

Contract Terms and Conditions

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is dated _____, and is between SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER AND STATE OF COLORADO (the "District") and _____, as reported to the IRS and indicated on your W-9 ("Contractor") (each a "Party" and collectively "Parties").

In consideration of the mutual promises of this Agreement, the Parties agree as follows:

I BACKGROUND

A

The District has the statutory authority to contract with persons, firms, consultants and/or entities for the provision of services to the District.

B

The District has determined that a need exists to retain an independent contractor to provide the Services, as defined herein.

C

Contractor is qualified to provide the Services, as defined herein.

II DEFINITIONS

"*Completion Schedule*" means a completion schedule and a range of mutually acceptable work hours established through a written agreement by the Parties for the Services, as defined herein, listed in Schedule A.

"*Confidential Information*" means information and materials in oral, written, graphic or electronic form that is non-public, confidential and/or proprietary relating to the Party, including without limitation, student records, records, notes, data, reports, data sources, reference materials, sketches, drawings, memoranda, disks, documentation, research, development, processes, procedures, marketing techniques and materials, marketing and development plans, purchasing information, price lists, cost and pricing policies, financial information, intellectual property, and all other information of a secret or confidential nature.

"*Contract Sum*" is the total amount payable by the District to the Contractor for performance of the Services, as defined herein, listed in Schedule A.

"*De-identified Information*" means Confidential Information from which all Personally Identifiable Information or PII, as defined herein, and attributes about such data, have been permanently removed so that no individual identification can be made.

"*Employee Benefits*" means any employer withholdings or liability for: (a) taxes, FICA, Medicare or Medicaid; (b) medical or disability insurance; (c) vacation or leave; (d) pension; or (e) unemployment insurance or worker's compensation insurance.

"*Materials*" means all deliverables, reports and written documents expressly prepared for, or submitted to the District by Contractor while performing the Services, as defined herein.

"*Personally Identifiable Information*" or "*PII*" means information and metadata that, alone or in combination, personally identifies an individual student or the student's parent or family, and that is collected, maintained, generated, or inferred by the District, either directly or through the Services, or by Contractor. PII also includes other information that, alone or in combination, is linked or or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the District reasonably believes knows the identity of the student to whom the education record relates. Personally Identifiable Information includes, but is not limited to: (a) the student's name; (b) the name of the student's parent or other family members; (c) the address or phone number of the student or student's family; (d) personal identifiers such as the student's state-assigned student identifier, social security number, student number or biometric record; (e) indirect identifiers such as the student's date of birth, place of birth or mother's maiden name; and (f) demographic attributes, such as race, socioeconomic information, and gender.

"*Services*" means the scope of Services Contractor shall perform for the District listed in Schedule A. Contractor may not perform any Services prior to the execution of this Agreement.

"*Travel Expenses*" means the total amount of Contractor's actual expenses and costs for food, lodging and travel incurred in connection with Contractor's performance of the Services.

III PAYMENTS AND TRAVEL EXPENSES

A

The District has no obligation to make any payments to Contractor if Contractor performs any Services prior to the execution of this Agreement.

B

Any and all contractual financial obligations of the District that are payable after the current fiscal year are contingent on money to pay the obligations being appropriated, budgeted and otherwise made available

C

The District does not pre pay or make deposit for Contractor's performance of the Services. The District issues all payments after Contractor completes the Services. Once Contractor has completed the Services, Contractor shall submit invoices to the District for request of payment on the terms and conditions specified in Schedule A.

D

The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the District, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

E

The District shall not have responsibility for payments to a subcontractor or supplier.

F

Travel Expenses must be approved by the District. The District uses the prescribed Federal guidelines for travel and reimbursement. The daily amount for food and lodging is not to exceed the Federal Per Diem rates for the Denver Metropolitan Area. Allowable expenses are Daily Per Diem, Daily Lodging, Car Rental, Ground Transportation and Air Travel Cost. No type of alcohol will be reimbursed and food reimbursements are only for that individual. Lodging reimbursements are only for the room – no room service, phone charges or movies will be reimbursed. Travel reimbursements are only economy seating and baggage fees – no extra leg room, business or first class will be reimbursed. Contractor shall submit all itemized receipts and supporting documentation to receive payment for its Travel Expenses. No other types of expenditures are reimbursable.

IV GENERAL SCOPE OF SERVICES

A

Supervision. Contractor shall supervise and direct the Services using the Contractor's best skill and attention. Contractor shall be solely responsible for and have control over the Services.

B

Labor and Materials. Unless otherwise provided in Schedule A, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Services.

C

Correction of Services. The Contractor shall promptly correct all deficiencies and/or defects in the Services and/or any work that fails to conform this Agreement. All corrections shall be made within seven (7) calendar days after reported by email from the District to the Contractor. The Contractor shall bear all costs of correcting such rejected Services. If the Contractor fails to correct the work within the period specified, the District may correct it in accordance with section IV or take any action pursuant to section IX.

D

District's Right to Change the Services. The District, without validating the Agreement, may order changes in the Services within the general scope of the Agreement, consisting of additions, deletions or other revisions, and the Contract Sum and Completion Schedule shall be adjusted accordingly, in writing. If the District and Contractor cannot agree to a change in the Contract Sum, the District shall pay the Contractor its actual costs.

E

District's Right to Stop the Services. If Contractor fails to correct the Services that is

not in accordance with this Agreement, District may direct Contractor in writing to stop the Services until the correction is made

F

District's Right to Carry Out the Services. If Contractor defaults or neglects to carry out the Services in accordance with this Agreement and fails within a seven (7) day period after receipt of written notice from the District to commence and continue correction of such default or neglect with diligence and promptness, the District may, without prejudice to other remedies, correct such deficiencies at the cost of the Contractor.

V EMPLOYEES

A

Status. All employees of Contractor shall be considered to be, at all times, employees of the Contractor, under its sole discretion, and not an employee or agent of the District.

1. As an independent contractor, Contractor shall be solely responsible for providing its employees with all salary and Employee Benefits; withholding all applicable federal, state and local employment and income taxes for its employees incurred in the performance of this Agreement; and making payments for and otherwise securing all unemployment insurance, worker's compensation and such other insurance in the amounts required by law. "Employee Benefits" means any employer withholdings or liability for: (a) taxes, FICA, Medicare or Medicaid; (b) medical or disability insurance; (c) vacation or leave; (d) pension; or (e) unemployment insurance or worker's compensation insurance.
2. The District may require Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable, and whose continued employment on District property is not in the best interest of the District.
3. Contractor shall not employ, retain, hire or use any individual that has been convicted of any felony charges as the same is defined under the laws of the State of Colorado in the performance of the services to be rendered and materials to be provided to the District pursuant to this Solicitation unless the Contractor receives prior written permission.
4. In accordance with the District's policy regarding the use of tobacco products, no employee of the Contractor shall be permitted to use tobacco products when performing work on District property.
5. To protect the staff and program against undue invasion of the school or work day, sales representatives shall not be permitted in schools or other departments for the purpose of making sales unless authorized to do so by the Director of Financial Operations or his/her designee. If special or technical details concerning goods or services to be purchased are required, the involvement of Contractor should be coordinated through the Purchasing Department.

VI COMPLIANCE WITH LAW AND DISTRICT POLICIES

A

Compliance With Law/District Policies. Contractor will comply with all applicable federal, state, and local laws, regulations, rules and other workplace requirements and standards applicable to the provision of the Services including, without limitation, all laws, regulations and rules cited in § 22-1-135, C.R.S.; all laws, regulations and rules governing wages and overtime, civil rights/employment discrimination, equal

employment, safety and health, verifiable security background checks, employees' citizenship, withholdings, pensions, reports, record keeping, and campaign contributions and political finance.

B

District Standards. All Services and Materials provided under this Agreement must follow the specifications, standards and procedures of the District, including, but not limited to: [Construction Standards](#) and [Safety Standards](#).

C

Immigration. Contractor shall not knowingly employ an undocumented person who shall perform the Services and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform the Services, through participation in the "E-Verify" Program administered by the Social Security Administration and Department of Homeland Security, or the Colorado Department of Labor and Employment Program established pursuant to CRS §8-17.5-101 & 102. Contractor shall not knowingly enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor does not knowingly employ or contract an undocumented person to perform the Services. If Contractor has actual knowledge that a subcontractor is employing or using an undocumented person to perform the Services, Contractor shall notify the subcontractor within three (3) days and will terminate this Agreement if a subcontractor does not stop employing or using the undocumented person within three days of receiving the notice. Contractor shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5) by the Colorado Department of Labor and Employment. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the District may terminate this Agreement and, if so terminated, Contractor shall be liable for damages.

D

Contractors Debarred, Suspended, or Proposed for Debarment. Contractor, to the best of its knowledge and belief, represents that Contractor and/or any of its principals, officers, directors, owners, partners, or a person having primary management or supervisory responsibilities within a business entity, are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any agency of the Federal, State or local government; (b) has not within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract or for violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and (c) is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the aforementioned offenses enumerated in this paragraph; and (d) has not within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied; and (e) has not within a three-year period preceding this offer, had one or more contracts terminated for default by any agency of the Federal, State or local government.

E

Open Records. The Parties understand that this Agreement and the Materials may be subject to the Colorado Open Records Act, § 24-72-201, et seq., C.R.S. (2011), and that in the event of a request to the District for disclosure of such information, the District will

advise Contractor of such request in order to give Contractor the opportunity to object to the disclosure of any of its confidential and/or proprietary material. In the event of the filing of a lawsuit to compel such disclosure, the District will tender all such material to the court for judicial determination of the issue of disclosure and Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same.

F

Background Checks. If Contractor provides direct services to students, the Contractor and every person, including any subcontractor or agent of the Contractor, including persons who may have access to student data, shall be required to have a criminal background check that meets the requirements of § 22-32-109.7, C.R.S. and other District requirements, including a fingerprint-based conviction investigation. "Direct services to students" include but are not limited to: instruction; physical, mental, and social health supports; transportation; and food services, which are provided to students at least one time per month during the school year. Conducting a Colorado Bureau of Investigation criminal history check or a Name Check investigation for any person providing services under this Contract does not meet District requirements. The costs associated with the background checks are solely the Contractor's responsibility. Thereafter, any personnel, subcontractor, volunteer or agent hired or added during the term of this Contract shall satisfy the requirements set forth in this Section before performing services on Contractor's behalf. The District also reserves the right to conduct its own criminal background check of every person before Services begin.

1. Notwithstanding the criminal background check requirement as set forth above, Contractor hereby certifies that no employee, subcontractor, volunteer or agent of the Contractor performing the Services has been convicted in Colorado or in any other State of a criminal offense involving: (i) the abuse, abduction, sexual molestation, physical or sexual assault on, or rape of a minor; or (ii) any crime involving exploitation of minors, including but not limited to, child pornography offenses or any crime of violence. Contractor shall notify the District immediately upon the discovery or receipt of any information that any person performing services on Contractor's behalf has been detained or arrested by a law enforcement agency of the aforementioned crimes. Contractor understands that allowing any employee, subcontractor, volunteer or agent of the Contractor performing the Services who has been arrested or convicted of the aforementioned crimes to: (i) provide direct services to students, (ii) access student data, or (iii) enter onto District property, constitutes a material breach of this Agreement and may result in the immediate termination of this Agreement and referral to law enforcement for possible criminal charges, or additional civil sanctions pursuant to federal and state law.
2. If Contractor has access to student data but does not provide direct services to students, the Contractor and every person, including any subcontractor or agent of the Contractor, shall be required to have a criminal background check per Contractor's internal employment policies.
3. The Contractor and every person, including any employee, subcontractor, volunteer or agent of the Contractor, performing the Work on District property during school hours, is required to check-in to a school office upon entering any school buildings and will be scanned through the Raptor School Visitor Management System unless the individual has received a Denver Public Schools identification badge from the District's Department of Safety and Security. If an individual's identity cannot be verified through an acceptable form of identification (driver's license or state ID) and does not have a Denver Public Schools identification badge, they will not be allowed on District property.

G

Conflict of Interest. Contractor cannot be related to any District employee if such a relationship would create a material financial interest or result in the violation of DPS Board Policy GBEA by either Contractor or the District employee. Contractor agrees to abide by the Code of Conduct and Conflict of Interest Certification as shown in Schedule B.

VII INSURANCE AND LIABILITY

A

Insurance. See Schedule C. Contractor must submit proof of insurance to the District at the time of execution of this Agreement.

B

Indemnification. Contractor agrees to indemnify, defend and hold the District harmless from and against any claim, cause of action, judgment, loss, demand, suit, or legal proceeding brought against the District or its employees, officers, representatives, or agents, which arises directly or indirectly from any act or omission of Contractor, including but not limited to any misconduct or neglect by Contractor and/or its employees, subcontractors, or agents. Furthermore, to the maximum extent permitted by law, Contractor will defend the District from any claim and will indemnify the District against any liability for any Employee Benefits for the Contractor and/or any of its employees, subcontractors, or agents, imposed on the District; and Contractor will reimburse the District for any award, judgment or fine against the District based on the position Contractor and/or any of its employees, subcontractors or agents, who provides the Services was ever the District's employee, and all attorneys' fees and costs the District reasonably incurs defending itself against any such liability. The obligations created under this Article will survive the expiration or termination of this Agreement.

VIII DEFAULT AND REMEDIES

A

Right to Injunction. Contractor further agrees that, if Contractor violates any representation, warranty or certification of this Agreement, it would be difficult to determine the damages the District would suffer including, but not limited to, losses attributable to the disclosure, theft and/or misuse of Confidential Information. Accordingly, Contractor agrees that if Contractor violates any representation, warranty or certification of this Agreement, the District will be entitled to an Order for injunctive relief and/or for specific performance, or their equivalent, from a court, including requirements that Contractor take action or refrain from action to preserve the secrecy of Confidential Information. To protect the District from additional damages, Contractor agrees the District does not need to post a bond to obtain an injunction and waives Contractor's right to require such a bond.

B

Dispute Resolution. The District and Contractor shall endeavor to resolve claims, disputes and other matters in question between them first by good faith discussions amongst the senior executives of each Party. The Parties shall mutually agree as to the process by which these discussions shall occur. If the Parties are not able to resolve the dispute through good faith discussions then the Parties shall endeavor to resolve the dispute through mediation, upon mutual agreement of the Parties. A request for mediation shall be made in writing, delivered to the other Party to the Agreement, and filed with the person or entity administering the mediation. The Parties shall equally share the mediator's fee and any filing fees jointly. The mediation shall be held in

Denver, Colorado. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

C

Notices, Process. Any notice this Agreement requires must be in writing and will be effective only if hand-delivered or sent by certified U.S. mail, return receipt requested, to the Party entitled to receive the notice at Contractor's address provided in this Agreement, while the District's notice address is as follows: Denver Public Schools, Director of Purchasing, 780 Grant Street, Denver, Colorado 80203; or at such other address that either Party may provide later to the other Party. Each Party agrees to waive service of process in any action brought to enforce or to interpret this Agreement and the Parties further agree that service of the complaint and any other pleading, discovery, order or document in any such action that would otherwise have to be served by personal service will be deemed served three (3) days after being sent to the other Party and that Party's attorney as provided above

D

Force Majeure. Neither the Contractor nor the District shall be liable to the other for any delay in, or failure of performance of, any covenant or promise contained in this contract, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by "force majeure". As used in this contract "force majeure" means acts of God; acts of the public enemy; acts of the District and any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes, freight embargoes; illegality, or unusually severe weather.

IX TERM AND TERMINATION

A

Term. This Agreement, unless terminated earlier as provided herein, shall commence as of the date of this Agreement and shall terminate on _____ (the "Term"). Contractor agrees and acknowledges that the District has no obligation to extend this Term, or contract for the provision of any future services, and makes no warranties or representations otherwise.

B

Termination for Convenience. The District may, at any time, terminate this Agreement for the District's convenience and without cause, upon sending a thirty (30) days written notification containing the reasons for the termination, the effective date, and in the case of partial termination, the portion to be terminated, to the Contractor. The Contractor shall be entitled to receive payment for the Services performed by the Contractor prior to termination. Contractor shall be entitled to no further compensation of any type from the District.

C

Termination for Cause. The District may terminate this Agreement immediately without prior notice if any of the following occurs:

1. If Contractor fails to perform the Services in a manner satisfactory to the District as per specifications, including delivery as specified;
2. If Contractor commits an act of fraud, dishonesty, or any other act of negligent, reckless or willful misconduct in providing the Services to the District;
3. If any contract by the District with any third party on which this Agreement

substantially depends is terminated or the District is unable for any other reason to provide services to the party/parties to that contract;

4. If any circumstance beyond the District's control, including, but not limited to, financial constraints imposed by action of the legislature or Governor of the State of Colorado, prevents it from providing services or otherwise hinders, delays, or prevents the District from receiving revenue or income or increases its overhead to an extent the District reasonably decides to reduce or modify its operations; or
5. If Contractor is otherwise guilty of a substantial breach of a provision of this Agreement.
6. When the District terminates this Agreement for one of the reasons stated above, Contractor shall not be entitled to receive further payment until the Services are completed. If the unpaid balance of the Contract Sum exceeds the cost of completing the Services, and other damages incurred by the District and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, Contractor shall pay the difference to the District. This obligation for payment shall survive termination of this Agreement

D

No Claim Against District. Upon termination of this Agreement by the District pursuant to this Article 9, Contractor will not have any claim against the District by reason of, or arising out of, incidental or relating to termination, except for compensation for the Services satisfactorily performed. In the event that this Agreement is terminated prior to the expiration date, Contractor will submit any and all outstanding reports and information requested by the District within ninety (90) days from the date of early termination.

E

Termination/Unauthorized Approval. If this Agreement is made contrary to the District's Board of Education Policies, including, but not limited to, Policies DJ, DJA, DJE, DJG and DJGA, this Agreement shall be void and wholly without effect and shall not be binding upon the District in any manner.

X CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY RIGHTS

A

Confidential Information Belongs Solely To The Disclosing Party. All Confidential Information is the exclusive property of the Party disclosing such Confidential Information (the "Disclosing Party"). The Party receiving such Confidential Information (the "Receiving Party") therefore agrees that:

1. At all times while this Agreement is in effect, Receiving Party will keep secret and will not disclose to any third party, take or misuse any Confidential Information, or any other confidential and/or proprietary information Receiving Party acquires or has access to.
2. At all times while this Agreement is in effect, Receiving Party will not use or seek to use any Confidential Information for Receiving Party's own benefit or for the benefit of any other person or business or in any way adverse to the Disclosing Party's interests.
3. If Contractor has received any Confidential Information during the Term of this Agreement, Contractor may use De-identified Information for purposes of research, the improvement of Contractor's products and services, and/or the development of new products and services provided that Contractor removes all Personally Identifiable Information.

4. In the event Contractor uses or discloses any De-identified Information, Contractor hereby agrees, represents, and warrants to the District that Contractor has made a reasonable determination that all Personally Identifiable Information has been permanently removed so that no personal identification can be made. In no event shall Contractor or any of the Contractor's employees, agents, contractors, or representatives re-identify or attempt to re-identify any De-identified Information. Contractor will indemnify, defend and hold harmless the District and the District's affiliates, officers, directors, and employees from and against any third party claims, demands, causes of action, judgments, damages, liabilities, costs and expenses (including reasonable attorney's fees) arising from or relating to Contractor's or any of the Contractor's employees, agents, contractors, or representatives unauthorized use, misuse, or illegal use of De-identified Information.
5. Contractor will comply with all rules, laws and regulations that require the protection of personal identifying information cited in § 22-1-135, C.R.S. On the District's request, Contractor will execute a separate Data Protection Addendum if the District believes it is necessary given the Services Contractor provides under this Agreement.
6. After termination of this Agreement, Receiving Party will preserve the secrecy of and will not disclose directly or indirectly to any other person or business any Confidential Information.
7. Receiving Party will promptly advise the District of any unauthorized disclosure or use of Confidential Information by any person or entity.

B

Copyright and Other Intellectual Property Rights. To the extent the Materials may be subject to patent, copyright, trade secret, or proprietary rights of any kind:

1. Contractor warrants and represents that the Materials are original and have not been published; that the Materials do not infringe upon any statutory copyright, common law right, proprietary right, or any other right whatsoever. Contractor agrees to indemnify and hold the District harmless against any claim of infringement of the Materials or of any patent, copyright, trade secret or other proprietary rights of third parties.
2. Contractor agrees to secure permission in writing from any third parties whose works are utilized in whole or in part by Contractor in the preparation of the Materials. Contractor will notify the District as to what degree the third party's works were used, as well as any limitations placed on the use of those third party's works.
3. Contractor agrees and acknowledges that the District is the exclusive owner of the Materials, and any related patent, copyright, trade secret, trademark, service mark, or any other proprietary rights in the Materials, are owned exclusively by the District. To the extent the Materials are copyrightable, they shall be deemed to be works made for hire. To the extent that any Materials may not, by operation of law, be works made for hire, Contractor hereby assigns to the District the ownership of copyright in the Materials and the District shall have the right to obtain and hold in its own name copyrights, registrations and similar protection which may be available in the deliverable Materials. Contractor agrees to give the District or its designees all assistance reasonably required to perfect such rights.
4. To the extent that any pre-existing materials are contained in the Materials, the Contractor grants to District an irrevocable, non-exclusive, worldwide, royalty-free license to (i) use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works based upon, such pre-existing materials and derivative works thereof, and, (ii) authorize others to do any, some or all of the foregoing.
5. No license or right is granted by the District to Contractor, either expressly or by implication, estoppel or otherwise, to publish, reproduce, prepare derivative works based upon, distribute copies of, publicly display, or perform the

Materials, either during or after the termination of this Agreement, without a written agreement signed by an authorized representative of the District.

XI MISCELLANEOUS PROVISIONS

A

Non-Solicitation. Neither Party shall not solicit directly nor indirectly any of the District's employees or contractors for a period of two years following the termination of this Agreement without prior written consent of the other Party, but only to the extent permitted by law and only for those employees introduced to the other Party under the terms of this Agreement. Notwithstanding the foregoing, advertisements in newspapers and trade publications, electronic job boards or unsolicited actions initiated by an employee in an attempt to seek employment shall not constitute solicitation as used herein.

B

No Unauthorized Use of Names, Logos and/or Trademarks. Neither Party will use the other's name, logo, and/or trademark in any advertisement, promotion, business card, etc. without the other Party's prior written consent in each instance.

C

Entire Agreement. This Agreement and all exhibits hereto constitute the entire agreement between the Parties with respect to the Services and all prior proposals are hereby terminated.

D

Choice of Law. Any claim, controversy or dispute arising under or related to this Agreement shall be construed pursuant to the substantive, not conflicts, laws of the State of Colorado. Each of the Parties submits to the exclusive jurisdiction of any state sitting in or federal court with jurisdiction over Denver County, Colorado, in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each Party also agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the Parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other Party with respect to any such action or proceeding.

E

Governmental Immunity. No term or condition of the Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101 et seq. C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

F

Partial Invalidity. The invalidity of any provision of this Agreement shall not impair or affect the validity of the remaining portions hereof, and this Agreement shall be construed as if such invalid provision had not been included herein.

G

Assignment Prohibited. Contractor cannot assign the Services under this Agreement.

H

Counterparts. This Agreement may be executed simultaneously in two (2) counterparts, each of which shall be deemed to be an original, but which together shall constitute one and the same agreement.

I

Electronic Signatures And Electronic Records. Each party consents to the use of electronic signatures by the other party. This Agreement, and any other documents requiring a signature under this Agreement, may be signed electronically by each party in the manner specified by the District. The parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

J

Signature Authority. The parties each represent and warrant to each other that the persons signing this Agreement are authorized signatories for the entities represented. The District's signature authority for this Agreement is governed by the District's Board of Education Regulation DJA-R.

The Parties are signing this Agreement on the date stated in the introductory clause.

By: _____
Printed Name: _____
Title: _____

RECOMMENDED:

By: _____
Department/School Manager

"SCHOOL DISTRICT NO. 1"

APPROVED:

By: _____
Purchasing Department Manager

By: _____
Director, Financial Operations

By: _____

Executive Director of Finance

By: _____

Chief Financial Officer

By: _____

Board of Education, President

SAMPLE

SCHEDULE A- Scope of Services and Contract Sum

See Exhibit A

SAMPLE

SCHEDULE B

Code of Conduct and Conflict of Interest Certification

I, _____, certify as an authorized representative of _____, that I have read the District's ethical and purchasing policies, as listed below¹, related to my company conducting business with the District. I understand that the District's policies and regulations shall operate as a Code of Conduct. I agree to follow the District's Code of Conduct, and any legal and regulatory requirements applicable to my company's performance, work or contract, and that violating the District's Code of Conduct may result in immediate sanctions up to, and including the termination of my business relationship with the District. I understand that if I have questions concerning the meaning or application of the Code of Conduct or relevant legal and regulatory requirements, I will contact the appropriate District representative. I understand it is my responsibility to disclose any situation that might reasonably appear to be a violation of the Code of Conduct. I understand the absence of a specific guideline, practice or policy covering a particular situation does not relieve me from exercising the highest ethical standards applicable to the circumstances.

I have read the Code of Conduct, as listed below, which among other things, restates the District's policies prohibiting certain activities deemed illegal, unethical or against the best interest of the District. I accept and agree to the restrictions stated in the Code of Conduct. I hereby certify that I will comply with the Code of Conduct and to the best of my knowledge, all of my employees, subcontractors, and personnel under my supervision are aware of the Code of Conduct and will comply with its terms. I know and agree that it is incumbent upon me, and my employees to perform satisfactorily and to follow and comply with the District policies and rules as they are issued or modified from time to time.

I understand the District's Code of Conduct is a general guide to acceptable and appropriate behavior, and that I am expected to comply with it even though it may not contain all of the details and information needed during the course of my performance and work with the District.

During the period of time of my business relationship with the District, at no time will I, or any employee of mine: (i) engage in human trafficking or procure a commercial sex act; or (ii) use forced labor in the performance of my company's performance, work or contract with the District, including but not limited to, prison labor, indentured or slave labor, or bonded labor. I understand that if I, or any employee of mine, engage in any such activities my company's performance, work or contract may be immediately terminated by the District without penalty

Further, when dealing with District employees, I will adhere to the highest ethical standards of business conduct. When seeking the resolution of regulatory or ethical issues affecting my company's interests I will do so solely on the basis of merit and pursuant to proper procedures in dealing with the District and its employees. At no time will I, or any employee of mine offer, provide or solicit, directly or indirectly, any special treatment or favor in return for anything of economic value, or the promise or expectation of future value or gain. In addition, there shall be no entertaining of District employees with the expectation of receiving any future value or gain.

I will not accept or offer gifts, employ any person who is working for the District, nor do I have any close,² or immediate family³ relationships with the District. If I do, I will immediately disclose the name and relationship of that person or persons and any existing potential conflict of interest with that District employee or any employee who may make decisions in their jobs that would allow him or her to give or receive preferential or favorable consideration in exchange for anything of a personal benefit to themselves or their friends and families. I understand that such situations could interfere with an employee's ability to make judgments solely in the District's best interest.

Accordingly, I have listed below all relationships and outside activities, which may require disclosure under the policy. I have also listed names, addresses and the nature of the relationships of all persons or entities doing business with the District from whom I, or any member of my immediate family, have received, may receive in the future, directly or indirectly, cash or a gift of more than nominal value (\$25.00). Finally, to ensure there is no perceived conflict of interest, I have listed the name of all individuals employed by the District that are related to me or anyone in my business regardless of his or her position.

Name: _____

Signature _____

Date: _____

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1 [GP11 Board Member Conduct Policy](#) [GP9 Board Member Conflict of Interest Policy](#) [DJ Purchasing Policy](#) [DJA Purchasing Authority Policy and regulation](#) [DJB Purchasing Procedures Policy](#) [DJE Bidding Practices Policy](#) [DJG Vendor Relations Policy](#) [DJGA Sales Calls and Demonstrations Policy](#); [DK Stewardship of Funds Policy](#) [GBEA Conflict of Interest Policy](#); and [GBEBC Gifts To and Solicitations by Staff Policy](#). 2 Close relationships means all persons, whether family or not, you may have a personal or business relation with performing work for, or on behalf of the District. 3 Immediate family means... spouse, partner in a civil union, children, siblings, parents, and in-laws (mother, father, brother, sister, daughter and son). See, [Board Policy GBEA](#)

SCHEDULE C - Insurance Requirements

General Provisions

Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement.

Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverage.

Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement.

Insurer Ratings: The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-" VIII or better.

Cancellation, Non-Renewal Notifications: Each policy shall contain a valid provision or endorsement requiring notification to the District in the event any of the required policies are to be cancelled or non-renewed before the expiration date thereof. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal or reduction in limits to the District by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s).

Deductibles or Self-Insured Retentions: If any policy is in excess of a deductible or self-insured retention, the Contractor must notify the District. Contractor shall be responsible for the payment of any deductible or self-insured retention.

Minimum Requirements: The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

Contractor shall advise the District in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At its own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limits, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

Proof of Insurance: Contractor certifies that any certificate of insurance, (preferably an ACORD certificate), provided as evidence of insurance coverage under this Agreement, complies with all insurance requirements in this Agreement. The District's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor's breach of this Agreement or of any of the District's rights or remedies under this Agreement. The District's Risk Management Department may require additional proof of insurance including but not limited to policies and endorsements.

Subcontractors and Subconsultants: All Subcontractors and Subconsultants (including Independent Contractors, Suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein

and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such Subcontractors as Additional Insureds under its policies (with the exception of Workers' Compensation) or shall ensure that all such Subcontractors and Subconsultants maintain the required coverages.

Insurance Coverage and Limits

Workers' Compensation/Employer's Liability: Contractor shall maintain the coverage as required by statute and shall maintain Employer's Liability insurance with limits of at least \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Contractor expressly represents to the District, as a material representation upon which the District is relying on entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation insurance shall affect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

Business Automobile Liability: Contractor shall maintain Business Automobile Liability coverage with limits of at least \$1,000,000 each accident applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

Commercial General Liability: Contractor shall maintain Commercial General Liability coverage with limits of at least \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

Professional Liability – Errors & Omissions (if applicable): Contractor shall maintain Professional Liability coverage with limits of at least \$1,000,000 per claim and \$1,000,000 policy aggregate.

Excess/Umbrella Liability: Contractor shall maintain Excess or Umbrella Liability coverage with limits of at least \$1,000,000 per occurrence and \$1,000,000 policy aggregate. Coverage must be written on a "follow form" or broader basis.

Sexual Abuse, Molestation or Misconduct (if applicable): Contractor shall maintain Sexual Abuse, Molestation or Misconduct coverage with limits of at least \$100,000.

Commercial Crime (if applicable): Contractor shall maintain Commercial Crime coverage with limits of at least \$1,000,000. Coverage shall include but not be limited to theft of District's money, securities or valuable property by Contractor's employees (including any extended definition of employee). The School District No. 1 in the City and County of Denver, d/b/a Denver Public Schools shall be named as Loss Payee as its interest may appear.

Aircraft Liability – Aircraft or Drone use (if applicable): Contractor shall maintain Aircraft Liability insurance covering all manned and/or unmanned aircraft used in the performance of the work with limits of at least \$1,000,000 single limit.

Liquor Legal Liability (if applicable): Contractor shall maintain Liquor Legal Liability coverage with limits of at least \$1,000,000 per claim and \$1,000,000 policy aggregate.

Garagekeepers Liability (if applicable): Contractor shall maintain Garagekeepers Liability coverage with limits of at least \$1,000,000 aggregate. The following three types of required insurance coverages may be met with separate policies or a combination of these coverages under one policy. If in a combined policy, the combined policy form shall include minimum limits of at least \$3,000,000 each occurrence and in the aggregate.

Technology Errors & Omissions (if applicable): Contractor shall maintain Technology Errors & Omissions Liability coverage with limits of at least \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy shall include, but not be limited to Network Security, Privacy Liability and Product Failure.

Media Professional Liability (if applicable): Contractor shall maintain Media Professional Liability coverage with limits of at least \$1,000,000 per claim and \$1,000,000 in the aggregate. The policy shall include, but not be limited to, coverage for libel, slander, infringement of copyright, invasion of the right of privacy, and unauthorized use of titles, formats, ideas, characters, plots or other material used in the publication or design.

Cyber/Network Security & Privacy Liability (if applicable): Contractor shall maintain Cyber/Network Security & Privacy Liability coverage with limits of at least \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy shall include, but not be limited to, coverage for claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.

Other Insurance Provisions

Additional Insured Status: For Commercial General Liability, Auto Liability, Excess or Umbrella Liability, Cyber/Network Security and Privacy Liability (if applicable), Aircraft Liability (if applicable), and Liquor Legal Liability (if applicable), Contractor's insurer(s) shall name School District No. 1 in the City and County of Denver, d/b/a Denver Public Schools, and its elected officials, employees, representatives and agents as Additional Insureds.

Waiver of Subrogation: For coverages required under this Agreement, Contractor's insurer (s) shall waive subrogation rights against the District.

Primary Coverage: For claims related to this Agreement, Contractor's insurance coverage shall be primary and noncontributory with other coverage or self-insurance maintained by the District.

Claims Made Policies: For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided to the District, whichever is earlier.

Additional Provisions: Defense costs must be outside the limits of liability. Policies must contain a severability of interests or separation of insureds provision (no insured versus insured exclusion). The Commercial General Liability coverage must provide that this is an Insured Contract under the policy.