

This Agreement (“Agreement”) is by and between Clover Park School District (“District”), a Washington State municipal corporation located at 10903 Gravelly Lake Drive SW, Lakewood WA 98499, and Graduation Alliance, Inc. a Delaware corporation located at 310 South Main Street, Suite 1200, Salt Lake City, UT 84101 (“Provider”).

The Agreement is for the operation of an Alternative Learning Experience program as defined in WAC 392-121.182 (“Program”).

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

1.1 TERM, DURATION AND RENEWAL

This Agreement’s initial term shall commence on the Effective Date and continue until August 31, 2015.

This Agreement’s term shall be automatically extended for additional one (1) year terms unless District terminates by giving written notice of its decision not to extend to Provider not less than sixty (60) calendar days prior to the then-current Agreement term’s expiration. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

1.2 RESPONSIBILITIES OF PARTIES

1.2.1 Responsibilities of Provider.

Unless otherwise indicated, all references to Provider under this section shall also include Provider’s employees, agents, or Subcontractors.

A. Program Administration.

Provider shall develop and deliver to District a Policy and Operations manual detailing the expectations for students, the instructional model, attendance policy, student services, and how program exceptions are managed. Modifications to the Policy and Operations Manual, if necessary, shall be made annually upon mutual agreement of the parties and re-submitted to the District prior to the start of subsequent School Years. District is responsible for gaining approval and adoption by the District’s Board or other governing entity in advance of the start of the School Year as needed.

B. Web Portal Configuration.

Provider will provide the District with an Account Portal through which authorized District staff can monitor the program, including the enrollments, registrations, and progress of students in the program as a whole as well as for individual students. The Portal also includes records of courses students complete through the Program and Provider transcripts which can be accessed by the high school registrar to certify that students have met the District’s graduation requirements.

The Portal also allows Provider to custom-configure proactive alerts and notifications delivered via email and/or text message about various system triggers, including student activity and progress.

C. Enrollment.

1. A student will be considered enrolled when he/she has:
 - a) Met all eligibility criteria specified in Section 1.9.1.

- b) Completed all steps of the application process established by the District and the Program.
- c) Been accepted for enrollment by the District.
- d) Been enrolled by the Program.

D. Instruction.

Provider will be responsible for the provision and oversight of all instruction under this Scope of Work in accordance with the following:

1. Instruction for students must include:
 - a) Academic skills instruction and high school equivalency certificate preparation coursework with curriculum, and instruction appropriate to each student's skills levels and academic goals.
 - b) College readiness and work readiness preparation coursework.
2. Each area of coursework will have a course outline that specifies:
 - a) Identified instructional materials.
 - b) Specific intended learning outcomes.
 - c) Procedures and standards for determining attainment of learning outcomes.
 - d) Policy for grading and award of credit.
3. The Program may restrict or deny access into specific program elements if a student's academic performance or conduct does not meet established guidelines.
4. Provider will provide instruction, tuition, and required academic skills assessments at no cost to the students. Consumable supplies, textbooks, and other materials that are retained by the student do not constitute tuition or a fee.
5. All instructional staff will be assigned by Provider and will have prior experience in working with at-risk youth and/or in providing individualized instruction.

E. College and Career Transition Counseling

Provider shall provide a College and Career Transition Counselor (CCTC) to meet at least quarterly, individually and/or one-on-one, with students within 5.0 credits of graduation. The CCTC shall meet monthly with active students within 2.0 credits of graduation. The CCTC will work directly with the District's designee to ensure proper coordination around high school completion activities.

F. Academic Coaching and Tutoring

Provider provides each student enrolled in any Program an assigned Academic Coach. The Academic Coach is responsible for the initial introduction of the Program to the student, regular contact with the student via phone, email, SMS or IM to review progress and resolve issues and to provide support in case the student is having difficulties with the Program. Academic Coaches are available during normal business hours, Monday through Friday, excluding US holidays. Academic Coaches may also be available during non-standard hours and on weekends, at the Coach's sole discretion. The Academic Coach also maintains regular contact with the Local Advocates and the Program management team as they work to keep the student engaged and making progress. Academic coaches will also assist in the development, monitoring, and revision of the written student learning plan.

G. Online Tutoring

Provider will provide unlimited access to online tutoring to students enrolled in the Program for courses in Math, Science, English and Social Studies. This tutoring is available 24/7 year-round (except Christmas Eve/Day, Thanksgiving, and Independence Day), and is accessed through our student learning environment. Provider reserves the right to limit or revoke access if a student's use is considered excessive in any two consecutive months or if student is found to be using the tutoring for purposes other than for direct participation Programs offered under this Agreement.

H. Recruiting Services

1. Provider provides student Recruiting Services for this Program, including the establishment of a student recruiting team, setup and configuration of recruiting systems, and active recruiting of prospective students to join the Programs offered.
2. Within 5 business days of the Effective Date of this Agreement, The District shall provide a list of names and contact information (including but not limited to: child name, last known address, phone numbers, parent/guardian names, email address or other contact information on file in school records) of children who are eligible to enroll in the Program. Provider will initiate contact to the students via phone, direct mail, face-to-face meetings, and/or "town hall" style information sessions to inform prospective students about the school's Program. After the Program's initial launch, the District's representative, as defined in the Policy and Operations Manual, shall provide names and contact information of newly eligible students to Provider as soon as the students become eligible, and in no event less frequently than quarterly. All prospective students whose contact information is provided by the District according to the terms in this paragraph shall be considered "District Referrals".
3. Provider may recruit prospective students who are not District Referrals, however Provider shall not enroll any students who are not District Referrals without prior approval by District. Regardless of referral source, Provider shall only enroll students within recruiting periods that are aligned with the specified Count Dates, unless otherwise directed by the District.

I. Local Advocacy and Student Support

Provider will be responsible for the provision of local advocacy services to all enrolled students in accordance with the following:

1. Local Advocates will be assigned to the Program to provide accessible, consistent support to students, as well as, academic advising, career guidance information, employment assistance or referrals, and referrals to DSHS.
2. Local Advocates will be available to meet with each student weekly to discuss and mitigate barriers to success in the program.
3. Local Advocates are subject to and must pass a WATCH (Washington Access to Criminal History) background check prior to meeting with students.
4. The Program will maintain a local advocacy staff to student ratio not to exceed 1:75 (one case manager FTE to seventy-five (75) enrolled students) on a full-time continuous basis throughout the school year.

J. Hardware and Internet Connectivity

1. If requested by the student, Provider will provide laptop computers necessary to complete Services offered in this Agreement. Computers shall be offered on a case-by-case basis for specified students' use during the period students are enrolled in the Program. Laptops will be released to students after a Financial Responsibility Form has been signed by the student's legal guardian. Parents/Guardians will be financially responsible for damage/theft to the

laptop, or for failure to return the laptop if the student leaves, removed from or no longer eligible to participate in the Program. Failure to return the laptop may also result in the students' official records and credits earned while in the Program being placed on hold until the obligation is satisfied.

2. Provider will provide internet capability based upon commercially-available services offered in the District's geographic region. Internet connectivity is offered on a monthly basis, and the service provider selected is at the sole discretion of Provider. Internet connectivity may be revoked if enrolled student violates either the Provider's Terms and Conditions as defined in this Agreement, or the Student Honor Code accepted by the student at the start of enrollment in a Program.

K. Award of Credit.

In accordance with RCW 28A.175.100, high school credit will be awarded for all Provider coursework in which students are enrolled in accordance with the following:

1. High school credit will be awarded for the Program instruction provided by Provider
2. The District will ensure that the process for awarding high school credits as described above is implemented as part of the District's policy regarding award of credits per WAC 180-51-050(5) and (6).
3. Provider documentation related to the earned credits will be provided to the student and the District that will be responsible awarding of credits.

1.2.2 Responsibilities of District.

A. District Administrative Responsibilities

The District shall have ultimate authority over the operation of the Program and will be responsible for monitoring the Provider's performance under, and compliance with, the terms of this Agreement.

The District will designate a Primary Contact Person to work with Provider in implementing this Agreement and to provide oversight and technical assistance.

B. Statewide Student Assessment.

The District will work with Provider to ensure that all students have the opportunity to participate in the statewide student assessment and understand that this assessment, or an approved alternative, is a high school graduation requirement.

1.3 MANAGEMENT

District oversight. District shall have the full power and authority to oversee the operation of the School. District hereby further agrees to cooperate with Provider in the performance of Provider's duties and obligations under this Agreement and to take such reasonable actions and to execute and deliver all such agreements, documents or instruments as Provider may deem necessary or advisable, in Provider's reasonable judgment, to enable Provider to perform its duties and obligations hereunder. Except as otherwise set forth in this Agreement, the District's Superintendent has full power and authority to act on behalf of District in connection with the performance of this Agreement and the oversight of the School, subject to limitations on the Superintendent's authority under Washington law or District policy.

1.4 COMPLIANCE

District policies and procedures. The parties agree that Program shall follow all District policies and procedures, including, but not limited to, the District graduation requirements and District calendar.

Program will be operated in compliance with relevant federal and state laws.

Contracting. The parties agree to abide by the provisions of RCW 28A.320.035 (“Contracting out — Board's powers and duties — Goods and services”) and WAC 392-121-188 (“Instruction provided under Agreement”).

No Child Left Behind. The parties acknowledge that Program must be operated in accordance with Title I of the Elementary and Secondary Education Act of 1965, as amended by No Child Left Behind Act of 2001 (NCLB), Pub. Law No. 107-110, 115 Stat. 1425, any and all state and federal regulations promulgated thereunder, and any subsequent amendments made thereto.

IDEA. The parties acknowledge that Program shall comply with the requirements of the Individuals with Disabilities Education Improvement Act of 2004, Pub. Law No. 108-446, 118 Stat. 2647, any and all state and federal regulations promulgated thereunder, and any subsequent amendments made thereto.

Compulsory attendance, admission, and course work. The parties acknowledge that Program shall comply with the provisions of RCW 28A.225, “compulsory school attendance and admission.” Program shall comply with the provisions of RCW 28A.230, “compulsory course work and activities.”

Annual instructional hours. Provider shall supply a program that does not adversely affect the District’s ability to comply with the annual instructional hour requirement as defined by WAC 180-16-200.

Alternative Learning Experience. Both parties agree to comply with WAC 392-121-182, “alternative learning experience requirements,” for students claimed under the Alternative Learning Experience (“ALE”) funding provisions.

For the students served under this agreement, Provider shall maintain a ratio of CIS FTE to student FTE which is at least equal to the District’s basic education funding ratio for the grade level of the students being reported for basic education funding in accordance with WAC 392-121-188.

Multi-district online provider approval. If Provider is a “multi-district online course provider” or “multi-district online program provider” as defined by the Office of the Superintendent of Public Instruction (OSPI), the Provider must be approved by OSPI in accordance with chapter 392-502 WAC. The Provider is exclusively responsible for seeking and obtaining OSPI approval.

If the Program is considered a “multi-district online program” as defined by the Office of the Superintendent of Public Instruction (OSPI), the Program must be approved by OSPI in accordance with chapter 392-502 WAC. The District is responsible for seeking and obtaining OSPI approval, and the Provider agrees to comply with requests for information that relate to the approval process.

Required Documentation and Reporting. Provider shall maintain student documentation to support eligibility and enrollment. Provider shall, on behalf of the District, request school records for each student from the last school they attended. Provider shall maintain documentation of award of credit. The District

is responsible for required Program student information to be reported in the District's student information system and in CEDARS in accordance with OSPI's standard procedures.

Technology Security. Provider shall use commercially-reasonable security measures to protect against loss of data or system downtime. District is not liable for any security breach that may occur on Provider's network or software systems.

1.5 EXCLUSIVITY

District and Provider acknowledge that this arrangement is not exclusive and that Provider has the right to provide similar Services to other public or private schools or institutions. Such activities shall be kept separate from the activities of the Program.

1.6 TERMINATION

1.6.1 Termination for Default

If either District or Provider violates any material term or condition of this Agreement or fails to fulfill in a timely and proper manner its obligations under this Agreement, then the aggrieved party shall give the other party written notice of such failure or violation. The responsible party shall correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed in writing. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice from the aggrieved party to the other party. The option to terminate shall be at the sole discretion of the aggrieved party. District reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit Provider from incurring additional obligations of funds during investigation of any alleged Provider compliance breach and pending corrective action by Provider or a decision by District to terminate the Agreement.

If the Failure to Perform is without the defaulting party's control, fault, or negligence, the termination shall be deemed to be a Termination for Convenience.

This section shall not apply to any failure(s) to perform that results from the willful or negligent acts or omissions of the aggrieved party.

1.6.2 Termination for Withdrawal of Authority

In the event that District's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Agreement and prior to normal completion, District may terminate this Agreement with sixty (60) calendar days written notice to Provider. No penalty shall accrue to District in the event this section shall be exercised. This section shall not be construed to permit District to terminate this Agreement in order to acquire similar Services from a third party.

1.6.3 Termination Procedure

If District chooses to terminate this Agreement for any reason, including the District's decision not to renew this Agreement per Section 1.1 above, and students are still active in the Program upon notifying Provider of its intention not to renew, the District shall be responsible for the following:

1. Offering a substantially similar program to active students.
2. Obtaining a signed Transfer Consent from Student (or if Student is under the age of 18 as of the expiration date of this agreement, a signed consent from the Student's parent or legal guardian) authorizing the transfer.
3. Transferring active students to the substantially similar program.

4. Signed Transfer Consents must be presented to Provider within 30 days of notification of District's intention not to renew this Agreement.
5. If District cannot secure signed Transfer Consents for any active student within the 30 day period, this Agreement remains in full force and effect for that specific active student and District agrees to delay its intention to not renew until terms in this Section 1.6.3 are met.
6. Regardless of whether the above terms and conditions in this Section 1.6.3 are met, following the District's notification of its intention not to renew, no new students shall be enrolled in the Program without the District's express written consent.

1.7 PRICING, INVOICE, AND PAYMENT

1.7.1 Pricing

Provider assumes the risk that its fees will not allow it to operate profitably nor to fully cover the costs of operation of the School during any given period and agrees that District shall bear no responsibility for any operating deficit that may occur at the School.

Provider agrees to provide the Services at the Prices set forth. Prices may not be increased during the initial term of the Agreement.

At least ninety (90) calendar days before the end of the then-current term of this Agreement, Provider may propose rate increases by written notice to District. Price adjustments will be taken into consideration by District when determining whether to extend this Agreement.

"Price" as used in this Agreement shall mean charges, costs, rates and/or fees charged for the Services performed by Provider under this Agreement and paid in United States dollars.

The Price is \$525 per eligible student per month for up to 10 months.

In the event a student has been counted 10 times prior to the end of the school year and cannot be included on a district's monthly P223 report for July and/or August, the District is not required to reimburse Provider, provided the District submits evidence of such to Provider prior to June 30th. For months in which Provider is not reimbursed students may not be required to complete satisfactory progress expectations nor will the student's status in those months be affected.

1.7.2 Taxes

District will pay sales and use taxes, if any, imposed on the Services acquired hereunder. Provider must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Provider's income or gross receipts, or personal property taxes levied or assessed on Provider's personal property. Provider shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Agreement.

All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Provider or Provider's staff shall be Provider's sole responsibility.

1.7.3 Invoice and Payment

Provider will submit properly itemized invoices to the District's Primary Contact Person.

Payments shall be due and payable within thirty (30) calendar days after receipt of properly prepared invoices.

Incorrect or incomplete invoices will be returned by District to Provider for correction and reissue.

1.7.4 Overpayments to Provider

Provider shall refund to District the full amount of any erroneous payment or overpayment under this Agreement within thirty (30) days' written notice.

1.8 ASSIGNMENT

With the prior written consent of District, which consent shall not be unreasonably withheld, Provider may assign this Agreement including the proceeds hereof, provided that such assignment shall not operate to relieve Provider of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to District that may arise from any breach of the sections of this Agreement, Statements of Work, or warranties made herein including but not limited to, rights of setoff.

District may assign this Agreement or Statements of Work to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, provided that such assignment shall not operate to relieve District of any of its duties and obligations hereunder.

1.9 STUDENTS

1.9.1 Student eligibility

Program is intended solely for students residing within District's geographic boundaries, including those students who transfer into the District under the interdistrict transfer provisions of RCW 28A.225.220 through 28A.225.230

Youth are eligible for the program if they are under twenty-one (21) years of age as of September 1st of the current calendar year and have not yet met state of Washington high school graduation requirements.

The parties agree that District shall create a written student admissions policy for the program.

The parties acknowledge that Program will only serve "enrolled students" residing in Washington state, as defined by WAC 392-121-106.

Recruitment and enrollment. The parties agree that Provider will recruit and enroll students in a manner consistent with any applicable district policies and state and federal law.

Transportation. The parties acknowledge that District shall have no duty under this Agreement to provide daily transportation to students enrolled in the Program. Any transportation for field trips or other purposes, excepting special education transportation, shall be provided exclusively by the Provider.

Student Code of Conduct. The parties acknowledge that students enrolled in the Program are subject to the District code of conduct.

Free basic education. The parties acknowledge that students will not be charged tuition for courses offered to students for which the district claims state education funding or that are included as part of the legally-required annual average total instructional hour offering of one thousand (1000) hours; provided, that students and/or their parents or other guardians as provided by law may be responsible for fees as specified by the District fee schedule.

Transitional bilingual instruction. The parties agree to make available instruction to eligible transitional bilingual students for the purpose of achieving competency in English, as specified in chapter 28A.180 RCW and chapter 392-160 WAC.

Meals. Nothing in this Agreement shall be interpreted or construed to require District or Provider to provide students enrolled in the Program access to federal child nutrition programs administered by the United State Department of Agriculture and the State of Washington, including, without limitation, the National School Lunch Program, the Special Milk Program for Children, the School Breakfast Program, and/or the Summer Food Service Program..

Special Education. The District will be responsible for the provision of special education services to any enrolled student who qualifies for special education in accordance with all state and federal law. Provider shall provide common Special Education accommodations at the direction of the District and after evaluation of the student's current IEP.

The District will provide the same accommodations to students under Section 504 of the 1973 Rehabilitation Act as it provides to all students otherwise enrolled in the District. Provider shall provide common Section 504 accommodations at the direction of the District and after evaluation of the student's current 504 Plan.

1.10 STUDENT ENROLLMENT REPORTING

1. The following requirements must be met when reporting student enrollment for state funding:
 - a) Met the eligibility criteria and enrollment criteria as specified in Section 1.9.1.
 - b) Met the requirement for two-way contact with a certificated teacher within the 20 consecutive school days prior to the monthly count day.
 - c) Attained satisfactory progress as defined in the Policy and Operations Manual or has an intervention plan on file within 5 schools of the monthly count day.
 - d) Has not withdrawn or been dropped prior to the monthly count day.
 - e) Is not enrolled in course work that has been reported by a college for postsecondary funding.
 - f) Has not exceeded 1.0 AAFTE for the current school year.
2. Enrollment will be reported on a monthly basis in accordance with the following:
 - a) Enrollment is based on the number of students enrolled on the monthly count day.
 - b) Provider shall submit by the fifth (5th) business day of each month by the fifth (5th) business day of each month data to District to enable the District to submit monthly P223 to the State.

If the student's hours of planned instruction as reported in their written student learning plan and validated by a licensed teacher is 25 or greater for each week, each enrolled student will be reported as a 1.0 FTE on the monthly P223 form.

1.11 SCHOOL RECORDS

Records. Provider shall maintain student records in compliance with the Family Educational Rights and Privacy Act (FERPA) of 1974, Pub. L. No. 93-380, 88 Stat. 484, and shall retain records in accordance with the record retention laws and schedules(s) of the Washington State Archivist applicable to public school districts, in addition to District record retention policies. Parent and other requests for disclosure of

records pursuant to FERPA or the Public Records Act (RCW 42.56) shall be administered by the District, with the assistance and cooperation of Provider.

State reporting. If at any time during the school year the Program serves more than twenty-five (25) students and said number equals more than one-quarter of one percent (.0025) of the District's annual average full-time equivalent enrollment claimed for basic education funding, the District shall report the certificated instructional employees of Provider as required by the Office of the Superintendent of Public Instruction annual personnel reporting system for calculation of state funding, staff, ratios, and statistics.

Provider shall respond to applicable requests for information or reports from District, state, or federal authorities.

1.11.1 Audits.

In the event of any audit undertaken at the direction of District, the State of Washington, or the United States, and their respective officers, employees, or agents, Provider shall fully cooperate with the District and auditors in providing all information needed for such audit.

1.11.2 Confidentiality Protection of District's Confidential Information

Provider acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Agreement or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or information identifiable to an individual that relates to any of these types of information. Provider agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Agreement, to release it only to authorized employees requiring such information for the purposes of carrying out this Agreement, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without District's express written consent or as provided by law. Provider agrees to release such information or material only to employees who have signed a nondisclosure agreement, the terms of which have been previously approved by District. Provider agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

Immediately upon expiration or termination of this Agreement, Provider shall, at District's option: (i) certify to District that Provider has destroyed all Confidential Information; or (ii) return all Confidential Information to District; or (iii) take whatever other steps District requires of Provider to protect District's Confidential Information.

District reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Provider through this Agreement.

Violation of this section by Provider may result in termination of this Agreement and demand for return of all Confidential Information, monetary damages, or penalties.

1.12 GENERAL PROVISIONS

1.12.1 Ownership of Services and Content.

Nothing in this Agreement will be interpreted or construed as a sale or purchase of title to the Services provided by the Provider hereunder. All right, title, and interest in and to any documentation and materials supplied by Provider under this Agreement, derivative works compilations, collective works, and any know-how and trade secrets related to the Services provided by Provider hereunder, including all intellectual property rights therein and thereto, are and will remain the exclusive property of Provider. District will not have any rights in or to the Services provided by Provider hereunder, except those expressly granted in this Agreement. Provider reserves to itself all rights to the Services provided by Provider hereunder not expressly granted to District under this Agreement.

1.12.2 Indemnification

As part of the terms of this Agreement, each party shall each be responsible for the consequences of any act or failure to act on the part of itself, its directors, employees, and its agents. Each party shall be responsible for its own negligence, and neither party shall indemnify or hold the other party harmless; neither party assumes responsibility to the other party for its consequences of any act or omission of any person, firm or corporation not party to this Scope of Work. In the event of fiscal recapture due to inconsistencies or misinterpretation of law, both parties agree to collaboratively address the issue or issues and seek a collaborative solution.

1.12.3 Insurance.

Provider shall, during the term of this Agreement, maintain in full force and effect, the insurance described in this section. Provider shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Agreement, Provider shall provide written notice of such to District within one (1) Business Day of Provider's receipt of such notice. Failure to buy and maintain the required insurance may, at District's sole option, result in this Agreement's termination.

The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

- a) Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
- b) Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than \$1 million per accident;
- c) Employers Liability insurance covering the risks of Provider's employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease;

- d) Umbrella policy providing excess limits over the primary policies in an amount not less than \$3 million;
- e) Professional Liability Errors and Omissions, with a deductible not to exceed \$25,000, and coverage of not less than \$1 million per occurrence/\$2 million general aggregate; and

Provider shall pay premiums on all insurance policies. All insurance provided by Provider shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.

Provider shall include any subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of subcontract(s) to comply with insurance requirements does not limit Provider's liability or responsibility. For the purposes of this Agreement, a "Subcontractor" shall mean one not in the employment of Provider, who is performing all or part of the business activities under this Agreement under a separate contract with Provider.

Provider shall furnish to District copies of certificates of all required insurance within thirty (30) calendar days of this Agreement's Effective Date, and copies of renewal certificates of all required insurance within thirty (30) days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at District's sole option, result in this Agreement's termination.

By requiring insurance herein, District does not represent that coverage and limits will be adequate to protect Provider. Such coverage and limits shall not limit Provider's liability under the indemnities and reimbursements granted to District in this Agreement.

1.12.4 Licensing Standards.

Provider must register with the Washington State Department of Revenue prior to performing work under the Agreement. Provider will be issued a State Uniform Business Identifier (UBI) number to be used in payment of state taxes. Out-of-state Providers performing work in Washington State are required to have UBI numbers.

Provider shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards necessary in the performance of this Agreement.

1.12.5 Antitrust Violations.

Provider and District recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by District. Therefore, Provider hereby assigns to District any and all claims for such overcharges as to goods and Services purchased in connection with this Agreement, except as to overcharges not passed on to District resulting from antitrust violations commencing after the date of the bid, quotation, or other event establishing the Price under this Agreement.

1.12.6 Compliance with Civil Rights Laws.

During the performance of this Agreement, Provider shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101

et seq.; the Americans with Disabilities Act (ADA); and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Provider's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Agreement may be rescinded, canceled, or terminated in whole or in part under the Termination for Default sections, and Provider may be declared ineligible for further Agreements with District.

1.12.7 Severability.

If any term or condition of this Agreement or the application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

1.12.8 Waiver.

Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by a written instrument signed by the parties.

1.12.9 Provider's Proprietary Information.

Provider acknowledges that District is subject to chapter 42.56 RCW and that this Agreement shall be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Provider to be Proprietary Information must be clearly identified as such by Provider. To the extent consistent with chapter 42.56 RCW, District shall maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Provider's Proprietary Information, District will notify Provider of the request and of the date that such records will be released to the requester unless Provider obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Provider fails to obtain the court order enjoining disclosure, District will release the requested information on the date specified.

1.12.10 Governing Law.

This Agreement shall be governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. However, if the Uniform Computer Information Transactions Act (UCITA) or any substantially similar law is enacted as part of the law of the state of Washington, said statute will not govern any aspect of this Agreement or any license granted hereunder, and instead the law as it existed prior to such enactment will govern. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for Pierce County, Washington.

1.13 DISPUTE RESOLUTION

1.13.1 Disputes.

In the event a dispute arises under this Agreement, it shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Agreement shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Agreement terms, and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be

final and binding on the parties hereto. District and Provider agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Agreement that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between District and Provider and it cannot be resolved between the parties, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

- a) If the dispute cannot be resolved after three (3) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) Business Days.
- b) The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.
- c) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

District and Provider agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Agreement that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by District for Services being provided by Provider, Provider shall continue providing Services pending resolution of the dispute provided District pays Provider the amount District, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Provider, in good faith, believes is due and payable.

Attorneys' Fees and Costs. If any litigation is brought to enforce any term, condition, or section of this Agreement, or as a result of this Agreement in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with expenses and costs incurred with such litigation, including necessary fees, costs, and expenses for services rendered at both trial and appellate levels, as well as subsequent to judgment in obtaining execution thereof.

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative

dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

Non-Exclusive Remedies. The remedies provided for in this Agreement shall not be exclusive but are in addition to all other remedies available under law.

1.13.2 Limitation of Liability.

The parties agree that neither Provider nor District shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Agreement. This section does not modify any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default are not consequential, incidental, indirect, or special damages as that term is used in this section.

Neither Provider nor District shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Provider or District. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than District acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Provider or District.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

Except for Provider's confidentiality obligations and any State Audit Finding Amounts (as defined below), in no event shall Provider's aggregate liability, if any, including liability arising out of contract, negligence, strict liability in tort or warranty, or otherwise, exceed the total of fees payable by the District for the six (6) month period immediately preceding the claim for such liability.

Any amounts returned by the District to the State of Washington resulting from a formal ALE program audit conducted by the Washington State Auditor's Office may be exempt from this Liability Cap. Following the conclusion of all audit appeals processes, should the final audit findings determine that work performed under this Agreement resulted in an overpayment from the State to the district, and that an error or omission by Provider was the direct cause for such a finding, Provider will reimburse the District for any such State Audit Finding Amounts that the District is required to repay to the State up to the amounts billed and collected by Provider during the period covered by the audit. During the Term of the Agreement only, Provider agrees to reimburse District for such State Audit Finding Amounts, payable based upon mutually acceptable terms.

1.14 AGREEMENT EXECUTION

1.14.1 Authority to Bind.

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement.

1.14.2 Counterparts.

Counterparts – This section provides for counterparts or duplicate originals of the Agreement. Each party may sign a separate signature page, each of which will be made a part of the Agreement and be considered an original.

This Agreement may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Agreement signed by each party, for all purposes.

In Witness Whereof, the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

This Agreement is effective this 26th day of January, 2015, (the "Effective Date")

Approved

Clover Park School District

Approved

Graduation Alliance, Inc.

Deborah L. LeBeau
Signature

Andrew
Signature

Deborah L. LeBeau 1-14-15
Print or Type Name Date

Andrew Cusimano 1-15-2014
Print or Type Name Date

Superintendent
Title

Senior Vice President, Customer Services
Title