

ORIENTATION AND MOBILITY SERVICES AGREEMENT

This Orientation and Mobility Services Agreement ("**Agreement**") is made and entered into as of July 23, 2021 ("**Effective Date**") by and between Movin' Om, LLC ("**MO**") and Dayton Independent School District ("**Client**"). In consideration of the mutual promises and covenants set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Services.**

- a. MO is retained as an independent contractor to perform direct individual orientation and mobility training to identified student(s) for the number of hours agreed upon, and specified in the Individualized Education Program ("IEP") including specific services listed on **Exhibit A** attached hereto ("**Services**"). The Services will be provided consistent with the IEP for students who attend Client's school or are located within the Client's school district. In order for MO to provide Services for a given student, each student's parent or legal guardian must sign the attached **Exhibit B** waiver and consent.
- b. MO will determine the method, details, and means of performing Services. Services will be delivered primarily at Client's location but some Services will require taking children off of Client's campus. Client and MO will agree upon transportation methods for off campus instruction.
- c. The parties will agree upon all times and dates during which an in-person, telephone or electronic meetings at least seven days prior to such meeting. When Services, for a specific individual are complete, Client shall notify MO in writing confirming such Services are complete.
- d. The parties agree, in the event either needs to cancel or reschedule a session, the cancelling party agrees to give the other party (24) hours' notice to reschedule the session at another mutually agreeable date within the following (30) days. If Client does cancel (or cancels within 24 hours of the session), and Services cannot be provided due to a lack of student participation, attendance, signed copies of Exhibit B, or any other impediment outside of the direct control of MO, Client will still be responsible for payment of MO's full hourly rate for the scheduled amount of time, plus actual mileage traveled (in the amount calculated by the Internal Revenue Service each year) to and from Client's location, for the session which was not properly cancelled.

2. **Payments.**

- a. In consideration of the Services to be rendered hereunder, the Client shall compensate MO at a rate of \$110 per hour (rounded to the nearest .25 of an hour) – this rate may be increased with written notice submitted to Client at least (30) days prior to any increase ("**Compensation**").
- b. MO will submit invoices to the Client for the Services rendered hereunder. Client will make payment for any invoice within 45 days of the date listed on the invoice. If Client does not make payment within 45 days, any amounts owed to MO will accrue interest at a rate of 20% per annum or the maximum amount of interest permitted by law. If amounts remain unpaid, MO may within its discretion, cease providing Services with or without notice.
- c. Client will reimburse MO for all out-of-pocket business expenses that are incurred in connection with the performance of the Services ("**Expenses**"). Expenses shall include all mileage (in the amount calculated by the Internal Revenue Service each year) to and from Client's location and for all mileage incurred during the course of Services being provided.

3. **Warranties.** Client warrants that all information provided to MO or listed in Client's public material is accurate and truthful. Client understands that MO cannot provide medical or legal

advice and does not make any representation as to the effect of Client's use of MO's Services. Client will indemnify and hold MO, its owners, employees, and contractors harmless from any claim, dispute, regulatory action, and any other loss including attorneys' fees, court costs, litigation expenses, settlement, and judgment related to the actions or inactions of Client, its students, or any third party. For events beyond MO's control, including but not limited to inclement weather, power outages, or any other action by third parties, MO shall not be responsible for damages or loss to the Client and will still be paid Compensation. Services performed shall be considered to have been accepted by Client unless written proof of claim is made to MO no later than (30) days after such Services were performed.

4. **Confidential Information.** The parties will not disclose private information provided which is indicated as "Confidential" in writing or in this Agreement. Client agrees that the methods and means for which MO will provide Services are proprietary and thus Confidential within the meaning of this section.
5. **Term.** This Agreement shall commence on the Effective Date and remain in full force and effective unless sooner terminated. Client may terminate this Agreement at any time for any reason with at least 10 days' written notice of termination. MO may terminate this Agreement at any time for any reason with at least 10 days' written notice of termination to the Client. If this Agreement is terminated, Client agrees to pay MO the compensation due for all Services provided.
6. **Indemnification and Liability Limitation.** Except as otherwise provided, the parties shall indemnify, and defend, the other party and its affiliates, successors and assigns (and its and their officers, directors, employees, customers and agents) from and against any and all claims, losses, liabilities, damages, settlements, expenses and costs (including, without limitation, attorneys' fees and court costs) which arise out of or relate to (a) any breach of this Agreement; or (b) any third party claim related to the actions or inactions of the other party. In no event shall MO be liable under any legal theory for any special, indirect, consequential, exemplary or incidental damages, however caused, arising out of or relating to this Agreement, even if MO has been advised of the possibility of such damages. In addition, in no event shall MO's aggregate liability arising out of or relating to this Agreement (regardless of the form of action giving rise to such liability, whether in contract, tort, indemnification, or otherwise) exceed the fees paid by the Client to MO for the prior (12) months. During the term of this agreement, MO shall maintain \$1,000,000 in coverage per occurrence for general liability and professional liability.
7. **Assignment.** MO may assign its rights or obligation to perform under this Agreement without the signed, written consent Client. Client may not assign its rights or obligation without the consent of MO.
8. **Notices.** Any notice or other communication provided for in this Agreement shall be sent by personal delivery, certified mail or Federal Express or similar overnight mail service to the address set forth on the signature page hereof. Any notice of cancellation of Services for a particular day can be made by phone call or voice message to the other party. Either party may change its address for purposes of this section by providing written notice in the manner provided above.
9. **Severability of Provisions.** If any section, provision, or part of this Agreement is held to be illegal, invalid or unenforceable, such section, provision, or part shall be fully severable. The remainder of this Agreement shall remain in full force and effect.
10. **Waiver.** The waiver by either party of a breach of or a default under any provision of this Agreement shall not be effective unless in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any such right or remedy.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to conflicts of laws principles. The parties hereto agree that any actions or proceedings seeking to enforce any provision of, or based upon any right arising out of, this Agreement shall be brought exclusively in the state and federal courts located in the State of Ohio. Each of the parties irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue within Hamilton County, Ohio. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world. The parties hereto specifically waive any right to a jury trial with respect to any matter arising under this Agreement. Should enforcement of a collection action related to this Agreement be necessary, MO will be entitled to its attorney's fees and court costs from the Client.
12. **Relationship of Parties.** This Agreement shall not be construed as creating an agency, partnership, joint venture or any other form of association, for tax purposes or otherwise, between the parties; and the parties shall at all times be and remain independent contractors. Neither party shall have any obligation or duty to the other party except as expressly and specifically set forth herein, and no such obligation or duty shall be implied by or inferred from this Agreement or the conduct of the parties hereunder.
13. **Modification or Amendment.** No amendment, change, or modification of this Agreement shall be valid unless made in writing and duly executed by the Client and MO.
14. **Headings.** The headings used in this Agreement are for convenience only and shall not be considered in construing or interpreting this Agreement.
15. **Counterparts.** This Agreement and any amendments hereto may be executed in one or more counterparts. All of such counterparts shall constitute the same Agreement and shall become effective when a copy signed by each party has been delivered to the other party. The parties agree that facsimile and electronic signatures shall be as effective as if originals.
16. **Entire Agreement.** It is understood, acknowledged and agreed that there are no oral agreements between the parties hereto and that this Agreement constitutes the parties' entire agreement and supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties hereto, and none thereof shall be used to interpret or construe this Agreement. This Agreement contains all of the terms, covenants, conditions, warranties and agreements of the parties and will be considered the only agreement between the parties hereto.

(Signature page to follow)

IN WITNESS HEREOF, the parties have agreed and fully executed this Agreement.

CLIENT:

Dayton Independent Schools

Address:

200 Clay Street
Dayton, KY 45404

Movin' Om, LLC

Address:

6879 Tenderfoot Ln
Cincinnati, OH 45249

By:

Nicole Ponting

(signature)

Name:

Nicole Ponting

By:

(signature)

Name:

Title:

Director of Special Education

Title: Agent for Movin' Om, LLC

Date:

7/23/21

Date: