

# Distance Education Service Agreement

This Distance Education Service Agreement (this “**Agreement**”) is entered into by and between Clarinda Community School District, a Public School District located at 423 East Nodaway Clarinda, IA 51632 (the “**School**”), and My Tech High, Inc., (DBA "OpenEd") a Utah corporation located at 224 S. Main, #438, Springville, UT 84663 (the “**Company**”). The School and the Company are collectively referred to as “**Parties**”, and each may be referred to individually as “**Party**”. This Agreement is effective as of the date signed by the Company (the “**Effective Date**”), as follows:

## ***RECITALS***

- a. The School desires to enter into a contract with the Company for the purpose of providing certain distance education marketing, recruitment, curriculum sourcing/matching and monitoring services as particularly described as described further *below*;
- b. The School has requested those services and the School has determined that the Company is qualified and capable of providing those services to the School on reasonable terms as described *below*; and
- c. The Company is willing to provide those services for the School on the terms described *below*.

## ***TERMS***

1. Services. The School retains the Company to perform, and the Company agrees to provide for the benefit of the School, subject to this Agreement and applicable public policies, procedures, rules, regulations and guidelines governing the School (collectively, the “**School Rules**”), certain distance education marketing, recruitment, curriculum sourcing/matching and monitoring services as particularly described in the attached **Exhibit A** (the “**Services**”). The Company will, at all times, ensure that all teachers hold a license in good standing for the state in which the School is located and/or services are performed. The Company will, at all times, maintain documentation of required background checks for any and all employees and contractors with significant unsupervised access to students or those who will be present on School property and will conduct periodic monitoring as provided through the state's tracking

system. Upon request, the Company will also ensure all employees and contractors of the Company to be eVerified. Company shall ensure that it is not owned or operated by a registered sex offender under Iowa Code Chapter 692A.113. In addition, Company shall certify that none of its employees are registered sex offenders under Iowa Code Chapter 692A.113

2. Term and Termination. For the purposes of this Agreement a “**School Year**” means the first day in one year when a school is open to receive students for instruction, to the day immediately before the first day that a school is open to receive students for instruction in the following calendar year, inclusive. This Agreement is effective on the Effective Date and shall be for a term of 2 School Years (the “**Term**”). The parties may mutually agree in writing to renew this Agreement at the end of the Term. This Agreement may be terminated by either party, immediately, if one (1) party materially breaches this Agreement and fails to cure the breach within thirty (30) days following written notification of the breach from the other Party. The School may also terminate this Agreement, if School determines at the end of a school year that the Services do not meet the requirements for a publicly funded virtual school, as defined by applicable laws and regulations, but only if Company is unable to cure the identified deficiency within 60 days after being given reasonable notice of the deficiency and the requirements to cure the deficiency. In addition, the School may terminate immediately if (1) the funding sources which the School intends to use to pay Company are materially reduced or otherwise not fully collectable or (2) applicable laws or regulations impose restrictions or requirements that are materially different from those in existence at the time this Agreement was entered into.
3. Performance Standards. The Company will offer an educational program and the necessary technology to support students in advancing their mastery of each course in a developmentally appropriate manner. The Company agrees to implement and maintain reasonable security measures to protect all educational programs provided under this Agreement. In the event of a data breach originating within the Company’s systems or infrastructure, the Company will cover all associated costs, including attorney’s fees incurred by the District, and will indemnify, defend, and hold the District harmless from any liability arising directly from such a breach. However, the Company shall not be liable for, nor indemnify the District against, any data breach that originates within the District’s own systems, networks, or infrastructure.

The Company agrees to interact with any and all students, faculty, staff, clients and potential students of the School consistent with the professionalism and overall mission of the Company. The Company will perform all Services in a diligent, timely, professional and ethical

manner consistent with the School Rules and Policies and at all times in strict compliance with all applicable federal, state, and local laws, codes, ordinances, and other governmental rules and regulations. The Company will provide the School with reports, oral or written, on an "as needed" basis or upon the reasonable request of appropriate School officials.

4. Representations. The School will perform all obligations and responsibilities necessary to stay in good standing with the State, the State Office of Education, the State Board of Education, the State Charter School Board, as applicable, and any other individual or organization responsible for or charged with oversight of the School's and its' required accreditation(s). The School agrees to notify the Company, in writing, within 24 hours should the School lose its accreditation or good standing with any applicable State agency including, without limitation, the State Office of Education, the State Board of Education, or the State Charter School Board. Subject to approval by its governing board, the School hereby represents and warrants that it has been duly authorized to execute and deliver this Agreement and that it is acting within the authority and power duly granted to it.
5. Compensation. So long as the Company continues to provide the Services as required by this Agreement, the School will pay the Company for the Services consistent with the fee schedule outlined in **Exhibit A**.
6. Expenses/Equipment. The Company will be responsible for its own expenses and will not be entitled to seek reimbursement from the School without the prior approval of the School's Board of Directors.
7. Protection of Student Records.
  - a. In accordance with the Family Educational Rights and Privacy Act ("FERPA") and any regulations promulgated thereunder, the Company and the School have specific obligations to ensure the security, integrity, and confidentiality of "education records," as defined by FERPA, as well as in compliance with FERPA and other applicable laws and regulations. The Company, the School, School staff, and any third-party service providers who have a legitimate educational interest and act as agents of the School are authorized to access Student Records in accordance with FERPA.
    - i. The Company shall fully comply with all applicable access, confidentiality, and privacy requirements as outlined in FERPA, the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and all other relevant state and federal laws governing Student Records and other

electronic School records, including financial records (collectively referred to as "Electronic Records"). All data contained within such Electronic Records is the exclusive property of the School. The Company agrees not to use, share, or disclose Electronic Records for any non-school-related purpose unless it has obtained prior written consent from the School, the Student, or the Student's guardian, as applicable, in accordance with the relevant laws and regulations.

- ii. Furthermore, the Company shall implement appropriate security measures to protect the integrity, confidentiality, and accessibility of Electronic Records from unauthorized access, alteration, or disclosure. In the event of a data breach involving Electronic Records, the Company shall immediately notify the School and cooperate fully in any investigation or remedial actions required to address the breach.
- iii. The Company also agrees to promptly comply with any request from the School to return or destroy Electronic Records, in whole or in part, upon the termination or expiration of this Agreement, or if required by law or regulatory authorities.
- iv. The Company shall ensure that all personnel, subcontractors, or third parties engaged in handling Electronic Records are fully trained on FERPA, IDEA, Section 504, and other relevant privacy laws, and that they are bound by appropriate confidentiality agreements. The Company will maintain records of such training and make them available to the School upon request.

8. Indemnification. The Company will indemnify, defend and hold harmless the other, and their respective directors, officers, employees, agents, attorneys, and representatives, from and against liability for all claims, losses, damages and expenses including attorneys' fees, to the extent such claims, losses, damages or expenses are caused by or related in any way to the Company's performance of any obligations or activities, or failure to perform any obligations or activities, under this Agreement. If any claims, losses, damages or expenses are caused by the joint or concurrent actions or, as applicable, inactions of the School and the Company, they will be borne by each Party in proportion to each Party's contribution to the claim, loss, damage or expense.

9. Nature of the Relationship. The Company will operate as an independent contractor to the School. Neither Party is a division, subsidiary, affiliate, or any part of the other Party or has the right or authority to exercise any common control of the other Party. Nothing herein will be construed to create a partnership or joint venture by or between the Company and the School. Neither Party shall be the agent of the other except to the extent otherwise specifically provided for by this Agreement. Neither Party has the express nor implied authority to represent to any third party, and will, whenever needed, disclaim to such parties any ability to legally bind the other Party to any duty. Neither Party shall be responsible for the acts of the employees or contractors of the other Party. Each Party shall retain control over and shall properly compensate its own employees, agents, and contractors. Nothing in this Agreement shall limit or restrain the Company from providing similar or equal services to other schools. No interest, license, or any right respecting confidential or proprietary information, other than expressly set out herein (if at all), is granted to the School, and the School waives and releases and claims or rights it may have to such Company information. Nothing in this Agreement obligates the Company to disclose any information to the School or enter into any other agreement with the School.

10. Default.

1. Each of the following events shall constitute a material default or breach of this Agreement: (i) failure to pay any undisputed amounts in accordance with this Agreement after ten (10) business days written notice from Company, (ii) failure to perform or comply with any of the conditions or obligations of this Agreement, or (iii) if any of the representations made herein is inaccurate or becomes inaccurate at any point during the term of this Agreement. The failure of a Party to insist on strict performance of any of the terms and conditions shall not be deemed a waiver of the rights or remedies that Party may have regarding that specific instance and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.
2. In the event of any default hereunder, the rights of the non-defaulting Party shall be as follows: (i) recover all damages proximately resulting from the default or breach; (ii) obtain an injunction to restrain the breach or to require performance of the Agreement; (iii) terminate this Agreement immediately, and/or (iv) pursue or obtain any other right or remedy available at law or in equity. All rights and remedies are cumulative and non-exclusive.

11. Entire Agreement/Waiver/etc. The terms contained in this Agreement constitute the entire Agreement between the Parties concerning the subject matter of this Agreement. The covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. This Agreement may be executed in counterparts, and when all counterpart documents are executed, the counterparts will constitute a single binding instrument. All headings/captions in this Agreement are for convenience of reference only. No provision of this Agreement can be modified, amended, or supplemented except in a writing signed by an authorized representative of each Party to be bound. Either Party's failure to enforce any provision is not a waiver or limitation of that Party's right to later enforce and compel strict compliance.
12. Governing Law and Venue. Iowa law governs this Agreement. Courts located in or serving Page County, State of Iowa will have exclusive jurisdiction and venue over any matters arising out of this Agreement. Each Party submits to such jurisdiction and venue and agrees not to file or seek to remove any action to any other venue or jurisdiction.
13. Waiver. Either Party's failure to enforce any provision is not a waiver or limitation of that Party's right to later enforce and compel strict compliance.
14. No Assignment. Neither party may assign this Agreement or delegate any of its obligations under this Agreement without the prior written consent of the other party, except that either party may assign this Agreement without such consent in connection with a merger, acquisition, consolidation, or sale of all or substantially all of its assets, provided that the successor or assignee agrees in writing to be bound by the terms of this Agreement
15. Attorneys' Fees and Costs. If either Party incurs legal fees or other expenses in any action to interpret and/or enforce the provisions of this Agreement, the prevailing Party in any such action shall be entitled to recover the same from the non-prevailing Party.
16. Waiver of Jury Trial. The Parties waive trial by jury in any action, proceeding or counterclaim brought by either of the Parties hereto against the other on any matters whatsoever arising out of or in any way related to this Agreement and the relationship of the Parties.
17. Severability. If any part of this Agreement is held invalid for any reason, the remaining provisions will continue to be valid.
18. Notices. Notices under this Agreement are not valid unless given in writing and addressed to the Party at the email address of the receiving Party set forth below next to each Party's

signature, respectively. Either Party may update their email address from time to time by providing notice under this Section 18.

**End of Terms – Signature Page Follows**

# ACCEPTANCE

**THIS DISTANCE EDUCATION SERVICE AGREEMENT IS AGREED TO BY:**

**The "SCHOOL"**

**Clarinda Community School District**

**Signature of Authorized Representative**

**Name:**

**Date of Signature:**

**Title:**

**Email:**

**The "COMPANY"**

**MY TECH HIGH, INC., a Utah corporation**

**Signature of Authorized Representative**

**Name:**

Isaac Morehouse

**Date of Signature:**

**Title:**

CEO, My Tech High, Inc. DBA "OpenEd"

**Email:**

imorehouse@opened.co



# EXHIBIT A

## **Description of Services and Fees**

The Company will deliver distance education services generally defined under state education statutes and provisions. The Services shall typically include a combination of: marketing and delivering a personalized education program on behalf of the School, organizing and hosting virtual student clubs, field trips, park days, community events, working to keep students successfully enrolled and progressing, including improving the retention of students enrolled in the School's personalized distance education program that will meet state and federal standards. The School is welcomed and encouraged to offer a variety of virtual educational options to students beyond what the Company offers.

The responsibilities and services to be provided by the School and Company, respectively, are set forth below:

### **SCHOOL**

#### **Registrar Role**

- Receive complete Student Enrollment Packets provided by Company prior to the start of each approved enrollment period (i.e. August and January):
  - Verify Immunization Records are complete
  - Verify Proof of Residency is accurate
  - Verify Birth Certificate exists and student age is eligible to enroll in approved grades
  - Verify all Parent / Guardian information is provided
- Enter all Student / Parent information into School's Student Information System (SIS) with assistance available from Company, upon request.
- Review, approve, and confirm that all student schedules provided by Company meet minimum state requirements for student membership (i.e. continuing enrollment measurement).
- Enter all student courses provided by Company into SIS with proper state code.
- Assign Pass / Fail grades in SIS each semester based on state-certified teacher progress reports provided by Company.
- Maintain official public school transcript for all students.

#### **Special Education Role**

- Review all past and current IEPs on file for all students.
- Upon referral from the Company's General Education teacher(s) identified via Child Find best practices: administer all diagnostic tests and intellectual assessments for any student identified with possible learning disabilities.

- Convene IEP Review meetings regularly to document progress towards IEP goals.
- Inform parents of Procedural Safeguards regarding parental rights with a student who has a learning disability.

### **State Test Administration**

- Ensure all state tests are proctored and administered by Company according to state policy.
- Ensure all students are assigned to take the proper test based on the course schedule.
- Record all state test results in the State Testing Portal.
- Ensure all proper documentation is received for any parent who chooses to opt-out of state testing.

### **Administrative**

- Submit all state reports in a timely manner to ensure compliance with all student membership requirements.
- Conduct regular participation audits to ensure students are progressing.
- Confirm General Core Curriculum resources map to the State Core Standards.
- If applicable, for students in grades 9-12, provide a dedicated high school counselor to ensure appropriate documentation is collected and credits are granted towards a high school diploma.
- Confirm Teaching Credentials of all teachers to ensure all licensure requirements are met.
- Ensure required background checks for Company staff are on file.
- Meet regularly, as needed, with the Program Manager.
- Provide regular updates, as needed, to the Governing School Board regarding enrollments, student success stories, and strategic direction.

### **COMPANY**

#### **Parent Support Services:**

- Market to parents statewide the availability of School's full-time personalized distance education program.
- Assist parents in submitting all required enrollment documents to the School's Registrar prior to the beginning of each approved enrollment period (i.e. August and January).
- Assist parents in selecting from a wide range of various approved, secular supplemental curriculum choices to design a personalized education plan based on the unique academic, emotional, and physical needs of each child.
- Support parents in curating approved resources through either a direct order or reimbursement format.

#### **Curriculum Distribution / Matching Services:**

- Provide students unlimited access to various comprehensive digital curriculum programs that map to the State Core Standards by subject area and by grade level.

- Ensure students can access approved supplemental resources from a combination of book-based curricula, online courses (live and self-paced), co-op groups, Makerspace workshops, and local community classes/resources.

#### **Academic and Technical Student Support Services:**

- Ensure enrollment for the School shall be at a number that does not exceed State law. Company, shall be responsible for setting enrollment caps in compliance with law and in the best interests of the School.
- Provide a learning coach, a state-certified teacher, and the necessary technology to assist students daily in progressing through their personalized education plan.
- Ensure all students are supported (including tutoring services) by a state-certified and properly endorsed teacher with a license in good standing.
- Ensure students have access to high-speed internet and a computer.
- As needed, attend a student's IEP Review meetings hosted by School Administrator.
- Facilitate multi-age group / social interaction opportunities through field trips (in-person and virtual), interactive webinars, park days, showcase nights, virtual student clubs, and more.
- Support students who are interested in participating in extracurricular activities at their local boundary school, if applicable.

#### **Accountability / Compliance / Administrative Services:**

- Maintain documentation of required background checks for any employees or contractors who will be present on School property or have significant unsupervised access to students.
- On a weekly basis, track and monitor student progress and highlights towards mastery of identified competencies.
- Ensure each student maintains a portfolio of work samples for audit / review at any time.
- Based on weekly attendance requirements and reports, notify School of any student out of compliance with the continuing membership policy.
- Under the direction of School's assessment director, schedule, and proctor state-mandated standardized tests to all students in various locations around the state.
- Provide School all proper documentation is received for any parent who chooses to opt-out of state testing.
  - Ensure all purchases and reimbursements are pre-approved and in full compliance with State Law and Board Rule.
  - Meet with School Administration and Staff regularly to ensure the program continues to remain compliant with State Constitution, Statute, and Board Rules (including a Written Monitoring Plan as typically required by Board Rule).

#### **PAYMENT FOR SERVICES**

- The School will pay the Company a fee (the “Student Fee”) equal to, initially, 75% or ( $\$7,983 \times 75\% = \$5,987.25$ ) \$5,987.25 (whichever is lesser), of the total State funding to the School for each student in grades K-12 per year, paid monthly for each student actively enrolled in the program as part of the Services provided by the Company.
- The School will pay all Student Fees to the Company on the 15th of each month for those months inclusive of September through May (total of nine monthly payments in the amount of \$665.25).
- For each online or onsite course on a student’s personalized schedule delivered directly by School (i.e. Edgenuity, in-person class, etc.), the Company will provide a credit back to School of \$400/course/year
- The School may purchase a professional development package to train existing onsite teachers to support any course from the Company’s catalog to use in-school, after-school, or in summer school programs (price varies based on a package negotiated separately).

\*The School is encouraged to pursue additional funding from other sources (i.e. from federal grants/programs, Special Ed, land trust, local tax, etc.) to use as needed at School’s discretion.