

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is between **Frugé Psychological Associates, Inc.**, 1300 Clay Street, Suite 600, Oakland, CA 94612 ("Contractor") and **Making Waves Academy Schools**, 4123 Lakeside Drive, Richmond, CA, 94806 ("**MWA**") (collectively, the "**Parties**").

1. Contractor's Services

- a. Contractor agrees to perform the services ("Services") as described in Exhibit A attached, incorporated by reference and made a part of this Agreement, as it may be amended in writing occasionally by the Parties, provided that any amendment is signed by Contractor and a duly authorized representative of MWA.
- b. Contractor may, at Contractor's expense, use employees or other subcontractors to perform the Services under this agreement.
- c. Consistent with this requirement, Contractor may represent, perform services for, or be employed by such additional persons or companies as Contractor sees fit, except to the extent doing so causes Contractor to breach Contractor's obligations under this Agreement or creates a conflict of interest.

2. Fees and Billing

- a. **Specific Services** - agrees to pay Contractor an annual retainer fee for Specific Services as identified in Exhibit A. Clinical Psychology Services shall be paid in 12 equal monthly installments July 1, 2022 - June 1, 2023. Contractor will invoice MWAS on or around the first day of each month for the Clinical Psychology Services. Program Evaluation Services shall be billed in two installments, July 1, 2022 and January 1, 2023. Invoiced amounts are due within fifteen (15) days of receipt of the invoice.
- b. **Additional Services** – **MWA** agrees to pay Contractor for Additional Services as identified in Exhibit A. Contractor will invoice MWA on or around the first day of each month for the Additional Services provided during the preceding month. Invoiced amounts are due within fifteen (15) days of receipt of the invoice.

3. Expenses

MWA agrees to reimburse Contractor for all expenses reasonably incurred in performing the Services upon production of supporting receipts and documentation.

4. Term of Agreement

- a. This Agreement will become effective as of the date of the last signature. Contractor services will commence on July 1, 2022. Either party may terminate this Agreement by giving thirty (30) days written notice to the other party under the notice provisions set forth below.
- b. Upon termination of this Agreement, Contractor will be entitled to payment for Services completed prior to the termination date and reimbursement for expenses incurred prior to the termination date. Thereafter, the Parties will owe each other no further amounts or obligations.

5. Default

If either party fails to perform this Agreement or materially breaches any of its provisions, the non-breaching party may terminate this Agreement by notifying the breaching party. Termination will be effective immediately on receipt of the written notification by the breaching party, or five (5) days after mailing of the notice to the address in the notice provisions below, whichever occurs first. For this section, material breach of this Agreement will include, but not be limited to, MWAS failure to pay for Contractor's Services as agreed within (fifteen) 15 days after receipt of Contractor's written demand for payment under the notice provisions set forth below.

6. Relationship of the Parties

- a. Contractor enters this agreement as, and will continue to be, an independent contractor. In no circumstance will Contractor look to MWA as its employer, partner, agent, or principal. Neither Contractor nor any employee of Contractor (which for purposes of this Paragraph will be included in the term "Contractor") will be entitled to any benefits accorded to MWA's employee's, including workers' compensation, disability insurance, retirement plans, or vacation or sick pay. Contractor's exclusion from benefit programs maintained by MWA is a material component of the terms of compensation negotiated by the Parties, and is not premised on Contractor's status as a non-employee. Contractor also agrees that, consistent with Contractor's independent contractor status, Contractor will not apply for any government-sponsored benefits intended to apply to employees, including, but not limited to, unemployment benefits.
- b. Contractor will provide, at Contractor's expense and in Contractor's name, disability, workers' compensation, or other insurance and licenses and permits usual or necessary for performing the Services. Contractor will pay, when and as due, all taxes incurred as a result of Contractor's compensation, including estimated taxes and payroll taxes, and will

provide MWA with proof of payment on demand. Contractor indemnifies MWA for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by MWA arising from Contractor's breach of the provisions of this Paragraph.

- c. Contractor and MWA will provide to each other upon request any information reasonably necessary to determine their obligations under this Agreement, to fulfill the purposes of the Services, or to maintain accurate records.

7. Place of Work

Contractor understands that the Services must coordinate with MWA's established protocols and security requirements. Contractor services will be provided at mutually agreed to locations. MWA agrees to provide sufficient, appropriate and exclusive facilities for performance of Contractor's services.

8. Contractor's Representations and Indemnities

- a. Contractor represents that it has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of MWA. Services will be performed in a professional manner. Failure to do so will constitute a material breach of this Agreement. Contractor will be solely responsible for the professional performance of the Services and will receive no assistance, direction, or control from MWA. Contractor will have sole discretion and control of Contractor's services and how they are to be performed.
- b. Contractor will and does indemnify, defend, and hold harmless MWA, and its's officers, directors, employees and shareholders, against all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorney fees and costs, that MWA may incur or suffer and that result from, or are related to, any breach or failure of Contractor to perform any of the representations, warranties, and agreements in this Agreement.

9. Confidential Information

- a. "Confidential Information" means all confidential and/or proprietary information pertaining in any manner to the business of MWA and Contractor, unless:
 - (i) the information is or becomes publicly known through lawful means;
 - (ii) the information was part of each party's general knowledge prior to Contractor's relationship with MWA; or
 - (iii) the information is disclosed to the Parties without restriction by a third party who rightfully possesses the information and did not learn of it from the Parties. This definition includes, but is not limited to, information on the Parties' employees, agents, or divisions. The written, printed, graphic,

or electronically recorded materials furnished by either party for use by the other are proprietary information and property of the furnishing party.

- b. The Parties will maintain in confidence and will not, directly or indirectly, disclose or use, either during or after the term of this Agreement, any proprietary information, confidential information, or know-how belonging to the other party, whether or not it is in written or permanent form, except to the extent to perform the Services. MWA acknowledges that the information, training, methodology and tools provided by Contractor is confidential and that MWA has a duty to protect Contractor's stated confidential information. On termination of Contractor's services, or at the request of the Parties before termination, each party will deliver to the other all material in its possession, custody or control relating to Parties' business, including confidential information. The obligations on non-disclosure of confidential information extend to information belonging to customers and suppliers of either party about whom the other party may have gained knowledge as a result of performing the Services.
- c. Nothing in this Paragraph 9 should limit any remedy of the Parties under the California Uniform Trade Secrets Act (California Civil Code Section 3426), or otherwise available under law.

10. Arbitration

All disputes between Contractor, including any employees of Contractor, and MWA relating to this Agreement or the Services to be performed under this Agreement (including, but not limited to, claims for breach of contract, tort, discrimination, harassment, and any violation law) ("Arbitrable Claims") will be resolved by arbitration before a neutral arbitrator. The arbitrator will be selected and the arbitration hearing conducted under the Commercial Arbitration Rules of the American Arbitration Association and will take place in Richmond, California, unless otherwise agreed by the Parties. Arbitration will be final and binding upon the Parties and will be the exclusive remedy for all claims covered by this arbitration provision. Either party may sue in court to compel arbitration under this Agreement, to enforce an arbitration award or to obtain temporary injunctive relief pending a judgement based on the arbitration award. Otherwise, neither party will initiate or prosecute any lawsuit, or administrative action, related to any Arbitrable Claim. The California Arbitration Act will govern the interpretation and enforcement of this Section. If any court or arbitrator finds that any term makes this Arbitration Section unenforceable for any reason, the court or arbitrator will have the power to modify such term (or if necessary delete such term) to the minimum extent to make this Arbitration Section enforceable to the fullest extent permitted by law.

THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRIAL BY JURY IN REGARD TO ARBITRABLE CLAIMS, INCLUDING WITHOUT LIMITATION TO ANY RIGHT TO TRIAL BY JURY AS TO

THE MAKING, EXISTENCE, VALIDITY OR ENFORCEABILITY OF THE AGREEMENT TO ARBITRATE

11. Miscellaneous Provisions

- a. Entire Agreement. The terms are intended by the Parties to be the final expression of their agreement regarding subject of this Agreement and may not be contradicted by evidence of any prior or contemporaneous agreement, except as set forth in this Agreement. The Parties further intend this Agreement will constitute the complete and exclusive statement of its terms and that no extrinsic evidence may be introduced in any judicial, administrative, or other legal proceeding involving this Agreement.
- b. Amendments. This Agreement will not be varied, altered, modified, changed or amended except by an instrument in writing executed by Contractor and a duly authorized representative of MWA.
- c. Severability; Enforcement. If any provision, or the application thereof to any person, place, or circumstance, will be held by an arbitrator of a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances will remain in full force and effect, and such provision will be enforced to fullest extent consistent with applicable law.
- d. Governing Law. Except as otherwise provided, the validity, interpretation, enforceability, and performance of this Agreement will be governed by and construed under the laws of the State of California.
- e. Interpretation. This Agreement will be construed as a whole, according to its fair meaning, and not for or against any party. Captions are used for reference only and should be ignored in interpreting this Agreement.

12. Acknowledgement

The Parties acknowledge that:

- a. they have each consulted with independent counsel of their choice concerning this Agreement and have done so to the extent they deem necessary, and
- b. they each have read and understand the Agreement, fully know of its legal effect, and have entered it voluntarily and freely based on their own judgement and not on any promises of representations other than those contained in the Agreement.

MAKING WAVES ACADEMY

By _____
Alton B. Nelson, Chief Executive Officer
4123 Lakeside Drive
Richmond, CA 94806
510.262-1511
510.262-1518 fax

Date

FRUGÉ PSYCHOLOGICAL ASSOCIATES, INC.

By _____
Dr. Shawn L. Frugé, Chief Executive Officer
1300 Clay Street, Suite 600
Oakland, CA 94612
888.345.0934 Ext. 704
510.596.1735 fax

Date