO PURSUE OR OBTAIN PUNITIVE, SPECIAL INDIRECT OR CONSEQUENTIAL DAMAGES AGAINST TI WITH REGARD TO ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, BUT ONLY TO THE EXTENT PERMITTED BY LAW. IN NO EVENT SHALL TI'S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT RECEIVED BY TI AS COMPENSATION UNDER THIS AGREEMENT. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE OR EXTEND THESE LIMITS.

6.2. **DISCLAIMER OF WARRANTIES AND REPRESENTATIONS.** THE DISTRICT RECOGNIZES THE EDUCATIONAL NATURE OF THE SERVICES TO BE PERFORMED BY TI UNDER THIS AGREEMENT AND THAT THE EFFECTIVENESS OF THE PROGRAM IS DEPENDENT ON FACTORS WHICH ARE BEYOND THE CONTROL OF TI, INCLUDING, BUT NOT LIMITED TO, THE DILIGENCE WITH WHICH PARTICIPANTS PURSUE THE TRAINING ACTIVITIES. TI DOES NOT MAKE ANY REPRESENTATIONS, GUARANTIES OR WARRANTIES OF ANY KIND AS TO THE EFFECTIVENESS OF THE PROGRAM IN ACHIEVING ANY PARTICULAR LEVEL OR DEGREE OF RESULTS, OR ANY GOALS OR STANDARDS SET OR ADOPTED BY THE DISTRICT. TI DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED WITH REGARD TO THE PROGRAM OR THE TRAINING MATERIALS.

7. **Notice.** Unless otherwise specified herein, any notice to either party by the other party shall be deemed to have been properly given if mailed to said party by certified mail, return receipt requested or if sent by facsimile or by overnight courier if evidence of receipt is verified and if correctly addressed to the last address for notice that the sending party has for the recipient at the time notice is given:

NOTICE TO TI

Name: Herbert Foster

Title: Business Services Manager

Address: 13532 N. Central Expressway MS 3819

Dallas, Texas 75243

Telephone: 214-479-1369

Fax: 214-479-1504

Email: h-foster@ti.com

NOTICE TO THE DISTRICT

Name: Steve Cantees

Title: Exec. Director of High Schools

Address: 1960 Landings Boulevard

Sarasota, FL 34231

Telephone: (941) 927-9000, ext. 31137

Fax: (941) 361-6173

Email: Stephen.cantees@sarasotacountyschools.net

Notice given by certified mail, return receipt requested, as provided above, with copy sent concurrently by facsimile or email, will be deemed delivered, whether or not actually received, three days after deposit in the US mail. Notice given in any other manner will be deemed delivered if and when actually received. Either party may change its address for notice by providing written notice of the change in the manner for giving notice provided herein.

8. Intellectual Property Rights and Materials License Grant. Title, ownership to, and rights in intellectual property rights in the Training and Curriculum Materials delivered by TI hereunder this Agreement, including all permitted copies thereof shall remain with TI and its licensors. Subject to the District's compliance with and fulfillment of its responsibilities under this Agreement, TI grants the District a license to use, copy and internally distribute the Training and Curriculum Materials for the sole purpose of instructing teachers employed by the District in the elements of the Program.

9. General Provisions

9.1 No Third Party Rights This Agreement is entered into solely between, and may be enforced only by, TI and the District, and this Agreement shall not be deemed to create any rights in any third parties, including employees, suppliers or subcontractors, or to create any obligations of a party to any such third parties.

9.2 Merger, Modification, and Severability. This Agreement, together with the SOW, constitutes the entire agreement between the parties as to the subject matter hereof, and supersedes any and all prior commitments, understandings, agreements and the like between the parties concerning the subject matter of this Agreement. To the extent of any conflict, the terms of each SOW shall supersede the terms of this Agreement. Except as otherwise provided herein, this Agreement, and the SOW hereto, may only be modified by a writing signed by an authorized representative of each of the parties. A faxed or emailed signature shall have the same legally binding effect as an original signature. In the event that any provision of this Agreement conflicts with the laws under which this Agreement is to be construed or if any such provision is held invalid by a Court with jurisdiction over the parties, such provision shall be deemed to be restated to reflect as nearly as possible the original intention of the parties in accordance with applicable law. The remainder of this Agreement shall remain in full force and effect.

9.3 Applicable Law. The parties agree that the transactions that are the subject matter of this Agreement bear a reasonable relationship to, and this Agreement shall be deemed to be a contract made in, the State of Florida. The validity, interpretation, and performance of this Agreement shall be governed by the laws of the State of Florida without regard to its conflicts of laws provisions. The parties agree that the sole and exclusive jurisdiction for any judicial action relating to this Agreement shall be in the relevant state court for Sarasota County, Florida, or the United States District Court for the Middle District of Florida.

9.4 Independent Contractor. Each party shall act as an independent contractor under this Agreement and shall not represent to any third parties that it is anything other than an independent contractor. TI may use subcontractors in the performance of this Agreement.

9.5 Waiver of Default. No failure of either party to enforce at any time, or for any period of time, any of the provisions of this Agreement shall constitute a waiver of any provisions in this Agreement or of either party's right to enforce each and every provision at a later time or upon a subsequent default.

9.6 Assignment. Neither party shall assign this Agreement, any SOW, or any rights and obligations thereunder without the other party's prior written consent, provided, however, that nothing in this provision shall be deemed to prohibit TI from entering into or modifying subcontracts for the performances of the Services to be provided by TI under this Agreement. Any assignment in violation of this provision shall be void and of no effect.

9.7 Force Majeure. Except for District's obligations to make payment for services already performed, neither party shall be liable to the other for failure to perform its obligations under this Agreement if prevented from doing so because of a Force Majeure. "Force Majeure" shall mean an act of God, fire, flood, civil disturbance, act of terrorism, or interference by civil or military authority, which is beyond the reasonable control of the party claiming Force Majeure, is not caused in whole or in part by the acts or omissions of such party, and adversely affects activities under this Agreement. Upon the occurrence of such an event, the party seeking to rely on this provision shall promptly give written notice to the other party of the nature and consequence of the Force Majeure. In any event, should the Force Majeure continue for a period of one (1) month, either party may terminate the portion of this Agreement or specific activity or activities under this Agreement that is/are affected by the Force Majeure.

9.8 Survival. Notwithstanding any provision in this Agreement to the contrary, any terms or provisions of this Agreement which are performable after termination or expiration of this Agreement, or which may be performed after termination or expiration of this Agreement, will survive the expiration or termination of this Agreement.

9.9 Confidentiality. The parties recognize and agree that the District is subject to the provisions of the Florida Public Records law, as codified in Chapter 119, Florida Statutes, including Section 119.0701, Florida Statutes, governing the maintenance and disclosure of records. TI will provide to the District a list of all information which TI believes to be trade secrets, proprietary or confidential information which are exempt from disclosure, and, to the extent practicable, TI shall mark at the bottom of each page of proprietary or confidential information provided to the District in hard copy format the word "Confidential" in conspicuous print. In the event the District receives a request for the disclosure of information which is marked Confidential, or which is contained in the list of confidential information which TI provided to the District, the District shall promptly notify TI of the request. TI may then independently and promptly pursue a court order or other appropriate means to protect the disclosure of such information at TI's sole expense. TI shall have the responsibility of notifying a requesting party of the exempt status of requested information. Excepting information designated by TI as a trade secret under Florida law, the foregoing shall not be deemed the District's guaranty of the non-disclosure of any and all information provided by TI to the District pursuant to the District's legal obligation to comply with a Public Records request.

9.10 Representations.

District Representations. The District represents to TI that the Recitals set forth above are true, correct and accurate. The District further represents to TI that all approvals and actions required to make this Agreement, including the payment obligations, binding on, and enforceable against, the District have been taken. The District further represents that the person signing this Agreement on behalf of the District has been fully authorized to execute this Agreement as the act of the District.

TI Representations. TI represents to the District that all approvals and actions required to make this Agreement binding on and enforceable against TI have been taken. TI further represents that the person signing this Agreement on behalf of TI has been fully authorized to execute this Agreement as the act of TI.

9.11 Exhibits. All Exhibits attached to this Agreement are incorporated herein and made a part hereof for all purposes. As of the Effective Date, the Exhibits to this Agreement are as follows:

- Exhibit A: STATEMENT OF WORK (SOW), including:
 - Section 1: PROGRAM DETAILS
 - Section 2: MATHFORWARD IMPLEMENTATION DEPENDENCIES
 - Section 3: MATHFORWARD PAYMENT OPTIONS
 - Section 4: CAMPUSES AND CONTACT INFORMATION

Work under this Agreement shall be initiated after a Purchase Order or like binding commitment to payment is received by TI. This Agreement is executed by the parties on the dates set forth below, to be effective as of the Effective Date.

TEXAS INSTRUMENTS INCORPORATED

SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA

By: Peter Balyta

By: _____

Name: Peter Balyta

Name: Jane Goodwin

Title: Executive Director,
Worldwide Marketing & Product Strategy

Title: Chair

Date: 7/29/13

Date: _____

Approved for Legal Content,
July 30, 2013, by Matthews Eastmoore,
Attorneys for The School Board
of Sarasota County, Florida
Signed: ASH Page 5

**EXHIBIT A
STATEMENT OF WORK (SOW)**

EXHIBIT A, SECTION 1: PROGRAM DETAILS

School Dist:	School Board of Sarasota County
City, State:	Sarasota, FL
Attention:	Steve Cantees
Title:	Exec. Director of High Schools
Email:	Stephen.cantees@sarasotacountyfl.us
Provided by:	Stej Sanchez
Date:	7/8/2013



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Program:	TI-MathForward™ On-Ramp
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Optional:	
On-Site Mathematician Training	Not selected

Variables:	
# of Teachers Supported	14
# of Blocks per Teacher	2
# of Students per Block	30

2013-2014 Cost Analysis	
Total expenditure	\$37,000
Cost per classroom	\$2,643
Cost per student	\$44

This TI-MathForward™ Program Includes:

On Ramp – Year 1

This is a pre-MathForward™ program that allows a school to get started during the school year and/or allows a district time to build capacity. This model includes:

- Professional Development – Technology Integration
- Professional Coaching (in classroom)

Training Provided	2013-2014
On-site Professional Development (instructor days)	6
On-site Professional Coaching (instructor days)	15
Additional Days	
Total training/coaching days provided	21

This Quotation is firm for 60 days and acceptance of Buyer's order shall be made only under the TI MathForward™ Terms and Conditions of Service.

**EXHIBIT A, SECTION 2
MATHFORWARD IMPLEMENTATION DEPENDENCIES**

Item: Campus Staff Assigned to MathForward Program – a list of those educators assigned to the program provided to MathForward Supervisor

Responsible Party: District or Campus Administration

Timeline: Two weeks prior to initial professional development

Item: TI Instructional Technology Allocated - The program relies on each classroom being equipped with appropriate TI graphing technology (one per student) and the TI-Navigator™ Classroom Learning System (one per classroom)

Responsible Party: District or Campus Administration

Timeline: All TI technology (software and hardware) must be installed prior to the first date of training

Item: Block Scheduling of MathForward Classes – defined as continuous 75-100 minutes of instructional time with the same MathForward teacher.

Responsible Party: District or Campus Administration

Timeline: Mutually agreed upon by both District and TI

Item: Initial Professional Development Scheduled

Responsible Party: Implementation Specialist (District or TI)

Timeline: Recommended two-four weeks prior to start of program or first day of school

Item: Common Planning Times Scheduled – defined as allowing three hours per week (minimum) for the teachers participating in the TI MathForward program so they can share instructional strategies, plan lessons for the week, analyze student work, and discuss underlying math concepts.

Responsible Party: District or Campus Administration

Timeline: Within ten days of start of program or the first day of school

Item: Teacher / Administrator Enrollment in MFORC (MathForward Online Resource Center)

Responsible Party: MathForward Supervisor (TI)

Timeline: On or before initial professional development

Item: Assignment of TI Implementation Specialist

Responsible Party: MathForward Supervisor

Timeline: Upon execution of contract

Item: Training and MathForward Curriculum Materials Provided

Responsible Party: MathForward Supervisor

Timeline: Before initial professional development

Item: Campus Administrative Support – defined as attendance at meetings with MathForward Supervisor and/or Implementation Specialist

Responsible Party: Campus Administrator

Timeline: Quarterly

**EXHIBIT A, SECTION 3
MATHFORWARD PAYMENT OPTIONS**

OPTION A: One Year Program

Pay all year one costs after initial services are rendered (e.g. access to online curriculum, administrator consultation/training, curriculum alignment, or teacher professional development)

PAYMENT OPTION SELECTED: A

TEXAS INSTRUMENTS, INC

Billing/Invoicing Contact:

Attn. Tanya McMahon
13532 N. Central Expressway
MS 3821
Dallas, Texas 75243
Telephone: 214-479-1420
Fax: 214-479-1504
Email: tmcmahon@ti.com
TEXAS INSTRUMENTS, INC

Payments/Remittance:

Texas Instruments, Inc
PO BOX 100138
Atlanta, GA 30384-0138

DISTRICT

Billing/Invoicing Contact:

Attn. Steve Cantees

1960 Landings Boulevard
Sarasota, FL 34231

Telephone: 941-927-9000

Fax: (941) 361-6173

Email:

Stephen.cantees@sarasotacountyschools.net

INVESTMENTS

Total costs for implementation is \$37,000 as outlined above.

**EXHIBIT A, SECTION 4
CAMPUSES AND CONTACT INFORMATION**

(1) Campus Name: North Port High School

Principal: David Jones

Phone: (941) 423-8558

Email: David.jones@sarasotacountyschools.net

(2) Campus Name: Venice High School

Principal: Jack Turgeon

Phone: (941) 488-6726

Email: Jack.turgeon@sarasotacountyschools.net