

**FIRST THINGS FIRST  
GRANTS UNIFORM TERMS AND CONDITIONS**

1. Definitions. For the purpose of these Uniform Terms and Conditions:
  - 1.1. “Agreement” refers to the contract under which First Things First agrees to provide grant funds to the Grantee for the Grantee’s provision of approved services, whether the contract itself is called an Agreement, a Grant Agreement, an ISA or something else.
  - 1.2. “Grantee” refers to a party who enters into an Agreement with First Things First.
2. Confidentiality of Records. The Grantee shall establish and maintain procedures and controls that are acceptable to First Things First for the purpose of assuring that no confidential information (e.g., research data; information covered by HIPAA or FERPA; intellectual property) contained in its records or obtained from First Things First or from others in carrying out its functions under the Agreement shall be used by or disclosed by it or its agents, officers, or employees, except as required to efficiently perform duties under the Agreement. Persons requesting such information shall be referred to First Things First. The Grantee also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Grantee as needed for the performance of duties under the Agreement, unless otherwise agreed to in writing by First Things First.
3. Key Personnel. It is essential that the Grantee provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under the Agreement. The Grantee must assign specific individuals to the key positions, when possible, or submit an official position description for which candidates must qualify. **If a person assigned to a key position vacates the position or is otherwise removed or replaced, written notification shall be sent to First Things First via the Partner Grant Management System (PGMS) Communication Log within fourteen (14) days.** Since key personnel are critical to the successful implementation of the grant services, the Grantee shall make every effort to have vacant positions filled as quickly as possible.
4. Orientation. The Grantee shall attend a mandatory orientation scheduled during the first quarter of the Agreement term where First Things First will provide all awarded Grantees the information required to manage their grants.
5. Arbitration. To the extent required by A.R.S. § 12-1518 and after exhausting applicable administrative review, the parties agree to use arbitration to resolve any dispute arising under the Agreement.
6. E-Verify Participation. If the Grantee is an employer as defined in A.R.S. § 23-211(4), the Grantee shall register with and participate in the e-verify program. Before receiving the grant funds, such Grantee shall provide proof to First Things First that the Grantee is registered with and participating in the e-verify program. If First Things First determines that the Grantee is not complying with this paragraph, First Things First shall notify the Grantee by certified mail of First Things First’s determination of noncompliance and the Grantee’s right to appeal the determination. On a final determination of noncompliance, the Grantee shall repay all monies received under the Agreement to First Things First within thirty (30) days.

7. Administration of Public Benefits and Lawful Presence. With certain exceptions, pursuant to 8 U.S.C. §§ 1611 & 1621, only United States citizens, United States non-citizen nationals, and “qualified aliens” are eligible to receive certain federal, state or local public benefits. In addition, A.R.S. §§ 1-501 & 1-502 require, in general, that a natural person applying for a federal, state or local public benefit shall submit certain documentation that satisfactorily demonstrates that the applicant is lawfully present in the United States and sign a sworn affidavit stating that the documentation presented is true under penalty of perjury. Accordingly, if this Agreement involves the administration of a federal, state or local public benefit, as defined by 8 U.S.C. §§ 1611 & 1621 and A.R.S. §§ 1-501 & 1-502, by the Grantee, then the Grantee shall comply with the requirements of 8 U.S.C. § 1601 et seq. and A.R.S. §§ 1-501 & 1-502, as applicable. If this Section is applicable, the Grantee shall have applicants complete a Statement of Lawful Presence & Eligibility form that was created by First Things First or is otherwise acceptable to First Things First. This Section does not apply to Grantees that are non-profit, charitable organizations.
8. Third Party Antitrust Violations. The Grantee assigns to First Things First any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Grantee toward fulfillment of the Agreement.
9. Federal Audit Requirement. A Grantee whose grant includes federal pass-through funds and that expends \$750,000 or more in federal awards during the Grantee’s fiscal year shall comply with the annual audit requirement in 2 CFR Part 200, Subpart F.
10. Federal OMB Guidance. A Grantee whose grant includes federal pass-through funds shall comply with all applicable requirements found in 2 CFR Subtitle A, Office of Management and Budget Guidance for Grants and Agreements. In addition, all terms or provisions required by 2 CFR Subtitle A to be included in this Agreement are hereby incorporated by reference into this Agreement as if fully set forth herein and the Grantee shall comply with such terms and provisions as applicable. The Grantee further agrees that the federal awarding agency and First Things First, as the pass-through entity, have all the rights described in 2 CFR Subtitle A that are applicable to this Agreement.
11. Agreement Administration and Operations.
  - 11.1. Quality Assurance Assessment. First Things First’s Quality Assurance (QA) system involves a continuum of performance and programmatic monitoring, and the QA assessment is used to evaluate the implementation of the strategy Standards of Practice and to support grant partners through technical assistance. The Grantee agrees to actively participate in the QA process, which will involve a QA assessment during an on-site visit, typically once during a contract cycle (approximately three years). The QA process includes adequate notice through pre-visit communication, the on-site visit and discussion and a follow-up report.
  - 11.2. Financial Site Visit. The Grantee agrees to allow First Things First to conduct a financial site visit to monitor whether the Grantee’s financial obligations under this Agreement

are being met to ensure successful completion of the grant programs and services. The Grantee shall cooperate and assist with the financial site visit.

- 11.3. Data Collection and FTF Evaluation. Data collection and First Things First evaluation activities are directly connected with the Goals, Performance Measures and Units of Service aligned to the First Things First strategy described in this Agreement. The Grantee agrees to participate in any First Things First evaluation or research efforts pertaining to the strategy, including collaboration with evaluation-led child assessment activities. The Grantee's role may include tracking and reporting data pertaining to the program participants' enrollment, attendance and demographic information. In addition, the Grantee agrees to allow First Things First and its evaluation consultants to observe program activities on site. The Grantee also agrees to collaborate with First Things First to encourage parental consent for data collection. If the Grantee provides services to more than one First Things First region (multi-regional strategies), the Grantee must collect, store and report program participant data separately for each region served.
  - 11.4. Misappropriation of Information. The Grantee may be given access to certain information in the possession of First Things First for the purpose of providing the programs or services described in the Agreement on behalf of First Things First. The Agreement does not entitle the Grantee to use this information for any other purpose and does not authorize the Grantee to access any other information in the possession of First Things First. If the Grantee wishes to use any information in the possession of First Things First for a purpose other than fulfilling the Grantee's obligations under this Agreement, which the Grantee obtained from First Things First as a result of the Grantee's access to information (authorized or not) through this Agreement, then the Grantee shall make a request for the information under the Arizona Public Records Law and pay any applicable commercial purpose charges.
12. Grant Revisions.
- 12.1. Amendments. The Agreement may be modified through a formal written amendment signed by both parties. Except as otherwise provided in the Agreement, no other document, including correspondence, acts or oral communications by or from any person, shall be used or construed as an amendment or modification or supplementation to the Agreement. Unauthorized changes shall be void and without effect, and the Grantee shall not be entitled to any claim under the Agreement based on those changes. Notwithstanding the preceding, First Things First shall have the right to immediately amend the Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting the Agreement.
  - 12.2. Program or Budget Modifications. Requests for program and/or budget modifications must be submitted via the PGMS Communication Log and approval received prior to the implementation of any of the modifications.
    - 12.2.1. First Things First may make technical and other minor changes to the Agreement requested by the Grantee without a formal amendment.

12.2.2. If First Things First deems that the program or budget modification request would substantially alter the work or budget covered by the Agreement, whether by modification or supplementation, then the modification must be accomplished by a formal written amendment signed by both parties.

12.3. Award Adjustments. In accordance with law and the agreement of the parties, grant funds available under the Agreement may be increased or decreased based on changes to the amount of services provided, the Grantee's performance and adherence to the Standards of Practice, and the availability of funds.

13. Subcontracts.

The Grantee shall not enter into any subcontract or subgrant for the performance of all or part of the Agreement without advance written approval from First Things First. The Grantee shall clearly list any proposed subcontractors and subgrantees and each's proposed responsibilities. Any subcontract or subgrant shall incorporate and bind the subcontractor or subgrantee to the Terms and Conditions of the Agreement, including these Uniform Terms and Conditions. The Grantee agrees that no subcontract or subgrant that the Grantee enters into with respect to performance under the Agreement shall in any way relieve the Grantee of any responsibility for performance of its duties.

14. Assignment and Delegation.

The Grantee shall not assign any right or delegate any duty under the Agreement without the prior written approval of First Things First. First Things First shall not unreasonably withhold approval.

15. Force Majeure.

15.1. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Agreement if and to the extent that such party's performance is prevented by reason of a force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy, war, riots, strikes, labor disputes, civil disorders, fire, flood, lockouts, injunctions, failures or refusals to act by government authority and other similar occurrences beyond the control of the party declaring force majeure that such party is unable to prevent by exercising reasonable diligence.

15.2. Force majeure shall not include the following occurrences:

15.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere or an oversold condition of the market;

15.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition;  
or

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- 15.2.3. Inability of either the Grantee or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
  - 15.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this Section, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion may be extended by an amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Agreement.
16. Warranties.
  - 16.1. Liens. The Grantee warrants that any materials supplied under the Agreement are free of liens and shall remain free of liens.
  - 16.2. Quality. Unless otherwise modified elsewhere in the Agreement Terms and Conditions, the Grantee warrants that, for one year after acceptance by First Things First of the materials, they shall be: a) of a quality to pass without objection in the trade under the grant description; b) fit for the intended purposes for which the materials are used; c) within the variations permitted by the Agreement and are of even kind, quantity and quality within each unit and among all units; d) adequately contained, packaged and marked as the Agreement may require; and e) conformed to the written promises or affirmations of fact made by the Grantee.
  - 16.3. Fitness. The Grantee warrants that any material supplied to First Things First shall fully conform to all requirements of the Agreement and all representations of the Grantee and shall be fit for all purposes and uses required by the Agreement.
  - 16.4. Inspection/Testing. The warranties set forth in this Section are not affected by inspection or testing of or payment for the materials by First Things First.
17. Compliance with Applicable Laws. The Grantee is responsible for compliance with all applicable local, state and federal laws. This includes obtaining and maintaining all licenses, permits and authorizations necessary to perform its obligations under this Agreement.
18. Fingerprint Clearance Card. The Grantee shall ensure that all employees, contractors and volunteers have a valid fingerprint clearance card, if required by law, issued pursuant to A.R.S. Title 41, Chapter 12, Article 3.1. First Things First may cancel or terminate the Agreement if a person acting on behalf of the Grantee is required by law to have a valid fingerprint clearance card and does not possess one.
19. Applicable Taxes.
  - 19.1. Payment of Taxes. The Grantee shall be responsible for paying all applicable taxes.

- 19.2. Tax Indemnification. The Grantee and all subcontractors and subgrantees shall pay all federal, state and local taxes applicable to its operation and any persons employed by the Grantee. The Grantee shall, and require all subcontractors and subgrantees to, hold First Things First harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Workers' Compensation.
- 19.3. IRS Substitute W9 Form. In order to receive payment, the Grantee shall have a current IRS Substitute W9 Form on file with State of Arizona, unless not required by law.

20. Right to Assurance.

If First Things First in good faith has reason to believe that the Grantee does not intend to or is unable to perform or continue performing under this Agreement, First Things First may demand in writing that the Grantee give a written assurance of intent to perform. Failure by the Grantee to provide written assurance within the number of days specified in the demand may be, at First Things First's discretion, the basis for terminating the Agreement.

21. Stop Work Order.

First Things First may, at any time, by written order to the Grantee, require the Grantee to stop all or any part of the work called for by this Agreement for period(s) of days indicated by First Things First after the order is delivered to the Grantee. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Grantee shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Grantee shall resume work. First Things First shall make an equitable adjustment in the delivery schedule or grant price, or both, and the Agreement shall be amended in writing accordingly.

22. Right of Offset.

First Things First shall be entitled to offset against any sums due the Grantee, any expenses or costs incurred by First Things First, or damages assessed by First Things First concerning the Grantee's non-conforming performance or failure to perform under the Agreement.

23. Non-Exclusive Remedies.

The rights and the remedies of First Things First under this Agreement are not exclusive.

24. Grant Termination.

- 24.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, First Things First may cancel this Agreement within three (3) years after its execution without penalty or

further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of First Things First is, at any time while the Agreement or an extension of the Agreement is in effect, an employee or agent of the Grantee in any capacity or a consultant to the Grantee with respect to the subject matter of the Agreement. The cancellation shall be effective when the Grantee receives written notice of the cancellation unless the notice specifies a later time. If the Grantee is the State, a political subdivision or a department or agency of either, the Grantee may also cancel this Agreement as provided in A.R.S. § 38-511.

- 24.2. **Gratuities.** First Things First may, by written notice, terminate this Agreement, in whole or in part, if a gratuity was offered or made by the Grantee or a representative of the Grantee to any officer or employee of First Things First for any service rendered or to be rendered by the officer or employee personally concerning the securing of the Agreement, an amendment to the Agreement or favorable treatment concerning the Agreement, including the making of any determination or decision about the Grantee's performance. First Things First, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the gratuity offered by the Grantee.
- 24.3. **Suspension or Debarment.** First Things First may, by written notice, immediately terminate this Agreement if First Things First determines that the Grantee has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of a grant application or execution of an Agreement shall attest that the Grantee is not currently suspended or debarred. If the Grantee becomes suspended or debarred, the Grantee shall immediately notify First Things First.
- 24.4. **Termination for Convenience.** First Things First reserves the right to terminate the Agreement, in whole or in part at any time, when in the best interests of First Things First, without penalty or recourse. Upon receipt of the written notice, the Grantee shall stop all work, as directed in the notice, notify all subcontractors and subgrantees of the effective date of the termination and minimize all further costs to First Things First. In the event of termination under this paragraph, all documents, data and reports prepared by the Grantee under the Agreement shall become the property of and be delivered to First Things First upon demand. The Grantee shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 24.5. **Termination for Default.**
  - 24.5.1. First Things First may terminate the Agreement if the Grantee:
    - (i) Provides personnel to perform work under the Agreement that do not meet the requirements of the Agreement or are of an unacceptable quality.
    - (ii) Fails to adequately perform the services required in the Agreement.

- (iii) Fails to furnish the required product or services within the time stipulated in the Agreement.
- (iv) Delivers materials or services or a portion thereof that do not fully comply with the Agreement.
- (v) Fails to make satisfactory progress in the performance of the requirements of the Agreement.
- (vi) Gives a positive indication that the Grantee will not or cannot perform to the requirements of the Agreement.
- (vii) Fails to acquire and maintain all required insurance policies, licenses and permits.
- (viii) Fails to comply with the Data Security Guidelines and Requirements for Collaborators.
- (ix) Fails to comply with any other material requirement of the Agreement.

Before terminating the Agreement under this Section, First Things First shall issue a written ten (10) day notice of default to the Grantee. If the Grantee does not correct the problem(s) within ten (10) days after receiving the notice of default, First Things First may terminate the Agreement. If First Things First terminates the Agreement pursuant to this Section, First Things First reserves all rights or claims to damage for breach of the Agreement and the Grantee agrees to a general release in favor of First Things First for any claim for reimbursement.

24.5.2. Upon termination under this Section, all materials, documents, data and reports prepared by the Grantee under the Agreement shall become the property of and be delivered to First Things First on demand.

24.5.3. Upon termination of this Agreement, First Things First may obtain, on terms and in the manner that it deems appropriate, materials or services to replace those under this Agreement. The Grantee shall be liable to First Things First for any excess costs incurred by First Things First in obtaining services in substitution for those due from the Grantee.

24.6. Continuation of Performance through Termination. The Grantee shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

## 25. Agreement Interpretation.

25.1. Arizona Law. The Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona; the Arizona Procurement Code and Grant Statutes, Arizona Revised Statutes (A.R.S.) Title 41, Chapters 23-24; and the Procurement Code's implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

25.2. Order of Precedence. In the event of a conflict in the provisions of the Agreement, as accepted by First Things First and as they may be amended, the following shall prevail in the order set forth below:



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1. The Agreement Terms and Conditions.
  2. These First Things First Grants Uniform Terms and Conditions.
  3. The Grantee's application approved by First Things First.
  4. The First Things First Scope of Work.
  5. The First Things First Standards of Practice.
  6. Other documents referenced or included in the Agreement.
- 25.3. Implied Grant Terms. Each provision of law and any terms required by law to be in the Agreement are a part of the Agreement as if fully stated in it.
- 25.4. Severability. The provisions of the Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.
- 25.5. No Parole Evidence. The Agreement is intended by the parties as a final and complete expression of their Agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 25.6. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 25.7. Survival of Rights and Obligations. The parties' accrued rights and obligations, as set forth in the Agreement, shall survive the expiration or termination of the Agreement.
- 25.8. Paragraph Headings. The paragraph headings in the Agreement are for convenience of reference only and do not define, limit, enlarge or otherwise affect the scope, construction or interpretation of the Agreement or any of its provisions.
- 25.9. Interpretation. The Agreement shall not be construed or interpreted for or against either party on the grounds of sole or primary authorship or draftsmanship.

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### Version History

January 2015

November 2015

Original

Section 11.4 capitalization revised; former section 18 omitted and the remaining sections renumbered accordingly