



## SLCC CONTRACT

1. **PARTIES:** This contract is between Salt Lake Community College, a body politic and corporate of the State of Utah located at 4600 South Redwood Road, PO Box 30808, Salt Lake City, Utah 84030-0808 (referred to as "SLCC"), and the following Contractor:

CONTRACTOR INFORMATION	LEGAL STATUS <i>(Check One)</i>	
<i>Name:</i> Bingham Academy		Sole Proprietor
<i>Street Address:</i> 2801 Hunters Loop	X	Non-Profit Corp
<i>City:</i> Blackfoot <i>State:</i> Idaho <i>Zip:</i> 83221		Corporation
<i>Contact Person:</i> Fred Ball		Partnership
<i>Telephone No.:</i> 208-782-0744 <i>Email Address:</i> fball@bcclc.com	X	Government

2. **GENERAL PURPOSE OF CONTRACT:** The general purpose of this contract is:  
The sale of a portable classroom to Contractor.
3. **CONTRACT PERIOD:** This contract is effective as of the date signed.
4. **OBLIGATIONS OF SLCC:**
- a. To sell to Contractor a portable classroom, more fully identified on Exhibit B hereto, for \$ 2000.00.
  - b. The portable classroom is sold as is and no warranty is made as to its condition or suitability for Contractor's use.
5. **OBLIGATIONS OF CONTRACTOR:**
- a. Contractor shall take legal possession of the portable classroom as of the date of the signing of this contract. Contractor shall secure the portable classroom until it is moved. Contractor shall arrange for and move the portable classroom as soon as possible after the signing of this Contract.
  - b. Contractor shall insure the portable classroom both as to property loss and liability that may be incurred in readying the portable classroom for moving and moving it. Contractor agrees to be solely responsible and liable for any losses, claims or injuries arising out of its possession of the portable classroom or moving it.
6. **SPECIAL CONDITIONS:** The following special conditions apply to this contract. Any conflict between a special condition and the Attachments referred to below will be resolved in favor of the special condition.
- a. Moving contingent upon weather conditions

7. ATTACHMENTS: The following attachments are attached hereto and made part of this Contract. Any conflicts between Attachment A and other Attachments, if any, will be resolved in favor of Attachment A.
- a. Attachment A: Salt Lake Community College Standard Contract Terms & Conditions
  - b. Attachment B: description and location of the portable classroom purchased.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their duly authorized representatives.

**CONTRACTOR:**

Bingham Academy

Print Name of Company

By: 

Its:

Date: 12/12/2013

Fred Ball

Print Name of Signer

Director

Print Title of Signer

**SLCC:**

SALT LAKE COMMUNITY COLLEGE

By: 

Date

7 JAN '14

Its:

ASST. V.P. -  
FACILITIES SVCS.

## ATTACHMENT A

### SLCC STANDARD TERMS & CONDITIONS FOR GOODS AND SERVICES

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in the Salt Lake Community College (SLCC) Purchasing Policies and Procedures, and all applicable sections of the Utah Procurement Code, Title 63G, Chapter 6, Utah Code Annotated, 1953, as amended, and all related statutes, regulations and rules which permit the College to purchase certain specified supplies and services, and other approved purchases for the College.
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 the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** The Contractor and any and all supplies, services and equipment furnished 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 Salt Lake Community College, Board of Regents, State and/or Federal auditors, and College Staff, access to all the records relating to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process, and to sole sources that are included within a Request for Proposal. It does not apply to Invitation for Bids or to the Multi-Step Process.

#### 5.1 Status Verification System

1. Each offeror and each person signing on behalf of any offeror certifies as to its own entity, under penalty of perjury, that the named Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of the contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including UCA Section 63G-12-302.
2. The Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including UCA Section 63G-12-302 and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
3. The State will not consider a proposal for award, nor will it make any award where there has not been compliance with this Section.
4. Manually or electronically signing the Proposal is deemed the Contractor's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws including UCA Section 63G-12-302.

#### 5.2 Indemnity Clause for Status Verification System

1. Contractor (includes, but is not limited to any Contractor, Design Professional, Designer or Consultant) shall protect, indemnify and hold harmless, the State and its officers, employees, agents, representatives and anyone that the State may be liable for, against any claim, damages or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.
2. Notwithstanding Section 1. above, Design Professionals or Designers under direct contract with the State shall only be required to indemnify the State for a liability claim that arises out of the design professional's services, unless the liability claim arises from the Design Professional's negligent act, wrongful act, error or omission, or other liability imposed by law except that the design professional shall be required to indemnify the State in regard to subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Design Professional, and includes all independent contractors, agents, employees or anyone else for whom the Design Professional may be liable at any tier.

6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of Salt

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Lake Community College unless disclosure regarding such has been made in accordance with UCA Section 67-16-8, 1953, as amended.

7. **CONTRACTOR IS AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind SLCC to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for SLCC, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by SLCC. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from SLCC for these contract services. Persons employed by SLCC and acting under the direction of SLCC shall not be deemed to be employees or agents of the Contractor.
8. **INDEMNITY:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, 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 the State's sole negligence. The parties agree that if there are any Limitations of the Contractor's Liability, including a limitation of liability for anyone for whom the Contractor is responsible, such Limitations of Liability will not apply to injuries to persons, including death, or to damages to property.
9. **INSURANCE:** The contractor shall maintain Comprehensive General, Liability (including contractual liability for this agreement and products and completed operations coverage), Automobile Liability, and if applicable, Professional Liability Insurance, with a minimum single limit of \$1,000,000 for each occurrence and \$2,000,000 general aggregate for bodily injury (including death) and property damage liability. The contractor shall also maintain all employee related insurance, in the statutory amounts, such as unemployment compensation, worker's compensation, and employer's liability, for its employees involved in performing services pursuant to this contract. The contractor's insurance carriers must be authorized to do business in Utah. The insurers and policy provisions must be acceptable to the College's Risk and Insurance Manager. Each of the Contractor's insurance policies shall include an endorsement that names SLCC and its officers, and employees as additional insureds, and the policy shall provide SLCC and its officers and employees with primary coverage (not contributing coverage) for any liability arising as a result of the Contractor's acts or omissions in connection with this Contract. The Contractor is not required, however, to obtain an "additional insured" endorsement for any Workers' Compensation or professional liability insurance policy. Contractor waives any right of subrogation against SLCC and its officers and employees.
10. **EMPLOYMENT PRACTICES:** 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 December 13, 2006, which prohibits sexual harassment in the workplace. Contractor also agrees to abide by any laws and policies of the State of Utah regarding any of the above mentioned prohibitions in this paragraph.
11. **SEVERABILITY CLAUSE:** If any provision of this contract is declared by a court of competent jurisdiction to be invalid, the remaining terms and provisions will not be affected; and the rights and obligations of the parties will be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
12. **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.
13. **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 or political subdivision of any governmental entity. If the Contractor cannot certify this statement, attach a written explanation for review by SLCC. The Contractor must notify the SLCC Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
14. **TERMINATION:** Unless otherwise stated in this Contract, 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 violation(s), 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 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.
15. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges SLCC cannot contract for the payment of funds not  
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yet appropriated by the Utah State Legislature. If funding to SLCC is reduced due to an order by the Legislature, Governor, Board of Regents, or is required by State law, or if federal funding (when applicable) is not provided, SLCC may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from SLCC upon 30 days written notice. In the case that funds are not appropriated or are reduced, SLCC will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and SLCC will not be liable for any future commitments, penalties, or liquidated damages.

16. **SALES TAX EXEMPTION:** SLCC's State of Utah sales and use tax exemption number is 11890789-002. The tangible personal property or services being purchased are being paid from SLCC 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.
17. **NOTIFICATION SLCC HAS 501(c)(3) STATUS:** SLCC has been granted 501(c)(3) status under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986. SLCC's 501(c)(3) status may mean sales tax may not apply to a SLCC contractor's purchase(s) directly associated with a SLCC construction project; the contractor bears the entire responsibility to determine such with the State Tax Commission.
18. **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 the College 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 the College has relied on the contractor's skill or judgment to consider when it advised the College about the product; 5) the product has been properly designed and manufactured; 6) the product is free of significant defects or unusual problems about which the College has not been warned. Remedies available to the College include the following: the contractor will repair or replace at no charge to the College 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 the College may otherwise have under this contract.
19. **PUBLIC INFORMATION:** Except as identified in writing and expressly approved by SLCC, Contractor agrees that the contract will be a public document, and may be available for distribution. Contractor gives SLCC express permission to make copies of the contract in accordance with the State of Utah Government Records Access and Management Act. This permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
20. **DELIVERY:** All deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor unless otherwise specified in this contract. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to SLCC except as to latent defects, fraud and Contractor's warranty obligations.
21. **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 SLCC. The purchase order number and/or State Cooperative Contract number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by SLCC will be those prices listed in the contract. SLCC has the right to adjust or return any invoice reflecting incorrect pricing.
22. **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 SLCC's Purchasing Card (a major credit card). No payment will be made for services not rendered.
23. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold SLCC, 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.
24. **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 SLCC.
25. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for SLCC 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. SLCC will issue a written notice of default providing a ten (10) day period in which Contractor will have an

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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, SLCC 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 SLCC competitive solicitations.

26. **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. SLCC may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
27. **ATTORNEY FEES.** In the event it is necessary for either party to bring any action to enforce any of the terms of this Contract, it is agreed that the prevailing party will be entitled to its attorney's fees and costs.
28. **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 SLCC 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 SLCC, 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).
29. **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) Attachment A: SLCC Standard Terms & Conditions; 2) SLCC Contract Signature Page(s); 3) SLCC Additional Terms & Conditions, if any; 4) Contractor's proposal/bid response (incorporated into Agreement by reference); and, 5) Contractor Terms & Conditions, if any.
30. **ENTIRE AGREEMENT:** This contract, including all Attachments, and documents incorporated by reference hereunder, and the related SLCC solicitation (if any) 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 SLCC. 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.

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