

Purchase Order Terms and Conditions

Assignment. Neither the District nor the Contractor shall assign this Agreement, either in whole or in part, without the prior written consent of the other party, which shall not be unreasonably withheld. Any assignment permitted under this clause does not relieve either party from its duties or obligations under this Agreement.

Assurances. The District and the Contractor agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state, and local laws, rules, and regulations.

Background Checks. Consistent with RCW 43.43.834, the Contractor shall require each applicant for employment or volunteer who may have contact with children or vulnerable adults to disclose whether he or she has been convicted of a crime and/or had findings made against him or her in any civil adjudicative proceeding as defined in RCW 43.43.830. The Contractor shall conduct criminal background checks, including fingerprinting, in accordance with RCW 43.43.830 through 43.43.835, as now or hereafter amended, on all employees or volunteers who will or may have contact with children or vulnerable adults in the work to be performed under this Contract. Pursuant to RCW 28A.400.330, the Contractor shall not permit any employee, subcontractor, intern or volunteer from performing work under this Contract who has pled guilty to or been convicted of any felony crime specified under RCW 28A.400.322 as it now exists or is hereafter amended. Failure to comply with this provision shall be grounds for the District immediately terminating the contract. The Contractor shall incorporate this requirement into every subcontract it enters relating to services with the District. .

Certification Regarding Debarment, Suspension, and Ineligibility. If federal funds are expended under this Agreement, the Contractor certifies that neither it nor its principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions by any federal department or agency.

Certification Regarding Fraud, Bribery or Gratuity Violations. If federal funds are expended under this Contract, by signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information or the omission of any material fact, may subject me to criminal civil or administrative penalties for fraud, false statements, false claims, or otherwise. I agree to disclose in writing, in a timely manner, to the **District**, any violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award; and any potential conflict in accordance with applicable Federal policy.

Certification Regarding Minimum Wage Requirements and Labor Standards. By signing this purchase order, the Contractor certifies that within a 3-year period preceding this purchase the Contractor has not been determined through a civil

judgement entered by a court of limited or general jurisdiction to have willfully violated minimum wage requirements or labor standards as defined in RCW 49.46.

Confidentiality. The Contractor acknowledges that certain data, material, or information which originates from this Contract regarding students, may consist of confidential records owned by the District or confidential personally identifiable information subject to the federal Family Educational Rights and Privacy Act or other privacy laws, and that disclosure to or use by third parties would be damaging. The Contractor, therefore, agrees to hold all such material and information in strictest confidence, not to make use thereof other than for the performance of this Contract, to release it only to authorized employees and agents requiring such information and not release or disclose it to any other party. The Contractor agrees to release such information or material only to employees and agents who have signed a written agreement expressly prohibiting redisclosure.

Insurance.

- a. **Liability Insurance.** The Contractor shall maintain liability insurance as required by the District covering work being performed.
- b. **Additional Insured.** The District shall be specifically named as an additional insured on all policies and all policies shall be primary to any other valid and collectible insurance.
- c. **Proof of Insurance.** Certificates and/or evidence satisfactory to the District confirming the existence, terms, and conditions of all insurance required in this Contract shall be delivered to the District's representative within five (5) days of the Contractor's receipt of authorization to proceed. The policy of insurance that must be maintained in accordance with this Purchase Order and shall not be cancelled or given notice of non-renewal nor shall the terms and conditions thereof be altered or amended without forty-five (45) days written notice being given to the District's Superintendent or designee.

Entire Agreement. This Agreement, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

Ethical Conduct. The Contractor certifies that he/she/it, or his/her/its employees or agents, has not given, offered, provided, promised, pledged or been solicited to provide anything of economic value to a District official, employee or agent, as a gift, gratuity, commission or favor that may influence the selection of the Contractor for the work to be performed under this Contract. No director, employee, or agent of the Contractor shall enter into any non-consumer business arrangement with any director, employee, or agent of the District without prior written notice to the District superintendent or designee. Neither the Contractor nor any employee or agent of the Contractor shall participate in the performance of any duty or service in whole or part under this Contract in violation of any law, regulation, or policy that prohibits the use of public resources for political purposes.

Federal Employer Identification Number (FEIN) and State of Washington UBI#.

The FEIN must be on file with the district in order to receive payment. Note for individuals, their Social Security Number may be substituted for the FEIN. A UBI# can be obtained from the Department of Licensing and is required to do business in the state.

Force Majeure Neither Party shall be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor due to any likely or unforeseeable conditions stated above. If a party seeks to rely on a force majeure event, that party shall notify the other party within 10 days of the reason for and anticipated period of delay.

Governing Law. The laws of the state of Washington shall govern this Contract. Pierce County, Washington shall be the venue for any litigation arising out of this Contract.

Indemnification. Each party to this Agreement (the "Indemnifying Party") shall defend, indemnify, and hold the other party, and its officers, board members, agents and employees, harmless from and against any and all claims, demands, losses, liabilities, actions, lawsuits, or expenses, including, without limitation, reasonable attorney fees, arising or resulting from, related to, or connected with, the performance of this Agreement or representations or warranties contained therein by the Indemnifying Party, including any loss, damage, corruption, or improper or unauthorized disclosure of confidential or proprietary information or data, or acts or omissions of negligence, willful misconduct, or fraud of the Indemnifying Party, or its employees or agents, to the fullest extent permitted by law and subject to the limitations provided below.

The Indemnifying Party's duty to indemnify and defend the other party shall not apply to liability for damages arising out of, caused by, or resulting from the sole negligence of the other party and its officers, board members, agents and employees.

The Indemnifying Party's duty to indemnify the other party for liability for damages arising out of, caused by, or resulting from the concurrent negligence of each party shall apply only to the extent of negligence of the Indemnifying Party or its agents or employees.

The Indemnifying Party's duty to indemnify the other party for any liabilities or losses caused by or resulting from negligence shall apply only to the extent of the fault of the Indemnifying Party, its agents or employees, except in situations where fault is not a requirement for liability, in which case indemnity will be provided to the extent the liability or loss was caused by the Indemnifying Party, its agents or employees.

The Indemnifying Party's duty to defend, indemnify, and hold the other party harmless as to all claims, demands, losses, and liabilities shall include the other party's personnel-related costs, reasonable attorney fees, court costs, and all related expenses.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the District and its agents, employees, or officials.

Claims shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in an unfair trade practice or in unlawful restraint of competition.

Worker's Compensation Coverage. The Contractor shall at all times comply with all applicable worker's compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the fullest extent applicable.

Non-Discrimination. The Contractor shall comply with all the federal, state, and local non-discrimination laws, ordinances, regulations and policies, which are otherwise applicable to the District.

Payments. The District shall not make payments in advance or in anticipation of services or supplies to be provided under this Agreement. All payments to the Contractor are conditioned upon (1) Contractor's submission of a properly executed and supported voucher for payment, including such supporting documentation of performance and supporting documentation of costs incurred or paid, or both as is otherwise provided for in the body of this Agreement, and (2) acceptance and certification by the BRC/program authority of satisfactory performance by the Contractor. Unless otherwise noted in this Agreement, (1) all acceptable vouchers for payment due to the Contractor shall be paid within thirty (30) calendar days of their submission by the Contractor, and (2) all expenses necessary to the Contractor's performance of this Agreement shall be borne in

full by the Contractor.

Rights in Data and Publications. Data that is developed pursuant to this Contract shall be “works for made for hire” as defined by the U.S. Copyright Act of 1976, as amended, and shall be deemed authored and owned by the District. Ownership includes ownership of all intellectual concepts and properties embodied in the data, the right to copyright, patent or register data and the right to transfer those rights.

Termination for Convenience. Except as otherwise provided in this Agreement, the District’s Superintendent or designee may, by ten (10) days written notice beginning on the second day after the mailing, terminate this Agreement in whole or in part. The notice shall specify the date of termination and shall be conclusively deemed to have been delivered to and received by the Contractor as of midnight the second day of mailing in the absence of proof of actual delivery to and receipt by the Contractor. If this Agreement is so terminated, the District shall be liable only for payment required under the terms of the Agreement for services rendered or goods delivered prior to the effective date of termination.

Termination for Default. The District may terminate this Agreement for default, in whole or in part, by written notice to the Contractor if the District’s Superintendent or designee has a reasonable basis to believe that the Contractor has:

- a. Failed to meet or maintain any requirements for Contracting with the District;
- b. Failed to ensure the health or safety of any client for whom services are being provided under this Agreement;
- c. Failed to perform under, or otherwise breached, any term or condition of this Agreement; and/or
- d. Violated any applicable law or regulation.

In such event, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Agreement and the replacement Agreement, e.g., cost of the competitive bidding, mailing, advertising and staff time; provided that if (i) it is determined for any reason the Contractor was not in default, or (ii) the Contractor’s failure to perform is without Contractor’s and/or subcontractor’s control, fault or negligence, then the termination shall be deemed a “Termination for Convenience.”

Termination. After receipt of a notice of termination, and except as otherwise directed by the District, the Contractor shall Stop work under this Agreement on the date and to the extent specified, in the notice and place no further orders or subcontracts for materials or service

