## *Restriction on Use of Confidential Information Agreement*

This Restriction on Use of Confidential Information Agreement (referred to herein as "Agreement") is made and entered into by and between:

_____ (referred to herein as "Independent Contractor")

and

**Provo City School District** (referred to herein as the "District").

As applied herein, the term "Business Relationship" shall mean any dealing, contract, negotiation, solicitation, or other business contact or relationship between Independent Contractor and the District.

This Agreement shall apply retroactively to any Business Relationship and shall continue concurrently with any Business Relationship until such time as any and all Business Relationships are terminated.

### RECITALS

Independent Contractor desires to enter into a Business Relationship or desires to continue under a current Business Relationship to provide services to the District that may require accessing information from the District. The parties desire to enter into this Agreement to allow the Independent Contractor such access to the information from the District upon the terms and conditions set forth below.

### AGREEMENT

The parties agree as follows:

1   Any and all personally identifiable student or employee information including but not limited to name, address, social security number, student identification number, health or medical records, telephone number, teachers, classes, class schedule, grades, digital media, and any other student or employee information of any kind is deemed confidential and shall not be released or disclosed in any form or manner unless authorized by the District in writing. In addition, all information the release of which is prohibited by state or federal law or regulation, including but not limited to the protections of the Family Educational Rights and Privacy Act (referred to herein as "FERPA"), the Government Records Management Act (referred to hereafter as "GRAMA"), and the Health Insurance Portability and Accountability Act (referred to hereinafter as "HIPAA") which is obtained by Independent Contractor from the District, its students, faculty, or staff constitutes confidential information (referred to collectively with the aforementioned confidential information as "Confidential Information"). Independent Contractor agrees to hold the Confidential Information in strictest confidence. Independent Contractor shall not use or disclose Confidential Information received from or on behalf

of the District or any of its students, faculty, or staff except as permitted or required by this Agreement, or otherwise as agreed in writing by the District.

2    Independent Contractor agrees that it will protect the Confidential Information it obtains according to commercially acceptable standards and no less rigorously than it protects its own confidential, secret, or sensitive information. Specifically, Independent Contractor shall implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all Confidential Information. Any Confidential Information that is transmitted to or from the District shall be secure.  Any electronic data stored by Independent Contractor must be secure and backed up with a tested data recovery strategy in place as approved by the District.

3    Within 30 days of termination, cancellation, expiration, or other conclusion all Business Relationships, Independent Contractor shall return to the District or, if return is not possible, destroy and not retain any copies of any and all Confidential Information that is in possession or control of Independent Contractor and certify in writing that all copies of the Confidential Information in its possession or control have been returned or destroyed.

4    The obligations of this Agreement shall not apply to any information which (a) is already in the public domain through no breach of this Agreement, including but not limited to information available through the District's web site(s); (b) was lawfully in Independent Contractor's possession prior to receipt from the District, its affiliates, subsidiaries, employees, faculty, staff, or students; or (c) is received by Independent Contractor independently from a person or entity free to lawfully disclose such information other than the District, its affiliates, subsidiaries, employees, faculty, staff, or students.

5    Independent Contractor warrants and represents that it shall, at all times, comply with the terms of this Agreement and with FERPA, GRAMA, and HIPAA and further agrees not to disclose or re-disclose to any person or entity for any purpose whatsoever any Confidential Information as that term is defined by this Agreement, FERPA, GRAMA, and HIPAA.

6    Independent Contractor agrees to indemnify, hold harmless, and defend the District and its board, officers, directors, agents, representatives, employees, assigns, affiliates, and successors in interest from and against any and all suits, claims, or causes of action, and Independent Contractor agrees to pay all charges, costs, damages, demands, expenses, attorney fees, costs of litigation, judgments, fines, penalties, liabilities, or losses of any kind or nature whatsoever, in each case that are paid or payable to a third party and that arise out of or are in any way connected with: (a) any unauthorized release of Confidential Information committed, encouraged, or facilitated by Independent Contractor, its officers, employees, affiliates, or agents; (b) Independent Contractor's failure to comply with this Agreement; (c) any violation of FERPA, GRAMA, or HIPAA committed, encouraged, or facilitated by Independent Contractor, its officers, employees, affiliates, or agents; or (d) any release of Confidential Information resulting from a flaw, error, omission, defect, or lack of proper security measures in the software or service provided by Independent Contractor.

7    In an attempt to safeguard the District's reputation, community relations, and goodwill, Independent Contractor agrees to take all reasonably necessary steps to mitigate any damage or potential damage suffered by any third party, or indemnify or otherwise reimburse the District for all reasonable costs and expenditures made by the District to mitigate any damage or potential damage suffered by any third party as a result of (a) any unauthorized release of Confidential Information committed, encouraged, or facilitated by Independent Contractor, its officers, employees, affiliates, or agents; (b) Independent Contractor's failure to comply with this Agreement; (c) any violation of FERPA,

GRAMA, or HIPAA committed, encouraged, or facilitated by Independent Contractor, its officers, employees, affiliates, or agents; or (d) any release of Confidential Information resulting from a flaw, error, omission, defect, or lack of proper security measures in the software or service provided by Independent Contractor.  .

8    The prevailing party to any litigation brought to enforce the terms of this Agreement shall be entitled to an award of its attorney's fees and costs.

9    This Agreement may not be modified except by the written consent of the District.


**INDEPENDENT CONTRACTOR:**

Date: _____

_____ (Independent Contractor)

By _____

Title:_____


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