1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63G-6, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit Canyons School District to purchase certain specified services, and other approved purchases for Canyons School District.

2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.

3. **LAWS AND REGULATIONS:** The Contractor and any and all supplies, services, equipment, and construction furnished under this contract will comply fully with all applicable Federal and State laws and regulations.

4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow Canyons School District, State and Federal auditors, and Canyons School District employees, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of Canyons School District, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.

6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind Canyons School District to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for Canyons School District, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by Canyons School District. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from Canyons School District for these contract services. Persons employed by Canyons School District and acting under the direction of Canyons School District shall not be deemed to be employees or agents of the Contractor.

7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release Canyons School District, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the acts or negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from Canyons School District's sole negligence.

8. **EMPLOYMENT PRACTICES CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace.

9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.

10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by authorized persons of the parties hereto, and attached to the original signed copy of the contract. Automatic renewals will not apply to this contract.

11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by Canyons School District. The Contractor must notify Canyons School
District Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.

12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given to the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.

13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that Canyons School District cannot contract for the payment of funds not yet appropriated by the Board of Education. If funding to Canyons School District is reduced due to an order by the Board of Education, or is required by State law, or if federal funding (when applicable) is not provided, Canyons School District may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from Canyons School District upon 30 days written notice. In the case that funds are not appropriated or are reduced, Canyons School District will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and Canyons School District will not be liable for any future commitments, penalties, or liquidated damages.

14. **SALES TAX EXEMPTION:** Canyons School District of Utah’s sales and use tax exemption number is 12389689002STC. The tangible personal property or services being purchased are being paid from Canyons School District funds and used in the exercise of that entity’s essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.

15. **WARRANTY:** The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to Canyons School District under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that Canyons School District has relied on the Contractor’s skill or judgment to consider when it advised Canyons School District about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which Canyons School District has not been warned. Remedies available to Canyons School District include the following: The Contractor will repair or replace (at no charge to Canyons School District) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies Canyons School District may otherwise have under this contract.

16. **PUBLIC INFORMATION:** Contractor agrees that the contract, related Sales Orders, and Invoices will be public documents, and may be available for distribution. Contractor gives Canyons School District express permission to make copies of the contract, related Sales Orders, and Invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified in writing and expressly approved by Canyons School District Department of Purchasing, Contractor also agrees that the Contractor’s response to the solicitation will be a public document, and copies may be given to the public under GRAMA laws. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.

17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will
remain with Contractor until final inspection and acceptance when responsibility will pass to Canyons School District except as to latent defects, fraud and Contractor's warranty obligations.

18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to Canyons School District. Canyons School District contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by Canyons School District will be those prices listed in the contract. Canyons School District has the right to adjust or return any invoice reflecting incorrect pricing.

19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by Canyons School District Purchasing Card (major credit card).

20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold Canyons School District, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.

21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of Canyons School District.

22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for Canyons School District to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. Canyons School District will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, Canyons School District may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.

23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. Canyons School District may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to Canyons School District is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of Canyons School District, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6-1002, Utah Code Annotated, 1953, as amended).

25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor’s website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. Atth. A: Canyons School District Standard Terms and Conditions; 2. Canyons School District Contract Signature Page(s); 3. Canyons School District Additional Terms and Conditions; 4. Contractor Terms and Conditions.

26. **ENTIRE AGREEMENT:** This Agreement, including all Attachments, and documents incorporated hereunder, and the related State Solicitation constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings.
between the parties, whether oral or written. The terms of this Agreement shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor’s work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of Canyons School District. The parties agree that the terms of this Agreement shall prevail in any dispute between the terms of this Agreement and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Agreement.

27. **PRICE GUARANTEE, ADJUSTMENTS:** The contract pricing resulting from this bid/proposal will be guaranteed for the period specified. Following the guarantee period, any request for price adjustment must be for an equal guarantee period, and must be made at least 30 days prior to the effective date. Requests for price adjustment must include documentation supporting the request and demonstrating a logical mathematical link between the current price and the proposed price. Any adjustment or amendment to the contract will not be effective unless approved by the Canyons School District Director of Purchasing. The DISTRICT will be given the immediate benefit of any decrease in the market, or allowable discount.

28. **UTAH SENATE BILL (SB 81) COMPLIANCE:** The Contractor verifies that they are in compliance with the Utah Senate Bill (SB 81), Illegal Immigration. The law makes it unlawful for a Utah employer to terminate a U.S. citizen and replace that individual with an undocumented worker hired after July 1, 2009. SB 81 also requires contractors who perform physical services within the State to register and participate in a Status Verification System, as defined in SB 81, before entering into contracts with public employers. Contracts awarded through a request for proposal process require a clause mandating the prime and subcontractor to use an approved Status Verification System

(Revision date: 01.12.10)