

Yup Service Contract for Pilot

This Yup Service Contract (the “**Agreement**”) is effective on November 1st, 2020 (the “**Effective Date**”), between Yup Technologies, Inc., located at 1277 Mission Street, San Francisco, CA 94103 (“**Yup**”) Mountain View Whisman School District (“**School**”) located at 1400 Montecito Ave, Mountain View, CA 94043.

WHEREAS, Yup provides a tutoring service that allows students to share a photo of their math problem and connect to one of Yup’s tutors for tutoring services via Yup’s proprietary tutoring platform (the “**Service**”).

WHEREAS, School desires to engage Yup to provide the Service to School’s students. NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. Service:** Subject to the terms and conditions of this Agreement, Yup will use commercially reasonable efforts during the Term to provide the Service to School and its students.
- 2. Quality Control:** Yup sessions are selectively and regularly reviewed according to Yup’s proprietary pedagogy to assess student learning. Through this process, Yup provides an assessment of tutoring quality which Yup uses to maintain quality across the Service.
- 3. Student Access:** As part of the Service, Yup will provide a sign-on method for the School to use for providing access to students via student licences. Once provided a student licence, a student may access the Service by downloading and installing Yup’s proprietary mobile application on personal or School devices (smartphones, iPads, tablets, and select Chromebooks). The School shall inform Yup via Yup online dashboard to revoke a student’s access in case such action needs to be taken.
- 4. Terms and Termination:** This Agreement will commence on the Effective Date and continue through January 17, 2021 (the “**Initial Term**”). Upon termination of this Agreement, if not already done, School will promptly pay all fees accrued and owing to Yup.
- 5. Fees and Payment Terms:** The below fee schedule is Yup’s pricing for School’s Pilot. Yup will provide School with a maximum of 400 tutoring hours split amongst two schools at a cost of \$16 per hour (prorated to the minute) starting within 14 days of the Effective Date and ending no later than January 17, 2021. This represents a 50% contribution to the contract price of \$32 per hour with the remaining 50% covered by Yup for the duration of the Pilot. This offer is valid for 21 days. During the pilot, Yup and School will conduct talks for a longer-term contract.

- a. **Invoicing:** At the start of the Initial Term, Yup will invoice School the total cost of service.
- b. **Payment date:** School will pay all invoices within 30 days of the date of receipt to Yup Technologies, Inc.

6. **Usage reports:** As part of the Service, Yup will make reports available to School via an online dashboard which includes usage statistics and metrics on overall performance of students. The foregoing reports may be accessed by school's administrators and academic team members.

7. **Ownership.** As between the parties, Yup owns and retains all right, title and interest in and to: (a) the Service (including without limitation Yup's mobile application and technology and any and all improvements, enhancements or modifications thereto), (b) all information, data and materials processed by or provided by the Service, and (c) all intellectual property rights related to any of the foregoing. By submitting any Feedback to Yup, School hereby assigns to Yup all right, title and interest and all intellectual property rights in and to the Feedback, if any. For purposes of this Agreement, "**Feedback**" means any comments, feedback, potential errors or improvements, reports or ideas about the Service that School may provide to Yup concerning the functionality and performance of the Service.

8. **Confidentiality.** "**Confidential Information**" means information disclosed by one party to the other that is marked as confidential or proprietary or that ought reasonably to be understood as confidential or proprietary. Confidential Information excludes information that: (a) the recipient already lawfully knew, (b) becomes public through no fault of the recipient, (c) was independently developed by the recipient, or (d) was rightfully obtained by recipient from a third party. The recipient agrees not to disclose Confidential Information except to its affiliates, employees and agents who need to know it and have agreed in writing to keep it confidential. Only those parties may use the Confidential Information, and only to exercise the recipient's rights and fulfill its obligations under this Agreement, while using at least a reasonable degree of care to protect it. The recipient may also disclose Confidential Information to the extent required by law after reasonable notice to the discloser and cooperation to obtain confidential treatment. Unauthorized disclosure of Confidential Information may cause harm not compensable by damages, and the disclosing party may seek injunctive or equitable relief in a court of competent jurisdiction, without posting a bond, to protect its Confidential Information.

9. **Warranty Disclaimer.** THE SERVICE AND THE MATERIALS PROVIDED THEREBY ARE PROVIDED WITH ALL FAULTS ON AN "AS IS" AND "AS AVAILABLE" BASIS. YUP, ITS AFFILIATES, EMPLOYEES, CONTRACTORS, LICENSORS, OR AGENTS (COLLECTIVELY, THE "**YUP GROUP**") DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, THE WARRANTIES THAT THE SERVICE AND MATERIALS PROVIDED THEREBY ARE FREE OF DEFECTS, VIRUS FREE,

AND ABLE TO OPERATE ON AN UNINTERRUPTED BASIS, THAT THEY WILL MEET SCHOOL'S REQUIREMENTS, OR THAT ERRORS WILL BE CORRECTED, UNLESS SUCH IMPLIED WARRANTIES ARE LEGALLY INCAPABLE OF EXCLUSION. NO ADVICE OR INFORMATION GIVEN BY THE YUP GROUP SHALL CREATE A WARRANTY OR EXPAND THE SCOPE OF ANY WARRANTY THAT CANNOT BE DISCLAIMED UNDER APPLICABLE LAW. SCHOOL ACKNOWLEDGES THAT IT DOES NOT AND CANNOT GUARANTEE THE OUTCOME OF ANY MATTER EITHER AT COMMENCEMENT OR DURING THE COURSE THE ENGAGEMENT.

10. Limitation of Liability. EXCLUDING BREACH OF YUP'S INTELLECTUAL PROPERTY RIGHTS, EACH PARTY EXPRESSLY UNDERSTANDS AND AGREES THAT EACH PARTY (INCLUDING ITS AFFILIATES, EMPLOYEES, CONTRACTORS, LICENSORS AND AGENTS) WILL NOT BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES; HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. SOME STATES OR OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO SCHOOL. THE YUP GROUP'S LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW. IN NO EVENT WILL THE YUP GROUP'S TOTAL LIABILITY HEREUNDER EXCEED THE AMOUNTS PAID TO YUP IN THE SIX MONTHS PRECEDING THE DATE THE CAUSE OF ACTION AROSE.

11. Miscellaneous. This Agreement will be governed by the laws of the State of California without reference to conflict of law principles. Each party agrees to submit to the exclusive jurisdiction of the courts located within the county of San Francisco, California to resolve any legal matter arising from this Agreement. Neither party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, Yup may assign the entirety of its rights and obligations under this Agreement, without consent of School, to its affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Yup's relationship with School will be that of an independent contractor and not that of an employee. School will, in good faith, consider participating in a case study and testimonial regarding the Service. Yup will have the right to list School as a customer in written, oral and electronic materials which include the names of Yup's customers. This Agreement is the entire Agreement between the parties relating to the subject matter hereof. This Agreement shall control over any additional or different terms of any correspondence, order, confirmation, invoice or similar document, even if accepted in writing by both parties, and waivers and amendments of any provision of this Agreement shall be effective only if signed by both parties and clearly understood by both parties to be an amendment or waiver. The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will continue in full force and

effect and the invalid or unenforceable provision shall be reformed to the extent necessary to make it valid and enforceable. If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect.

In witness of their agreement to the terms above, the parties or their authorized agents hereby affix their signatures:

[Signature Page Follows]

Mountain View Whisman School District

DocuSigned by:
Cathy Baur
By _____
508E50E3D9104E1...

Name: CATHY BAUR

Title: Chief Academic Officer

Date: October 2, 2020

Yup Technologies, Inc.

DocuSigned by:
Aaron Price
By _____
2328C3D831274DB

Name: AARON PRICE

Title: CEO

Date: October 2, 2020