

CONTRACT

THIS CONTRACT, made and entered into this ____ day of June 2017 by and between the Teachers' Retirement System of the State of Kentucky, 479 Versailles Road, Frankfort, Kentucky, 40601, hereinafter referred to as "TRS", and Simply Graphics, P.O. Box 436511, Louisville, KY, 40254 hereinafter referred to as "Contractor".

WHEREAS, TRS selected Contractor to provide professional printing and mailing services for TRS; and

WHEREAS, Contractor is a reputable and qualified professional, and has agreed to provide printing and mailing services to TRS; and

WHEREAS, TRS in the exercise of its lawful duties desires to avail itself of the special services of Contractor;

NOW THEREFORE, it is hereby and herewith mutually agreed as follows:

1. Scope of Services and Fees. At the request of TRS, Contractor will perform professional printing and mailing services, which may include but shall not be limited to the following: printing and mailing newsletters, ballots, and other communications to active retired members of the retirement system.

From time to time, TRS will communicate the requirements of a printing and mailing job to Contractor. Thereafter, Contractor will develop an estimate of the costs for the job. Contractor agrees to charge TRS no more than applicable rates in any price contract in effect between Contractor and the Commonwealth of Kentucky. If the estimate of printing and mailing costs is accepted by TRS, TRS will advance payment of any required postage, which shall be credited to TRS's customer account with Contractor. Contractor may make withdrawals as needed from TRS's customer account for postage for the job. Following completion of the job, Contractor will invoice TRS for printing, along with any credits for unused prepaid postage or charges for additional postage due, for the job. TRS will pay the invoice within 30 days of receipt.

2. Independent Contractor. Nothing in this contract is intended or shall be construed to give Contractor discretionary authority or discretionary responsibility in the management of TRS's business operations or administration of the TRS Plan. The relationship of Contractor to TRS (or any of its officers, directors, or employees) is intended to be only that of an independent contractor and service provider and not employee, agent, fiduciary or other similar relationship. Contractor shall be responsible for compliance with all laws, rules and regulations including, but not limited to, employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, payment of wages, and tax reporting. This contract shall not be construed so as to create a partnership or joint venture between Contractor and TRS.

3. Warranty. Contractor warrants to TRS that the services performed under this contract will be performed in accordance with generally accepted industry standards.

4. **Liability.** Contractor will be responsible to TRS only for Contractor's negligence, recklessness, or willful misconduct in the performance of services under this contract and for breach of the warranty set forth in this contract.

5. **Force Majeure.** Notwithstanding the foregoing, a party's failure to perform any of its obligations under this contract shall be excused if and to the extent (and only for so long as) such failure arises out of causes beyond the reasonable control and without the fault or negligence of the non-performing party including, but not restricted to, failure of Internet or communication lines, telephone or other interconnect problems, errors, configuration problems or incompatibility of computer hardware or software; voluntary shutdown of the server to address computer viruses, or other similar problems; or severe weather, earthquakes, labor disputes, fire, flood, explosion, act of God, terrorist attack, war, insurrection, riot, government regulation or act, vandalism, strike, quarantine, failure of transmission or power supply.

6. **Duration of Contract.** The period in which subject services are to be performed is July 1, 2017 through June 30, 2018.

7. **Termination or Cancellation.** Termination or cancellation of this contract may be effected at any time by either party upon thirty (30) days advance written notice of its intent to terminate. The notice of termination shall be served on the other party by registered or certified mail. Upon such termination, TRS will only pay such fees as had been incurred until the date of termination as specified in the notice of termination.

8. **Conflict of Interest.** Contractor hereby certifies that he has not and will not pay or cause to be paid any money, fees, political contributions or other things of value to any third party as a result of or in relation to services provided to TRS, without TRS's informed written consent. Contractor hereby certifies that it has not and will not accept any money, fees, or other things of value from any third party as a result of or in relation to the consulting services provided to TRS, without TRS's informed written consent. In addition, Contractor agrees to act as a fiduciary to TRS in regard to any payments, fees or other things of value nevertheless received from a third party in relation to providing services to TRS, unless Contractor's acceptance and retention of such item was fully disclosed to and approved by TRS in writing. Contractor agrees to exercise independent professional judgment, without conflict of interest, in providing services to TRS. Contractor shall certify as to its compliance with this section and the TRS Conflict of Interest and Confidentiality Policy by executing the TRS External Service Provider Conflict of Interest Statement. The TRS Conflict of Interest and Confidentiality Policy and External Service Provider Conflict of Interest Statement are attached hereto and incorporated herein as Exhibit 1. Contractor hereby certifies that Contractor is legally entitled to enter into the subject contract with TRS and certifies that Contractor is not and will not be violating any conflict of interest statute (KRS 121.056 or any other applicable statute) or principle by the performance of this contract. Contractor shall not engage directly or indirectly in any financial or other transaction with a trustee or employee of TRS which would violate standards of the Executive Branch Ethics provisions, as set forth in KRS Chapter 11A. Further, Contractor certifies that the firm has not knowingly violated any of the Executive Branch Ethics provisions or the campaign finance laws of the Commonwealth of Kentucky, and the award of a contract to the firm will not violate any

of the Executive Branch Ethics provisions or the campaign finance laws of the Commonwealth of Kentucky or the TRS Conflict of Interest and Confidentiality Policy.

9. **Amendments and Renewal.** Written modifications, amendments or additions to this contract shall be effective only when signed by both parties.

10. **Notices of Material Changes.** Contractor shall notify TRS in writing within five (5) business days of any material changes in senior officers providing or overseeing the services identified herein, significant legal actions instituted against Contractor, or any significant investigations, examinations, or other proceedings commenced by any governmental agency relating to the kinds of services identified herein. Notices required in this section shall be served on TRS by registered or certified mail.

11. **Assignment.** This contract may not be assigned by Contractor without the written consent of TRS. Further, the obligations of Contractor under this contract shall be considered personal obligations of Contractor, performable solely by Contractor and Contractor may not delegate his duties hereunder to any entity other than Contractor without the express written consent of TRS. TRS, upon its determination of the need for certain distinctive services related to any business operations matter, and by providing written authorization to Contractor, may authorize Contractor to obtain services from other contractors to satisfy TRS's need for such distinctive services.

12. **Controlling Law; Jurisdiction and Venue; Waiver.** All questions as to the execution, validity, interpretation, construction, and performance of this contract shall be construed in accordance with the laws of the Commonwealth of Kentucky, without regard to conflicts of laws principles thereof. Contractor hereby consents to the jurisdiction of the courts of the Commonwealth of Kentucky and further consents that venue shall lie in Franklin Circuit Court located in Franklin County, Kentucky. To the extent that in any jurisdiction Contractor may now or hereafter be entitled to claim for itself or its assets immunity from suit, execution, attachment (before or after judgment) or other legal process, Contractor, to the extent it may effectively do so, irrevocably agrees not to claim, and it hereby waives, same.

13. **Auditing.** Contractor agrees that TRS shall have reasonable access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review.

14. **Access to Confidential Information.** Contractor may have access to confidential information maintained by TRS to the extent necessary to carry out his responsibilities under the contract. Contractor shall presume that all information received pursuant to this contract is confidential and subject to the provisions of KRS 161.585 unless otherwise designated by TRS. Contractor shall provide to TRS a written description of its policies and procedures to safeguard confidential information. Contractor shall provide TRS updates or changes to these policies in a timely manner. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats. Contractor shall provide physical and logical protection for all TRS written and electronic information. Electronic information shall be encrypted during transport and at rest. Contractor shall remain the responsible authority in charge of all

information collected, used, or disseminated by Contractor in connection with the performance of this contract. Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this contract. The private or confidential information shall remain the property of TRS at all times.

a. No Dissemination of Confidential Information. No confidential information collected, maintained, or used in the course of the contract shall be disseminated except as authorized by law and with the written consent of TRS either during the period of the contract or thereafter. Any information supplied to or created on behalf of TRS by Contractor shall be considered the property of TRS. All written deliverables developed on behalf of TRS under this contract that shall be based on Contractor proprietary methodologies and/or Contractor trademarked or copyrighted tools, templates, and materials will be copyrighted by Contractor. However, TRS shall have a perpetual unlimited license to use and reproduce all such deliverables and their components. TRS's license and rights relating to such deliverables and their components shall be limited, as a result of Contractor's copyright, only to the extent that TRS may not assign said license and rights to any other entity without Contractor's express written permission to do so. Contractor must return any and all information collected, maintained, created or used if it is in Contractor's possession in the course of the performance of the contract in whatever form it is maintained promptly at the request of TRS, or inform TRS that the information has been destroyed according to the standards of industry best practices.

b. Subpoena. In the event that a subpoena or other legal process is served upon Contractor for records containing confidential information, Contractor shall promptly notify TRS and cooperate with TRS in any lawful effort to protect the confidential information, at TRS's expense.

c. Reporting of Unauthorized Disclosure. TRS shall immediately notify Contractor in writing of any confidential information that TRS distributes to Contractor. Contractor shall immediately report to TRS any unauthorized disclosure of confidential information. Contractor, at the sole discretion of TRS, shall provide no cost credit monitoring services for TRS's members that are deemed to be part of a potential disclosure. Contractor shall bear the cost of notification to TRS's members that are involved in a potential disclosure event, including individual letters and/or public notice.

d. Survives Termination. Contractor's obligations under this section regarding the security, confidentiality, and ownership of information as set forth in this section shall survive termination of this contract.

15. Authorized Signature. The undersigned, Eric Wampler, is Deputy Executive Secretary of TRS and as such has been duly authorized by TRS to sign this contract in behalf thereof, therefore, binding TRS to the provisions of this contract.

16. Authorized Signature. The undersigned, Greg Thomson is duly authorized to sign this contract on behalf of Contractor and his signature, therefore, binds Contractor to the provisions of this contract.

17. **Severability.** The provisions of this contract shall be deemed severable, and the unenforceability of any one or more provisions shall not affect the enforceability of any of the other provisions. In addition, if any provision of this contract, for any reason, is declared to be unenforceable, the parties shall substitute an enforceable provision that, to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

18. **Principal Contact.** Greg Thompson shall be the principal contact for Contractor for the implementation of the services set forth in this contract.

19. **Principal Contact.** Eric Wampler, Deputy Executive Secretary for TRS, shall be the principal contact for TRS for the implementation of the services set forth in this contract.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF KENTUCKY

BY: _____
Eric Wampler
Deputy Executive Secretary
479 Versailles Road
Frankfort, Kentucky 40601
In behalf of TRS

SIMPLY GRAPHICS

BY: _____
Greg Thompson
P.O. Box 436511
Louisville, KY 40254
In behalf of Contractor

Approved as to Form and Legality:
TEACHERS' RETIREMENT SYSTEM OF THE STATE OF KENTUCKY

Robert B. Barnes
Deputy Executive Secretary Operations and General Counsel