

Educational Services Agreement

between

Eagle Charter Schools of Ohio, Inc.

DBA Shepard School by Eagle Community Schools of Ohio

and

Eagle Charter School, Inc. /ECS, Inc.

EDUCATIONAL SERVICES AGREEMENT

THIS EDUCATIONAL SERVICES AGREEMENT (the "Agreement") is made and entered into as of this 22nd day of April, 2021 (the "Effective Date") by and between Eagle Charter Schools of Ohio, Inc. DBA Shepard School by Eagle Community Schools of Ohio (the "School"), an Ohio non-profit corporation, and Eagle Charter School, Inc./ECS, Inc. (the "ECS"), a District of Columbia nonprofit corporation registered to do business in the state of Ohio (the School and ECS are sometimes individually referred to as a "Party" and collectively as the "Parties").

WHEREAS, ECS is an educational services provider with the qualifications, experience, and expertise necessary to effectively provide essential programming and services to charter/community schools;

WHEREAS, the School's Board of Directors (the "Board") has been approved to operate a community school in the State of Ohio (the "State") from Buckeye Community Hope Foundation (the "Sponsor") which is authorized by the State of Ohio to grant a community school contract ("Contract") for the operation of a community school located in Columbus, Ohio;

WHEREAS, the School is entering into this Agreement with ECS in order to meet its obligations under the Contract;

WHEREAS, it is the Parties' intention to create a relationship based on trust, common educational objectives, and clear accountability, through which the parties will work together to deliver an exceptional education program (the "ECS School Model") and experience to the students enrolled at the School; and

WHEREAS, the Parties wish to define their relationship and set forth the terms and conditions of their respective rights and responsibilities to each other;

NOW, THEREFORE, in consideration of the recitals and the mutual covenants, representations, warranties, conditions, and agreements hereinafter expressed, the Parties agree as follows:

1. **TERM AND RENEWAL.** This Agreement shall be effective as of the Effective Date and shall continue through July 30, 2026 (the "Term") unless terminated prior to such date in accordance with Section 11 below. The Parties may elect to renew this Agreement. The Parties agree to give written notice of their intent to renew or not to renew this Agreement at least twelve (12) months prior to the expiration of the Term and, should both parties desire to renew this Agreement, they shall work diligently to negotiate such agreement by February 1, 2026.

2. **REPRESENTATIONS AND WARRANTIES.**

a. **Representations and Warranties of ECS.** ECS represents and warrants as follows:

- i. **Organization and Tax-Exempt Status.** ECS is a non-profit corporation duly organized under the laws of the District of Columbia and registered as a foreign corporation authorized to conduct business in the state of Ohio, with the purpose and legal ability to contract to provide educational management services. ECS shall notify the School in writing of any change in its corporate status, or if it enters into a receivership, becomes the subject of a voluntary or involuntary bankruptcy proceeding, or makes an assignment for the benefit of creditors. This notification shall be made as far in advance of any such change as is reasonably practicable.
- ii. **Authority.** ECS possesses the requisite power and authority to execute and deliver this

Agreement, to perform its obligations hereunder, and to otherwise consummate the transactions contemplated hereby. This Agreement constitutes the valid and binding obligations of ECS, enforceable against ECS in accordance with its terms. ECS has been determined by the Internal Revenue Service as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code and shall at all times maintain tax-exempt status.

- iii. **Litigation.** There is no suit, claim, action, or proceeding now pending or, to the best of the ECS's knowledge, threatened, to which ECS is a party or which may result in any judgment, order, decree, liability, award or other determination which will or may reasonably be expected to have an adverse effect upon the School or prevent or hamper the consummation of the agreements contemplated by this Agreement. No judgment, order, decree or award has been entered against ECS.
- iv. **Conduct of ECS.** ECS's Services (defined below) provided under this Agreement shall comply with the Contract and all applicable laws and regulations.

b. Representations and Warranties of the School. The School represents and warrants as follows:

- i. **Organization and Tax-Exempt Status.** The School is a non-profit corporation duly organized under the laws of the State of Ohio, and shall at all times throughout the Term remain, a community school in good standing with the Sponsor, and possesses the legal ability to operate a community school and contract for the educational services contemplated in this Agreement. The School has applied for a tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and when received, shall at all times maintain tax-exempt status.
- ii. **Authority.** The School possesses the requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder and to consummate the agreements contemplated hereby. This Agreement constitutes a valid and binding obligation of the School, enforceable against the School in accordance with its terms.
- iii. **Litigation.** There is no suit, claim, action, or proceeding now pending or, to the best of the Board's knowledge, threatened, to which the School is a party or which may result in any judgment, order, decree, liability, award or other determination which will or may reasonably be expected to have an adverse effect upon the School or prevent or hamper the consummation of the agreements contemplated by this Agreement. No judgment, order, decree or award has been entered against the School.
- iv. **Full Disclosure.** No representation or warranty of the School herein and no statement, information or certificate furnished or to be furnished by the School pursuant hereto or in connection with this Agreement contains any untrue statement of material fact or omits a material fact necessary in order to make the statements contained herein not misleading or on which ECS would reasonably need to rely to perform its obligations under this Agreement.

- 3. CONDUCT OF THE SCHOOL AND THE BOARD.** The School at all times during the Term shall materially comply with all local, State, and federal laws and regulations that are applicable to the School, which include, but are not limited to, the Internal Revenue Code, the Family Educational Rights and Privacy Act, Ohio Education Law and regulations including the Ohio Community School Law and implementing regulations, Ohio Freedom of Information Act, as well as its By-Laws/Code of Regulations, the Contract and other such policies and procedures as the Board may adopt. The School will maintain adequate records of the activities and decisions of the School to ensure and document compliance with all such laws and regulations. The School agrees to provide ECS with copies of all such records and to allow ECS, at ECS's discretion, to assist with the preparation and retention of such records to ensure that, among other things, ECS may perform all Services and duties set forth in this Agreement. The Board is authorized to organize and operate the School and is vested by the Sponsor with all powers necessary to operate a community school in Ohio. Except as so delegated to ECS herein (unless such delegation is prohibited by applicable law), the School shall at all times retain all rights and responsibilities under the Contract.

4. DELEGATION OF RESPONSIBILITY.

- a. General. The School hereby authorizes ECS, as an independent contractor, to undertake on its behalf the functions specified in this Agreement in regards to the business, administrative and academic services of the School, it being understood that, at all times, ECS shall remain accountable and subject to the oversight of the School (and the Sponsor and other State authorities, if applicable) and the Board shall retain the ultimate rights and duties of oversight of the School pursuant to the Contract and applicable law. The School further authorizes ECS to take such reasonable actions that may not be expressly set forth in this Agreement, but which shall be implied as necessary in ECS's judgment to properly and efficiently provide services to the School, provided such actions are consistent with the Contract, applicable laws and the annual School budget approved by the Board. Furthermore, the School hereby designates employees of ECS, to the extent permitted by law, as agents of the School having a legitimate educational interest such that they are entitled to access to education records under 20 U.S.C. § 5 1232g, the Family Educational Rights and Privacy Act ("FERPA"). ECS, its officers, employees, and subcontractors shall comply with FERPA at all times.
- b. Right to Subcontract. Except to the extent prohibited by law or this Agreement, ECS may subcontract any function or service it is obligated to provide hereunder, provided that no such subcontract shall relieve or discharge ECS from any obligation or liability under this Agreement except as set forth in the Contract or as approved by the Board. If ECS subcontracts for any function or service it is obligated to provide pursuant to this Agreement, ECS will include in its contract with the subcontractor a requirement that the subcontractor will provide to the School and ECS, upon request, a copy of any records and files maintained by the subcontractor relating to the subcontractor's services to or for the benefit of the School. Nothing in this Agreement shall be construed in any way to limit the authority of the Sponsor, including, but not limited to, the authority of the Sponsor to take and enforce actions pursuant to the Ohio Community School Law.

5. DUTIES AND OBLIGATIONS

- a. Duties and Obligations of ECS. Throughout the Term of this Agreement, ECS shall provide the following educational and operational services (the "Services") in consultation and communication with the Board and/or the School Leadership Team (defined as the Principal, Assistant Principal(s) and Director of Operations):
 - i. Financial Support
 - 1. ECS commits to working with the Board to secure revenue to fund the School's Incubation Year (defined as the time between the Effective Date and July 31st, 2021), including assisting with applications for grants and philanthropy. Should the School secure less than \$150,000 in revenue for the Incubation Year, ECS commits to donating the difference between the amount of secured funds and \$150,000. This donation is specifically reserved for Incubation Year expenses inclusive of salaries, required supplies and technology, marketing, and student enrollment expenses.
 - 2. At the request of the Board, ECS may loan the School funds to cover the School's financing needs; it is understood that the terms of any loan must be more advantageous to the School when compared against terms the School could secure via another 3rd party and the terms of such loan shall be subject to the Contract and Ohio law, including the requirement that any interest charged on these advances or any other moneys loaned to the School by ECS shall bear interest at a fair market rate. The terms of any loan will be governed by a separate agreement and will be subject to Sponsor review. ECS shall document all expenses and items associated with these advances or loans and shall work with the School's fiscal officer to report such to the Board.

ii. Education and Instruction-Related Services.

1. Work with the Board to develop the Contract application that meets Ohio's requirements and fulfills the educational vision of the Board.
2. Support the School in its development and implementation of the educational programs and programs of instruction, as such programs are described in the Contract Application, by adapting the ECS School Model and recommending to the Board and the School's Leadership Team policies and procedures relating to student recruitment, student admissions, student records, student discipline, school year and school day requirements, special education, student testing, extracurricular and co-curricular activities and programs, and affiliation with other groups, clubs or associations.
3. Report on the educational progress of each student at the School by analyzing the results of interim assessments and diagnostic tests developed and administered by the School as part of the School's student performance evaluation system.
4. Support the School in its development and implementation of a comprehensive program design for college and career readiness and social emotional growth.
5. Select and assist the School with acquiring instructional and Curricular materials, equipment, and supplies acquired at the expense of the School and shall remain property of the School.
6. Provide professional development to the School administration and instructional staff members over the summer and up to nine regularly scheduled professional development improvement days during the school year.

iii. Business Operations.

1. Assist the Board in conducting a school evaluation within two (2) years of the effective date of this Agreement and every two (2) years thereafter. The evaluation will be designed as a school inspection by a team of Board members, ECS staff, School personnel and outside evaluators. The team will observe classes and other school operations, analyze a wide variety of data, review student work samples, meet with a sampling of parents, students and teachers, and engage in other activities designed to obtain a detailed picture of school and student success.
2. Support the business administration of the School, including consulting with the School on the School's preparation and maintenance of the operating procedures of the School.
3. Provide support for the following services required by and for the direct benefit of the School, which shall include but not necessarily be limited to: auditing, legal, payroll, custodial and food services.
4. Receive all school funds, on an independent contractor basis and not as a fiduciary of the School, monitors and records expenditures based on school budget, and assists with the acquisition of materials, supplies, and equipment for use at the School. Materials, supplies and equipment purchased for the School shall become and remain the property of the School. Materials, supplies and equipment shall be paid for in accordance with the School's budget at the School's sole cost and expense.
5. Assist with contracts, at the School's sole cost and expense, for any other services or the acquisition of any other supplies or equipment which ECS and the Board deem necessary or reasonable to the attainment of the educational goals of the School.
6. Market and advocate for the School, which includes the development of marketing materials, which materials shall be paid for in accordance with the School's budget at the School's sole cost and expense.
7. Design and implement (along with the School's Leadership Team), student recruitment and enrollment materials, applications, procedures and systems, including the processing of student applications, all of which shall be paid for in accordance with the School's budget at the School's sole cost and expense.
8. Assist the School in preparing reports required to be submitted to the Sponsor or

any other governmental authority, including any annual reports and any Contract renewal application to be submitted to the Sponsor.

9. Support the School's compliance with all legal requirements, and all such conditions as may be imposed by the Sponsor or any other governmental authority.
10. Facilitate the School's purchase and procurement of information technology ("IT") equipment and services, which IT equipment and services shall be paid for in accordance with the School's budget at the School's sole cost and expense, including but not limited to: wireless/broadband capabilities for the School; telephone service; all hardware associated with telephone and wireless/broadband technology; access to ECS's shared server; laptop computers for teachers; computers for administrators; personal chrome book for each student in classroom. In addition, ECS shall provide technology-related services to the School, including, troubleshooting and website and network design. ECS shall also complete the E-Rate application on the School's behalf.
11. Sublease to the School the premises known as 873 Walcutt Avenue, Columbus, Ohio ("Facility") in accordance with a sublease agreement to be approved by the Board and in accordance with the provisions of the Contract. ECS will arrange and supervise any necessary major improvements or repairs to such facility consistent with the School's budget at the School's sole cost and expense. The School shall be solely responsible for costs and expenses associated with such Facility. ECS shall not be liable under any lease or other document pertaining to such facility without its prior written consent.
12. Arrange for the subcontracting with third parties, if necessary, for after-school programs (at the School's sole cost and expense) which ECS and the Board deems reasonable, and which service shall be paid for in accordance with the School's budget.
13. Periodically provide students, parents, faculty members and other School stakeholders with written information or materials regarding the School's programming and provide any such information at the request of the Board or its designee.
14. Provide to the Board reports on the education, operational and financial performance of the School in the form of oral and summary reports at monthly Board meetings, as well as comprehensive quarterly written reports in a form mutually agreed upon by the Parties. Additionally, ECS shall provide other such reports as may be reasonably required by the Board or third parties from time to time.

iv. Human Resources and Employment.

1. Lead the recruitment of the School's Principal (who shall be responsible for the day-to-day leading the administrative, instructional and student support staff). The Principal shall report to the School's Board.
2. Assist the Principal in the development of a School Leadership Team by recruiting and recommending for hire the Assistant Principal(s) (together, the "School Leadership Team"), who shall be responsible for the day-to-day operations of the School. The Principal shall have responsibility and authority for the supervision, discipline, retention, transfer and termination of the Assistant Principal(s).
3. Lead the recruitment and screening efforts of teachers, administrators and other personnel for the School. Specifically, ECS will work to build a pool of qualified applicants through advertising, networking and other methods. ECS will conduct preliminary screens of candidates and will forward the resumes of promising candidates to the Principal. The Principal, through a delegation of authority provided to him or her by the Board, shall have the final authority to select, hire and retain such teachers, administrators and other personnel.

4. Provide general human resources support including assisting the Principal and School Leadership Team with the selection and training of the administrative staff of the School, determining staff needs, recommending the adoption of procedures for the hiring, supervision, discipline and termination of personnel and other personnel policies and administrative procedures applicable to the staff, assisting the Board and School Leadership Team in setting compensation levels of the School's staff, and supporting the School in its development and training of administrative staff and consult with the School in the establishment of procedures for hiring substitute staff.
 5. Assist the Board in selecting appropriate benefits plans for employees of the School and also arrange for the administration of employee benefits for such employees.
 6. The Parties acknowledge and agree that the Principal, School Leadership Team, teachers, administrative and other staff of the School shall be employees of the School and not of ECS.
 7. Background Checks. ECS agrees to conduct all background checks according to Ohio law.
- v. Budgeting, Financial Services and Reports.
1. ECS will implement and manage all finances for the School. ECS will provide a monthly financial report to the Board and the principal.
 2. On or before May 15th of each year during the Term the School, ECS shall prepare an initial draft of the School budget for review with the Principal and Chief Operating Officer with the draft budget being submitted to the Board for final review and approval prior to the next fiscal year. The budget shall contain reasonable detail as requested by the Board and shall include projected expenses and costs reasonably associated with operating the School including, but not limited to: the projected cost of services and education programs provided to the School; leasehold and other lease or purchase costs incurred for the School facility (if applicable); maintenance and repairs to the School facility and capital improvements (if applicable); personnel salaries and benefits expenses; payroll processing expenses; supplies and furnishings necessary to operate the School; all taxes of any kind that may be assessed or imposed; insurance premiums and deductible payments; utilities; food service expenses, professional and legal fees; school development and start-up expenses, including costs of audits, Board expenses, and any other costs and expenses connected to the operation of the School.
 3. Provide all financial contracting services to the School, such as invoicing, receiving and processing funds in accordance with the School's applicable policies, processing of the School's payroll, and working with the School's staff to review documentation submitted in support of employee vouchers for reimbursable expenses.
 4. On behalf of the School, ECS shall arrange funding and payment of salaries, fringe benefits and payroll taxes for all individuals employed by the School. All such payments shall be made on a timely basis, in accordance with all applicable laws and regulations, including all tax requirements.
 5. Prepare and provide other necessary financial statements and reports to the Board as may be required by the Contract or applicable law and regulations, provided ECS is given reasonable advance notice. Such reports may include:
 - i. Within thirty (30) days after the end of each calendar month, unaudited financial statements for the calendar month most recently ended;
 - ii. Within sixty (60) days after the close of each fiscal quarter, unaudited financial statements of the School for the fiscal quarter most recently ended;
 - iii. At the request of the Board, but at a minimum, for each meeting of

- the Board's Finance and Audit Committee meeting, a financial statement that provides a comparison of budget to actual revenues and expenditures, with an explanation of significant variances;
- iv. ECS shall also cooperate with the auditors retained by the Board to prepare annual audited financial statements of the School. ECS shall coordinate its work and the work of the auditors so as to allow for the delivery of such audited statements within 120 days after the close of each fiscal year; and
- v. Assist the School with launching its operations.

ECS shall be required to perform the Services only to the extent that there are sufficient revenues to make payment in accordance with the terms of the School budget.

- b. Duties and Obligations of the School. Throughout the Term of this Agreement, the School shall perform the following services in consultation and communication with the Board and ECS:
 - i. Education and Instruction-Related Services.
 - 1. Develop and implement the educational programs and programs of instruction, as such programs are described in the School's Contract.
 - 2. Develop and administer interim assessments and diagnostic tests designed to measure the progress of each student at the School with the assistance of ECS.
 - 3. Oversee and manage school quality with the support of ECS, including participating in an evaluation of the School within two (2) years of the effective date of this Agreement and every two (2) years thereafter.
 - ii. Business Operations.
 - 1. Support ECS in its fundraising, marketing, recruitment and advocacy efforts taken on by ECS for the direct benefit of the School by taking any action reasonably requested by ECS, including hosting open houses, devising a fundraising strategy in conjunction with ECS and supplying ECS with information necessary for ECS to conduct such efforts on the School's behalf.
 - 2. Arrange and supervise any minor improvements or repairs to the School's facility consistent with the School budget at the School's sole cost and expense.
 - 3. After consulting with ECS and the School Leadership Team, the Board shall create and adopt policies of the School, which shall be consistent with Ohio's Community School law and other applicable laws.
 - 4. In accordance with the Contract and the requirements of this Agreement, the Board shall work diligently to approve the annual budget within thirty (30) days of submission of the proposed budget by ECS to the Board in accordance with this Agreement.
 - 5. The Board shall do, or cause to be done, all things necessary to ensure that all legal requirements, and all such conditions as may be imposed by the Sponsor or other governmental authority, are fully complied with at all times. If the Board shall at any time receive notice from any public authority or other person that the School is or may be in violation of the Contract or any applicable law or regulation the Board shall immediately notify ECS of the alleged violation and shall thereafter work diligently with ECS to investigate such alleged violation, determine whether such alleged violation in fact exists, promptly respond to the complaining party and to correct any violation found to exist.
 - 6. The Board, with consultation from ECS, the Principal and the School Leadership Team, as needed, shall establish a procedure for the receipt and timely review of complaint or grievances by any parent, community, individual, or institution.
 - 7. The Board shall be responsible for conducting an annual performance evaluation of the Principal with support from ECS.

iii. Human Resources and Employment.

1. Interview principal candidates and select and hire a Principal from the group of qualified candidates presented to the School by ECS.
2. Interview teacher and other staff candidates and select and hire teachers and other staff from the group of qualified candidates presented to the School by ECS.
3. With support and direction from ECS, The School will design, implement and monitor professional development activities for the School's instructional personnel.
4. Under the direction from ECS, The School will develop and deliver ongoing teacher and support staff training, including in areas such as college and career readiness and socio- emotional growth.
5. Maintain responsibility for administrative tasks associated with the School's employee benefit plans.
6. Maintain personnel records for employees in accordance with applicable law.
7. Background Checks. The Board agrees that prior to (i) hiring any applicant for a position in the School, (ii) hiring any contractor doing business with the School who performs a service involving direct student contact, or (iii) appointing or electing a director to its Board, the School shall submit to a records check of the state and national criminal history records checks before such applicant or potential board member is hired, appointed or elected, as applicable, or such contractor begins to perform such service. The criminal history records checks shall be conducted in accordance with the laws of Ohio.

iv. Budget, Financial Services and Reports.

1. Arrange and pay for an annual audit of the School to be conducted in compliance with applicable law and regulations, and showing the manner in which funds are spent at the School.

v. Providing Information & Documentation. The Board and the School Leadership Team shall furnish ECS with all information, documents and records necessary for ECS to fully and effectively provide its Services and support and otherwise carry out its duties under this Agreement.

vi. Tax Status. In accordance with the Contract and applicable law, the Board shall take all steps required to obtain and maintain the School's status as a tax-exempt organization under federal and State law such that contributions to the School are deductible to the donor for federal income tax purposes. In the event of arbitration, the Board and ECS shall agree that, notwithstanding any claims for relief each may seek from the other, it will require that any relief granted be consistent with maintaining the School's tax-exempt status. The Board may seek to establish a separate tax-exempt organization such as a "friends of" organization to conduct fund raising activities and receive tax-deductible contributions in support of the School. ECS shall provide such assistance as the Parties reasonably agree to be necessary to support the formation of such organization but ECS shall not be responsible for costs incurred in connection with such formation.

vii. Annual Performance Review. The Board shall develop an annual community school management evaluation program to be conducted by the School under the oversight of the Board. The evaluation will be designed to evaluate the performance of ECS and its fulfillment of its obligations outlined in this Agreement. The School will conduct such evaluation no later than August 1st of each year or as otherwise directed by the Board, and in the course of such evaluation the School will analyze a wide variety of data, review ECS work samples, meet with a sampling of staff, and engage in other activities designed to obtain a detailed picture of ECS's performance. The results of such evaluation shall be presented to the Board by the Principal of the School and shall be used by the School's Board in determining whether to renew this Agreement at the

expiration of the Term. A term sheet setting forth the performance evaluation measures and timelines related to evaluating ECS is attached hereto as Exhibit A.

- c. **Additional Services.** ECS may, but is not obligated to, provide additional services to the School upon request. ECS and the School agree to negotiate in good faith additional compensation for such additional services. The proposed budget prepared by ECS each year for review and approval by the Board shall contain details regarding the costs and expenses related to any such requested additional services. Such additional services may include, but are not limited to, special education management, tutoring program support and facilities management. ECS may perform functions off-site, except as prohibited by applicable law. ECS may utilize web-based systems to provide support and counsel to the School. ECS will bill the School for additional services by an invoice which details each additional service, the amount billed for each additional service, and the basis for the amount billed, i.e., hourly rate, or other basis for determining the amount billed. Such invoices will be available for review by representatives of the Sponsor. If ECS receives more than twenty percent of the annual gross revenues of School, ECS shall in accordance with Ohio Revised Code 3314.024 provide a detailed accounting of the nature and costs of goods and services it provides to the School.
- d. **Compliance with Ohio Education Statutes.** The Board and ECS shall ensure compliance with Ohio's public community school law and all Ohio and federal education laws that apply.
- e. **Students with Special Needs.** The School recognizes its obligation to provide an appropriate education to all students enrolled in the School, regardless of special need, in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. As required by law, the School shall be open to individuals with special needs. ECS may, on behalf of the School, subcontract, as necessary and appropriate, to a municipal, public or private contractor or otherwise for the provision of special education services, subject to approval by the School, which approval shall not be unreasonably withheld. Any cost, fee or expense associated with such subcontract shall be paid by the School.

6. FEES

- a. In consideration for the Services provided by ECS to the School, ECS shall be paid a management fee equal to twelve percent (12%) of Gross Revenues (the "Management Fee"). For the avoidance of doubt, all Gross Revenues received by the School that are earmarked for a particular purpose (e.g. Special Education Funding) shall be used by the School solely for such purpose. The amount of such earmarked Gross Revenues shall be used solely for the purpose of calculating the amount of the Service Fee. By way of example, if the total Gross Revenues received by the School for a particular month is \$50,000, of which \$10,000 is Special Education Funding, the amount of the Service Fee owed by the School to ECS would be \$6,000 (i.e., 12% of \$50,000). However, the School would have access to, and the right to utilize, the entire \$10,000 in Special Education Funding it received solely for the School's special education needs. For purposes of this section the following definitions shall apply:
 - i. "E-Rate Funding" means the funding and discounts provided to the School under the Schools and Libraries Program of the Universal Service Fund, administered by the Universal Services Administration Company under the direction of the Federal Communications Commission.
 - ii. "Gross Revenues" shall mean an amount equal to the sum of (i) per pupil revenue distributed by Ohio, plus (ii) Title Funds, plus (iii) E-Rate Funding, plus (iv) Special Education Funding plus (v) all other public entitlement funding from a Public Source, excluding in-kind contributions (e.g. transportation services, food services), start-up funding (e.g. Federal Public Charter School Planning and Implementation Grant), funding for School meals and funding for competitive grants.
 - iii. "Public Source" means any federal, State or local government, or political subdivision thereof, or any federal, State or local authority, agency or commission.
 - iv. "Special Education Funding" means the funding provided by any Public Source to the School for full-time and part-time special education services, including, but not limited to, funds granted to the School pursuant to the Individual with Disability Education Act of 2004, as amended.
 - v. "Title Funds" means the funding granted to the School by the federal government pursuant to the Elementary and Secondary Education Act of 1965, as amended.
 - vi. The Management Fee shall be calculated at end of every month and shall be payable via

“net 15” terms. (i.e., the Management Fee for the preceding month is due the 15th of the current month).

- b. Should the School by way of FTE review or other audit or review by the State of Ohio or designee thereof be determined to owe back Gross Revenues, ECS agrees to contribute the Management Fee portion thereof.

7. **PROPRIETARY WORKS.** The School acknowledges that the ECS School Model is proprietary to ECS, and ECS owns and shall own all existing, and hereafter created, copyrights and other intellectual property rights with respect to all works of authorship, inventions and work product including, instructional materials, training materials, curriculum and lesson plans, and any other materials, teaching methodologies, school management methodologies, and all improvements, modifications, and derivative works thereof that are created, invented or developed by (i) ECS, its employees, agents or subcontractors, or (ii) an individual employed or retained by the School within the scope of such employment or retention utilizing ideas or products developed by ECS, including the ECS School Model (collectively, the "Proprietary Works"). ECS hereby grants the School, solely as may reasonably be required in connection with the performance of this Agreement, a non-exclusive, non-sublicensable, non-transferable, royalty-free license to use Proprietary Works as necessary or desirable to operate the School during the Term of this Agreement. The School shall cause all persons who create, invent or develop Proprietary Works for the School to assign to ECS in writing their intellectual property rights in such works. Upon ECS's reasonable request, the School will provide ECS with a copy of all Proprietary Works. This Section 7 shall survive termination of this Agreement.
8. **USE OF NAME.** ECS hereby grants the School, solely as may reasonably be required in connection with the performance of this Agreement, a non-exclusive, non-sublicensable, non-transferable, royalty-free license to use the names and trademarks "Eagle Charter" and "Eagle Charter Schools" and any logos provided to the School by ECS (the "Trademarks") in connection with the operation of the School and all promotional activities in connection therewith, subject to the following conditions. The School agrees that it will (i) not use or register any domain name containing "Eagle Charter" or "Eagle Charter Schools"; (ii) cooperate to use any website, social, wireless, mobile or other media network or application provided by ECS for the School's use; (iii) not set up its own official site, page or venue in any social media or user-generated content media (including Facebook, Twitter and YouTube) without prior written consent of ECS; (iv) use the Trademarks in compliance with all reasonable notices and guidelines provided by ECS; or (v) use the Trademarks in a dignified manner in accordance with reputable trademark practices. The School shall acquire no rights in the Trademarks, and all goodwill of the Trademarks shall inure to the benefit of and remain with ECS. ECS shall have pre-approval rights for each form and manner of public display of the Trademarks. The School agrees to use the Trademarks only in connection with high-quality educational services reflecting favorably on the reputation and goodwill of ECS and, at ECS's request, to provide ECS with representative samples of materials used by the school bearing the Trademarks. If ECS objects to any such materials for not properly using the Trademarks or for not being of sufficient quality, the School will promptly make all appropriate corrections. Should this Agreement be terminated or not renewed for any reason, the School shall, as soon as practicable but not later than the end of the school year in which this Agreement may be terminated or not renewed, amend its organizational documents to remove the Trademarks from the School's corporate name and petition to the Sponsor to revise its Contract to formally change the name of the School to remove any reference to the Trademarks and diligently follow such petition through to its completion. Upon the effectiveness of such revision and removal, the School will cease all further use of the Trademarks and return all materials promptly to ECS. This Section 8 shall survive the termination of this Agreement.
9. **INDEMNIFICATION**
- a. Indemnification. The School and ECS do hereby agree that each Party shall be solely responsible for each Party's own acts and omissions as well as the acts and omissions of each Party's own board of directors or trustees, partners, officers, employees, agents, and representatives. Each Party to this Agreement (acting as Indemnitor) does hereby indemnify and hold harmless the other, and its respective board of directors or trustees, partners, officers, employees, agents, representatives, and attorneys (acting as Indemnified Persons), from and against any and all claims, actions, damages, liabilities, penalties, fines, expenses, losses or awards ("Claim"), plus reasonable attorneys' fees and expenses incurred in connection with Claims and/or enforcement of this Agreement, which arise out of (i) the negligence of the Indemnitor, (ii) any action taken or not taken by the Indemnitor or (iii) any noncompliance or breach by the Indemnitor of any of the terms, conditions, warranties, representations, or undertakings contained in or made pursuant to this Agreement. Such indemnification may be achieved by the purchase of general liability and property insurance policies, in accordance with Article 10 or by such other means as the parties may mutually agree.

- b. Notice and Defense. The Party to be indemnified (Indemnitee) shall give the Party from whom indemnification is sought (Indemnitor) prompt written notice of any Claim for which indemnification is sought. Failure to give notice shall not affect the Indemnitor's duty or obligations under this Agreement except to the extent the Indemnitor is prejudiced thereby. The Indemnitor may undertake the defense of any third party claim by representatives chosen by it. If the Indemnitor undertakes the defense of a Claim, then the Indemnitor shall be deemed to accept that it has an indemnification obligation under this Section 9 with respect to such Claim, unless it shall in writing reserve the right to contest its obligation to provide indemnity with respect to such third party claim. The Indemnitee shall make available to the Indemnitor or its representatives all records and other materials required by them and in the possession or under the control of the Indemnitee, for the use of the Indemnitor and its representatives in defending any such Claim, and shall in other respects give reasonable cooperation in such defense. If there is a reasonable probability that a Claim may materially and adversely affect the Indemnitee other than as a result of money damages or other money payments, (i) the Indemnitee shall have the right to defend, compromise or settle such Claim and (ii) the Indemnitor shall not, without the written consent of the Indemnitee, settle or compromise any Claim which does not include as an unconditional term thereof the giving by the claimant to the Indemnitee a release from all liability in respect of such Claim.
- c. Failure to Defend. If the Indemnitor, within forty-five (45) days after notice of any such Claim, fails to dispute the obligation of the Indemnitee with respect to such Claim or fails to defend such Claim actively and in good faith, then the Indemnitee will (upon written notice to the Indemnitor) have the right to undertake the defense, compromise or settlement of such Claim or consent to the entry of a judgment with respect to such Claim, on behalf of and for the account and risk of the Indemnitor, and the Indemnitor shall thereafter have no right to challenge the Indemnitee's defense, compromise, settlement or consent to judgment therein.

10. INSURANCE

- a. Insurance Coverage. At all times during the Term of this Agreement, the School shall at a minimum maintain at its sole cost and expense in full force and effect insurance coverage, as required under the Contract and subject to additional lines of coverage and amounts as reasonably requested by ECS. The School shall also maintain such workers compensation and disability insurance as required by State law and school leaders/errors and omissions insurance. ECS shall maintain at its sole cost and expense such insurance as it shall reasonably deem necessary under this Agreement, including general liability insurance of \$1 million per occurrence/\$3 million aggregate, an umbrella policy, directors and officers liability insurance, employment practices liability insurance, automobile insurance and workers compensation and disability insurance as required by State law. Each Party shall name the other as an additional insured on their commercial general liability, automobile liability and crime insurance policies and the School shall name ECS as an additional insured on its employment practices liability insurance policy and school leaders/errors and omissions insurance policy.
- b. Subcontractors. ECS shall require that its subcontractors, if any, shall maintain insurance commercially standard insurance policies (including but not limited to general liability, automotive, directors and officers, workers compensation and disability insurance) and that such subcontractors name ECS and the School as additional insureds (except on workers compensation and disability policies, which is not permitted by law).
- c. Contractors. The School shall require that its contractors, if any, shall name ECS and the School as additional insureds under their respective commercial general liability and automobile liability insurance policies for personal injury and property damage.
- d. Notice of Change. The insurance policies maintained by each Party pursuant to this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced, in coverage or limits, except after thirty (30) days prior written notice to ECS and the School. The Parties shall furnish one another certified copies of the insurance policies or Certificates of Insurance that demonstrate compliance with this Agreement. Each Party shall comply with any information or reporting requirements required by the other Party's insurer(s), to the extent reasonably practicable.

11. TERMINATION

- a. Termination by School. The School may terminate this Agreement for cause prior to the end of the Term for any of the reasons set forth in subparagraphs (i) and (ii) below:

- i. if ECS materially breaches any of the material terms and conditions of this Agreement and fails to remedy such breach within 45 days after receipt of written notice of such breach from the School, unless such breach is incapable of being reasonably cured within 45 days in which case this Agreement may be terminated if ECS fails to initiate and continue a cure for such breach within 45 days after receipt of such written notice; or
 - ii. if there occurs an enactment, repeal, promulgation or withdrawal of any federal, State, or local law, regulation, or court or administrative decision or order which, after exhausting all possible appeals, results in a final judgment or finding that this Agreement or the operation of the School in conformity with this Agreement, would violate the School's responsibilities, duties or obligations under the State or federal constitutions, statutes, laws, rules or regulations; or
 - iii. if the School does not achieve a performance rating as agreed upon by the parties.
- b. Termination by ECS. ECS may terminate this Agreement for cause prior to the end of the Term for any of the reasons set forth in subparagraphs (i), (ii), (iii) or below:
 - i. If the School fails to pay when due any monetary obligation of the School as required by the provisions of this Agreement, and such obligation remains unpaid for a period of forty-five (45) days after receiving written notice of the delinquent payment from ECS; or
 - ii. If the School materially breaches any of the material non-monetary provisions of this Agreement and fails to remedy such breach within 45 days after receipt of written notice of such breach from ECS, unless such breach is incapable of being cured within 45 days in which case this Agreement may be terminated if the School fails to initiate and continue a cure for such breach within 45 days after receipt of such written notice; or
 - iii. enactment, repeal, promulgation or withdrawal of any federal, state, or local law, regulation, or court or administrative decision or order which has a material adverse effect on ECS's ability to provide Services to the School in accordance with its budget, this Agreement or the ECS School Model if the Sponsor revokes, suspends, or non-renews the School's Contract.
- c. Termination Upon Agreement of the Parties. This Agreement may be terminated upon written agreement of the Parties; provided, however, that each Party shall use its good faith best efforts to avoid a termination of this Agreement that becomes effective during the school year because of the disruption of such termination to the educational program and the students. Therefore, in the event this Agreement is terminated by either Party prior to the end of the Term, absent unusual circumstances, the termination will not become effective until the end of the school year.
- d. Procedures upon Expiration or Termination. Upon expiration or termination of this Agreement for any reason, the Parties agree to cooperate in good faith and use their best efforts to complete a prompt and orderly separation, it being the intention of both Parties that the School shall remain open and operating in its normal course in the event of such expiration or termination of this Agreement, in accordance with the following rights and obligations of the Parties:
 - i. The School shall pay ECS any previously unpaid portion of the Management Fee for services performed by ECS until the time of termination, and (b) ECS shall pay to the School any outstanding money raised specifically for the School.
 - ii. The School shall have the right to use ECS's Proprietary Works, as defined under Section 7 hereof, then currently in use by the School (including but not limited to the Trademarks), until the last day of the then current school year.
 - iii. ECS shall provide the Board with all copies and originals of all student records, financial reports, employee records, and other School data in ECS's possession and not currently in the possession by the Board.
 - iv. ECS shall provide the School with reasonable educational and operational transition assistance for a period of sixty (60) days after the termination of this Agreement, provided that the School shall pay to ECS all fees, expenses and other costs of ECS consultants and agents who may, from time to time, upon mutual agreement of the parties, provide assistance to the School or its students.
- e. Pursuant to Ohio Revised Code 3314.0210 when ECS purchases furniture, computers, software, equipment, or other personal property for use in the operation of a community school with state funds that were paid to ECS by the School as payment for services rendered,

such property is property of the School and is not property of ECS. If the School permanently closes and ceases its operation as a community school, any property that was acquired by the ECS 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.

12. **DISPUTE RESOLUTION.** As a condition precedent to any other legal recourse (unless such legal recourse seeks injunctive relief), the resolution of disputes that arise under this Agreement shall be submitted to mediation. An initial meeting to resolve the dispute shall be conducted by the parties at a meeting to be held at the School's offices within fourteen (14) working days of a written request, which request shall specify in reasonable detail the nature of the dispute to be resolved at such meeting. The meeting shall be attended by representatives of the Parties and any other person that may be affected in any material respect by the resolution of such disputes. Such representatives shall have authority to settle the dispute and shall attempt in good faith to resolve the dispute. Should the parties be unable to informally resolve a dispute, the Parties agree to submit any dispute to the American Arbitration Association (the "AAA"), to be adjudicated in accordance with AAA's expedited procedures.

13. **MISCELANEOUS PROVISIONS**

- a. Independent Contractor; No Partnership. ECS shall be for all purposes an independent contractor and nothing contained herein shall be construed as creating a fiduciary relationship between ECS and the School. This Agreement does not constitute, and shall not be construed as constituting, a partnership or joint venture between the Parties. No agent, employee, or servant of ECS shall be deemed to be the employee, agent or servant of the School except as expressly acknowledged in writing by ECS.
- b. Force Majeure. Neither Party shall be liable if the performance of any part or all of this contract is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, explosion, war, act of God, sabotage, accident or any other casualty or cause beyond either Party's control, and which cannot be overcome by reasonable diligence and without unusual expense.
- c. Notices. All communications and notices relating to this Agreement are to be delivered in writing, with confirmation of delivery, to the following address or to such other address as either Party may designate from time to time.

If to the School, to:
Chairperson
Eagle Charter Schools of Ohio, Inc
873 Walcutt Avenue
Columbus, Ohio 43219

With a copy to:
Amy E. Goodson, Esq.
288 S. Munroe Road
Tallmadge, Ohio 44278

If to ECS:
Eagle Charter Schools, Inc
400 Virginia Avenue SW, Suite 710
Washington, DC 20024

- d. Governing Law. The rights and remedies of either Party under this Agreement shall be cumulative and in addition to any other rights given to either Party by law and the exercise of any rights or remedy shall not impair either Party's right to any other remedy. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Ohio.
- e. Enforceability and Validity of Certain Provisions. If any provisions of this Agreement shall be held, or deemed to be, or shall, in fact, be inoperative or unenforceable as applied in any particular situation, such circumstances shall not have the effect of rendering any other provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses, or paragraphs herein contained shall not affect the remaining portions of this Agreement or any part hereof. Any amendment to this Agreement shall be in writing and signed by the parties, subject to the prior approval of the Sponsor.

- f. Section Headings. The headings in this Agreement are for the convenience of the parties only and shall have no effect on the construction or interpretation of this Agreement and are not part of this Agreement.
- g. Conflict with Contract. To the extent there are any conflicts between the terms of the Contract and the terms of this Agreement, the terms of the Contract shall control.
- h. Entire Agreement. This Agreement shall not be changed, modified, or amended nor shall a waiver of its terms or conditions be deemed effective except by writing signed by both Parties. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all other prior agreement, understandings, statements, representations, and warranties, oral or written, express or implied, between the Parties and their respective affiliates, representatives, and agents in respect of the subject matter hereof.
- i. Waiver. The failure of either Party hereto to insist upon or to enforce its rights shall not constitute a waiver thereof, and nothing shall constitute a waiver of such Party's right to insist upon strict compliance with the provisions hereof. No delay in exercising any right, power, or remedy created hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy by any such Party preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. No waiver by any Party hereto to any breach of or default in any term or condition of this Agreement shall constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition hereof.
- j. Succession. The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors, and permitted assigns of the respective Parties.
- k. Assignment. This Agreement may not be assigned by either Party without the prior written consent of the other Party. Both Parties acknowledge that an assignment of this Agreement by either Party may constitute a material change to the Contract and may require approval by the Sponsor.
- l. Form of Execution. This Agreement may be executed by facsimile or digital signature application and in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.
- m. Further Actions. Each Party hereto shall, at all times, cooperate in taking such actions and doing or causing to be done all things necessary, proper, or advisable or reasonably requested by the other Party hereto effect the intent and purpose of this Agreement and implement the transactions contemplated hereby.
- n. Survival. The provisions of Sections 6, 7, 8, 11, this Section 12, and any other sections or exhibits to this Agreement that by their nature extend beyond the expiration or termination of this Agreement shall survive any expiration or termination of this Agreement; provided that any provisions that is stated to extend for a specific period of time shall survive only for such specified period of time.
- o. Specific Performance. In addition to all of the remedies otherwise available to ECS, including, but not limited to, recovery of damages and reasonable attorneys' fees incurred in the enforcement of Sections 7 and 8, ECS shall have the right to injunctive relief to restrain and enjoin any actual or threatened breach of the provisions of Sections 7 or 8. All of ECS's remedies for breach of Sections 7 and 8 shall be cumulative and the pursuit of one remedy shall not be deemed to exclude any other remedies. The School acknowledges and agrees that ECS's rights under Sections 7 and 8 are special and unique and that ECS would not adequately be compensated by money damages if the event of a violation of Sections 7 or 8 by the School.

[SIGNATURES ON THE FOLLOWING PAGE]

In witness whereof, the Parties have caused this Agreement to be signed and delivered by their duly authorized representatives on the date first written above.

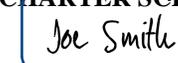
EAGLE CHARTER SCHOOLS OF OHIO, INC.

By:  _____
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Name: Scott Knowlton

Title: President

EAGLE CHARTER SCHOOL, INC. /ECS INC.

By:  _____
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Name: Joe M. Smith

Title: Chief Executive Officer

Exhibit A - Performance Evaluation Criteria of CMO		
Goal	Board's Evaluation Tool	ECS' responsibility
<p>Academic - ELA performance 60%/70%/80% of students enrolled for 1/2/3+ years will meet or exceed the grade level specific benchmarks on NWEA-MAP or show the equivalent of 1.5 years of growth.</p>	annual end-of-year NWEA-MAP assessment	Ensure curriculum, instruction, student support, professional development, and administrative leadership are effecting and working in concert to achieve these goals
<p>Academic - Math performance 60%/70%/80% of students enrolled for 1/2/3+ years will meet or exceed the grade level specific benchmarks on NWEA-MAP or show the equivalent of 1.5 years of growth.</p>		
<p>Academic - ELA Performance Students enrolled for three or more years at Eagle will achieve proficient or advanced levels on the ELA state standardized test at a rate at least 20% greater than CCSD students at the same grade level.</p>	Annual state standardized test	
<p>Academic - Math Performance Students enrolled for three or more years at Eagle will achieve proficient or advanced levels on the Math state standardized test at a rate at least 20% greater than CCSD students at the same grade level.</p>		
<p>Academic - Subgroup performance Typically at-risk subgroups of students will be independently tracked as a cohort and held to the same academic goals as above. This includes, but it not limited to, ELL students, students with Special Needs, Low income students, and minority students.</p>	Annual NWEA-MAP and state standardized test.	
<p>Social Emotional - Discipline During its second year of operation and beyond, the percentage of serious discipline incidents at Eagle will be at least 25% less than the percentage of serious discipline incidents at CCSD.</p>	Annual state reporting of Discipline incidents	

<p>CFO/Bookkeeping Duties All Board requested and legally required reports will be delivered as expected and on time.</p>	<p>Reports are delivered per regular reporting schedule as dictated by the Board and Ohio law.</p>	<p>Complete CFO and Bookkeeping responsibilities.</p>
	<p>Annual audit is completed on time and without significant findings.</p>	<p>Cooperation with annual audit; oversight of process to ensure independent auditor executes per agreement.</p>
<p>Stakeholders - Parent involvement At least 80% of parents will attend 3+ optional school meetings/events/functions.</p>	<p>Annual stakeholder surveys and attendance documentation from events.</p>	<p>Consult with Principal to ensure Eagle is providing families with support and sufficient opportunities for involvement</p>
<p>Student Enrollment Eagle will meet/exceed the annual student enrollment targets as determined by the Governing Board and included in the budget projections.</p>	<p>Student enrollment reports per Board's regular reporting schedule</p>	<p>Oversee marketing and recruitment efforts</p>
<p>Operational - Reporting, Policies, and Procedures All requested documentation, forms, policies, and procedures are properly adopted by the Governing Board and the School itself.</p>	<p>3rd party audit/review of school; general observations</p>	<p>Provide drafts of most deliverables; oversee proper creation and implementation of all reports, policies, and procedures.</p>