

Outside Services Agreement

<u>Institution/Organization</u> Name: The Concord Consortium, Inc. Address: 25 Love Lane Concord, MA 01742-2345 Project Information: Name: Number: Period of Performance:	<u>Outside Services Provider</u> Name: Address: EIN Number: Agreement Number: Budget:
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Terms and Conditions

1. CC hereby awards a cost reimbursable Outside Services Agreement ("Agreement"), as described above, to Vendor. The Statement of Work and Budget for this Agreement are appended as Attachment 2. In its performance of work, Vendor shall be an independent entity and shall not be considered in any way an employee or agent of CC.
2. CC shall reimburse Vendor not more often than monthly for allowable costs. Invoices will be paid within 30 days of receipt of complete documentation. Questions concerning invoice receipt or payments should be directed to the appropriate party's Financial Contact, as shown in Attachment 1.
3. A final statement of costs incurred, marked "FINAL," must be submitted to CC's Financial Contact NOT LATER THAN sixty (60) days after end date. The final statement of costs shall constitute Vendor's final financial report and payment by CC under such final statement shall be considered payment in full.
4. Matters concerning the technical performance of this Agreement should be directed to the appropriate party's Project Director, as shown in Attachment 1.
5. Matters concerning the request or negotiation of any changes in the terms, conditions, amounts, or assignments cited in the Agreement must be directed to the appropriate party's Administrative Contact, as shown in Attachment 1. Any such changes made to this Agreement require the written approval of each party's Authorized Official, as shown in Attachment 1.
6. This Agreement may be terminated by written notice from CC to the Vendor. CC shall pay Vendor for all allowable, non-cancelable obligations in the event of termination by CC as allowable under applicable regulations. Within 30 days of the date of termination, Vendor will deliver to CC a summary of progress under the Agreement and an itemized accounting of costs incurred prior to the effective date of termination. Final allowable costs will be determined in accordance with the terms of this Agreement, appropriate federal cost principles, and progress under the Agreement. In no event will CC be liable for costs in excess of the Budget.
7. Both parties recognize and agree that all rights, title and interest in and to all designs, software, firmware, related documentation, and works of authorship prepared by Vendor for CC pursuant to this agreement shall belong exclusively to CC. Vendor agrees that works made pursuant to this agreement constitute works made for hire and hereby assigns ownership of the trademarks, copyrights, patents, and other intellectual property rights in them to CC. There shall be no obligation of CC or any of its licensees to designate Vendor as author of any designs, software, firmware, related documents, or other works of authorship when distributed publicly or otherwise, nor to make any distribution thereof. Vendor hereby waives and releases all rights, if any, to foregoing works made for hire, and agrees to assist CC in any manner deemed necessary to CC to permit CC to apply for, obtain, and enforce related trademarks, copyrights, or patents. Vendor will certify that all materials delivered are consistent with licensing goals for the project in which they will be included. Vendor will not include any third-party software or content in their work product without review and approval by CC of the distribution license for that third-party software or content.
8. Non-Disclosure of Information: All materials and information given or disclosed to Vendor by CC or prepared by Vendor for CC under this Agreement, whether proprietary to CC or not, shall be deemed confidential. Vendor agrees to keep such materials and information strictly confidential and not disclose them to any third party at any time, before, during, or after the term of this Agreement, without CC's written consent. Upon ending of this Agreement, Vendor shall surrender to CC, if CC so

requests in writing, all written and descriptive materials, including but not limited to drawings, software, models, partially completed work, descriptions, and all other papers, documents, and materials relating to any work performed for or on behalf of CC under this agreement. This Section shall apply regardless of whether CC's confidential information is produced by Vendor or not. This Section shall survive termination of this Agreement.

9. Independent Contractor Status: It is agreed that Vendor is performing services under this Agreement as an independent contractor for CC and not as an employee, agent, or representative of CC. CC's liability hereunder shall be limited to payment of the fee set forth in this Agreement.

10. Taxes: Vendor agrees to pay and to take sole responsibility for all applicable taxes that may arise as a result of this Agreement, including but not limited to social security, income tax withholding, disability, and other payroll tax requirements. CC may, at its option, require Vendor to furnish proof of payment of taxes by completing IRS Form 4669.

11. Conflict of Interest: Neither Vendor nor any of Vendor's personnel assigned to work under this Agreement shall engage in any work or undertaking that may conflict with or create any legal impediment to Vendor's performance under this Agreement or the rights herein granted by Vendor to CC during the terms of this Agreement and for a period of one year thereafter. Vendor represents that there is no such present conflict of interest nor any legal impediments to Vendor's performance under this Agreement.

12. Indemnity: Vendor shall, at Vendor's expense, indemnify, defend, and hold harmless CC from and against all losses, costs, damages, and expenses resulting from claims by third parties that any right, title, or other interest granted by Vendor under this Agreement or any Service, invention, materials, hardware, documentation, design, drawing, method, report, record, software, or other item provided by Vendor under this Agreement infringes on the rights of any person or entity. Vendor shall immediately notify CC in writing of each and every claim by any person or entity that might affect CC's rights under this Agreement.

13. Miscellaneous: Vendor shall not assign this Agreement or any right or obligation hereunder without CC's consent, and any attempted assignment without CC's written consent shall be deemed void. Failure of either party to insist in any instance upon strict performance by the other party of any term, condition, or obligation set forth in this Agreement shall not be deemed a waiver of such or any other provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the successors of CC and of Vendor. This Agreement represents the entire understanding of the parties hereto and supersedes all prior written or oral agreements with respect to the subject matter hereof. Any dispute arising out of this agreement requiring litigation shall take place in a state or federal court located in the greater Boston area. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, excluding its conflict of laws rules.

14. Enforceability: If any provision of this Agreement is held invalid by law, this shall not affect the other provisions of this Agreement, the application of the invalid provision to any circumstance other than that with respect to which this Agreement was found to be unenforceable, or the validity or enforceability of this Agreement as a whole.

15. Federal and NSF guidelines: Vendor agrees to abide by the following Federal and NSF guidelines:

- a. OMB Circular A-110
- b. The Proposal and Award Policies and Procedures Guide, including addenda in effect as of the beginning date of the period of performance.
- c. Research Terms and Conditions found at < <http://www.nsf.gov/bfa/dias/policy/rtc/terms.pdf>> and Agency Specific Requirements found at < http://www.nsf.gov/pubs/policydocs/rtc/nsf_708.pdf>, except for the following:
 - i. The right to initiate an automatic one-time extension of the end date provided by Article 25(c)(2) is replaced by the need to obtain prior written approval from CC;
 - ii. The payment mechanism described in Article 22 and the financial reporting requirements in Article 52 of the Research Terms and Conditions and Article 9 of the Agency-Specific Requirements are replaced with Terms and Conditions of this agreement; and
 - iii. Any prior approvals are to be sought from CC and not the Federal Awarding Agency.

By an Authorized Official of CC:

By an Authorized Official of Vendor:

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment 1: CC and Vendor Contacts

Attachment 2: Statement of Work and Budget

Attachment 3: Addendum on Data Security (if required) YES or NO

Attachment 1
CC and Vendor Contacts

CC Contacts	Vendor Contacts
Administrative Contact Name: Lisa Buoncuore Address: The Concord Consortium 25 Love Lane Concord, MA 01742 Telephone: 978-405-3204 Fax: 978-405-2076 Email: lbuoncuore@concord.org	Administrative Contact Name: Address: Telephone: Fax: Email:
Project Director Name: Address: The Concord Consortium 25 Love Lane Concord, MA 01742 Telephone: Fax: 978-405-2076 Email:	Project Director Name: Address: Telephone: Fax: Email:
Financial Contact Name: Lisa Buoncuore Address: The Concord Consortium 25 Love Lane Concord, MA 01742 Telephone: 978-405-3204 Fax: 978-405-2076 Email: lbuoncuore@concord.org	Financial Contact Name: Address: Telephone: Fax: Email:
Authorized Official Name: Chad Dorsey or Yu-Ling Wu Address: The Concord Consortium 25 Love Lane Concord, MA 01742 Telephone: 978-405-3232 or 3202 Fax: 978-405-2076 Email: cdorsey or ywu @concord.org	Authorized Official Name: Address: Telephone: Fax: Email:

Attachment 2
Statement of Work and Budget

Outside Services Agreement Addendum on Data Security

The Concord Consortium takes the privacy of student and personal data seriously. Parties that contract with Concord Consortium that handle sensitive information on our behalf must ensure that they handle that data responsibly to prevent loss or unauthorized disclosure of data. For purposes of this addendum, Sensitive Information is defined as any and all information whose collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to, Social Security Numbers, student records, and other personally identifiable information identified by law. Student records may include student names, student likenesses such as photos or videos, and student work that may contain identifying information.

[Vendor] agrees to comply with the following requirements:

Data handling and protection:

1. [Vendor] will use all reasonable practices and security procedures necessary to protect all electronic data that is transmitted between those parties under this Agreement by (but not limited to) electronic transmission or the physical delivery of electronically recorded data. Such protective measures shall include, but not be limited to:

- Use of up-to-date anti-virus software to guard against viruses, worms, Trojan horses, or other malware that may permit unauthorized access to data or may compromise the confidentiality, integrity, or authorized accessibility of data or associated information systems of the other party
- Protection of accounts with strong passwords.
- Keeping private the logins that we provide to access to sensitive data.
- Maintenance of [Vendor]'s computers and other systems so that they are up to date with system security patches and updates.
- Transporting or transmitting sensitive data only through encrypted means.
- Keeping paper copies of sensitive data in a locked drawer or cabinet when not in use.
- [Vendor] will encrypt any computer hard drive storing CC-provided or -sourced sensitive data
- Storing CC sensitive data only on online locations specified by CC.
- Sharing data with only those who must see it to fulfill the terms of [Vendor]'s contract with the Concord Consortium.

2. Any [Vendor] subcontractors handling Sensitive Information on behalf of the Concord Consortium must be held to these same requirements.

3. Any Sensitive Information collected or stored on behalf of the Concord Consortium on [Vendor]'s systems must be destroyed at the end of the contract after a copy is delivered to the Concord Consortium.

Reporting of loss or disclosure:

1. [Vendor] agrees to notify the Concord Consortium when any [Vendor] system that may access, process, or store Concord Consortium data is subject to unintended access or disclosure. Unintended access includes compromise by a computer worm, search engine web crawler, password compromise, or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures. [Vendor] further agrees to notify the Concord Consortium within twenty-four (24) hours of the discovery of the unintended access by providing notice via email to privacy@concord.org, including what actions [Vendor] has taken or shall take to mitigate the effect of the unauthorized use or disclosure, and what corrective action [Vendor] has taken or shall take to prevent future similar unauthorized use or disclosure. [Vendor] shall provide such other information, including a written report, as reasonably requested by the Concord Consortium.

2. [Vendor] agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of [Vendor]'s security obligations or other event requiring notification under applicable law

("Notification Event"), [Vendor] agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless, and defend the Concord Consortium and its officers and employees from and against any claims, damages, or other harm related to such Notification Event.

By an Authorized Official of CC:

Signature: _____

Title: _____

Date: _____

By an Authorized Official of Vendor:

Signature:_____

Title:_____

Date: _____