



This **Master Services Agreement** ("Agreement") along with its accompanying exhibits (the "Exhibit(s)"), issued on February 13, 2017 ("Issue Date"), is entered into as of February 15, 2017 (the "Effective Date") by and between PresenceLearning, Inc., a Delaware corporation ("PresenceLearning") and Syringa Mountain School with its principal place of operation in Hailey, ID (together with its agents, employees, and affiliates, "Partner"). PresenceLearning and Partner are referred to herein individually as a "Party" or collectively as the "Parties."

1. Services. PresenceLearning will make available to Partner qualified clinicians and teachers, including but not limited to special education teachers, speech-language pathologists, psychologists, social workers, counselors, and occupational therapists (each, a "Clinician") to provide supplemental educational services (the "Services") to Partner students ("Students") with identified or suspected special needs. Services may include but not be limited to:

- a. Instruction and instructional services; consultation and collaboration with teachers, parents and Partner; initial and triennial assessments; psychoeducational assessment services; administrative and billing work; pre- and post-assessments and intervention services; maintenance of regular documentation of services provided, recommended service plan, services provided, and responsiveness to services as well as participation in Partner meetings, including, but not limited to, individualized education planning meetings, as mutually agreed by Partner and PresenceLearning; and
- b. Smart Start. PresenceLearning may provide two days of onsite implementation support services from a staff member including some or all of the following services: Student selection, school site selection, technical set-up, paraprofessional training, Student scheduling, administrator orientation, school principal orientation, IT department training, school clinician training, parent orientation(s), and PresenceLearning Platform training for an additional fee dependent on implementation requirements.

Services will be provided exclusively via computer or telepractice, unless otherwise agreed.

2. Terms and Conditions. Partner agrees that the Services shall be provided in accordance with the Terms and Conditions (Exhibit A), the Environment, Equipment, & Supervision Specifications (Exhibit B), and an executed Service Order Form (Exhibit C), specifying the Services to be provided and the payment of fees for such Services. Each of the Exhibits A, B, and C are herein incorporated by reference and collectively comprise terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement along with its Exhibits to be executed as of the Effective Date.

PresenceLearning, Inc.

By:

Name:

Title: Co-CEO

Date:

Partner

By:

DocuSigned by:

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Name: Christine Fonner

Title: Director of School

Date: 2017-02-14



Exhibit A - Terms and Conditions

- 1. Fees and Payment Terms.** In consideration for the Services, Partner agrees to pay PresenceLearning in accordance with the applicable Service Order, a form of which is set out in Exhibit C hereto. All fees due hereunder are non-refundable and are not contingent on any additional services to be provided. Unless otherwise stated in the Service Order, Partner shall pay all amounts due within thirty (30) days of PresenceLearning's invoice date. Partner will promptly notify PresenceLearning of any disputed amounts and the reason for such dispute, but in no event later than 20 days from receipt of invoice. Unless PresenceLearning receives notice of any such dispute, within 20 days of receipt of such invoice, such invoice shall be considered undisputed and shall be due and payable no later than 30 days of the date of such invoice. Outstanding balances shall accrue interest at a rate equal to the lesser of one and one half percent (1.5%) per month or the maximum rate permitted by applicable law, from due date until paid, plus PresenceLearning's reasonable costs of collection.

- 2. Inflation Adjustment.** Partner agrees that for each successive year after the first school year of Services, all Fees will rise each year at the most recent annual rate of inflation, rounded to the nearest half dollar (\$0.50) as defined at the following U.S. Government URL, or its successor:
http://data.bls.gov/timeseries/CUUR0000SAM?output_view=pct_12_mths

- 3. PresenceLearning Materials.** PresenceLearning retains all right, title, and interest to any materials and intellectual property that it develops or provides as part of Services, except with regard to materials and intellectual property for which PresenceLearning has a license to use, display, host and administer in providing Services. Partner agrees to maintain (and not supplement, remove, or modify) all copyright, trademark, or other proprietary notices on any materials utilized in providing the Services. Provided Partner is not in breach of any term of this Agreement, PresenceLearning grants Partner a non-exclusive, limited license, which license shall terminate upon expiration or termination of this Agreement, to reproduce and distribute the materials for which PresenceLearning has the right to so grant solely to assist in the provision of Services in accordance with the terms herein.

- 4. Indemnification.** Partner shall indemnify and hold PresenceLearning harmless against any and all claims, demands, damages, liabilities and costs (including attorney's fees) incurred by PresenceLearning which directly or indirectly result from, or arise in connection with, any negligent act or omission or willful misconduct of Partner, its agents, or employees, pertaining to its activities and obligations under this Agreement. PresenceLearning shall indemnify and hold Partner, harmless against any and all claims, demands, damages, liabilities and costs (including attorney's fees) incurred by Partner which directly or indirectly result from, or arise in connection with, any negligent act or omission or willful misconduct of PresenceLearning, its agents, or employees, pertaining to its activities and obligations under this Agreement. The foregoing obligations are conditioned upon: (a) prompt written notice by the indemnified party to the indemnifying party of any claim, action or demand for which indemnity is claimed; (b) complete control of the defense and settlement thereof by the indemnifying party, provided that no settlement of an indemnified claim shall be made without the consent of the indemnified party, such consent not to be unreasonably withheld or delayed; and (c) reasonable cooperation by the indemnified party in the defense as the indemnifying party may request. The indemnified party shall have the right to participate in the defense against the indemnified claims with counsel of its choice at its own expense.

- 5. Limitation of Liability.** In no event will PresenceLearning be liable for any incidental damages, consequential damages, or any lost profits arising from or relating to this Agreement or to the Services, whether in contract or tort or otherwise, even if PresenceLearning knew or should have known of the possibility of such damages. PresenceLearning's cumulative liability relating to this Agreement will not exceed the actual fees paid by Partner to PresenceLearning during the school year for three (3) months immediately preceding the date on which a claim is made; provided that such amount shall under no circumstances exceed \$10,000. Partner acknowledges that the Agreement reflects an adequate and acceptable allocation of risk and that in the absence of the foregoing limitations Contractor would not enter into the Agreement.

- 6. Non-Solicitation.** Partner shall not, during the term of the Agreement and for one (1) year thereafter, directly or indirectly solicit, induce, or attempt to induce any PresenceLearning employee or contractor without PresenceLearning's prior written consent.

- 7. Term and Termination.** This Agreement shall be in effect as of the Effective Date and shall continue until June 30, 2017 (the "Initial Term") and shall automatically renew on an annual basis (each a "Renewal Term"), unless either party gives written notice of its intention not to renew 90 days before expiration of the Initial Term or a Renewal Term. Upon the expiration or termination of this Agreement for any reason, all amounts owed to PresenceLearning under this Agreement, which accrued before such termination, or expiration will be immediately due and payable. In addition to the post-termination obligations in this Section 7, Sections 3, 4, 5, 6, 10 through 16 will survive any expiration or termination of this Agreement. For the avoidance of doubt, early termination of this Agreement by Partner prior to the expiration of its then-current term shall be considered a breach of this Agreement and Partner shall pay for an additional 90 days of Services following the date of termination, with fees pro-rated as applicable (the "Liquidated Damages Amount") by way of liquidated damages. Partner acknowledges that the actual damages likely to result from breach of this Section 7 are difficult to estimate on the Effective Date hereof and would be difficult for PresenceLearning to prove. The parties intend that Partner's payment of the Liquidated Damages Amount would serve to compensate PresenceLearning for Partner's breach of its obligations under this Section 7, and they do not intend for it to serve as punishment or penalty for any such breach by Partner.

- 8. Disclaimer of Warranties.** Except as otherwise set out herein, the Services are provided "as is" without any warranty and, except as provided herein, PresenceLearning expressly disclaims any and all warranties, express, implied, or statutory, including warranties of title, noninfringement, merchantability, and fitness for a particular purpose.

- 9. Limited Guarantee of Therapist Availability.** If this Agreement is not signed by Partner within thirty (30) calendar days of the Issue Date, PresenceLearning does not guarantee sufficient clinician availability to provide required Services.

- 10. Confidentiality.** Partner understands that it may receive confidential and proprietary information relating to PresenceLearning's business. Partner agrees that the PresenceLearning proprietary information is



confidential and is the sole, exclusive and extremely valuable property of PresenceLearning. In addition, Partner understands that it may receive confidential and proprietary information of third parties, including but not limited to information and materials relating to assessments, in the course of the provision of Services. Partner agrees that it will keep confidential the confidential and proprietary materials and information of PresenceLearning and third parties which it receives pursuant to this Agreement. Partner also agrees that it will not disclose materials relating to an assessment to the student who will be assessed before it is necessary to do so to perform such an assessment. It is understood and agreed that money damages would not be a sufficient remedy for any Partner's breach of confidentiality and that PresenceLearning shall be entitled to specific performance, including, without limitation, injunctive relief, as a remedy for any such breach by the Partner in any court of competent jurisdiction. Such remedy shall not be deemed to be the exclusive remedy for breach of confidentiality but shall be in addition to all other remedies available at law or equity. PresenceLearning understands that it may receive confidential information protected by the federal *Family Educational Rights and Privacy Act* (FERPA). PresenceLearning and Partner will comply with the requirements established by FERPA.

- 11. Miscellaneous.** This Agreement will be governed by the laws of the State of California (without giving effect to any conflict of laws principles that provide for the application of the law of another jurisdiction). The waiver of a breach of any term hereof will in no way be construed as a waiver of any other term or breach hereof. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remaining provisions of this Agreement will remain in full force and effect. The headings in this Agreement do not affect its interpretation. This Agreement may only be amended by the mutual consent of the Parties in writing. This Agreement constitutes the entire agreement between the Parties regarding the Services, and supersedes all prior or contemporaneous agreements and understandings between the Parties relating to the Services.

- 12. Partner Representations.** Partner hereby represents and warrants to PresenceLearning as follows: (i) Partner has the right, power, and authority to enter into and perform its obligations under this Agreement, (ii) Partner has obtained all necessary consents in accordance with its operations to execute and deliver this Agreement and perform its obligations under this Agreement, (iii) the undersigned has the right, power and authority to enter into this Agreement on behalf of Partner, (iv) this Agreement constitutes the legal, valid and binding obligation of Partner, enforceable against Partner in accordance with its terms, subject only to the effect, if any, of (A) applicable bankruptcy and other similar laws affecting the rights of creditors generally and (B) rules of law governing specific performance, injunctive relief and other equitable remedies, and (v) the execution, delivery, performance of and compliance with this

Agreement will not, with or without the passage of time, result in any violation or be in conflict with or constitute a default under any contract to which Partner is a party or any terms or provisions thereof.

- 13. PresenceLearning Representations.** PresenceLearning hereby represents and warrants to Partner as follows: (i) PresenceLearning has the right, power, and authority to enter into and perform its obligations under this Agreement, (ii) PresenceLearning has obtained all necessary consents in accordance with its operations to execute and deliver this Agreement and perform its obligations under this Agreement, (iii) the undersigned has the right, power and authority to enter into this Agreement on behalf of PresenceLearning, (iv) this Agreement constitutes the legal, valid and binding obligation of PresenceLearning, enforceable against Partner in accordance with its terms, subject only to the effect, if any, of (A) applicable bankruptcy and other similar laws affecting the rights of creditors generally and (B) rules of law governing specific performance, injunctive relief and other equitable remedies, and (v) the execution, delivery, performance of and compliance with this Agreement will not, with or without the passage of time, result in any violation or be in conflict with or constitute a default under any contract to which PresenceLearning is a party or any terms or provisions thereof.

- 14. Research.** The Parties agree that mutual consent is required for the initial publication or distribution of any research and/or marketing materials, including without limitation, customer or vendor lists, press releases, and research and case studies mentioning both Parties, but that once this consent is given for initial publication the Parties may republish such works in their original or reasonably modified form at will.

- 15. Independent Contractor.** The Parties are independent contractors, and no agency, partnership, franchise, joint venture, or employment relationship is intended or created by this Agreement. Neither Party is authorized to make any representation, contract, or commitment on behalf of the other Party.

- 16. Arbitration.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration proceedings shall be confidential and conducted in the English language before a single neutral arbitrator to be selected by AAA. The place of arbitration shall be San Francisco, California.

- 17. Assignment.** PresenceLearning's rights and obligations under this Agreement will bind and inure to the benefit of its successors and permitted assigns.



Exhibit B - Environment, Equipment, & Supervision Specifications

Partner shall provide PresenceLearning with the conditions described below to enable the provision of the applicable Services. PresenceLearning will not begin Services until all of the below criteria are met in order to ensure Student success:

1. Computer Setup.

- a. Each station must have a computer that meets the following specifications:
 - i. If a PC or Mac:
 - 1. Dual core processor
 - 2. 2 GB RAM
 - 3. 11.6 inch display or larger
 - 4. Ability to support headset with microphone
 - ii. If a Chromebook:
 - 1. Access to an Ethernet connection
 - 2. Dual core processor
 - 3. 2 GB RAM
 - 4. Ethernet adapter
 - 5. Cable
- b. A broadband internet connection with a minimum of 500 kbps upload and download speeds. 1 mbps or higher preferred. If internet speeds are not sufficient to support PresenceLearning's platform at any site, Partner may elect to purchase a suitable wireless 4G card for the price listed in Exhibit C.
- c. Browser: Google Chrome or Mozilla Firefox.
- d. Operating system: Windows 7 or later. Mac OS X 10.9 (or later) with Intel processor. If Chromebooks, latest version of Chrome OS.
- e. Whitelist the following from all web filters:
 - i. *.amazonaws.com
 - ii. *.live.presencelearning.com
 - iii. *.presence.influxis.com
 - iv. *.youtube.com (optional)
 - v. *.presence.enterprise.ics.influxis.com: 8510 TCP/UDP
 - vi. *.presence.enterprise.ics.influxis.com: 443 TCP
 - vii. *.presence.enterprise.ics.influxis.com: 19350-19400 UDP
 - viii. *.presence.enterprise.ics.influxis.com: 1935 TCP/UDP
 - ix. *.presencelearning.com
 - x. *.tokbox.com
 - xi. *.opentok.com
 - xii. *.firebaseio.com
 - xiii. *.plsupport.screenconnect.com (optional)
- f. At a minimum, open UDP port 3478 for *.tokbox.com and *.opentok.com. Preferably, open UDP ports 1025-65535 for *.tokbox.com and *.opentok.com.
- g. Open TCP Port 443 is open to non-web and SSL traffic.
- h. Configure web and/or content filtering to enable peer-to-peer services.
- i. A phone with speaker-phone capability in the immediate vicinity of the computer where service is delivered, to be used as a backup means of communication.

2. Environment.

- a. A suitable non-noisy controlled space such as a resource room, classroom, computer room, library and/or home setting.
- b. Ample lighting that shines either (i) from above the Student or (ii) directly on the face of the Student but not (iii) from behind the Student and directly into the webcam.
- c. Privacy screens or other equipment may be necessary to guarantee privacy.

3. Supervision.

- a. A suitable number of Partner Primary Support Persons to provide the below services. Additional services may or may not be required.
 - i. Transporting the Student to/from the telepractice session.
 - ii. Assisting the Student with technology set-up (e.g., attaching the headset to the computer).
 - iii. Ensuring that the conferencing connection with remote therapist is functioning. Contacting the therapist via phone if necessary.
 - iv. Remaining in the sessions to ensure that any technology glitches are reported and fixed
 - v. Providing cues, prompts, and models for the Student upon therapist direction.
 - vi. Helping relay information between the school staff and the therapist related to scheduling, absences, or school functions.
- b. The paraprofessional shall act under the direction of the PresenceLearning SLP or OT, except in the event of emergency.

4. In the event that Partner contracts with PresenceLearning to supervise clinical assistants such as speech language pathology assistants (each an "SLPA") or certified occupational therapy assistants (each a "COTA"), Partner shall ensure that each such SLPA and/or COTA shall:



- a. meet state and/or American Speech Hearing Language Association ("ASHA") or American Occupation Therapy Association ("AOTA") guidelines for SLPAs or COTAs
- b. have the appropriate level of education and training
- c. have completed fieldwork according to state/ASHA or AOTA guidelines
- d. follow ASHA or AOTA/state guidelines on duties and responsibilities
- e. follow the treatment plans for Students set out by the supervising SLP or OT
- f. not administer standardized or nonstandardized diagnostic tests
- g. not participate in parent conferences, case conferences, IEP meetings, etc. without the presence of the supervising SLP or OT.
- h. not represent him/herself as an SLP or OT
- i. not counsel or consult with families/Students regarding status of service

In addition, Partner agrees that PresenceLearning clinicians shall:

- a. participate in training of the SLPA or COTA
- b. inform Students that SLPA or COTA will provide treatment
- c. make all clinical decisions
- d. prepare individualized treatment plans for each Student that the SLPA or COTA treats
- e. Sign all formal documents and signed treatment notes of SLPA or COTA
- f. Delegate tasks to SLPA or COTA while retaining legal and ethical responsibility for all Student services provided or omitted
- g. Ensure that the SLPA or COTA only performs tasks within State or ASHA/AOTA approved guidelines for SLPAs or COTAs.
- h. provide both direct and indirect supervision as required by state and/or ASHA or AOTA guidelines


Exhibit C – Service Order for Syringa Mountain School
FEES

	Price	Number	Installment Cost	Installments	Total School Year Fees
Per Student Fees					
Contracted Students	\$831.00	10	\$8,310.00	1	\$8,310.00
Additional Students	\$831.00				\$0.00
Assessments					
Minimum Number of Assessments		1			\$TBD
Purchased Number of Assessments		3			\$TBD
SLP/OT Assessments	\$375.00				
Bilingual SLP/OT Assessments	\$500.00				
Behavioral Assessments	\$500.00				
Screenings	\$50.00				
Psychoeducational Assessments					
Minimum Number of Psychoeducational Assessments		0			\$TBD
Purchased Number of Psychoeducational Assessments					\$TBD
Review of Records / Parent & Teacher Interviews	\$325.00				
1 Area of Concern	\$625.00				
2 Areas of Concern	\$850.00				
3 or More Areas of Concern	\$975.00				
Smart Start	\$5,000.00	0			\$0.00
Total Initial Fees (excluding fees for Additional Students and Assessments)					\$8,310.00

*Additional Students will be billed at a pro-rated portion of the Installment Cost. Pro-ration will be based on the number of months remaining in the installment period, including the first month in which the Additional Students were billed.

EQUIPMENT

	Price	Number	Total
Annual Equipment Credit per Contracted Student	\$8.00	10	(\$80.00)
Annual Equipment Credit per Psychoeducational Assessment	\$5.00		\$0.00
Equipment Prices (for orders in excess of credit)			
Headphones	\$16.00		
Splitter	\$3.00		
Standard webcam	\$22.00		
Wide angle webcam	\$51.00		
Document Camera	\$116.00		
Soundcard adapter	\$16.00		
Laptop Computer	\$500.00		
Chromebook	\$225.00		
Mobile WiFi Hotspot	\$550.00		
Shipping (per shipment)	TBD		
Sales tax on equipment orders	TBD		



DEFINITIONS

"Contracted Students" shall mean the initial number of Students for whom Partner has purchased Services for as of the Service Order Effective Date.

"Additional Students" shall mean the difference (if greater than zero) between the number of students for whom any amount of Direct, Direct Make-up, IEP Meeting, CF/SLPA/COTA Supervision Services, or Unplanned Student Absence time is billed during a given month, and the number of Contracted Students.

"ESY Students" shall mean Students who receive any Services after the completion of the regular school year. Partner shall be billed for 1 monthly installment of the Per Student Fees for ESY Students.

"Unplanned Student Absence" shall mean time for therapy sessions that are scheduled with PresenceLearning, but cancelled with less than 24 hours advance notice.

"Annual Equipment Credit" shall mean the amount by which Partner's fees for equipment will be reduced. If the total cost of Partner's equipment orders exceeds the Annual Equipment Credit, Partner shall pay fees for the excess amount according to the Equipment Price schedule shown. Annual Equipment Credit may only be used for equipment and may only be used in the current school year.

"Additional Fees" shall mean the total fees for any Additional Students, Additional Assessments or equipment orders in excess of the Annual Equipment Credit.

"Minimum Number of Assessments" shall mean the minimum number of assessments for which payment is due at the end of the term. If Partner does not purchase the Minimum Number of Assessments during the Initial Term or a Renewal Term, at the end of the term, Partner shall pay an amount equal to the SLP/OT Assessments rate multiplied by the number of additional assessments that would have had to be purchased so that the total number of assessments equals the Minimum Number of Assessments.

"Review of Records / Parent & Teacher Interviews" shall mean a cumulative file review for a student, including medical, educational, and social development histories, plus current parent and teacher interviews.

"1 Area of Concern" shall include a Review of Records / Parent & Teacher Interviews, observations, an assessment of one area of concern as outlined in the student's assessment plan, and a written integrated report using information from other disciplines as needed.

"2 Areas of Concern" shall include a Review of Records / Parent & Teacher Interviews, observations, an assessment of two areas of concern as outlined in the student's assessment plan, and a written integrated report using information from other disciplines as needed.

"3 or More Areas of Concern" shall include a Review of Records / Parent & Teacher Interviews, observations, an assessment of three or more areas of concern as outlined in the student's assessment plan, and a written integrated report using information from other disciplines as needed.

"Minimum Number of Psychoeducational Assessment" shall mean the minimum number of psychoeducational assessments for which payment is due at the end of the term. If Partner does not purchase the Minimum Number of Psychoeducational Assessments during the Initial Term or a Renewal Term, at the end of the term, Partner shall pay an amount equal to the Psychoeducational Assessments: One Area of Concern rate multiplied by the number of additional assessments that would have had to be purchased so that the total number of assessments equals the Minimum Number of Psychoeducational Assessments.

"Station" shall mean a computer at one of Partner's locations that will be used by PresenceLearning to provide Services.



INVOICING SCHEDULE

Per Student Fees

Contracted Students:	Within 30 days of the Effective Date
Additional Students	15 th of the month after the month in which the Additional Students were billed

Assessments (SLP/OT, Bilingual or Behavioral)

Assessments	15 th of the month after the month in which the Assessments were billed
Payment to Reach the Minimum Number of Assessments	15th of the month after the last month of the term if number of assessments purchased did not equal or exceed the Minimum Number of Assessments.

Equipment Orders (In Excess of Credit)

Smart Start	Within 30 days of the Effective Date
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Pyschoeducational Assessments

Actual Assessments Completed	The Partners will be billed by the 15 th of the month after the month in which the Assessments were conducted and reports provided.
Payment to Reach the Minimum Number of Psychoeducational Assessments	If the Partner does not purchase the Minimum Number of Psychoeducational Assessments during the term, the Partner will be billed an additional amount equal to the Psychoeducational Assessments: One Area of Concern rate multiplied by the number of additional assessments that would have had to be purchased so that the total number of assessments equals the Minimum Number of Psychoeducational Assessments by the 15 th of the month after the last month of the term.

PAYMENT TERMS

Payment for all invoices is due 30 days from date of invoice.

Partner Invoicing Contact

Name:

Email:

Phone: