

Board Office Use: Legislative File Info.	
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Enactment Number	
Enactment Date	



Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Tara Gard, Deputy Chief Talent Officer

Board Meeting Date _____

Subject **Service Agreement – Take the Interview, Inc. – Talent Division 944**

Action Requested Ratification by the Board of Education of a yearly Service Agreement between the District and Take the Interview, Inc., a Delaware Corporation located in New York, NY, for the latter to provide on-demand interviews, live interviews, recruiter seats, Customer Success Manager, 24x7 global candidate support in over 50 languages, and in-depth training at the beginning of the partnership and ongoing consulting and training services, per the on-boarding and implementation plans that been communicated through the sales process, via the Talent Department, for the period of November 15, 2017, through November 14, 2018.

Background
A one paragraph explanation of the the MOU.

The Agreement for services needed to make our recruitment process more effective by providing a high level interview management platform.

Discussion
One paragraph summary of the MOU.

Take the Interview Inc., to provide an interview management platform; their services include:

- On-Demand Interviews: Unlimited access to the platform for up to 500 hires
- Live Interviews: Unlimited access to the platform for up to 500 hires per year
- Recruiter Seats: Up to 15
- Customer Success Manager
- 24x7 global candidate support in over 50 languages
- In-depth training at the beginning of the Partnership and ongoing consulting and training services, per the On-Boarding and Implementation plans that been communicated through the sales process

Recommendation Ratification by the Board of Education of a yearly Service Agreement between the District and Take the Interview, Inc., a Delaware Corporation located in New York, NY, for the latter to provide on-demand interviews, live interviews, recruiter seats, Customer Success Manager, 24x7 global



candidate support in over 50 languages, and in-depth training at the beginning of the partnership and ongoing consulting and training services, per the on-boarding and implementation plans that been communicated through the sales process, via the Talent Department, for the period of November 15, 2017, through November 14, 2018.

Fiscal Impact

Funding resource General Purpose not to exceed \$19,000

Attachments

- Service Agreement, including scope of work
- SAM.gov



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office
With *Every* Consent Agenda Contract.

Legislative File ID No. 17-2351

Department: Talent Division 944

Vendor Name: Take the Interview, Inc.

Contract Term: Start Date: 11/15/2017 End Date: 11/14/2018

Annual Cost: \$ 19,000.00

Approved by: Tara Gard

Is Vendor a local Oakland business? Yes No

Why was this Vendor selected?

We reviewed a number of different companies and determined that this company was the best fit for our need.

Summarize the services this Vendor will be providing.

- On-Demand Interviews: Unlimited access to the platform for up to 500 hires
- Live Interviews: Unlimited access to the platform for up to 500 hires per year
- Recruiter Seats: Up to 15
- Customer Success Manager
- 24x7 global candidate support in over 50 languages
- In-depth training at the beginning of the Partnership and ongoing consulting and training services, per the On-Boarding and Implementation plans that been communicated through the sales process

Was this contract competitively bid? Yes No

If No, answer the following:

- 1) How did you determine the price is competitive?

We reviewed charges for similar services and determined that the requested price for the services provided was appropriate.

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$87,800 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternate energy supply sources)
- Emergency** contracts [requires Board resolution declaring an emergency]
- Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$87,800 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- "Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

**FIRST AMENDMENT TO THE SERVICE AGREEMENT
BETWEEN OAKLAND UNIFIED SCHOOL DISTRICT
AND TAKE THE INTERVIEW, INC.**

This First Amendment to the Service Agreement ("First Amendment") is between, Oakland Unified School District whose principal place of business is located at 1000 Broadway, Suite 150, Oakland, CA 94607 ("Client") and Take the Interview, Inc. a Delaware corporation whose principal place of business is located at 307 38th St, 1605, New York, New York 10018 ("TTI").

WHEREAS, Client and TTI are parties to a Services Agreement (see **Exhibit A** attached), with an effective date of November 7th, 2016;

NOW, Client and TTI hereby agree to amend the Agreement as follows:

1. The Effective Date of the Services Agreement shall be November 15, 2017.
2. **Schedule A** of the Service Agreement is rescinded in its entirety and replaced as written herewith:

SCHEDULE A

TTI will provide the following services for Oakland Unified School District:

- **On-Demand Interviews:** Unlimited interview access for up-to 150 Hires
- **Live Interviews:** Unlimited interview access for up-to 150 Hires
- **Recruiter Seats:** Up to 15
 - Additional seats can be purchased for \$200/user/month
- Customer Success Manager
- 24x7 global candidate support

The terms of use for our service:

- **Contract Duration and Launch Date:** 1 Year (11/15/2017 to 11/14/2018)
- **Services Cost:** \$19,000
- **Implementation Fee:** N/A
- **Payment Terms:** Services fee in the total of \$19,000 is due 30 days from contract launch date

[End Schedule A]

All terms and provisions of the Agreement, except as modified and amended hereby, shall remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment has been duly executed by the day and year first below.

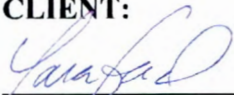
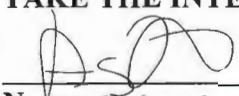
CLIENT:  Date: <u>11/2/17</u> Tara Gard, Deputy Chief of Talent Oakland Unified School District	TAKE THE INTERVIEW:  Date: <u>11/3/2017</u> Name: Andrew Lowitz Title: EVP, Sales and Customer Success
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Exhibit A

SERVICE AGREEMENT

This Service Agreement ("Agreement") is dated as of November 7th, 2016 ("Effective Date"), between Oakland Unified School District whose principal place of business is located at 1000 Broadway, Suite 150, Oakland, CA 94607 ("Customer") and Take the Interview, Inc., a Delaware corporation whose principal place of business is located at 307 38th St, 16th Floor, New York, New York 10018 ("TTI"). Customer and TTI are also referred to herein, individually, as a "party," and, collectively, as the "parties."

1.0 DEFINITIONS

As used herein:

1.1 "Site" means the TTI website and platform located at <http://www.taketheinterview.com>

1.2 "Candidate" means each job candidate who accesses the Site through the Interview Management Platform.

1.3 "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed in writing to the other party ("Receiving Party") that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement, Employer Data, business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information (except for Employer Data) shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.

1.4 "On-demand Video Interview Platform" means the cloud-based 1-way video interviewing solution based on TTI's proprietary technology that TTI will provide to Customer under this Agreement and includes, without limitation, any and all software, deliverables, enhancements, updates, documentation and user manuals.

1.5 "Live Video Interview Platform" means the cloud-based 2-way video interviewing solution based on TTI's proprietary technology that TTI will provide to Customer under this Agreement and includes, without limitation, any and all software, deliverables, enhancements, updates, documentation and user manuals.

1.6 "Candidate Mobile Platform" means the mobile interview application for candidates.

1.7 "Analytics" means all analytics features, dashboards, and tracking capabilities.

1.8 "Interview Management Platform" means client has access to TTI's entire offering, to include On-demand Video Interview Platform, Live Video Interview Platform, Candidate Mobile Platform, and Analytics.

1.9 "Employer Data" means all personally identifiable information and all interview

videos submitted by Candidates who use the Interview Management Platform.

1.10 "Launch Date" means the date that the Implementation of the Interview Management Platform is begins.

1.11 "Material Default" means a failure of a party to observe or perform any material covenant or condition of this Agreement, including, but not limited to, Customer's failure to pay amounts due hereunder in a timely manner.

1.12 "Non-material default" means a failure of a party to observe or perform any non-material covenant or condition of this Agreement.

1.13 "User" means each employee of the Customer with a unique login and password that are provided to obtain access to the Interview Management Platform.

2.0 SPECIAL SERVICES

2.1 Technology and Implementation.

2.1.1 TTI shall implement the On-demand Video Interview Platform, the Live Video Interview Platform, Candidate Mobile Platform, and Analytics for Customer.

2.1.2 During the Term of this Agreement, TTI shall store all Employer Data until such time as Customer requests the delivery or destruction of such Employer Data.

2.2 Services.

2.2.1 Customer shall be allowed access to TTI's On-demand Video Interviewing Platform per Schedule A.

2.2.2 Customer shall be allowed access to TTI's Live Video Interviewing Platform per Schedule A.

2.2.3 Customer shall be allowed access to TTI's Analytics.

2.2.4 TTI shall give Customer access to TTI's question bank containing over four thousand (4,000) interview questions for employers.

2.2.5 TTI shall give Customer access to all Interview Management Platform upgrades of current modules without any additional charge during the Term of this Agreement.

2.3 Support.

2.3.1 TTI shall provide Customer with training for Users for the Interview Management Platform on a schedule to be determined by TTI and Customer.

2.3.2 See schedule A for number of Users

- 2.3.3 TTI shall use commercially reasonable efforts to make the Interview Management Platform available twenty-four (24) hours a day, seven (7) days a week, except for:
- (a) Planned downtime (TTI shall give at least eight (8) business hours notice for planned downtime and shall schedule planned downtime to the extent reasonably practicable during weekend hours, i.e., from 6:00 pm EST Friday to 8:00 am EST Monday); and
 - (b) Any event outside of TTI's control as provided for in Section 13.3 below.
- 2.3.4 TTI shall provide technical telephone and online support to Customer at no additional charge. TTI will provide telephone support during the hours of 9:00 a.m. and 6:00 p.m. in the Eastern Time Zone. TTI will provide 24/7 online support to Customer. TTI will respond to any support requests submitted outside normal business hours within four (4) hours of such request.
- 2.3.5 TTI shall provide technical telephone and online support to Customer's Candidates at no additional charge. TTI will provide telephone support during the hours of 9:00 a.m. and 6:00 p.m. in the Eastern Time Zone. TTI will provide 24/7 online support to Customer's Candidates. TTI will respond to any support requests submitted outside normal business hours within four (4) hours of such request.

2.4 Customer's Responsibilities.

- 2.4.1 Customer agrees to provide TTI with any information and assistance reasonably requested by TTI to facilitate the implementation and adoption of the Interview Management Platform.
- 2.4.2 Customer acknowledges and agrees that certain implementation programming tasks and responsibilities that the Customer may request from TTI (i.e., integration with an applicant tracking system) may be subject to additional fees and are to be incurred at Customer's sole cost and expense.
- 2.4.3 Prior to the implementation of the programming tasks identified in 2.4.2 of this agreement, TTI will publish to Customer an updated pricing schedule for said tasks for Customer's review and acceptance.
- 2.4.4 Customer will promptly report to TTI any unauthorized use, or suspected unauthorized use, of the Interview Management Platform.

2.5 Additional Services. No additional services shall be rendered without a written amendment to this Agreement or a separate written agreement. No subcontractor shall be engaged by TTI without Customer's prior written approval.

3.0 TERM AND TERMINATION

3.1 Term.

- 3.1.1 Subject to the termination rights set forth below, the Term of this Agreement shall commence on the Effective Date and shall continue until the twelve (12) month anniversary of the Launch Date, as defined herein.
- 3.1.2 Unless notice is given within thirty (30) days of the end of the initial contact term, the initial Term will auto-renew at the same terms per Schedule A. If there are any updates to fees, services or otherwise in subsequent contact terms, this agreement can be amended with additional Schedules. If the Special Services listed herein continue to be performed without a written extension, the parties agree this Agreement shall govern the performance of such Special Services.

3.2 Termination.

- 3.2.1 *Material Default.* Either party (the "non-breaching party") may terminate this Agreement based on a material default of the other party (the "breaching party"); provided that the breaching party shall have a period of ten (10) days from the date of receipt of written notice of the default in which to cure any default. If the default cannot be cured within ten (10) days, the defaulting party must commence curing the default within the ten (10) days, and must diligently pursue such corrective action and cure the default within a fifteen (15) day period after receipt of such notice. The termination shall become effective at the end of the applicable cure period if the aforesaid actions are not completed.
- 3.2.2 *Non-material Default.* Either party may terminate this Agreement based on a non-material Default of the other party (the "breaching party"); provided that the breaching party has not cured or commenced curing the default within thirty (30) days after receiving written notice from the non-breaching party of such default.
- 3.2.3 *Notice of Termination.* Notice of termination shall be in writing and shall be deemed to have been duly given when actually delivered or when deposited in the United States mail, registered or certified, postage prepaid, return receipt requested, email, or by facsimile to the other party at the party's last known address. A party's address may be changed only by giving notice of such change of address in writing to the other party at least sixty (60) days prior to any aforementioned notice of termination..

4.0 USE GUIDELINES FOR INTERVIEW MANAGEMENT PLATFORM

4.1 **Business Purposes.** The Interview Management Platform may be used only for Customer's internal business purposes related to the identification, screening and interviewing of job candidates, and may not be used for any other purpose. Customer shall not: (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make the Interview Management Platform or the other services available to any third party, other than as contemplated by this Agreement; (ii) interfere with or disrupt the integrity or performance of the

service or the data contained therein; (iii) attempt to gain unauthorized access to the Interview Management Platform or its related systems or networks; or (iv) use the Interview Management Platform to offer services for remuneration to any other party or in the provision of any service to a third party, which are similar to those offered by TTI. Any such use is unauthorized and shall constitute a material breach by Customer of this Agreement.

4.2 **Assumption of Risk.** Customer assumes all risk when using the Interview Management Platform and the other services. Customer acknowledges and agree that TTI is not responsible for the conduct or content of interviews or other interactions between Customer and Candidates or others, whether through the Interview Management Platform or otherwise. Customer further acknowledges that TTI cannot guarantee and does not promise any specific results from Customer's use of the Interview Management Platform or the other services.

4.3 **Unauthorized Use.** Customer is solely responsible for its use of the Interview Management Platform. Neither party will be liable to the other party for losses caused by unauthorized use of the Interview Management Platform. To the extent Customer becomes aware of any unauthorized use, or suspected unauthorized use, of the Interview Management Platform, Customer will promptly report such unauthorized use to TTI.

5.0 PAYMENT TERMS

5.1 **Implementation Fee.** See Schedule A

5.2 **Annual Contract Fee.** See Schedule A

6.0 PROPRIETARY RIGHTS

6.1 **Reservation of Rights.** The Interview Management Platform, including its software and all upgrades thereto, is proprietary software of TTI. Except for the Employer Data, all of the contents of the Interview Management Platform (including without limitation, the likeness, layout, copy, organization, structure and graphical attributes of the Interview Management Platform) and all products of the service that may be developed by TTI in connection with the provision of the service to Customer, are and shall remain the sole and exclusive property of TTI, and the title thereto shall be vested in and remain with TTI and/or its suppliers or licensors at all times. The Interview Management Platform and the other software used in performance of the service is protected under United States copyright, patent and/or trade secret law. The owner of such intellectual property is TTI or its suppliers or licensors, as the case may be. No rights, title or interest are granted to Customer hereunder other than as expressly set forth herein.

6.2 **Employer Data.** As between TTI and Customer, Customer exclusively owns all rights, title and interest in and to Employer Data. Employer Data is deemed Confidential Information (defined herein) under this Agreement. TTI will store Employer Data for (2) two-years from the date of each completed Interview. TTI will destroy any Employer Data stored on TTI's servers within seven (7) business days of receipt of a written request from Employer and certify such destruction in writing.

6.3 **Restrictions.** Customer shall not (i) modify, copy or create derivative works based on the Interview Management Platform; (ii) frame or mirror any content forming part of the Interview Management Platform, other than on Customer's own intranets or otherwise for its own internal business purposes; (iii) reverse engineer the Interview Management Platform; or (iv) use

any other third-party online interviewing software during the Term.

6.4 **Obligations Upon Termination.** Except to the extent otherwise prohibited by applicable law, upon termination or expiration of this Agreement, Customer shall have thirty (30) days to provide TTI with written instructions regarding the disposition of Employer Data stored on TTI's servers. If TTI does not receive instructions within such 30-day period, TTI may delete any or all of Employer Data at any time.

7.0 CONFIDENTIAL INFORMATION

7.1 **Treatment of Confidential Information.** Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care). In the event that the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, the Receiving Party shall provide the Disclosing Party with prompt prior written notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

7.2 **Confidentiality requirements for Employer Data.** The Parties acknowledge and agree that it may be necessary for TTI to receive, or be provided access to, nonpublic information about natural persons that is received, generated, collected, processed, or otherwise used in the conduct of Customer's business ("Employer Data") in order for TTI to meet its obligations under this Agreement. In addition to the confidentiality requirements of the Agreement, with respect to the sharing, use and protection of Confidential Information, TTI agrees to the following:

- (a) To hold in strict confidence Employer Data obtained from Customer during this Agreement, and to not disclose Employer Data, in any form or medium, to any affiliated or nonaffiliated person, firm or corporation except as necessary to perform services under this Agreement or as may be required by law, and to ensure its subcontractors comply with the same. To the extent that TTI contracts with a third party that obtains Employer Data in order to provide services under this Agreement, TTI agrees to obtain contractual confidentiality protections to require the third party to hold Employer Data in strict confidence and not disclose it to any person unless required by law. TTI agrees to return all Employer Data to Customer either upon request or termination of this Agreement. TTI agrees to comply with applicable U.S. State and Federal privacy laws and regulations.
- (b) To use Employer Data only to provide services hereunder and not to use such information for any other purpose.
- (c) Without limiting any other obligations hereunder, TTI agrees to implement and maintain reasonable and customary security measures to safeguard Employer Data. TTI agrees that it shall notify Customer within twenty-four (24) hours of any unauthorized access, disclosure, acquisition, or use of the materials and information provided to it by Customer, and provide full details on the same as soon as possible thereafter. TTI will cooperate with Customer in every reasonable way to investigate the access and will exert best efforts to terminate the event and prevent the

reoccurrence thereof. TTI shall provide reasonable assistance to Customer to regain possession of and terminate any affected materials and information. TTI shall reasonably cooperate with Customer in the conduct of any investigation of or litigation involving third parties related to the event. TTI shall discharge all responsibilities set forth in this Section at its "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed in writing to the other party ("Receiving Party") that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement, Employer Data, business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information (except for Employer Data) shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party hereunder; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party; (iii) was independently developed by the Receiving Party without the use of such Confidential Information; or (iv) is received after the time of disclosure hereunder on a non-confidential basis from a third party who had a legal right to make such disclosure.

7.3 **Injunctive Relief.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of the confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies may be inadequate.

8.0 WARRANTIES AND DISCLAIMERS

8.1 **Warranties.** Each party represents and warrants that it has the legal power to enter into this Agreement. TTI represents and warrants that (i) it will provide all services in a manner consistent with general industry standards reasonably applicable to the provision thereof; (ii) the Interview Management Platform and other services shall perform materially in accordance with the terms of this Agreement and any documentation provided to Customer regarding the Interview Management Platform; (iii) the functionality of the Interview Management Platform will not be materially decreased during the Term of the Agreement; (iv) it owns or otherwise has sufficient rights in the Interview Management Platform and associated services to grant to Employer the rights to use such programs and services; (v) the Interview Management Platform and associated services does not infringe any intellectual property rights of any third party including, without limitation, any and all copyright, patent, trademark and trade secret rights; and (vi) it will comply with all applicable laws, rules and regulations. Customer represents and warrants that its use of the Interview Management Platform and the other services does not and will not violate any applicable laws, rules or regulations.

8.2 **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, TTI MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9.0 INDEMNIFICATION

9.1 Each party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other party (the "Indemnified Party"), its directors, officers, employees and agents from any and all liabilities, claims, damages, loss and costs (including reasonable attorney's fees) ("Claims") to the extent arising from the negligent acts or omissions or willful misconduct of the Indemnifying Party or from the Indemnifying Party's breach of its obligations under this Agreement or the representations and warranties contained herein. The Indemnified Party shall promptly notify the Indemnifying Party in writing of any Claims for which indemnification is sought. However, the Indemnified Party shall not be responsible for any liability, damages, losses or costs that are incurred because of a delay in giving such notice except to the extent that the Indemnifying Party is prejudiced by the delay. The Indemnifying Party shall have the right to assume the defense of any claim for which indemnification is sought using legal counsel reasonably acceptable to the Indemnified Party. The Indemnifying Party shall not enter into a settlement of any Claim that is the subject of the indemnification without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed).

9.2 Customer shall defend, indemnify and hold TTI harmless against any Claims brought against TTI by a third party based upon (i) an allegation that the Employer Data, or Employer's use of the Interview Management Platform or other Service in violation of this Service Agreement, infringes the intellectual property rights of, or has otherwise harmed, a third party so long as such use was not recommended by or agreed to by TTI in writing, or (ii) Customer's breach of this Agreement; provided, that TTI gives Customer prompt, written notice of the Claim. Customer shall not agree to settle any Claim without TTI's consent, provided that such consent is not unreasonably withheld, conditioned or delayed. This indemnification provision shall not be deemed to waive or limit any other rights of the parties.

10.0 LIMITATION OF LIABILITY.

10.1 Limitation of Liability. EXCEPT WITH RESPECT TO DAMAGES THAT ARISE OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY AND THE INDEMNIFICATION OBLIGATIONS CONTAINED IN PARAGRAPH 9.0 OF THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS ACTUALLY PAID TO TTI HEREUNDER DURING THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY.

10.2 Exclusion of Consequential and Related Damages. EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.0 INDEPENDENT CONTRACTOR RELATIONSHIP

11.1 It is expressly agreed and stipulated by and between the parties hereto that TTI is an independent contractor, and TTI shall not be deemed or construed to be an agent, servant, or employee of Customer or of any of Customer's affiliates.

11.2 It is mutually agreed and understood by and between the parties hereto that

Customer shall have no right of direction or control over the performance of the Agreement by TTI save and except as to the results to be accomplished.

11.3 It is further agreed that TTI enters into this Agreement with the definite and affirmative understanding and agreement that TTI is entering into the same as an independent contractor controlling TTI's own movements and operations and/or employees, servants, or agents, and reserving unto TTI all right to control the same, and Customer hereby surrenders all right or claim of right to control TTI, TTI's employees, servants or agents in the performance of this Agreement.

12.0 NOTICES

Legal notices shall be sent to the parties at the addresses set forth on the signature page. If a notice is sent to TTI, a copy shall be sent to Reitler Kailas & Rosenblatt LLC, 885 Third Avenue, 20th Floor, New York, New York 10022-4834 Attention: Edward Reitler. If a notice is sent to Customer, a copy shall be sent to the attention of the Legal Department.

13.0 GENERAL PROVISIONS

13.1 ~~**Governing Law.**~~ *California* This Agreement shall be construed under and in accordance with the laws of the State of ~~New York~~, without regards to its principals of conflicts of laws.

13.2 **Legal Construction.** If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such provision or provisions shall be deemed null and void and this Agreement shall be construed and continue in effect as if such provision or provisions had never been contained herein. Customer and TTI shall in good faith attempt to replace any invalid or unenforceable provisions of this Agreement with provisions that are valid and enforceable and that come as close as possible to expressing the intention of the original provisions.

13.3 **Force Majeure.** "Force Majeure" means an occurrence beyond the control of the parties which causes the duties and obligations of a party to be suspended. A Force Majeure occurrence means among other things, riots, fire, and weather which are both severe and unusual, governmental action, war acts or acts of God. The parties will diligently work to mitigate the lost time caused by the Force Majeure occurrence. Any delays or failure of performance by either Party arising from a Force Majeure shall not constitute default hereunder or give rise to any claim for damages provided prompt written notice of the Force Majeure occurrence is provided. In the event of a Force Majeure occurrence, each party shall extend the other party's performance period by the number of days equal to the length of the delay caused by the Force Majeure event.

13.4 **Non-Waiver.** No waiver of any provision of this Agreement or consent to any departure therefrom shall be effective unless the same shall be in writing and signed by both parties and then shall be effective only in the specific instance and for the purpose for which given.

13.5 **Assignment.** This Agreement may not be assigned, transferred or otherwise conveyed by either party except with the expressed written consent of the other party; such consent not to be unreasonably withheld. Either party may (a) perform any of its obligations under this Agreement through one or more of its Affiliates; and/or (b) assign this Agreement to an Affiliate in connection with any merger, consolidation, reorganization, sale or similar transaction involving all or substantially all of its assets relating to this Agreement, with the effect that the

Agreement will be binding on and enforceable by such assignee. For purposes of this Agreement, "Affiliate" shall mean, with respect to any party, any other entity that directly or indirectly controls, is controlled by or is under common control with that entity.

13.6 **Entire Agreement; Amendments.** This Agreement represents the entire Agreement between the parties, and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter hereof. This Agreement may not be amended, altered, modified, discharged, or changed, in whole or in part, except by a further writing duly executed by the parties.

13.7 **Continuing Obligations.** The obligations in Section 5.2, Proprietary Rights, Section 7.0, Confidential Information, Section 9.0, Indemnification, Section 10.0, Limitation of Liability, and Section 13.0, General Provisions, shall continue notwithstanding completion of the Special Services or termination of this Agreement. Section 5.0, Payment Terms, shall continue with respect to any payments due for services hereunder provided prior to termination.

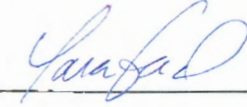
13.8 **Counterparts.** This Agreement may be executed electronically and in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement binding on Customer and TTI. This is a fully integrated document.

[Signature Page Follows]

This Agreement has been duly executed by the day, month and year written below.

CUSTOMER:

TAKE THE INTERVIEW, INC.

By: 

By: 

Name: Tara Gard

Name: Andrew Lowitz

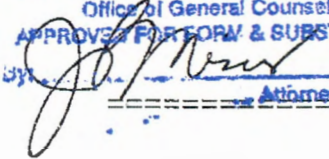
Title: Interim Deputy Chief Talent Officer

Title: VP of Sales

Date: 11/9/16

Date: 11/9/2016

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE


Attorney at Law

Please complete **Billing Contact Information** when executing this agreement:

Accounts Payable Contact Name/s:
(Contact who should receive the invoice)

Angelica Ochoa

Contact's Email Address(es):

angelica.ochoa@ousd.org

Contact's Phone Number:

510-879-0169

Contact's Physical Address:

1000 Broadway, Ste 295, Oakland CA 94607-4033

USER NAME

PASSWORD

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HISCOX INSURANCE COMPANY INC. (A Stock Company)

104 South Michigan Avenue, Suite 600 Chicago Illinois 60603

Professional Liability Insurance Declarations

This is a "Claims Made and Reported" Policy in which Claim Expenses are included within the Limit of Liability unless otherwise noted. Those words (other than the words in the captions) which are printed in Boldface are defined in the Policy.

Policy No.:	UDC-1400008-EO-16
Renewal of:	UDC-1400008-EO-15
1. Named Insured:	Take the Interview, Inc.
2. Address:	307 W. 38th Street Suite 1315 New York, NY 10018
3.A. Limit of Liability:	\$ 2,000,000 Each Claim
3.B.	\$ 2,000,000 Aggregate for all Claims
4. Deductible:	\$ 10,000 Each Claim
5. Notice:	Phone: 866-424-8508 Email: reportclaim@hiscox.com Mail: Hiscox 520 Madison Avenue-32nd Floor Attn: Direct Claims New York, NY, 10022
6. Policy period:	From: November 20, 2016 To: November 20, 2017 At 12:01 A.M. (Standard Time) at the address shown above.
7. Retroactive Date:	April 01, 2010
8. Premium:	
9. Attachments:	DPL D001 CW (01/10) - Professional Liability Errors & Omissions Insurance Declarations DPL P001 CW (05/13) - Professional Liability Coverage Form DPL E5036 CW (01/10) - E5036.1 Technology Services/IT Consulting Services Endorsement (Software Copyright Infringement) DPL E5116.4 NY (02/13) - E5116.5 New York Amendatory Endorsement DPL E5117 NY (01/10) - E5117.1 NY Amendatory - Regulation 121 Claims - Made Policies DPL E5424 CW (02/15) - Blanket Additional Insured Endorsement DPL N001 NY (01/10) - New York Policyholder Notice - Addendum To The Application DPL N002 NY (01/10) - New York Policyholder Notice - Addendum To The Declarations INT N001 CW (01/09) - Economic And Trade Sanctions Policyholder Notice

