

TELEHEALTH EQUIPMENT AGREEMENT

This Agreement ("Agreement") is made and entered by and between the **Muskingum Valley Educational Service Center Governing Board ("MVESC")** and the **Coshocton City School District Board of Education ("School District")** ("Party" or "Parties") as of the date of the last signature below ("Effective Date").

1. Background and Purpose.

The purpose of this Agreement is to outline the terms and conditions under which MVESC will provide the School District with certain telehealth communication equipment (including teletherapy and/or telemedicine carts) ("Equipment"), which is more specifically described in Exhibit A, hereto. MVESC shall provide the School District with the Equipment for the sole and exclusive purpose of permitting the provision of real time telehealth services, including mental and behavioral health care and primary health care services. In consideration of MVESC's provision of the Equipment at no cost, the School District shall share data with MVESC so the effectiveness of the program may be evaluated.

2. Term and Termination.

- A. Term. This Agreement shall commence as of the Effective Date and shall remain in effect for a period of three (3) years. At the conclusion of each of the first two years of the Agreement, MVESC and the School District shall meet to evaluate the preceding year's activities and outcomes. At that time, should MVESC determine, in its sole discretion, that the School District has failed to regularly use the Equipment as set forth herein and/or such use has failed to result in measurable health outcomes, MVESC may terminate the agreement and re-take possession of the Equipment.
- B. Termination by MVESC. At any time during the Term or any subsequent renewal term, MVESC may terminate this Agreement and re-take possession of the Equipment if it determines, in its sole discretion, the School District has failed to comply with the terms and conditions set forth herein.
- C. Termination by School District. If the School District determines it is unable to effectively use the Equipment for the purposes set forth herein, it may notify MVESC and request MVESC re-take possession of the Equipment and terminate this Agreement.
- D. Return of Equipment. Upon termination of this Agreement for any reason, the School District shall promptly return all Equipment identified in Exhibit A to MVESC. All Equipment shall be returned in the same or substantially similar condition as when delivered to School District, subject only to ordinary wear and tear.

3. Provision and Use of Equipment.

- A. Ownership. MVESC shall provide the School District with all Equipment identified in Exhibit A, hereto and shall provide assistance with initial setup. At all times under this

Agreement, MVESC shall be and remain the sole and exclusive owner of the Equipment. Upon delivery, the School District shall confirm all Equipment has been provided and will notify MVESC of any discrepancies within ten (10) days of delivery. Except for those rights and privileges expressly set forth herein, the School District shall have no right or title to the Equipment and shall at all times keep the Equipment free and clear of any liens or encumbrances.

- B. Maintenance. MVESC shall be responsible for all maintenance, repair, and upkeep for the Equipment attributable to normal wear and tear and routine maintenance. MVESC shall also provide ongoing technical assistance to facilitate the School District's effective use of the Equipment. The School District shall provide MVESC with access to its school building(s) at reasonable times in order to retrieve, repair, assess or otherwise access the Equipment as MVESC may determine, in its sole discretion, is reasonably necessary. The School District shall be responsible for securing all Equipment in a suitable location within the school building(s), which shall be, at minimum, an area with a locking door to which only authorized personnel will have access. The School District shall ensure that no one other than authorized personnel handles, manipulates, or accesses the Equipment, except as necessary to perform the obligations set forth in this Agreement. Any issues with the operation of, or damage to, the Equipment must be reported within 24 hours to MVESC by contacting Dan Blickensderfer at dan.blickensderfer@mvesc.org. The School District shall be responsible for any loss or damage to the Equipment attributable to the negligent or reckless conduct of its employees, agents, or officers.
- C. Insurance. The School District shall procure insurance coverage for loss or damage to the Equipment during the Term of this Agreement and shall include MVESC as an additional insured. A certificate of such insurance coverage shall be provided to MVESC upon request.
- D. Redundancies. MVESC cannot, and expressly does not, guarantee the availability of replacement or substitute equipment if the Equipment requires maintenance, repairs, or is otherwise unavailable for the School District's use. As a result, the School District warrants and represents it will maintain adequate redundancies and alternatives for the provision of required student services for which it is obligated to provide.
- E. Permitted and Intended Uses. The School District's use of the Equipment shall at all times comply with all applicable laws, regulations, and policies, and the terms and conditions of this Agreement. The Parties expressly agree the Equipment will be used only for the provision of telehealth and related health care services to students of the School District. These shall include, but are in no way limited to, assessments, consultations, and/or therapy sessions. The School District shall be solely responsible for procuring and entering into service agreements with approved health care provider(s) to provide the telehealth services. This Agreement is expressly conditioned on, and subject to, the School District entering such an agreement. The School District shall provide MVESC with a copy of its fully executed provider agreement within thirty (30) days of execution of this Agreement. If the School District fails to enter such an agreement within thirty (30) days of execution of this Agreement, this Agreement shall be null and void. To the extent the School District already

obtains student services from MVESC, this Agreement shall be in addition to, and shall not modify or supersede such prior service agreements.

- F. Data and Usage Reporting. The School District shall make regular use of the Equipment for the Permitted and Intended Uses. To this end, the School District shall make monthly reports to MVESC of the number and types of appointments and services provided via the Equipment. The School District shall further provide any data to MVESC regarding the usage of the Equipment and/or the outcomes of such use as MVESC may request from time to time to assist in evaluating the effectiveness of the program. The School District agrees it will work with MVESC in the development of a data sharing protocol, which shall include regular reporting of deidentified and aggregate student and operational data. All data sharing shall be in accordance with applicable laws and regulations and Section 4 of this Agreement.

4. Records and Confidentiality.

- A. Record Keeping. The School District shall be solely responsible for maintaining any and all required records related to the services and treatment provided to its students using the Equipment. The School District shall establish and maintain for at least six (6) years after the last day of the Term of this Agreement or earlier termination of this Agreement its records regarding this Agreement, including, but not limited to, financial reports, and all other information pertaining to the School District's performance of its obligations under this Agreement. The School District also agrees that any records required by MVESC with respect to any questioned costs, audit disallowances, litigation, or dispute between MVESC and School District shall be maintained for the time needed for the resolution of such question or dispute. At any time during normal business hours and upon not less than twenty-four (24) hours prior written notice, the School District shall make available to MVESC, its agents or other appropriate State agencies or officials all books and records regarding this Agreement which are in the possession or control of School District, including, but not limited to, financial reports, and all other information pertaining to the School District's performance of its obligations under this Agreement. MVESC, its agents and other appropriate State agencies and officials may review, audit, and make copies of such books and records. Any such inspection of books and records will be undertaken in such a manner that is consistent with state and federal law, and so as not to interfere unreasonably with the School District's normal business operations.
- B. Family Educational Rights and Privacy Act. MVESC and the School District shall comply with all applicable provisions of Ohio and federal laws including the Family Educational Rights and Privacy Act (hereinafter "FERPA") or its state equivalent. FERPA includes all requirements of Chapter 99 of Title 34 of the Code of Federal Regulations. Nothing in this Agreement shall be construed to allow either Party to maintain, use, disclose, or share student information in a manner not allowed by either state or federal laws or regulations. Each Party shall only use confidential information for purposes of completing the terms of this Agreement as set forth herein. Each Party agrees to use reasonable efforts to safeguard confidential information. No Party shall, without the prior written approval of the other Party, directly or indirectly, disclose confidential information to any person or business

entity except its own employees and representatives, including attorneys, accountants, and financial advisors, on a need-to-know basis. If either MVESC or the School District experiences any breach of data security that exposes confidential information, that Party shall bear all costs to notify every individual whose confidential information may have been compromised.

- C. Health Insurance Portability and Accountability Act. MVESC and the School District shall comply with all applicable provisions of Ohio and federal laws including the Health Insurance Portability and Accountability Act (hereinafter “HIPAA”) or its state equivalent. HIPAA includes any amendments or other relevant provisions of federal law, as well as all requirements of Chapters 160 through 164 of Title 45 of the Code of Federal Regulations. Nothing in this Agreement shall be construed to allow either Party to maintain, use, disclose, or share protected health information (“PHI”) in a manner not allowed by either state or federal laws or regulations. As used herein, PHI means individually identifiable information including but not limited to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual, as more fully defined under 45 CFR 164.501 and any amendments thereto. Each Party shall use PHI only for the terms of this Agreement as set forth herein. Each Party agrees to use reasonable efforts to safeguard PHI and shall conform with the Privacy and Security requirements under 45 CFR 165 and 45 CFR 164 to protect the data. If either MVESC or the School District experiences any breach of data security that exposes confidential information, that Party shall bear all costs to notify every individual whose confidential information may have been compromised.
- D. Provision of Secure and Confidential Environment. Consistent with its obligations under FERPA, HIPAA, and any applicable state equivalents, the School District agrees to provide a secure and private space in which students will be able to receive telehealth services within the school building(s).
- E. Parental Consent and Waiver. Wherever necessary under this Agreement, or as required by applicable law, regulation, or policy, the School District shall be responsible for obtaining all required consent from either a parent or eligible student. This shall include, but is in no way limited to, obtaining necessary treatment consent for the provision of telehealth services. The School District shall further obtain all required consent to enable it to share data and information with MVESC as agreed herein.
- F. Cooperation. The Parties shall cooperate with one another as necessary for both parties to fully comply with FERPA, HIPAA, their state counterparts, and all rules and regulations thereunder, including without limitation, the execution and delivery of Business Associate Agreements, or any other documentation either party determines is necessary for such compliance. In the event that the parties are unable to agree upon a compliance issue or either party is unable or unwilling to execute any document which the other party deems necessary for compliance, then either party shall have the right to terminate this Agreement upon thirty (30) days’ prior written notice.

- G. No Third-Party Beneficiaries. This Agreement is intended for the benefit of the Parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person. By way of example and not limitation, either Party's compliance with FERPA, HIPAA, and/or any state equivalent shall not create any right or benefit, or inure to the benefit of any third-party such that this Agreement may be enforced by said person(s).

5. Employee Training.

- A. Training. All School District employees who will be responsible for, and/or assist with, the administration of telehealth services using the Equipment shall be required to undergo training to be prescribed by MVESC. MVESC will coordinate and provide all required training at no cost to the School District. Training topics will include, but are not necessarily limited to, all aspects of operating the Equipment and how to assist students with receiving telehealth services. Upon execution of this Agreement, the School District shall provide MVESC with a list of School District employees who will be responsible for the administration of, and/or will assist with, telehealth services within the School District.
- B. Employment Status. MVESC and the School District are independent contractors, and neither Party nor any of its employees, agents or representatives are or shall be deemed to be employees or agents of the other Party for any purpose whatsoever (including without limitation, participation in any employee benefit programs, or for the purpose of tax withholding, retirement benefits, unemployment compensation benefits or worker's compensation benefits), and nothing contained herein shall be deemed to constitute a contract of employment. But for the training set forth in this Section, and the limitation on permitted uses of the Equipment in Section 3, paragraph E, MVESC has no control over the manner or method by which the School District meets its obligations under this Agreement; it being understood, however, that the School District shall do so in a manner in accordance with all applicable laws and regulations and otherwise in compliance with this Agreement.

6. Billing and Costs.

Both Parties agree this Agreement constitutes a voluntary collaboration between the Parties and except as other identified herein, MVESC is supporting the School District's school-based health care program at no cost to the School District and any costs associated with the work performed hereunder is at each Party's expense. Notwithstanding the foregoing, this provision is not intended to foreclose either Party, or any provider of services, from seeking appropriate compensation provided through insurance or Medicaid programs for the participating students.

7. Waiver of Warranties and Liabilities.

- A. NO WARRANTIES. THE GOODS AND/OR SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE EQUIPMENT, ARE PROVIDED "AS IS." MVESC MAKES NO EXPRESS OR IMPLIED WARRANTY AS

TO SUCH GOODS AND SERVICES, INCLUDING AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

- B. LIMITATION OF LIABILITY. NEITHER MVESC NOR ITS AGENTS, EMPLOYEES, OR OFFICERS SHALL BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ATTRIBUTED TO THE GOODS AND/OR SERVICES PROVIDED HEREIN.

8. Miscellaneous Provisions.

- A. Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.
- B. Forum and Venue. All actions regarding this Agreement shall be filed in a court of competent subject matter jurisdiction in Muskingum County, Ohio.
- C. Entire Agreement. This Agreement, including its exhibits, appendices and any other documents referred to herein, constitute the complete understanding of the Parties and merge and supersede all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter hereof. Agreement is not intended to modify the systemic responsibilities or authority delegated to the Parties within their organizations or under law and is not intended to override or amend any unrelated agreement the Parties may already have.
- D. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.
- E. Amendments or Modifications. Either Party may at any time during the term of this Agreement request amendments or modifications. Requests for an amendment or modification of this Agreement shall be in writing and shall specify the requested changes and the justification for such changes. Should the Parties consent to modify the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement. The amendment must be signed by both Parties to be effective.
- F. Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.
- G. Notices. Any notice or communication required or permitted to be made by one Party to the other under this Agreement shall be deemed to have been given if delivered by hand, facsimile, certified mail, or electronic mail if provided to the contact information provided on the signature page hereof.

H. Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by School District without the prior express written consent of MVEESC.

I. Electronic Signatures. Copies of signatures sent by facsimile transmission or provided electronically in portable document format (“PDF”) shall be deemed to be originals for purposes of execution and proof of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the last date set forth below.

**MUSKINGUM VALLEY
EDUCATIONAL SERVICE CENTER
GOVERNING BOARD**

**COSHOCTON CITY
SCHOOL DISTRICT
BOARD OF EDUCATION**

By: _____
[NAME]

By: _____
Dr. Jere Butcher, President

Its: _____

Its: _____

Date: _____

Date: _____

Provide notices to:

Provide notices to:

[NAME]
[ADDRESS]
[EMAIL]
[FAX]

Dr. Dave Hire, Superintendent
1207 Cambridge Road
Coshocton, OH 43812
Dave.hire@coshoctoncityschools.com
(740) 623-5803

EXHIBIT A

Itemized Inventory of Telehealth Equipment

Will be completed by MVEESC following RFP award and final purchase order