



**Summary of Information for Memorandum of Understanding**

Agency Name: !Sample Agency

Date: 07/07/2017 at 09:35:12

Agency contact for this MOU:

Email:

Phone:

Proposed term for this MOU:

SFUSD staff listed on MOU:

Administrator:

Contact person:

Program description:

Main focus of services or program:

Services provided:

Time of day:

How often services will be provided:

Length of program:

Specific student population:

Eligibility requirements (if applicable): Not applicable

Contact with students:

Do you charge a fee for the program?

You will provide food and/or beverages to students:

Additional District roles or responsibilities (as described in Section 5 of the MOU):

**MEMORANDUM OF UNDERSTANDING  
BETWEEN SERVICE PROVIDER AND  
THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT**

This Memorandum of Understanding (“Agreement” as defined below), dated for convenience 7/7/2017, is entered into by and between !Sample Agency (“Service Provider”) and the San Francisco Unified School District (“District” or “SFUSD”).

**RECITALS**

WHEREAS, Service Provider wishes to provide services to the District and/or its school sites as detailed herein; and

WHEREAS, the District wishes to make these services available to the District and/or its school sites; and

WHEREAS, Service Provider represents itself able and willing to provide such services to the District and/or its school sites as detailed herein;

Now, THEREFORE, the Parties agree to enter into this Agreement for Service Provider to provide to the District the services as detailed herein. This Agreement attaches and incorporates by reference as though fully set forth herein the Criminal Background Check/Tuberculosis Clearance Written Certification Form (collectively the “Agreement”). The following documents shall also be attached to this Agreement: **Insurance Certificates and Endorsement (See Section 6 for Insurance and Endorsement requirements)**.

**1. TERM; EFFECTIVE DATE**

The term of this Agreement shall be FY2017-2018, unless terminated earlier pursuant to Section 12 (“Termination”). This Agreement shall be effective upon approval in writing by the District’s Board of Education and execution by the duly authorized representatives of the Parties.

**2. DESCRIPTION OF SERVICES TO BE PROVIDED BY THE SERVICE PROVIDER**

- a. Service Provider will provide services at the following District location(s), and/or school site(s), as follows:
- b. Service Provider will provide the following services to the District:
- c. Additional information about these services:

Service Provider will provide:  
Are services to be performed at a school site or sites?  
Population to be served:  
Eligibility requirements (if applicable): Not applicable  
When services will be provided:  
How often services will be provided:  
How long services will be provided:  
We will provide food and/or beverages to students:  
Fees are charged for this program:

**3. ADDITIONAL SERVICE PROVIDER ROLES AND RESPONSIBILITIES**

- a. Service Provider will designate a contact person under Section 13 (“Notice to the Parties”), to serve as its representative and to collaborate with District in the implementation of this Agreement.
- b. If Service Provider will provide services at a District school site or sites pursuant to this Agreement, Service Provider shall fulfill the following obligations in relation to services to be provided:
  - (1) Provide services at the school site or sites in a manner that is consistent with school site rules and requirements, including but not limited to school site visitor sign-in and field trip requirements.

- (2) Provide services in a manner that is consistent with the direction of the school site administrator(s), who is charged by the District with the oversight of the school site(s).
- (3) Provide services and maintain standards of behavior consistent with professional conduct.
- (4) Participate in an orientation meeting with school site staff which shall include an overview and discussion of the school site's Balanced Scorecard goals and objectives.
- (5) Align services with the school site's Balanced Scorecard goals and objectives.
- (6) Submit emergency contact information to school site staff for all Service Provider staff who will provide services at a school site pursuant to this Agreement.
- (7) Confirm the commitment to provide services for the entire semester or school year as determined by the Service Provider and school site.
- (8) Notify District contact person and, as applicable, school site liaison, of any Service Provider staff changes affecting this Agreement.
- (9) Provide services that do not interfere with classroom work or disrupt the normal activities of the school site or sites.
- (10) Submit documentation to school site of all students seen, as applicable.
- (11) Follow all school site procedures. Service Provider shall only obtain access to personally identifiable student information from student records to the extent permitted under federal and state law, per Section 8 ("Proprietary Information of District: Student Information").
- (12) Understand the need for flexibility when working with school sites, specifically related to scheduling of services and allocation of space and other school resources.
- (13) Notify the school site staff if the Service Provider staff will be late or absent on assigned day.
- (14) At least once per semester, meet with school site staff to discuss the effectiveness of the services being provided, and to contribute to the school site's Balanced Scorecard development process if requested.
- (15) Service Provider will ensure all instruction and/or tutoring related to literacy will align with SFUSD's Comprehensive Approach to Literacy. Service Provider agrees to provide their curriculum and other materials needed for SFUSD to review as part of the process for approving this Agreement.
- (16) Service Provider understands that no fees may be charged students or their families for activities or programs taking place during the regular school day.
- (17) If Service Provider seeks use of a District school site facility outside of the regular school day, Service Provider will obtain an approved Facilities Use Permit, as required, from the District's Real Estate Office prior to any such use. Service Provider shall be responsible for complying with any District Facilities Use Permit requirements in the performance of this Agreement, and shall comply with all District processes and procedures for obtaining approval to utilize a District facility.

#### **4. DISTRICT ROLES AND RESPONSIBILITIES**

- a. District will designate a contact person under Section 13 ("Notice to the Parties"), to serve as its representative and to collaborate with Service Provider in the implementation of this Agreement.
- b. District agrees to the following obligations in relation to services to be provided at a school site, as applicable:
  - (1) Provide an orientation for Service Provider staff that will be on-site, including an overview and discussion of the school site's Balanced Scorecard goals and objectives.
  - (2) Provide orientation materials on the school: map, bell schedule, teacher/room list, identification badges, etc.
  - (3) Provide school policies and procedures, including without limitation any sign-in procedures, field trip procedures, etc.
  - (4) Collaborate with Service Provider to determine student referral process, and criteria for student referral, as applicable.
  - (5) At least once per semester, meet with Service Provider to discuss the effectiveness of services.
  - (6) Notify Service Provider, to the extent possible, and as soon as possible, of any schedule change that will interfere with the provision of services.

#### **5. ADDITIONAL DISTRICT ROLES AND RESPONSIBILITIES**

In addition to the District's roles and responsibilities as specified in Section 4 ("District Roles and Responsibilities"), and as expressly provided for elsewhere in this Agreement, the District shall also be

responsible for the roles and responsibilities listed below in this Section. (If this Section 5 (“Additional Roles and Responsibilities”) is left blank, then the Parties agree that the District has no additional roles and responsibilities beyond those specified in Section 4 (“District Roles and Responsibilities”) and as expressly provided for elsewhere in this Agreement.)

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**6. INSURANCE**

- a. Without in any way limiting Service Provider’s liability pursuant to the “Indemnification” section of this Agreement, Service Provider shall procure and maintain during the full term of this Agreement the following insurance amounts and coverage:
  - 1) Comprehensive/Commercial General Liability Insurance with limits not less than \$1,000,000 (one million dollars) each occurrence and \$2,000,000 (two million dollars) in the aggregate for Bodily Injury, Personal and Advertising Injury, and Property Damage, including Products-Completed Operations and Sexual Abuse and Molestation coverage. The Sexual Abuse and Molestation coverage will be waived, in the District’s sole discretion, if the Service Provider will have no contact with, or limited contact with, the District’s students in the performance of this Agreement, and Service Provider completes and submits Criminal Background Check/Tuberculosis Clearance Certification Forms Affirming limited or no contact with students. Acceptance of such Forms by the District shall not decrease the liability of Service provider hereunder.
  - 2) Automobile Liability Insurance with limits not less than \$1,000,000 (one million dollars) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired automobiles. A waiver of the Automobile liability insurance requirements may be requested by Service Provider through the District’s Contracts Office provided that Service Provider will not use any automobile in the performance of this Agreement. The parties understand and agree that the District shall rely upon the representations that the Service Provider shall make in any such waiver.
  - 3) Workers’ Compensation Insurance, with Employer’s Liability limits not less than \$1,000,000 (one million dollars) each accident. A waiver of the workers’ compensation insurance requirements may be requested by Service Provider through the District’s Contracts Office provided that Service Provider is a sole proprietor with no employees. The parties understand and agree that the District shall rely upon the representations that the Service Provider shall make in any such waiver.
- b. **All policies shall be written on an occurrence basis, except as otherwise provided for in this subsection. Coverage may be provided on a claims-made form, provided that the following requirements are met:**
  - 1) The retroactive coverage date shall be shown, and shall commence before the beginning of any Service Provider operations and/or performance under this Agreement.
  - 2) Service Provider shall maintain the required coverage throughout the term of this Agreement and, without lapse, and provide Certificates of Insurance to the District upon request for a period of three (3) years beyond the expiration or termination of this Agreement, such that should occurrences during the Agreement term give rise to claims made after expiration or termination of the Agreement, such claims shall be covered.
  - 3) If coverage is cancelled or non-renewed, and not replaced with another claims-made form with a retroactive date prior to the beginning of any Service Provider operations and/or performance under this Agreement, Service Provider shall purchase an extended reporting period for a minimum of three (3) years after the expiration or termination of the Agreement.
  - 4) If requested by the District, a copy of the policy’s claims reporting requirement, or any other policy documents, shall be provided to the District.
- c. **Comprehensive General Liability policy must provide the following:**
  - 1) Name as Additional Insured the San Francisco Unified School District, its Board, officers and employees.
  - 2) That such policy is primary and non-contributory to any other insurance available to the Additional Insured, with respect to any claims arising out of this Agreement and that such policies apply separately to each insured against who claim is made or suit is brought, except with respect to the limits of insurance.

- d. Service Provider shall provide thirty (30) days advance written notice to the District of cancellation, non-renewal or reduction in coverage to the following office:  
Contracts Office  
135 Van Ness Street, Room 102  
San Francisco, CA 94102
- e. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in such general annual aggregate limit, such annual aggregate limit shall be double the occurrence or claims limits specified above.
- f. The insurance requirements under this Agreement shall be the greater of (1) the minimum limits and coverage specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits. No representation is made that the minimum insurance requirements stated hereinabove are sufficient to cover the obligations of the Service Provider under this Agreement.
- g. **Acceptability of Insurers:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A- VII, unless otherwise acceptable by District and admitted to do business in California, or accepted by the Surplus Lines Association to do business in California. A non-admitted company should have an A.M. Best rating of A- X or higher. Exception may be made for the State Compensation Insurance Fund when not specifically rated.
- h. **Waiver of Subrogation.** Service Provider agrees to waive subrogation with respect to Workers' Compensation insurance maintained under this Agreement. When required by an insurer, or if a policy condition does not permit Service Provider to enter into a pre-loss agreement to waive subrogation without an endorsement, then Service Provider agrees to notify insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Service Provider enter into a waiver of subrogation on a pre-loss basis. Service Provider shall promptly notify District of any such express prohibition or condition in any applicable policy which may void coverage.
- i. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the District receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the District may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.
- j. Before commencing any operations under this Agreement, Service Provider must provide the District with the certificates of insurance, additional insured endorsement and waiver of subrogation with insurers satisfactory to the District, evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon the District's request. Service Provider also understands and agrees that the District may withhold payment for services performed for any violations of the insurance provisions of this Agreement.
- k. Approval of the insurance by the District shall not relieve Service Provider of any of the insurance requirements set forth herein, nor decrease the liabilities and obligations of Service Provider hereunder.

**7. INDEMNIFICATION**

Service Provider shall indemnify and hold harmless the District, its Board, officers, employees and agents from, and, if requested, shall defend them against any and all claims, demands, liabilities, obligations, losses, damages, judgments, costs or expenses (including legal fees and costs of investigation) (collectively "Claim"), whether actual or alleged, arising directly or indirectly from or in any way connected with the performance of this Agreement, including but not limited to any Claim for personal injury, death, property damage, loss of profits, infringement upon intellectual property rights, failure to comply with the criminal background check requirements of Education Code section 45125.1 and/or disclosure of confidential information which might be obtained by Service Provider or Service Provider's agents or employees during the performance of this Agreement. Notwithstanding the foregoing, Service Provider shall have no obligation under this Section with respect to any Claim that is caused by the active negligence or willful misconduct of District and which is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by Service Provider or Service Provider's agents or employees.

**8. PROPRIETARY INFORMATION OF DISTRICT; STUDENT INFORMATION**

- a. Service Provider understands and agrees that, in connection with this Agreement, the Service Provider may have access to proprietary and/or confidential information which may be owned or controlled by the District, the disclosure of which to third parties may be damaging to the District, its employees or students. Service Provider also understands and agrees that the disclosure of such information may violate state and/or federal law and may subject the Service Provider to civil liability. Consequently, Service Provider agrees that all information disclosed by the District to the Service Provider shall be held in strict confidence and used only in performance of the Agreement, unless disclosure is required by law or court order. Service Provider shall exercise the same standard of care to protect such information as is used to protect its own proprietary and/or confidential information and in no case less than a reasonable standard of care.
- b. Service Provider shall comply at all times with the requirements of the Family Educational Records Privacy Act ("FERPA") and relevant state law regarding the confidentiality and handling of student records, including but not limited to California Education Code sections 49073 and sequential. Service Provider shall only access and use confidential student information for the performance of duties on behalf of SFUSD under this Agreement, prior written parent consent, or other provision of federal and state law permitting access to confidential student information. **Service Provider shall not use confidential student data for any purpose other than providing services to the District pursuant to this Agreement. Service Provider shall not re-disclose confidential student information to any third party without the prior written consent of the District and any such re-disclosure shall be consistent with state and federal law.**
- c. Use of Confidential Student Data for Program Evaluation/Studies. If Service Provider wishes to use confidential student data for purposes other than providing services to the District pursuant to this Agreement, such as for Service Provider's own program evaluation or research studies, or any such evaluation by any third-party funder of Service Provider, requires prior written approval by the District's Office of Research, Planning, and Accountability ("RPA"). Not every application for the use of confidential student data is approved by RPA due to resource limitations. If Service Provider wishes to receive, gather or use confidential student data for purposes other than those authorized under this Agreement, then prior to receiving, gathering or using any confidential student data for such purposes, Service Provider will complete and submit a Research Application to RPA and await approval or denial from RPA. If RPA approves Service Provider's Research Application, Service Provider must also execute a Data Use and Confidentiality Agreement ("DUA") with RPA. Only if the Service Provider submits a Research Application to RPA that is approved by RPA, and Service Provider then fully executes a DUA with RPA, may the Service Provider receive, gather or use confidential student data for purposes other than providing services to the District pursuant to this Agreement, such as Service Provider's own program evaluation or research studies, evaluation by any third-party funder of Service Provider.
- d. Upon termination or expiration of this Agreement, if no subsequent agreement is in place between the Parties to allow Service Provider to have access to the District's confidential student data, then any such data that is in the possession of Service Provider shall be confidentially and securely returned to District in all forms in which the Service Provider is holding such data, including, if applicable, in a computer-readable format. Once such data are received by District, and, if applicable, District confirms that the computer-readable format is indeed readable, Service Provider shall securely destroy any remaining copies of the data that it holds in any form or media within fourteen (14) days of such confirmation from District. Service Provider shall destroy all such data utilizing a method of secure destruction that renders such information unreadable, such as shredding or burning, erasure of magnetic media, electronic deletion using file shredding software, or other industry-standard method of secure destruction. Upon request, Service Provider shall provide District with written certification that such destruction has occurred.
- e. Service Provider agrees that all employees, agents and/or volunteers shall sign the SFUSD Oath of Confidentiality prior to accessing any student records, and prior to receiving any confidential information about students or their families in meetings or conversations with SFUSD staff.
- f. Service Provider agrees to obtain a signed Authorization for SFUSD to Release Confidential Information form from each participating student's parent or guardian prior to obtaining access to student records.
- g. The confidentiality provisions herein shall survive the termination or expiration of this Agreement.

**9. CRIMINAL BACKGROUND CHECK; SUBSEQUENT ARREST NOTIFICATION**

- a. Criminal Background Check

- 1) Service Provider is required to comply with the criminal background check provisions of Education Code Section 45125.1. Service Provider will conduct criminal background checks through the California Department of Justice (CDOJ), including both CDOJ and Federal Bureau of Investigation (FBI) background checks, and will obtain subsequent arrest notification (as below), for all Service Provider employees, agents, and volunteers who will have more than limited contact with District students pursuant to this Agreement. Service Provider shall ensure that no Service Provider employee, agent or volunteer shall have contact with District students pursuant to this Agreement if he or she has been convicted of a serious or violent felony as defined by EC 45125.1 (citing EC 45122.1), a sexual offense as defined by EC 44010, or a controlled substance offense as defined by EC 44011. Service Provider shall ensure that no Service Provider employee, agent or volunteer who has been convicted of a serious or violent felony as defined by EC 45125.1 (citing EC 45122.1), a sexual offense as defined by EC 44010, or a controlled substance offense as defined by EC 44011 will have more than limited contact with District students pursuant to this Agreement. This prohibition does not apply to an employee, agent or volunteer who has obtained a certificate of rehabilitation and pardon pursuant to California Penal Code Section 4852.01 et seq. for a serious or violent felony listed under EC 45122.1.
  - 2) The District will not be responsible for the costs of the criminal background checks.
  - 3) As written certification of its compliance with the criminal background check requirements and subsequent arrest notification requirements (as below) for all Service Provider employees, agents, and volunteers who will have more than limited contact with District students pursuant to this Agreement, Service Provider shall complete and submit to the District the Criminal Background Check/ Tuberculosis Clearance Certification Form ("CBC/TB form") (ATTACHED). Service Provider shall list all such employees, agents or volunteers by name and date of criminal background check clearance on the CBC/TB form, or via attachment, as provided for in said CBC/TB form.
  - 4) Throughout the term of this Agreement, for any Service Provider employees, agents or volunteers that Service Provider hires or assigns subsequent to Service Provider's initial submission of the CBC/TB form to District, and who will have more than limited contact with District students pursuant to this Agreement, Service Provider will comply with the provisions of this Section including without limitation conducting background checks and obtaining subsequent arrest notification (as below), and submitting additional CBC/TB forms to District.
  - 5) The criminal background check requirements, and subsequent arrest notification requirements (as below), apply only to Service Provider's employees, agents or volunteers who will have more than limited contact with District students pursuant to this Agreement. Service Provider's employees, agents or volunteers who will have no contact or only limited contact with students are not required to meet criminal background check and subsequent arrest notification requirements. If Service Provider asserts that all of its employees, agents or volunteers will have no contact or only limited contact with District students by checking the "no contact" box on the CBC/TB form, the District's Cabinet-level Administrator supervising this Agreement will have the responsibility to make a reasonable determination of whether Service Provider, its employees, agents or volunteers will have only limited contact with students. The District's determination shall control.
- b. Subsequent Arrest Notification
- 1) In addition to the initial criminal background check, Service Provider will obtain from CDOJ subsequent arrest notification to monitor future arrests of employees, agents and volunteers who will have more than limited contact with District students pursuant to this Agreement. District shall not be responsible for the costs associated with the subsequent arrest notifications.
  - 2) Upon receipt of notice that any of its employees, agents, or volunteers who will have more than limited contact with District students pursuant to this Agreement has been arrested or convicted of a serious or violent felony as defined by EC 45125.1 (citing EC 45122.1), a sexual offense as defined by EC 44010, or a controlled substance offense as defined by EC 44011, Service Provider will immediately prohibit such employee, agent, or volunteer from having any contact with District students pursuant to this Agreement, and Service Provider will immediately notify the District of such arrest.

- c. Without limiting any other available legal remedies, failure by Service Provider to comply with this Section may result in termination of this Agreement at the District's sole discretion.

**10. TUBERCULOSIS TESTING**

- a. Service Provider shall ensure that all of its employees, agents or volunteers whose functions require frequent or prolonged contact with students will complete tuberculosis examination the same as the examination that is described in California Education Code section 49406. Service Provider shall ensure that all of its employees, agents or volunteers who have a written clearance certification have undergone the foregoing examination at least once every four (4) years if the Service Provider is still rendering services to the District.
- b. The District shall not be responsible for the costs of the examination.
- c. Service Provider shall submit written certification to the District, using the attached Criminal Background Check/Tuberculosis Clearance Written Certification Form ("CBC/TB form") that its employees, agents or volunteers who will have frequent or prolonged contact with District students pursuant to this Agreement have passed the tuberculosis test requirements. Service Provider shall list such employees, agents or volunteers by name and date of clearance on the CBC/TB form (ATTACHED).
- d. The tuberculosis clearance requirement applies only to Service Provider's employees, agents or volunteers who will have frequent or prolonged contact with students. Service Provider's employees, agents or volunteers who will have no contact or only limited contact with students are not required to meet tuberculosis clearance requirements. If Service Provider asserts that all of its employees, agents or volunteers will have no contact or only limited contact with District students by checking the "no contact" box on the CBC/TB form, the District's Cabinet-level Administrator supervising this Agreement will have the responsibility to make a reasonable determination of whether Service Provider, its employees, agents or volunteers will have no contact or only limited contact with students. The District's determination shall control.
- e. Service Provider shall ensure that only its employees, agents or volunteers who have submitted to and passed a tuberculosis clearance, and for whom a CBC/TB form has been submitted to the District, shall have frequent or prolonged contact with students under this Agreement. Service Provider will maintain on file in Service Provider's offices current documentation that each of its employees, agents or volunteers who will have frequent or prolonged contact with students hereunder meets tuberculosis clearance requirements.

**11. AUDIT AND INSPECTION OF RECORDS**

Except as otherwise prohibited by law, Service Provider agrees to maintain and to permit the District to audit, examine and make copies, excerpts and transcripts of all records including without limitation accurate accounting books and records, invoices, timesheets, documents, reports, student records, payroll and personnel records and other materials and data related to Service Provider's performance of this Agreement, whether funded in whole or in part under this Agreement. The Service Provider shall maintain such records and data in an accessible location and condition for a period of not less than five (5) years after a final payment under this Agreement or until after final audit has been completed, whichever is later.

**12. TERMINATION**

This Agreement may be terminated at any time in writing by the District or upon agreement of both Parties. In the alternative, this Agreement may be terminated upon thirty (30) days written notice by Service Provider. Such termination shall not be deemed to be a breach of this Agreement.

**13. NOTICE TO THE PARTIES**

All notices to be given by the Parties hereto shall be in writing and served by depositing the same in the United States Post Office as follows:

**NOTICE TO THE DISTRICT:**

|                          |  |
|--------------------------|--|
| DISTRICT SITE/DEPARTMENT |  |
| ADMINISTRATOR            |  |
| <b>CONTACT PERSON</b>    |  |
| STREET ADDRESS           |  |
| CITY, STATE, ZIP         |  |
| TELEPHONE                |  |
| EMAIL ADDRESS            |  |



**NOTICE ALSO TO THE DISTRICT CONTRACTS OFFICE:**

San Francisco Unified School District  
SFUSD Contracts Office  
135 Van Ness Street, Room 102  
San Francisco, CA 94102  
415-355-6963  
contract@sfusd.edu

**NOTICE TO THE SERVICE PROVIDER:**

|                       |                |
|-----------------------|----------------|
| SERVICE PROVIDER      | !Sample Agency |
| <b>CONTACT PERSON</b> |                |
| STREET ADDRESS        |                |
| CITY, STATE, ZIP      |                |
| TELEPHONE             |                |
| EMAIL ADDRESS         |                |

**14. USE OF NAME; MARKETING**

Excluding a simple statement or acknowledgement that Service Provider has a written agreement with the District, Service Provider will not use the name, marks or logos of the District in any planned advertisement, press release, or other planned publicity or marketing materials, in any form or media, without the prior written approval of the District. Notwithstanding the foregoing provisions of this Section, nothing in this Section shall infringe upon the First Amendment rights of either party.

**15. STATUS OF SERVICE PROVIDER AND DISTRICT; INDEPENDENT CONTRACTOR**

Service Provider and any agent or employee of Service Provider shall be deemed at all times to be an independent contractor and not an employee of the District. Service Provider shall be responsible for the manner in which it performs the services under this Agreement. Nothing contained in this Agreement shall be construed as creating an employment or agency relationship between the District and Service Provider or its agents and employees.

**16. RESPONSIBILITY FOR EQUIPMENT**

The District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any equipment used by Service Provider, or by any of its employees or agents, even though such equipment may be loaned, furnished or rented to Service Provider by the District.

**17. WAIVER**

Either party's failure at any time to enforce any default or right reserved to it, or to require performance of any of the Agreement's terms, covenants, or provisions by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

**18. ENTIRE AGREEMENT; MODIFICATION OF AGREEMENT**

This Agreement contains the entire agreement between the parties and supersedes all prior oral or written provisions. Any amendment or modification to this Agreement shall be by written instrument and shall only be effective upon execution by the duly authorized representatives of the parties and written approval by the Board of Education.

**19. DISPUTE RESOLUTION; ADMINISTRATIVE REMEDY FOR AGREEMENT INTERPRETATION**

Prior to any action or resort to any other legal remedy, District and Service Provider agree to exercise reasonable efforts and to negotiate in good faith to resolve to the satisfaction of the parties any dispute that may arise concerning the performance by either party of its obligations under this Agreement. If District's and Service Provider's designated contact persons cannot resolve disputes through such negotiations, then the parties will escalate the dispute to their respective executives who are at a higher level of management than such contact persons. Should any question arise as to the meaning and intent of the Agreement, the matter shall, prior to any action or resort to any other legal remedy, be referred to the District's Superintendent who shall decide the true meaning and intent of the Agreement.

**20. SUBCONTRACTING**

Service Provider is prohibited from subcontracting this Agreement or any services provided pursuant to this Agreement without the prior written consent of the District.

**21. ASSIGNMENT**

It is understood and agreed that the services to be performed by the Service Provider under this Agreement are personal in character and neither this Agreement, nor any duties or obligations hereunder, shall be assigned or delegated by the Service Provider without the prior written consent of the District.

**22. NON DISCRIMINATION (Required by SFUSD Board Policies 0410 and 6141)**

- a. The District is committed to providing equal opportunity for all individuals in education. Service Provider understands and agrees that in providing services to the District, it is Service Provider's obligation to comply with Board Policy 0410, which requires that all District programs, activities, and practices be free from discrimination based on race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics. To the extent that the services Service Provider will provide to the District under this Agreement include the provision of services to students, Service Provider further understands and agrees that, in providing such services to the District, Service Provider shall adhere to Board Policy 6141, which recognizes that students may discuss or be exposed to controversial issues that may arouse strong reactions based on personal values and beliefs, political philosophy, culture, religion, or other influences. In the event that controversial issues are discussed or presented during the course and scope of Service Provider's services under this Agreement, Service Provider agrees topics shall be relevant to the student activity and should be designed to develop students' critical thinking skills, ability to discriminate between fact and opinion, respect for others, and understanding and tolerance of diverse points of view. Service Provider further understands and agrees that it will not disseminate to students any information, in any form, which reflects adversely upon persons because of their race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.
- b. Service Provider hereby represents and affirms that it is Service Provider's policy that its programs, activities, and practices are free from discrimination based on race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.
- c. Service Provider agrees that it will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

**23. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT**

Service Provider acknowledges that, pursuant to the Americans Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor or subcontractor, must be accessible to the disabled public. Service Provider shall provide the services specified in the Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation including without limitation Section 504 of the Rehabilitation Act. Service Provider agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agree that any violation of this prohibition on the part of Service Provider, its employees, agents or assigns will constitute a material breach of this Agreement.

**24. COMPLIANCE WITH LAWS; SFUSD WELLNESS POLICY**

Service Provider shall keep itself fully informed of the applicable federal, state and local laws affecting the performance of this Agreement, and shall at all times comply with such laws as they may be amended from

time to time. Any Service Provider provision of food, beverages, or snacks to SFUSD students shall be consistent with the SFUSD Wellness Policy.

- 25. COMPLIANCE WITH BOARD POLICY 4019.1; PROFESSIONAL ADULT/STUDENT BOUNDARIES**  
Service Provider acknowledges that all adults providing services in the District are expected to maintain professional, moral and ethical relationships with students that are conducive to an effective, safe learning environment. Service Provider will require each individual employee providing services under this Agreement to sign and acknowledge receipt of the District's Board Policy 4019.1, which outlines appropriate and safe boundaries between adults and students.
- 26. MANDATED REPORTING OF SUSPECTED CHILD ABUSE OR NEGLECT**  
If Service Provider will provide services at a schools site and work with District students pursuant to this Agreement, Service Provider is a mandated reporter of suspected child abuse or neglect under California Penal Code section 11165.7, and Service Provider will submit reports of suspected child abuse or neglect to Child Protective Services (CPS) as required by law. (Cal. Penal Code section 11165.7, e.g. subsections (a)(7) and (a)(8); Sections 11164 and sequential.) Such Service Provider shall maintain copies of such reports. Such Service Provider is requested, but is not required, to notify the District school site administrator when a CPS report has been filed.
- 27. GOVERNING LAW; VENUE**  
This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of California, without regard to its conflict of laws rules. The venue for all litigation relative to this Agreement shall be San Francisco, California.
- 28. SECTION HEADINGS**  
The section headings contained herein are for convenience in reference and are not intended to define the scope of any provision of this Agreement.
- 29. EXECUTION OF THE AGREEMENT, EXECUTION IN COUNTERPARTS**
- a. Original copies of this Agreement shall be executed by the respective party's authorized signatory(ies). However, in some cases where an emergency situation arises or to expedite processes, a fax copy or copy of the contract with revisions appropriately initialed may serve as the original contract.
  - b. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original agreement, but all of which shall be considered one instrument and shall become a binding agreement when one or more counterparts have been signed by each of the parties and delivered to the other.
- 30. SEVERABILITY**  
If any term or provision of this Agreement shall be found illegal or unenforceable, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.

**31. NO CHARGE TO THE DISTRICT**

Parties acknowledge and agree services are free to the District and Service Provider shall not require payment in any form from the District for services hereunder.

**PARTY SIGNATURES TO AGREEMENT**

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

**For !Sample Agency**

**For SAN FRANCISCO UNIFIED SCHOOL DISTRICT**

APPROVED:

RECOMMENDED:

BY: \_\_\_\_\_  
**Authorized Signature**

BY: \_\_\_\_\_  
Signature of Site/Dept. Administrator

**San Francisco Unified School District  
Criminal Background Check/Tuberculosis Clearance Written Certification Form**

|  |                       |
|--|-----------------------|
| Name of Service Provider*:                             | <b>!Sample Agency</b> |
| Services to be performed under the Agreement:          |                       |
| Schools/Locations where services are being performed*: |                       |
| Term of Agreement*:                                    | <b>FY2017-2018</b>    |

*\*Provided as a summary only; the provisions in the Agreement regarding this subject matter shall control.*

**Service Provider shall check the applicable boxes and fill in any applicable blanks.**

|                                  |  |   |
|----------------------------------|--|---|
| <b>CRIMINAL BACKGROUND CHECK</b> |  |   |
| 1.                               |  | Service Provider/Service Provider's employees, agents or volunteers will <b><u>ONLY HAVE LIMITED OR NO CONTACT</u></b> with District students (as defined by District) in the performance of this Agreement. By checking this box, Service Provider certifies that its employees, agents, volunteers will have no contact, or only limited contact, with District students in the performance of this Agreement.  |
| 2.                               |  | Service Provider/Service Provider's employees, agents or volunteers, <u>listed below/attached</u> , will have <b><u>MORE THAN LIMITED CONTACT with District students (as defined by District) in the performance of this Agreement.</u></b><br><br>(Attach and sign additional pages, as needed.)<br><br>By checking this box, Service Provider certifies that the employees, agents, volunteers noted above/in the attached have been fingerprinted under procedures established by the California Department of Justice and the FBI, and the results of those fingerprints reveal that none of these individuals has been arrested or convicted of a serious or violent felony, as defined by the California Penal Code, and Service Provider certifies that it has requested subsequent arrest notification for these individuals. |
| <b>TUBERCULOSIS CLEARANCE</b>    |  |   |
| 3.                               |  | Service Provider/Service Provider's employees, agents or volunteers will <b><u>ONLY HAVE LIMITED OR NO CONTACT</u></b> with District students (as defined by District).   |
| 4.                               |  | Service Provider/Service Provider's employees, agents or volunteers, <u>listed below/attached</u> , will have <b><u>MORE THAN LIMITED OR PROLONGED CONTACT</u></b> with District students in the performance of this Agreement, and have a written certification of clearance on file with Service Provider.<br>(Attach and sign additional pages, as needed.)  |

**Further Certification by Independent Contractor/Service Provider ("Service Provider"):** *"I hereby certify on behalf of Service Provider that the information provided herein is true and accurate. I further agree that during the term of this Agreement, if Service Provider learns of additional information that differs from the responses provided above, including but not limited to hiring new personnel and/or notice of a subsequent arrest, Service Provider will immediately forward this information to District. If Service Provider receives any subsequent arrest notification, I certify that Service Provider will immediately notify District and bar such employee/ agent/ volunteer from performing any services under this Agreement that involve any contact with students."*

\_\_\_\_\_  
Service Provider Signature    Date                      Administrator Signature    Date

\_\_\_\_\_  
Print name of Signatory                                      Print name of Administrator