

PROFESSIONAL SERVICES AGREEMENT

WHEREAS, ANKENY COMMUNITY SCHOOL DISTRICT (“District”), an Iowa public school district, intends to contract with (“Vendor”) to provide _____ to the District.

THEREFORE, in consideration of the mutual promises and representations set forth herein, the parties enter into this Professional Services Agreement (“Agreement”) and agree as follows:

I. SCOPE OF SERVICES

- A. District shall engage Vendor for the term of this Agreement to provide _____

II. RELATIONSHIP OF THE PARTIES

- A. Notwithstanding anything in this Agreement to the contrary, Vendor will be solely and exclusively responsible for providing services under this Agreement. All staffing and operations associated with the provision of the services are the sole and exclusive responsibility of Vendor.
- B. Neither Vendor, nor any of its personnel, shall be considered an agent and/or an employee of District for any purpose. Vendor does not have any authority to enter into any contract, assume any obligations, and/or make any warranties or representations on behalf of District.
- C. District is not responsible for deducting from payments to Vendor any amounts for taxes, insurance, and/or other similar items relating to Vendor's work with respect to this Agreement. Accordingly, Vendor shall be responsible for payment of all taxes arising out of Vendor's activities in accordance with this Agreement, including but not limited to, any relevant federal and/or state income tax, Social Security tax (FICA), unemployment insurance taxes (FUTA), and any other taxes or business license fees as required. Vendor shall further assume exclusive responsibility for the filing of all tax returns due in connection with all amounts paid to Vendor under the terms of this Agreement.

- D. No payroll or employment taxes of any kind shall be withheld or paid with respect to payments to Vendor. The payroll or employment taxes that are subject to this paragraph include, but are not limited to, FICA (Social Security tax), FUTA (federal unemployment tax), federal income tax, state income tax and state unemployment insurance tax.
- E. Vendor, its agents, and its employees are not eligible for, and shall not participate in, any employee pension, health, disability and/or other fringe benefit plan of the District.
- F. District shall in no way be responsible for the acts or omissions of Vendor, its employees, and/or agents.

III. ASSIGNMENT

- A. Vendor acknowledges that Vendor's services are unique. Accordingly, Vendor may not assign Vendor's rights and/or delegate Vendor's duties and/or obligations under this Agreement to any third party without express prior written consent of District.

IV. TERM AND TERMINATION

- A. Agreement shall begin on _____ and shall continue in effect through _____ unless earlier terminated by either party in accordance with Section IV.B of this Agreement.
- B. This Agreement may be terminated by either party, without cause, upon thirty (30) days written notice. Either party may terminate this Agreement, with cause, immediately. Upon termination, Vendor shall be compensated for all services rendered prior to the date of termination.

V. PAYMENT

- A. District shall pay Vendor a total of _____ to complete the work outlined in the Scope of Services. Said payment shall be paid _____
- B. Vendor shall direct invoices to: Ankeny Community School District, ATTN: Business Office, 306 SW School Street, Ankeny, Iowa 50023.

- C. District shall render payment to Vendor via check within 30 days of receipt of said invoice.

VI. BACKGROUND CHECKS

- A. Vendor shall ensure that any and all of its employees and/or agents who are present on District property and/or who interact in-person and/or virtually with District students, staff, and/or other identified stakeholders complete and pass an industry-standard criminal history background check and all sound screening practices, including but not limited to legally-required Sex Offender Registry Certificate of Compliance, prior to the start date. Vendor agrees to work with the District's Business Office on completion of the above.
- B. The cost of background check(s) required under this Agreement will be borne by District.
- C. Unsatisfactory results of the background check(s) may result in Vendor's, its agent(s'), and/or its employee(s') disqualification from performance of services under this Agreement and/or immediate termination of this Agreement. District shall have sole discretion to determine if the results from the background check(s) meet District standards.

VII. CONFIDENTIALITY

- A. In the performance of services under this Agreement, Vendor, its employees, and/or its agents may have access to and/or receive and/or be entrusted with confidential information. All such material is considered secret and will be available to Vendor in strict confidence.
- B. Except in the performance of its services, Vendor, its employees, and/or agents, shall not, directly or indirectly, for any reason whatsoever, disclose and/or use any such confidential material until such material ceases, through no fault whatsoever of Vendor, to be confidential because it has become public knowledge or part of the public domain.
- C. Upon termination of this Agreement by any means, or whenever requested by District, Vendor shall promptly deliver to District any and all of the confidential material not previously delivered that may be and/or at any previous time(s) have been in Vendor's possession and/or under Vendor's control. Vendor agrees that this confidentiality provision shall survive and continue after the termination of this Agreement for any reason whatsoever.
- D. Vendor shall limit its employees' and/or agents' access to students' educational records to those persons for whom access is essential to the performance of services carried out under the Agreement. Vendor shall, at all times and in all respects, comply with the terms of the Family Educational Rights and Privacy Act of 1974, as amended.

VIII. INTELLECTUAL PROPERTY

- A. District shall own all rights, titles, and interests, including all related Intellectual Property

Rights, in and to work product, including any suggestions, ideas, enhancement requests, feedback, recommendations and/or other information provided by Vendor and/or any other party relating to the services covered by this agreement.

- B. District name and logo(s) are trademarks of District, and no right or license is granted to Vendor use them other than in the provision of services for District under the terms of this Agreement.

IX. INSURANCE

- A. No workers' compensation insurance and/or any other type of insurance (including, but not limited to, professional liability insurance) has been or will be obtained by District on account of Vendor.
- B. Vendor shall maintain insurance and practices in alignment with *Appendix A: Vendor's Minimum Insurance Requirements*. Upon request of District, Vendor shall provide proof of said insurance coverage.

X. INDEMNIFICATION

- A. Vendor shall indemnify and hold District harmless from and against all liabilities, claims, debts, taxes, obligations, costs and/or expenses (including reasonable attorney's fees, court costs and costs of appeal) that District may incur or sustain as a result of any breach of this Agreement or negligent or other wrongful conduct in the performance of this Agreement by Vendor or as a result of failure to pay any employment or income taxes arising out of Vendor's performance of Services for the District.

XI. AMENDMENTS

- A. This Agreement may only be supplemented, amended or revised in writing by mutual agreement of the parties.

XII. GOVERNING LAW

- A. This Agreement shall be governed by and construed pursuant to the laws of the State of Iowa. Any claim or dispute which may arise out of this Agreement shall be heard in a court of competent jurisdiction in Polk County, Iowa, unless otherwise agreed by the parties.

XIII. SEVERABILITY

- A. If any provision of this Agreement is determined to be invalid by a court of competent jurisdiction, then such provision shall be deemed null and void, but without invalidating the remaining provisions.

XIV. ENTIRE AGREEMENT

- A. This Agreement constitutes the complete and entire agreement between the parties and no other representations, promises or agreements, oral or otherwise, shall be of any force or effect.

In consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the parties have entered into this agreement and have caused their duly authorized representatives to execute this agreement.

Ankeny Community School District

By: _____
Aaron Johnson
President, Board of Education
Ankeny Community School District
306 SW School Street
Ankeny, Iowa 50023

Date: _____

By: _____

Date: _____

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shall be primary and non-contributory to any of the owner's policies and shall apply to both ongoing and completed operations.

6. **Insurance Certificates** Each policy noted above shall be issued by an insurance company authorized to write such insurance in the State of Iowa and shall be reasonably acceptable to the School. These insurance policies shall not be cancelled without at least 30 days prior written notice to the School. A properly executed Certificate of Insurance showing evidence of these insurance requirements shall be delivered to the School prior to the commencement of this lease.
7. **Government Immunity** The following clauses will be added to all liability coverages:
 - a. The company and the insured expressly agree and state that the purchase of this policy of insurance by the insured does not waive any of the defenses of governmental immunity available to the insured under Iowa Code Section 670.4 as it now exists and as it may be amended from time to time.
 - b. The company and the insured further agree that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under Iowa Code Section 670.4 as it now exists and as it may be amended from time to time.
8. **Subrogation** To the extent that such insurance is in force and collectible and to the extent permitted by law, the School and Vendor each hereby releases and waives all right of recovery against the other or anyone claiming through or under each of them by way of subrogation or otherwise, except in cases of gross negligence.
9. **Property Insurance** Unless otherwise provided, the Owner shall purchase and maintain property insurance on the project in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made. This insurance shall include interests of the Owner, the Vendor, Subcontractors and Sub-subcontractors in the Project.

Property insurance shall be on an "all-risk" or equivalent policy form and shall include insurance against the perils of fire, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, testing and debris removal including demolition occasioned by enforcement of any applicable legal requirements, depending on availability. The property insurance may contain sub-limits for these coverages. At the option of the school district, the insurance covering the project may be written under a Builder's Risk policy or covered under the District's permanent property insurance.
10. **Professional Insurance** If the Vendor is required to furnish professional services as part of the Work, the Vendor shall purchase Professional Liability insurance covering performance of the professional services, with policy limits of not less than \$1,000,000 per claim and \$1,000,000 in the aggregate.
11. **Pollution Insurance** If the work involves the transport, dissemination, use or release of pollutants, the Vendor shall purchase Pollution Liability insurance, with policy limits of not less than \$1,000,000 per claim and \$1,000,000 in the aggregate.

12. Coverages under sections 10 and 11 may be purchased through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than \$1,000,000 per claim and \$1,000,000 in the aggregate.
13. **Aircraft Insurance** If the work requires use or operation of manned or unmanned aircraft, including drones, the Vendor shall purchase coverage with policy limits of not less than \$1,000,000 per claim and \$1,000,000 in the aggregate.