

AGREEMENT

This Agreement made this 1st day of July, 2023 between Effective School Solutions, LLC which has offices located at 121 Chanlon Road, Suite 310, New Providence, NJ 07974 (hereinafter referred to as “Effective School Solutions” or “ESS”), and the Mountain View Whisman School District, which has offices located at 1400 Montecito Avenue, Mountain View, CA 94043 (hereinafter referred to as the “Board of Education” or “Board”) (sometimes hereinafter referred to, collectively, as the “parties”).

WHEREAS, Effective School Solutions provides therapeutic mental health services through licensed professionals to students in public school districts; and

WHEREAS, the Board of Education is desirous of procuring such services from Effective School Solutions for students enrolled at one to be determined school (hereinafter referred to as the “School”) in the Mountain View Whisman School District; and

WHEREAS, Effective School Solutions and the Board of Education are desirous of entering into an agreement for the provision of therapeutic mental health services; and

WHEREAS, the Board of Education has the requisite legal authority to enter into an agreement to procure therapeutic mental health services from Effective School Solutions.

NOW THEREFORE, based on the foregoing recitals, and in consideration of the mutual promises and covenants of the parties set forth below, the parties agree as follows:

1. Effective School Solutions shall provide the therapeutic mental health services of one (1) full-time equivalent California mental health professional for the 2023-2024 school year (“Partial School Year”), defined as the period of November 2023 through May 2024 as well as the 2024 Extended School Year (“summer program”) program. The professional will hold a license, registration, certification or other authorization from the California Board of Behavioral Sciences. The mental health professional shall work under the direction and supervision of Effective School Solutions, and in conjunction with staff designated by the School. The mental health professional shall satisfactorily complete a criminal history record check before providing services to the Board of Education, as further detailed in Section 19 of this Agreement, and Effective School Solutions shall be responsible for conducting fingerprint background checks of the licensed mental health professional and providing cleared credentials prior to the individual delivering therapeutic services to students. Except as otherwise stated herein, the mental health professional shall be present at all times during the term of this Agreement when School is in session during the school

year. Effective School Solutions shall provide therapeutic mental health services for a maximum of ten (10) students per licensed mental health professional (hereinafter referred to as “cohort”) enrolled in the School at any given time during the Partial School Year. The students in the cohort need not necessarily be the same students for the entire period at the School. It is understood that Effective School Solutions will be reasonably available prior to the start of each period above for consultation for preparation of the launching of ESS services and to provide parent informational sessions to help assist in the transition of students returning to the School and entering ESS programming. Furthermore, in the weeks preceding the beginning of each of the periods above, ESS will provide all necessary clinical evaluations of students to ensure that they are appropriate for ESS programming. While the therapeutic mental health services shall begin in November 2023, the training and consulting work described in section 4 shall commence beginning in July 2023.

2. Unless otherwise determined by Effective School Solutions through consultation with the Board of Education, based on an assessment of the needs of a particular student or students, the therapeutic mental health services shall include and be scheduled, as follows:

Tier 3 intensive clinical support:

1. up to one (1) individual psychotherapy session each week for each student
2. up to one (1) family therapy session every other week (bi-weekly);
3. up to one (1) daily group therapy session, in which the number of students assigned to a specific group shall not be greater than ten (10); provided that if more than one ESS mental health professional provides services to the school, the number of students attending a group therapy session may extend beyond ten (10) students on an occasional basis for workload management purposes; and
4. up to one (1) parent/caregiver group session each month.

Effective School Solutions will also provide its summer program for up to ten (10) students per mental health professional enrolled at the School. The summer program is a five-week program scheduled during the months of June and July and includes twice-weekly group therapy sessions of seventy-five (75) minutes each and individual or family therapy sessions every other week. The students in the Summer Program need not necessarily be the same students for the entire period.

3. In the event the licensed mental health professional is absent, if requested by the Board of Education, Effective School Solutions shall exert its best efforts to assign a qualified

substitute (either in-person or virtual if an in-person substitute is unavailable) to provide the services. Effective School Solutions shall provide the Board of Education with a credit of three hundred (\$300) dollars for each day of service missed by a mental health professional for whom a substitute cannot be obtained, after an aggregate total of five absences per number of contracted licensed mental health professionals during the school year. For example, if there are three (3) contracted licensed mental health professionals assigned to the Board of Education, then after an aggregate total of fifteen (15) missed days without a substitute, Effective School Solutions would provide a credit of \$300 for each additional day of service in which a mental health professional or substitute is not provided. If the Board of Education is not satisfied with the services provided by one or more of the licensed mental health professionals assigned by Effective School Solutions for any reason, and after engaging in a good faith discussion with Effective School Solutions, the Board may request a change in the professional assigned, in which case Effective School Solutions shall use commercially reasonable efforts to effectuate the change as quickly as possible but in no event later than forty-five (45) days from the date Effective School Solutions receives the change request in writing. The Board of Education agrees to provide timely feedback to Effective School Solutions of concerns about Effective School Solutions' services and professionals to provide Effective School Solutions an opportunity to address such concerns as promptly as possible. For the avoidance of doubt, the Board of Education does not have the authority to discipline or terminate the employment of any Effective School Solutions personnel. Rather, the Board of Education will promptly report any concerns regarding the performance or conduct of an Effective School Solutions employee to the Executive Director of Effective School Solutions. The Board of Education acknowledges that Effective School Solutions cannot honor any request in accordance with this Section if such request would be inconsistent with Effective School Solutions' obligations pursuant to Equal Employment Opportunity and other employment and labor laws, as further described in Section 16, below.

4. In addition to the services listed in Section 2 of this Agreement, Effective School Solutions shall, unless otherwise determined by Effective School Solutions based on consultation with the Board of Education:

1. direct its mental health professionals to regularly participate in a School teacher-led study skills class that is solely comprised of students in the cohort;

2. have one (1) mental health professional monitor one (1) daily lunch period at each School that is solely comprised of students in the cohort;
3. ensure that a mental health professional attends IEP meetings and Section 504 committee meetings, as needed, for students either in a cohort or being considered for enrollment in a cohort, provided that they do not conflict with the other scheduled services outlined in this Agreement;
4. as requested by the Board of Education in accordance with this subparagraph 4(d), provide up to 18 hours of professional development to be delivered either in-person or virtually during normal school hours on regularly scheduled school days or staff development days; provided that the Board of Education shall request professional development training at least thirty (30) days in advance of the training and that Effective School Solutions shall not be obligated to provide more than one individual per professional development training; provided further that Effective School Solutions' provision of professional development training on staff development days shared with multiple districts shall be subject to the availability of Effective School Solutions' personnel;
5. provide up to 100 hours of consulting services to assist the District in developing a clinical program to reduce school avoidance and chronic absenteeism.
6. provide up to 4, 1-hour virtual mental health workshops for parents/guardians.

5. Effective School Solutions shall provide all the clinical and administrative services outlined in this Agreement during normal School hours on regularly scheduled School days, except that multi-family therapy sessions and some individual family therapy sessions may be scheduled at the School during evening hours at the discretion of Effective School Solutions. If the student is absent on the date the individual or family therapy session is scheduled, or school is not held on the scheduled day for the services, such services will not be rescheduled and will not be considered an absence pursuant to Section 3.

6. Days during which there is an extended School facility closure (e.g., for public health reasons) shall not constitute "regularly scheduled School days" pursuant to Section 5 and

missed sessions due to extended School facility closures will not be considered absences pursuant to Section 3. During extended School facility closures, Effective School Solutions will deliver virtual or telephonic support consisting of a combination of virtual or telephonic individual therapy sessions, virtual or telephonic family therapy sessions and virtual or telephonic group therapy, consistent with Sections 2 and 4 of this Agreement. ESS staff members will continue to work full-time. In the event of a School facility closure, the implementation of required virtual learning, staggered schedules, and/or other modifications to School opening plans to address public health guidance or other extraordinary circumstances beyond both parties' control, Effective School Solutions may make reasonable modifications to the delivery of the services described in Sections 2 and 4 of this Agreement.

7. The Board of Education shall provide Effective School Solutions with:
 1. a confidential office that complies with applicable public health and safety laws for the mental health professionals to provide individual therapy sessions at the School;
 2. a classroom or similar space that complies with applicable public health and safety laws to conduct group therapy sessions, multifamily therapy groups and study skills classes;
 3. filing cabinet(s) with locking mechanisms to secure confidential records;
 4. use of telephones for each assigned mental health professional at no cost to Effective School Solutions;
 5. Internet access with connectivity during regularly scheduled school days or reimbursement to Effective School Solutions of the cost of hotspot devices;
 6. access to student education records including grades, attendance rates and disciplinary incidents for each student in the cohort receiving services from Effective School Solutions, in a manner prescribed by the Board of Education, subject to state and federal requirements for confidentiality of student education records and personally identifiable information. To the extent that confidential student education records or other confidential student information comes into the possession of Effective School Solutions, Effective School Solutions shall not further disclose that

information without appropriate parental consent unless required or permitted by applicable law; and

7. notification as to whether any School Resource Officer (“SRO”) qualifies as a “school official” such that Effective School Solutions may share student education records, information learned by Effective School Solutions’ personnel in the course of performing its services, and other personally identifiable information with the SRO

8. Should the Board of Education request crisis assessment services from Effective School Solutions for students outside of the cohort, the Board of Education shall obtain any and all consents required to be obtained by applicable laws, regulations and/or Board of Education policies and provide any and all notices required to be provided by applicable laws, regulations and/or Board of Education policies in connection with ESS’s provision of crisis assessment, response, and re-entry provided by Effective School Solutions under the Agreement. Further, the Board of Education shall file any reports with governmental authorities that are required to be filed by applicable laws and regulations in connection with ESS’s provision of crisis assessment, response and re-entry provided by Effective School Solutions under the Agreement.

9. The Board of Education will assist Effective School Solutions in obtaining all consents that Effective School Solutions determines are necessary and/or appropriate under applicable laws and/or professional standards for the provision of services by Effective School Solutions. Effective School Solutions shall be designated as a “school official” by the Board of Education for the purpose of providing services to students pursuant to the terms of this Agreement. All records of the services provided by Effective School Solutions to students of the Board of Education shall be considered Education Records, as defined by FERPA, and shall be maintained by Effective School Solutions in accordance with applicable law on behalf of the Board of Education. Effective School Solutions shall make all records of services provided to such students in the cohort available to the Board of Education upon request or as required in order to deliver services to the student at issue, including but not limited to, in the event of a due process hearing under state or federal law. Effective School Solutions shall provide parents/students with an acknowledgement for their signature, which confirms that any information received by Effective School Solutions from the student may become part of the student’s Education Record retained by the Board of Education. Once a student is no longer receiving services, Effective

School Solutions shall deliver all original records pertaining to that student to the Board of Education for future reference electronically or in printed form, and any copies retained by Effective School Solutions shall continue to be treated as Education Records pursuant to FERPA.

10. In the event of any investigation or proceeding, including but not limited to those involving administrative, civil, criminal, or custody proceedings, if Effective School Solutions is requested by a third party (pursuant to a subpoena or otherwise) to provide documents, testimony, or other information concerning the School, its personnel, or students, Effective School Solutions will provide notice to and seek guidance from the Board of Education before responding to any such request, unless Effective School Solutions reasonably believes it is prohibited by law from doing so. In addition, Effective School Solutions will comply with any and all laws and regulations concerning the disclosure of FERPA-covered information. Notwithstanding the foregoing, Effective School Solutions and its personnel shall have no obligation to the Board or the School to participate in any such proceedings or comply with any such requests unless required by law.

11. It is within the sole discretion of Effective School Solutions to determine whether a student can enter or remain in the cohort once the student has been referred by the School for the services outlined in this Agreement. However, it is expressly understood that the primary reason for Effective School Solutions to either reject a student or remove a student from the cohort, after considering the input of the appropriate personnel of the School, is a student's unwillingness to appropriately participate in the services outlined in this Agreement or, in the sole opinion of Effective School Solutions staff, the student is a danger to himself/herself or others.

12. For the 2023-2024 school year (Full School Year), the Board of Education shall pay Effective School Solutions two hundred seventy-five thousand dollars (\$275,000) for the services set forth in this Agreement, which shall be for the coaching and consultation work that will commence in July 2023, the therapeutic mental health services that will be delivered starting in November 2023, as well as the 2024 summer program. Payment shall be made in two installments. The first payment of two hundred thousand dollars (\$200,000) shall be due by August 1, 2023. The second payment for seventy-five thousand dollars (\$75,000) shall be due by January 1st, 2024. Nonpayment of fees ninety (90) days following the invoice due date will incur a late payment charge of the lesser of three percent (1.5%) per month or the maximum rate allowed by law, and the Board of Education will be obligated to pay Effective School Solutions all costs and expenses

Effective School Solutions incurs in connection with the collection of any unpaid invoice, including reasonable legal fees.

13. The Board of Education acknowledges that the Board of Education will work proactively with Effective School Solutions to schedule dates of the delivery of ESS services related to professional development, and the Board of Education shall ensure the availability of the Board's staff for delivery of such services. For the avoidance of doubt, in the event that the maximum units of services set forth in Section 4 of this Agreement are not delivered, the Board of Education remains responsible for payment of the fees set forth in Section 12 of this Agreement. Unused units shall not roll over to a subsequent school year or agreement.

14. Each party represents and warrants that it will comply with federal, state, and local employment, labor, public health and safety laws, and public health guidance in the conduct of the work supported by this Agreement, and that it will cooperate with the other party in the other party's compliance with such laws and guidance. Each party shall indemnify, hold harmless, and defend the other party from any liability arising out of or relating to such party's failure to follow such laws and guidance in the conduct of the work supported by this Agreement.

15. The parties each acknowledge and agree that Effective School Solutions does not bill directly to Medicaid or to any other federal, state, or publicly funded programs, nor does Effective School Solutions input any information directly into any Medicaid billing systems nor make any decisions about billing to Medicaid, including but not limited to, the selection of billing codes. The Board of Education will hold harmless, indemnify and defend Effective School Solutions and its directors, employees, agents, successors and permitted assigns from any and all losses, damages, liabilities, claims, actions, judgments, settlements, interest, awards, investigations, penalties, fines, costs, or expenses of whatever kind, incurred by Effective School Solutions, relating to, resulting from, or occurring in connection with any actual, alleged, or investigated overpayments, or billing errors, or billing or documentation improprieties concerning Medicaid or any other federal, state or publicly funded programs, or any other actual or alleged violation by the Board of Education, its employees, representatives, agents, or assigns, of any applicable federal, state, or local statute, regulation, ordinance, or order.

16. The Board of Education shall cooperate with Effective School Solutions' in Effective School Schools' actions to comply with Equal Employment Opportunity laws and guidance, including but not limited to providing reasonable accommodations to Effective School

Solutions' employees for disabilities, pregnancies, and sincerely held religious beliefs as required under federal, state, and local law.

17. This Agreement may be terminated upon written notice for Cause. With respect to the termination of the Agreement by the Board of Education, the term "Cause" means the following: Gross Misconduct of an Effective School Solutions employee that is significantly injurious to the Board of Education; or the material breach by Effective School Solutions of any material provision of this Agreement and failure to cure same within fifteen (15) business days after receipt of written notice of such breach. With respect to the termination of the Agreement by Effective School Solutions, the term "Cause" means the following: The Board of Education's substantial failure to cooperate with Effective School Solutions; or the material breach by the Board of Education of any material provision of this Agreement and failure to cure same within fifteen (15) business days after receipt of written notice of such breach. The parties hereby agree that the Board of Education's failure to pay the amount due under this Agreement for two (2) consecutive months shall constitute a material breach of this Agreement, which requires no further notice or opportunity to cure and entitles Effective School Solutions to terminate the Agreement and all of its obligations hereunder immediately upon written notice to the Board of Education.

18. The Parties agree to comply with California Education Code Section 45125.1, requiring all individuals providing services to public school students to be fingerprinted by the California Department of Justice for a criminal records check. No such individual may be permitted to come in contact with students until the records check is complete. No individual with a record of conviction for a serious or violent felony may be assigned to perform services that will place them in contact with students, with the exception of an employee, agent or volunteer who has obtained a certificate of rehabilitation and pardon pursuant to California Penal Code Section 4852.01 et seq. for a serious or violent felony listed under EC 45122.1. Effective School Solutions will request individuals providing services to the Board of Education students to provide evidence of tuberculosis testing and screening. In addition, Effective School Solutions staff will complete mandated reporter training.

19. Effective School Solutions shall maintain liability insurance coverage as listed below in this section. Effective School Solutions shall furnish the Board of Education with a copy of the certificate of insurance prior to the rendering of the therapeutic mental health services set forth in this Agreement.

Commercial General Liability	\$1,000,000 per occurrence; \$2,000,000 aggregate
Automobile Liability, Any Auto, Combined single Limit	\$1,000,000 per occurrence; \$2,000,000 aggregate
Workers Compensation	Statutory limits pursuant to State law
Employers' Liability	\$1,000,000
Professional Liability (E&O), If Contractor is providing professional services or advice (on a claims-made form)	\$1,000,000

20. All intellectual property rights, including copyrights, patents, patent disclosures, and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how, and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works, and all other rights (collectively, "Intellectual Property Rights") in and to all documents, work product, and other materials that are delivered to the Board of Education under this Agreement or prepared by or on behalf of Effective School Solutions in the course of performing its obligations under this Agreement (collectively, the "Deliverables") except for any confidential information of the Board of Education or Board of Education materials shall be owned by Effective School Solutions. Effective School Solutions hereby grants the Board of Education a license to use all Intellectual Property Rights in the Deliverables free of additional charge and on a non-exclusive, non-transferable, non-sublicenseable, fully paid-up, royalty-free, and revocable basis to the extent necessary to enable the Board of Education to make use of the Deliverables for the purposes intended by this Agreement during the term of this Agreement unless otherwise agreed upon in writing with Effective School Solutions; provided that the Board of Education may use MTSS Playbooks and professional development and coaching participant guides following the expiration or termination of this Agreement.

21. The Board of Education acknowledges that as a result of training by, experience with, and a relationship with Effective School Solutions, all Effective School Solutions' employees are privy to Board of Education materials, as well as much or all of Effective School Solutions' trade secrets, confidential information, and proprietary information, which may include but are not limited to, pricing information, marketing information, business strategy information, negotiations, and "Customer Information," which includes but is not limited to names, phone

numbers, addresses, email addresses, service history, service preferences, chain of command, pricing information, and other information, and identifying facts and circumstances specific to the customer and/or relevant to services. In the interest of protecting such trade secrets, confidential information, and proprietary information, including Customer Information, from disclosure or other improper use, the Board of Education acknowledges that each Effective Schools Solutions employee has agreed by contract that: (1) during the term of the employee's employment by Effective School Solutions, the employee will not provide any services of the type or character of services that the employee provides or has provided for Effective School Solutions, or contribute the employee's knowledge, in any capacity, to any school district for which Effective School Solutions provides and/or provided services during the employee's term of employment with Effective School Solutions, and (2) during the term of the employee's employment and during the one year, to run consecutively, starting on the last date of employment, the employee will not use any of Effective School Solutions' trade secrets, Customer Information, and/or confidential information to directly or indirectly solicit Effective School Solutions' customers, or interrupt, disturb, or interfere with Effective School Solutions' relationships with its customers, or engage in any activity that may require or inevitably requires disclosure of trade secrets, proprietary information, Customer Information, or confidential information. The provisions of this Section 21 will remain in full force and effect, regardless of whether the Agreement is terminated prior to the expiration of the term of the Agreement, or the Agreement is not renewed by the parties upon the expiration of the term of the Agreement.

22. The Board of Education agrees that it shall not hire, use as a consultant, or use as an independent contractor through a vendor other than Effective School Solutions (i) any employee currently employed by Effective School Solutions; or (ii) any former employee of Effective School Solutions who provided services to a School overseen by the Board of Education, pursuant to this Agreement, in each case for a period of two (2) years from the later of the date the employee was last employed by Effective School Solutions or last provided services to the Board of Education as an employee of Effective School Solutions. Since damages for violating this Agreement are incapable of precise calculation and would be difficult to prove, the parties agree that the Board of Education would pay to Effective School Solutions liquidated damages in an amount equal to four (4) times the employee's annual salary for the time period equal to the breach of this restrictive covenant. The parties agree that this liquidated damages amount is fair and reasonable and is

intended to compensate Effective School Solutions, and not constitute a penalty. The parties acknowledge and agree that Effective School Solutions' harm caused by a Board of Education Breach would be impossible or very difficult to accurately estimate as of the date of contract, and that the liquidated damages are a reasonable estimate of the anticipated or actual harm that would arise from a Board of Education breach. The Board of Education's payment of the liquidated damages would be the Board of Education's sole liability and entire obligation and the Effective School Solution's exclusive remedy for any breach of this Section 22. The provisions of this Section 22 of this Agreement shall remain in full force and effect, regardless of whether the Agreement is terminated prior to the expiration of the term of this Agreement or the Agreement is not renewed by the parties upon the expiration of the term of this Agreement.

23. This Agreement is subject to all applicable federal, state and local statutes, regulations and ordinances and shall be interpreted in accordance with the laws of the State of California.

24. Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement shall not be construed as a waiver of any right accruing under this Agreement; nor shall it affect any right that either party may have under the terms of this Agreement or preclude the party from seeking enforcement or claiming damages by instituting a lawsuit in a court of competent jurisdiction.

25. The provisions of this Agreement shall apply to, bind, and inure to the benefit of each of the parties hereto, and to their respective successors, assigns, and legal representatives.

26. Any and all notices and demands required or desired to be given under this Agreement shall be in writing and shall be deemed to have been given upon receipt by the other party, either by personal delivery, mail, or electronic mail with proof of transmittal.

27. With the exception of indemnification liability and the liability under Section 23 of this Agreement, neither party shall be liable for special, incidental or consequential damages or lost profits (however arising, including negligence) arising out of or in connection with this Agreement, even if such party has been advised of the possibility of such damages. With the exception of indemnification liability and liability under Section 23 of this Agreement, in no event shall either party be liable to the other party in an amount greater than the amount paid or to be paid under this Agreement. This limitation of each party's liability is cumulative, with all payments for claims or damages in connection with this Agreement giving rise to the claim being aggregated

to determine satisfaction of the limit. The existence of one or more claims will not enlarge the limit.

28. This Agreement may only be amended or modified in a writing stating specifically that it amends this Agreement and is signed by an authorized representative of each party.

29. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument. Facsimile or pdf signatures will be deemed as effective as original signatures.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and year first above written.

EFFECTIVE SCHOOL SOLUTIONS, LLC

By:  _____

Title: CEO

MOUNTAIN VIEW WHISMAN SCHOOL DISTRICT

By: _____

Cathy Baur

Title: Chief Academic Officer

DISTRICT INFORMATION

Please fill out the grid below with the contacts listed in the first column. If filling out the grid below is not possible, please submit this information in a separate sheet.

Department	Contact Name	Contact Email	Contact Phone #
Business/ Contracts (Executed copy of contract will be sent here)	Frances Rodriguez Yesenia Murillo	frodriguez@mvwsd.org yemurillo@mvwsd.org	650-526-3561 Ex.1122 650-5263500 Ex. 1133
Billing/Invoices	John Zepezauer Accounts Payable	accountspayable@mvwsd.org	650-526-3546 Ex. 1082
Fingerprinting/ Human Resources	Noemi Herrera HR Technician	nherrera@mvwsd.org	650-526-3555 Ex. 1071
Additional contact if needed/not listed above			