HARMONY EDUCATIONAL SERVICES AGREEMENT

This HARMONY EDUCATIONAL SERVICES AGREEMENT Agreement) is made and entered into by and between EAST HELENA PUBLIC SCHOOL (“EHPS”) and HARMONY EDUCATIONAL SERVICES, LLC, a Utah limited liability company ("Harmony"), as of the date signed by the Parties below. This Agreement shall replace and supersede all prior agreements, oral or written, as of the effective date hereof.

RECITALS

WHEREAS, Harmony is an operator of a K-12 online application for K-12 school purposes, within the meaning of the Act;

WHEREAS, Harmony desires to provide curriculum and services to EHPS; and

WHEREAS, EHPS desires to utilize curriculum and services offered by Harmony.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions**.

   a. The “Act”: Montana Code Annotated 20-7-1323 through 20-7-1326, also known as the Montana Pupil Online Personal Information Protection Act.

   b. Applicable Law: Applicable Law is defined herein as the State Constitution, the State education laws and/or code, the Elementary and Secondary Education Act, the Individuals with Disabilities in Education Act, other applicable federal, state, or local laws, and executive orders, case law and other rulings applicable to the State public schools.

   c. Fiscal or Academic Year: July 1 through June 30.

   d. Program: The group of services for students taking independent learning courses and/or services to be provided by Harmony as identified in this Agreement.

   e. Protected Information: shall have the meaning set forth in the Act.

   f. State: The state in which the school's program is located and for which laws apply to operation of School's program.

   g. Student Records: shall mean Pupil Records, as defined in the Act.

2. **Incorporation of Recitals**. The foregoing recitals are hereby incorporated into this Agreement and made a part hereof for all material purposes.

3. **Incorporation of the Act**. This Agreement is intended to comply with the Act, which Act

is incorporated herein by this reference as though fully set forth herein. Any changes to the Act or applicable law will become immediately applicable to this Agreement as of the date such changes are codified.

4. **Summary Description of Program Services and Responsible Party**.

	Program Services	Harmony	EHPS
a.	**Student Enrollment.** As a public school, **EHPS** has a geographical district with boundaries and will enroll any **MONTANA** resident student in its district. EHPS will enroll MONTANA resident students outside of its geographical boundaries pursuant to 20-7-118(1)(d), MCA, and subject to 20-7-118(2), MCA, when the provision of remote instruction by EHPS is because the pupil's district of residence does not provide remote or in-person instruction in an equivalent course. A course is not equivalent if the course does not provide the same level of advantage on successful completion, including but not limited to dual credit, advance placement and career certification.	X	X
b.	**Student Registration Information.** Collect and maintain all student registration information and required documentation.		X
c.	**Student Management System ("SMS").** Enter and maintain student data and records in the school's **SMS.**		X
d.	**Curriculum.** Provide core and elective curricula for independent learning students including independent study and virtual (online) coursework. Provide optional courses that a student may attend in-person at the School or Harmony learning center.	X	
e.	**Student Progress Monitoring.** Coordinate assignments of course percentages; Track student attendance (activity) and membership.	X	X
f.	**Teacher of Record.** Review and approve student educational plans, progress reports, and assign final grades	X	
g.	**Assessment and Testing.** Coordinate, schedule and provide resources to assess students for required testing. Administer state and School required academic tests.	X	X
h.	**Transcripts, Cumulative Files and Grade Reports.** Harmony will send grades at quarterly or semester intervals, at EHPS's option; EHPS may request grades from Harmony at more frequent intervals, and EHPS		X

	will manage students' transcripts, store, and otherwise manage students' cumulative files and grade reports.		
i.	**Special Education.** Provide assessment and services to distance learning students who do or may qualify for special education services in accordance with federal and state requirements.		X
j.	**Program Customization:** Provide points of learning in curriculum and activities that are specific to the school's emphasis	X	
k.	**Progress Reporting.** Provide periodic reports of students' progress, attendance. formative grades and academic testing	X	
l.	**Final Grades.** Final grades will be assigned and recorded in student information system. Report cards will be provided as requested by school.		X
m.	**Student Discipline.** Administer discipline in accordance with school student code of conduct and Board policy.		X

5. **Student Enrollment and Registration**.

   a. Recruiting
   EHPS shall enroll and register students in grades K-12 to the distance learning Education program of EHPS, in accordance with Section 4(a) of this Agreement and 20-7-118(1)(d), MCA. New students may be enrolled in the Program throughout the 2025-2026 school year.

   b. Sole Provider
   Harmony shall be not the exclusive asynchronous curriculum provider to EHPS Schools.

6. **Term, Renewal and Effective Date**.

   a. Effective Date: This agreement shall take effect as of July 1, 2025, for the 2025-2026 school year and the 2026-2027 school year.

   b. Term and Renewal: This agreement can be renewed or extend by the mutual agreement of both parties.

7. **Fees, Invoicing and Payment**.

   For the services provided, EHPS shall pay Harmony at the rates and times set forth hereafter for each student in the Program based on a quarterly basis.

   a. Rates: The rates per student in the Program for the 2025-2026 academic year shall be:

      i. $3,100.00 for grades K-12th

ii. For each successive academic year, Harmony increases the fees to 1.5% over the rates in effect for the immediately preceding year.
iii. The rate for test administration services is $50 per student.

b. Invoicing: Student curriculum order will be invoiced two times a year: October 1st and February 1st. Each invoice will be based on the agreed amount of student enrollment for each of the above dates.

c. Payment Pate and Interest:
EHPS agrees to pay interest at one percent (1%) per month (12% annually) on amounts more than 30 days overdue. In the event any action is undertaken to collect amounts due hereunder, the school agrees to pay, in addition to fees and interest, all costs of such collection.

All payments made hereunder will be made to Harmony or its designated affiliate at the address set forth herein or such other address provided by Harmony in writing.

8. **Harmony Responsibilities**.

In addition to and in performance of the services to be provided by Harmony in Section 4 hereof, Harmony shall bear the following responsibilities:

a. Expenses: Harmony is solely responsible for the expenses of its services and responsibilities for the Program as identified in Section 4.

b. Employment of Personnel: Harmony will employ or engage teachers, staff and other professionals, as needed, for the distance learning education program and will be responsible for all costs associated herewith. Harmony will be responsible for and have sole discretion regarding employment matters relating to its employees and contractors.

c. General: Services will be provided to the extent deemed necessary and appropriate by Harmony in its professional judgment and discretion to satisfy the requirements of Applicable Law, policies of the State Board of Education, and EHPS policies.

d. Student Records: In accordance with the Act, the following provisions relating to student records and data will apply to all pupil online personal information.

i. Security. Harmony will be responsible to maintain industry-standard security policies, procedures and practices to safeguard Protected Information.

ii. Confidentiality. Harmony will maintain the confidentiality of personnel, student and other records in accordance with the requirements of Applicable Law, including but not limited to FERPA and HIPPA.

iii. Compliance. Pursuant to the provisions set forth in this and other sections of this Agreement, Harmony will be responsible to ensure

the security of those systems owned, operated, or controlled by Harmony, and to protect against the unauthorized access, destruction, use, modification, or disclosure of Protected Information by or within those systems. Pursuant to 20-7-1326(2)(h), MCA, EHPS will work jointly with Harmony to ensure compliance with 20 U.S.C. § 1232g ("FERPA").

iv. Ownership. Notwithstanding any other provision of this Agreement to the contrary, Student Records are and will continue to be the property of and under the control of EHPS.

v. Access to Student Records. Students may create and maintain personal accounts within the Harmony system – wherein students may transfer student-generated content from the EHPS SMS to Harmony's system using instructions provided by Harmony at <URL to data transfer instruction>. These instructions shall be accessible via the Parent Portal and provided to students and parents upon enrollment in the Program. All such information transferred to the Harmony system will be controlled by the student, subject only to Harmony's policies regarding storage and use of such content. Harmony will act in compliance with EHPS policy and Applicable Law to ensure proper access to Student Records as well as to ensure proper notification in the event of unauthorized access or disclosure of Student Records.

1. Parental Portal. To register and access their student's information, parents and legal guardians must register a parent account with Harmony ("Parent Portal"). From the Parent Portal, parents and legal guardians may review and make corrections to their student's information.

vi. Allowable Use and Disclosure of Protected Information. Harmony shall not use personally identifiable information in pupil records for any purpose other than those specifically permitted by the Act. Harmony explicitly agrees not to use pupil records or protected information for targeted advertising, including advertising on its own platform or any other site, service, or application, as prohibited by **20-7-1326(2)(i), MCA**. Specifically, Harmony may not use or disclose any Protected Information, including but not limited to Student Records, for any purpose except: (a) if federal or state law requires disclosure; (b) for legitimate research purposes as may be required by law, and subject to any restrictions regarding same; (c) to a state or local educations agency for K-12 school purposes; (d) for the maintenance, development, support, improvement, or diagnosis of Harmony's site, service or application; (e) the use of deidentified pupil information within Harmony's site, service, or application to improve educational products or to demonstrate Harmony's products or services (e.g., Harmony's marketing); (f) to law enforcement agencies pursuant to an order issued by a court of competent jurisdiction; (g) for adaptive learning or customized pupil learning processes. Each of the preceding exceptions are set forth in the Act. To the extent the terms of this Section

are inconsistent with the Act, the explicit provisions of the Act will control.

vii. Deletion of Pupil Records. Harmony will promptly delete a pupil's protected information under the control of the school or district, if requested by the school or district.

viii. Prohibited Uses and Activities Governing Protected Information.
1. Harmony will not engage in any targeted advertising based on Protected Information or persistent unique identifiers acquired through the use of its systems or curriculum.
2. Harmony will not use Protected Information to construct a profile about any pupil or accumulate data about a pupil, except in the furtherance of the EHPS purpose.
3. Harmony may not sell any pupil records or Protected Information received in connection with this Agreement.
4. Harmony will not use any Protected Information for any targeted advertising.
5. Harmony will not disclose any Protected Information, except as permitted by 20-7-1325(1)(d), MCA.

ix. Notice of Unauthorized Disclosure to parents, legal guardians and eligible pupils. In the event of an actual or suspected unauthorized disclosure or data breach relating to their student(s)' records, Harmony shall notify the affected parent, legal guardian, or eligible pupil within five (5) business days of discovery. Notification shall include the following:
1. A description of the nature of the unauthorized disclosure or breach;
2. The specific types of information affected;
3. Steps taken to address the breach and mitigate potential harm;
4. Contact information for further inquiries. Notification shall be provided via electronic mail, telephone, text message, or hard-copy written notice, with the method chosen to ensure the most timely and effective communication."

x. Notice of Unauthorized Disclosure to EHPS. In the event of an actual or suspected unauthorized disclosure or data breach relating to student(s) records, Harmony shall implement the following procedures:
1. Immediately investigate the scope and impact of the disclosure;
2. Notify EHPS within twenty-four (24) hours of discovery;
3. Provide a detailed report to EHPS within five (5) business days, including the nature of the breach, the data affected, and the steps taken to mitigate harm;
4. Cooperate fully with EHPS to address the breach and prevent future occurrences.

e. Licensure or Other state Requirements: Except as otherwise provided in this Agreement, all personnel performing educational services for Harmony on behalf of the students registered at School must comply with all applicable licensure or other requirements of the State and any regulations promulgated thereunder applicable to persons who perform such services.

9. **EHPS Responsibilities**.

In addition to and in performance of the services to be provided by EHPS in Section 4 hereof. The school shall bear the following responsibilities:

a. Expenses: EHPS is solely responsible for the expenses of its services and responsibilities hereunder.

b. General Oversight: EHPS is not responsible for monitoring Harmony's performance under, and compliance with, the terms of this Agreement and for overseeing Harmony's implementation of procedures consistent with Applicable Law and EHPS policies.

c. Provision of Authority to Harmony: EHPS has provided and will provide Harmony with the authority, power and access necessary and proper for Harmony to undertake its responsibilities, duties and obligations required by this Agreement.

d. Compliance with Applicable Law: EHPS will perform its obligations hereunder in a manner consistent with the requirements of Applicable Law, policies of the State Board of Education, and EHPS policies.

10. **Conflict of Terms**.

In the event of a conflict, ambiguity, or inconsistency between the provisions in this Agreement, including any Exhibit hereto, the provisions in this Agreement shall prevail, except to the extent that this Agreement expressly states otherwise.

11. **Relationship of the Parties**.

Harmony is not a division or any part of EHPS. EHPS is a corporate body authorized under State law and is not a division or any part of Harmony. The relationship between the parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement. Harmony will operate as an independent contractor to EHPS and will be responsible for delivering the services required by this Agreement. Nothing herein will be construed to create a partnership or joint venture by or between EHPS and Harmony. Neither party will be the agent of the other except to the extent otherwise specifically provided by his Agreement. Neither party will represent to third parties any ability to bind the other party to any duty imposed by contract, other than this Agreement or as otherwise agreed in writing.

12. **Proprietary Data**.

Except for items that are readily available to the general public or in the public domain, all of the materials, methods, lists, curricula, names, processes, technologies, Trademarks, tradenames and other items, tangible or intangible, registered or unregistered, used by Harmony in delivery of the Program services are the property of Harmony or used by Harmony under authority of the legal owner thereof and shall be considered confidential or proprietary information (“Proprietary Information"). Neither EHPS, nor its owners, directors, employees, agents, or affiliates shall have any right or authority to use the Proprietary Information for its own purpose by virtue of this Agreement, both during or after the termination or expiration of

this Agreement.

13. **Termination**.

a. Eventsof Termination

i. Termination for Breach.
Either party may terminate this Agreement at any time for cause with ninety (90) days' prior written notice to the other party. Termination for cause may be used if any party breaches any material term or fails to fulfill any material condition, term, provision, representation, warranty, covenant or obligation contained in this Agreement and fails to cure the same within ninety (90) days after receiving written notification from the terminating party. Upon termination of this Agreement pursuant to this Section 11, the non-breaching party shall be entitled to seek remedies to which it shall be entitled at law or in equity.

ii. Termination Upon Loss of Authority.
This Agreement will terminate immediately upon the termination of the EHPS's authority to operate.

iii. Termination for Failure to Approve Budget.
Harmony or EHPS may terminate this Agreement effective immediately upon written notice in the event that the EHPS Board of Education does not approve a budget or modifications to a budget that includes payments to Harmony for any given academic year.

iv. Termination in the Event of Certain Policy Changes.
Harmony may terminate this Agreement effective immediately upon written notice to EHPS in the event that the State Board of Education or EHPS adopts or amends a policy, in each case without the prior written approval of Harmony, the effect of which could reasonably be determined to require Harmony to materially increase the level of services required hereunder or which materially increases the financial risk to Harmony arising from its performance hereunder.

v. Change in Applicable Law.
If any change in Applicable Law that is enacted after the date hereof could reasonably be expected to have a material adverse effect on the ability of either party to carry out its obligations hereunder, such party, upon written notice to the other party (which notice may be given at any time following enactment of such change in Applicable Law, whether or not such change is effective on the date of such enactment or is effective at a later date), may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith. If the parties are unable to renegotiate and agree upon revised terms within one hundred twenty (120) days after such notice of renegotiation, then then the Parties agree to enter into the process for resolving disputes identified in Section 17 of this Agreement.

b. Effect of Termination or Expiration,

i. Except as otherwise agreed by the parties in writing, termination shall not relieve either party of any obligation for payments due to the other party as of the date of termination or other obligations that continue upon termination as provided in this Agreement.

ii. In the event this Agreement is terminated for a breach by either party pursuant to Section 11(a)(i) prior to the end of a given Fiscal Year, the parties shall calculate the Fee as the original order based upon October 1 and shall be payable within 30 days of the effective date of termination.

iii. In the event this Agreement is terminated by School for any reason other than a breach by Harmony pursuant to Section 11(a)(i) or a change in applicable las pursuant to Section 11(a)(iv) prior to the end of its Term, School shall pay to Harmony an amount equal to the invoice of October 1 which is due on October 1 and December 1 as would otherwise be due hereunder through the Term hereof at the then current rate. Such amounts shall be due and payable within 30 days of the effective date of termination. Late payments shall be subject to interest charges as identified in sections 5 (c) above.

iv. Upon completion of the terms of this Agreement and/or within thirty (30) days of the effective date of termination of this Agreement, (1) Harmony shall certify in writing by providing an affidavit to EHPS that all pupil records and protected information under the control of Harmony have been permanently deleted or destroyed in a manner that renders the data unusable and unrecoverable. Harmony shall provide a detailed description of the methods used to delete pupil records and protected information upon completion of the terms and/or termination of this Agreement. This description shall include the technical and procedural safeguards employed to ensure the data is permanently deleted or destroyed. This provision does not apply to pupil-generated content if a pupil chooses to establish or maintain a personal account with Harmony for the purpose of storing such content, as permitted by **20-7-1326(2)(g), MCA**, and (2) EHPS shall return any documents, equipment, etc. to Harmony.

v. Upon termination for any reason, Harmony will not retain any pupil records or Protected Information, except for pupil-generated content that may be stored in a personal account created by the pupil within Harmony's system, if such a system is available.

14. **Limitation on Liability**.

Except in connection with its indemnity obligations, neither party shall be liable for any indirect, consequential, exemplary, incidental, special, or punitive damages including without limitation lost savings, lost funding, lost revenues, lost sales, lost profits, lost opportunity costs, business interruptions, delay damages, damages for third party claims, lost or destroyed data, or any other economic loss, of any type or nature or for events or circumstances beyond the party's control, even if the party has been advised of the possibility of such damages or loss.

15. **Assignment**.
Except as otherwise provided in this Agreement, neither party may assign or delegate any rights or obligations under this Agreement without the prior written consent of the other party. Except as prohibited by Applicable Law, Harmony may assign all of its rights and obligations under this Agreement to any person or entity that controls Harmony, is controlled by Harmony, or is under common control with Harmony or to any successor in interest that acquires all or substantially all of the assets of Harmony (individually and collectively N Affiliate"). Harmony, upon agreement with EHPS, may delegate the performance of its duties hereunto to any person/entity but shall remain responsible for the performance, in accordance with the terms of this Agreement, of any services performed by its delegates, except notice shall not be required when Harmony delegates its obligation to provide materials or curricula to third parties in the normal course of business.

16. **Indemnity**.
The party charged with indemnifying and/or defending under this Section 14 (the "Indemnifying Party") shall conduct the defense in any such third party action arising as described herein and the party claiming the benefits of this Section 14 {the "Indemnified Party") promises to cooperate with such defense, provided the Indemnifying Party reasonably consults with the Indemnified Party on any settlement (subject to the consent requirement in the last sentence of this paragraph). Notwithstanding the foregoing, the Indemnified party may, at its own expense, assist in such defense if it chooses, provided that the Indemnifying Party shall be entitled to control such defense and all negotiations relative to the settlement of any such claim. Any settlement that would admit any liability on the part of the indemnified Party shall require such Indemnified Party's prior written consent.

a. Indemnification of EHPS.
Harmony agrees to indemnify, defend, and save and hold EHPS and its employees, officers, directors, trustees, subcontractors, and agents, their respective successors and permitted assigns, harmless against any and all claims, demands, suits, or other forms of liability including without limitation costs and reasonable attorneys' fees (each a "Claim") that may arise out of, or by reason of, any (a) breach of any representation or Warranty, covenant or agreement made or to be performed by Harmony pursuant to this Agreement, (b) noncompliance by Harmony with any Applicable Law in connection with EHPS's operations, but excluding any Claims that arise from conduct undertaken in accordance with EHPS's instructions, procedures or written policies or in accordance with the written policies of the State Board of Education, except where such instructions arise from and are in accordance with specific advice or explicit recommendations formally provided by Harmony, and (c) act or omission of Harmony or any of its employees, officers, directors, Trustees, subcontractors or agents in connection with its performances, limitations and obligations hereunder that results in injury, death, or loss to person or property except to the extent any Claim arises out of actions or omissions of EHPS.

b. Indemnification of Harmony.
EHPS agrees to indemnify, defend and save and hold Harmony and each Affiliate of Harmony and all of their respective employees, officers, directors,

trustees, subcontractors, and agents, their respective successors and permitted assigns, harmless against *any* and all Claims that may arise out of, or by reason of, any (a} breach or any representation or warranty, covenant or agreement made or to be performed by EHPS Pursuant to this Agreement, (b} noncompliance by EHPS with any Applicable Law in connection with EHPS's operations and (c) act or omission of EHPS or any of its employees, officers, directors, trustees, subcontractors or agents in connection with EHPS's operations that results in injury, death, or loss to person or property except to the extent any Claims arise out of actions or omissions of Harmony.

c. Insurance.
Each party shall carry appropriate insurance, including general liability, with minimum coverages and limits as required from time to time for governmental/quasi-governmental entities (currently $1,000,000 per occurrence/$3,000,000 aggregate) and workers compensation coverage in amounts not less than required by law.

17. **Representations and Warranties**.

a. Representations and Warranties of Harmony.

Harmony hereby represents and warrants to EHPS:

i. Organization and Good Standing. Harmony is duly created, validity existing, and in good standing under the laws of the State in which it operates.

ii. Authority; Authorization; Binding and Enforceable Agreement. Harmony has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized and executed by HARMONY and constitutes the valid and legally binding obligations of HARMONY, enforceable against HARMONY in accordance with its terms and conditions, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting to or affecting creditor's rights and by general principles of equity.

iii. Compliance of Educational Program with Applicable Law. HARMONY's educational program complies with and will ensure that it continues to comply with the policies and requirements of the State Board of Education and Applicable Law.

iv. Penalties for Non-Compliance with the Act. Harmony acknowledges that it understands that violation of certain sections of the Act is considered a misdemeanor violation carrying a penalty, if convicted, of fines ranging from $200 to $500.

b. Representations and Warranties of EHPS:

i. Organization and Good Standing. EHPS is a State school district duly

created, validity existing, and in good standing under the laws of the State in which it operates.

ii. Authority; Authorization; Binding and Enforceable Agreement. EHPS has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized and executed by EHPS and constitutes the valid and legally binding obligations of EHPS, enforceable against EHPS in accordance with its terms and conditions, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting to or affecting creditor's rights and by general principles of equity.

iii. Authority Under Applicable Law. EHPS has the authority under Applicable Law (i) to contract with a corporate entity to perform the services, (ii) to execute, deliver, and perform this Agreement and (iii) to incur the obligations provided for under this Agreement.

iv. Compliance of Educational Program with Applicable Law. EHPS's educational program complies with and will ensure that it continues to comply with the policies and requirements of the State Board of Education and Applicable Law.

c. Mutual warranties.
Each party warrants to the other that, to its knowledge, there are no current, pending or threatened actions, claims, suits, or proceedings which if adversely determined, would have a material adverse effect on its ability to perform its obligations under this Agreement.

16. **Coordination; Exercise of Approval or Consent Rights**.

a. Coordination and consultation. The parties will coordinate the performance of their respective services and responsibilities hereunder and will establish such procedures as they shall mutually agree to be effective for achieving the purpose of this Agreement and allowing each of them to perform its obligations and exercise its rights under this Agreement.

b. Approval or Consent Rights. In performing services and its other obligations under this Agreement, or in exercising its rights under this Agreement, including granting or withholding any consent or approval or making any requests of the other party, each party must act reasonably (including as to the timing of its actions) except to the extent that this Agreement provides that it may act as it determines "in its sole judgment" or "its sole discretion," or words to that effect, in the applicable provision. Whenever it is provided in this Agreement that the parties will or may agree as to a certain matter, each party will have the right to agree or disagree in its sole discretion following good faith discussions.

17. Mediation and Arbitration.

Except for matters directly relating to Section 14 of this Agreement, If the parties are unable to resolve a dispute, the parties agree that they will attempt in good faith to settle any and all disputes through a process of mediation under the supervision of a mutually agreed upon mediator. In the event of mediation, each party will bear its own costs and expenses associated with the dispute resolution procedures set forth in this Section. In the event that mediation fails to settle such a dispute, the parties hereby agree to proceed to binding arbitration pursuant to the then existing rules of the American Arbitration Association. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties. In the event of arbitration, the non-prevailing party will be responsible to pay all costs of arbitration, the prevailing party's attorney's fees, costs and other disbursements, plus legal interest on the award. Arbitration will be conducted in the state of Utah.

18. Force Majeure.

Notwithstanding any other sections of this Agreement, no party will be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, labor strike, internet outage or other acts beyond its reasonable control and are unrelated to its fault or negligence.

19. Governing Law and Venue.

The laws of the State of Montana without regard to its conflict of laws provisions will govern this Agreement, its construction, and the determination of any rights, duties, and remedies of the parties arising out of or relating to this Agreement. Exclusive venue for any litigation to enforce or interpret this Agreement shall be in the District Court of the First Judicial District Court of the State of Montana, in and for the County of Lewis and Clark.

20. Entire Agreement.

This Agreement, including any Addendum and Exhibit hereto (all of which constitute part of this Agreement), constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes all previous oral and written, and all contemporaneous oral negotiations, commitments, agreements and understandings relating hereto.

21. Counterparts, Facsimile Transmissions.

This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument. Each party may rely on facsimile signature pages as if such facsimile pages were originals.

22. Official Notices.

All official notices required by the terms of this Agreement will be in writing and sent to the parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addresses).

a. Notice may be given by:

i. certified or registered mail, postage prepaid, return receipt requested;

ii. reputable overnight carrier, postage prepaid;

iii. facsimile (with confirmation of transmission by sender's facsimile machine); or

iv. personal delivery (with written receipt confirming such delivery).

b. Notice will be deemed to have been given:

i. two days after mailing as described in clauses (i) and (ii) of the foregoing sentence (section a.);

ii. on the date of personal delivery; or

iii. on the date of transmission of a facsimile if on a business day during normal business hours (or, if not, the next succeeding business day).

Electronic mail does not constitute official notice under this Agreement.

23. **Modification/Amendment**.

This Agreement will not be altered, amended, modified, or supplemented except in a written document executed by the parties.

24. **Waiver**.

No waiver of any provision of this Agreement will be effective unless in writing, not will such waiver constitute a waiver of any other provision of this Agreement, not will such waiver constitute a continuing waiver unless otherwise expressly stated.

25. **Interpretation**.

The parties acknowledge and agree that the terms and provisions of this Agreement will be construed fairly as to all parties hereto and not in favor of or against a party, regardless of which party was generally responsible for the preparation of this Agreement.

26. **Severability**.

The parties intend that each provision hereof constitutes a separate agreement between them. Accordingly, the provisions hereof are severable and in the event that any provision of this Agreement shall be deemed invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions hereof will not be affected, but will, subject to the discretion of such court, remain in full force and effect, and any invalid or unenforceable provision will be deemed, without further action on the part of the parties, amended and limited to the extent necessary to render the same valid and enforceable and reflect the intent of the parties. To the extent that any of the services to be provided are found to be overboard or an invalid delegation of authority by EHPS, such services will be construed to be limited to the extent necessary to make the services valid and

binding.

27. **Successors and Assigns**.

This Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

28. **No Third-Party Rights**.

This Agreement is made for the sole benefit of Harmony and EHPS and their respective successors and permitted assigns. Except as set forth elsewhere herein and except for each Affiliate of Harmony, which shall be a third party beneficiary of this Agreement, nothing in this Agreement will create or be deemed to create a relationship between the parties to this Agreement, or any of them, and any third-party person, including a relationship in the nature of a third party beneficiary or fiduciary.

29. **Survival of Termination**.

All representations, warranties, and indemnities made in this Agreement will survive the termination of this Agreement.

30. **Headings and Captions**.

The headings and captions appearing in this Agreement have been included only for convenience and shall not affect or be taken into account in the interpretation of this Agreement.

[Signatures Appear on Following Page]

By signing below, the Parties acknowledge that they have read and understood and agree to be bound by all terms and conditions of this Agreement, as well as other applicable agreements or policies which are incorporated therein by reference. The signers hereof represent that each is a duly authorized officer, Partner or principal with full authority to enter into this Agreement.

Signed this _____ day of _____, 20___.

HARMONY EDUCATIONAL SERVICES, LLC	**EAST HELENA PUBLIC SCHOOLS**
_____	_____
Authorized Signature	Authorized Signature
_____	_____
By: (Printed Name)	By: (Printed Name)
_____	_____
Title	Title