

SERVICES AGREEMENT

By and Between:

RIGHT AT SCHOOL, LLC

and

MOUNTAIN VIEW WHISMAN SCHOOL DISTRICT

This SERVICES AGREEMENT (“Agreement”) is entered into this 4th day of April, 2019 (the “Effective Date”) by and between Right at School, LLC (the “Provider”), and Mountain View Whisman School District (the “District”).

RECITALS

- A. The District and the Provider wish to enter into an agreement that defines their relationship, describes services that the Provider will provide for and on behalf of the District, and establishes the manner in which services will be provided.
- B. The Provider has expertise in providing services of the type described in this Agreement and has the necessary knowledge, skill, and experience to provide those services for the District.
- C. The District desires to retain the Provider to provide the services described in this Agreement at the schools within the District identified on or pursuant to Exhibit A (the “School(s)”).

NOW, THEREFORE, in consideration for the foregoing and mutual covenants contained in this Agreement, the Parties agree as follows:

Section 1. Incorporation of Recitals. The foregoing recitals are incorporated into and made a part of this Agreement.

Section 2. Term. This Agreement is for a term commencing on the Effective Date and continuing through June 30th, 2020 (the “Term”), unless the Agreement is terminated sooner in accordance with the terms of this Agreement. After the Term of this Agreement, the Agreement will automatically renew on an annual basis, subject to the Termination provisions of this Agreement.

Section 3. Scope of Services. The Provider agrees to provide the services described in Exhibit A to this Agreement (the “Services”) for and on behalf of the District in accordance with the terms and conditions of this Agreement.

Section 4. Statement of Work. The Provider or its subcontractors will be responsible for performing the Services; providing all materials necessary for the Services; and paying all taxes, employees’ salaries or contracts, and other expenses associated with performing the Services. The Provider or its subcontractors will be responsible to direct and control the performance of the Services on a day-to-day basis and to provide and supervise all personnel

who perform the Services. The District, from time to time, may request changes to the Scope of Services. Any amendments to this Agreement must be made in writing and signed by both Parties.

Section 5. Independent Contractor. The relationship between the Provider and the District shall be that of independent contractor.

Section 6. Schedule for the Services. The District and Provider will cooperate to develop a schedule for the Services that is mutually agreeable to the Parties. For each session, the schedule will include the starting and ending time, the location or locations in the School(s) where the Provider will perform the Services, and any other information that the Parties mutually deem appropriate.

Section 7. Enrollment of Students. The Parties will cooperate to provide information regarding the Provider's Services to parents and students and to enroll students in the Services in the manner set forth in Exhibit A. Right At School requires a minimum of 15 students be pre-registered in each school program by July 15 prior to the start of the academic year. If the number of pre-registered students in a program is below 15 on or after July 15, Right At School may choose to close the program with two (2) weeks' written notice.

Section 8. Compensation and Payment. The Provider shall be solely responsible for charging and collecting tuition from the parents of enrolled students. The Provider shall pay to the District a portion of the tuition and fees the Provider collects for the Services in the manner and amount set forth in Exhibit B to compensate the District for the use of District and School facilities and resources.

Section 9. Staffing by Provider. The District has retained the Provider to perform the Services because of its expertise and the skill and experience of its professional staff and personnel, and the skill and experience of its subcontractors. The Provider must maintain and use sufficient staff to effectively fulfill the Provider's obligations under this Agreement, and the Provider's personnel, and any subcontractor's personnel, must be fully qualified to perform their respective duties.

Section 10. Confidential Information.

A. Acknowledgment of Confidentiality. The Parties acknowledge that they may be exposed to confidential and proprietary information of the other party including, without limitation, curriculum and instructional materials, other technical information (including functional and technical specifications, designs, analysis, research, processes, computer programs, and methods), business information (including marketing, financial, and personnel information), intellectual property, trade secrets, and other information designated as proprietary or confidential expressly or by the circumstances in which it is provided ("Confidential Information"). Confidential Information does not include (i) information already known or independently developed by the recipient, (ii) information in the public domain through no wrongful act of the recipient, or (iii) information received by the recipient from a third party who was free to disclose it.

B. Covenant Not to Disclose or Misuse Confidential Information. Each Party agrees that, with respect to the other Party's Confidential Information, it shall not, without the other Party's prior written approval, use, disclose to third parties, alter, or remove the Confidential Information in a manner not expressly authorized by this Agreement except as approved in advance by the owner of the information. Each Party shall use at least the same degree of care in safeguarding the other Party's Confidential Information as it uses in safeguarding its own confidential information.

C. Ownership of Curriculum and Instructional Materials. All curriculum, instructional materials, and other documents and items are the property of the Provider and are to be treated as proprietary and confidential. Such items shall not be used by the District or School(s) for any purpose without the express written consent of the Provider.

D. Student Records. The Provider will comply with the relevant requirements of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) and all other applicable federal and state law regarding the confidentiality of personally identifiable student information provided by the District. Any release of information contained in student education records provided by the District must be approved by the District. To protect the confidentiality of student education records provided by the District, the Provider will limit access to such records to those employees who reasonably need access to them in order to perform their responsibilities under this Agreement.

Section 11. Compliance with Laws. The Provider and its subcontractors must perform the Services in compliance with all applicable federal, state, county, and local laws and regulations and all applicable District and School policies and rules in effect now or later and as amended from time to time, including the Drug Free Workplace Act, FERPA, the Protection of Pupil Rights Amendment, the Health Insurance Portability and Accountability Act, and all applicable non-discrimination laws.

Section 12. Background Checks. The Provider will comply with all applicable background check laws for its employees and subcontractors that (i) will have contact with children through their performance of the Services, and (ii) are not also employed by the District. For any District employees who perform Services for the Provider, the Provider shall be entitled to rely on the District's criminal background check and determination of suitability for employment, and the Provider shall not be required to perform any additional background check or determination of suitability for such persons.

Section 13. Insurance. Provider, at its own expense, shall procure and maintain the following insurance policies, at a minimum, in the following amounts:

A. Workers' Compensation and Employers' Liability Insurance. Workers Compensation insurance affording workers' compensation benefits for all employees as required by law and Employers' Liability Insurance covering all employees who are to provide Services under this agreement with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence. The workers' compensation policy must contain a waiver of subrogation clause.

B. Commercial General Liability Insurance (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate for bodily injury, personal injury and property damage liability.

C. Automobile Liability Insurance. Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with Services to be performed, with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage.

D. Umbrella/Excess Liability Insurance: Umbrella or Excess Liability Insurance with limits not less than Five Million Dollars (\$5,000,000) per occurrence, which will provide additional limits for employer's general and automobile liability insurance, and Professional Liability and Sexual Abuse and Molestation insurance.

E. Professional Liability Insurance: Professional Liability insurance with limits not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate.

F. Sexual Abuse and Molestation Insurance: Sexual Abuse and Molestation Insurance with limits not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate.

G. The Provider shall include the District as an additional insured to the insurance policies described above (excluding the Worker's Compensation Insurance Policy).

Section 14. Termination.

A. Termination for Default. Either Party may terminate this Agreement if the other Party materially fails to observe or perform any covenant, obligation, or provision of this Agreement, and the Party's material failure continues for a period of thirty days after it receives a written notice of default from the other Party.

B. Termination for Convenience. Either Party may terminate this agreement for convenience upon 90 days written notice to the other party.

C. Payment for Services Rendered. In the event of any termination, the Provider may charge tuition and fees and shall be obligated to pay usage fees to the District in accordance with Exhibit B up to the date the Agreement is terminated.

Section 15. Cooperation. Each Party agrees to cooperate with the other Party with respect to the performance of the Services in an effort to provide quality programming for students within the District and School.

Section 16. Indemnification.

A. The Provider agrees to indemnify, defend and hold harmless the District and/or Schools and its employees from and against claims, liabilities, damages, losses, costs and expenses (including attorneys' fees), to the extent arising out of or resulting from the gross negligence or willful misconduct of the Provider.

B. The District and/or Schools agree to indemnify, defend and hold harmless the Provider, its board of directors, officers, agents and employees from and against claims, liabilities, damages, losses, costs and expenses (including attorneys' fees), to the extent arising out of or related to the gross negligence or willful misconduct of the District and/or Schools.

Section 17: General Provisions.

A. Notices. All notices, billings, and other correspondence required to be given to either Party pursuant to this Agreement shall be sent by email or facsimile or delivered or mailed to the following addresses:

If to the District:

Mountain View Whisman School District
1400 Montecito Avenue
Mountain View, CA 94043
Fax: 650-964-8907
Email: supt@mvwsd.org
Attention: Ayinde Rudolph

If to the Provider

Right at School, LLC
622 Davis Street, Suite 200
Evanston, IL 60201
Fax: 1-855-287-4444
Email: cindy.lawson@rightatschool.com
Attention: Cindy Lawson

B. Recordkeeping. The Provider shall maintain books and records relating to the performance of the Services including records of the enrollment of students, collection of tuition and fees, and payment of fees the District. The District shall have a right to inspect such records upon notice to the Provider at a time that is mutually convenient for the Parties.

C. Entirety. This Agreement, together with the Exhibits attached hereto, constitutes the entire Agreement between the Parties with respect to the subject matter hereof, and supersedes any other negotiations, agreements or communications, whether written or oral, that have been made by either Party.

D. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

E. Severability. In case any provision in this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected.

F. Authority to Execute. Each Party represents and warrants to the other that this Agreement has been duly authorized and that the person who executed this Agreement is authorized to do so on behalf of the Party. This Agreement may be executed in two or more counterparts.

G. Assignment. Neither Party may assign this Agreement in whole or in part without the prior written approval of the other Party.

H. Exhibits. The following exhibits are incorporated into and made a part of this Agreement:

Exhibit A – Scope of Services

Exhibit B – Payment to District for Facility Use

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

MOUNTAIN VIEW WHISMAN SCHOOL
DISTRICT

RIGHT AT SCHOOL, LLC

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES

The following scope of services has been agreed to by the Provider and District:

Right At School operates the District's enrichment programs at the following schools as of the Effective Date: Benjamin Bubb Elementary, Edith Landels Elementary, Frank L. Huff Elementary, Gabriela Mistral Elementary, Jose Antonio Vargas Elementary, Mariano Castro Elementary, Monta Loma Elementary, Stevenson Elementary, Theuerkauf Elementary, Crittenden Middle, and Graham Middle. Programs include after-school, and/or before-school, and/or other enrichment programming, including, but not limited to, kindergarten wrap-around, pre-school, winter-break, spring-break, summer-break, and teacher in-service day programming. The District may provide written authorization to Right At School to operate the District's enrichment programs at one or more additional schools, which authorization Right At School may, in writing, accept or reject in its sole discretion. If Right At School accepts the authorization to operate the District's enrichment programs at one or more additional schools, such programs shall be operated in accordance with and subject to this Agreement.

Right At School will specifically provide:

- A dedicated Area Manager to oversee all aspects of all the District's programs, providing a direct link for all school administrators.
- Well-qualified and trained staff. All staff are trained using our innovative blended learning training model, and receive extensive instruction before entering the program.
- All program management and oversight, including structure, scheduling, vendor management, etc.
- Ongoing new enrichment units and classes throughout the year.
- One-stop parent registration and payment through our portal system.
- Support (through our toll-free customer service call-center) for any parent questions or issues.
- Marketing materials and other information to promote the programs to interested families.
- Ongoing outreach to your PTAs and school communities to build relationships and solicit feedback.
- A 50% discount to Mountain View Whisman School District staff members, a 25% discount to families receiving free or reduced lunch, and a 10% sibling discount.

- 6.5% of all revenues from our Right Club program at each school.

EXHIBIT B

PAYMENT TO DISTRICT FOR FACILITY USE

This provision for Payment of Schools for Facility Use (“Lease”) is effective as of the date written on the signature page of this Agreement, and is entered into between the District (“Landlord”) and the Provider (“Tenant”).

RECITALS:

- A. The District is the owner of Benjamin Bubb Elementary, located at 525 Hans Avenue, Mountain View, CA 94040
- B. The District is the owner of Edith Landels Elementary, located at 115 West Dana Street, Mountain View, CA 94041
- C. The District is the owner of Frank L. Huff Elementary, located at 253 Martens Avenue, Mountain View, CA 94040
- D. The District is the owner of Gabriela Mistral Elementary, located at 505 Escuela Avenue, Mountain View, CA 94040
- E. The District is the owner of Jose Antonio Vargas Elementary, located at 220 N Whisman Road, Mountain View, CA 94043
- F. The District is the owner of Mariano Castro Elementary, located at 500 Toft Street, Mountain View, CA 94041
- G. The District is the owner of Monta Loma Elementary, located at 460 Thompson Avenue, Mountain View, CA 94043
- H. The District is the owner of Stevenson Elementary, located at 750 San Pierre Way, Mountain View, CA 94043
- I. The District is the owner of Theuerkauf Elementary, located at 1625 San Luis Avenue, Mountain View, CA 94043
- J. The District is the owner of Crittenden Middle, located at 1705 Rock Street, Mountain View, CA 94043
- K. The District is the owner of Graham Middle, located at 1175 Castro Street, Mountain View, CA 94040

The District is the owner of additional school properties which may be added to the scope of Services of the Services Agreement pursuant to Exhibit A to the Services Agreement (the “Additional Schools”).

The school properties listed in Recitals A through K, as well as the Additional Schools, are collectively referred to as the “Schools” in this Lease.

W. The District desires to lease a portion of the space and facilities located on the properties listed in Paragraphs A through K (the “Premises”) to Tenant and Tenant desires to rent the Premises from Landlord for use for educational programs and services as described in Exhibit A (the “Services”) to the Services Agreement.

NOW THEREFORE, in consideration of the foregoing Recitals, the parties agree as follows:

1. Facility Agreement: Landlord and Tenant entered into the Services Agreement pursuant to which Tenant was granted authority to enter, occupy, maintain, and provide the Services set forth in Exhibit A within the application regulatory requirements.
2. Term: Landlord hereby leases the Premises to Tenant, upon the terms and conditions set forth herein, for a term commencing on the Effective Date and continuing until termination of the Services Agreement (the “Term”). If the Services Agreement is terminated or not renewed for any reason, or if the Tenant otherwise ceases to operate the Premises for the Services, this Lease shall terminate on: (i) the date said Services are terminated or not renewed; of (ii) the date Tenant ceases to operate in accordance with the terms of this Lease.
3. Rent: In consideration of the leasing of the Premises set forth above, Tenant agrees to pay to the Landlord, as rent for the Premises, the sum of 6.5% of Tenant’s Right Club revenue at each premise per year, paid semi-annually in January and July.

IN WITNESS OF, the parties have caused this Lease to be executed by their duly authorized representative as of the date reflected on the Signature Page attached