

**THIRD AMENDMENT TO ACTION DAY NURSERIES & PRIMARY PLUS, INC.  
JOINT USE LEASE AGREEMENT OF COOPER SCHOOL SITE**

THIS THIRD AMENDMENT TO THE Action Day/Primary Plus LEASE AGREEMENT (hereinafter referred to as the "SECOND Amendment") is made this 10 day of March 2022, by and between the Mountain View Whisman School District (hereinafter called "Lessor") and Action Day Nurseries & Primary Plus, Inc., (hereinafter called "Lessee") collectively referred to as the "Parties."

**RECITALS**

WHEREAS, Lessor and Lessee entered into a Joint Lease Use Agreement executed on June 2, 2016 (hereinafter referred to as the "Agreement") for the use of 333 Eunice Avenue, in Mountain View, California, commonly known as the Cooper Site;

WHEREAS, Lessor and Lessee have faithfully performed their respective obligations in accordance with the Agreement;

WHEREAS, Lessor and Lessee now wish to amend the Agreement to reflect changes to the provisions relating to Premises, Term, and Rent.

NOW THEREFORE, in consideration of the mutual agreement of the parties and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, District and Lessee agree as follows:

**AGREEMENT**

1. Section 2 of the Agreement, entitled "TERM," shall be amended as follows:

2.1 The term of the agreement shall be extended by an additional three years, effective July 1, 2022, and the term of this lease shall end June 30, 2026.

2. Section 3 of the Agreement, entitled "RENT," shall be amended as follows:

3.1 For and in consideration of the use of the Premises for the Term, Lessee agrees to pay District Seventy Six Dollars and Zero Cents (\$78.03) per square foot for an annual Rent of Seven Hundred and Twenty Five Thousand, Six Hundred Seven Dollars and Twenty Three Cents (\$ 744,943.76) ("Rent").

The Rent shall automatically be adjusted annually on July 1<sup>st</sup> at a rate of three percent (3%) unless Lessee provides Lessor written notice on or before June 1<sup>st</sup> that the Rent be adjusted by the following calculation:

The annual adjustment shall be calculated by multiplying the current monthly installment of Rent by a fraction, the numerator of which is the current year's Index and the denominator of which is the previous year's Index. However, at a minimum, the adjusted

Rent for the upcoming yearly period shall increase by at least 1% but in no instance shall the Rent be less than the prior year's Rent nor increased by greater than 3%. The index for computing the adjustment shall be the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI), San Francisco-Oakland-Hayward, CA, All Urban Consumers, not seasonally adjusted as published for April (or the nearest preceding month if not published for April), henceforth called the "Index."

3. In the event of inconsistencies between the Agreement and this THIRD Amendment, the terms and conditions of this THIRD Amendment shall be controlling. Unless specifically modified or changed by the terms of this THIRD Amendment, all terms and conditions of the Agreement shall remain in effect and shall apply fully as described and set forth therein, respectively.

**IN WITNESS WHEREOF**, the parties hereto have executed this **THIRD Amendment** by causing their duly authorized representatives to sign below as of the day and year first above written.

Mountain View Whisman  
School District

Action Day Nurseries & Primary Plus, Inc.

By: \_\_\_\_\_

Name: Rebecca Westover, Ed.D.

Title: Chief Business Officer

Date: \_\_\_\_\_

By:  \_\_\_\_\_

Name: Cathy Telic

Title: President

Date: 2-24-2022