

STATE OF TEXAS §
COUNTY OF FORT BEND §

ADDENDUM TO ONLINE TUTORING SERVICES AGREEMENT

THIS ADDENDUM, entered into by and between Fort Bend County, a body corporate and politic, acting herein by and through its Purchasing Agent, according to V.T.C.A. Local Government Code 262.024(a) and Brainfuse, Inc. hereinafter referred to as "Contractor."

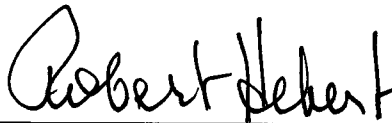
WHEREAS, the parties have previously executed that certain Agency Agreement (hereinafter "the Agreement") for services and any and all Addendum(s) for subsequent years; and

WHEREAS, the parties desire to renew the agreement and increase funding for certain additional services and any and all Addendum(s) as set forth below.

NOW THEREFORE, the Agreement is hereby amended as follows:

- A. This Addendum shall become effective upon execution on October 1, 2010 and shall terminate on or before September 30, 2011.
- B. An additional amount not-to-exceed \$ 54,900.00 shall be available for additional services in connection with the Work as described in Exhibit A.
- C. Contractor's compensation for under the Agreement and any Addendums shall not exceed \$ 164,700.00.
- D. No additional funding shall be available for services without prior written consent of the Fort Bend County Commissioners Court.
- E. Except as modified herein, the Agreement and any previous Addenda remains in full force and effect and have not been modified or amended.
- F. If there is a conflict between this Addendum and the Agreement, the provisions of this Addendum shall prevail.

Fort Bend County:



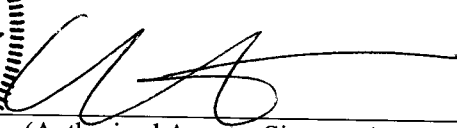
Robert Hebert

Date: 11-22-2010

ATTEST: 
Dianne Wilson,
County Clerk



Contractor: BRAINFUSE, INC.


(Authorized Agent - Signature)

Date: 11/31/2010

Alex Szteudens, Director
(Authorized Agent - Printed Name)

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 54,900.00 to pay the obligation of Fort Bend County under and within the foregoing contract.

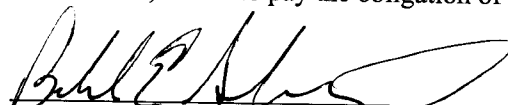

Robert Ed Sturdivant, County Auditor

Exhibit A: Invoice dated 9.15.2010

BRAINFUSE, INC.

Accounts Receivable Dept.
P.O. Box 3412
NY, NY 10163-3412

Invoice

Date	Invoice #
9/15/2010	2004097

Bill To
Fort Bend County Libraries Susan King 1001 Golfview Drive Richmond, TX 77469

		P.O. No.	Terms	Project
Description	Qty	Rate	Amount	
Education Services Online homework help Year 3		54,900.00	54,900.00	
Please remit to the above address and thank you for your support !		Total	\$54,900.00	
		Payments/Credits	\$0.00	
		Balance Due	\$54,900.00	

STATE OF TEXAS §
COUNTY OF FORT BEND §

ADDENDUM TO ONLINE TUTORING SERVICES AGREEMENT

THIS ADDENDUM, entered into by and between Fort Bend County, a body corporate and politic, acting herein by and through its Purchasing Agent, according to V.T.C.A. Local Government Code 262.024(a) and **BRAINFUSE INC.**

WHEREAS, the parties have previously executed that certain Agreement for services and any and all Addendum(s) for subsequent years; and

WHEREAS, the parties desire to renew that certain agreement for services and any and all Addendum(s) for one year from the date here of; and,


NOW THEREFORE, the Agreement is hereby amended as follows:

TERM IS OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2010.

Except as modified herein, the above referenced Agreement and any and all Addendums remain in full force and effect and have not been modified or amended.


Sign this 28 day of October, 2009.

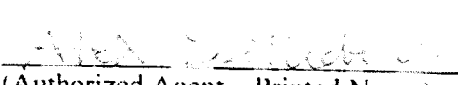
Fort Bend County Judge


Robert Hebert November 3, 2009

BRAINFUSE, INC.

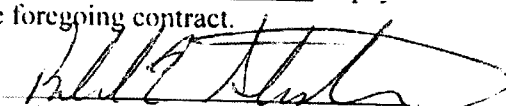

(Authorized Agent – Signature)

ATTEST: 
Dianne Wilson,
County Clerk


(Authorized Agent – Printed Name)

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 54,900.00 to pay the obligation of Fort Bend County under and within the foregoing contract.


Robert Ed Sturdivant, County Auditor

AGREEMENT

THIS AGREEMENT is made and entered into this day and between Brainfuse, Inc., a corporation organized and existing under the laws of the State of New York (hereinafter referred to as "Brainfuse,") and Fort Bend County, Texas, by and through its Commissioners Court, a body corporate and politic under the laws of the State of Texas, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, Brainfuse is engaged in the development and provision of educational services and content; and

WHEREAS, the parties desire to supply Library students with an online tutoring services program pursuant to the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises of each party to the other contained herein, it hereby is mutually agreed as follows:

ARTICLE I - PURPOSE

Brainfuse shall provide online tutoring to students of County pursuant to the terms set forth herein.

ARTICLE II - RESPONSIBILITIES OF THE PARTIES

Section 2.1 Brainfuse's Responsibilities

- (a) Brainfuse shall prepare and provide instant access homework help for County students in mathematics, English, social studies, and science to the County Library branches (hereinafter, the "Brainfuse Program").
- (b) Brainfuse shall serve all eligible students Monday through Sunday during mutually-agreed upon times. The Brainfuse Program shall commence on November 1, 2008 and shall terminate on October 31, 2009.
- (c) Brainfuse shall make its online tutors available through any compatible computer to participating students, both within and without the library facility.
- (d) Brainfuse shall provide all educational technology patrons about the Brainfuse Program.
- (e) Brainfuse shall provide all necessary library staff training for the Brainfuse Program.

Section 2.2 Responsibilities of County

- (a) The County shall **provide computers with Internet access, suitable for use by the Brainfuse QuickConnect Application** for students participating in the Brainfuse Program.
- (b) Technical support staff from County shall cooperate in good faith with Brainfuse to ensure that the Brainfuse Program is accessible from County computers.
- (c) The County shall cooperate in good faith with Brainfuse's efforts to encourage participation in the Brainfuse Program.
- (d) The County shall use reasonable efforts to promote the Brainfuse program.

ARTICLE III LIABILITY

Brainfuse shall not be responsible or liable for any disruption, pause or cessation of the Brainfuse program caused by actions or events beyond Brainfuse's immediate control, including, but not limited to, internet disruptions, the County's computers, hardware malfunctions, firewall restrictions, browser incompatibilities, other systems problems, or the failure of students to attend sessions.

SECTION 4.1 COUNTERCLAIMS AND DEFENSES

Section 4.1 Counterclaim

The County shall pay to Brainfuse an amount not to exceed \$54,900.00, which shall be due prior to the program's commencement. Brainfuse reserves the right to withhold service pending processing and payment of invoices by the County.

Section 4.2 Expenses

Except as provided otherwise herein, the parties to this Agreement shall be responsible for their own expenses, including taxes and general administrative expenses. Brainfuse shall not be responsible for providing the necessary hardware or software (including, but not limited to, computers, speakers, microphones, Internet access, as well as browsers and firewall modifications) for the proper operation of the Brainfuse Program.

SECTION 5.1 TERM OF AGREEMENT

This Agreement shall remain valid through October 31, 2009, and may be renewed on an annual basis by the parties upon the written consent of both Brainfuse and the County. Such mutual consent to renew shall take place at least 15 days prior to the expiration of the Agreement ("Renewal Period.")

ARTICLE VI - NOTICES AND LEGAL ADDRESSES OF THE PARTIES

Section 6.1 Legal Addresses All notices or other communications required or which may be given hereunder shall be addressed and forwarded as set forth herein. Any such notice if sent to Library shall be addressed as follows:

Fort Bend County Libraries
1001 Golfview
Richmond, Texas 77469
Telephone: (281) 342-4455

Any such notice if sent to Bramfuss shall be addressed as follows:

Bramfuss, Inc.
271 Madison Avenue
Third Floor
New York, New York 10016
Telephone: (212) 481-4870

Section 6.2 Electronic Transmissions Any notice, invoice or other communication hereunder shall be deemed to have been properly transmitted when sent by telegraph, telecopy, cable transmission, or any other form of electronic communication, and shall be deemed to have been given on the date of receipt thereof.

ARTICLE VII - MISCELLANEOUS PROVISIONS

Section 7.1 Survival The representations, warranties, general covenants, and indemnities contained herein shall survive the termination of this Agreement.

Section 7.2 Governing Law This Agreement shall be construed in accordance with, and governed by the laws of the State of Texas; venue shall lie in Fort Bend County, Texas.

Section 7.3 Entire Agreement This Agreement contains the entire agreement between the parties and supersedes all other prior negotiations, undertakings, notes, memoranda, and agreements, whether written or oral, concerning the specific subject matter hereof, and may only be modified, altered, changed, or amended by agreement between the parties in writing.

Section 7.4 Assignment No variation, alteration, amendment, or modification of this Agreement, or any covenant, condition, or limitation contained in this Agreement, is valid unless in writing and duly executed by the party to be charged therewith.

Section 7.5 Severability In the event that any provision of this Agreement is declared illegal or unenforceable in any respect under applicable law, rule, or court decision, (1) the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired, and (2) this Agreement shall be construed so as to effectuate as nearly as possible the intent of said provision and the intent of the parties hereto.


Section 7.6 Successors and Assigns This Agreement, and the rights and benefits under this Agreement, shall not be assignable, without the written consent of each of the parties hereto.

Section 7.7 Facsimile Signatures The parties agree that facsimile signature of this Agreement shall be deemed to be valid, binding, and legally enforceable.

IN WITNESS WHEREOF the parties hereto have set their hands as of the date above written.

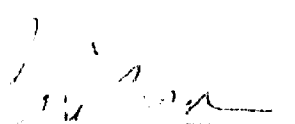
FORT BEND COUNTY, TEXAS

BRAINFUSE, INC.

By: 
Robert P. Hebert, County Judge

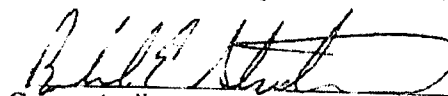
By: 
Name: _____
Title: _____
Date: 10-14-08

Date: 10-14-08

Attest: 
Dianne Wilson, County Clerk

AUDITOR'S CERTIFICATION

I hereby certify that \$54,900 is available to pay the obligation of Fort Bend County within the foregoing Agreement.


County Auditor

PRICING SHEET

Pricing sheet for Brainfuse, Inc. ("Brainfuse") and Fort Bend County Libraries (the "Library").

Library PRIMARY CONTACT Information	Brainfuse PRIMARY CONTACT Information
Name: Susan King	Name: Francesco Locciso
Library: Fort Bend County Libraries	Address: 271 Madison Avenue
Address: 1001 Golfview Drive	City, St, Zip: New York, NY 10016
City, St, Zip: Richmond, TX 77469	Telephone: 866-272-4638
Telephone: 281-341-2634	Fax: 212-504-8184
Fax:	Email: flocciso@brainfuse.com
Email: sking@fortbend.lib.tx.us	
Library SECONDARY CONTACT Information	Brainfuse BILLING CONTACT Information
Name: Susan King	Name: Joi Yau
Library: Fort Bend County Libraries	Address: 271 Madison Avenue
Address: 1001 Golfview Drive	City, St, Zip: New York, NY 10016
City, St, Zip: Richmond, TX 77469	Telephone: 866-272-4638
Telephone: 281-341-2634	Fax: 212-504-8184
Fax:	Email: jyau@brainfuse.com
Email: sking@fortbend.lib.tx.us	

Ordered Services and Fees: Brainfuse agrees to provide the Library with the following Services and the Library agrees to pay Brainfuse the fees set forth below.

"Help Now" Students access a Help Now Web site after authenticating into the Library's system, select the subject in which they need tutoring (math, science, social sciences, English), indicate their grade level, and then are connected immediately to a qualified tutor.

Library Location and Description of Services	Locations Served	Start Date	Term of Contract	Price
Live Online Homework Help with Library and Remote Home Access	All	November 1, 2008	3 Years	\$54,900.00 per year
Hours: 3 PM - 11 PM CST daily Live Online Homework Help on Español	All	November 1, 2008	3 Years	Included
Hours: 3 PM - 11 PM CST daily				\$54,900.00 per year
Total				

BRAINFUSE, INC.

111 MADISON AVENUE - 3 FL.
NEW YORK, NY 10016

Date	Invoice #
SEP 2005	0007505

Bill To
Fort Bend County Libraries Susan King 1001 Golfview Drive Richmond, TX 77469

Description		Terms	Project
			Amount
Education Services			\$4,900.00
Online Homework Help			
See attached pricing sheet			
1st year payment			
Please remit to the above address and thank you for your support *			
Balance Due			\$54,900.00