

CONFIDENTIALITY AGREEMENT

This Agreement, dated and effective as of _____, 20__ (the "Effective Date"), is made and entered into by and between Highline School District No. 401 (the "School District") and _____ ("Recipient"). The parties agree as follows:

1. DEFINITIONS.

1.1 "Confidential Information" means any information of the School District, whether of a technical, educational, business or other nature (including, without limitation, information relating to the School District's facilities, records, student information, staff information, technology, software, products, services, designs, methodologies, business plans, finances or other affairs), that is disclosed to or learned by Recipient during the Term and that Recipient knows or has reason to know is confidential or proprietary information of the School District. Confidential Information also includes any information that has been made available to the School District by third parties (including, without limitation, students) that the School District is obligated to keep confidential. Confidential Information does not include any information that: (a) is acquired by Recipient from a third party and is not subject to an unexpired obligation to such third party restricting Recipient's use or disclosure thereof; (b) is independently developed by Recipient without use of any Confidential Information; or (c) is or has become generally publicly available through no fault or action of Recipient.

1.2 "Confidential Materials" means any document, diskette, tape, writing or other tangible item that contains any Confidential Information, whether in printed, handwritten, coded, magnetic or other form and whether delivered to or made by Recipient.

1.3 "Term" means the period beginning with the Effective Date and ending ten (10) days after either party gives the other written notice of termination.

2. RESTRICTIONS.

2.1 Confidential Information and Confidential Materials are made available to Recipient solely for the purpose of performing business services for and at the request of the School District. Recipient will not use, disclose, disseminate or distribute any Confidential Information or Confidential Materials for any other

purpose without the prior written consent of the School District.

2.2 Recipient will protect all Confidential Information and Confidential Materials from any unauthorized use, disclosure, copying, dissemination, publication or distribution. Without limitation of the foregoing, Recipient will: (a) make the Confidential Information and Confidential Materials available only to those of its employees, agents and other representatives who have a need to know the same for the purpose specified in Section 2.1, who have been informed that the Confidential Information and Confidential Materials belong to the School District and are subject to this Agreement, and who have agreed or are otherwise obligated to comply with this Agreement; (b) not disclose the Confidential Information to any third party; (c) make or copy the Confidential Materials only as reasonably required for the purpose specified in Section 2.1; (d) not deliver, distribute, display, demonstrate or otherwise make available the Confidential Materials to any third party except as provided in clause (a) above; (e) not reverse engineer, decompile or disassemble any computer program included in such Confidential Materials except to the extent permitted by law; and (f) not remove or obliterate markings (if any) on Confidential Information indicating its proprietary or confidential nature. In any event, Recipient will be responsible for any breach of this Agreement by anyone receiving Confidential Information or Confidential Materials from or through Recipient. Recipient will, at its sole expense, take all reasonable measures (including, but not limited to, court proceedings) to restrain prohibited or unauthorized disclosure or use of the Confidential Information or Confidential Materials by anyone receiving the Confidential Information or Confidential Materials from or through Recipient.

2.3 Notwithstanding Section 2.2, Recipient may disclose or produce any Confidential Information or Confidential Materials if and to the extent required by any discovery request, subpoena, court order or governmental action, provided Recipient gives the

School District reasonable advance notice of the same (e.g., to afford the School District a reasonable opportunity to appear, object and obtain a protective order or other relief regarding such disclosure).

2.4 All Confidential Information and Confidential Materials are the property of the School District. This Agreement will not be interpreted or construed as granting any license or other right under any patent, copyright, trademark, trade secret or other proprietary right. Recipient will hold all Confidential Materials in trust for the School District and will promptly destroy them or deliver them to the School District upon the earlier of the School District's request or when they are no longer needed for the purpose described in Section 2.1. Upon the School District's request, Recipient will certify its destruction of such Confidential Materials.

2.5 Recipient will comply with any and all applicable laws relating to the use, disclosure, copying, dissemination and distribution of any Confidential Information or Confidential Materials (including, but not limited to, any and all laws relating to the School District's proprietary rights in, and obligations regarding, such Confidential Information, the Washington Public Records Act, Chapter 42.56 RCW, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g).

3. MISCELLANEOUS.

3.1 The School District does not make any representation or warranty of any kind, express or implied, with regard to any Confidential Information or Confidential Materials. Without limitation of the foregoing, the Confidential Information and Confidential Materials are made available under this Agreement "**AS IS, with all defects, errors, and deficiencies, and**

without any representation or warranty as to completeness or accuracy.

3.2 Recipient's obligations with respect to any Confidential Information and Confidential Materials will survive any termination of the Term.

3.3 In the event of any breach of this Agreement, the School District may suffer irreparable harm and have no adequate remedy at law. In such event or the threat of any such event, the School District will be entitled (in addition to any and all other remedies) to injunctive relief, specific performance and other equitable remedies without proof of monetary damages or the inadequacy of other remedies.

3.4 The prevailing party will be entitled (in addition to any and all other remedies) to recover any and all costs and expenses (including, without limitation, reasonable attorneys' fees) that it may incur in connection with any legal action to enforce this Agreement or to recover damages or other relief on account of any breach of this Agreement.

3.5 This Agreement will be interpreted, construed and enforced in accordance with the laws of the State of Washington without regard to its choice of law principles to the contrary. Recipient hereby irrevocably consents to the jurisdiction and venue of any state or federal court located in King County, Washington, with regard to any legal action or proceeding relating to this Agreement.

3.6 This Agreement will not be construed as an obligation by either party to enter into a contract, subcontract, or other business relationship.

3.7 This Agreement may not be amended, except by a writing signed by the party against whom such amendment is to be enforced.

Recipient:

By: _____
Its: _____

Highline School District No. 401:

By: _____
Its: _____