AND WATERTOWN PUBLIC SCHOOLS
SETTLEMENT AGREEMENT

This Agreement is made as of this 31st day of October, 2021, by and between and ("Parents"), individually and on behalf of their minor son, ("Student") and the Watertown Public Schools ("Watertown") (all of whom are hereinafter sometimes collectively referred to as the "Parties"), in full and final settlement of any and all claims that the Parties have asserted or could assert against one another, up to and including the date of execution of this Agreement, concerning the provision of special education and related services for Student.

WHEREAS Watertown has the responsibility of arranging the provision of special education and related services for Student;

WHEREAS disagreements arose between the Parties concerning the appropriateness of the programs of special education that Watertown proposed for Student for the 2021-2022 school year;

WHEREAS Student has been unilaterally placed by Parents in an out-of-district private day placement at the School (" ") in Massachusetts; and

WHEREAS the Parties desire to resolve their disagreements expeditiously, economically, and without the time, cost, and uncertainty of litigation;

NOW THEREFORE, in consideration of the settlement of this matter, and in consideration of the mutual covenants and promises contained herein, the adequacy of which consideration is hereby acknowledged, the Parties agree as follows:

1. This Agreement covers two (2) school years, specifically the 2021-2022 and 2022-2023 school years ("term of the Agreement"), from July 1, 2021 through June 30, 2023.

2. During the term of the Agreement Watertown will contribute partial funding for Student's out-of-district day placement at in the amounts set forth herein.

    a. Watertown agrees to fund seventy percent (70%) of the Student's day tuition at the rate set by the Massachusetts Operational Services Division ("OSD") for the 2021-2022 school year. The Parties agree that the OSD day tuition rate for for the 2021-2022 school year is Fifty-Eight Thousand Eight Hundred and Ninety-Seven Dollars and Ninety Cents ($58,897.90) and that 70% of that amount is Forty-One Thousand Two Hundred and Twenty-Eight Dollars and Fifty-Three Cents ($41,228.53). Watertown agrees to pay such tuition directly to pursuant to terms agreed upon by Watertown and

b. Watertown shall fund one hundred percent (100%) of Student's tuition at ɔr the 2022-2023 school year for a day placement, at the applicable day tuition rate established by the OSD for such school year. Watertown agrees to pay such tuition directly to pursuant to terms agreed upon by Watertown and

c. During the term of this Agreement, Watertown will not provide any transportation services to Student while he attends and will not identify, arrange for, fund, or reimburse for transportation to and from his home in Watertown and

d. Parents shall be responsible for all other tuition expenses or other costs associated with Student's attendance at during the term of this Agreement, including transportation costs, summer services, extended school year services, evaluations, incidental expenses, and extracurricular activities. Parents waive any claim against Watertown for suspension, cessation, or variation of educational services due to COVID-19 while the Student attends Landmark during the term of this Agreement.

e. The payment arrangements specified in Paragraphs 2(a)-(b) above reflect the Parties' intent to share the overall cost of the day public tuition established by OSD for each of the 2021-2022 and 2022-2023 school years on an eighty-five percent/fifteen percent (85%-15%) basis, with Watertown paying the larger share. Should Watertown cease to be financially responsible for the Student's education at prior to June 30, 2023, or should the Student cease to attend for any reason prior to June 30, 2023, or should this Agreement terminate prior to June 30, 2023 pursuant to the provisions of Paragraph 13 of this Agreement, then the Parties shall calculate the total cost of the Student's tuition from the beginning of the 2021-2022 school year through the date on which Watertown's financial responsibility ceased or the Student's enrollment at eased or the Agreement terminated pursuant to Paragraph 13 (collectively, the "Termination Date"), and each party shall provide the other with an accounting and documentation of all tuition costs paid by that party tc ɑinus any refunds of such tuition received or expected from , from the beginning of the 2021-2022 school year through the Termination Date. If, after subtracting any refunds of such tuition received or expected from one party has paid more than its percentage share of such tuition for such period, then the party who has paid less than its share shall, within sixty (60) days of the Termination Date, reimburse the other party by issuing a check to that party in the amount necessary to make up the difference.

3. Parents acknowledge and agree that, subject to and conditioned on Watertown's compliance with its obligations under this Agreement, Student shall not have any

"stay put" right to continued placement at from and after the end of the 2022-2023 school year (June 30, 2023); provided, however, that in the event of a disagreement between the Parties as to any program or placement proposed by Watertown for the summer of 2023 and/or for the 2023-2024 school year, nothing contained in this Agreement shall prevent the Parents from placing Student in a private program (including, but not limited to, unilaterally at their own expense and seeking full reimbursement pursuant to a hearing request filed on or after July 1, 2024.

4. The Parents agree that Watertown is not responsible for providing Student with any educational services while he attends during the term of this Agreement, including any remote educational services or other instruction, resources, or supports arising from the COVID-19 school closure or any other mandated school closure. The Parents hold Watertown harmless for any compensatory or reimbursement claims arising from any mandated school closure, hybrid model, remote learning model or other learning models while the Student attends during the term of this Agreement.

5. Parents agree that if Student initiates any legal proceedings seeking to invalidate or set aside any portion of this Agreement, for any reason, Parents shall hold Watertown harmless and shall defend with competent and qualified counsel of Watertown's choosing, and indemnify Watertown for any liability, judgment, reasonable legal fees or other costs or expenses arising from such legal proceedings pertaining to the program participation and services set forth in this Agreement.

6. During the term of this Agreement, Watertown shall have the right to monitor Student's progress a through observations at reasonable intervals and on reasonable notice, review of periodic progress reports, and conversations with a representative of staff knowledgeable about Student's progress and performance, without the necessity of written consent by Parents. Watertown agrees to provide the Parents, within ten (10) days following any such observation or communication, with copies of any and all documentation (including but not limited to, reports, notes, or memoranda) that Watertown or its agents, contractors, or employees may generate as a result of any such observation or communication, except for documents generated in connection with reevaluation specified in Paragraph 9 of this Agreement, which documents shall be produced in accordance with that paragraph.

7. Watertown, in consultation with shall develop an administrative IEP and placement consent form for the 2021-2022 school year reflecting the services and accommodations to be provided by and designating the day program as Student's placement. Watertown shall send such placement consent form to the Parents within ten (10) days following full execution of this Agreement. The 2021-2022 IEP shall be developed by Watertown, with input sought from and sent to the Parents no later than November 30, 2021.

The Parents acknowledge and agree that they accept the placement and will return the signed 2021-2022 placement page and signed IEP response page to Watertown within five (5) days of receipt of each such document, subject to accuracy and on the condition that the IEP and placement are consistent with this Agreement. The 2022-2023 IEP shall be developed by Watertown, with input sought from nd sent to the Parents no later than May 31, 2022. Except as described in Paragraphs 8, 9, and 10 of this Agreement, Parents agree to waive Team meetings and evaluations by Watertown during the term of this Agreement.

8. In the event that Student's enrollment a is terminated for any reason, or the Parents reasonably believe that such enrollment is likely to be terminated, prior to June 30, 2023, then the Parents shall immediately so notify Watertown. Watertown, on receipt of such notice, shall have the right and responsibility to convene a Team immediately to develop an IEP and propose a placement for Student. Subject to and conditioned on Watertown's compliance with its obligations under this Agreement, placement pending appeal shall be the placement proposed by Watertown; provided, however, that in the event of a disagreement between the Parties as to any program or placement proposed by Watertown pursuant to this paragraph, nothing contained herein shall prevent the Parents from placing Student in a private program unilaterally at their own expense and seeking full reimbursement from Watertown.

9. In order to ensure the orderly development of an IEP for the period immediately following the expiration of this Agreement, Watertown shall have the opportunity to conduct an evaluation of the Student during the spring of 2023. Any such evaluation shall be preceded by proper notice to the Parents, specifying the types of assessments Watertown proposes to conduct. The Parents retain the right, in response to such notice, to give or refuse consent to particular assessments, provided, however, that such consent shall not be unreasonably withheld. Parents agree to make Student available for these assessments in Watertown (unless COVID makes in-person testing unsafe) and to provide information reasonably required to complete this testing. Watertown agrees to provide the Parents with copies of its evaluation reports at least two (2) school days prior to any Team meeting held to discuss such reports. The Parents retain all rights they may have to seek independent evaluations at Watertown's expense in response to any evaluation conducted pursuant to this paragraph.

10. On or before April 30, 2023, Watertown shall convene a Team to review Watertown's evaluation reports, develop an IEP, and identify a placement for the 2023-2024 school year and, if applicable, the summer of 2023. Watertown shall provide the Parents with a copy of the proposed IEP and Team Determination of Placement developed at said meeting within ten (10) calendar days following such meeting. The Parents agree that they shall respond to said IEP within thirty (30) calendar days of receipt and that their failure to respond within this timeframe shall constitute a rejection of the proposed IEP and placement. A failure by

Watertown to strictly comply with these obligations shall not void the placement pending appeal status described herein.

11. This Agreement shall not constitute an admission by Watertown that the services previously proposed or implemented for Student were in any way inappropriate or inadequate or that Student's rights have been violated in any manner. Similarly, this Agreement does not constitute an admission by the Parents that the services previously proposed or implemented by Watertown for Student were appropriate or adequate. The Parties enter into this Agreement for settlement purposes only. The Parents stipulate that is wholly of their own selection; that Watertown has not represented anything to them in relation to the merits of said placement; and that they relied solely on their own evaluation of the placement to determine its appropriateness.

12. Watertown agrees to fund the above-described portions of Student's tuition at during the term of this Agreement, so long as (a) Student continues to reside within the Town of Watertown, except as otherwise provided by M.G.L. c. 71B, § 5, and (b) Student is and continues to be accepted at participates in his educational program, and otherwise remains a student in good standing at Watertown shall not have any obligation to fund any portion of Student's placement at : for any period which he is not in actual attendance or participating in the program, except for closures and/or remote learning due to COVID-19 or any other force majeure (including, but not limited to, acts of God, epidemics, pandemics, quarantine, civil disorder, federal, state, or local regulations, and any other circumstances beyond the Parties' control) and except for absences because of illness or otherwise in accordance with the : policy of excused absences. Parents further agree to notify the Director of Student Services, in writing, within five (5) school days of relocation, should they move from their current residence.

13. This Agreement is specifically conditioned upon the following events to occur after its execution by the Parties, and unless these conditions continue to be met, this Agreement shall terminate:

    a. must either continue to be approved by the Department of Elementary and Secondary Education ("DESE") to provide special education and related services to publicly funded students pursuant to 603 CMR 28.09 or be approved as a sole source provider for Student pursuant to 603 CMR 28.06(3)(e) or any successor regulation through June 30, 2023. In the event that the filing of notices or other documentation is required in order to obtain approval of as a sole source placement for Student pursuant to 603 CMR 28.06(3)(e) or any successor regulation, Watertown agrees to take all steps required in connection therewith, including but not limited to preparation of all necessary documentation and submission of such documentation to the appropriate agency; and

b. must have a provisional or final rate set and approved by the OSD, or be approved as a sole source placement for Student, throughout the term of this Agreement.

c. In the event that ceases to be approved by the DESE and/or ceases either to have a provisional or final rate set and approved by OSD or to be approved as a sole source placement for Student, Watertown shall give the Parents at least sixty (60) days' advance written notice of its intent to terminate the Agreement; shall afford a reasonable opportunity (not less than 60 days) to regain its DESE approval and/or to have a provisional or final rate set and approved by OSD; and shall cooperate in the sole source process as set forth in the preceding subparagraph 13(a). In the event that this Agreement is terminated pursuant to this Paragraph 13, the provisions of Paragraphs 2(e) and 8 shall apply and Watertown shall immediately convene a Team to propose a program and placement for Student.

14. On full execution of this Agreement, the Parties agree and acknowledge that any claims which either party could have brought against the other before the Bureau of Special Education Appeals and/or the DESE concerning the provision of special education and related services for Student up to the date of execution of this Agreement are forever waived and dismissed, with prejudice.

15. Except as provided in this Agreement, and except to enforce the terms and conditions of this Agreement, the Parties hereby remise, release and forever discharge each other, including their respective officials, employees, agents, attorneys, and contractors, from all debts, demands, actions, causes of actions, suits, liabilities and any and all claims of any kind, nature, and description, whether substantive or procedural, both in law and in equity which they have asserted, or might assert against each other, including the other party's officials, employees, agents, attorneys, and/or contractors, arising out of, or relating to Student's enrollment and/or participation as a student at the Watertown Public Schools, including but not limited to the provision of education, special education and related services to Student, from the beginning of the world to the date of full execution of this Agreement. The Parties expressly waive any claim to reimbursement for any attorneys' fees prior to the date of execution of this Agreement. The Parents expressly waive any claims for compensatory services for any events prior to the date of execution of this Agreement.

16. By signing this Agreement, each party acknowledges that the party has been afforded ample opportunity to review this Agreement with advisors of the party's choice; that the party has read and understood the Agreement; and that the party has signed this Agreement freely and voluntarily, without any further inducements or promises except as set forth herein. More particularly, and without limiting the generality of the foregoing, the Parties understand and acknowledge that they are

waiving specific rights which may accrue to them pursuant to M.G.L. c. 30A (the Administrative Procedure Act) and c. 71B ("Chapter 766"), 20 U.S.C. §§ 1400 *et seq.* ("IDEA"), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act ("ADA"), up to the date of execution of this Agreement. Parents further acknowledge that they are waiving on their own behalf or on behalf of Student certain rights which have accrued to date to them as parents and to Student as a minor child eligible for special education services pursuant to 20 U.S.C. § 1415 *et seq.*, 29 U.S.C. § 794, M.G.L. c. 71B, and M.G.L. c. 76, § 5, and any other state or federal law relating to the rights of individuals with disabilities.

17. This Agreement may be amended or modified only by a writing signed by all Parties. This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, successors, and assigns.

18. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, all of the remaining portions of this Agreement shall nevertheless remain in full force and effect.

19. This Agreement is the entire Agreement between the Parents and Watertown, and is intended to take effect as a sealed instrument upon execution by both parties. The Parties agree that a photocopy of this executed agreement shall have the same binding effect as an original. This Agreement may be executed in counterparts.

20. The Parents and Watertown will maintain the confidentiality of this settlement and the specific and general terms thereof and agree to keep confidential the terms and conditions of this Agreement. Parents may disclose the terms of this Agreement to personnel; to their legal, educational, and financial advisors and accountants; and to immediate family members. In response to any inquiries about the dispute, the Parties and their attorneys shall simply state that the Parties reached a mutually agreeable resolution. This provision does not prevent the Parents or Student from acknowledging that Student attends The Parties may also release copies of this Agreement to comply with the requirements of federal, state or local law or in response to a valid subpoena or the orders of a court or administrative body. The Parties will not disseminate information about the terms of this settlement agreement via the internet, spedpac sites, blogs or social media sites.

21.) and hereby warrant that they are the parents and legal guardians of , with full power and authority to sign this Agreement on his behalf as well as their own.

22. Watertown hereby warrants that its undersigned representative has full power and authority to sign this Agreement on its behalf.

23. This Agreement shall be effective as a sealed instrument, and shall be governed by and construed under the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above. Due to the COVID pandemic, they have executed this Agreement electronically.

Kathleen Desmarais,
Director of Student Services
Watertown Public Schools

11/1/2021
Date

_____, Individually
and as Parent and Legal Guardian
on behalf of

10/31/21
Date

_____, Individually
and as Parent and Legal Guardian
on behalf of

10/31/21
Date