

## PROFESSIONAL SERVICES AGREEMENT

By this agreement made and entered into on the August 9th, 2018, between the Alameda Unified School District (hereinafter referred to as AUSD) located at 2060 Challenger Dr., Alameda, CA 94501 and 360 Degree Customer Inc (hereinafter referred to as Consultant) located at 473 Sapena Court #7, Santa Clara, CA, in consideration of their mutual covenants, the parties hereto agree as follows:

**A. CONTRACT PERIOD:** The Consultant's work as specified in this agreement shall commence on **Date as specified in Addendum A**

**B. COMPENSATION:** For the full performance of this agreement, the AUSD shall pay the Consultant as follows: Consultant's Fee:

- a. **For Consultant : Name of the Consultant and Rate as Specified in Addendum A**
- b. **Consultant(s) will work for 8 hours/day as per school year calendar**

Payment to be made as follows: Payments to be made every month within 30 days of receipt of invoice.

**C. GENERAL TERMS AND CONDITIONS:**

1. INDEMNIFICATION:

- a.) Except with regard to professional negligence, as provided in paragraph (b) below, the Consultant shall indemnify, hold harmless and defend the (AUSD ) and each of its, officers, officials, employees, volunteers and agents from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by AUSD , the Consultant or any other person and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expense), arising or alleged to have arisen directly or indirectly out of the active or passive negligence of the Consultant or any of its employees or agents in the performance of this contract. The Consultant's obligations under the preceding sentence shall apply regardless of whether the AUSD or any of its, officers, officials, employees, volunteers or agents are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the active negligence or by the willful misconduct of the AUSD .
- b.) Specifically regarding professional negligent errors or omissions, the Consultant shall indemnify, hold harmless, and defend the AUSD , its officers, officials, employees, volunteers or agents, from any and all loss, liability, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the AUSD , the Consultant or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) incurred by AUSD , the Consultant, or any other person, to the proportionate extent that it arises out of or in connection with the professional negligent errors or omissions of the Consultant in the performance of this contract.
- c.) If the Consultant should subcontract all or any portion of the work to be performed under this agreement, the Consultant shall require each Sub-Consultant to indemnify, hold harmless and defend the AUSD, its officers, officials, employees and agents in accordance with the terms of the preceding paragraphs.

2. **NON-DISCRIMINATION:** No discrimination shall be made in the employment of persons under this agreement because of the race, religion, sex, age, national origin, ancestry, political affiliations, disability, medical condition, marital status, or sexual orientation.
3. **CONFLICT OF INTEREST:** Before executing this agreement, the Consultant shall disclose to the AUSD the identities of any board member, officer, or employee of the AUSD, or relatives thereof, who the Consultant knows or should know will have any financial interest resulting from this agreement.
4. **LICENSE AND AUTHORITY:** The Consultant will maintain all necessary licenses during the term of this agreement. If other than a natural person, Consultant is duly authorized to enter into this agreement by its governing or controlling body. Evidence or copies of all necessary licenses must accompany this agreement.
5. **EQUIPMENT AND FACILITIES:** AUSD and The Consultant will agree on all necessary equipment and facilities to render services pursuant to this agreement.
6. **ASSIGNMENT:** Without the written consent of the AUSD, this agreement is not assignable by the Consultant.
7. **NON-SOLICITATION OF EMPLOYEES:** AUSD agrees to not solicit for hire employees of Contractor for a period of not less than 1 (One) Year following the last date of that employee's services to AUSD. After completion of 1 full billable year, AUSD may hire the said employee after paying a referral fee to contractor. This fee will be agreed between AUSD and the contractor.
8. **SUCCESSORS AND ASSIGNS:** This agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.
9. **TIME:** Time is the essence of this agreement.
10. **GOVERNING LAW:** The validity of this agreement and any of its terms or provisions as well as the rights and duties of the parties hereunder shall be governed by the laws of the state of California.
11. **WITHHOLDING:** The AUSD shall not withhold or set aside any money on behalf of the Consultant for Federal Income Tax, State Income Tax, Social Security Tax, Unemployment Insurance, Disability Insurance, or any other federal or state fund whatsoever.
12. **CHANGES OR ALTERATIONS:** No changes, alterations, or variations of any kind to this agreement are authorized without the written consent of the AUSD.
13. **HEADINGS:** All section headings contained herein are for clarification and convenience of reference only and are not intended to limit the scope of any provision of the agreement.
14. **TERMINATION:** The AUSD may terminate this agreement and be relieved of the payment of any consideration to the Consultant should the Consultant fail to perform under this agreement. Either party may also terminate this agreement upon 45 days written notice to other party with or without cause. In the event of elective termination (without cause), AUSD agrees to pay Consultant for work completed to date of termination.
15. **AMBIGUITY:** The language herein shall be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, all parties shall be treated as equally responsible for such ambiguity.

16. COPYRIGHT. Any written or electronic media product produced as a result of this contract shall be a work for hire and shall be the property of the AUSD.


**D. VENDOR IS A CONSULTANT AND NOT AN EMPLOYEE:**

This agreement is not a contract of employment. At all times the Consultant shall be deemed to be an independent Consultant and is not authorized to bind the AUSD to any contracts or other obligations, or to state or imply that he or she is an employee or authorized representative of the AUSD, or to utilize the AUSD's letterhead or logo without the prior consent of the AUSD. Each of the following factors, in addition to other provisions of this Agreement, confirms the Consultant's status as an independent Consultant and not an employee. Except as otherwise set forth herein or agreed to by the parties in writing, the Consultant and AUSD agree to comply with each of the following factors as is necessary to maintain independent Consultant status, each of which shall form a part of this Agreement:


<i>INSTRUCTIONS</i>	<i>The AUSD shall provide job specifications and instructions.</i>
<i>TRAINING</i>	<i>The AUSD shall provide training for workers.</i>
<i>WORK NOT ESSENTIAL TO AUSD</i>	<i>The AUSD's success or continuation does not depend on the services of the Consultant.</i>
<i>JOB LOCATION</i>	<i>AUSD controls the job location.</i>
<i>BASIS OF PAYMENT</i>	<i>Payment shall be by the time expended.</i>
<i>TOOLS &amp; EQUIPMENT</i>	<i>Tools and equipment for the job shall be provided by AUSD.</i>
<i>RIGHT TO TERMINATE</i>	<i>The Consultant may not be terminated except as allowed for under the agreement.</i>
<i>PROGRESS REPORTS</i>	<i>The Consultant will require making progress report.</i>

**E. UNDERSTANDING AND ACCEPTANCE OF THE PARTIES:** This Agreement constitutes the entire understanding of the parties. The Contract Initiator's and Consultant's signatures below signify both an understanding and acceptance of the contract provisions.

**F. AUSD REPRESENTATIVE**

Signature:   
Date Signed: 8/20/18  
Title: Chief Student Support Officer  
Address: Alameda Unified School District,  
2060 Challenger Dr., Alameda, CA 94501  
Phone: 510-337-7095  
E-Mail Address: kzazo@alamedaunified.org

**CONSULTANT**

Signature:   
Date Signed: 8/20/18  
Title: Manager  
Company Name & Address: 360 Degree Customer Inc  
473 Sapena Court # 7 Santa Clara, CA 95054  
Phone: 408-431-4249  
E-Mail Address: shelly@360customer.com

*This signature authorizes up to \$25,000 to begin services immediately.*

Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## **ADDENDUM – A**

**Title: Special Education Teachers**

**Names:**

- 1. James Timbers**
- 2. Charles Jagoda**
- 3. Teresa Norris**

**Hourly rate: \$ 86/ hour**

**Number of days: 176**

**Total contract amount: \$363,264.00**

**Start Date: August 27, 2018**

**Contract Term: 2018-19 School year**

**Scope of Work:**

- Creates and maintains learning environment in which positive self-concept and self-help activities are stressed
- Works closely with other Special Education staff, support personnel and regular teaching staff in the assessment and program planning process
- Develops and writes, with active participation of parents/guardians, individual educational programs to meet pupil needs