

Interagency Agreement
between
Utah State Board of Education
and
Division of Juvenile Justice Services

This Interagency Agreement (**Agreement**) is entered into between the Utah State Board of Education, referred to herein as “**USBE**” or “**Board**,” and Division of Juvenile Justice Services, referred to herein as “**DJJS**” or “**Contractor**.”

Now therefore, the parties agree as follows:

1. General Purpose of the Agreement:

To provide key educational services and products to incarcerated youth during out-of-school hours in order to aid the students to acquire educational opportunities that students not incarcerated acquire during school hours and that also aid students in custody to gain positive marketable skills that will enhance positive outcomes post release.

2. Background:

USBE annually contracts with DJJS to provide selected educational services and to purchase related products for eligible students in selected JJS sites.

3. Period of Performance:

Services under this Agreement shall commence upon execution of this and be completed *by* September 30, 2018, unless terminated sooner in accordance with the terms and conditions herein.

4. Allocation of Funds:

The amount payable to the Contractor for the performance of services outlined in this Agreement is not to exceed \$169,000 and shall be expended in accordance with the attached budget.

5. Allowable Costs and Payments:

Funds paid to Contractor may only be used for the purposes specified in the Scope of Work attached hereto and in accordance with all applicable governmental laws and regulations. Payment will be made to Contractor within 30 days from receipt and approval of monthly or quarterly or insert invoice plan invoices. Contractor shall provide evidence of work performed with each invoice submitted.

6. Attachments Included as part of this Agreement:

Attachment A – Interagency Terms and Conditions

- Attachment B – Scope of Work
- Attachment C – Budget Information
- Attachment D – FERPA Terms and Conditions

Signatures:

In witness whereof, the parties sign and cause this Interagency Agreement to be executed.

_____, _____
Division of Juvenile Justice Services

Date

_____, _____
Utah State Board of Education

Date

ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS FOR SERVICES

This is for a contract between Government Entities within the State of Utah for services (including professional services) meaning the furnishing of labor, time, or effort by a contractor. These terms and conditions may only be used when both parties are government entities or political subdivisions as defined in the Utah Government Immunity Act.

- **DEFINITIONS:** The following terms shall have the meanings set forth below:
 - a) “Confidential Information” means information that is deemed as confidential under applicable state and federal laws, including personal information. The State Entity reserves the right to identify, during and after this Purchase Order, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
 - b) “Contract” means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term “Contract” may include any purchase orders that result from the parties entering into this Contract.
 - c) “Contract Signature Page(s)” means the State of Utah cover page(s) that the State Entity and Contractor sign.
 - d) “Contractor” means the individual or entity delivering the Services identified in this Contract. The term “Contractor” shall include Contractor’s agents, officers, employees, and partners. The Contractor is also a State Entity but for the purposes of this Agreement, shall be referred to as Contractor.
 - e) “Services” means the furnishing of labor, time, or effort by Contractor pursuant to this Contract. Services shall include, but not limited to, all of the deliverable(s) that result from Contractor performing the Services pursuant to this Contract. Services include those professional services identified in Section 63G-6a-103 of the Utah Procurement Code.
 - f) “Proposal” means Contractor’s response to the State Entity’s Solicitation.
 - g) “Solicitation” means the documents used by the State Entity to obtain Contractor’s Proposal.
 - h) “State Entity” means the department, division, office, bureau, agency, or other organization identified on the Contract Signature Page(s).
 - i) “State of Utah” means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
 - j) “Subcontractors” means subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Contractor, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Contractor may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Contract, including Contractor’s manufacturers, distributors, and suppliers.
- 2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- 3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Services performed under this

Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements.

4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by the State Entity to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, State of Utah and federal auditors, and State Entity staff, access to all such records.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** INTENTIONALLY DELETED
6. **CONFLICT OF INTEREST:** INTENTIONALLY DELETED
7. **INDEMNITY:** Both parties to this agreement are governmental entities as defined in the Utah Governmental Immunity Act (Utah Code Ann. 63G-7-101 et. seq.). Nothing in this Contract shall be construed as a waiver by either or both parties of any rights, limits, protections or defenses provided by the Act. Nor shall this Contract be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this Contract is otherwise entitled. Subject to and consistent with the Act, each party will be responsible for its own actions or negligence and will defend against any claims or lawsuit brought against it. There are no indemnity obligations between these parties.
8. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, dated December 13, 2006, which prohibits unlawful harassment in the work place. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
9. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract.
11. **TERMINATION:** Unless otherwise stated in this Contract, this Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and is subject to the remedies listed below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by either party, upon sixty (60) days written termination notice being given to the other party. The State Entity and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing. On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved Services ordered prior to date of termination.

Contractor shall be compensated for the Services properly performed under this Contract up to the effective date of the notice of termination. Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the State Entity or the State of Utah is limited to full payment for all Services properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract.

12. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the State Entity, if the State Entity reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the State Entity's ability to pay under this Contract. A change of available

funds as used in this paragraph, includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered under this section, the State Entity will reimburse Contractor for the Services properly ordered until the effective date of said notice. The State Entity will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

13. **SUSPENSION OF WORK:** Should circumstances arise which would cause the State Entity to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by written notice. Contractor's responsibilities may be reinstated upon advance formal written notice from the State Entity.
14. **INSURANCE:** INTENTIONALLY DELETED
15. **WORKERS COMPENSATION INSURANCE:** Contractor shall maintain during the term of this Contract, workers' compensation insurance for all its employees as well as any Subcontractor employees related to this Contract. Worker's compensation insurance shall cover full liability under the worker's compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction. Contractor acknowledges that within thirty (30) days of contract award, Contractor must submit proof of certificate of insurance that meets the above requirements.
16. **ADDITIONAL INSURANCE REQUIREMENTS:** INTENTIONALLY DELETED
17. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents, and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the State Entity and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the State of Utah Division of Purchasing and General Services, all of which must be in accordance with GRAMA, Contractor also agrees that the Contractor's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. The State Entity and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.
18. **DELIVERY:** All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State Entity, except as to latent defects or fraud.
19. **ACCEPTANCE AND REJECTION:** The State Entity shall have thirty (30) days after delivery of the Services to perform an inspection of the Services to determine whether the Services conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Services by the State Entity.

If Contractor delivers nonconforming Services, the State Entity may, at its option and at Contractor's expense: (i) return the Services for a full refund; (ii) require Contractor to promptly correct or reperform the nonconforming Services subject to the terms of this Contract; or (iii) obtain replacement Services from another source, subject to Contractor being responsible for any cover costs.
20. **INVOICING:** Contractor will submit invoices within thirty (30) days of Contractor's performance of the Services to the State Entity. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the State Entity will be those prices listed in this Contract, unless Contractor offers a prompt payment discount within its Proposal or on its invoice. The State Entity has the right to adjust or return any invoice reflecting incorrect pricing.
21. **PAYMENT:** Payments are to be made by Interagency Transfer of Funds within thirty (30) days after a correct invoice is received.. The State Entity's payment for the Services shall not be deemed an acceptance of the Services and is without prejudice to any and all claims for rework or correction that the State Entity may have against Contractor.
22. **TIME IS OF THE ESSENCE:** The Services shall be completed by any applicable deadline stated in this Contract.

For all Services, time is of the essence. .

23. **CHANGES IN SCOPE:** Any changes in the scope of the Services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of Services.
24. **PERFORMANCE EVALUATION:** The State Entity may conduct a performance evaluation of Contractor's Services, including Contractor's Subcontractors, if any. Results of any evaluation may be made available to the Contractor upon Contractor's request.
25. **STANDARD OF CARE:** The Services of Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract
26. **REVIEWS:** The State Entity reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor. Such reviews do not waive the requirement of Contractor to meet all of the terms and conditions of this Contract.
27. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the State Entity.
28. **REMEDIES:** Any of the following events will constitute cause for the State Entity to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. The State Entity may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability.. If the default remains, after Contractor has been provided the opportunity to cure, the State Entity may; (i) terminate this Contract; or (iii) demand a full refund of any payment that the State Entity has made to Contractor under this Contract for Services that do not conform to this Contract.
29. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God, and/or war which is beyond that party's reasonable control. The State Entity may terminate this Contract after determining such delay will prevent successful performance of this Contract.
30. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify the State Entity of any potential or actual misuse or misappropriation of Confidential Information.

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the State Entity and the State of Utah, including anyone for whom the State Entity or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the State Entity or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.

31. **PUBLICITY:** Contractor shall submit to the State Entity for written approval all advertising and publicity matters relating to this Contract. It is within the State Entity's sole discretion whether to provide approval, which must be done in writing.
32. **CONTRACT INFORMATION:** INTENTIONALLY DELETED.
33. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The State Entity and Contractor each recognizes right, title, interest,

proprietary or otherwise in the intellectual property owned or licensed by either shall be unaffected by this Agreement or the underlying activity.

34. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
35. **ATTORNEY'S FEES:** INTENTIONALLY DELETED
36. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
37. **DISPUTE RESOLUTION:** INTENTIONALLY DELETED.
38. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limits the rights of the State Entity or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.
39. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the State Entity's right to enforce this Contract with respect to any default of this Contract or defect in the Services that has not been cured.
40. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
41. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

(Revision date: 12 February 2015)

Attachment B: SCOPE OF WORK

1. Purpose/Justification: To provide key educational services and products to incarcerated youth during out-of-school hours in order to aid the students to acquire educational opportunities and also to help those students gain positive marketable skills that will enhance positive outcomes post release

2. Deliverables:

2.1 USBE Title 1 Neglected and Delinquent Youth Grant

2.2 Supplies and Materials

3. Work Breakdown Structure

3.1 *USBE Title 1 Neglected and Delinquent Youth Grant*

a. “Why Try?” resiliency education

1. Level 1

2. Level 2

3. Subscription Renewal 1 year

b. Short term, market-sensitive, certified courses (leading to employment)

c. Music instruction/Performances (for credit)

d. Drum Bus Musical Instruction and Performances (for credit) at the following locations:

DLYC, WYC, MCYC, SCYC, FBYC, SWYC, Gemstone, New Hope, ALTA (3 locations).

3.2 Supplies and Materials

a. “Why Try?”

1. 400 Game Plan Journal

2. 2 Learning Activity Kits/Bags

b. “Reality Works” Supplies

c. Literacy Books

d. Laptops and “Endless OS” (for outside of class work)

e. Instruments and music supplies

4. Timeline

4.1 All work for this project will be ongoing upon execution and will be completed on or before September 30, 2018.

5. Data Sharing

a. DJJS will continue to follow the requirements set by the strict State IT requirements as directed from the Governor’s office for any and all forms of student data sharing.

b. DJJS staff will enter limited data into a USBE/DJJS approved form to summarize student outcomes of acquired skill sets and positive educational and transition outcomes.

c. See page 10 for the reporting tool.

- For the report, Columns A, B, and C are completed by the Division of Juvenile Justice Services (DJJS), columns 1 – 13 are completed by LEAs --’ transition staff called Education Transition

and Career Advocates – ETCAs and the balance are completed mostly by DJJS with some ETCA support.

1. Project Management:

- a. Any changes or deviation from the agreement must be agreed to in writing through a proper amendment to the agreement. The parties identified below are the points of contact for the agreement for the purpose of amending the contract.
- b. Utah State Board of Education
 - a. Program Manager: Murray Meszaros, ND Coordinator
murray.meszaros@schools.utah.gov, 8041-554-6408 (mobile)
 - b. Contract Manager: Brad Cummings, Procurement Director,
brad.cummings@schools.utah.gov, 801-538-7538
- c. Contractor Manager: Mike Butkovich, DJJS Program Manager, Division of Juvenile Justice Services, mbutkovi@utah.gov, 801-538-4311, (801) 793-2752 (mobile)

ATTACHMENT C: BUDGET INFORMATION

1. Budget

Total Budget for Agreement: \$169,000

	Deliverable Description	Cost
1	USBE Title 1 Neglected and Delinquent Youth Grant Project	
	“Why Try?” (Resiliency Education)	\$1,000
	Level 1	\$11,800
	Level 2	\$7,000
	Subscription Renewal 1 Year	\$2,970
	Short-term, market-sensitive, certificated courses (leading to employment)	\$35,000
	Music Instruction/Performances (for credit)	\$40,500
	Drum Bus Musical Instruction and Performances	\$22,400
	Deliverable 1 Subtotal	\$120,670
2	Supplies and Materials	
	“Why Try?”	
	400 Game Plan Journal	\$4,000
	2 Learning Activities	\$1,200
	“Reality Works” Supplies	\$5,000
	Literacy books	\$16,000
	Laptops and “Endless OS” (for outside of class work)	\$10,000
	Instruments and Music Supplies	\$12,000
	Deliverable 2 Subtotal	\$48,200
	TOTAL	\$168,870

2. Invoicing

- a. Contractor shall submit monthly or quarterly invoices electronically to the USBE email account at accountspayable@schools.utah.gov and the USBE program manager identified in Attachment B for all goods and/or services provided in accordance with the terms on the agreement. Invoices will not be considered for payment if submitted by another method.
- b. Invoices shall include the following:
 - i. Contractor Name
 - ii. Uniquely identifiable invoice number
 - iii. Invoice date
 - iv. Contract Number
 - v. Recipient Entity’s contact information (phone number and email address)

- vi. Contractor's authorized signature
 - vii. Date(s) goods/services were provided
 - viii. Description of goods and/or services for which payment is requested
 - ix. Dollar amount requested.
- b. Invoices submitted by Contractor to USBE without the required information will not be paid and shall be returned to the Contractor for completion.
 - c. All payments made to the Contractor under this agreement shall be made in the name of the Contractor, as it appears in this agreement. All payments will be sent to the Contractor will be sent to the address for the Contractor as it appears in the agreement. Changes to the information identified in this section must be requested in writing.
 - d. To obtain payment for the goods and/or services authorized by this agreement, Contractor shall submit the itemized invoice together with supporting documentation of work performed.
 - e. USBE reserves the right to question or seek clarification for any cost invoiced if the invoice is not supported by proper documentation.
 - f. Contractor may be required to repay USBE if, during or after the contract period, an audit or other review determines that payments made by USBE to Contractor were incorrectly paid or were based on incorrect information received from the Contractor. USBE reserves the right to withhold any or all subsequent payments to the Contractor until the incorrect amounts paid have been fully recovered.

ATTACHMENT - D

FERPA – STUDENT LEVEL DATA PROTECTION STANDARD TERMS AND CONDITIONS OR REQUIRED ATTACHMENT

The services or functions included in the State of Utah Contract involve the CONTRACTOR obtaining or using education records or personally identifiable information. Utah State Board of Education (“USBE”) is subject to Federal Education Records Privacy Act (“FERPA”) 20 U.S.C. § 1232g, and its implementing regulations, 34 C.F.R. Part 99, which generally requires written consent for disclosure of educational record or personally identifiable information to third parties.

Written consent is not required for school officials. FERPA provides a contractor, consultant, volunteer, or other outside party may be treated as a school official if the contracting party is: (a) providing services or functions that the USBE would otherwise use employees, (b) under the direct control of USBE with respect to the use and maintenance of education records and personally identifiable information, (c) subject to the requirements of 34 C.F.R. 99.33(a), and (d) limiting access within the Vendor’s organization to those who have a legitimate educational interest. 34 C.F.R 99.31(a)(1)(i)(B).

USBE and CONTRACTOR desire to have CONTRACTOR treated as a school official within the FERPA exception in 34 C.F.R. 99.31(a)(1)(i)(B) and to comply with state and federal student and family privacy laws. To protect the privacy of students and parent data, USBE and CONTRACTOR (“Parties”) include this Attachment to the Contract.

The Parties agree as follows:

1. The term of this Attachment shall remain in effect through the duration of the Contract.
2. The following definitions apply to the Attachment:
 - a. “Education records” includes all information accessed, collected, stored, processed, disclosed, de-identified, created, or used by Vendor, including metadata and personally identifiable information, in relation to the Agreement.
 - b. “Metadata” includes all information created manually or automatically to provide meaning or context to other data.
 - c. “Personally Identifiable Information” or “PII” includes both direct identifiers (such as a student’s or other family member’s name, address, student number, or biometric number) and indirect identifiers (such as a student’s date of birth, place of birth, or mother’s maiden name). Indirect identifiers that constitute PII also include metadata about student interaction with an app or service, or other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does

not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

3. CONTRACTOR agrees that all data files, including derivative files, and all data files resulting from merges, matches, or other uses of education records provided or obtained pursuant to the Contract are subject to this agreement.
4. CONTRACTOR's services provided to USBE are services for which USBE would otherwise use employees.
5. CONTRACTOR is a party acting for USBE, who has direct control of the use and maintenance of education records. All education records are in the legal and rightful custody and control of USBE. CONTRACTOR acquires no rights or licenses to use the education records for any other purpose than for performing the services set forth in the Interagency Agreement.
6. CONTRACTOR has a legitimate educational interest in the education records based upon the Contract.
7. CONTRACTOR shall limit access within its organization to individuals whom CONTRACTOR has determined to have legitimate educational interests in the education records.
 - a. CONTRACTOR shall require a non-disclosure agreement be signed by those individuals within its organization that CONTRACTOR determines will have access to the education records because the individuals have a legitimate educational interest in the education records.
 - b. CONTRACTOR shall maintain past and current lists of all individuals to whom it has determined to allow access to education records because the individuals have legitimate educational interest in the education records.
 - c. CONTRACTOR shall maintain each non-disclosure agreement signed by its employees at its facility and shall permit inspection of the same by the Board, upon request.
 - d. CONTRACTOR shall maintain an audit trail for the duration of this contract, which reflects the granting and revoking of access privileges. A copy of this audit trail may be requested by USBE from Contractor at any time and shall be provided within 10 days of the USBE request.
 - e. CONTRACTOR shall further notify the Board in writing within 48 hours if an individual's privileges to access education records has been withdrawn and the date withdrawal occurred.
 - f. CONTRACTOR shall require and ensure annual training of those individuals determined to have access due to a legitimate educational interest in the education records. The training shall include the federal and state laws relating to student and family privacy and best practices for maintaining student and family privacy.
 - g. CONTRACTOR shall maintain past and current lists of individuals attending training and the related training materials.
 - h. CONTRACTOR shall not disclose the education records to individuals within CONTRACTOR who have not been determined to have a legitimate educational

interest, who have not received training, and who have not signed a non-disclosure agreement.

8. CONTRACTOR shall only access, collect, store, process, or use the education records, as necessary to provide the services set forth in the Contract for its legitimate educational interest in the education records. Therefore, CONTRACTOR will not access, collect, store, process, sell, disclose, de-identify or use the education records for any other purpose.
9. Data disclosed by USBE to Contractor includes records that: (1) may directly relate to a student; (2) may contain personally identifiable information, and (3) are maintained by an educational agency or institution or by a party acting for the agency or institution. SPECIFICALLY, USBE shall provide the particular data which is described in ATTCH D of this contract. In addition to the identification and description of the data, Attachment D shall also contain a description of the frequency and method of secure file transfer. USBE has no obligation to provide data not described in ATTCH D.
10. CONTRACTOR shall not re-disclose the education records to any other party without the prior consent of the parent or eligible student.
11. CONTRACTOR shall protect all education records in a manner that does not permit disclosure of the educational records to anyone other than those individuals within its organization to whom CONTRACTOR has determined to have legitimate educational interests in the education records.
12. CONTRACTOR shall store and maintain all education records separately from the information of any other records.
13. CONTRACTOR shall notify the Board if there are any changes that will affect the system where all education records are stored and maintained, and ensure the system is in compliance with industry standards for the security and privacy of education records.
14. CONTRACTOR shall comply with all state and federal laws relating to student or family privacy and will maintain any and all education records in a manner consistent with such laws.
15. CONTRACTOR shall notify the Board in writing immediately upon discovering any breach, or suspected breach of security, or any disclosure of education records to an unauthorized individual within CONTRACTOR's organization, or re-disclosure to anyone. Notification shall include the date of improper release and a secure transmission of list(s) of affected students or families to assist the Board in notifying students, parents, or guardians of the improper release as required by federal and state law. CONTRACTOR agrees the improper release of any education record constitutes a material breach of the Contract. CONTRACTOR shall be liable for any claims or damages that occur from its failure to comply with its obligations in this Attachment.
16. CONTRACTOR shall return to the Board or securely destroy any education records and PII provided pursuant to the Contract upon the earlier of either the expiration or termination of the Contract.
17. Notices required by this Attachment shall be provided to:
Chief Privacy Officer, who is currently Whitney Phillips at
Whitney.Phillips@schools.utah.gov.

