

AGREEMENT

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agreement

*T*his Agreement is made between the Waterford-Halfmoon Union Free School District, a New York State municipal corporation with principal offices located at 125 Middletown Road, Waterford, NY 12188 (“the District”), and Saratoga Center for the Family, Inc., a New York State not-for-profit corporation with principal offices located at 359 Ballston Ave, Saratoga Springs, NY 12866 (“the Agency”).

RECITALS

- A. There are students enrolled in District schools who struggle with mental health issues that interfere with their ability to attend school and to learn, as well as causing behaviors that interfere with education for all students.
- B. The Agency provides services, including various forms of therapy, to individuals who have mental health issues.
- C. The District and the Agency wish to continue to partner to provide students with mental health issues a program of school-based services, in order to increase positive outcomes for those students in school, in the community, and in the home, and to enhance the ability of the schools to focus resources on student learning.

*T*he Parties, therefore, in consideration of the mutual promises set forth herein, agree as follows:

COVENANTS

1. **Subject Matter.** The Agency shall staff school-based mental health centers (“Center”) in District schools in order to deliver an array of services for District students in need of mental health treatment (“the Program”). The Agency shall staff the Centers with one (1) NYS Licensed Mental Health Professional with the credentials of LMSW, LCSW, LCSW-R or LMHC (the “Providers”) mutually agreed upon between the District and Saratoga Center for the Family. The District retains the right in its sole discretion to remove or bar any Provider from the District’s premises at any time.
1. **Responsibilities of the Agency** The Agency staff member shall:
 - a. Available on site on all days school is in session for all hours school is in session unless needed to be off campus for supervision, training, or mandatory SCFF

meetings. On site therapist is allowed sick days and personal days as per their SCFF agreement.

- b. Review all students referred by the District for mental health counseling for potential acceptance for counseling services. Before services can be provided to any student through a Center, the student's parent or guardian must consent to the provision of those services.
- c. The parties shall jointly discuss and review caseload numbers at the request of either party.
- d. The Agency shall be solely responsible for all other costs associated with the Centers.

1. **Resources and Funding.** The School District shall provide a locked space, in each school in which a Center is to be established, for the use of the Center, and shall assist in furnishing and equipping those spaces. The District shall provide, at a minimum, the following: A computer with access to the internet and school network, a phone line, a desk, an office chair, a locked filing cabinet, comfortable seating in the form of chairs or a couch, access to a fax and copy machine. The Center will review and approve the recommended space for therapeutic appropriateness.

The School District shall pay the Agency a sum of Forty Thousand Dollars (\$40,000) for each of the 2021-2022 and 2022-2023 school years. These payments shall be made in two installments, one in the month of July 2021 and 2022, and the other in the month of January 2022 and 2023.

1. **Establishment of a Center.** The District shall determine which of its schools will house Centers under this Agreement. The District shall provide advanced notice to the Agency about the proposed sites. The Agency shall determine its ability to locate a Center and its therapeutic appropriateness at each of the proposed sites. The Agency shall not be required to establish a Center at every location if the Agency determines this is not feasible or within its capacity.

1. **The Agency's Representations and Warranties.**

- a. The Agency represents and warrants that the Agency and the Providers shall perform the services required under this Agreement with reasonable care and skill and in accordance with the highest industry standards and practices and all applicable laws, rules and regulations.
- b. The Agency represents and warrants that the Agency and the Providers hold all current and valid licenses and certifications that are required to perform the services pursuant to this Agreement and all Providers must receive fingerprint clearance prior to commencing any services involving students.
- c. The Agency represents and warrants that the Agency and the Providers shall comply with all of the District's policies and procedures at all times while performing work for the District pursuant to this Agreement including, but not limited to, all codes of

conduct, dress codes, drug and alcohol policies, anti-bribery or non-collusion policies and other similar policies and procedures.

1. **Relationship of the Parties.** Notwithstanding any provision hereof, the Agency and the District are independent entities and no agency relationship, partnership or jointly formed corporate entity is created by this Agreement such that either Party has the authority to bind the other. The Agency shall accept any directions issued by the District pertaining to the goals to be attained and the results to be achieved by the Agency pursuant to this Agreement, but the Agency shall be primarily responsible for the manner, means and methods by which the services are performed under this Agreement. At all times and for all purposes, all individuals providing services to the District or its students pursuant to this Agreement, including the Providers, shall be considered to be employees of the Agency and not employees of the District. The Agency shall, at all times, be solely responsible for all salaries and other remuneration and the payment of all applicable federal, state or local withholding or similar taxes and provision of workers' compensation, disability insurance and other rights or benefits required under the law to the Providers and the other individuals providing services to the District pursuant to this Agreement and for any other person employed or retained by it. The Agency, its employees and the Providers shall not be eligible to participate in any of the District's employee benefit plans, fringe benefit programs, group insurance arrangements or similar programs or any statutory benefit that the District is required to provide to the District's employees. The Agency agrees to indemnify, defend and hold the District harmless from any and all actions, damages, penalties, liquidated damages, wages, back pay, overtime, and/or other liability arising in any way from the Providers or any individual providing services to the District pursuant to this Agreement.

1. **Confidentiality of Information.** The Parties, in fulfillment of their respective functions, maintain information on students they serve. They acknowledge that this information is confidential and may be shared only as permitted by the Health Information Portability and Accountability Act (HIPAA), the Family Educational Rights and Privacy Act (FERPA), and New York State Education Law (collectively, "the Confidentiality Laws"). In order to facilitate the sharing of information between the Parties to the extent necessary to achieve the purposes of this Agreement, the form of consent signed by a parent to authorize the provision of services through the Program shall include releases sufficient to permit that sharing under the terms of the Confidentiality Laws. Information shall be shared between the Parties pursuant to such releases only to the extent necessary to provide services under the Program, and shall not be disclosed by the receiving Party to any third party unless permitted or required to do so by a valid release, a court order or other lawful process. The receiving Party shall destroy all personally identifiable information in accordance with its documentation retention policies or as required by applicable law or regulation. The parties acknowledge that the records created or received by the Agency, which are maintained exclusively by the Agency solely for its own use, and not on behalf of the District, do not constitute District or public records under the New York State Freedom of Information Law or the Federal Family Educational rights and Privacy Act.

1. **Criminal History Record Check.** Employees and agents of the Agency, including the Providers, providing services at the District are subject to the criminal history record check provisions of Education Law §1709 subd. 39 and all other background checks required under the law. The Parties shall cooperate to obtain the necessary clearance under that law in an

expeditious manner. No Provider, employee or agent of the Agency shall be allowed to work alone with children at the District until such time as this mandatory screening has been conducted and clearance has been received.

1. **Non-Discrimination.** In furtherance of District policies, in providing services pursuant to the Program the Agency shall not discriminate against any person because of that person's race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, or gender, including gender identity and expression.

1. **Term.** Subject to the termination provisions of this Agreement, the Term of this Agreement is two school years, commencing on July 1, 2019, and ending on June 30, 2021. The Term may be extended, for periods of up to two years at a time, by mutual written agreement of the Parties prior to the end of the Term or any extended Term.

1. **Termination.**

a. **Without cause.** Either Party may terminate this Agreement in its sole discretion by giving the other Party ninety (90) days' written notice of intent to terminate.

b. **With cause.** Either Party may terminate this Agreement because of a breach by the other Party, or for other good cause, by giving the other Party fifteen (15) days' written notice of the breach or other cause.

c. **At the end of the Term.** In order to provide for an orderly transition of the Program, a Party that does not intend to continue the relationship created by this Agreement following the end of the current Term or extended Term shall notify the other Party, in writing, at least ninety (90) days prior to the end of the Term or extended Term; however, failure by both Parties to provide such notice shall not, in the absence of a written agreement to extend pursuant to Paragraph 7 hereof, result in the automatic renewal of the Agreement or extension of the Term.

d. **Transition on Termination.** Following termination of this Agreement, the Parties shall cooperate in order to reduce, to the maximum extent reasonably possible, the adverse impact of such termination on students who are receiving services through the Program.

Upon termination, no further obligations or responsibilities shall exist between the parties except to "wind up" affairs. Any payments due, up to the date of the termination of services, shall be paid by the District to the Agency.

1. **Non-Exclusivity.** This Agreement does not grant the Agency an exclusive right to provide school-based mental health services to students of the District. The District may at any time contract with other service providers for such services, using the same or a different program model.

1. **Insurance Requirements.** The Agency shall possess and keep in effect for the duration of the Agreement the insurance coverages with minimum policy limits as provided below, which limits can be satisfied with umbrella or excess coverage policies. The District will be named as an additional insured on the general liability and abuse and molestation policies, or any correspondence umbrella or excess coverage policy, on a primary and noncontributory basis with waivers of subrogation in favor of the District. The Agency will provide the District with copies

of all certificates of insurance in compliance with these requirements and will provide the District with 30 days' advance notice before any policy is amended or cancelled.

- a. Commercial general liability insurance - \$1,000,000 each occurrence; \$2,000,000 aggregate.
- b. Abuse and molestation liability insurance - \$1,000,000 each occurrence; \$1,000,000 aggregate.
- c. Worker's compensation insurance in compliance with statutory requirements.
- d. Professional liability coverage - \$1,000,000 each occurrence; \$3,000,000 aggregate limit.
- e. In addition, the Agency has a corresponding umbrella policy providing for \$1,000,000 each occurrence and \$1,000,000 aggregate.

1. **Indemnification.**

a. The Agency shall defend and indemnify the District and its board members, officers, employees and agents, and shall hold it and them harmless against any liability or loss—including attorneys' fees, expenses and costs sustained or incurred in connection with any claim, suit, action or proceeding—arising out of any willful or negligent act or omission of the Agency or its officers, employees, agents or the Providers in the performance of their obligations under this Agreement, or any breach of any representation, warranty, obligation or covenant made by the Agency in this Agreement.

b. The District shall defend and indemnify the Agency and its officers, employees and agents and shall hold it harmless against any liability or loss—including attorneys' fees, expenses and costs sustained or incurred in connection with any claim, suit, action or proceeding—arising out of any willful or negligent act or omission of the District in the performance of its obligations under this Agreement, or any breach of any representation, warranty, obligation or covenant made by the District in this Agreement.

1. **Address for Notices.** Any notice or other communication required or contemplated under this Agreement to be given by one Party to the other in writing shall be delivered personally or mailed by first class mail, postage prepaid.

If to District, to
Waterford-Halfmoon Union Free School District
125 Middletown Road
Waterford, NY 12188

If to Agency, to
Saratoga Center for the Family, Inc.
359 Ballston Avenue
Saratoga Springs, NY 12866

or to such other address or addressee as the Party shall have designated by notice or other communication delivered or mailed in like manner.

Any notice delivered personally shall be deemed to have been given and received on the business day following the day of delivery. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth day following the day it is placed in the mail.

1. **Waiver**. No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed, or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. In the event that any agreement or covenant herein shall be breached and thereafter waived, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

1. **Continuing Obligations**. The termination of this Agreement shall not relieve either Party of its liabilities and obligations hereunder, up to the date of termination only.

1. **Beneficiaries**. This Agreement is intended solely for the benefit of the Parties hereto. Nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or liability to, any other person.

1. **Successors and Assigns**. Except as otherwise specifically provided herein, this Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors. This Agreement may not be assigned by either Party.

1. **Choice of Law**. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of New York.

1. **Force Majeure**. For purposes of this Agreement, "Force Majeure Event" means any event: (a) that is beyond the reasonable control of the affected Party; and (b) that the affected Party is unable to prevent or provide against by exercising reasonable diligence, including the following events or circumstances, but only to the extent they satisfy the preceding requirements: acts of war, public disorder, insurrection, or rebellion; floods, hurricanes, earthquakes, lightning, storms, and other natural calamities; explosions or fires; strikes, work stoppages, or labor disputes; embargoes; and sabotage. If a Force Majeure Event prevents a Party from fulfilling any obligation under this Agreement, such Party shall promptly notify the other Party in writing, and shall keep the other Party informed on a continuing basis of the scope and duration of the Force Majeure Event. The affected Party shall specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the affected Party is taking to mitigate the effects of the event on its performance. The affected Party shall be entitled to suspend or modify its performance of obligations under this Agreement, other than the obligation to make payments then due or becoming due under this Agreement, but only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of reasonable efforts. The affected Party shall use reasonable efforts to resume its performance as soon as possible.

1. **Execution in Counterparts**. To allow the Parties to complete their formal agreement as expeditiously as possible, this Agreement may be signed in counterparts which, taken together, shall constitute a single agreement and either Party may accept from the other a telephonic or electronic facsimile, the signature on which shall be deemed an original signature.

1. **Entire Agreement.** This Agreement embodies the entire agreement and understanding between the Parties with respect to its subject matter, and supersedes all prior and contemporaneous agreements and understandings of the Parties in connection therewith. There are no representations, warranties, covenants, or conditions made by either of the Parties except as herein expressly contained. This Agreement may not be amended, modified, altered, or varied except by an Agreement in writing signed by both of the Parties.

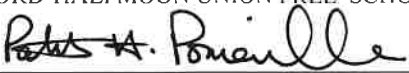
1. **Severability.** Any provision of the Agreement which is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

1. **Paragraph Titles.** The titles or headings to the paragraphs of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

1. **Meaning of Terms.** Except as specifically stated otherwise, the following terms shall be interpreted as follows when used herein:

- a. "Days" shall refer to calendar days.
- b. To the extent necessary, singular personal pronouns shall include the plural and plural personal pronouns shall include the singular.

W herefore the Parties hereto have hereunto set their hands on the date set forth following each signature.

WATERFORD-HALFMOON UNION FREE SCHOOL DISTRICT 	SARATOGA CENTER FOR THE FAMILY, INC.
BY: Date:	BY: Date:

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WATERFORD-HALEMOON UNION FREE SCHOOL DISTRICT BY: <i>Patrick Pomeroy</i> Date:	SARATOGA CENTER FOR THE FAMILY, INC. <i>[Signature]</i> BY: <i>Rebecca Baldwin</i> Date: <i>6/22/21</i>
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