

**CONTRACT NAME: AGREEMENT BETWEEN MUSIC TO GROW ON AND DAVIS  
JOINT UNIFIED SCHOOL DISTRICT**

**BRIEF DESCRIPTION OF CONTRACT:** This is an agreement to provide music therapy for students based on their needs.

**FISCAL IMPACT:** This agreement covers the period August 28, 2018 to June 30, 2019. The cost is included in the approved Special Education budget.

## MASTER CONTRACT

### AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL SERVICES

This agreement made and entered into this 15<sup>th</sup> day of August 2018 by and between the Davis Joint Unified School District of Yolo County, hereinafter referred to as “District”, and **Music to Grow On**, hereinafter referred to as “Contractor” for the purposes of providing IEP-mandated music therapy.

NOW, THEREFORE, in consideration of the mutual promises contained herein, IT IS MUTUALLY AGREED by and between parties hereto as follows:

#### 1. TERM

The term of this agreement shall be from August 28, 2018 through June 30, 2019 unless sooner terminated as hereinafter provided.

#### 2. TERMINATION

Either party may terminate this agreement for cause by serving a thirty (30) day written notice of termination upon the other party. Cause includes, but is not limited to, a material breach of any term of condition of this agreement. Cause does not include the availability of a public class unless the parent agrees to the transfer of the pupil to a public school program.

Upon termination with default of CONTRACTOR, the DISTRICT shall pay, without duplication, for all services performed and expenses incurred up to and including date of termination. In consideration of this payment, CONTRACTOR waives all right to any

further payment or to any damages, including but not limited to any and all claims of damages related to the enforcement of this agreement, including any attorneys fees associated with such enforcement. Upon termination CONTRACTOR shall forthwith turn over to the DISTRICT all records required to be maintained hereunder, possessed by CONTRACTOR or under its control at the time of termination.

### 3. MODIFICATIONS AND AMENDMENTS

This agreement may be modified or amended by a written document executed by CONTRACTOR and DISTRICT. Changes in the educational services or placement provided under the contract may only be made on the basis of revisions to the pupils' individualized educational program. At any time during the term of the agreement, the parent, CONTRACTOR, or DISTRICT may request a review of the pupil's individualized program, subject to all procedural safeguards as specified in California Administrative Code Title V. 3080, et seq., and Education Code 56500-56507.

### 4. NON-ASSIGNABILITY TO SUBCONTRACTOR

This agreement and the rights and duties thereunder shall not be assigned or subcontracted in whole or in part without the express written consent of DISTRICT.

### 5. INDEPENDENT CONTRACTOR

It is understood and agreed that CONTRACTOR is engaged to perform services under this agreement as an independent contractor and the agreement is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, or joint venture of association.

CONTRACTOR shall determine the means, manner, method and details of performance under this agreement and in doing so shall be responsible for providing the materials and tools necessary for performance under this agreement.

## 6. NOTICES

All notices given pursuant to the terms of this agreement shall be in writing and may be personally delivered or mailed by certified mail. Said notice shall be effective when personally delivered or when deposited in the United States Mail, postage prepaid and addressed as follows:

CONTRACTOR:	Music to Grow On
	P.O. Box 980743
	West Sacramento, CA 95798
DISTRICT:	Davis Joint Unified School District
	526 B Street
	Davis, CA 95616

## 7. DESIGNATED INSTRUCTION AND SERVICES

- A. CONTRACTOR at its sole cost and expense shall provide the pupil named in the IEP with the designated instruction and services specified in the IEP. All instruction shall be conducted by teachers who possess an appropriate credential issued by the California Commission on Teaching Licensing and Preparation, unless a waiver has been granted by the Superintendent of Public Instruction. The CONTRACTOR shall notify the DISTRICT of any staff changes that directly affect the pupil.

- B. All non-instructional services shall be provided by qualified individuals who possess the necessary skills, qualifications and/or licenses and certificates required by law to conduct such services.
- C. CONTRACTOR shall keep attendance of each pupil daily and shall report attendance monthly to the DISTRICT.
- D. Year-end reports and other data required for the annual review shall be provided by CONTRACTOR no later than thirty (30) calendar days after the termination of this agreement or the end of the school term, whichever is appropriate.

#### 8. TRANSPORTATION

CONTRACTOR at its sole cost and expense shall provide all transportation identified as a responsibility of the CONTRACTOR.

#### 9. INSPECTION AND AUDIT

CONTRACTOR shall allow periodic monitoring of the pupil's instructional program by the DISTRICT and shall participate in the review of the pupil's progress by the Individualized Educational Program team. Representatives of DISTRICT shall have access to observe the pupil at work, observe the instructional setting, to interview CONTRACTOR, and review the pupil's progress, and shall have the right to inspect and/or obtain copies of all books, documents, reports, records and other matters relating to this agreement.

## 10. AUDIT EXCEPTIONS

Contractor agrees to accept responsibility for receiving, replying to and/or complying with any audit exceptions by appropriate state or federal audit agencies occurring as a result of the CONTRACTOR'S performance of this agreement.

## 11. INDEMNIFICATION

CONTRACTOR shall defend, save harmless, and indemnify the DISTRICT and its officers, agents and employees from any and all liabilities and claims for damages including but not limited to claims for injuries and/or damages for death, sickness or injury to persons or property. This agreement includes, without limitations, any and all consequential damages, from any cause whatsoever arising from or connected with its service hereunder which may result from the negligence or willful misconduct of CONTRACTOR, its agents or employees or from any breach by CONTRACTOR of this agreement.

## 12. INSURANCE

During the entire term of this agreement and any extension or modification thereof, CONTRACTOR shall keep in effect a policy of liability insurance, and One Million Dollars (\$1,000,000.) for all damages arising out of injury to or destruction of property of each accident or occurrence. Not later than the effective date of the agreement, CONTRACTOR shall provide the DISTRICT with a certificate of insurance, including a provision for thirty (30) calendar days written notice to the DISTRICT before cancellation or material change, evidencing the above-specified coverage. The CONTRACTOR shall, at its own cost and expense, procure and maintain insurance under the Workers Compensation Law.

### 13. PAYMENT

For payment purposes, the following definition applies:

1. A Unit of Service for designated instruction is the hourly rate charged for a specific service and may be reported and claimed in half-hour increments.

CONTRACTOR shall submit monthly requests for payment upon DISTRICT forms within thirty (30) calendar days after the end of the attendance accounting period in which the services were rendered. Within ten (10) calendar days after the receipt of a payment request, DISTRICT shall audit the request and give the CONTRACTOR written notice if the payment is denied in whole or in part. If the payment request is approved, payment shall be made within thirty (30) calendar days after the payment request is received.

Payment for the services provided pursuant to this agreement shall be in an amount equal to the number of creditable hours of attendance multiplied by the agreed-upon unit amount.

In the event that funds received by the DISTRICT for services provided to pupil or pupils under this agreement are reduced pursuant to 56790-56792 of the Education Code and the DISTRICT is not required by statute or other prevailing law to fund the services with other funds, the agreed unit amount shall be reduced by a percentage equal to the percentage of the reduction in funds.

#### HOURLY UNIT AMOUNT SHALL BE:

<b>Music Therapy Services</b>	<b>\$95.00 per hour</b>
<b>Mileage</b>	<b>\$0.545 per mile</b>

#### 14. RIGHT TO WITHHOLD

The DISTRICT has the right to withhold payment to contractor when, in the opinion of the DISTRICT, expressed in writing to the CONTRACTOR:

- A. CONTRACTOR'S performance, in whole or in part, either has not been carried out or is insufficiently documented.
- B. CONTRACTOR has neglected, failed or refused to furnish information or to cooperate with the inspection, review or audit of its program, work, or records.

#### 15. COMPLIANCE WITH LAWS

During the term of this agreement, CONTRACTOR shall comply with all federal. State, State Board of Education and local statutes, laws, ordinances, rules and regulations relating to the required special education services and facilities for individuals with exceptional needs.

CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect all permits or certificates required by any governmental agency for the use and/or operation of the facility.

CONTRACTOR'S failure to maintain certification by the State Board of Education in accordance with the provisions of the Education Code 56366(d) and/or failure to comply with any other provisions of this paragraph shall constitute cause for terminating this agreement.

#### 16. CALIFORNIA LAW

This agreement shall be governed by and construed in accordance with California law.



# 17. COUNTERPARTS

This agreement may be executed in counterparts and each original shall fully bind the party for whom it is executed.

# 18. SEVERABILITY

If any term of this agreement is deemed to be unenforceable, void or invalid under the laws of the State of California, those terms shall be construed as being eliminated from the agreement and the remainder of the agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this agreement on the day, month, and year first written above.

CONTRACTOR:

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

DISTRICT:

BY:                     J. Nune                    

DATE:                     8/14/2018