

**Amended and Restated  
Charter School Operating Agreement**

This Management Agreement (“Agreement”) is entered into effective as of \_\_\_\_ July 1, 2023, by and between ChallengeU Ohio Schools Management LLC, an Ohio limited liability company (the “Company”), and ChallengeU Ohio Community School, an Ohio non-profit corporation (the “School”) governed by a Board of Directors (“Board”) (Collectively “the Parties”).

WHEREAS, the School is a not-for-profit corporation which will operate a community school pursuant to Ohio Revised Code Chapter 3314;

WHEREAS, the Company researched and developed the educational program and wishes to provide the School the requisite educational, managerial, financial and other consulting services necessary for the implementation of the educational program;

WHEREAS, the School desires the Company to provide such requisite management, educational, financial and other consulting services necessary to operate the School all in accordance with the community school contract the School has with its sponsor (the “Sponsor Contract”), St. Aloysius Orphanage (the “Sponsor”); and

WHEREAS, the Company desires to provide the aforementioned services and other expertise referenced above with respect to the School’s educational program.

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

1. Term. The initial term of this Agreement shall commence on the date of full execution of this Agreement, and shall continue, unless terminated sooner pursuant to the terms herein, for the initial term of the Sponsor Contract. Thereafter, this Agreement will automatically renew for the duration of any extension or renewal of the Sponsor Contract, unless the Agreement is terminated sooner pursuant to this Agreement.

2. Company Responsibilities.

a. Relationship of the Parties. The Parties hereto acknowledge that their relationship is that of independent contractors. No employee of either Party shall be deemed an employee of the other Party. Nothing contained herein shall be construed to create a partnership or joint venture between the Parties.

b. In order to assist the School in carrying out the terms of the Sponsor Contract, the Company shall, itself or through contractors, to provide comprehensive school management services, which shall consist of all aspects of the School operations to the extent permitted by law, (“Company Responsibilities”) including:

- (i) Executing on the School's business plan to promote the Schools long term financial stability;
- (ii) The development of a comprehensive marketing plan that support the School in recruiting, enrolling, and retaining students.
- (iii) Coordinating community relations and establishing community partnerships that provide resources to the students of the School.
- (iv) Overseeing day-to-day management of the School, in accordance with the School's mission and in compliance with obligations placed upon the School by its Sponsor and all applicable laws and regulations.
- (v) Provide updated reports on financial, academic, and operation performance of the School and then reporting to these results to the Board, Sponsor, Ohio Department of Education, and any entity as required by the Board.
- (vi) Maintain all School compliance and reasonably address any deficiencies.
- (vii) Provide comprehensive human resource management services for all staff employed by the Company to work at the School.
- (viii) Provide all systems and tools related to recruiting, hiring, and staff evaluation.
- (ix) Develop and update a high quality educational program aligned with the School's mission.
- (x) Provide academic leadership to teachers, School leaders, and support staff including curriculum planning, teacher development, and team building.
- (xi) Develop and support the execution of a professional development schedule that aligns with the educational program and academic goals.
- (xii) Provide targeted professional development on the researched based practices detailed in the educational program.
- (xiii) Lead and train administrative staff and ensure accurate student enrollment data is reported into student information systems (EMIS).
- (xiv) Train and support School staff on data analysis, state testing, and progress monitoring.
- (xv) Lead curriculum development, including curriculum and individual learning plan framework, and use of the licensed Graduation Coaching program, which shall be the intellectual property of the Company.
- (xvi) 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 by the Board.
- (xvii) Provide legal services on the Board's behalf for all matters relating to School or Board operations to the extent no direct conflict of interest exists.
- (xviii) Coordinate with other advisors engaged by the Board, including, but not limited to, legal, financial and accounting, except where the School and the Company are in conflict.
- (xix) Determine staffing levels, and select, evaluate, assign, discipline, transfer and terminate personnel, consistent with the School's needs, the Sponsor Contract, and state and federal law.
- (xx) Perform advisory services regarding special education and special needs students, programs, processes and reimbursements.
- (xxi) Provide special education services to eligible students enrolled in the School in compliance with federal, state or local laws, rules and policies, and assist in the performance of the School's obligation related to any special education due process hearing.

- (xxii) Provide to the Board regular reporting on the status of School report card progress and compliance with applicable standards.
- (xxiii) Using reasonable efforts to assist with establishing locations to complete the statewide achievement and diagnostic assessments, and where student may receive counseling, instructional coaching, and testing assistance.
- (xxiv) Assist in identifying and apply for grants (federal, national, state, local and philanthropic).
- (xxv) 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 Sponsor Contract and Board adopted policies, which shall be developed and revised in coordination with the Company and in compliance with all applicable federal, state and local law.
- (xxvi) The Company shall procure necessary equipment, facilities and property for the operation of the School, including facilities necessary for administration of statewide achievement and diagnostic assessments.
- (xxvii) The Company shall procure all necessary services for the operation of the School.
- (xxviii).
- (xxix) Take all steps necessary and reasonable to ensure that it and the School complies with the Sponsor Contract, laws, ordinances, rules, regulations, and orders applicable to the School.
- (xxx) The Company shall schedule and prepare a proposed agenda for all required Board meetings.

c. Access to Education Records. The School has determined that the Company has a legitimate educational interest in the education records of the School and grants to the Company and its employees access to such educational records under 20 U.S.C. 1232g, the Family Rights and Privacy Act (“FERPA”). Company acknowledges that such records are the property of the School, and upon the termination or expiration of this Agreement, such records shall be promptly returned to the School. Company agrees that it shall take commercially reasonable precautions to protect all educational records from re-disclosure, and that any accidental or unauthorized disclosure shall be immediately reported to the School and its Board.

3. School Responsibilities. The Board shall govern the School and be responsible for its operation in accordance with the Sponsor Contract. The Board shall cooperate and work with the Company to develop policies and procedures; provided however, the Board shall not revise policies, rules, regulations, procedures, curriculum, and approve budgets that the Company shall implement and follow in providing the educational program without consulting with the Company in good faith and providing a reasonable justification for the change. The School shall timely pay the costs and fees for which the School is responsible under the “Fees” Section of this Agreement. School shall timely notify the Company of any known or anticipated: (i) material health or safety issues; (ii) labor, employee or funding problems; and (iii) problems of any other type that could adversely affect the School in complying with responsibilities hereunder.

School shall timely notify Company of any special or emergency meetings, and a representative of the Company shall be present at each meeting, unless attendance is waived by the Board. The Board shall invite a representative of the Company into any executive session of a meeting, unless the topic of the executive session is legal action against the Company.

As required by law, the Board shall engage a designated fiscal officer or Treasurer.

4. Loans by the Company. Loans by the Company for payment of expenses that are not Operating Expenses, shall be pursuant to a separate agreement between the parties and not controlled by this Agreement. Any such loans shall bear interest at the fair market rate.

5. Annual Budget. On or before the last day of May each year, the Board, with assistance from its Treasurer, will approve the annual budget for the School for the period beginning July 1 of that year, and ending June 30 of the next year and any revisions based on reasonable changes in circumstances (collectively, the "Annual Budget"). The Company shall present the Annual Budget to the Board in consultation with the School's Treasurer, and the Board shall approve the Annual Budget as presented provided it meets the minimum requirements of funding set forth in the Ohio Revised Code. The Board shall not refuse to approve the Annual Budget, unless there is an unquestionable failure of the proposed Annual Budget to fund the obligations of this Agreement or unless the proposed Annual Budget proposes an improper use of funds. If the Board believes that the proposed Annual Budget unquestionably fails to fund the obligations of this Agreement, the Board shall present its objections and the reasons for their position and shall work with its Treasurer, and the Company to resolve the dispute in ten (10) business days to the satisfaction of the Company and the School. If a resolution cannot be reached within ten (10) business days, the Board shall approve a budget reflective of the prior year's budget, pro rated by category proportionally to reflect changes to enrollment.

6. Educational Program. The educational program developed and provided by the Company to the School has been approved by the School and may be adapted and modified by the Company from time to time. The School and the Company agree to work together to effectuate any necessary change in the educational program, recognizing that an essential principle of this educational program is its flexibility, adaptability and capacity to change in the interest of continuous improvement and efficiency, provided that any such changes shall be consistent with the Statement of Mission and Purpose, and the education plan stated in the Sponsor Contract. Company's curricular materials, including Graduation Coaching, are and shall remain proprietary information owned solely by the Company and provided to School for a reasonable cost paid by the School in its Management Fee, defined elsewhere herein.

7. Subcontracts. The Company reserves the right to subcontract any and all aspects of services it agrees to provide to the School. The Company shall be solely responsible for all costs, expenses and fees associated with such subcontractors, and shall ensure that subcontractors complete any required BCI/FBI criminal records checks.

8. Rules and Procedures. The Company shall propose and the Board shall adopt reasonable rules, regulations and procedures applicable to the School and the Company shall be required by the School to enforce such rules, regulations and procedures at all times.

9. Authority. The Company shall have the authority and power necessary to undertake its responsibilities described in this Agreement, subject at all times to the direction of the Board where required by law.

10. Fees.

a. Fee. The School shall pay to Company, the revenues (the “Fee”) consisting of all state and federal per pupil allocations, technology or other operational funds, including private donations, endowments or grants applied for on behalf of the School, except an amount of \$10,000, which is to be retained by the School as a Board Reserve to be used by June 30 of each year for the School’s benefit, for a purpose to be decided by the Board. The Board Reserve will be replenished each subsequent year and not carried over. Such Fee shall be used to accomplish Company’s duties hereunder and for reasonable compensation for Company and all employees of Company hired to work for the School. The first invoice for the Fee shall be issued by the Company to the School in October, 2023 and shall account for fees due for July 2023, August 2023, September 2023, and October 2023. With the exception of the first invoice, the Company shall invoice the School for the fee on a monthly basis.

b. Operating Expenses. In consideration of the Management Fee, the Company shall pay all Operating Expenses as set forth in the budget as they come due. As used in this Agreement, the term “Operating Expenses” shall mean the current expenses of operating the School, including, without limiting the generality of the foregoing: payroll processing expenses; personnel salaries and benefits expenses; cost of assessment materials; cost of equipment, technology, textbooks and other materials and supplies, including equipment lease expenses incurred by the Company in connection with the School; insurance premiums and deductible payments other than for insurance maintained by the Board pursuant to the Sponsor Contract; marketing expenses; legal fees; and other items reflected in the annual Budget. Operating Expenses shall not include: (A) Board compensation expenses;(B) other payments related to contracts entered into by the Board, provided however, the Board shall not enter into any additional contracts for services included in those provided by the Company pursuant to Section 2(b) of this Agreement; or (C) expenses made using restricted charitable contributions and restricted grant revenues, the source of which prohibits the use of said funds. The School shall receive written consent of the Company prior to entering into any contract described in (B) of the preceding sentence if the total cost of contract exceeds ten thousand dollars (\$10,000.00) payable within one year of execution of that contract. Payment of the Company’s Operating Expenses shall take priority over the payment of any contract described by (B), above, and shall be paid before such contractor receives services. The Company shall be entitled to retain as compensation for services rendered pursuant to this Agreement the difference, if any, between the amount of the Fee for each fiscal year less any restricted charitable contributions and restricted grant revenue, the source of which prohibits the use of said funds, and the Operating Expenses for said Fiscal Year (the “Management Fee”).

11. School Personnel

a. Personnel. The Company shall be responsible for providing adequate staffing. s. The Company shall determine staffing levels at the School in consultation with the Board and shall select, evaluate, assign, discipline, transfer and terminate personnel, consistent with the Sponsor Contract, and federal and State law.

b. School Principal. Notwithstanding the foregoing, the School Principal shall be selected by Company in consultation with the Board. Within ten (10) days of the proposed candidate

the Board shall have the right to reject any proposed principal for good cause by providing written notice to the Company, which shall enumerate specific reasons for the rejection. The Company shall also give the Board at least ten (10) days' written notice of its intent to terminate or transfer the School Principal; provided, that the School Principal may be terminated without such notice upon the occurrence of any of the following:

- i. An event that jeopardizes the health, safety or welfare of students or staff School and was caused by the act, failure to act or negligence of the School Principal; or
- ii. The willful or deliberate violation by the School Principal of the Sponsor Contract or of a federal or State law that relates to the operation of the School.

The School shall not solicit the Company's employees for employment with the School or any other Schools with overlapping Board members during the period that they are employed at the Company or for up to twenty-four (24) months after the employee leaves the employment of the Company. The Company shall ensure that all criminal background checks are performed with respect to any person who has or is expected to have direct contact with students.

12. Insurance. All insurance policies described herein shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced, in coverage or limits, except upon 30 days' prior written notice to the policy holder. Upon request, the Company shall furnish School certified copies of the insurance policies or else Certificates of Insurance which demonstrate compliance with this Agreement.

a. Liability Insurance. The Company shall secure and maintain insurance covering its liability arising out of its performance of its duties under this Agreement, and provide coverage to the School, at levels of coverage that in conformity with the Sponsor Contract but that are not less than:

- i. Workers' Compensation insurance pursuant to the requirements of the State of Ohio and with Statutory primary coverage and at least one million dollars (\$1,000,000) of Employer's Liability coverage; and
- ii. Crime/Employee Dishonesty insurance with limits of at least five hundred thousand dollars (\$500,000); and
- iii. Professional Errors & Omissions insurance with limits of at least one million dollars (\$1,000,000); and
- iv. Umbrella liability coverage of five million dollars (\$5,000,000) in excess of the primary commercial general liability, automobile liability and employer's liability insurance policies.

- v. Professional liability and management liability for the Board, Professional Liability and Management Liability Insurance for Schools with limits of at least one million dollars (\$1,000,000)

b. Coordination of Risk Management. The Parties shall coordinate risk management with one another. This will include the prompt reporting of any pending or threatened claim, the timely filing of notices of claim, cooperating fully with one another in the defense of any claim, and compliance with any defense and reimbursement provisions of State governmental immunity laws and/or applicable insurance policies.

13. Termination

a. Termination by the School. The School may terminate this Agreement in the event (i) the Sponsor Contract is terminated or non-renewed, or (ii) the Company materially breaches this Agreement or causes a material breach of the Sponsor Contract and either: (A) the Company does not cure said material breach within 75 days of its receipt of written notice from the School, or (B) if the breach cannot be reasonably cured within 75 days, the Company does not promptly undertake and continue efforts to attempt to cure said material breach within a reasonable time. 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.

b. Termination by the Company. The Company may, at its option, terminate this Agreement upon the occurrence of any of the following events: (i) the School fails to pay any fees or debts due to the Company within thirty (30) days of receiving written notice that such fees are due; (ii) the School is in material default under any other condition, term or provisions of this Agreement or the Contract, which default is not caused by an act or omission of the Company, and (A) the School does not cure said material breach within thirty (30) days of its receipt of written notice from the Company, or (B) if the breach cannot be reasonably cured within thirty (30) days, the School does not promptly undertake and continue efforts to cure said material breach within a reasonable time; (iii) any decrease in state or federal funding in excess of 10% of the funding for the prior academic year for the School's students provided that any notice of termination delivered to the School after School opens for education of students for any School year shall not be effective until the next succeeding academic year. Notice of termination shall be delivered by the Company to the School within sixty (60) days after the occurrence of the event(s) giving rise to such right of termination.

c. Obligation to Continue Performance. In the event that the School or the Company elects to terminate this Agreement for any of the aforementioned reasons, except for failure to pay, and the School continues to pay the Company the fees due the Company pursuant to "Fees" Section herein, then the Company shall continue to perform its obligations hereunder, notwithstanding such notice of termination, until the end of the then current academic year.

14. Duties Upon Termination.

a. Upon termination of this Agreement for any reason whatsoever, the School shall promptly return to the Company any materials containing the educational program, the Company's methods of instruction or operation and, subject to paragraph (b) below, all Company real and personal property, and shall cease use of any Company logos or insignias. Any personal property paid for with School funds, belongs to the School. The Company shall assist the School in any transition of management and operations, including, but not limited to, (i) the orderly transition of all student records and other School property, equipment and material (if any), (ii) sending notices to students as reasonably requested by the School, and (iii) at the School's option, delivering student records directly to the students. Unless agreed to in writing by the Company, for a period not to exceed one (1) year, the School shall not attempt to contract directly with any employees, vendors, or contractors of the Company located in the State of Ohio that provided services to the School. This Section shall survive any expiration or termination of this Agreement.

b. Upon termination of this Agreement for any reason, the School shall have the right at its sole option, exercisable by written notice to the Company delivered within thirty (30) days of the final date of termination, to (i) have all personal property leases relating to operation of the School assigned to and assumed by the School, to the extent permitted by the terms thereof and to the extent that such a right can be negotiated into any leases, and (ii) purchase all personal property owned by the Company and used exclusively or primarily in connection with the operation of the School. The purchase price for any such owned assets acquired under clause (ii) above shall be the "remaining costs basis" of such assets (as that term is defined below) at the time of purchase. This Section shall survive any expiration or termination of this Agreement. For purposes of this Agreement, The "remaining cost basis" of such personal property shall be calculated based upon the straight line method of depreciation over the life of such property, as established by the following property classifications: computers and software, three (3) years; furniture, fixtures and textbooks, five (5) years; buildings or leasehold improvements, twenty (20) years. Depreciation will begin on the date that each item of personal property was acquired by the Company.

15. No Third-Party Beneficiaries. This Agreement and the provisions hereof are for the exclusive benefit of the Parties hereto and their affiliates 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.

16. Notices. Any notices to be provided hereunder shall be in writing and given by personal service, mailing the same by United States certified mail, return receipt requested, and postage prepaid, or a nationally recognized overnight carrier, addressed as follows:

If to the Company, to:

With a copy to:

Adam Schira  
Dickinson Wright PLLC  
180 East Gay Street, Ste. 3400  
Columbus, Ohio 43214  
Telephone: 614-744-2932  
Email: Aschira@dickinsonwright.com



If to the School, to:

17. Severability. The invalidity or unenforceability of any provision or clause hereof shall in no way effect the validity or enforceability of any other clause or provision hereof.

18. Waiver and Delay. No waiver or delay of any provision of this Agreement at any time will be deemed a waiver of any other provision of this Agreement at such time or will be deemed a waiver of such provision at any other time.

19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to any jurisdiction's conflict of laws provisions.

20. Assignment; Binding Agreement, Change of Ownership. The School shall assign this Agreement without the written consent of the Company. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

21. Independent Activity. All of the Parties to this Agreement understand that the Company's business is to operate and manage community Schools throughout the State and elsewhere. As such, the Parties agree the Company, and its affiliates, may operate other community Schools in the State of Ohio or anywhere else, whether the same may be considered competitive with the School or not.

22. Representations and Warranties of the Company. The Company hereby represents and warrants to the School as follows:

a. The Company is duly organized, validly existing, and in good standing under the laws of the State of Ohio and registered to do business in the State of Ohio, and has the authority to carry on its business as now being conducted and the authority to execute, deliver, and perform this Agreement.

b. The Company has taken all actions necessary to authorize the execution, delivery, and performance of this Agreement, and this Agreement is a valid and binding obligation of the Company enforceable against it in accordance with its terms, except as may be limited by federal and state laws affecting the rights of creditors generally, and except as may be limited by legal or equitable remedies.

c. The Company has the financial ability to perform all of its duties and obligations under this Agreement.

d. By entering into this Agreement, the Company is not in violation of any other agreement, legal or regulatory obligation.

23. Representations and Warranties of the School. The School hereby represents and warrants to the Company as follows:

a. The School is duly organized, validly existing, and in good standing under the laws of the State of Ohio and has the authority to carry on its business as now being conducted and the authority to execute, deliver, and perform this Agreement.

b. The School has taken all actions necessary to authorize the execution, delivery, and performance of this Agreement, and this Agreement is a valid and binding obligation of the School enforceable against it in accordance with its terms, except as may be limited by federal and state laws affecting the rights of creditors generally, and except as may be limited by legal or equitable remedies.

c. The School has made, obtained, and performed all registrations, filings, approvals, authorizations, consents, licenses, or examinations required by any government or governmental authority, domestic or foreign, in order to execute, deliver and perform its obligations under this Agreement.

d. By entering into this Agreement, the School is not in violation of any other agreement, legal or regulatory obligation.

24. Arbitration.

a. In the event of any dispute between the Parties hereto, the Parties shall settle said dispute through arbitration (unless otherwise required by any applicable insurance policy or contract). In the event arbitration is the applicable form of dispute resolution, each party shall appoint one arbitrator and then the two previously selected arbitrators shall agree upon a third. The arbitration shall take place utilizing the then-current rules of the American Arbitration Association (“AAA”) and shall take place in the State of Ohio, County of Franklin.

b. The Parties shall have the right of limited pre-hearing discovery, in accordance with the U.S. Federal Rules of Civil Procedure, as then in effect, for a period not to exceed sixty (60) days.

c. As soon as the discovery is concluded, but in any event within thirty (30) days thereafter, the arbitrators shall hold a hearing in accordance with the aforesaid AAA rules. Thereafter, the arbitrators shall promptly render a written decision, together with a written opinion setting forth in reasonable detail the grounds for such decision. Any award by the arbitrators in connection with such decision may also provide that the prevailing party shall recover its reasonable attorneys' fees and other costs incurred in the proceedings, in addition to any other relief which may be granted.

d. Judgment may be entered in any court of competent jurisdiction to enforce the award entered by the arbitrators.

25. Amendment. This Agreement may not be modified or amended except by a writing signed by each Party hereto against which any relevant term hereof is being enforced.

26. Contingency. This Agreement is contingent upon being approved by the School's sponsor pursuant to the School's Sponsor Contract.

27. Entire Agreement. This Agreement and any Appendices and Exhibits hereto shall constitute the full and complete agreement between the Parties. All prior representations, understandings and agreements are merged herein and are superseded by this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have set their hands by and through their duly authorized officers as of the date first above written.

**SCHOOL:**

**COMPANY:**

*Summer Crenshaw*

*Nicolas Arsenault*

Its: Board President

Its: Chief Executive Officer