VENDOR AGREEMENT

This Vendor Agreement ("Agreement") is dated [DATE] ("effective date") and between the LOS ANGELES COUNTY CHILDREN AND FAMILIES FIRST – PROPOSITION 10 COMMISSION (aka FIRST 5 LA), whose address is 750 North Alameda Street, Third Floor, Los Angeles, California 90012, hereinafter referred to as the “COMMISSION” and Happy Printer whose address is 350 North Alameda, Los Angeles, CA 90001, hereinafter referred to as the “VENDOR”. VENDOR’s activities and services provided pursuant to this Agreement shall be coordinated and overseen by COMMISSION staff as set forth in this Agreement.

I. TERM OF AGREEMENT

The term of this Agreement shall be from the effective date, as set forth in the introductory clause, through June 30, 2014 ("expiration date"), unless earlier terminated pursuant to this Agreement.

II. SCOPE OF ENGAGEMENT

VENDOR shall complete the activities and perform the services set forth and described in the Scope of Work, attached as Exhibit A. COMMISSION may amend the Scope of Work throughout the term of this Agreement. VENDOR shall deliver all work and final products on time and on budget, unless otherwise agreed to in writing and in advance by COMMISSION and VENDOR, and with the highest degree of quality and service to COMMISSION. VENDOR will work under the direction of the assigned COMMISSION staff of the COMMISSION throughout the term of this Agreement, who shall ensure that VENDOR completes the activities, performs the services and provides the appropriate documents in compliance with the requirements of this Agreement.

III. BUDGET AND COMPENSATION

As full compensation for VENDOR’s services provided under this Agreement, COMMISSION shall pay VENDOR a total fee not to exceed TEN THOUSAND DOLLARS AND NO CENTS ($10,000), as set forth in the Budget and Budget Narrative, attached as Exhibit B, and in accordance with the payment terms set forth in Section IV of this Agreement.

IV. PAYMENT TERMS

Not later than the last business day of each month[Not later than ten (10) business days after the completion of all activities and the performance of all services], VENDOR shall submit to COMMISSION invoices[an invoice] for actual activities completed and services performed and the expenses incurred and paid by VENDOR ("actual expenses") pursuant to this Agreement. The invoices[Invoice] shall describe in detail the services or products provided, rates, quantities and total amount, as applicable. VENDOR shall address all invoices to the Finance Department at the address specified in Paragraph I of Section VI of
this Agreement. COMMISSION shall review each invoice and notify VENDOR in writing within ten (10) business days after receipt of a properly completed invoice of any disputed amounts. COMMISSION shall pay VENDOR all undisputed invoice amounts within thirty (30) calendar days of COMMISSION’s receipt of a timely submitted invoice up to the not to exceed amount set forth in Section III of this Agreement. COMMISSION shall make checks payable to Happy Printer. If VENDOR fails to timely submit a properly completed invoice on or before the last business day of a month in accordance with this Section IV, COMMISSION shall process the late invoice in the subsequent month from COMMISSION’s date of receipt and may, in its sole option, be entitled to a sum not to exceed five percent (5%) of the undisputed portion of the invoice as liquidated damages. If VENDOR fails to timely submit a properly completed invoice within ten (10) business days after the completion of all activities and the performance of all services in accordance with this Section IV, COMMISSION may, in its sole option, be entitled to a sum not to exceed five percent (5%) of the undisputed portion of the invoice as liquidated damages. COMMISSION shall make final payment in accordance with the provisions of this Section IV and upon VENDOR’s satisfactory completion of all activities and performance of all services. COMMISSION shall not be liable for payment of invoice amounts on any invoice received by COMMISSION more than ninety (90) calendar days following the invoice due date required under this Section IV.

V. REPRESENTATIONS AND WARRANTIES

A. QUALIFICATIONS

VENDOR represents that it is fully qualified to complete the activities and perform the services required under this Agreement by virtue of its experience, knowledge, expertise, suitable facilities and qualified personnel.

B. COMPLIANCE WITH APPLICABLE LAWS

VENDOR shall conform to and abide by all applicable municipal, county, state and federal laws, regulations and ordinances, and comply with all applicable licensing and accrediting authorities in the performance of this Agreement, including standards of professional ethics governing the use of assessment tools, the provision of services via the Internet and telephone, and the dissemination of information and educational materials. Upon COMMISSION’s request, VENDOR shall provide COMMISSION with copies all valid and current licenses applicable to VENDOR’s performance under this Agreement. If applicable, VENDOR shall comply with Section 3410 of the Public Contracts Code, which requires that when purchasing food, preference should be given to United States-grown produce and United States-processed foods when there is a choice and it is economically feasible to do so.
C. LIABILITY AND INDEMNIFICATION

To the full extent permitted by law, VENDOR shall defend, indemnify and hold harmless COMMISSION, its officials, officers, employees, servants, designated volunteers and agents serving as independent contractors in the role of COMMISSION officials (collectively “Indemnitees”) from and against any liability, claim, damage, demand, suit, cause of action, proceeding, judgment, penalty, lien, loss, expense or cost of any kind, including reasonable fees of accountants, attorneys and other professionals, and all costs associated therewith (collectively, “claims”), whether actual, alleged or threatened, arising out of, pertaining to, or relating to VENDOR’s performance of this Agreement, including the Indemnitee’s active or passive negligence, except for claims arising from the sole negligence, recklessness or willful misconduct of Indemnitees, as determined by final arbitration or court decision. VENDOR shall defend Indemnitees in any action or actions filed in connection with any such claims with counsel of COMMISSION’s choice and shall pay all costs and expenses, including actual attorney’s fees, incurred in connection with such defense. The terms of this Paragraph C shall survive the expiration or termination of this Agreement.

VI. OTHER TERMS

A. INSURANCE

1. VENDOR, at its own expense, shall obtain and maintain at all times during the term of this Agreement the following policy of insurance with the minimum limits indicated below, unless otherwise approved in writing by COMMISSION’s Executive Director or designee:

   a) Commercial General Liability coverage (written on ISO policy form CG 00 01 or its equivalent) with minimum limits of not less than the following:

      (1) General Aggregate: Two million dollars ($2,000,000).

      (2) Personal and Advertising Injury: One million dollars ($1,000,000).

      (3) Products/Completed Operations Aggregate: One million dollars ($1,000,000).

      (4) Each Occurrence: One million dollars ($1,000,000).

2. The Commercial General Liability policy required under this Section VI shall be issued by insurers authorized to do business in the State of California, with a minimum A.M. Best’s Insurance rating of
A:VII, unless otherwise approved in writing by COMMISSION’s Executive Director.

3. The Commercial General Liability policy is to contain or be endorsed to contain the “Los Angeles County Children and Families First – Proposition 10 Commission”, or if abbreviated, “LA Cty Prop 10 Commn.”, its officers, agents, consultants and employees as additional insureds with respect to liability and defense of claims arising out of the work or operations performed by or on behalf of VENDOR.

4. The Commercial General Liability policy shall be or endorsed to be primary and non-contributing as respects the “Los Angeles County Children and Families First – Proposition 10 Commission”, or if abbreviated, “LA Cty Prop 10 Commn.”, its officers, agents, consultants and employees. All insurance coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion on any policy of insurance.

5. No policies of insurance provided to comply with this Section VI shall prohibit VENDOR, or VENDOR’s employees or agents, from waiving the right of subrogation prior to a loss. VENDOR waives any right of subrogation that VENDOR or VENDOR’s insurer may acquire against COMMISSION. VENDOR shall obtain any endorsement that may be necessary to effect this waiver of subrogation. VENDOR’s failure to provide COMMISSION with a waiver of subrogation endorsement from VENDOR’s insurer shall not relieve VENDOR of its obligations under this Paragraph 5.

6. The policy of insurance required under this Section VI shall be endorsed to state that should the policy be suspended, voided, modified, terminated, or non-renewed during the term of this Agreement, the insurer will endeavor to provide thirty (30) days’ prior written notice to COMMISSION. If the policy of insurance required under this Section VI is suspended, voided, modified, terminated or non-renewed during the term of this Agreement, VENDOR shall, within two (2) business days of notice from the insurer(s), notify COMMISSION by phone, fax or certified mail, return receipt requested of the suspension, voiding, modification, termination or non-renewal of the policy.

7. The requirements of specific coverage features or limits contained in this Section VI are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance policy. Specific reference to a given coverage feature is for purpose of clarification only and is not
intended by any party to be all inclusive, or to the exclusion of any other coverage, or a waiver of any type.

8. The requirements of this Section VI shall supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs this Section VI.

9. All insurance coverage and limits provided by VENDOR and available and applicable to this Agreement shall apply to the fullest extent of the policies. Nothing in this Agreement shall be interpreted as limiting the application of insurance coverage as required under this Section VI.

10. VENDOR shall deliver certificates or other evidence of insurance coverage and copy(ies) of additional insured endorsement(s) and/or loss payee endorsement(s), as applicable, to COMMISSION at the address set forth in Paragraph I of this Section VI prior to VENDOR’s performance under this Agreement. Any actual or allege failure on the part of COMMISSION or any other additional insured under these requirements to obtain evidence of insurance required under this Agreement in no way waives any right or remedy of COMMISSION or any additional insured in this or any other regard.

11. VENDOR shall require all subcontractors performing services under this Agreement to comply with all insurance requirements set forth in this Section VI. VENDOR shall obtain certificates or other evidence of insurance coverage and copy(ies) of additional insured endorsement(s) and/or loss payee endorsement(s), as applicable, from all subcontractors and assumes all responsibility for ensuring that coverage is provided by subcontractors in conformity with the requirements of this Section VI.

12. VENDOR’s failure to maintain the policies of insurance required under this Section VI shall constitute a breach of this Agreement for which COMMISSION may terminate this Agreement pursuant to Paragraph D of this Section VI or secure alternate insurance at VENDOR’s expense.

13. COMMISSION reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required by giving VENDOR sixty (60) calendar days’ advance written notice of such change. If such change results in substantial additional cost to VENDOR, COMMISSION and VENDOR may renegotiate VENDOR’s compensation.
B. INDEPENDENT CONTRACTOR

VENDOR is, and shall at all times remain as to COMMISSION, a wholly independent contractor. VENDOR shall have no power to incur any debt, obligation, or liability on behalf of COMMISSION. Neither COMMISSION nor any of its agents shall have control over the conduct of VENDOR or any of VENDOR’s employees, except as set forth in this Agreement. VENDOR shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of COMMISSION. VENDOR agrees to pay all required taxes on amounts paid to VENDOR under this Agreement, and to indemnify and hold COMMISSION harmless from any and all taxes, assessments, penalties, and interest asserted against COMMISSION by reason of the independent contractor relationship created by this Agreement. VENDOR shall fully comply with the workers’ compensation law regarding VENDOR and VENDOR’s employees. VENDOR shall indemnify and hold COMMISSION harmless from any failure of VENDOR to comply with applicable workers’ compensation laws. COMMISSION may offset against the amount of any fees due to VENDOR under this Agreement any amount due to COMMISSION from VENDOR as a result of VENDOR’s failure to promptly pay to COMMISSION any reimbursement or indemnification arising under this Paragraph B.

C. INTERPRETATION AND JURISDICTION

This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by California law. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a state court in Los Angeles County, California.

D. TERMINATION

1. Termination without Cause. Either party may terminate this Agreement by giving written notice to the other party at least ten (10) calendar days before the termination is to be effective. COMMISSION shall compensate VENDOR only for those documented, earned and unpaid fees and expenses incurred by VENDOR pursuant to Exhibit B prior to the effective date of termination. Within thirty (30) calendar days of the effective date of termination, VENDOR shall refund COMMISSION any amount paid in advance to VENDOR by COMMISSION but not yet earned. Neither party shall have any other claim against the other party by reason of such termination.

2. Termination for Cause. Either party may terminate this Agreement for cause, effective immediately, by giving written notice to the
other party. For purposes of this Agreement “cause” includes a party’s material breach of any provision of this Agreement or a party committing an act or offense that indicates a lack of business integrity or business dishonesty. COMMISSION shall compensate VENDOR for services satisfactorily rendered to the effective date of termination. Neither party shall have any other claim against the other party by reason of such termination.

E. WORD USAGE

Unless the context clearly requires otherwise, (a) the words “shall” or “agrees” are mandatory, and “may” is permissive; (b) “or” is not exclusive; and (c) “includes” and “including” are not limiting.

F. EXHIBITS

Exhibits A and B constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, the provisions of this Agreement shall control.

G. ENTIRE AGREEMENT

This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the parties and supersedes all other prior or contemporaneous oral or written understandings and agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty except those expressly set forth in this Agreement.

H. ATTORNEYS’ FEES

In any litigation, arbitration or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party shall be awarded reasonable attorney fees, together with any costs or expenses, to resolve the dispute and to enforce the final judgment.

I. NOTICES

1. Notices. Except as otherwise required of VENDOR by COMMISSION, all notices, consents, requests, demands, reports, invoices or other communications required or permitted under this Agreement shall be in writing and shall conclusively be deemed effective (1) on personal delivery, (2) on confirmed delivery by courier service (3) on the first business day after transmission is
sent by facsimile or (4) three business days following deposit in the United States mail, by first class mail, postage prepaid, addressed to the party to be notified as set forth below, or to such other addresses as the parties may, from time to time, designate in writing. E-mails shall be confirmed in hard copy by either United States mail, overnight courier or facsimile.

To VENDOR:

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To COMMISSION:

FIRST 5 LA
Attention: Kim Belshé, Executive Director
750 North Alameda Street, Suite 300
Los Angeles, California 90012

2. Notice of Delays. When either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within three (3) business days, give written notice, including relevant information, to the other party.

J. TIME OF ESSENCE

Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing may not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
K. SEVERABILITY

If a court or an arbitrator of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid for any reason, the validity and enforceability of the remaining provisions of this Agreement shall not be affected.

[SIGNATURE PAGE FOLLOWS]
VII. SIGNATURES

The parties, through their respective duly authorized signatories, are signing this Agreement on the date stated in the introductory clause.

COMMISSION

Los Angeles County Children and Families First - Proposition 10 Commission, aka First 5 LA

By: ____________________________
Name: Kim Belshé
Title: Executive Director

Approved as to Form:

By: ____________________________
Name: ____________________________
Title: ____________________________

VENDOR

Happy Printer, a [Description of Entity]

By: ____________________________
Name: ____________________________
Title: ____________________________

By: ____________________________
Name: Craig A. Steele
Title: Legal Counsel

[If a corporation: Board Chairman, President or VP]

Secretory, CFO or Asst. Treasurer]