

PROVO CITY SCHOOL DISTRICT

280 West 940 North

Provo, UT 84604

6220 F2

SERVICE AGREEMENT

This Agreement is entered into by and between PROVO CITY SCHOOL DISTRICT, (“District”) and _____ (“Provider”).

[full legal name of person or entity]

RECITALS

1. The District, a public school district in good standing with the State of Utah, desires to hire Provider to provide specific services (hereinafter defined).
2. Provider agrees to perform these services for District under the terms and conditions set forth in this Agreement and its exhibits.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS

1. Effective Date: This Agreement shall have a term commencing on _____ (effective date) and ending on _____ (termination date) unless mutually extended by both Parties hereto in writing.
2. General Scope of Services/Payment: The services to be provided by the Provider and the compensation to be paid for those services are outlined in Exhibit 1 to this Agreement. Exhibit 1 is attached hereto and incorporated by reference. The services provided are _____.
3. Legal Relationship: Provider is an independent contractor and no agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by this Agreement.
4. Venue/Jurisdiction/Governing Law: The Parties consent to the exclusive jurisdiction and venue of the Courts located in the state of Utah, Utah County in any action arising out of or relating to this Agreement. Furthermore, the Parties waive any objection to jurisdiction or venue of such forums or that the forum is inconvenient and agree not to bring any such action in any other jurisdiction or venue to which either Party might be entitled by domicile or otherwise. Any mediation or arbitration arising out of this Agreement shall occur exclusively within the State of Utah. Utah law shall govern any legal action, mediation or arbitration, irrespective of Utah’s choice of law provisions.
5. Indemnification:
 - a. Provider undertakes and agrees to indemnify, hold harmless and defend (at the option of the District), the District and its board, officers, directors, agents, representatives, employees, assigns, affiliates, and successors in interest, from and against any and all suits and causes of action, claims, charges, costs, damages, demands, expenses, attorney’s fees, cost of litigation, judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever, arising out of or in any way connected with the Provider’s conduct including acts, omissions, failure to act, or negligence of Provider’s employees agents, volunteers, patrons, and invitees, except where a claim arises out of the sole negligence of the District.

- b. The District undertakes and agrees to indemnify, hold harmless and defend Provider and its board, officers, directors, agents, representatives, employees, assigns, affiliates, and successors in interest, from and against any and all suits and causes of action, claims, charges, costs, damages, demands, expenses, attorney's fees, cost of litigation, judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever, arising out of acts, omissions, failure to act, or negligence of District's employees, agents, volunteers, patrons, and invitees, except where a claim arises out of the sole negligence of Provider.

6. Affirmations/Representations:

- a. *District.* The District will at all times fully comply with all rules, regulations, and standards necessary to maintain its accreditation, including any and all obligations and responsibilities imposed by the District's individual governing body. At all times during the term of this Agreement, the District will perform all obligations and responsibilities necessary to stay in good standing with the State, the State Board of Education, the local School Board, and any other individual or organization responsible for the District or charged with oversight of the District.
- b. *Provider.* Provider represents and warrants that, in undertaking any action necessary to provide the service(s) described in Exhibit 1, Provider *has complied and will continue to comply* with any and all Utah State and Federal regulations and laws governing any such action.
- c. *Authority.* The District hereby represents and warrants that it has been duly authorized to execute and deliver this Agreement and that it is acting within the authority and power granted to it by its charter. Provider represents and warrants that it is authorized to and capable of timely performing the services described in Exhibit 1.

7. Default: A Party must *first* provide written notice (as described in paragraph 10, below) of any material breach (hereinafter described) to the breaching Party and allow the breaching Party twenty-four (24) hours to remedy the breach. The breaching Party must remedy the breach or default within 24 hours of receiving written notice thereof. A "material breach" includes (but is not limited to) the following:

- a. Failure to pay any amounts in accordance with this Agreement and Exhibit 1;
- b. Failure to perform or comply with any of the conditions or obligations of this Agreement;
- c. If it is discovered that any of the representations made herein are inaccurate or become inaccurate at any point during the operative term of this Agreement.

8. Non-Waiver: The failure of a Party to insist on strict performance of any of the terms and conditions of this Agreement or Exhibit 1 shall not be deemed a waiver of the rights or remedies that Party may have regarding that specific instance, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

9. Remedies: In the event of any default hereunder, the rights of the non-defaulting Party shall be as follows: (a) all damages proximately resulting from the default or breach; (b) an injunction to restrain the breach or to require performance of the Agreement; (c) termination of the Agreement, as well as all of the defaulting Party's rights and interests in the Agreement, and/or (d) any other remedy available at law or equity. The remedies available are cumulative.

10. Notices: All notices required by this Agreement to the other Party may be effectuated as follows: (a) email with return receipt activated to establish proof of email delivery to the other Party, (b) mailed by first-class registered or certified mail, postage prepaid, or (c) hand-delivered. Notices shall be provided to the Parties at the address listed below in the signature boxes. Any Party may change its address by giving ten days prior written notice to the other Party by one of the methods provided above.

11. Enforcement of Agreement: If any Party shall seek to enforce or protect its rights under this Agreement or under any document or instrument executed and delivered in connection herewith in any action, suit,

arbitration, or other proceeding, including all bankruptcy cases and proceedings, the prevailing Party shall be entitled to receive from the other Party payment of its costs and expenses, including reasonable attorneys' fees incurred (whether such costs or fees are incurred before or after the commencement of the proceeding), including any and all appeals or petitions therefrom.

12. Severability: The provisions hereof are severable and the invalidity of any provision hereof will not invalidate any other provision.
13. Captions: The captions to sections and subsections of this Agreement are solely for the convenience of the Parties, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.
14. Non-Assignability: Neither Party may assign their obligations or duties hereunder unless the other Party agrees to such assignment in writing.
15. Modifications: Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement shall be binding only if placed in writing and expressly agreed to by both Parties.
16. Entire Agreement: This Agreement constitutes the entire agreement and only understanding between the Parties. No other terms, written or oral, shall be admissible to demonstrate any variance with or interpretation of the express terms contained in this Agreement unless signed in writing by both Parties.

AGREED TO AND AFFIRMED BY THE PARTIES:

<p>Provo School District</p> <p>By: _____ [authorized signatory]</p> <p>Position: <u>Business Administrator</u></p> <p><i>Address:</i> 280 West 940 North Provo, UT 84604</p> <p><i>Tel:</i> <u>801.374.4800</u></p> <p><i>Email:</i> <u>stefb@provo.edu</u></p> <p><i>Fax:</i> _____</p>	<p>Provider: _____</p> <p>By: _____ [authorized signatory]</p> <p>Position: <u>external contractor</u></p> <p><i>Address:</i> _____ _____ _____</p> <p><i>Tel:</i> _____</p> <p><i>Email:</i> _____</p> <p><i>Fax:</i> _____</p>
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EXHIBIT 1

Services:

Access:

Access _____

Payment Terms:

Services will be rendered at a rate of _____

Payment will be made to provider when invoiced, and upon receipt of W-9.