

## **AMENDED AND RESTATED MANAGEMENT AGREEMENT**

THIS AMENDED AND RESTATED MANAGEMENT AGREEMENT ("Agreement") is entered into effective as of this 1st, day of July, 2023, by and between Forrester Education, LLC, an Ohio limited liability company (the "Company") and the Board of Directors (the "Board") for Orchard Park Academy (collectively referred to herein as the "School" or "Charter School"). Collectively, the Board and School operate as an Ohio not-for-profit entity.

### **W I T N E S S E T H:**

WHEREAS, the Charter School has received a charter (the "Charter" or "Sponsor Contract") from St. Aloysius (the "Authorizer" or "Sponsor") to organize and operate a non-profit charter school under Chapter 3314 of the Ohio Revised Code and, as defined in applicable federal, state and local laws.

WHEREAS, the Company utilizes the proprietary Forrester School Educational Plan which has been developed by the Company (the "Plan" or "Model"), and the Company has researched, developed and provides the requisite educational, managerial, financial and other consulting services necessary for the implementation of the Plan, which would not normally be available to the School from other sources;

WHEREAS, the Board desires the Company to provide such requisite management, educational, financial and other consulting services necessary to operate a public community school using the Forrester Model in accordance with the Charter and applicable laws and regulations; and

WHEREAS, the Company desires to provide the aforementioned services and other expertise referenced above with respect to the Plan.

NOW, THEREFORE, in consideration of their mutual promises and covenants, and intending to be legally bound hereby, the parties hereto agree as follows:

## **ARTICLE I. RESERVED**

## **ARTICLE II**

### **TERM**

The initial term of this Agreement shall commence on July 1, 2023, and shall continue for a term of eleven (11) academic years through June 30, 2034, unless terminated sooner pursuant to the terms herein. Thereafter, this agreement will automatically renew for additional terms equal to the Sponsor Contract renewal term unless one party notifies the other party at least six (6) months prior to the expiration of the then-current term of its intention not to renew this Agreement.

## **ARTICLE III**

### **MANAGEMENT SERVICES**

The Board shall govern the School and be responsible for its operation in accordance with the Sponsor Contract. In order to assist the Board and the School in carrying out the terms of the Sponsor Contract, the Board hereby contracts with the Company to provide the School and the

Board the Educational Program (as that term is defined in Section 3.01(b)) and the functions, equipment, supplies, facility management, services and labor relating to the provision of education, management and day-to-day operation of the School as set forth hereunder all in strict accordance with the terms and conditions of the Sponsor Contract and applicable laws and regulations and in keeping with the Statement of Mission and Purpose as defined under Exhibit A (attached hereto and incorporated by reference herein).

In accordance with the foregoing, and subject to the other terms of this Agreement, the Company shall provide the School with the EDUCATIONAL AND ADMINISTRATIVE goods and services set forth as follows:

### 3.01 Educational Services.

(a) For the Term (as defined in Article II above and in accordance with Exhibit B, (attached hereto and incorporated by reference herein), the Company will provide to the School and its students the following educational services (the "Educational Services"):

Curriculum. The development and implementation of the curriculum used at the School, including a license for the use of the Company's Forrester Curriculum and a loan of such lesson plan materials as the Company may provide in printed or other format for implementation of the Forrester Curriculum as set forth in the Sponsor Contract;

Instruction. Oversight and coordination of the services to be provided by instructional personnel, School Director and the rest of the School's Leadership Team and its teachers and support staff;

Instructional Tools. The selection of instructional tools, equipment and supplies, including text books, computers, software and multi-media teaching tools and such other tools as are appropriate and commonly used in public education;

Extra-Curricular and Co-Curricular Programs. The development and implementation of appropriate extra-curricular and co-curricular activities and programs which support the school's mission and goals and are budgeted during the annual budgeting process;

Additional Educational Services. Such other services as are necessary or expedient for the provision of teaching and learning at the School as may be agreed to in writing between the Company and the School.

(b) The Educational Services will be provided in accordance with the School's educational mission and goals, curriculum, methods of pupil assessment, admissions policy, student recruitment policy, school calendar, school day schedule and age and grade range of pupils to be enrolled at the School (collectively, the "Educational Program") as adopted by the Board of Directors of the School and as provided for in the Sponsor Contract;

(c) Subject to this Agreement, the Sponsor Contract, the Ohio Revised Code (the "Code"), the Company may modify the Educational Services, provided that any substantial modification of the Educational Services or change in the curriculum shall be subject to the prior approval of the Board of Directors and of any other person as may be specifically required by the Code or Sponsor Contract;

(d) The Company will be responsible and accountable to the School and the Board for the provision of the Educational Services, provided, that such obligations, duties and responsibilities are limited by the Budget established pursuant to Section 3.02(e) below, and the Company shall not and will not be required to expend funds on such services in excess of the amounts set forth in such Budget unless agreed to in writing by the parties or as otherwise set forth herein;

(e) Supplemental Programs Sponsored by Board. In addition to the educational services and administrative services provided by the Company to the School, the Board, may adopt and provide additional supplemental programs including, but not limited to, after-care programs, academic camps, and vocational training, to students and non-students of the School (the "supplemental programs"), provided that nothing herein shall require the Company to provide any such supplemental program. Company shall use its best efforts to implement such programs as adopted and funded by the Board. If the Company determines that such program is disadvantageous to the School or the Company is unable to implement such program then it shall report to the Board the specific reasons why such program cannot be implemented. The Board shall review such report and defer to the Company's reasonable recommendations regarding the Company's implementation of such program(s). However, the Board reserves the right to contract with third parties for implementation of supplemental programs, provided that said programs have been budgeted for or the Board has cash reserves available such that the funding of said programs will not prevent the Board from meeting its budgeted financial obligations. Company shall not be entitled to an additional fee from profits or any fees pursuant to supplemental programs provided by the Board and/or an outside party providing related services under this provision.

(f) Additional Programs Sponsored by Company: Company shall not be obligated to provide any goods or services that are not explicitly agreed to hereunder. The Board and the Company may decide that the Company may provide additional programs which are not inconsistent with the Sponsor Contract or state or federal law. Exhibit B hereto may be modified as needed to reflect the allocation of responsibility for the costs thereof.

3.02 Administrative Services. For the Term (as defined in Article 2 above), the Company will provide to the Charter School the following administrative services (the "Administrative Services"):

(a) Personnel Management. Management and professional development of all personnel providing Educational Services and Administrative Services;

(b) Facility Operation and Maintenance. Operation and maintenance of the Charter School's facility (the "Facility") to the extent consistent with any and all leases or other documents pertaining to the Facility;

(c) Business Administration. Administration of the following business aspects of the Charter School;

(i) Payroll. The Company will manage the payroll for Company's employees and contractors using ADP or such other suitable alternative payroll provider as the Company may select from time to time. The Company will be responsible for all data input. Company, with the assistance as may be required by the School, will provide: all necessary employee personal and salary information at the time of hire and/or dismissal; all employee time records shall be completed in a timely manner at the conclusion of each pay period.

(ii) Board Expenses. The Board of Directors shall bear all costs for and be responsible for remitting payment to all Board approved vendors. The Company is responsible for placing orders for those goods and services necessary to perform the educational and administrative services enumerated in this Agreement; providing invoices and competent documentation to the fiscal officer for payment; and complying with the Budget. The Board is responsible for those costs which do not contribute to the Company's performance of the educational and administrative services enumerated in this Agreement, including but not limited to: legal fees for representation of the Board, accounting, fiscal officer, School audit and tax preparation fees, Sponsor fees and any other miscellaneous expenses, costs and/or fees incurred by the Board and unrelated to the Company's obligations under this Agreement.

(iii) Transportation and Food Services. The Company will coordinate with entities with which the Charter School contracts for the provision of transportation and food services for the students enrolled at the Charter School, management and assessment of the services provided under such contracts, and supervision of employees involved providing such services, all as required by the Board.

(d) Public Relations. Coordination and assistance with any and all advertising, media and public relations efforts, including community outreach programs. All public relations will be subject to the mutual approval of both parties, which approval may not be unreasonably withheld;

(e) Budgeting and Financial Reporting.

1) On or before May 1<sup>st</sup> of each year, Company will prepare an annual budget using the same format as the current year's annual budget (unless a different format is required by the Code, the Sponsor or the Board) which will be subject to the approval of the Board, which approval will not be unreasonably withheld. The projected annual budget will include the financial details relating to the operation of the School, excluding those costs which are the responsibility of the Board. The fiscal officer will incorporate the annual budget prepared by Company into the final Charter School budget which shall be inclusive of Board expenses and operating costs (the "Budget").

2) Company will be responsible for the preparation of a detailed schedule of all expenses related to payroll and benefit costs, and the preparation of a detailed schedule of all orders placed and all invoices and receipts submitted for payment. The fiscal officer shall be responsible for the preparation of financial statements and for acting as liaison between the Board of Directors and the independent auditor. Invoices not submitted in accordance with standard operating procedures may cause a delay in invoice payments and/or reimbursements to the Company as described below in Section 5.03(g).

3) Company will prepare such schedules and analyses as requested by both the fiscal officer and/or independent auditor in the course of preparing and / or auditing the financial statements of the School.

4) Company will prepare such other reports on the operation of the School as requested or required by the Department of Education, the Board or the Authorizer to ensure compliance with the terms of the Charter.

5) Company will be responsible for the expenditure as well as detailed reporting and coding of all expenses associated with state and federal grants including monthly submission of all

expenses and reports for reimbursement and draws associated with each federal and state grant awarded to the School. Any expenditure or coding of expenses associated with state and federal grants shall be completed in accordance with the rules, regulations and purposes set forth for the state and federal grant programs.

(6) Company will provide other information on a periodic basis or as requested with reasonable notice as may be reasonably necessary to enable the Board to monitor the Company's performance under this and related agreements including the effectiveness and efficiency of its operations at the Charter School.

(f) Maintenance of Financial and Student Records.

1) Company will maintain accurate financial records pertaining to the Charter School, together with all Charter School financial records prepared by the Company and retain all such records for the periods set forth in the Board's Record Retention Policy. All the Charter School financial records retained by the Company pertaining to the Charter School will be available to the Charter School, the Authorizer, and to all other appropriate regulatory authorities for inspection and copying upon reasonable request, it being understood that in most cases such copies will be made available within thirty (30) days. Upon termination of this Agreement, such records will be delivered to the Board who shall thereafter be solely responsible for the retention and maintenance of such records (it being understood that such financial records are and shall be at all times the property of the Charter School).

2) Company will maintain accurate and complete student records pertaining to the students enrolled at the Charter School as is required and in the manner provided by the Charter, the Code and applicable laws and regulations, together with all additional Charter School student records prepared by or in the possession of the Company, and retain such records permanently on behalf of the Charter School, until this Agreement or its successor (if any) is terminated, at which time such records will be distributed as directed by the Charter School (it being understood that such student records are and shall be at all times the property of the Charter School). The Company and the Charter School will maintain the proper confidentiality of such records as required by law and the Charter.

3) Company will maintain accurate employment, business and other records pertaining to the operation of the Charter School as is required and in the manner provided by the Charter, the Code and applicable laws and regulations, together with all additional Charter School employment, business and other records prepared by or in the possession of the Company, and retain such records in accordance with the Board's Record Retention Policy on behalf of the Charter School until this Agreement or its successor agreement (if any) is terminated, at which time such records will be destroyed or distributed as directed by the Charter School as the case may be, (it being understood that such employment, business, and other records are and shall be at all times the property of the Charter School). The Company and the Charter School will maintain the proper confidentiality of such records as required by law and the Charter.

4) The Board shall be entitled at any time upon reasonable notice to the Company to audit the books and records of the Company pertaining to its operation of the Charter School pursuant to this Agreement (including, without limitation, the financial records relating thereto). This provision will only apply to the direct goods and services provided to the

Board and will not include the management fee as defined hereunder, except as is otherwise required by law or disclosures required for the School's annual audit.

5) In the event that the Company is notified of a litigation hold on any or all School records as a result of pending or anticipated litigation, the Company shall ensure that all records covered by such litigation hold are not discarded, deleted, or destroyed.

(g) Admissions. Implementation of the Charter School's admission and enrollment policies in accordance with the Charter, the Code, and applicable laws and regulations;

(h) Student Hearings. Administration and enforcement of student disciplinary and special education hearings in conformity with the requirements of the Code, the procedures established by the Board, and other applicable laws and regulations (including, but not limited to, requirements involving due process and confidentiality) to the extent consistent with the Charter School's duties and obligations under the Code and other applicable laws and regulations;

(i) Academic Progress Reports. Company will provide to the Board on an annual basis (or more often if necessary for the Board to satisfy its obligations under the Charter, the Code and other applicable laws and regulations) a report detailing (A) the Charter School's students' academic performance, and (B) the Company's performance of the Educational Services and Administrative Services;

(j) Rules and Procedures. Company will recommend rules, regulations and procedures applicable to the Charter School and its students and will enforce such rules, regulations and procedures adopted by the Board that are not in direct conflict with this Agreement, the Charter, the Code and other applicable laws and regulations; and

(k) Parent Satisfaction Forms. Upon a request by the Board, Company will provide to the Board copies of Parent Satisfaction Forms which have been completed by parents of Charter School students. In addition, summaries of Parent Satisfaction Forms will be promptly provided to the Charter School on an annual basis.

(l) Additional Administrative Services. Any other services reasonably necessary or expedient for the effective administration of the Charter School as agreed to in writing from time to time by the Company and the Board.

1) Subject to this Agreement, the Charter, the Code, other applicable laws and regulations, the Company may modify the methods, means and manner by which such Administrative Services are provided at any time, provided that any modification of the Administrative Services will be subject to the prior approval of the Board of Directors and of any other person as may be specifically required by the Sponsor Contract or the Code.

2) Company will be responsible and accountable to the Board for the provision of the Administrative Services, provided that such obligations, duties, and responsibilities are limited by the Budget established in Section 3.02 (e) above and the Company shall not and will not expend funds on such services in excess of the amounts set forth in such Budget without prior approval.

3.03 Place of Performance; Provision of Offices. The Charter School will provide the Company with necessary and reasonable classroom and office space at the Facility to perform all services described in this Agreement. The Company will provide instructional, extra-curricular and co-

curricular services at the Facility. The Company may provide other services elsewhere, unless prohibited by the Charter, the Code and other applicable laws and regulations.

3.04 Authority. The Charter School provides the Company the authority and power specifically set forth herein in order for the Company to undertake its responsibilities, duties and obligations provided for in this Agreement, except in cases wherein such authority may not be delegated under the provisions of the Code, any other applicable laws and regulations, or the Sponsor Contract.

## **ARTICLE IV**

### **RELATIONSHIP OF THE PARTIES**

#### 4.01 Status of the Parties.

(a) The Company is not a division of any part of the Charter School. The Charter School is an independent nonprofit corporation established under the Code and is not a division or a part of the Company. The relationship between the parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement and those of any other agreements that may exist from time to time between the parties. Nothing herein will be construed to create a partnership or joint venture by or between the Charter School and the Company. Neither the Charter School nor the Company will hold itself out as a partner of the other or otherwise state or imply by advertising or otherwise any relationship between it and the other in any manner contrary to the terms of this Agreement. Neither the Charter School nor the Company has, and neither will represent that it has the power to bind or legally obligate the other. Notwithstanding the foregoing, Company understands that is acting on behalf of the School; and has a contractual duty to act in good faith and adhere to the federal and state laws governing charter schools including ethics laws and conflict of interest, to the extent applicable to the Company.

(b) Company is an independent Educational Management Organization and limited liability company established under the Ohio Revised Code. The relationship between the parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement and full disclosure.

4.02 Company Attendance at Board Meetings. The Company shall receive notice from the Board of any regular, special, or executive session meeting of the Board. The Company shall have a representative available at all Board meetings for school reports. The Company shall have the right to have its Vice-President for Operations or his/her designee present at any such meeting, except during the Board's annual evaluation of the Company's performance under the Charter or during executive session.

4.03 No Related Parties or Common Control. The Company will not have any role or relationship with the Charter School that, in effect, substantially limits the Charter School's ability to exercise its rights, including cancellation rights, under this Agreement. The Board may not include any director, officer or employee of the Company. None of the voting power of the Board will be vested in the Company or its directors, members, managers, officers, shareholders and employees, and none of the voting power of the Board of Directors or Members of the Company will be vested in the Charter School or its directors, members, managers, officers, shareholders (if any) and employees. Furthermore, the Charter School and the Company will not be members of the same control group, as defined in Section 1.150-(f) of the regulations under the Internal Revenue Code of

1986 as amended (or its successor), or related persons, as defined in Section 144(a)(3) of the Internal Revenue Code of 1986 as amended (or its successor).

4.04 Other Schools. The parties acknowledge that this arrangement is not exclusive and that the Company will have the right to render similar services to other persons or entities including other public or private schools or institutions ("Other Schools"). The Company will maintain separate accounts for reimbursable expenses incurred on behalf of the Charter School and Other Schools and only charge the Charter School for expenses incurred or consideration earned on behalf of the Charter School. All grants or donations received by the Charter School, or by the Company for the specific benefit of the Charter School, will be maintained in separate accounts and used solely for the Charter School. If the Company incurs authorized reimbursable expenses on behalf of the Charter School and Other Schools which are incapable of precise allocation between the Charter School and Other Schools, then the Company will allocate such expenses among all such Other Schools and the Charter School on a *pro rata* basis based upon the number of students enrolled at the Charter School and the Other Schools, or upon such other equitable basis as it shall elect.

## **ARTICLE V**

### **CONSIDERATION**

#### 5.01 Compensation for Services.

(a) Management Fee. The School shall pay a monthly Management Fee to the Company of a fee of 18% of the School's Qualified Gross Revenues as defined herein (the "Management Fee"). The Management Fee is subject to an annual reconciliation based upon actual enrollment and actual revenue received (including the final month of the Term, even though the payment may be made beyond expiration or termination of the Term). In the event the School's Qualified Gross Revenues are adjusted after the expiration or termination of the Term, the School and the Company shall recalculate the Management Fee based on the adjusted Qualified Gross Revenue and the Company shall repay the School any portion of the Management Fee it received related to the excess of the originally calculated Qualified Gross Revenues. Additionally, should the School by way of FTE review of other audit or review by the state of Ohio or designee thereof be determined to owe back Qualified Gross Revenue, the Company agrees to contribute the Management Fee portion thereof.

- (i) Qualified Gross Revenues. Except as otherwise provided, "Qualified Gross Revenues" shall mean: (1) all revenue and funds of any kind received by the School, pursuant to Title 33 of the Ohio Revised Code, and/or pursuant to any other statute applicable to community schools as defined in the Ohio Revised Code; (2) all Title revenue received by the School pursuant to the Elementary and Secondary Education Act; and (3) Quality Community School Support Funds.
- (ii) Non-Qualified Gross Revenues. Qualified Gross Revenues does not include facilities funding from any source, student wellness and success funds, National School Lunch Program reimbursements, charitable contributions, proceeds from fundraisers, casino revenue, fees charged to students, PTA/PTO income, or Grant Revenue as defined herein ("Non-Qualified Gross Revenues"), which shall be retained 100% by the School and used consistently with the purpose and source of the funds.



- (iii) Grant Revenue. “Grant Revenue” shall mean, other than those funds received by the School pursuant to the Elementary and Secondary Education Act, all revenue received as a result of any application submitted by or on behalf of the School or any funding agreement reached by or on behalf of the School, including but not limited to National School Lunch Program, Medicaid, and other grants for facilities, professional development, transportation, or other needs of the School. Grant Revenue shall not be included in the School’s Qualified Gross Revenues. Notwithstanding the foregoing, the School may agree to pay the company a percentage of certain Grant Revenue that it receives as compensation for the Company writing or otherwise assisting with the application for the School to receive such Grant Revenue, in which case such portion of the Grant Revenue shall be considered a part of the Management Fee.
- (iv) New Revenue. In the event the School becomes eligible to receive revenue in the future from a source which is not currently available to the School and which is not specifically identified above, the parties agree to negotiate in good faith to determine whether and to what extent such revenue will be considered Qualified Gross Revenues.

(c) Reasonable Compensation. The Management Fee under this Agreement is reasonable compensation for services rendered. The Company's compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the operation of the Charter School. In the event that the Company’s Management Fee is determined to be an excess benefit transaction under the Internal Revenue Code, the parties agree that this Section 5.01 shall be deemed to be amended to avoid designation as an excess benefit transaction and the Company agrees to reimburse the Charter School for any liability, costs or expenses associated with such determination.

5.02 Payment of Costs. In addition to the Management Fee described in Section 5.01 above, the Charter School will reimburse the Company as described in Exhibit B for all costs incurred and paid by the Company in providing the Educational Services and Administrative Services, including all payroll-related expenses, provided such costs have either been approved as part of the Budget or have been separately approved by the Board (collectively, the “Reimbursed Expenses”). The Company shall not enter into agreements in the name of the Charter School. The Company shall present all vendor contracts to be made in the name of the Charter School to the Board for approval, which approval shall not be unreasonably withheld or delayed, so long as such contracts are within the Budget and the Company shall provide written explanation detailing cost comparisons for the selection of any vendor as required by law and as may be requested by the Board and shall disclose to the School any financial or ownership interests of the Company in any potential vendor. The Company will not charge an added fee to the Management Fee unless such fee is approved in advance by the Board. The Board shall have full responsibility to timely make payment, advance payment or reimbursement to the Company for all additional costs provided that the Company provides reasonable notice and documentation to the Board regarding same. The Company shall not be liable to any third party nor to the Board for loss, damages or disruption in services, arising from any failure by the School to make payments as agreed under this paragraph so long as sufficient notice and documentation has been provided to the Board to support such payments. Notwithstanding the foregoing, the Company shall verify that all vendors providing services to the School do not appear in the Auditor of State’s database with an unresolved finding for recovery. As

required by law, the Company shall also verify that the contractor/vendor is not debarred or suspended by checking the Federal government's System for Award Management.

#### 5.03 Time and Priority of Payments.

(a) The Company will receive its Management Fee in the same number of installments and in the same proportion that the Charter School receives its Qualified Gross Revenues. Each installment of the Management Fee will be due and payable within ten (10) business days of receipt by the Charter School of the Qualified Gross Revenues related thereto. The Company will submit monthly invoices of Reimbursed Expenses to the School. All invoices for Reimbursed Expenses shall be payable by the School within ten (10) business days of receipt of such invoice.

(b) If School has not received its monthly Qualified Gross Revenue payment at the time the Management Fee invoice is presented, the Management Fee invoice shall be paid within five business days of receipt by the Charter School.

(c) All amounts payable by the School hereunder shall, at the Company's option, be made via electronic funds transfer. The School shall cooperate with the Company to set up and establish necessary accounts and procedures.

(d) Survival of Obligations. This Section shall survive any expiration or termination of this Agreement until all payments earned prior to the date of such expiration or termination shall have been paid in full.

(e) The Charter School will satisfy its payment obligations under this Article to the Company in the following order of priority: (i) payments due and owing under Section 5.02 above with the oldest amounts due first; and (ii) payments due and owing pursuant to Section 5.01 above with the oldest amounts due first.

(f) Any payment due under Section 5.01 or Section 5.02 above not paid when due will be subject to a late fee calculated as interest on the amount in arrears calculated at 2% per month. If payments are delayed due to delays in state or federal funding, then interest shall not be charged.

(g) Company will request reimbursement for all Reimbursed Expenses in accordance with Exhibit B and the Board's policies. Company's failure to adhere to the Board's financial policies may result in a delay or denial of payment for Reimbursed Expenses which are: (i) not supported by adequate receipts; (ii) not approved by the Board; and/or (iii) duplicate requests for payments (each, a "Billing Deficiency"). In the event that the School has identified a Billing Deficiency, it shall notify the Company of the alleged Billing Deficiency and shall identify the supplemental information or documentation the School requests to cure the Billing Deficiency within thirty (30) days following receipt of the applicable invoice from the Company. The Company shall have thirty (30) days following receipt of said notice to cure any Billing Deficiency. If the School identifies a Billing Deficiency, it shall pay the remainder of the Company's Reimbursed Expenses invoice in accordance with Section 5.03(a) above, less the amount in dispute; provided, however, that the Company may charge a late fee as set forth above in Section 5.03(f) if a delayed payment from the School is not the result of a good faith inquiry regarding a legitimate Billing Deficiency.

5.04 School Expense Accommodation by the Company. During the time this Agreement is in effect, the Company shall pay, which payment shall be treated as an advance against future revenues by the Company to the School and which shall be evidenced by a loan, any properly

incurred School expense under the following terms and conditions: only after the School first utilizes financing options from third-parties, to the satisfaction of the Company, sufficient to pay the School expense, provided, however, that in no event shall any member of the Board be required to personally guarantee any such financing. If said third-party financing is not available to the School to pay the School expense, then the School shall provide the Company with a reasonable estimate of the expense, which shall be approved by the Company, in writing, prior to the expense being incurred. Such School expenses advanced by the Company as set forth above, shall be payable by the School, in whole or in part, at such time as the School receives revenue to pay the same and carry a cash surplus in its accounts equal to at least three months of reasonably anticipated operating expenses. Such advance shall be evidenced by a promissory note acceptable to the Company and the School. In no event shall any such promissory note provide for recourse against any member of the Board, the individual managers of the School or any other third party.

#### 5.05 Other Revenue Sources.

(a) The Charter School and the Company may, together or independently, solicit and receive grants and donations from public and private sources consistent with the mission and Charter of the Charter School, in the name of either the Company or the Charter School; provided, however, that any solicitation of such grants by the Company in the name of the Charter School or which identifies the Charter School shall be subject to the prior approval of the Charter School.

All funds received by the Company or the Charter School for the benefit of the Charter School from such other revenue sources and programs pursuant to this Section 5.05 shall be deemed Charter School funds. The Company shall receive no compensation from the Charter School upon receipt or expenditure of such funds and shall have no responsibility for management of the programs funded donations contemplated in the first sentence of Section 5.05 which are outside the scope of services described in Exhibit B unless the parties shall expressly agree otherwise, and then only to the extent allowable by the donor or grantor of such funds.

(b) Nothing in this Section 5.05 will be construed to prohibit Company from soliciting funds or grants solely for its own general corporate purposes and using such funds or grants solely for such purposes.

## **ARTICLE VI**

### **PERSONNEL AND TRAINING**

#### 6.01 Personnel Responsibility.

(a) Subject to the Sponsor Agreement, Sections 3.01 and 3.02 of this Agreement and all applicable laws and regulations, Company will have the sole responsibility and authority to determine staffing levels, and to select, evaluate, assign, discipline, supervise, manage and transfer personnel necessary to carry out the Educational Services, the Administrative Services, the Supplemental Programs implemented by the Company (if any) and all other services provided under this Agreement.

(b) Except as specified in this Agreement or as required by law, teachers and support staff recommended by the Company pursuant to this Agreement will be employees of the Company. The Company will be responsible for conducting reference, employment checks, criminal background

checks and unprofessional conduct checks on its employees to the extent required under the Code and other applicable laws and regulations as if the employees were employed by a Charter School. Upon request, the Company will provide the Charter School and/or Sponsor documentary evidence of such background checks.

(c) Director. The School Director ("Director") will be an employee of the Company, and will be the academic and administrative head of the Charter School, shall have full responsibility for its operation and shall be required to implement the Company's Educational Program and curriculum. The Company will have the authority, consistent with this Agreement, the Sponsor Contract and other applicable laws and regulations, to supervise the Director and to hold him or her accountable for the success of the Charter School. The Company will share on a confidential basis with the Board of Directors its performance reviews and assessment of the Director and shall provide prior notice of the transfer or dismissal of the Director.

6.02 Teachers. The Company will provide to the Charter School such properly certified or licensed teachers as required by Ohio Department of Education or the Sponsor Contract and which are in the Company's judgment required to provide the Educational Services and Administrative Services. The Company will determine the number and assignments of such teachers. Such teachers may work at the Charter School on a full or part time basis. Each teacher assigned to the Charter School will be qualified in his or her grade levels and subjects, will hold a valid teaching certificate to the extent required under applicable laws and regulations, and will have undergone a criminal background check and unprofessional conduct to the extent required under applicable laws and regulations.

6.03 Support Staff. Company will provide to the Charter School such support staff as required to provide the Educational Services, Administrative Services and Supplementary Programs. Such support staff may include, among others, teachers' aides, clerical staff, and administrative assistants to the Director, bookkeepers and maintenance personnel. Such support staff may work at the Charter School on a full or part time basis.

6.04 Training. Company will provide training in its instructional methods, curriculum, educational program and support technology to its instructional personnel on a regular and continuous basis. Such training will enable the Charter School's instructional staff to provide in-service training to each other. Non-instructional personnel will receive such training as the Company determines to be reasonable and necessary under the circumstances.

## **ARTICLE VII**

### **TERMINATION OF AGREEMENT**

#### 7.01 Termination.

(a) By the Company. Subject to Chapter 3314 of the Code, the Company may terminate this Agreement prior to the end of the term specified in ARTICLE II in the event that the Charter School fails to remedy a material breach within 30 days after written notice from Company to the Charter School, or in the event the material breach cannot be reasonably cured within thirty (30) days of receipt of written notice, the Board fails to promptly undertake and continue efforts to cure said material breach within a reasonable time. A material breach includes, but is not limited to (i) the Charter School's failure to pay any fee or reimbursement as required by the terms of this

Agreement so long as the ability to pay is within the Board's control, (ii) an act or omission of the Board of gross negligence that causes the Company to be unable to perform its material obligations under this Agreement, (iii) action by the Board that is in violation of the Code, Charter Contract or applicable regulations that is considered a material default of this Agreement, (iv) unilateral financial decisions by the School that adversely impact the Company's ability to collect a management fee. The termination shall be effective 30 days after the expiration of any applicable cure period. Termination by the Company will not relieve the Charter School of any obligations for payments outstanding to the Company as of the date of termination or potential liability for financial damages suffered by the Company as a consequence of the Charter School's breach (or of the Company's termination as a result thereof) of this Agreement.

(b) By Charter School. Subject to Chapter 3314 of the Ohio Revised Code, the Charter School may terminate this Agreement prior to the end of the term specified in ARTICLE II in the event that the Company fails to remedy a material breach of this Agreement within 30 days after written notice from the Board to the Company, or in the event the material breach cannot be reasonably cured within thirty (30) days of receipt of written notice, the Company fails to promptly undertake and continue efforts to cure said material breach within a reasonable time. A material breach by the Company includes, but is not limited to: (i) a material failure to account for its expenditures of Charter School funds or for other expenses incurred by the Charter School, (ii) Company's failure to substantially follow policies, procedures, rules, regulations or curriculum duly adopted by the Board, this Agreement, the Code, the Charter, or applicable laws and regulations, (iii) failure to meet or make progress towards the educational goals set forth in the Charter, (iv) the employment of teachers in violation of the Charter, the Code or this Agreement, (v) any act or omission of gross negligence that causes the Charter School to materially breach the Charter or any of the Charter School's other material contractual or legal obligations in anyway, (vi) filing of bankruptcy by the Company; (vii) failure to carry out any provision of the Management Agreement, (viii) the Charter is suspended or terminated pursuant to 3314.072 of the Revised Code; (vii) in the event that use of the Facility becomes impractical by reason of fire, flood or other act of God and an alternate suitable facility cannot be timely located. Notwithstanding the foregoing, in the event that a material breach shall be such that it creates an imminent danger to the life of students, parents or others, said breach must be cured immediately upon written notice from the School or Board. In the event that the Charter School satisfies any of the criteria set forth in Ohio Revised Code §3314.35 (the "Permanent Closure Criteria") in any single year, the Board shall have the right to terminate this Agreement at the end of the school year subsequent to the school year during which the Permanent Closure Criteria was met (e.g., at the end of the 2023-2024 school year if the Charter School satisfies any Permanent Closure Criteria in the 2022-2023 school year), unless the Company can provide evidence, reasonably satisfactory to the Board, on or before the subsequent June 1<sup>st</sup> that the Charter School will not satisfy any of the criteria set forth in Ohio Revised Code §3314.35 in the current school year. The termination shall be effective 30 days after the expiration of any applicable cure period. Termination by the Charter School will not relieve the Charter School of any obligations for payments outstanding to Company as of the date of the termination, nor will it relieve the Company for liability for financial damages suffered by the Charter School as a consequence of the Company's breach (or of the Charter School's termination as a result thereof) of this Agreement.

(c) Termination of the Charter. This Agreement will terminate upon i) Charter School's ceasing to be a party to a valid and binding charter, provided, however, that this Agreement will continue to

remain in effect until the Termination Date or the end of a Renewal Term (as applicable) if the Charter School has entered into a Subsequent Charter, and this Agreement has not been terminated pursuant to this ARTICLE VII. Termination pursuant to this paragraph will not relieve the Charter School of any obligations for payments outstanding to the Company as of the date of termination.

(d) Change in Law. If any federal, State or local law or regulation, court or administrative decision or Attorney General's opinion has a materially adverse effect on the ability of either party to carry out its obligations under this Agreement, such party, upon written notice, may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith. If the parties are unable to renegotiate the terms within 90 days after such notice and good faith negotiations, the party requesting the renegotiation may terminate this Agreement on 120 days' further written notice or at the end of a school year, whichever is later.

7.02 Real and Personal Property. All real property leases to the school facility shall be made in the name of the Charter School. All personal property leases shall be made in the name of the Charter School. Any property, real or personal, purchased by the Charter School in accordance to the Budget and Exhibit B will be tagged and remain the property of the Charter School. Any property, real or personal, purchased by the Company from its Management Fee shall be the property of the Charter School.

7.03 Future Advances/Out-of-Pocket Expenses/Third-Party Obligations. Prior to (and in the case of the Charter School as a condition of) the delivery of any notice of termination in accordance with Section 7.01(b) above, or upon the termination or expiration of this Agreement for any other reason, the Charter School shall (i) reimburse Company for all approved expenses owed pursuant to Section 5.02 above, and (ii) repay all approved advances or loans from the Company, whether or not then due. In addition to the above, and notwithstanding anything to the contrary, as a condition precedent to termination of this Agreement, the Charter School shall, to the satisfaction of the Company, relieve the Company, or cause the release of the Company, from any and all liability with respect to any corporate or personal guaranty, loans or other financing which remains in place on or related to a Charter School facility, equipment, or another similar third-party obligation for which the Company and the Charter School is a party to the transaction (each a "Third-Party Obligation"). In order to facilitate the release of any Third-Party Obligation, the Charter School shall obtain any additional co-signers, guarantors or other third parties as required by any bank or lending institution in substitution of Company as the related party provided, however, that in no event shall any member of the Board be required to personally guarantee any Third Party Obligation. It is expressly understood and acknowledged by the Charter School that the Company shall not be liable on any financing, guaranty loans or other contractual obligations entered into by Company on behalf of Charter School beyond any termination of this Agreement or Renewal Term and that the Charter School agrees to indemnify, defend, and hold the Company harmless from any debts, demands, liens, judgment's, legal actions whatsoever of any kind, and any losses, costs, or expenses, including reasonable attorney fees, arising from any Third-Party Obligation. The obligations of the Charter School contained in this Section 7.03 shall survive any such termination and shall continue in full force and effect.

7.04 Termination of the Company License. Upon termination or expiration of this Agreement by either party for any reason, including without limitation Section 7.01(b), the license to use the Company curriculum, as defined in this Agreement, shall terminate at the end of the then current school year, and the Charter School shall cease any use of the Forrester Curriculum at that time.

7.05 Return of The Company Materials. Within ten business days of any termination or expiration of the Management Agreement by either party for any reason, including without limitation Section 7.01(b) the Charter School shall (i) assemble in a safe place the following items that are in the Charter School's possession (a) all materials relating to the Company Curriculum, including the Company Lesson Materials and the Company Resource Materials, whether in hard copy or electronic format or otherwise, and any copies thereof, (b) all professional development and training materials, guides, and models, prepared and provided by the Company in connection with training of instructional or administrative personnel, and (c) all operational, systems and other administrative manuals and material, and copies thereof, and (ii) the Board or its representative handling operations of the Charter School shall certify to Company in writing that the Charter School has ceased to use the Company Curriculum, such Company Lesson Materials, Company Resource Materials, all professional development and training materials, guides, and models, and all such administrative manuals and materials. At Company's direction, the Charter School will permit representatives of Company to pick up all such materials at the Charter School.

7.06 Return of Charter School Materials. Company shall assist the Charter School Board in any transition of management and operations, including, but not limited to the orderly transition of all student records, sending notices to students as reasonably requested by the Charter School Board at the Board's cost including the delivery of student records directly to the students.

7.07 Proprietary Information and Ownership. The Charter School acknowledges that the Company owns the intellectual property rights and interests in the Forrester Curriculum, as defined in this Agreement, and the Forrester Lesson Materials licensed to the Charter School during the term of this Agreement and to the names "Forrester Education" and Forrester (such names being registered marks of Forrester Education). The Charter School acknowledges and agrees that it has no intellectual or property interest or claims in the Forrester Curriculum, the Forrester Lesson Materials or such names and has no right to use the Forrester Curriculum, the Forrester Lesson Materials, or such names unless expressly agreed to in writing by Forrester. The Company shall have the right, consistent with the facility lease, to install signs on the Charter School facilities, including under the name of the Charter School, describing the services provided by the Company including "Managed by Forrester Education" or "Educational Services Provided by Forrester Education." Upon any expiration or termination of this Agreement, those signs shall be promptly removed.

## **ARTICLE VIII**

### **INDEMNIFICATION**

8.01 Indemnification of Forrester. The Charter School will indemnify, defend and save and hold the Company and its affiliates and all of their respective employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorney fees and costs) that may arise out of, or by reason of, any noncompliance by the Charter School with any agreements, covenants, warranties or undertakings of the Charter School contained in or made pursuant to this Agreement, and any misrepresentations or breach of the representations and warranties of the Charter School contained in or made pursuant to this Agreement. In addition, the Charter School will reimburse Company for reasonable legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification

requirements of this Section 8 may be met by the purchase of insurance pursuant to ARTICLE IX below.

8.02 Indemnification of the Charter School. Company will indemnify, defend and save and hold the Charter School and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorney fees and costs) that may arise out of, or by reason of, any noncompliance by Company with any agreements, covenants, warranties or undertakings of the Company contained in or made pursuant to this Agreement, and any misrepresentation or breach of the representations and warranties of the Company contained in or made pursuant to this Agreement. In addition, Company will reimburse the Charter School for reasonable legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this Section 8.02 may be met by the purchase of insurance pursuant to Article IX below.

8.03 Defense. A party entitled to indemnification under this ARTICLE IX (the “Indemnatee”) shall give notice to the indemnifying party (the “Indemnitor”) of a claim or other circumstances likely to give rise to a request for indemnification, promptly after the Indemnatee becomes aware of the same. The Charter School will assert all immunities and statutory limitations of liability in connection with any claims arising from its operations.

8.04 Right of Set-Off. Either party may, but shall not be obligated to, set off against any and all payments due the other party under this Agreement, any amount to which the party is entitled to be indemnified hereunder.

## **ARTICLE IX**

### **INSURANCE**

9.01 Insurance Coverage. Company shall maintain on behalf of the Charter School, at Company’s expense, insurance meeting the requirements set forth in the Sponsor Contract and shall maintain such commercial general liability insurance and other insurance required by the Sponsor Contract, except the Directors and Officers insurance, which shall be maintained by the Charter School Board. Such policies shall name the other party and its affiliates and their respective directors, officers, employees, subcontractors, Sponsor and agents as an additional insured under such policies. A certificate of insurance evidencing such coverage shall be provided upon reasonable request. The Charter School will comply with any information request from insurer(s) and all reporting requirements applicable to such insurance.

9.02 Workers' Compensation Insurance. Each party will maintain workers' compensation insurance as required by law, covering its respective employees.

9.03 Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this ARTICLE IX. Each party will comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.



## ARTICLE X

### WARRANTIES AND REPRESENTATIONS

10.01 Representations and Warranties of the Company. Company hereby represents and warrants to the Charter School:

- (a) The Company is a duly organized limited liability company in good standing in the State of Ohio and is authorized to conduct business in the State in which the Charter School is located.
- (b) Company has the authority under the Ohio Revised Code and other applicable laws and regulations to execute, deliver, perform this Agreement, and to incur the obligations provided for under this Agreement.
- (c) Company's actions under this Agreement have been and will be duly and validly authorized, and it will adopt any and all further resolutions or expenditure approvals required for execution of this Agreement.
- (d) The Company has the financial ability and is in good financial standing with creditors or otherwise to perform educational management services as described under this Agreement and in accordance with Exhibit B.

10.02 Representations and Warranties of the Charter School. The Charter School hereby represents and warrants to the Company:

- (a) The Charter to be received by the Charter School (i) authorizes the Charter School to operate and receive the State, Federal and Local education funds, as well as other revenues.
- (b) The Charter School has the authority under the Code and other applicable laws and regulations to contract with a private entity to perform the Educational Services, Administrative Services, Supplemental Programs, and all other services under this Agreement and execute, deliver and perform this Agreement, and to incur the obligations provided for under this Agreement.
- (c) The Charter School's actions and those of the Board have been duly and validly authorized, and the Charter School and Board will adopt any and all further resolutions required for the execution of this Agreement.
- (d) The Charter School has provided and will provide Company all authority and power permitted by law necessary and proper for the Company to undertake its responsibilities, duties, and obligations provided for in this Agreement.
- (e) The Charter School has not received notification of a breach of the terms of the Charter.
- (f) The Charter School has not received notification of a breach or default under any loan or financial obligations, including, but not limited to, salary obligations and related benefits, payroll taxes, and leases for real and personal property, to the extent that any such obligation is related to the Charter School's required performance under this Agreement.
- (g) The Charter School has no intellectual or property rights or claims in the Forrester or in the names "Forrester Education", or Forrester and will make no such claims in the future.

10.03 Mutual Warranties. Each party to the Agreement represents to the other that there are no pending actions, claims, suits or proceedings, to its knowledge, threatened or reasonably

anticipated against or affecting it, which if adversely determined, would have a material adverse effect on its ability to perform its obligations under this Agreement.

## **ARTICLE XI**

### **DISPUTE RESOLUTION**

11.01 Dispute Resolution Procedure. The parties hereto will endeavor to resolve in good faith any controversy, disagreement or claim arising between them, whether as to the interpretation, performance or operation of this Agreement or any rights or obligations hereunder. If they are unable to do so, any such controversy, disagreement or claim will be submitted, for final resolution to a court of competent jurisdiction in the State of Ohio. Pending the resolution of the dispute, all other obligations of the parties hereto will continue as stipulated herein, and all monies not directly involved in such dispute or difference will be paid when due. The court will make its decision in accordance with the laws of the State in which the Charter School is located and of the United States.

11.02 Damages Upon Termination. The parties agree that in the event of the wrongful termination, which shall be determined by a Court, of this Agreement by the Charter School, the Charter School will owe Company damages for existing obligations such as unpaid Management Fees through the date of the wrongful termination of this Agreement, un-reimbursed expenses, and other amounts owed to Company under the Agreement and Exhibit B and further the parties agree that the Charter School will owe to Company, damages equal to the present value of the estimated Management Fees specified in ARTICLE V through the end of the term specified in ARTICLE II because such Management Fees are used to offset the Company's fixed costs, corporate overhead and profit.

## **ARTICLE XII**

### **MISCELLANEOUS**

12.01 Subcontracts. Company reserves the right to subcontract any and all aspects of services it agrees to provide to the School but may only do so upon the prior written approval of the Board. Company shall be solely responsible for the performance of any subcontractors and for all costs, expenses and fees associated with such subcontractors. School will not reimburse Company for Administrative personnel of Company for services covered under this agreement and included under the Management Fee.

12.02 Common Interest/Joint Client Defense Agreement. The Parties acknowledge and agree that they have common, consistent and overlapping interests with regard to disputes with a third-party that may arise in connection with the management of the School. This mutuality of interest includes disputes with third parties related to contracts, staff employment or other matters related to the operation of the School or the services provided by Company for or on behalf of the School, whether a claim is in contract, tort, strict liability, or other cause of action, in law or in equity ("Matters at Issue"). Regarding Matters at Issue, unless otherwise prohibited by law, and provided that the Parties' respective interests do not conflict, the Parties may engage one counsel to represent them as joint clients and their communications with that counsel shall be afforded the same protection and privilege as communications between a single client and counsel. The Parties each believe that it is in their best interests to share from time to time, either orally or in writing,

information related to Matters at Issue and intend that such shared information be subject to the protection of the attorney/client privilege, attorney work product doctrine, and other privileges or immunities that may apply under relevant law. Neither party may unilaterally waive this common interest and joint privilege without the express written permission of the other party.

Notwithstanding the foregoing, in the event there is a dispute between the Parties, neither party may assert any privilege against the other party with respect to any information and communications related to a Matter at Issue that had been previously shared between them.

Nothing in this Agreement shall be construed to prohibit either party from engaging separate and independent counsel.

12.03 No Third Party Beneficiaries. This Agreement and the provisions hereof are for the exclusive benefit of the parties hereto and not for the benefit of any third person, nor shall this Agreement be deemed to confer or have conferred any rights, express or implied, upon any other third person other than The Authorizer and the Ohio Department of Education by operation of law, provided that the Authorizer or the Department assumes operation of the School, and only if the Company agrees to continue its contractual relationship with the School as provided for under this Agreement.

12.04 Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Charter School and the Company.

12.05 Force Majeure. Notwithstanding any other sections of this Agreement, neither party will be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, or other acts beyond its reasonable control.

12.06 Governing Law. The laws of the State and the County in which the Charter School is located will govern this Agreement, its construction, and the determination of any rights, duties and remedies of the parties arising out of or relating to this Agreement. The Company and the Charter School specifically acknowledge the applicability of and agree to abide by the following:

**(a) ORC Section 3314.0210**

Property purchased by operator or management company.

Any and all purchases furniture, computers, software, equipment, or other personal property for use in the operation of Charter School with state funds that are paid to the Company by the Community School as payment for services rendered, is property of that school.

If Charter School permanently closes and ceases its operation as a community school, any property that was acquired by the Charter School AND/OR Company in the manner described in this section shall be distributed in accordance with division (E) of section [3314.015](#) and section [3314.074](#) of the Ohio Revised Code.

**(b) ORC Section 3314.031**

Publication of information regarding management or operation of community schools.

The Company shall assist Charter School in the following:

(A) Maintaining and annually publishing an accurate record of the names and identifying information of all entities that have entered into a contract with the governing authority of Charter School to manage or operate that school;

(B) Charter School shall provide to the Sponsor and the Ohio Department of Education, a copy of the contract between a governing authority and its operator.

**(c) ORC Section 3314.032**

**Contents of contract between governing authority and operator.**

(A) On and after the effective date of this section, any new or renewed contract between the Charter School and Company shall include at least the following:

(1) Criteria to be used for early termination of the operator contract. See Article VII of this Agreement.

(2) Required notification procedures and timeline for early termination or nonrenewal of the operator contract. See Article VII of this Agreement.

(3) Company AND Charter School HEREBY STIPULATE that the Charter School entity owns all community school facilities and property including, but not limited to: equipment, furniture, fixtures, instructional materials and supplies, computers, printers, and other digital devices purchased by the governing authority or operator. This section regarding property ownership shall comply with the requirements of section 3314.0210 of the Revised Code.

**(B) Leases:**

(1) Company shall not lease any parcel of real property to Charter School until an independent professional in the real estate field verifies via addendum that at the time the lease was agreed to, the lease was commercially reasonable.

(2) The independent professional described in division (B)(1) of this section shall be immune from civil liability for any decision rendered pursuant to this section.

**(C) Budget and Administrative Costs:**

The Company shall assist Charter School and the Fiscal Officer with providing the information in the format as described under ORC 3314.032(C) for the Budget. The format shall prescribe inclusion of the following information:

(1) Administrative costs for the Charter School as a whole:

(2) Instructional services costs for each category of service provided directly to students, compiled and reported in terms of average expenditure per pupil receiving the service;

(3) The cost of instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia aide, or librarian, provided directly to students;

- (4) The cost of administrative support services, such as the cost of personnel that develop the curriculum and the cost of personnel supervising or coordinating the delivery of the instructional services;
- (5) The cost of support or extracurricular services costs for services directly provided to students;
- (6) The cost of services provided directly to students by a non-licensed employee related to support or extracurricular services, such as janitorial services, cafeteria services, or services of a sports trainer;
- (7) The cost of administrative services related to support or extracurricular services, such as the cost of any licensed or unlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of services.
- (8) The governing authority of Charter School shall be the sole entity responsible for the adoption of the school's Budget and shall adopt such budget with the assistance of the school's designated fiscal officer.

12.07 Agreement in Entirety. This Agreement constitutes the entire agreement of the parties.

12.08 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument.

12.09 Official Notices. All notices and other communications required by the terms of this Agreement will be in writing and sent to the parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees). Notices so addressed shall be deemed to have been duly given (a) on the third (3rd) Business Day after the day of registration, if sent by registered or certified mail, postage prepaid, (b) on the next Business Day following the documented acceptance thereof for next-day delivery by a national overnight air courier service, (c) on the date sent by electronic mail transmission, if electronically confirmed or (d) facsimile (with confirmation of transmission by sender's facsimile machine). Otherwise, notices shall be deemed to have been given when actually received at such address. Notices via electronic mail at the e-mail address designated below, as confirmed by a "read receipt" or other confirmation of receipt generated by the recipient's device, are considered appropriate. Notice will be deemed to have been given on the date of transmission of a facsimile if on a business day during normal business hours (or, if not, the first business day following the day sent). The addresses of the parties are as follows:

If to the Company, to:  
Forrester Education, LLC  
481 N. Cleveland-Massillon Road  
Akron, OH 44333  
Attention: Legal Dept.

With a copy to:  
Thomas C. Holmes  
34194 Aurora Road, Suite 295  
Solon, Ohio 44139

330-650-6610

If to the School, to:

Board President  
Orchard Park Academy  
14440 Triskett Road  
Cleveland, Ohio 44111

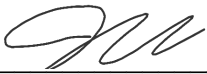
With a copy to:

Nicola, Gudbranson & Cooper, LLC  
Attn: Becky M. Scheiman, Esq.  
Terminal Tower- Suite 2900  
50 Public Square  
Cleveland, Ohio 44113  
Facsimile: 216-621-3999

***[Remainder of Page Intentionally Blank...Signatures Appear on Next Page]***

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed by their respective authorized representatives as of the date first set forth above in the introductory paragraph.

**Orchard Park Academy:**

By: 

Print Name: Jessica Hricovec

Its: President

**Forrester Education, LLC:**

By: Dimitrios Kriaras

Print Name: Dimitrios Kriaras

Its: CEO

## EXHIBIT A

### Statement of Mission and Purpose:

a. Mission and Purpose. The Mission of the Company is to provide students the opportunity to learn and develop a multi-cultural environment, through communication that focuses on problem solving, scientific and technological strategies, languages and entrepreneurial ship.

b. The Forrester Educational Model has developed a philosophy of recognizing each student as an individual, each with unique interests, aspirations, and passions. The educational program and methods utilized must be meaningful and relevant and may differ according to the situation of each individual student. Each student must be offered the opportunity to learn at his/her own pace, and to focus on his/her unique interests to bring out his/her passion, but at the same time recognizing that he/she must reach certain milestones in each educational calendar year that support the State learning requirements.

i. The Educational Model must offer students the ability to be challenged, and it must support remediation efforts that might be applicable. Students should not be limited in development in one subject area due to performance limits in other subject areas.

ii. Objectives for academic progress for each school calendar period must be defined, and progress toward these objectives must be demonstrated and communicated to the student in each calendar period.

iii. Students must accomplish progress toward the diploma and toward all other School requirements in its Contract on an annual basis.

iv. Enrollment of each student must be reviewed, documented, and controlled to be able to justify that: (i) the student meets recommendations supporting admission to the School; and (ii) academic progress is being met according to the student's objectives.

v. Recognizing that student learning is often related to a teacher's ability to assist the learning process, the School requires a teacher development program to define teacher qualifications and performance requirements, to regularly document and communicate perceived performance, and to implement a professional development program aimed at improving the effectiveness of each teacher's ability to help students' learning, in general.

vi. The School must demonstrate curriculum alignment with the State standards applicable to the School and must identify any specific instances of non-compliance with the standards. Further, the School must define and implement the Sponsors Renewal Conditions that will lead to compliance under the School's Sponsor Contract within one year.

vii. In particular, the School should meet all the requirement of a FOCUS school as required by the Ohio Department of Education.



viii. All requirements of local, state and federal laws relating to charter schools must be met, and all audits relating to the demonstration of these requirements must be successfully completed, given allowance for appropriate time for documentation, reporting, analysis, and rectification of any non-compliance and complaints.

## EXHIBIT B

Subject to the Budget, Company shall, out of its Management Fee provide the School the following services and the Company shall be solely responsible for all costs associated with the provision of such services:

- a. Identify the demographics of the population of students to which the School may appeal.
- b. Identify necessary components of and possible ideal locations for the School's Facility.
- c. Identify, investigate and evaluate specific options available for the School Facility in identified areas.
- d. When a qualified potential School Facility is located, negotiate the lease or purchase of the School Facility.
- e. Negotiate and/or arrange for all agreements for utilities utilized by the School, including without limitation, electricity, oil, gas, telephone, cable (TV/internet), water and waste charges ("Utilities") and for all buildings and grounds non-personnel cleaning, maintenance and upkeep ("Upkeep")
- f. Research, investigate and evaluate possible manufacturers and equipment that can assist the School to achieve its mission, educational goals and performance objectives as stated in the Contract and as reflected in the Statement of Mission and Purpose.
- g. Once possible alternatives are identified, perform additional due diligence regarding terms, conditions and pricing of manufacturer, equipment and competitors.
- h. To the extent called for in the Model applicable to the School and necessary to the operation of the School select, and negotiate the terms of the purchase or lease of (a) initial plant and equipment, (b) office furniture and equipment, (c) classroom furniture and equipment, (d) audio-visual, TV and projector equipment, (e) computer equipment and software, and computer room furnishings and equipment, (f) special education furnishings and equipment, (g) student lockers and coat racks, (h) laboratory furniture and equipment, (i) library furnishings and equipment, (j) athletic/gymnasium furnishings and equipment, (k) art and music furnishings and equipment, (l) kitchen/cafeteria furnishings and equipment, (m) restroom furnishings and equipment, (n) other/common area/office/teacher lounge furnishings and equipment, (o) medical, health and safety furnishings and equipment, (p) maintenance and security furnishings and equipment, and (q) other personal property necessary for the operation of the School (collectively, the "Furnishings and Equipment").
- i. Adapt and deliver the Educational Model, curriculum and program.
- j. Select and negotiate terms of procurement of teaching guides, curricula and aids implementing the Model, school texts implementing the Model and workbooks, paper, pencils, and like student supplies.
- k. Select, negotiate terms of procurement of, and arrange for the delivery of cafeteria food and drink, vending machines and drinking water (cooler/fountain) and coffee facilities.
- l. Oversee day-to-day management of the School, in accordance with the Statement of

Mission and Purpose and the non-profit purpose of the School, and the Contract.

- m. Perform repeated evaluation, assessment and continuous improvement of the School's Educational Model, curriculum and program.
- n. Perform other consulting and liaison services with governmental and quasi-governmental offices and agencies as are necessary in day-to-day operations or required by the Contract.
- o. Draft operations manuals, forms (including teacher contracts, applications, enrollment and similar forms), and management procedures, as the same are from time to time developed by the Company and as approved or requested by the Board.
- p. Coordinate with other advisors engaged by the Board, including, but not limited to, legal, financial and accounting.
- q. Provide all information and written reports reasonably requested by the Board and consistent with the Statement of Mission and Purpose, including periodic reports on student performance, copies of all reports and other materials provided to the any oversight entity and evidence of compliance with the terms of the Contract.
- r. Meet with the Board on such frequency as the Board shall reasonably request.
- s. Provide members of the Board and their representatives with access at all times to inspect all School facilities, to review and audit all books and records relating to the School and the Company's performance hereunder and to meet with and interview any employees of the Company (including teachers).
- t. License to the School on a non-exclusive basis the use of the Educational Model.
- u. Research, investigate and evaluate possible manufacturers and technology that can assist the School to achieve its Statement of Mission and Purpose and the performance objectives as stated in the Contract.
- v. Once possible alternatives are identified, perform additional due diligence regarding terms, conditions and pricing of manufacturer, technology and any competitors.
- w. Integrate as possible the purchased technology with the curriculum and Model.
- x. Advise and train staff and teachers on admissions and expulsion procedures, including utilization of forms and systems.
- y. Perform quality data tracking, including but not limited to student data such as attendance, performance, etc., and tying together all school data as the technology system is developed.
- z. Provide periodic reports on student performance, and whether educational goals and measurements are being achieved as required by the Contract.
- aa. Provide access to Company supply sources (including supply sources of affiliates of the Company) to obtain centralized purchasing where applicable and available.
- bb. Consult on physical facility layout, maintenance and capital improvements.

- cc. Research and recommend appropriate after school and extracurricular activities and field trips.
- dd. Assign to the School service team such Company personnel as are necessary to carry out the obligations and duties of the Company under this Agreement; such assigned Company personnel shall be permitted to utilize appropriate office space within the School, School personnel for administrative and clerical support, and School facilities, supplies and equipment at no cost to the Company.
- ee. Determine staffing levels, and select, evaluate, assign, discipline, transfer and terminate personnel, consistent with the Contract, the Statement of Mission and Purpose and state and federal law.
- ff. Consistent with the Contract and state law, select and supervise the School Director and hold him or her accountable for the success of the School (the School Director and the Company, in turn, will have similar authority to select and hold accountable the teachers and other staff in the School).
- gg. From time to time thereafter, determine the number of teachers and the applicable grade levels and subjects required for the operation of the School, and recommend such teachers, qualified in the grade levels and subjects required, as are required by law, to the School; the curriculum taught by such teachers shall be the curriculum recommended by the Company and approved by the School Board as part of the Model. Such teachers may, in the discretion of the Company and School Board, work at the School on a full or part time basis.
- hh. From time to time thereafter, determine the number and functions of support staff, qualified in the areas required, as are required by the School. Such support staff may, in the discretion of the Company, work at the School on a full or part time basis.
- ii. Provide training in its methods, curriculum, program, and technology to all teaching personnel on a regular and continuous basis. Non-instructional personnel shall receive such training as the Company determines is reasonable and necessary under the circumstances or as required by law.
- jj. Inform the School of increases and decreases to salary levels and fringe benefit levels of any employee of the Company assigned to the School.
- kk. Evaluate appropriate types and levels of insurance coverage for the operations of the School taking into account the activities of the School and the Company and the types and levels of insurance maintained by similarly situated schools.
- ll. Suggest improvements in the School Facility as needed for the School's operations and the safety, health and welfare of the School's students.
- mm. Arrange for Utilities and Upkeep costs.
- nn. To the extent called for in the Model applicable to the School and necessary to the operation of the School, negotiate agreements for the procurement of, and procure, by purchase or lease, and have delivered, installed, and, if necessary, tested, all Furnishings and Equipment.

- oo. Select and procure on an ongoing basis consumables (other than food) related to each of the foregoing.
- pp. Arrange for the procurement of, and procure teaching guides, curricula and aids implementing the Model, school texts implementing the Model and workbooks, paper, pencils, and like student supplies.
- qq. Recruit and enroll students subject to general recruitment and admission policies. Students shall be recruited and selected in accordance with the procedures set forth in the Contract and Board adopted policies and in compliance with all applicable federal, state and local law.
- rr. Assist in preparation of the budget and financial reports as reasonably requested by the School's designated Fiscal Officer for submission to the School Board for approval illustrating, among other things, actual results and how those results align with the projected budgets and explaining variances.
- ss. Arrange for all data information management services, testing, and testing analysis.
- tt. Assist in identifying and applying for grants.
- uu. Assist in spending and administering any grant funding obtained in compliance with the specific terms and conditions of said grants and participating in any audits related thereto.
- vv. Perform such other reasonable management and management consulting services as are from time to time requested by the School Board and mutually agreed upon by the School and the Company, including but not limited to attendance at the School Board's meetings and marketing the school's programs.
- ww. Coordinate community relations activities.
- xx. Perform initial and ongoing staff and teacher training with respect to the technology.
- yy. Supervise/conduct after school and extracurricular activities and field trips.
- zz. Enter into employment or contractor contracts with and assume full responsibility and liability, and pay, benefits, salaries, worker's compensation, unemployment compensation, and liability insurance, per their terms of employment or engagement, for such (a) teachers, tutors and classroom aides, (b) senior administrative personnel, counselors, librarians and IT personnel, (c) athletics, coaching and extracurricular activities personnel, (d) kitchen and clerical personnel, (e) facilities and custodial personnel, (f) health, safety and security personnel, and (g) student transportation personnel as may be required by state and federal law, the Statement of Mission and Purpose, this Agreement or the Contract to carry out the purposes of the Model.
- aaa. Arrange for or cooperate with the School's designated Fiscal Officer in obtaining insurance covering the Schools operations: General Casualty and Risk Insurance on the School facility in an amount not less than full replacement value. General Liability Insurance in an amount of not less than One Million Dollars per occurrence and five million dollars aggregate.
- bbb. Perform advisory services regarding special education and special needs students,

programs, processes and reimbursements through the Company's Special Education Department that focuses specifically on students with special education needs.

- ccc. Securing the necessary technology for the smooth and orderly operation of the School and for ensuring that such technology remains in continuous working condition barring conditions beyond Company's control. Company shall also assist in the application for and administration of Federal e-Rate funds to offset the costs of necessary technology investments.

The School shall have the responsibility for payment of all direct costs, and reimbursement to Company for expenses incurred to operate the School. As used herein, "Direct Costs" may mean either expenses incurred directly by the school to run its operations or those incurred by Company on behalf of the school which are required to directly operate the school. As used herein, "reimburse" may mean either providing funds to the Company in advance of Company expenditure, or reimbursing the Company after such expenditure, as may be provided for below.

The School shall have the responsibility for payment of items so specified below:

- a) All Salaries including but not limited to; Teachers, Special Education Staff, Vocational Education Staff, Superintendent Salary, Administrative Staff working upon the school premises.
- b) All Benefits including but not limited to; STRS Employers Match, Medicare Match, Medical Benefits, BWC.
- c) All Purchased Services including but not limited to; Instructional Services, Professional Development from outside vendors, Marketing Services, Health Services, Management Services, Sponsor Fees, IT Services, Board Stipends, Professional/Legal Services, Accounting & Auditing, Payroll Processing, Other Professional Services, Security Services, Garbage Removal, Equipment & Furniture Repair & Maintenance, Janitorial Services, Rental Expenses for school related functions, Lease Purchase, Other Property Services, Board Travel Expenses, Onsite School Telephones, School Postage, Postage Machine Rental, Messenger Service, Advertising, Other Communication (Internet), All Utilities, Contracted Food Services, Pupil Transportation.
- d) All Supplies and Materials including but not limited to; Instructional Supplies, School Office Supplies, Software Instruction, Software Admin, Food Products, Buildings Maintenance, Equipment and Furniture, Other Materials & Supplies
- e) All Other Expenses including but not limited to; Memberships, Audit fees, Bank Charges, Other Dues and Fees, Liability Insurance, Bond Premiums and Academic Extra-curricular activities.