

## **MASTER SERVICES AGREEMENT**

This **MASTER TUTORING SERVICES AGREEMENT** (this “**Agreement**”) is entered into and effective on the last date that the Agreement is fully executed (the “**Effective Date**”) by and between HeyTutor Inc., a California corporation (the “**Company**,” “**Contractor**” or “**HeyTutor**”) and Azusa Unified School District, a California school district (the “**District**”).

**WHEREAS**, District desires to retain Company to provide certain tutoring services upon the terms and conditions hereinafter set forth, and Company is willing to perform such services for District.

In consideration of the mutual covenants and agreements hereinafter set forth, District and Company (collectively “**Parties**” and singularly a “**Party**”) agree as follows:

### 1. **Services.**

Company shall provide the Services to District as described in more detail in the SOW in accordance with the terms and conditions of this Agreement, which shall include a detailed description of the Services to be performed pursuant to the SOW; (i) the date upon which the Services will commence and the term of such SOW; (ii) the fees to be paid to Company under the SOW; (iii) payment schedules; and (iv) and any other terms and conditions agreed upon by the Parties in connection with the Services to be performed pursuant to such SOW.

### 2. **Company’s Obligations.**

2.1 The Company shall:

(a) appoint a Company employee to serve as a primary contact with respect to this Agreement (the “**Company Contact**”) and provide Company Personnel and/or any subcontractor or other third party (a “**Subcontractor**”) to perform the Services;

(b) (i) make reasonable and legally permitted efforts to ensure that Company Personnel and Subcontractors have the legal right to work; and (ii) conduct fingerprint background checks on such Company Personnel and Subcontractors identified to provide Services under this Agreement, and such background checks shall include identity verification and a search of criminal and sex offender records; and

(c) maintain complete and accurate records relating to the provision of the Services under this Agreement.

2.2 Company is responsible for all Company Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.

### 3. **District’s Obligations.**

3.1 District shall:

(a) cooperate with Company in all matters relating to the Services and appoint an employee to serve as the primary contact with respect to this Agreement (the “**District Contact**”);

- (b) provide such access to such premises, and such office accommodation and other facilities as may reasonably be requested by Company, for the purposes of performing the Services;
- (c) respond promptly to any Company request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Company to perform Services in accordance with the requirements of this Agreement;
- (d) issue a purchase order within thirty (30) days of execution of the Agreement and provide a copy of the issued purchase order to the Company at [Ben@heyttutor.com](mailto:Ben@heyttutor.com) and [procurement@heyttutor.com](mailto:procurement@heyttutor.com) within ten (10) days of issuance;
- (e) provide such District Materials as Company may request, in order to carry out the Services, in a timely manner, and ensure that it is complete and accurate in all material respects; and
- (f) obtain and maintain all necessary licenses and consents and comply with all applicable Law in relation to the Services, in all cases before the date on which the Services are to start.

3.2 If District requires Company's tutors to use a physical sign-in/sign-out form at the school site, then District shall be responsible for providing and retaining such a form.

3.3 If Company's performance of its obligations under this Agreement is prevented or delayed by any act or omission of District or any other person or entity outside of Company's reasonable control, Company shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by District, in each case, to the extent arising directly or indirectly from such prevention or delay.

#### 4. **Term.**

This Agreement shall commence as of the Effective Date and shall remain in effect until terminated pursuant to Section 11.

#### 5. **Fees and Expenses; Payment Terms.**

5.1 In consideration of the provision of the Services by the Company and the rights granted to District under this Agreement, District shall pay the fees and costs set forth in the SOW. Payment to Company of such fees and the reimbursement of expenses pursuant to this Section 5 shall constitute payment in full for the performance of the Services, and District shall not be responsible for paying any other fees, costs or expenses.

5.2 The Company shall issue invoices to District monthly in arrears for fees and costs incurred during the immediately preceding month. The Company will issue a single invoice for all school sites utilizing Services under this Agreement. The fees and costs payable for the Services shall be calculated in accordance with Company's rate schedule set forth in the SOW.

5.3 The Parties agree that the Company may increase its standard fee rates specified in the SOW upon written notice to District; *provided, that:*

- (a) Company provides District written notice of such increase at least 90 days prior to the effective date of such increase;
- (b) such increases occur no more frequently than once per contract year of the Term; and

(c) the amount of such increase shall not exceed the greater of (i) the percentage rate of increase for the immediately preceding 12-month period in the Consumer Price Index, All Urban Consumers, United States, All Items (1982 - 1984 = 100), as published by the Bureau of Labor Statistics of the United States Department of Labor or, if such index is not available, such other index as the Parties may agree most closely resembles such index; or (ii) five percent (5%).

5.4 All invoices furnished by the Company under this Agreement shall be delivered to the District via email. The AP/Billing Department Contact responsible for receiving and processing invoices issued by the Company under this Agreement shall be:

Name: Esperanza Gutierrez  
Email: egutierrez@azusa.org  
Phone: (626) 858-4236  
Address: 546 South Citrus Avenue,  
Azusa, CA 91702

5.5 District shall pay all properly invoiced amounts due to Company within fifteen (15) days after District's receipt of such invoice. All payments hereunder shall be in US dollars and made by check or wire transfer.

5.6 The District shall notify the Company in writing within ten (10) days of receiving an invoice if it disputes the performance of any Services. If the District fails to dispute charges within the 10-day period, the Parties agree that the District shall pay the invoice in full.

5.7 District shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by District hereunder; *provided, that*, in no event shall District pay or be responsible for any taxes imposed on, or with respect to, Company's income, revenues, gross receipts, personnel or real or personal property or other assets.

**6. Intellectual Property Rights; Ownership.**

6.1 Company is, and shall be, the sole and exclusive owner of all right, title and interest in and to the Deliverables, including all Intellectual Property Rights therein. District agrees that with respect to any Deliverables that may qualify as "work made for hire" as defined in 17 U.S.C. §101, such Deliverables shall not constitute or be deemed "work made for hire" for the District under this Agreement. Subject thereto, Company hereby grants District a non-exclusive and non-sublicensable right and license to use such Deliverables, without additional consideration. All other rights in and to the Deliverables are expressly reserved by the Company.

6.2 Company and its licensors are, and shall remain, the sole and exclusive owners of all right, title and interest in and to the Pre-Existing Materials, including all Intellectual Property Rights therein. Company hereby grants District a non-exclusive and non-sublicensable right and license to use such Pre-Existing Materials to the extent incorporated in, combined with or otherwise necessary for the use of the Deliverables solely to the extent reasonably required in connection with District's receipt or use of the Services and Deliverables. All other rights in and to the Pre-Existing Materials are expressly reserved by Company.

6.3 District and its licensors are, and shall remain, the sole and exclusive owner of all right, title and interest in and to the District Materials, including all Intellectual Property Rights therein. Company shall have no right or license to use any District Materials except solely during the Term of the Agreement to the extent necessary to provide the Services to District. All other rights in and to the District Materials are expressly reserved by District.

7. **Confidential Information.**

7.1 The Receiving Party agrees:

(a) not to disclose or otherwise make available Confidential Information of the Disclosing Party to any third party without the prior written consent of the Disclosing Party; *provided, however*, that the Receiving Party may disclose the Confidential Information of the Disclosing Party to Subcontractors and their Affiliates, and their respective officers, directors, managers, members, representatives, employees, consultants and legal advisors who have a "need to know" and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth herein;

(b) to use the Confidential Information of the Disclosing Party only for the purposes of performing its obligations under the Agreement or, in the case of District, to make use of the Services and Deliverables; and

(c) to promptly notify the Disclosing Party in the event it becomes aware of any loss or disclosure of any of the Confidential Information of the Disclosing Party.

7.2 If the Receiving Party becomes legally compelled to disclose any Confidential Information, the Receiving Party shall provide:

(a) prompt written notice of such requirement so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other remedy; and

(b) reasonable assistance, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure.

If, after providing such notice and assistance as required herein, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose no more than that portion of the Confidential Information which, on the advice of the Receiving Party's legal counsel, the Receiving Party is legally required to disclose and, upon the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or agency that such Confidential Information will be afforded confidential treatment.

7.3 Nothing in this Agreement shall prevent either Party from using any general methodologies or know-how contained in the unaided memory of such Party's personnel or those of its Affiliates developed or disclosed under this Agreement.

8. **Representations and Warranties.**

8.1 Each Party represents and warrants to the other Party that: it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering; it has the full right, power and authority to enter into this Agreement, to grant the rights and licenses granted hereunder and to perform its obligations hereunder; the execution of this Agreement by its representative whose signature is set forth at the end

hereof has been duly authorized by all necessary corporate action of the Party; and when executed and delivered by such Party, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

8.2 Company represents and warrants to District that it shall perform the Services using personnel of required skill, experience and qualifications to meet its obligations under this Agreement; and that it has not been or is penalized, convicted, sanctioned, suspended such as to be ineligible to participate in any state or federal program, or by any federal or state department or agency.

8.3 EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, (A) EACH PARTY HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT, AND (B) COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

9. **Indemnification.**

9.1 Company shall defend, indemnify and hold harmless District and its officers, directors, employees, agents, successors and permitted assigns (each, a “**District Indemnitee**”) from and against all Losses (each, an “**Action**”) resulting from bodily injury, death of any person or damage to real or tangible, personal property, which arises out of Company’s performance of this Agreement and is caused by Company’s intentional, willful or negligent acts or omissions. The indemnification obligations of this provision do not apply in the event the claim or cause of action is the result of the District’s sole or contributory negligence.

9.2 District shall defend, indemnify and hold harmless Company and Company’s Affiliates and their officers, directors, employees, agents, successors and permitted assigns from and against all Losses resulting from bodily injury, death of any person or damage to real or tangible, personal property, which arises out of the performance of this Agreement and is caused by the District’s intentional, willful or negligent acts or omissions. The indemnification obligations of this provision do not apply in the event the claim or cause of action is the result of the Company’s sole or contributory negligence.

9.3 The Party seeking indemnification hereunder shall promptly notify the indemnifying party in writing of any Action and cooperate with the indemnifying party at the indemnifying Party’s sole cost and expense. The indemnifying party shall take control of the defense and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at the indemnifying party’s sole cost and expense. The indemnifying party shall not settle any Action in a manner that adversely affects the rights of the indemnified party without the indemnified party’s prior written consent, which shall not be unreasonably withheld or delayed. The indemnified party’s failure to perform any obligations under this Section shall not relieve the indemnifying party of its obligations under this Section except to the extent that the indemnifying party can demonstrate that it has been materially prejudiced as a result of such failure. The indemnified party may participate in and observe the proceedings at its own cost and expense.

10. **LIMITATION OF LIABILITY.**

10.1 EXCEPT AS WITH RESPECT TO OBLIGATIONS OF INDEMNITY AND CONFIDENTIALITY, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2 EXCEPT AS WITH RESPECT TO OBLIGATIONS OF INDEMNITY, IN NO EVENT WILL COMPANY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTORY OR OTHERWISE, EXCEED THE ACTUAL AMOUNTS PAID OR PAYABLE TO COMPANY PURSUANT TO THIS AGREEMENT IN THE SIX MONTH PERIOD IMMEDIATELY PRECEDING THE OCCURRENCE OF THE FACTS GIVING RISE TO THE CLAIM.

10.3 The exclusions and limitations in this Section and Section 10.2 shall not apply to:

- (a) damages or other liabilities arising out of or relating to a Party's willful misconduct or intentional acts;
- (b) a Party's obligation to pay attorneys' fees and court costs in accordance with this Agreement.

11. **Termination; Effect of Termination.**

11.1 **Termination for Non-Appropriation of Funds.** If funds are not appropriated, budgeted or otherwise made available for the District to discharge payment obligations under this Agreement, or if funding for such obligations is conditional upon appropriation, budgeting or other approval, otherwise made available to support continuation of this Agreement, this Agreement shall terminate automatically as of the beginning of the fiscal year for which sufficient funds are not appropriated, budgeted or available; provided, however, that this will not affect either Party's rights under any other termination clause in this Agreement. The effect of termination of the Agreement under this subsection will be to discharge Company and and/or District from the future performance of this Agreement with respect to such obligations for which funding is not appropriated, budgeted or available, but does not discharge Company and/or District not from their rights and obligations existing at the time of termination. The Company shall be paid for all Services incurred up to the time of termination under this subsection. The District shall notify the Company as soon as it has knowledge that funds may not be appropriated, budgeted or made available for the continuation of this Agreement for each succeeding applicable fiscal period beyond the first.

11.2 **Termination for Cause or Insolvency.** During the term of the SOW entered into pursuant to this Agreement, the Parties may only terminate this Agreement and/or such SOW if the circumstances identified in subsections 11.2(a) or 11.2(b) arise. Specifically, either Party may terminate this Agreement upon written notice to the other Party (the "**Defaulting Party**"), if the Defaulting Party:

- (a) materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach.
- (b) (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven business days or is not dismissed or vacated within 45 days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

11.3 **Termination When Purchase Order Not Issued.** In the event that this Agreement is not approved or ratified by the District's Governing Board and/or a purchase order is not issued, the Agreement shall

automatically terminate on the date that the Board declines to approve or ratify it or issue a purchase order. The District shall compensate the Company for Services provided through the date of termination.

11.4 Upon expiration or termination of this Agreement for any reason:

(a) Company shall (i) promptly deliver to District all Deliverables (whether complete or incomplete) for which District has paid and all District Materials and (ii) provide reasonable cooperation and assistance to District upon District's written request and at District's expense in transitioning the Services to an alternate Company.

(b) If this Agreement is terminated by the District, then District shall promptly pay to Company all amounts due under this Agreement as if the Agreement had not been so terminated.

(c) Each Party shall (i) return to the other Party all documents and tangible materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information, (ii) permanently erase all of the other Party's Confidential Information from its computer systems and (iii) certify in writing to the other Party that it has complied with the requirements of this clause; *provided, however*, that District may retain copies of any Confidential Information of Company incorporated in the Deliverables or to the extent necessary to allow it to make full use of the Services and any Deliverables.

11.5 The rights and obligations of the Parties set forth in this Section 11.4 and Section 1 Section 6, Section 7, Section 8, Section 9, Section 12, Section 13, Section 14, and Section 15, and any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

12. **Non-Solicitation.**

12.1 During the Term of this Agreement and for a period of twelve (12) months thereafter, neither Party shall, directly or indirectly, in any manner solicit or induce for employment any person who performed any work under this Agreement who is then in the employment or other relationship of the other Party. A general advertisement or notice of a job listing or opening or other similar general publication of a job search or availability to fill employment positions, including on the internet, shall not be construed as a solicitation or inducement for the purposes of this Section 12.1, and the hiring of any such employees or independent contractor who freely responds thereto shall not be a breach of this Section 12.1.

12.2 If either Company or District breaches Section 12.1, the breaching party shall, on demand, pay to the non-breaching party a sum equal to one year's basic salary or the annual fee that was payable by the claiming party to that employee, worker or independent contractor plus the recruitment costs incurred by the non-breaching party in replacing such person.

13. **Non-Exclusivity.**

The Company retains the right to perform the same or similar type of services for third parties during the Term of this Agreement.

14. **Force Majeure.**

14.1 No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's reasonable control, including,

without limitation: acts of God; flood, fire or explosion; epidemic and/or pandemic; war, invasion, riot or other civil unrest; actions, embargoes or blockades in effect on or after the date of this Agreement; national or regional emergency; compliance with any law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary license or consent; shortage of adequate power or telecommunications; or any other event which is beyond the reasonable control of such Party (each of the foregoing, a "**Force Majeure Event**"). A Party whose performance is affected by a Force Majeure Event shall give notice to the other Party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

14.2 During the Force Majeure Event, the non-affected party may similarly suspend its performance obligations until such time as the affected party resumes performance.

14.3 The non-affected party may terminate this Agreement if such failure or delay continues for a period of 30 days or more and, if the non-affected party is District, receive a refund of any amounts paid to the Company in advance for the affected Services. Unless this Agreement is terminated in accordance with this Section 14.3, the Term of this Agreement shall be automatically extended by a period equal to the period of suspension.

15. **Miscellaneous.**

15.1 Each Party shall, upon the reasonable request, and at the sole cost and expense, of the other Party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

15.2 The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

15.3 All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the addresses indicated below their respective signature blocks (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 15.3).

15.4 For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Sections, Schedules, Exhibits and SOWs refer to the Sections of, and Schedules, Exhibits and SOWs attached to this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or



causing any instrument to be drafted. The Schedules, Exhibits and SOWs referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

15.5 This Agreement, together with all Schedules, Exhibits and SOWs and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Agreement and those of any Schedule, Exhibit or SOW, the following order of precedence shall govern: (a) first, this Agreement, exclusive of its Exhibits and Schedules; (b) second, the SOW; and (c) third, any Exhibits and Schedules to this Agreement.

15.6 Neither Party may assign, transfer or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, that, upon prior written notice to the other Party, either Party may assign the Agreement to an Affiliate of such Party or to a successor of all or substantially all of the assets of such Party through merger, reorganization, consolidation or acquisition. No assignment shall relieve the assigning Party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

15.7 This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

15.8 The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

15.9 The Parties acknowledge and agree that COVID-19 is highly contagious and dangerous and each Party irrevocably, knowingly and voluntarily, after considering all relevant risks, waives and forever relinquishes any claim relating to, concerning or arising out of or from the risk that representatives of the other Party, along with all students and personnel of the District, coming into contact with any other person may be exposed to or infected by COVID-19 and that such exposure or infection may result in personal injury, illness, permanent disability, and death. Notwithstanding the foregoing, both Parties agree to follow the notice requirements and protocols for wearing personal protection equipment (if applicable) and for reporting and contact tracing as required by applicable Law and the District's policies and procedures while on it property.

15.10 This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15.11 If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall

negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

15.12 This Agreement shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of California. Any legal suit, action or proceeding arising out of or related to this Agreement or the Services provided hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of California in each case located in the county of Los Angeles, California, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

15.13 Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby.

15.14 Each Party acknowledges that a breach by a Party of Section 6 (Intellectual Property Rights; Ownership) or Section 7 (Confidentiality) may cause the non-breaching party irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

15.15 In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party hereto against the other Party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

15.16 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

16. **Definitions.**

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**District Materials**" any the tangible manifestations of the documents, data, know-how, methodologies, software and other materials provided to Company by District, including computer programs, reports and specifications.

**"Company Personnel"** means all employees and Subcontractors, if any, engaged by Company to perform the Services.

**"Confidential Information"** means any information that is treated as confidential by a Party, including, without limitation, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing. Confidential Information shall not include information that: (a) is already known to the Receiving Party without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Receiving Party; (c) is developed by the Receiving Party independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Receiving Party from a third party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.

**"Deliverables"** means all documents, work product and other materials that are actually delivered to District in the course of performing the Services, including any items identified as such in the SOW and which documents, work product and other material are actually identified by legend or other indicia on such document, work product or material as a "Deliverable".

**"Disclosing Party"** means a party that discloses Confidential Information under this Agreement.

**"Intellectual Property Rights"** means all (a) patents, patent disclosures and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, (c) copyrights and copyrightable works (including computer programs), mask works, and rights in data and databases, (d) trade secrets, know-how and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

**"Losses"** mean all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

**"Person"** means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

**"Pre-Existing Materials"** means all documents, data, know-how, methodologies, software, source code, object code and other materials, including computer programs, reports and specifications, provided by or used by Company in connection with performing the Services, in each case developed or acquired by Company at any time, including prior to the commencement of this Agreement, independently of this Agreement or in conjunction with this Agreement but not exclusively for the District.

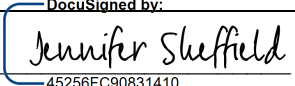
**"Receiving Party"** means a party that receives or acquires Confidential Information directly or indirectly under this Agreement.

**"Services"** mean any professional or other services to be provided by Company under this agreement, as described in more detail in the SOW, and Company's obligations under this Agreement.

"**SOW**" means the SOW entered into by the Parties and attached to this Agreement, substantially in the form of Exhibit A.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

<b>COMPANY:</b> HEYTUTOR INC.	<b>DISTRICT:</b> Azusa Unified School District
<b>By:</b>  <small>45256FC90831410...</small> Name: Jennifer Sheffield Title: CEO Address for Notices:	<b>By:</b> _____ Name: Norma Camacho Title: Assistant Superintendent, Educational Services Address for Notices:
21700 Oxnard Street Suite 1540 Woodland Hills, CA 91367 _____	546 S Citrus Avenue Azusa, CA 91702
Date Executed: <u>7/19/2024</u>	Date Executed: _____

**EXHIBIT A**  
**STATEMENT OF WORK**

**HEYTUTOR INC.**

**STATEMENT OF WORK**  
**EFFECTIVE DATE: August 14, 2024**

This Statement of Work (“**SOW**”), adopts and incorporates by reference the terms and conditions of the Master Tutoring Services Agreement between, which was entered into on the date thereto, between **HEYTUTOR INC.** (“**Company**” or “**HeyTutor**”) and the person or entity identified as the District on the signature page hereto (“**District**”), as it may be amended from time to time. This SOW is effective beginning on the date last signed below and will remain in effect until terminated or expired in accordance herewith and the Agreement. Services performed under this SOW will be conducted in accordance with and be subject to the terms and conditions of this SOW and the Agreement. Capitalized terms used but not defined in this SOW shall have the meanings set out in the Agreement.

**1. Scope of Work/Background**

The Company will provide the District with in-person tutors, deployed to all Elementary School Sites to deliver high-dosage, in-person tutoring services using the District’s curricular resources. Tutoring will take place on the school’s campus during school hours.

High Dosage Tutoring

- 1) Tutoring is available to all students who are deemed of need by the District or Site Staff.
- 2) Determination includes but is not limited to students performing below grade level, students receiving special education services, multilingual learners, foster and homeless youth, gifted and talented students, or students who experienced learning gaps due to COVID.
- 3) Tutors can be assigned to a grade or grade span for teachers to utilize as support during class time.
- 4) Students may engage in 1:1, 1:3, or 1:5 small group tutoring, as determined by the district and reflected in Section 5: Services and Fees. A maximum of five (5) students per group session is recommended - to align with the high dosage tutoring research standards.
- 5) Tutors will utilize District curriculum. The District will coordinate with HeyTutor to provide the appropriate training and resources for tutors to be effective in the classroom.
- 6) HeyTutor will not collect or provide data (i.e., student attendance or student performance data or reporting) as District has requested that Company utilize District’s curriculum for the tutoring services.

**2. Contacts**

**Company Contact:**

Megan Cournoyer

Senior Director of School Partnerships

megan@heytutor.com

**District Contact:**

Norma Camacho

Assistant Superintendent, Educational Services

ncamacho@azusa.org

**3. Period of Performance**

The term of this Agreement is August 14, 2024 through April 01, 2024.

**4. Place of Performance**

Dalton Elementary School

Magnolia Elementary School

Murray Elementary School

Paramount Elementary School

Valleydale Elementary School

Lee Elementary School

Hodge Elementary

**5. Services and Fees.**

District Quote.



Number of Tutors	Hourly Rate Per Tutors	Number of Hours Per Week	Number of Service Weeks	Training Fees	Total Cost
14	\$45	20	27	\$3,150.00	<b>\$343,350</b>

Tutor Training.

Included in the above-identified fees, each tutor will receive 5-hours of training paid by the District at the tutor’s designated hourly rate. Such training will be tailored to the District’s needs, and will include resources from the District to prepare tutors to utilize their curriculum. If any additional training is required, this can be negotiated at the contracted hourly rate. HeyTutor recommends at least 1 hour of monthly ongoing training, paid at the tutor’s designated hourly rate.

Additional Services & Costs

In the event the District requests the Company to provide services not identified in this SOW, the Company shall provide the District with a proposal for such services and a fee schedule. District shall use best efforts to issue an updated purchase order within thirty (30) days.

**6. Reservation of Tutors**

Tutors shall work on at least 20-hour block schedules and the Company will reserve 14 tutors on the Company’s payroll to begin 4 to 6 weeks after executing the contract. The District shall pay for the aggregate hours of reserved time for the tutors (e.g., if a District wants 14 tutors, the District shall pay for 280 hours weekly). The total number of tutors can be adjusted, but there must be a contract minimum (75% of the District’s total initial ask).

A purchase order must be issued for the full amount of tutor services rendered over the term of the agreement. Online programs typically require two to four weeks to begin tutoring services after contract execution and receipt of the following details: (i) purchase order, (ii) schedule, (iii) group size, (iv) grade levels and (v) background check information, including ORI #, Mail Code, Service Agency #, Live Scan form, waivers and any other required forms. Programs are fulfilled on a rolling basis.

**7. Payment Terms**

The District shall pay the Company pursuant to the payment terms set forth in Section 5 of the Agreement.

**8. Professional Responsibilities**

Company \_\_\_\_\_ Responsibilities.

i. Company will provide tutoring services using District curriculum. Company will not collect or provide data (i.e., student attendance or student performance data or reporting) as District has requested that Company utilize District's curriculum for the tutoring services.

ii. Tutor Onboarding and Training

1. Tutors will be onboarded in compliance with District policies using fingerprint/background check form, TB testing, COVID vaccination, etc. HeyTutor will coordinate with District HR for appropriate compliance.
2. Tutors can be trained with in-person success strategies, SEL skills and strategies, and how to use and access HeyTutor curriculum. District will communicate what additional training may be relevant based on the student population and site. Additional training includes but is not limited to ELL skills and Strategies, Special Education, and PBIS alignment.

iii. Fulfillment and Deployment

1. HeyTutor will provide a timeline for fulfillment of all tutors required in the contract. Should HeyTutor become aware of a delay to the fulfillment timeline, HeyTutor will immediately notify district personnel of the cause of the delay and provide an updated timeline/plan to get back on track to minimize impact of the delay.
2. HeyTutor will manage placements of tutors and notify school sites with tutor contact information and start date before deploying tutors to schools.
3. HeyTutor will be responsible for disciplining tutors when not meeting expectations and replacing tutors if necessary.

iv. Scheduling

1. Tutors will be scheduled at a minimum of 20 hours per week per site. Schedules will remain consistent day over day (i.e. no staggered schedules) at the same site. Tutors can be scheduled up to 40 hours per week.
2. Tutors can be moved to different sites if the new location and schedule is agreeable to the tutor's availability and location and if they will be placed for at least 1 full semester. This event would trigger HeyTutor's change control process (mentioned in Section VI-8).

District Responsibilities

- i. District will provide tutors with a conducive environment to conduct sessions. Tutors should be allowed access to manipulatives used by teachers or the school site to prevent introducing new manipulatives to a student.
- ii. District will allow tutors access to a computer and printer should they be required to offer physical curricula to students. The cost of printing and paper will be incurred by the District.
- iii. District will provide HeyTutor and tutors with instructions for how to connect tutor devices to the wireless internet at each school site.
- iv. District will provide tutors an introduction/orientation to their assigned school's facilities, teachers, and students.
- v. For shifts that exceed 5 hours, District will ensure that tutors receive a 30-minute unpaid and uninterrupted meal break. District will also provide appropriate rest breaks.
- vi. District may provide sign in/sign out sheets at the front desk of each school for tutors to sign in and out each day. If this is a process schools wish to adopt, use of the sign in/sign out sheets must be covered in the

introduction/orientation at the school site. Further, the District shall be responsible for providing and retaining such sign in/sign out forms.

vii. District will assist HeyTutor in fulfillment and implementation activities by providing timely information including but not limited to:

- a. school site locations;
- b. school site point of contacts;
- c. a breakdown of tutors required per site along with weekly schedules/subjects/grades for tutors at each site;
- d. holidays, minimum days, testing days and special events that may impact weekly schedules;
- e. District background and health screening requirements/procedures; and
- f. any other information that would be good to know for a successful partnership.

viii. District will comply with HeyTutor’s change control process.

- a. The following are examples of events triggering the change control process:
  - 1. Change in tutor duties and responsibilities
  - 2. Change in tutor schedules
  - 3. Change in contract or school year start/end dates
  - 4. Adjustments to number of tutors needed at school sites
  - 5. Adjustments to tutor onboarding requirements e.g. trainings, health screenings, etc.
- b. Change control process:
  - 1. District submits a written request of the changes to be made to their Customer Success Manager (CSM).
  - 2. CSM will pass along information to appropriate HeyTutor decision makers.
  - 3. CSM will respond to District with updates or potential solutions related to the change request.
  - 4. If a solution is agreed upon by both parties, HeyTutor will go about making the agreed upon changes and provide District with updates accordingly.

**9. Insurance Requirements.** Company shall maintain during the term of this Agreement the following insurance with minimum limits equal to:

Type of Coverage	Minimum Requirement
<p><b>Commercial General Liability Insurance</b>, including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments:</p> <p>Each Occurrence</p> <p>General Aggregate</p>	<p>\$ 1,000,000</p> <p>\$ 1,000,000</p>

**Workers Compensation**

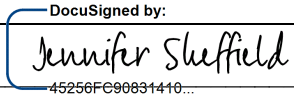
**Statutory Limits**

**10. Documentation Submission**

The Company shall not commence the Services under this SOW and the Agreement until the Company has submitted the following documents to District:

_____	Signed Agreement
_____	Workers' Compensation Certification, in the form attached as a Schedule hereto
_____	Fingerprinting/Criminal Background Investigation Certification, in the form attached as a Schedule hereto
_____	Insurance Certificates and Endorsements
_____	W-9 Form
_____	Non-collusion Declaration, in the form attached as a Schedule hereto
_____	Tuberculosis Clearance, in the form attached as a Schedule hereto

The Parties have executed this SOW effective as of the date first written above.

<b>COMPANY:</b> HEYTUTOR INC.	<b>DISTRICT:</b> Azusa Unified School District
<b>By:</b>  Name: Jennifer Sheffield Title: CEO Address for Notices:	<b>By:</b> _____ Name: Norma Carvajal Camacho Title: Assist. Superintendent, Ed. Services Address for Notices:
21700 Oxnard Street Suite 1540 Woodland Hills, CA 91367 _____	546 South Citrus Avenue Azusa, CA 91702
Date Executed: <u>7/19/2024</u>	Date Executed: _____

**HEYTUTOR INC.**  
**SCHEDULE TO SOW**

**FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION**

**One of the three boxes below must be checked, with the corresponding certification provided, and this form attached to the Statement of Work of Master Tutoring Services Agreement (“Agreement”):**

  X   The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Contractor’s services under this Agreement and Contractor certifies its compliance with these provisions as follows:

Contractor certifies that the Contractor has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Contractor’s employees, subcontractors, agents, and subcontractors’ employees or agents (“Employees”) regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Contractor, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto.

       Pursuant to Education Code section 45125.2, Contractor has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Contractor’s employees and District pupils at all times; and/or

       Pursuant to Education Code section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor’s employees and its subcontractors’ employees is:

Name:

Title:

Contractor’s responsibility for background clearance extends to all of its employees, Subcontractors, and employees of Subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

The undersigned does hereby certify that I am a representative of the Contractor currently under contract with the District; that I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Contractor.

**COMPANY:**  
HEYTUTOR INC.

DocuSigned by:

By: Jennifer Sheffield  
45256FC90831410...

Name: Jennifer Sheffield

Title: CEO

Address for Notices:

21700 Oxnard Street Suite 1540

Woodland Hills, CA 91367

Date Executed: 7/19/2024

**HEYTUTOR INC.**  
**SCHEDULE TO SOW**  
**NONCOLLUSION DECLARATION TO BE EXECUTED**  
**BY BIDDER AND SUBMITTED WITH BID**  
**(Public Contract Code section 7106)**

**The undersigned declares:**

I am an authorized officer of HeyTutor Inc., the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

**I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on**  
7/19/2024 \_\_\_\_\_ [date], at Los Angeles, California.

DocuSigned by:  
  
45250FC90831410...  
**Signature**  
**Print Name:** Jennifer Sheffield



**HEYTUTOR INC.**  
**SCHEDULE TO SOW**  
**TUBERCULOSIS CLEARANCE**

The undersigned does hereby certify to the Governing Board of the District as follows:

I am a duly authorized representative of HeyTutor Inc. (“**Contractor**”) currently entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Contractor.

Contractor’s responsibility for tuberculosis clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District students regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

Contractor certifies that at least one of the following items applies to the Services that are the subject of the Agreement:

  X   the Contractor has complied with the tuberculosis requirements of Education Code Section 49406.1 with respect to all Contractor's employees and all of its subcontractors’ employees who may have contact with District students in the course of providing Services pursuant to the Agreement, and the California Department of Justice has determined that none of those employees has active tuberculosis, as that term is defined in Education Code Section 45122.1. A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may come in contact with District students during the course and scope of the Agreement is attached hereto; and/or

       Contractor’s Services under the Agreement are to be provided at an unoccupied school site only and/or will not be done on any District property and no employee and/or subcontractor or supplier of any tier of Agreement shall come in contact with District students.

<b>COMPANY:</b> HEYTUTOR INC.
DocuSigned by: <i>Jennifer Sheffield</i> By: _____ <small>45256FC90831410...</small>
Name: Jennifer Sheffield Title: CEO Address for Notices:
21700 Oxnard Street Suite 1540

Woodland Hills, CA 91367

Date Executed: 7/19/2024

**HEYTUTOR INC.**  
**SCHEDULE TO SOW**

**WORKERS' COMPENSATION CERTIFICATION**

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
  
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

<b>COMPANY:</b> HEYTUTOR INC.
DocuSigned by:  By: _____ <small>45256FC90831410...</small> Name: Jennifer Sheffield Title: CEO Address for Notices:
21700 Oxnard Street Suite 1540 Woodland Hills, CA 91367 _____
Date Executed: <u>7/19/2024</u>

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Contract.