



Master Services Agreement

This Master Services Agreement ("**Agreement**") between Sierra-Cedar, Inc., a Delaware corporation with its principal offices at 1255 Alderman Drive, Alpharetta, Georgia 30005 ("Consultant" or "Sierra-Cedar") and MiraCosta Community College District, a California community college district, with principal offices at 1 Barnard Drive, Oceanside, CA 92056 ("Client") is effective as of the date on which it has been signed by both Parties. Collectively Consultant and Client shall be known individually as a "Party" and collectively as the "Parties".

The Parties agree as follows:

MASTER TERMS AND CONDITIONS

1. Services Provided by Consultant

Consultant shall provide Client with information technology consulting services ("Services") as specified in one or more Statement(s) of Work executed by the Parties (each, a "SOW"). Each SOW is a separate and independent contractual obligation from any other SOW. Together, these Master Terms and Conditions and the SOW(s) comprise this Agreement. Each SOW shall, as applicable, specify the type of Services to be performed, any specific tasks to be performed by each Party, location and approximate start and end dates of each assigned Consultant, any applicable deliverables and associated due dates, reporting requirements, documentation requirements, and any relevant acceptance and testing procedures and criteria. The Services may include the presentation of options and advice, but Consultant will not make any decisions on behalf of Client in connection with such options and advice.

2. Fees, Expenses, & Payment

For all Services performed pursuant to a SOW or other request for Services that references this Agreement, Client shall: (i) pay Consultant at the rates explicitly set forth in each SOW; (ii) reimburse Consultant for all reasonable travel and living expenses incurred pursuant to the provision of such Services as set forth in each SOW or, if the SOW is silent, in accordance with the Sierra-Cedar Travel and Expense Billing Policy attached hereto as Exhibit A, and (iii) pay Consultant all undisputed amounts owed within 30 calendar days after the date Client receives an detailed invoice from Consultant explaining the work performed during the relevant time period. Consultant will send invoices twice a month. If Client disputes all or a portion of any invoice, Client shall inform Consultant in writing of the nature of the dispute within 30 days after invoice receipt and will pay any undisputed amounts within 30 days after invoice receipt. Consultant reserves the right to suspend the Services being provided under this Agreement or terminate this Agreement in the event the amount in dispute exceeds \$250,000. Any late payment shall accrue interest at a rate of the lesser of 1.5% per month and the maximum amount allowed by law. All payments related to this Agreement are non-refundable. Client is responsible for all sales and use taxes, duties,



and customs fees concerning the Services performed hereunder, but is not liable for taxes based on Consultant's income or gross revenue. Any payment not drawn on a U.S. or Canadian bank must be made by wire transfer.

3. **Staffing**

3.1 Coordination of Resources. Consultant will work with Client to assess and meet staffing and resource needs for provision of the Services. If Client notifies Consultant that it is dissatisfied with any person or Affiliate or Affiliate employee supplied by Consultant or Affiliate, Consultant shall try in good faith to promptly resolve any concerns. If Client continues to be dissatisfied with such person, Consultant or Affiliate will remove that person from the situation and will assign a different person to Client's work as soon as possible. Consultant shall have the right to remove or replace an assigned individual with a similarly skilled individual in the event such removal or replacement is required due to promotion, leave of absence, illness, or the like.

3.2 Non-Solicitation.

The Parties acknowledge that their ability to meet their obligations hereunder is dependent on each Party having its skilled and trained employees available as anticipated during the term of the Agreement. In recognition of that need, the Parties agree that during the term of this Agreement and for a period of one year thereafter, neither Party shall solicit for employment or hire, directly or through a staffing or placement agency, or otherwise retain an employee or contractor of the other Party who has been directly involved with the receipt or provision of Services.

4. **Obligations of Consultant**

Consultant shall perform its obligations as set forth in the applicable SOW. All subcontractors hired by Consultant to perform Consultant obligations pursuant to a SOW shall be bound to perform such obligations as if such obligations were being performed by Consultant and Consultant shall be liable for the actions of such subcontractors while performing Services pursuant to this Agreement as if such actions were the actions of Consultant. Consultant may subcontract to an Affiliate. In addition, Consultant shall:

- (a) designate and provide for each SOW one Consultant point of contact who shall be responsible for answering and resolving Client's questions and issues relating to the project(s) described therein; and
- (b) provide sufficient, qualified, knowledgeable personnel capable of performing Consultant's obligations as set forth in the applicable SOW.

5. **Obligations of Client**



Client shall fulfill the following obligations, in addition to Client obligations set forth in the applicable SOW (collectively "Client Obligations"):

- (a) designate and provide for each SOW one Client point of contact who shall be responsible for answering and resolving Consultant's questions and issues relating to the project(s) described therein; and
- (b) provide sufficient, qualified, knowledgeable personnel capable of: (i) performing Client Obligations; (ii) participating in the project and assisting Consultant's consultant resources in reviewing Work Product; and (iii) facilitating searches for information and requirements;
- (c) provide Consultant with reasonable access to Client's facilities during Client's normal business hours and otherwise as reasonably requested by Consultant in order to facilitate Consultant's performance of the Services;
- (d) provide Consultant with such reasonable working space and reasonable office support (including but not limited to internet access of the same speed and quality as is provided to Client's employees, photocopying equipment, and the like), and sufficient space for Consultants to conduct efficient analytical work and hold meetings with Client personnel and/or other Consultant personnel; and reasonably cooperate with Consultant as may be set forth in the applicable SOW to facilitate Consultant's performance of the Services;
- (e) license or subscribe to and provide all of the software that will be required to render Services other than standard productivity software resident on Consultant devices and any software Consultant specifically agrees to provide in a SOW.

6. SOW Change Order Process

If Consultant is performing services on an hourly basis and Client wishes to add services or extend the engagement, Client may so request in writing to Consultant, which may be via e-mail. If Consultant is not able to accommodate the request, it will so notify Client.

If either Party desires to change the Services to be provided pursuant to a SOW as to which payment for which is not on an hourly basis, the following process shall be followed:

- (a) Consultant will prepare a Change Order for Client's review documenting the change, including relevant information such as additional resources required, revised end-dates, and additional fees, if applicable;
- (b) When Consultant and Client have agreed on the contents of the Change Order, including approval of the Change Order by Client's Board of Trustees, both parties shall so indicate, either by signing the Change Order or transmitting approval of the Change Order via fax, email, or other electronic means.


Sierra-Cedar

- (c) Once a Change Order has been agreed to in such manner by the Parties, it shall constitute an amendment to, and shall be deemed part of, the terms and conditions of the applicable SOW.

7. **Ownership and Proprietary Rights**

- 7.1 Ownership of Pre-existing Technology. Client acknowledges and agrees that Consultant is the sole and exclusive owner of all rights, including but not limited to all patent rights, copyrights, trade secrets, trademarks, and other proprietary rights in the systems, programs, templates, methodologies, tools, accelerators, specifications, user documentation, training materials, and other materials used by Consultant in the course of its provision of Services which were created prior to or independently of the performance of the Services, plus any modifications or enhancements thereto and derivative works based thereon (collectively "Consultant's Technology"). Client acquires no rights in Consultant's Technology. Client shall not copy, transfer, sell, give, loan, distribute, assign, display, or otherwise make Consultant's Technology available to third parties.
- 7.2 Ownership of Tangible Work Product. The work product created by Consultant for delivery to Client pursuant to this Agreement ("Deliverables") shall mutually belong to Client and Consultant and may be used by each Party for its business purposes.
- 7.3 Ownership of Data Processing Know-how. Client recognizes that Consultant's business depends substantially upon the accumulation of learning, knowledge, data, techniques, tools, processes, and generic materials that it utilizes and develops in its client engagements. Accordingly, to the extent material that is used in, enhanced, or developed in the course of providing Services hereunder is of a general abstract character, or may be generically re-used, and does not contain Confidential Information of Client, then Consultant will own such material including, without limitation: methodologies; delivery strategies, approaches and practices; generic software tools, routines, and components; generic content, research and background materials; training materials; application building blocks; templates; analytical models; project tools; development tools; inventions; solutions and descriptions thereof; ideas; and know-how (collectively "Know-how"). To the extent such Know-how is contained or reflected in the Deliverables, Consultant hereby grants Client a fully paid up, perpetual license to use such Know-how only for its internal business. Client will not sublicense, give or sell Know-How to any third party, and will not knowingly use or exploit the Know-How to compete with Consultant.

8. **Confidentiality**

The Parties acknowledge and agree that in the course of performing under this Agreement, each will disclose to the other trade secrets and other confidential information relating to each Party's business or individuals and staff, including



Consultant's Technology and Know-how, and private information related to Client's employees, staff, agents, students, families, alumni, donors, and volunteers. Any such information which is designated in writing as confidential or which a Party should reasonably understand to be confidential will be deemed "Confidential Information". Confidential Information will not include Know-How. Each Party agrees to store and use the other Party's disclosed Confidential Information only to the extent necessary to perform the Services. Each Party agrees not to disclose the Confidential Information of the other to any third party and to treat it with the same degree of care as it would its own confidential information. Each Party further agrees not to disclose the Confidential Information of the other to any employees other than those with a need to have access to it, and to instruct those employees of the need to maintain the confidentiality of the Confidential Information. The Parties acknowledge and agree that failure to abide by these confidentiality obligations would constitute a material breach hereof, and may irreparably harm the non-breaching Party, and that the aggrieved Party shall be free, in addition to other relief, to seek injunctive relief to cure or prevent any such breach, without need of posting a bond. Confidential Information will not include information that: (i) is or becomes publicly available through no wrongful act of the receiving Party; (ii) was lawfully obtained by the receiving Party from a third party who had no obligation to maintain the Confidential Information as confidential; (iii) was previously known to the receiving Party without any obligation to keep it confidential; or (iv) was independently developed by the receiving Party without the use of or reliance upon the Confidential Information of the disclosing Party. Should either Party receive a subpoena covering Confidential Information, it will, unless prohibited by law, promptly notify the other Party to give the other Party an opportunity to seek relief, should it wish to do so. Client will not disclose to Consultant or provide access to information which is covered by data security laws except to the extent necessary to perform the Services.

Confidential Information will not include information that is not exempt from the California Public Records Act. Client will notify Consultant if a California Public Records Act request seeks documents Client may believe contain confidential information. This section should not be construed to prevent either Party from complying with applicable laws. This section will survive the expiration or termination of this Agreement.

9. **Warranty and Warranty Exclusions**

Consultant warrants that: (a) it will perform the Services in a professional and workmanlike manner in accordance with industry standards; (b) it has the authority to enter into this Agreement; (c) it will perform the Services in a manner that complies with all applicable laws and regulations. Client agrees that all development work performed under this Agreement using third-party proprietary development and integration tools shall be subject to the limitations, if any, of Client's license agreements with such third-party software vendors. Consultant warrants that the Services and any Deliverables will materially comply with the specifications set forth in the applicable SOW for a period of 90 days following their delivery, provided that neither Client nor a third-party modifies



the Services or Deliverables without Consultant's prior written consent. Consultant warrants that, to the best of its knowledge, the Services and Deliverables will not infringe on the U.S. proprietary rights of any third-party.

CONSULTANT DISCLAIMS AND EXCLUDES THE WARRANTIES OF MERCHANTABILITY, SYSTEMS INTEGRATION, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING UNDER STATUTORY OR COMMON LAW, AS WELL AS ALL OTHER IMPLIED WARRANTIES CONCERNING ITS SERVICES.

EXCEPT AS SET FORTH IN THIS SECTION AND SECTION 15.14, CONSULTANT DISCLAIMS ALL EXPRESS WARRANTIES CONCERNING ITS DELIVERABLES AND SERVICES. CONSULTANT MAKES NO WARRANTIES OF ANY SORT CONCERNING ANY THIRD-PARTY COMMERCIALLY AVAILABLE SOFTWARE.

10. Sole Remedy and Limitation of Liability

EXCEPT WITH RESPECT TO CONSULTANT'S INDEMNIFICATION OBLIGATIONS, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, CONSULTANT SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST DATA, LOST PROFITS, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER ARISING, EVEN IF IT HAS BEEN ADVISED OF A POSSIBILITY OF SUCH DAMAGES. EXCEPT WITH RESPECT TO CONSULTANT'S INDEMNIFICATION OBLIGATIONS, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, IN NO EVENT SHALL CONSULTANT'S AGGREGATE LIABILITY HEREUNDER EXCEED THE TOTAL AMOUNT PAID TO CONSULTANT BY CLIENT PURSUANT TO THE SOW IN EFFECT WHEN THE ACTION GIVING RISE TO THE LIABILITY AROSE, WHETHER ARISING OUT OF CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, ANY OTHER TORT, INCLUDING INTENTIONAL TORTS, ATTORNEY'S FEE AWARDS, OR ANY OTHER CAUSE OF ACTION. CLIENT ACKNOWLEDGES THAT IT IS WAIVING ANY RIGHT TO RECOVERY UNDER ANY STATE'S UNFAIR COMPETITION/UNFAIR AND DECEPTIVE ACTS OR PRACTICES STATUTE (OR SIMILARLY NAMED STATUTES) TO THE EXTENT SUCH RECOVERY (INCLUDING ANY ATTORNEY'S FEE AWARD) EXCEEDS THE AMOUNTS PAID TO CONSULTANT BY CLIENT PURSUANT TO THE SOW IN EFFECT WHEN THE ACTION GIVING RISE TO THE LIABILITY AROSE.

11. Trademarks/Service Marks

Neither Party has any rights in any trademark or service mark of the other Party and neither shall use such marks without written consent. Consultant may include Client's name and logo on a client list. Consultant will not identify Client as a reference or use Client's name or logo for other purposes without Client consent.



12. Termination

Unless otherwise explicitly agreed by the Parties in the applicable SOW, either Party may terminate this Agreement or any SOW at any time by giving the other Party written notice of termination; provided that: (i) all undisputed fees due under this Agreement and all SOWs for Services performed through the date of termination shall be paid by Client upon the effective date of such termination; (ii) Consultant shall refund or credit Client for all amounts Client paid for unused prepaid services; and (iii) in the event that this Agreement is terminated, all SOWs thereto shall be terminated simultaneously with this Agreement. Either Party may terminate for material breach, but if a Party elects to do so, it will provide a 30 day period for cure. Client may unilaterally terminate this Agreement for any or no reason by providing Consultant 30 days written notice. Consultant may unilaterally terminate this Agreement for any or no reason by providing Client 90 days written notice. Consultant acknowledges that this 90 day notice period is acceptable so Client can attempt to procure the services from another source. In the event of termination, Client shall compensate Consultant pursuant to the terms of the Agreement for all accepted and undisputed work performed through the termination date, and Consultant shall refund or repay Client for all unused prepaid services after the termination date. The Parties will endeavor to agree in writing on Consultant's equitable compensation, if any, for any work which Consultant performed prior to notification of termination but is disputed or otherwise has not yet been accepted. A failure to reach such agreement will constitute a dispute that will be subject to escalation in accordance with Section 13 of this Agreement.

Client agrees to provide Consultant with a minimum of 10 days advance notice of an unscheduled SOW suspension, termination or staffing reduction.

13. Dispute Resolution

Except for actions for injunctive relief, the Parties will attempt to resolve any disputes that arise out of or in connection with this Agreement through good faith negotiation. If a dispute arises, the Client Project Manager and the Consultant Account Executive shall first try to resolve it. If the dispute is not resolved within 10 days, either Party may escalate the dispute by contacting, in the case of Consultant, Brian Fees, Executive Vice President/Corporate Officer (telephone 888-745-3545 or Brian.Fees@Sierra-Cedar.com) or in the case of Client, Charlie Ng, Vice President, Business and Administrative Services (telephone 760-795-6830 or cng@miracosta.edu). These parties shall attempt to resolve the dispute by agreement.

If the dispute has not been resolved within seven days after either Party escalates the process, either Party may initiate mandatory non-binding mediation by sending notice in writing to the other Party identifying the issues in dispute and requesting that they be resolved through mediation and proposing a neutral mediator. The Parties agree that



they must participate in good-faith mediation before a Party may file any action against the other Party.

If the dispute has not been resolved within 10 days following the date of the mandatory non-binding mediation, or such other date as is agreed upon by the Parties, either party may move forward to resolve the dispute in the courts of San Diego County, California.

14. Indemnification

The Parties agree that to the furthest extent permitted by law that each will indemnify and hold the other Party and its officers, directors, employees, trustees, agents, volunteers, harmless from Losses resulting from any third-party claim for personal injury, damage to tangible property, or intellectual property infringement, to the extent such Losses arise from the negligence or intentional wrongdoing of the indemnifying Party. "Losses" are amounts the indemnified Party becomes legally obligated to pay pursuant to a final judgment or agreed upon settlement agreed to in advance by the indemnifying Party. Indemnification hereunder does not include a duty to defend, but reasonable attorney's fees and court costs will be reimbursed to the degree that the indemnifying Party is found to have been negligent or to have engaged in intentional wrongdoing which resulted in (a) a ruling or verdict against the indemnified Party on an indemnifiable third-party claim or (b) a settlement approved in writing in advance by the indemnifying Party that required the indemnified Party to make payment to a third-party. Neither Party will indemnify the other Party for its own negligence or intentional wrongdoing. Neither Party will have the right to be indemnified unless it gives the indemnifying Party prompt notice of any potentially indemnifiable third-party claim.

Consultant agrees that if the Client asserts that the Consultant is liable for any portion of the third-party claim, and in the event a third-party claim is resolved by settlement where there is no finding made as to the Consultant's proportionate share of fault or liability for the third-party claim, the Consultant and the Client will attempt in good faith to reach an agreement as to the Consultant's share of fault or liability. Consultant will pay to Client the agreed-upon proportionate share to cover the Client indemnified parties' related costs and fees, including reasonable costs and fees incurred to enforce this indemnification provision. If Consultant and the Client are unable to informally reach an agreement as to the Consultant's share of fault or liability and amounts it owes to the Client, Consultant agrees to submit the issue of Consultant's share of fault or liability and amounts it owes to the Client to mediation, and, if the matter is not resolved in mediation, to arbitration, subject to an agreement as between the Parties at the time of the dispute to participate in arbitration and agreement as to the alternative dispute resolution neutral and agency. Either Party may proceed with litigation if the Parties do not agree to arbitration.



Client acknowledges that Consultant makes no representations regarding and accepts no indemnification obligation with regard to any third party commercially available software. With regard to intellectual property infringement, Consultant shall have no liability to indemnify for any claim based on: (a) use of Consultant Deliverables outside the scope of this Agreement and/or a SOW; (b) the combination, operation, or use of the Deliverables furnished under this Agreement and/or a SOW with software, hardware, or other materials not furnished by Consultant or reasonably anticipated by the applicable SOW if such infringement would have been avoided by the use of the Deliverables without such software, hardware, or other materials; (c) any modification of the Deliverables not made by or authorized in writing by Consultant; (d) any intellectual property infringement of which Client is aware and does not disclose to Consultant and (e) any intellectual property infringement caused by Client or anyone under Client's direction or control.

15. General

- 15.1 Notices. Any notices required hereunder shall be deemed received upon delivery by overnight courier with proof of delivery to the following addresses:

If to Consultant:

Sierra-Cedar, Inc.

Attn. General Counsel

1255 Alderman Drive

Alpharetta, GA 30005

With a copy to: CFO

If to Client:

**MiraCosta Community College
District**

Attn: Susan Asato

1 Barnard Drive

Oceanside, CA 92056

- 15.2 Venue: Choice of Law. Any litigation brought related to this Agreement shall, if brought by Client, be brought in the State of California and, if brought by Consultant, be brought in the county and state of Client's address set forth herein. This Agreement shall be governed by and construed according to the internal laws of the state in which suit is filed. Any action for injunctive relief hereunder shall be brought in the federal or state courts in San Diego County, California.
- 15.3 Attorneys' Fees. In the event of any litigation between the parties hereto relating to the interpretation or enforcement of any of the terms of this Agreement, the prevailing party therein shall be entitled to its reasonable costs and attorneys' fees, all of which shall be included in the judgment rendered in such litigation.



- 15.4 Relationship of Parties. This is an agreement for professional services. The parties hereto are independent of one another and both agree that no agency, employment, franchise, or other relationship exists between the parties. Neither party shall have the authority to bind the other with respect to third parties or in any other manner.
- 15.5 Severability. If any provision of this Agreement is held to be unenforceable or invalid, in whole or in part, then all of the remaining provisions shall nevertheless continue in full force and effect.
- 15.6 No Assignment. Neither party may assign this Agreement or the rights granted hereunder without the prior written consent of the other, except that a party may assign this Agreement to any successor to the business of the party by merger, consolidation, or sale of assets or to any corporation controlling, controlled by, or under common control with the party and Consultant may assign its right to receive payment hereunder.
- 15.7 Payment by Credit Card or Bank Issued Purchasing Card. Sierra-Cedar does not accept payment by credit card or bank issued purchasing card.
- 15.8 Client Use of Third Party Vendors. If Client requests Consultant to submit information such as time records or invoices to a third-party agency such as a vendor manager or payment manager, all costs associated with Consultant's use of the third-party agency shall be borne by Client. Consultant shall have no obligation to provide such third-party agency with confidential or personal information nor shall Consultant's submission of information to the third-party agency relieve Client of any obligations hereunder.
- 15.9 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole benefit of the parties hereto. Both parties acknowledge and agree that none of the rights or obligations granted or undertaken herein shall inure to the benefit of any third parties.
- 15.10 Insurance. Consultant agrees that Consultant has a separate and independent obligation to procure insurance for the time period covered in the Agreement. This requirement is in addition to and separate from Consultant's Agreement to indemnify and hold harmless the Client and shall not operate as a limitation on liability hereunder. Consultant agrees that it shall maintain at least the following minimum levels of insurance and, upon Client's request, shall cause a Certificate of Insurance to be issued and mailed to the Client. Client and its trustees, officers, employees, agents, and volunteers shall be named as additional insureds on all policies referenced in this Section 15.10. Except for Errors and Omissions, the insurance policies shall contain provisions which include that Consultant's insurance policy is primary coverage, the Client's insurance policy is non-contributory, that the insurer waives all rights of subrogation against the additional insureds, and that the insurer shall not agree to request or call upon the Client for any contribution in the settlement of any



claim arising from Consultant's work for the Client or use of Client facilities or premises. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Client.

Type of Insurance:	Policy Limits:
General Liability	\$1,000,000 each occurrence and \$2,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit, applicable to all owned, non-owned, and hired vehicles.
Excess Liability Insurance	\$7,000,000 each occurrence and aggregate.
Workers Compensation and Employer's Liability	Workers' Compensation insurance according to the minimum required by California Labor Code section 3700 and Employers' Liability Insurance with limits of not less than one million dollars (\$1,000,000.00) per occurrence (accident) and one million dollars (\$1,000,000.00) per employee (disease).
Errors and Omissions	Not less than \$5,000,000

Mailing Address for Certificate of Insurance:
MiraCosta Community College District
Attn: Susan Asato
1 Barnard Drive
Oceanside, CA 92056

15.11 Schedules, Exhibits, and Attachments. These terms are used interchangeably and refer to the following referenced documents:

Reference	Description
A.	Sierra-Cedar Travel and Expense Billing Policy
B.	Sierra-Cedar Labor and Rates Policy
C.	Reserved
D.	Reserved
E.	Reserved
F.	Reserved
G.	Reserved



- 15.12 Force Majeure. Either Party shall be excused from performance hereunder for any period such Party is prevented from performing any services pursuant hereto in whole or in part as a result of any act of God, war, earthquake, fire, flood, storm, civil disobedience, court order, labor dispute, or other cause beyond such Party's reasonable control. Such non-performance shall not constitute grounds for termination or default.
- 15.13 Entire Agreement. This Agreement and any SOW that references and is governed by this Agreement shall constitute the entire Agreement between the Parties and supersedes all prior agreements and/or representations between the Parties relating to the subject matter hereof. The Parties acknowledge and agree that they have not relied upon any representations not set forth herein in entering into this Agreement. Both Parties have had the opportunity to have this Agreement reviewed by competent counsel. Any change or amendment to this Agreement must be in writing and signed by both Parties and approved by the Client's Board of Trustees in order to be effective. Client's signature on an amendment to this Agreement constitutes Client's representation that its Board of Trustees has approved the change/amendment. No omission or delay by Consultant or Client to enforce any right or remedy under this Agreement shall be a waiver of such right or remedy. No terms, provisions, or conditions of any purchase order will have any effect on the obligations of the Parties under or otherwise modify or be incorporated into this Agreement.
- 15.14 No Conflict. Consultant and Client each represent and warrant that execution and performance of this Agreement does not and will not violate, conflict with, or constitute a default under any contract, commitment, arrangement, understanding, agreement, or restriction, or any adjudication, order, injunction, or finding of any kind by any court or agency to which Consultant or Client respectively is bound.
- 15.15 Electronic documents and Counterparts. The Parties agree to treat facsimile or electronic copies of documents as binding on the Parties in the same manner and to the same degree as original versions of the same documents. This Agreement may be executed in counterparts, which taken together shall form one binding legal instrument.
- 15.16 Change in Document. By signing and delivering this Agreement and/or any schedule, exhibit, amendment, or addendum, each Party will be deemed to represent to the other that the signing Party has not made any changes to such document from the draft(s) most recently provided to the other Party by the signing Party, or vice versa, unless the signing Party has expressly called such changes to the other Party's attention in writing (e.g., by "redlining" the document or by a comment in a memo or email).
- 15.17 Excused Performance. Consultant's nonperformance of its obligations as to any specific Deliverable or other obligation under this Agreement shall be excused to the extent such nonperformance is due to: (a) the acts or omissions

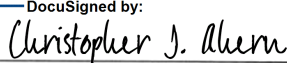

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of Client or any third party authorized to act on Client's behalf which unreasonably hinder or delay Consultant's ability to perform its obligations under this Agreement; or (b) unanticipated substantive changes to applicable laws and regulations that unreasonably interrupt, delay, or fundamentally alter the scope of the engagement. In such situation, the Parties will meet in good faith to attempt to reduce the scope of work or agree upon expansion or deductions to the work through a change order.

15.18 Survival. All sections of this Agreement which by their nature would be expected to survive termination or expiration will do so. This includes but is not limited to sections 2, 3.2, 7, 8, 9, 10, 14, and 15.17.

IN WITNESS WHEREOF, the Parties acknowledge that they have each read the terms hereof and that in signing below, they agree to all of said terms.

Sierra-Cedar, Inc.
MiraCosta Community College District

By: DocuSigned by:

0B301956AD94473...
Name: Christopher J. Ahern
Title: General Manager, Higher Education
Date: 6/28/2018


By: 
Name: Susan Asato
Title: Dir, Purchasing & Matl Mgt.
Date: 6/26/18



EXHIBIT A

SIERRA-CEDAR TRAVEL AND EXPENSE BILLING POLICY

The following are Sierra-Cedar's policies for consultant travel and expenses:

Client's Payment of Expenses:

Client shall reimburse Sierra-Cedar for reasonable and necessary out-of-pocket expenses incurred in its performance of the Services as described here and in the SOW. Client will only reimburse these expenses if Sierra-Cedar submits to Client an invoice for all expenses. Client will pay undisputed expenses invoiced within 30 days of its receipt of an invoice for the expenses. In the event that Client disputes any expenses incurred, except for per diem expenses and expenses less than \$25, Sierra-Cedar will provide Client with copies of receipts that substantiate the disputed expenses. Client agrees to treat any personal identifying information contained in such receipts as Confidential Information in accordance with the Agreement.

Actual Costs:

All reasonable and necessary travel and living expenses (with the exception of per diem meal allowances) are billed at the actual costs incurred, with receipts for such costs retained by Sierra-Cedar in accord with IRS guidelines.

Airfare:

Client is responsible for the cost of round trip coach airfare. Consultants purchase airline tickets as early as possible consistent with Client schedules in order to obtain a reasonable fare. Discounted fares are normally non-refundable. Client assumes the cost of any penalties due to cancellations as a result of Client's changes in consultants' schedules. Sierra-Cedar assumes the cost for any penalties arising from Sierra-Cedar requested schedule changes.

Lodging:

Consultants acquire lodging consistent with business travel rates for the area of Client's offices. Consultants use the lower of Sierra-Cedar's or Client's corporate rate at designated national brand hotels whenever possible.

Per Diem:

Meal expenses are calculated on a per diem basis using the allowed rate for a specific local or metropolitan area under the General Service Administration ("GSA") tables applicable to Federal employees traveling at government expense. GSA publishes Continental US (CONUS) per diem tables for each local or metropolitan area annually on October 1. The per diem rate includes all meals, meal tips, and incidental expenses. The per diem rate is prorated for partial days of travel away from home according to the



EXHIBIT A

GSA guidelines. Refer to the GSA website for per diem rates at www.gsa.gov/perdiem, and the meal per diem breakdown at www.gsa.gov/mie. Foreign Per Diem Rates can be found at http://aoprals.state.gov/web920/per_diem.asp.

Car Rental:

Car rental is for a four-door mid-sized car. Consultants attempt to share transportation whenever possible.

Taxis/Trains:

Client is billed for the cost of taxi, bus, shuttle, or train fare to Client's offices. Consultants attempt to use the most cost and time effective means for commuting to the Client's site.

Parking/Tolls:

Client is billed for the cost of parking and tolls associated with transportation to and from the Client's site, as well as airport parking and mileage to and from the airport.

Mileage:

Mileage incurred by Consultant employees using their own car for transportation to and from the Client's site is reimbursable and is billed at the current published IRS mileage rate.



EXHIBIT B

LABOR AND RATES**BILLABLE TIME POLICY**

The following are Sierra-Cedar's policies with respect to consultant time billable to Client:

Hours Worked:

Unless otherwise specified in a SOW, Consulting support is billed on a time and expense basis, based on the actual hours worked on Client matters, whether performed onsite or offsite. Client matters exclude time devoted to submission of time and expense reports and similar internal administrative functions.

Consultants maintain a daily timesheet of all hours worked with a brief designation of the nature of work performed for that day. Hours are logged to the nearest quarter of an hour.

For ad hoc consulting engagements, in which a consultant is brought in for a one or two day assignment, a minimum of eight hours per day will be charged unless prior arrangements have been made for part time work.

International Travel:

For assignments in North America, including Canada and Mexico but excluding the continental United States, Sierra-Cedar will bill Client a minimum of eight hours when travel is required. For assignments to South America and Europe, Sierra-Cedar will bill Client a minimum of 40 hours. For assignments to Asia, Africa, Antarctica, Australia, and New Zealand, Sierra-Cedar will bill Client a minimum of 65 hours.

Lunch or Travel Time:

Client will not be billed for Consultant personnel's lunch or travel time, unless Consultant personnel perform services for the Client during that time.

PAYMENT REMITTANCE

Remittance shall be made to the address designated on the invoice or to the following lockbox address:

Sierra-Cedar, Inc.
PO Box 402521
Atlanta, GA 30384-2521



EXHIBIT B

Compensatory Fee – If a Sierra-Cedar employee works full-time at the Client's campus for longer than one year, the assignment may be deemed permanent by taxing authorities such that reimbursement for living expenses is treated as taxable income to the employee. Accordingly, no Sierra-Cedar employee shall be required to work full-time at the Client's campus for longer than one year.