

BE IT RESOLVED that the Board of Education hereby approve contract for out of state program with the following school stated below, subject to approval by the District's Attorney. The Board authorizes the Board President to sign the approved contract.

The Judge Rotenberg Educational Center, Inc.

THE JUDGE ROTENBERG EDUCATIONAL CENTER, INC.

Agreement With

WALLKILL CENTRAL SCHOOL DISTRICT

This agreement (the "Agreement") is by and between The Judge Rotenberg Educational Center, Inc., a Massachusetts corporation whose address is 240 Turnpike Street, Canton, MA 02021 (hereinafter referred to as "JRC") and **Wallkill Central School District** (hereinafter referred to as the "Agency"). Capitalized terms used in this Agreement shall have the meanings provided in Section 13 hereof.

WHEREAS, JRC provides special education and related services to individuals with disabilities;

WHEREAS, the Agency desires that JRC provide such services to [REDACTED] (hereinafter referred to as the "Student");

WHEREAS, the Agency's Committee on Special Education (the "CSE") develops individualized education programs (IEPs) that determine the special education and related services to be provided to individuals with disabilities (each such program, an "IEP"); and

WHEREAS, JRC is willing to provide such services to the Student, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Subject to the provisions set forth below, the Agency hereby contracts with JRC to provide special education and related services pursuant to the Student's IEP for the school year, commencing upon **the date of the Student's admission**, and continuing until, and including, **June 30, 2026**. JRC agrees to provide services required by the IEP. The tuition rate to be paid to JRC for educational services shall be the rate certified by New York State. Payments by the Agency shall be made consistent with New York State regulations. JRC is a private special education school approved pursuant to Massachusetts General Laws Chapter 71B that holds all licenses, certificates and charters necessary to provide such special education and related services to the Student that are required by the Commonwealth of Massachusetts (such licenses collectively hereinafter referred to as the "Licenses").

The services under this Agreement shall be performed only by qualified professionals acting within the scope of their applicable license or certification and the laws and regulations of New York State and/or the Commonwealth of Massachusetts. Proof of licensure or certification for

each individual provider shall be provided to the District upon request. The services provided by JRC pursuant to this Agreement shall at all times comply with all applicable laws and regulations governing the provision of such services. JRC shall comply with prevailing standards of care in the community with respect to the provision of services to the Student.

2. If JRC determines that the services required by the IEP cannot be implemented due to the Student's physical health conditions, JRC shall refer the Student to the CSE to review the Student's IEP or placement at JRC by giving notice to the Agency, such review not to be unreasonably withheld, conditioned or delayed. In the event of the Agency's termination of the Student's placement with JRC in accordance with this Section, the Agency shall continue to pay in accordance with Section 1 hereof until the Discharge Date.

3. In the event that the Student is convicted of an offense which would require registration as a sex offender under Massachusetts law, JRC may request that the CSE review the Student's IEP or placement at JRC by giving notice to the Agency, such review not to be unreasonably withheld, conditioned or delayed. In the event of the Agency's termination of the Student's placement with JRC in accordance with this Section, the Agency shall continue to pay in accordance with Section 1 hereof until the Discharge Date.

4. Except as otherwise provided in Sections 2, 3 and 6 hereof, JRC may request that the CSE review the Student's IEP or placement at JRC by written notice to the Agency as soon as possible upon JRC's determination, in its sole discretion, that it cannot implement the IEP. Such review shall not be unreasonably withheld, conditioned or delayed. In the event of the Agency's termination of the Student's placement with JRC in accordance with this Section, the Agency shall continue to pay in accordance with Section 1 hereof until the Discharge Date, and this Agreement shall terminate on the Discharge Date.

5. a. The Student's absence from the JRC program shall not constitute a termination of the Student's enrollment nor reduce any amount which the Agency is obligated to pay hereunder without JRC's prior written consent thereto. The Agency shall receive notice of the Student's absence in excess of 14 consecutive days for the purpose of convening a CSE meeting.

b. If JRC determines that it is necessary that the Student be absent from JRC for more than fourteen (14) days due to any unexpected major medical procedure, the Agency will continue to provide special education and related services as appropriate for the Student for the convalescent period. This Agreement shall not terminate during the convalescent period unless the CSE of the Agency has convened to review the IEP and recommended a change in placement.

c. Upon agreement between the Agency and JRC, if arrangements are made to

return the Student to JRC for such convalescent period, the Agency shall pay JRC all the additional charges and costs incurred by JRC to implement the Student's IEP with respect to such convalescent period consistent with the tuition rate for providing special education and related services required by the IEP.

6. JRC and the Agency shall cooperate to establish appropriate services and goals for the Student consistent with applicable State and federal law. Throughout the term of this Agreement, the CSE of the Agency shall be responsible for (a) the development of an IEP identifying the specific goals and objectives for the Student and the services and programs designed to meet those goals and objectives; (b) the timely development of successor IEPs immediately after termination of any then-effective IEP; and (c) providing written copies of any IEP or any changes, amendments or other modifications to a then-effective IEP. The Agency shall provide JRC with written notice of and an opportunity to be heard at any meeting (physical, telephonic or otherwise) of the CSE regarding the Student. Upon the Agency's failure to comply with the terms of this Section, JRC may request that the CSE review the Student's placement at JRC by giving notice to the Agency, such review not to be unreasonably withheld, conditioned or delayed. In the event of the Agency's termination of the Student's placement with JRC, the Agency shall continue to pay in accordance with Section 1 hereof until the Discharge Date. The Agency and JRC agree that JRC shall provide special education and related services as required by the Student's IEP consistent with applicable law and regulation.

7. JRC shall ensure that any employee, teacher, and/or instructor who provides services to Agency students participates in CSE meetings in order to assist the Agency in providing appropriate recommendations and placements for such students' IEPs, and shall participate in impartial hearings, as requested by the Board.

8. During the pendency of any proceedings conducted pursuant to 20 U.S.C. §1415, the Student shall not be removed or transferred from JRC, except as authorized by law. In the event of an Emergency, JRC may refer the Student to the Agency for determination of placement in an appropriate interim alternative educational setting determined by the CSE or for referral to an Impartial Hearing Officer as appropriate.

9. a. In the event that the placement of the Student with JRC terminates for any reason, whether pursuant to Sections 2, 3, 4 or 6 hereof or otherwise, the Agency shall (i) remove the Student from JRC on or prior to the date of such termination and (ii) pay to JRC all amounts owing hereunder with respect to the Student through the Discharge Date, including, without limitation, the proportionate amounts owing under Section 1 hereof.

b. The Agency shall pay reasonable Student transportation costs to JRC for the Student entering JRC's program or re-entering the program in the event that such costs are incurred by JRC. Whenever the Student is to be removed from JRC, whether upon the

termination of the placement of the Student with JRC or otherwise, the Agency shall pay for all reasonable Student costs, including transportation, incurred by JRC in removing the Student on the date scheduled for such removal.

c. JRC shall not be responsible for, or obligated to provide, any after-care service for the Student after the Student is removed from JRC, whether pursuant to the termination of the placement of the Student with JRC or otherwise. JRC shall not be obligated to provide any social, medical, psychological and psychiatric and/or individual counseling to any member of the Student's family, except as otherwise provided by the Student's IEP or in an agreement, if any, between JRC and such family.

d. JRC shall maintain the current Licenses with the appropriate governmental authorities and will promptly notify the Agency of (i) any enforcement action taken with respect to any such Licenses and (ii) any action that JRC has taken with respect to such enforcement action. The Agency shall be responsible for notifying NYSED of such information.

e. JRC shall promptly notify the Agency of (i) any report of abuse or neglect regarding the Student occurring in the JRC program or on the JRC premises, (ii) the progress and outcome of any investigation of such report, and (iii) any action being taken with respect to such report. The Agency shall notify the parents or persons in parental relationship to the Student of such report.

f. JRC shall promptly notify the Agency of (i) any investigation of a report of abuse or neglect that is found to result from a systemic problem with the JRC program or JRC or any portion thereof and (ii) any action that JRC is taking with respect thereto. The Agency shall be responsible for notifying NYSED of such information.

g. JRC shall (i) provide NYSED with such information as NYSED may request consistent with applicable State and federal law; and (ii) permit NYSED to conduct announced and unannounced visits to the JRC program or premises.

h. At all times during the term of this Agreement, JRC shall maintain its status as an approved school for the education of children with disabilities. The parties agree that if JRC fails to maintain this status, it shall not be entitled to compensation for any portion of the school year in which such approval is not maintained.

i. JRC shall indemnify, defend and hold the Agency harmless from and against any and all claims, suits, actions, causes of action, damages, judgments, liabilities, fines, penalties, and expenses, including reasonable attorney fees and litigation costs arising out of the indemnifying party's intentional or negligent acts or omissions. This provision

shall survive any expiration, termination or non-renewal of this Agreement.

j. If JRC's approval to accept New York students at public cost is finally terminated, JRC shall promptly notify the Agency which may refer the Student to the Agency's CSE for change of placement. This Agreement shall terminate upon the change of placement and discharge of the Student.

k. JRC shall (i) transmit any educational reports, including evaluations conducted by JRC, to the Agency at the same time such reports are made to the parents or persons in parental relationship to the Student, and (ii) provide educational progress reports to the Agency as required by 8 NYCRR Part 200.

10. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, JRC hereby agrees to effectuate the naming of the Agency as an Additional Insured on the JRC 's insurance policies.

The policy naming the Agency as an Additional Insured shall, (1) be an insurance policy from an A.M. Best A- rated or better insurer, admitted in and licensed to conduct business in the State in which JRC is located, (2) state that JRC's coverage shall be primary and non-contributory coverage for the Agency, its Board, employees and volunteers with a waiver of subrogation in favor of the Agency, and (3) additional insured status for General Liability coverage shall be provided by standard or other endorsements that extend coverage to the Agency (CG 20 26) or equivalent. A completed copy of the endorsements must be attached to the Certificate of Insurance to include General Liability, Auto Liability (where applicable), and Umbrella/Excess coverages.

The certificates of insurance must describe the services provided by JRC that are covered under by the liability policies.

At the Agency's request, JRC shall provide a copy of the declaration page of the liability and umbrella/excess policies with a list of endorsements and forms. If requested, JRC will provide a copy of the policy endorsements and forms.

JRC agrees to indemnify the Agency for applicable deductibles and self-insured retentions.

JRC shall maintain the minimum requirements for commercial general liability insurance, (1) \$1,000,000 per Occurrence/\$2,000,000 Aggregate, (2) \$2,000,000 Products and Completed Operations; (3) \$1,000,000 Personal and Advertising Injury, (4) \$1,000,000 Sexual Misconduct

and Assault, (5) \$100,000 Fire Damage, and (6) \$10,000 Medical Expense.

****Coverage for sexual misconduct must be affirmed. Sub-limits below the policy limits for sexual misconduct are acceptable solely at the discretion of the Agency.**

JRC shall maintain an automobile liability insurance with the minimum of \$1,000,000 combined single limit owned, hired, borrowed and non-owned vehicles.

JRC shall maintain the minimum requirements for professional errors and omissions insurance, (1) \$1,000,000 per occurrence / \$3,000,000 aggregate for the professional acts of JRC performed under the contract for the Agency. If written on a "claims-made basis, the effective date must pre-date the inception of the contract or agreement. Coverage shall remain in effect for three years following the completion of work.

JRC shall maintain the minimum requirements for umbrella/excess insurance, \$3,000,000 each occurrence and aggregate. Umbrella/excess coverage shall be on a follow-form basis or provide broader coverage over the required auto liability (where applicable), general liability and professional liability coverages.

JRC acknowledges and agrees that its workman's comp insurance is consistent with Massachusetts laws.

JRC acknowledges that failure to maintain the forgoing insurance requirements on behalf of the Agency constitutes a material breach of the Agreement and subjects it to liability for damages, indemnification and all legal remedies available to the Agency. JRC is to provide the Agency with a certificate of insurance, evidencing the above requirements have been met prior to the provision of services. The failure of the Agency to object to the contents of the certificate or the absence of same shall not be deemed a waiver of any rights held by the Agency.

If JRC utilizes independent contractors, then it must provide verification that coverages extend to the independent contractors. If independent contractors are required to provide professional errors and omissions coverage of their own, then proof of this coverage must be provided.

11. All notices hereunder shall be in writing (including telegraphic communication) and shall be mailed, telegraphed or delivered (if mailed, by certified or registered mail, return receipt requested) at the following address:

If to JRC:

Attention: Glenda P. Crookes
The Judge Rotenberg Educational Center, Inc.
250 Turnpike Street
Canton, MA 02021

If to Agency:

Wallkill Central School District
1500 Route 208
Wallkill, NY 12589

or such other addresses as the parties may designate by notice in writing. All such notices shall be deemed to have been given when personally delivered, or, if mailed by postal service, e-mail or transmitted by facsimile, three business days after being mailed or transmitted.

12. This Agreement shall be construed at all times in accordance with and governed by the laws of the State of New York without reference to the State's conflict of laws rules. Any such claims or causes arising out of or in connection with the Agreement shall be commenced in Supreme Court of the State of New York in Putnam County.

13. If any of the provisions of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather such invalid or unenforceable provision or provisions shall be enforced to the maximum extent permitted by applicable law. The parties hereto consent and agree that such provisions shall be judicially modified accordingly and that the whole of such provisions of this Agreement shall not thereby fail, but rather that the scope of such provisions shall be curtailed only to the extent necessary to conform to applicable law. The parties agree that all portions of this Agreement including, without limitation, those portions of this Agreement relating to discharge and termination, shall be subject to applicable law, including, without limitation, the IDEA and its regulations, and New York State Education Law.

14. For the purposes of this Agreement, the following terms shall have the definitions provided below:

- a. "Agency" shall have the meaning set forth in the preamble of this Agreement.
- b. "Agreement" shall have the meaning set forth in the preamble hereof.
- c. "CSE" shall have the meaning set forth in the preamble of this Agreement.
- d. "Dangerous Situation" means a determination by an impartial hearing officer in accordance with 20 U.S.C.A. § 1415(k)(3) that maintaining the Student at JRC is substantially likely to result in injury to the Student or others.
- e. "Discharge Date" shall mean the last date of the Student's enrollment with JRC.
- f. "Emergency" means (a) Special Removal Circumstances and/or (b) a Dangerous Situation.
- g. "IDEA" shall mean the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C.A. § 1400 et seq., together with associated regulations as published in the Code of Federal Regulations, as amended from time to time.
- h. "JRC" shall have the meaning set forth in the preamble of this Agreement.
- i. "Licenses" shall have the meaning set forth in Section 1.
- j. "NYSED" shall mean the New York State Education Department.
- k. "Parent" shall mean the Student's parent or guardian, as applicable.
- l. "School Location" means (i) JRC, (ii) the JRC premises (which shall include, for purposes of this Agreement, any JRC-owned, leased or operated residence for use by students) or (iii) a JRC function under the jurisdiction of a State or local educational agency.
- m. "Special Removal Circumstances" means any situation in which the Student (i) carries or possesses a weapon to, at or on a School Location; (ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at or on a School Location; or (iii) has inflicted serious bodily injury upon another person while at or on a School Location.
- n. "Student" shall have the meaning set forth in the preamble of this

Agreement.

15. JRC shall keep in strict confidence, as required and to the fullest extent provided by any applicable law, including but not limited to the Family Educational Rights and Privacy Act and section 2-d of the New York State Education Law, any and all records and information, in whatever form or format received, pertaining to the Board's individual students, including but not limited to academic or grade information, attendance, discipline, receipt of special or supplementary educational services, receipt of social security or public benefits, or information as to race, ethnicity or disability.

16. JRC shall provide such additional reports as may be required by the State regarding the progress of the students covered by this Agreement. JRC agrees to make student records available to the District upon request. JRC agrees to allow a representative of the School District to visit any program in which any District student is enrolled on appropriate notice.

17. The relationship of the parties is that of independent contractors. Nothing in this Contract is intended or shall be construed to create any employer/employee relationship, a joint venture relationship, or a partnership relationship. Neither party's employees shall make any claim, demand, or application to, or for, any right or privilege applicable to an officer or employee of the other party, including but not limited to, worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement benefits. Neither party shall have, or hold itself out as having, the authority or power to bind or create liability for the other by its intentional or negligent acts or omissions.

The individuals executing this Agreement in their representative capacity hereby acknowledge that they have the authority to bind the representative party to the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

The Judge Rotenberg Educational Center, Inc.

By: _____

President/CEO

Date: _____

Wallkill Central School District, New York

By: _____

Authorized Signature

Date: _____