

## **SERVICES AGREEMENT**

By and Between:

**RIGHT AT SCHOOL, LLC**

and

**ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT**

This SERVICES AGREEMENT (“Agreement”) is entered into Sept 15, 2021 (the “Effective Date”) by and between Right at School, LLC (the “Provider”) and Ector County Independent 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 in 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 30<sup>th</sup>, 2022 (the “Initial Term”), unless the Agreement is terminated sooner in accordance with the terms of this Agreement. After the Initial Term of this Agreement, and subject to any required performance review of the Provider’s Services by the District in accordance with Section 15 of this Agreement, the Agreement may be renewed by a written agreement of the Parties for one or more additional terms,.

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 10 (September 13 for the 2021-22 school year only) 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 10 (September 13 for the 2021-22 school year only) prior to the start of the academic year, Right At School may choose to discontinue the provision of Services at one or more individual, under-enrolled campus sites with two (2) weeks' written notice to the District and the listed parent/guardian of each enrolled student. Where practicable, reasonable efforts will be made by the Provider, in collaboration with the District, to accommodate students displaced due to under-enrollment at other Provider school sites within the District.

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. Minimum qualifications (see attachment 1 ) The Provider shall be solely responsible for recruiting, staffing, and supervising all of its staff and employees for use in the Leased Premises.

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 developed or purchased by the Provider for the purpose of providing the agreed-upon Services specified in this Agreement 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 state and federal laws, and Employers' Liability Insurance covering all employees who are to provide Services under this agreement, with a bodily injury per accident limit of liability of at least \$ 1,000,000, bodily injury by disease limit each employee of \$1,000,000, and bodily injury by disease policy limit of \$1,000,000. 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 Four Million Dollars (\$4,000,000) per occurrence, which will provide additional limits for Provider's general liability, automobile liability, and Employer's Liability insurance policies.

E. Professional Liability Insurance: Professional Liability insurance with limits not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate.

F. Sexual Abuse and Molestation Insurance: Sexual Abuse and Molestation Insurance with limits not less than Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) 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 breaches any covenant, obligation, or provision of this Agreement, and the Party's material breach remains uncured for a period of thirty days after it receives a written notice of such breach from the other Party.

B. Termination for Convenience. Either Party may terminate this agreement for convenience upon at least 90 days' written notice to the other party. Unless otherwise mutually agreed by the Parties, any termination under this provision shall occur after the final day of the school year in which the written notice is received.

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. Within thirty (30) days of the Effective Date of this Agreement, the Parties agree to establish a schedule of regular meetings between the Parties to discuss matters relevant to the provision of Services described herein. Additionally, the Provider hereby agrees to provide reasonable access to designated District staff members to observe any or all aspects of the Services described in Exhibit A for the purpose of conducting relevant formative reviews or "quality checks." As required, the Provider agrees to furnish both quantitative and qualitative data requested by the

District for the purpose of evaluating the Services provided by the Provider. Such data may be used by the District, along with any other relevant data, in determining whether to renew, non-renew, or terminate this Agreement.

Section 16. Indemnification.

Provider shall indemnify, hold harmless, protect, and defend the District and its trustees, officers, employees, representatives, agents, and affiliates for, from, and against any and all claims and damages (including reasonable attorneys' fees and costs) of any nature whatsoever (including, but not limited to, property damage and loss, bodily injuries, sickness, disease, or death), directly or indirectly arising out of or in connection with Provider's use of the Leased Premises or the conduct of Provider's business or from any activity, work, or thing done permitted, or suffered by Provider in or about the Leased Premises, unless caused solely by the District.

Section 17: Relationships with Foreign Entities

In accordance with Texas Government Code Chapter 2252, Subchapter F, Contractor certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, the Government of Iran, the Government of Sudan, or a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State. Contractor further certifies and verifies that, pursuant to Texas Government Code Chapter 2270, neither Contractor, nor any affiliate, subsidiary, or parent company of Contractor, if any (the "Contractor Companies"), boycotts Israel, and Contractor agrees that Contractor and Contractor Companies will not boycott Israel during the term of this Agreement.

Section 18: 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 by certified mail to the following addresses:

If to the District:

Ector County Independent School District  
802 N. Sam Houston  
Odessa, TX 79761  
Fax: 432-456-9878  
Email: superintendent@ectorcountyisd.org  
Attention: Dr. Scott Muri

If to the Provider

Right at School, LLC  
909 Davis Street, Suite 500  
Evanston, IL 60201  
Fax: 1-855-287-2171  
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 Texas, and any dispute shall be settled in the courts of Ector County, Texas.

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 – Facility Use Lease Agreement**

[SIGNATURE PAGES FOLLOW]

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

ECTOR COUNTY INDEPENDENT SCHOOL  
DISTRICT

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

Its: \_\_\_\_\_

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

RIGHT AT SCHOOL, LLC

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

Its: Chief Services Officer \_\_\_\_\_

Date: 9/15/21 \_\_\_\_\_

**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: Blackshear Magnet Elementary School, Blanton Elementary, Hays Magnet Academy, Ireland Elementary School, Lyndon B. Johnson Elementary, Milam Magnet Elementary School, Murry Fly Elementary School, and Reagan Academic Magnet School. Programs include after-school, and/or before-school, and/or other enrichment programming, including, but not limited to 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 to promote the program to interested families. Any such marketing materials will be developed, designed, translated (English, Spanish, and other languages as needed), and distributed by the Provider with distribution support from the District/School(s) in accordance with the District's then-current community distribution policies, procedures, and regulations.
- Ongoing outreach to your PTAs and school communities to build relationships and solicit feedback.
- A 50% discount to Ector County ISD staff members, a 25% discount to families receiving free or reduced lunch, and a 10% sibling discount.



- 3% of all revenues from our Right Club after-school program at each school to be paid to the District. Revenue process and share will be communicated to the District/School(s) as to students, amount and other details within 30 days of the Effective Date of this Agreement.
- 3% of all revenues from our Right Club after-school program at each school to be given back in scholarships. Revenue process and share will be communicated to the District/School(s) as to students, amount and other details within 30 days of the Effective Date of this Agreement
- There is no cost for the use of the facility, however, 3% of all revenues from the Right Club after school program be used by the organization to offset tuition costs for families in need.

## **EXHIBIT B**

### **FACILITY USE LEASE AGREEMENT**

This Lease Agreement 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 Blackshear Magnet Elementary School, located at 501 E. Dixie Blvd., Odessa, TX 79761
- B. The District is the owner of Blanton Elementary School, located at 4101 Lynbrook Avenue, Odessa, TX 79762
- C. The District is the owner of Hays Magnet Academy, located at 1101 E. Monahans St., Odessa, TX 79761
- D. The District is the owner of Ireland Elementary School, located at 4301 Dawn Avenue, Odessa, TX 79762
- E. The District is the owner of Lyndon B. Johnson Elementary, located at 6401 Amber Drive, Odessa, TX 79762
- F. The District is the owner of Milam Magnet Elementary School, located at 640 College Avenue, Odessa, TX 79761
- G. The District is the owner of Murry Fly Elementary School, located at 11688 W. Westview Drive, Odessa, TX 79764
- H. The District is the owner of Reagan Academic Magnet School, located at 2321 E. 21<sup>st</sup> Street, Odessa, TX 79761

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

The District desires to lease a portion of the space and facilities located on the properties listed in Paragraphs A - H (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 sooner than Term for any reason, or if the Tenant otherwise ceases to operate the Premises for the Services, this Lease shall terminate on the earlier of: (i) the date this Agreement is terminated; or (ii) the date Tenant ceases to operate in accordance with the terms of this Lease. Upon termination of the Lease, all obligations between the parties will terminate and the Leased Premises will remain the sole and absolute property of the Landlord.
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 3% of Tenant's Right Club after-school revenue at each premise per year, paid semi-annually in January and July.
4. Use of Premises, Generally: The premises being leased are to be used solely for the educational programs and services as described in Exhibit A (the "Services") to the Services Agreement, and not to be used for any other purposes without first obtaining the consent in writing of Landlord, or Landlord's authorized agent.
5. Day-to-Day Operations: The Landlord will designate the school Principal of each School as the person that Tenant shall contact with respect to any issues that arise in connection with the day-to-day operations under the Lease. In the event there is a dispute that is not resolved at the campus level, the matter shall be referred to the Landlord's Superintendent or designee for resolution. The decision of the Superintendent or designee shall be final and not subject to further appeal.
6. No Assignment: The Agreement may not be assigned by Tenant without the prior written consent of the Landlord.
7. No Waste, Nuisance, or Unlawful Use: Tenant shall not commit, or allow to be committed, any waste on the premises, create or allow any nuisance to exist on the premises, or use or allow the premises to be used for an unlawful purpose.

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 to the Agreement above.

## **Attachment 1- Minimum Qualification**

### **Job Title: Educator**

As a before/after school Educator, you will be responsible for ensuring the safety of all children in the program while engaging them in curriculum, supporting homework completion and leading fun fitness activities during the Right Club. An Educator will ensure the highest quality programming that supports our focus on the 4Cs: Character, Confidence, Creativity and Conditioning.

### **Essential Job Functions**

- Partners with the Program Manager to deliver and enhance the Right At School curriculum by engaging children and fostering the 4Cs.
- Manages and organizes the materials for all lessons and activities.
- Implements effective classroom management strategies to maintain the attention, safety and well-being of all students.
- Communicates with parents when needed.
- Assists children with homework when not teaching curriculum.
- Administers light First Aid when necessary.
- Develops strong relationships with students and parents to ensure successful delivery of all Right At School programs and ensure customer satisfaction with the program.
- Other duties as assigned.

### **JOB REQUIREMENTS**

- Excellent communication skills with varied audience including children, parents, staff and school personnel.
- Respect for and dedication to working with children.
- Ability to engage children in learning activities in fun and interactive ways.
- Strong classroom management skills with the ability to use and model appropriate positive discipline.
- Works well in a team environment.
- First aid and CPR certification preferred.
- High school diploma/GED required.
- Must meet state specific guidelines for the role.

### **PHYSICAL REQUIREMENTS**

- Must be able to lift, carry, push, or pull up to 25 pounds 25% or less of the workday.
- Must be able to stoop, kneel, crouch, or crawl 50% or less of the workday.
- Must be able to talk, see, hear, concentrate, think, learn and reason for all of the workday.
- Must be able to sit and walk or otherwise move around for prolonged periods of time throughout the workday.

### **Attachment 1 – Minimum Qualifications (continued)**

#### **Program Manager, will -**

- Lead a team of educators and/or assistant teachers to ensure the delivery of engaging, interactive educational experiences and curriculum
- Develop strong relationships with school administration, parents, & PTA organizations in order to provide the best care for children and ensure customer satisfaction
- Manage staff compliance with district-specific policies and procedures
- Maintain excellent communication with a varied audience including children, parents, staff, and school personnel
- Model positive guidance and effective classroom management to maintain the safety, well-being, and attention of all children while supporting homework completion, leading fun fitness activities and guiding children at play
- Lead the educator and assistant teacher team in organizing program materials for lessons and activities, as well as document attendance, incidents, and other observations
- Manage and order supplies as needed according to curriculum
- Meet and report regularly to the Area Manager regarding program, site, and staff performance

#### **What we are looking for:**

- Outstanding customer service and relationship building skills
- Strong classroom management skills with the ability to use and model appropriate positive discipline
- Works well in a team environment
- A passion and drive that inspires a love for learning & the ability to engage children in learning activities in a fun and interactive way
- Respect for and dedication to working with children
- 2 years of direct experience working with children under 13
- 1 year of supervisory experience
- College coursework in early childhood education, elementary education, or a related field
- Ability to meet state-specific requirements; FA/CPR, Mandated Reporter, Cleared TB

