

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"), a publicly governed and funded political subdivision of the State of Colorado, 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 AND SERVICES

A

The District has determined that a need exists to retain an independent contractor to provide the Services, as defined herein. The services provided by Contractor to the District are described more fully in Schedule A. Contractor shall adhere to all payment terms and conditions specified in Schedule A. The Parties agree the District has no obligation to make any payments to Contractor if Contractor performs any Services prior to the date of this Agreement.

B

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

II DEFINITIONS

A

"*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.

B

"*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.

C

"*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.

D

"*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.

E

"*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.

F

"*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.

G

"*Personally Identifiable Information*" or "*PII*" means information and metadata that, alone or in combination, is linked or linkable to a specific student so as to 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. 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.

H

"*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.

I

"*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 EXPENSE

A

The District shall pay amounts properly due and payable on accepted invoices, so long as the District has previously accepted the Services covered by the invoice as performed in accordance with the requirements of the Agreement. The District may not be able to pay invoices submitted outside of the Fiscal Year in which Services are performed, or any grace period thereafter that the District may provide. The District shall make payment to the order of the Contractor and shall send payment in the method provided by the contractor during supplier registration. The District does not pay any late fees. Any and all contractual financial obligations of the District that are payable after the current Fiscal Year are contingent on such funds being appropriated, budgeted, and otherwise made available.

B

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

C

The District does not pre-pay or make deposits for Contractor's performance of the Services. The District issues all payments after Contractor completes the Services.

D

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**. The Contractor shall submit to the District invoices made under this Agreement, and at a minimum shall describe the amounts billed and the dates and nature of Services or portion of Services performed. Invoices must follow the District's guidelines available [here](#).

E

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.

F

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

G

Contractor shall immediately report to the District any mispayment or overpayment made to Contractor and promptly take affirmative steps to return any District funds not due to Contractor.

H

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 CONTRACTOR OBLIGATIONS

A

Employment Status of Contractor Employees. Contractor Personnel 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. At its sole discretion, the District may require Contractor to remove or reassign a Contractor Personnel it deems careless, incompetent, insubordinate, or otherwise objectionable, and whose continued employment on District property

is not in the best interest of the District or violates applicable District Board policies and/or laws.

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 Agreement unless the Contractor receives prior written permission.
4. In accordance with the District's policy regarding the use of tobacco/nicotine products, alcohol, or marijuana products, no Contractor or Contractor employee shall be permitted to use tobacco/nicotine products, alcohol, or marijuana products when performing work for the District, whether on or off District property.
5. To protect District 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 Purchasing or their 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. Contractor shall 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, campaign contributions, and political finance; all laws, rules, and regulations applicable to discrimination and unfair employment practices; and that require the protection of personal identifying information, including "student personally identifiable information" as defined by CRS § 22-16-103(13).!

B

District Standards and Policies. All Services and Materials provided under this Agreement shall follow the specifications, standards, and procedures of the District. In addition, Contractor shall adhere to all District policies and regulations, including, but not limited to, Denver Public Schools Board of Education Administration Policies [ADC](#), [KI](#), and [KFA](#), and the District's building safety protocols.

C

Accessibility. Contractor shall comply with and all Services provided under this Agreement shall be in compliance with all applicable provisions of §§ 24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the State of Colorado Governor's Office of Information Technology (OIT) pursuant to Section § 24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards. Contractor shall indemnify, save, and hold harmless the District against any and all costs, expenses, claims, damages, liabilities, court awards, and other amounts (including attorneys' fees and related costs) incurred by the District in relation to Contractor's failure to comply with §§ 24-85-101, et seq., C. R.S., or the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section § 24-85-103 (2.5), C.R.S.

D

Nondiscrimination. Contractor shall not discriminate against any person on the basis of race, color, gender, sexual orientation, gender identity or expression, transgender status, religion, national origin, immigration/citizenship status, ancestry, age, marital status, pregnancy status, veteran status, disability, genetic information of an employee or applicant for employment, or any other basis on which discrimination is prohibited by law. Discrimination or harassment based on race includes unwelcome conduct regarding traits historically associated with race, including hair texture, hair type, and protective hairstyle, such as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps. Discrimination or harassment based on gender identity includes the knowing or intentional use of a name other than a student's self-asserted or "chosen" name, as well as the knowing or intentional avoidance of use of the student's chosen name. To the extent Contractor engages in or is alleged to have engaged in discriminatory practices, it expressly agrees to defend, hold harmless, and indemnify the District, its board members, officers, employees, and agents from all liability, claims, and demands arising from any suit, action, grievance, charge, or proceeding, pursuant to this Agreement. This obligation shall survive the termination or expiration of this Agreement.

E

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. 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) calendar days and will terminate this Agreement if a subcontractor does not stop employing or using the undocumented person within three (3) calendar days of receiving the notice. If Contractor fails to comply with any requirement of this provision, the District may terminate this Agreement and, if so terminated, Contractor shall be liable for damages.

F

Contractors Debarred, Suspended, or Proposed for Debarment. Contractor, to the best of its knowledge and belief, represents that Contractor nor any of its principals, officers, directors, owners, partners, employees, agents, subcontractors, or any person having primary management or supervisory responsibilities within the business entity of Contractor (individually and collectively, "Contractor Personnel"), (a) 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 the date of 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; (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; (d) has not within a three-year period preceding the date of this Agreement, 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 date of this Agreement, had one or more contracts terminated for default by any agency of the Federal, State, or local government. This certification is a material representation of fact upon which reliance was placed when the District determined to enter into this Agreement.

Contractor has an ongoing duty to report any debarment, proposed debarment, suspension, or other sanction for fraud or misconduct and shall provide immediate written notice to the District if it learns that its certification was erroneous or has become erroneous by reason of changed circumstances.

G

Background Checks. If Contractor provides 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 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 Agreement 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 Agreement 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 performing Services before such Services begin.

1. 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.
2. Denver Public Schools may issue identification badges for Contractor employees. Every person who receives a Denver Public Schools identification badge or an electronic access card from the District's Department of Climate and Safety 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. In addition, every person who receives a Denver Public Schools identification badge will be scanned through the [Raptor Visitor Management System](#) on District property prior to issuance of the identification badge. Prior to issuance of an electronic access card, Contractor shall provide documentation to the District's Department of Climate and Safety to substantiate completion of a successful background check pursuant to the terms of the Agreement for Use of Electronic Access Card. Use of Denver Public Schools electronic access cards are subject to the terms of the Denver Public Schools Access Control Policy and Procedures.
3. If an individual does not have a Denver Public Schools identification badge, the individual is required to check-in to a school office upon entering any school buildings to obtain a visitor's badge and will be scanned through the [Raptor School Visitor Management System](#). If an individual's identity cannot be verified through an acceptable form of identification (driver's license or state ID), they will not be allowed on District property.
4. Notwithstanding the criminal background check requirements 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) any unlawful sexual behavior against a minor, including but not limited to, abuse, abduction, enticement, human trafficking, pimping, sexual molestation, physical or sexual assault, or rape; or (ii) any crime involving sexual exploitation of minors, including but not limited to, child pornography offenses, or (iii) any crime of violence, including, but not limited to, murder or kidnapping. 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, (iii) obtain a Denver Public Schools electronic access card, or (iv) 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. Misdemeanor conviction(s) may not necessarily result in the immediate termination of this Agreement. Misdemeanor convictions are evaluated on a case-by-case basis, considering the nature and gravity of the offense, time elapsed since the offense, conviction, or time served, and the nature of the Work. Upon the District's request, Contractor shall provide documentation of every person performing the Services to substantiate the basis for this certification.

H

Conflict of Interest. The Contractor represents that the Contractor (i) has no personal or financial interest in the Agreement (other than the consideration to be earned); (ii) shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance under the Agreement; and (iii) does not and will not employ or engage any person with a personal or financial interest in the Agreement (other than the consideration to be earned). Contractor shall abide by the Code of Conduct and Conflict of Interest Certification as shown in Schedule B.

VII INSURANCE AND INDEMNITY

A

Insurance. Contractor shall maintain the insurance coverage in Schedule C

B

Agreement to Indemnify. Contractor shall indemnify, defend, and hold the District, its employees, agents, officers, representatives, directors, or assignees harmless against any and all claims, liabilities, judgments, losses, costs, expenses, damages, and the like (including reasonable attorney fees) that result from, arise in connection with, or are in any related to any breach of this Agreement by Contractor, its subcontractor(s), or any employees, agents, officers, representatives, directors, or assignees of Contractor or its subcontractor(s), or any acts or omissions of Contractor or its subcontractor(s) or any employees, agents, officers, representatives, directors, or assignees of Contractor or its subcontractor(s) under this Agreement. If performance under this Agreement includes use of Intellectual Property, delivery of Work Product, or both, then the Contractor also indemnifies, holds harmless, and assumes the duty to defend the District against any and all claims that result from, arise in connection with, or are related to Work Product or infringement on the Intellectual Property rights of a Party or any person not a Party.

1. The Contractor's agreement to indemnify takes precedence over any conflicting or inconsistent provisions under this Agreement.

2. The Contractor's agreement to indemnify survives the termination, expiration, or other ending of the Agreement until such time when all possible and applicable limitation of action periods have expired.

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 under this Agreement 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 unable to resolve the dispute through good faith discussions then the Parties may mutually agree to resolve the dispute through mediation. The Parties shall share the mediator's fee and any filing fees jointly. The mediation shall be held in Denver, Colorado.

C

Method of Giving Legal Notice. All notices that that the Agreement or law requires shall be in writing and are referred to as Legal Notice. Legal Notice is accomplished by delivery of the written notice to the Legal Notice Recipient at the address listed for the Legal Notice Recipient as follows:

1. Personal service; or
2. Trackable delivery service (for example and without limitation: USPS priority or express mail; UPS; DHL; or FedEx).

The address for each Legal Notice Recipient is as follows or at such other address as a Party may later give notice to the other Party:

Denver Public Schools:

Attn: Purchasing Department

780 Grant Street

Denver, CO 80203

Tel: 720-423-1310

Email: purchasing@dpsk12.org

Contractor:

Attn:

Tel:

Email:

With Copy to:

With Copy to:

Denver Public Schools

Office of General Counsel

1860 Lincoln St., Suite 1230

Denver, CO 80203

Tel: 720-423-3393

Email: legal_contracts@dpsk12.org

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 Agreement, 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 Agreement, "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 and prolonged weather.

IX TERM AND TERMINATION

A

Term. This Agreement shall commence as of the date of this Agreement and shall terminate on _____ (the "Term"), unless further extended or earlier terminated as provided herein. 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 by District – No Default. The District may terminate the Agreement at any time, if the District determines that termination is in its best interest. To terminate under this provision, the District shall provide at least twenty (20) calendar days prior written notice to the Contractor. The District shall pay the Contractor the sums earned and not yet paid up to the date of termination. The District shall not pay for loss of anticipated profits.

C

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

1. Contractor fails to perform the Services in a manner satisfactory to the District;
2. 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. 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. 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. Contractor is otherwise responsible for a material breach of a provision of this Agreement.

If 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, DJA-R, 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 DATA PRIVACY, CONFIDENTIAL INFORMATION, AND INTELLECTUAL PROPERTY RIGHTS

A

Data Privacy

1. On the District's request, Contractor shall execute a separate Data Protection Addendum if the District believes it is necessary. The District shall only grant Contractor access to Personally Identifiable Information, records, and student education records if the Contractor executes the Data Protection Addendum.
2. Contractor shall notify the District if it is conducting any research (including but not limited to, professional development, curriculum design, interventions, and class projects intended to be shared outside of the classroom) so the District can determine whether Contractor's research must be submitted to the [DPS Research Review Board](#) for review and approval.

B

Confidential Information Belongs Solely To The District.

1. All Confidential Information is the District's exclusive property. Contractor therefore agrees that:
 1. Contractor shall keep secret and shall not disclose to any third

- party, take, or misuse any Confidential Information, or any other confidential and/or proprietary information Contractor acquires or has access to because of its provision of services to the District.
2. Contractor shall not use or seek to use any Confidential Information for Contractor's own benefit or for the benefit of any other person or business or in any way adverse to the District's interests.
 3. Contractor shall promptly advise the District of any unauthorized disclosure or use of Confidential Information by any person or entity.
 4. On the District's request or on termination of this Agreement, Contractor shall promptly return to the District all its property, specifically including all documents, disks, or other computer media or other materials in the Contractor's possession or control that contain any Confidential Information.
 5. Contractor shall cause each of its employees who may gain access to any Confidential Information to execute a confidentiality agreement reasonably acceptable to the District before disclosing any Confidential Information to that employee or permitting that employee to have access to any Confidential Information.
 6. Contractor understands that its obligations here shall continue indefinitely and shall survive the termination of this Agreement.

C

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 GENERAL CONTRACT TERMS

A

No Unauthorized Use of Names. Neither Party shall use the other's name, logo, or trademark in any advertisement, promotion, business card, or the like without the other Party's prior written consent in each instance.

B

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.

C

Open Records. Colorado Open Records Act § 24-72-201, et seq., C.R.S. ("CORA") applies to this Agreement, the Contractor's performance, and the records and reports generated thereunder, to the extent not prohibited by state or federal law. Any provision elsewhere in this Agreement or any Contractor document that purports to establish confidentiality in contravention of CORA is *void ab initio*.

D

Entire Understanding. This Agreement and all Schedules attached constitute the entire understanding and agreement of the Parties related to the purposes and subject matter of this Agreement. This Agreement supersedes and replaces any previous agreements of like nature between the Contractor and the District. To the extent that a conflict arises between the terms and conditions of this Agreement and any Schedule attached, the language of this Agreement shall control.

E

Captions and References. The captions and headings are for reference only and do not define or limit the provisions in this Agreement.

F

Governing Law and Jurisdiction. This Agreement shall be governed by and constructed in accordance with the laws of the State of Colorado, without regard to its principles concerning conflicts of interest. Any dispute arising out of this Agreement shall be heard in a court of competent jurisdiction over cases and controversies arising in Denver, Colorado.

G

Independent Contractor. The Contractor and its Contractor Personnel are independent contractor(s) and NOT employees of the District. The Contractor shall perform its duties solely as an independent contractor, shall pay when due all applicable employment taxes and income taxes for its employees incurred in the performance of the Agreement, and provide and keep in force workers' compensation and unemployment insurance as and in the amounts required by law.■

H

Modifications. The Parties may change the Agreement only in writing that is executed by the Parties. The District shall provide all changes in writing for execution by the Parties.

I

Order of Precedence. In the event of a conflict or inconsistency between or among any of the components of the Agreement, the provisions govern in the following order of precedence:

1. The DPA, if it is part of the Agreement.
2. The Agreement.
3. Any amendments to the Agreement in reverse chronological order.
4. The Solicitation Documents.
5. District Purchase Order.

J

Records and Audits. The Contractor shall maintain complete and accurate records of all charges the District incurs under the Agreement and other records related to the Agreement and performance thereunder, while the Agreement is in effect and for a period after the date of termination of the Agreement that is at a minimum as long as required by law. The Contractor shall keep such records in accordance with generally accepted accounting principles. The District may inspect and copy those records upon reasonable notice. This is in addition to other record keeping, reporting, and audit obligations that may be specified elsewhere in the Agreement components.

K

Severability. If a court of competent jurisdiction rules any Agreement provision to be illegal or otherwise invalid, then only the provision so found to be illegal or invalid shall be deemed removed, and all other provisions remain in effect.

L

Assignment Prohibited. The Contractor may assign its rights and delegate its obligations under this Agreement only with the prior written consent of the District, except as prohibited by law.

M

No Third-Party Beneficiary. This Agreement gives no rights or benefits to any person not a Party.

N

Counterparts. The Parties may execute the Agreement and subsequent amendments in two (2) counterparts, each of which is deemed an original, and all of which together shall constitute one and the same instrument, Photocopies, scans, electronic signatures, and facsimiles of executing signatures are valid evidence of execution.

O

Signature Authority. The signatories below represent and warrant that they have the authority to execute this Agreement on behalf of their respective organizations and bind their respective organizations to the terms of this Agreement. The District's signature authority for this Agreement is governed by the District's Board of Education Regulation DJA-R. 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.

P

No Waiver. A Party's failure to assert a right or remedy, or a Party's waiver of its rights or remedies by course of dealing or otherwise, is not a waiver of any other right or remedy under the Agreement or by law.

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

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

DPS 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 eight (8) 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 canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to nonpayment 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 Parties identified in the Notices section 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.

If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy. Transportation coverage under a Contractors Pollution Liability policy shall be an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.

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. Any combination of primary and excess coverage may be used to achieve required limits.

Builder's Risk and/or Installation Floater: Contractor shall maintain limits equal to the completed value of the project. Coverage shall be written on an all risk, replacement cost basis, including but not limited to coverage for soft costs, flood and earth movement (if in a flood or quake zone), and, if applicable, equipment breakdown coverage including testing. The School District No. 1 in the City and County of Denver, d/b/a Denver Public Schools, shall be an Additional Named Insured (or Loss Payee) under the policy. The Trustee (if applicable) shall be an Additional Named Insured and/or Loss Payee under the policy as their interest may appear pursuant to a lenders loss payable clause. The policies shall contain a waiver of subrogation by the issuer of such policies with respect to the District and the Trustee (if applicable), and their respective officers,

agents and employees while acting within the scope of their employment. Policy shall remain in force until final acceptance of the project by the District.

Contractors Pollution Liability (if applicable): Contractor shall maintain Contractors Pollution Liability coverage with limits of at least \$1,000,000 per occurrence and \$2,000,000 policy aggregate. The policy shall include but not be limited to bodily injury; property damage including loss of use of damaged property; contractual liability; defense costs including costs and expenses incurred in the investigation, defense, or settlement of claims; and clean-up costs.

Riggers Liability (if applicable): Contractor shall maintain Riggers Liability coverage with limits of at least \$1,000,000 for each occurrence and \$2,000,000 policy aggregate. In lieu of a separate policy, a Riggers Liability endorsement can be attached to the Commercial General Liability policy that modifies or deletes the "care, custody or control" exclusion.

Sexual Abuse, Molestation or Misconduct: Contractor shall maintain Sexual Abuse, Molestation or Misconduct coverage with limits of at least \$1,000,000.

Commercial Crime: 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.

Cyber/Network Security & Privacy Liability: 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.

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.

Other Insurance Provisions

Additional Insured Status: For Commercial General Liability, Auto Liability, Excess or Umbrella Liability, Pollution Liability (if applicable) and Riggers Liability (if applicable), 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 non-contributory 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 are 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.