

**MANAGEMENT AGREEMENT  
BETWEEN  
URBAN EARLY COLLEGE NETWORK, INC.  
AND  
EDISONLEARNING, INC.**

**THIS MANAGEMENT AGREEMENT** (this "Agreement") is made and entered into as of the 17th day of May, 2016 by and between **EDISONLEARNING, INC.**, a Delaware corporation ("EdisonLearning"), and **URBAN EARLY COLLEGE NETWORK, INC.** DBA Dayton Bridgescape Academy ("Charter Holder"), a nonprofit corporation organized and existing under the laws of the State of Ohio ("State" or the "State"). EdisonLearning and the Charter Holder agree to the terms set forth below and in the appendices and exhibits attached hereto and incorporated herein.

**WHEREAS**, the Charter Holder has proposed establishing a new charter school in accordance with State law to meet the educational needs of individuals who have dropped out of high school; and

**WHEREAS**, Educational Resource Consultants of Ohio (the "Chartering Authority") has entered into a contract with the Charter Holder in accordance with the State law whereby the Charter Holder is authorized to establish a public charter school ("Charter School"); and

**WHEREAS**, EdisonLearning works in partnership with selected public school districts and charter schools throughout the nation to provide educational programs that offer educational excellence and innovation; and

**WHEREAS**, the Charter Holder desires to contract with EdisonLearning to establish a program to provide educational opportunities to certain students who have left school prior to graduating from high school;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein set forth, EdisonLearning and the Charter Holder, intending to be legally bound hereby, do hereby agree as follows:

**ARTICLE 1  
RELATIONSHIP; AUTHORITY**

**1.1. Charter Agreement.** The Charter Holder has been granted a charter by the Chartering Authority to organize and operate a Charter School pursuant to State law. The Charter Holder and the Chartering Authority entered into an agreement dated March 8, 2016, a copy of which is attached hereto as Exhibit 1 (the "Charter Agreement"), which sets forth certain terms and conditions of the charter. The Charter Agreement and all terms and conditions contained therein are hereby incorporated by reference into this Agreement.

**1.2. Governance.** The Charter Holder is governed by a Board of Directors ("Board"), which is responsible for overseeing the operations of the Charter School. The Charter Holder shall provide prompt written notice to EdisonLearning of any changes in the composition of the Board. The Charter Holder anticipates having monthly board meetings, and that an EdisonLearning representative(s) will attend the monthly meetings.

**1.3. Appointment.** Under the Charter Agreement and the State law, the Board is vested with all powers necessary or desirable for carrying out the Charter Holder's program, including, but not limited to, the power to contract with an educational management company to provide educational

programs and management services. Acting under and in the exercise of such powers, the Charter Holder hereby contracts with EdisonLearning, to the fullest extent permitted by law, for the provision of EdisonLearning's education program and management services for the Charter School, subject to the terms and conditions set forth in this Agreement and the Charter Agreement, and further subject to the oversight of the Board. EdisonLearning acknowledges that this Agreement is subject to the terms of the Charter Agreement, and the Charter Holder agrees to notify EdisonLearning of any proposed changes to the Charter Agreement promptly after becoming aware of such proposed changes, and to provide to EdisonLearning promptly with any amendments to the Charter Agreement that would take effect during the Term.

**1.4. Authority.** Subject at all times to the oversight and authority of the Board as provided herein, the Charter Holder hereby authorizes EdisonLearning, in performing its duties and fulfilling its obligations under this Agreement during the Term, to take such actions as are necessary or desirable to properly and efficiently operate the Charter School on behalf of the Charter Holder, consistent with federal and State law and subject to the terms and conditions of this Agreement and the Charter Agreement.

## **ARTICLE 2 TERM AND RENEWAL**

**2.1. Term.** The term of this Agreement ("Term") shall commence on May 17, 2016 and end on June 30, 2021, unless extended or earlier terminated in accordance with the terms and conditions set forth herein, including but not limited to Section 11.1. The Term shall include five school years, each commencing on July 1 of a year and ending on June 30 of the following year.

**2.2. Renewal.** The Term shall automatically be renewed for additional five (5) year terms unless either party provides written notice of its intent not to renew on or before January 1 of the academic year in which this Agreement is scheduled to expire. In no event shall this Agreement extend beyond the term of the Charter Agreement.

## **ARTICLE 3 PROGRAM DESCRIPTION**

**3.1. Bridgescape® Services.** EdisonLearning shall provide a proprietary, community-based, alternative education program called "Bridgescape® Learning Academy - Dayton" as described or otherwise provided under this Agreement to all eligible students, which shall include students who: (i) are not high school graduates; (ii) are no more than 21 years old; (iii) are not currently enrolled in an educational program; (iv) are legal residents of the State; (v) are "at risk" as defined under RC 3314.36; and (vi) meet any other requirements under State law. The expected enrollment for the first school year of the Term (i.e., July 1, 2016 to June 30, 2017) is 150 students. The expected enrollment for subsequent school years of the Term is 200 students per year.

## **ARTICLE 4 SCHOOL INFORMATION**

**4.1. School Operations.** As more fully described in the Charter Agreement, the Charter School's academic program shall meet all State Department of Education requirements in English/language arts, math, science, social studies, computer literacy and physical education, and shall use the EdisonLearning eCourses™ online curriculum, which is aligned to state standards and the accompanying EdisonLearning eCourses™ textbook, and combined with direct instruction by state certified teachers. Students will utilize the curriculum through instructional blending, which consists of working individually and through small and whole-group instruction. The Charter School's access to EdisonLearning eCourses™, as well as to a student learning management system

known as eSchoolware®, shall be pursuant to the terms of separate license agreement entered into between the Charter Holder and EdisonLearning (the “License Agreement,” a copy of which is attached hereto as Exhibit 2).

**4.2. School Calendar.** The Charter School’s calendar shall be determined by the Charter Holder on an annual basis but shall include no less than a total of 920 instructional hours or the amount required under State law. The Charter School shall follow the calendar in the district in which the Charter School resides.

**4.3. Special Education and Related Services.** EdisonLearning shall provide special education and related services to students at the School, in accordance with federal and State law.

**4.4. Bilingual and ESOL Education.** EdisonLearning shall provide bilingual and/or “English for speakers of other languages” education services to the limited-English-proficient students in the School, in accordance with federal and State law.

**4.5. Rules and Regulations.** The Charter Holder hereby authorizes EdisonLearning to adopt and enforce such rules, regulations and procedures applicable to the day to day operations of the Charter School that do not conflict with federal or State laws, rules, regulations or policies that have not been waived, including rules and regulations concerning student attendance, standards of conduct, discipline, compulsory attendance and calendar, all subject to the continuing oversight of the Charter Holder. The Charter School shall comply with all applicable federal and State laws concerning the welfare, safety and health of students. If EdisonLearning or the Charter Holder identifies any federal or State rules or regulations that substantially inhibit the implementation of the EdisonLearning educational design at the Charter School, then the Charter Holder shall, with EdisonLearning’s assistance, apply for and support any available waiver of any such rules or regulations.

**4.6. Student Records.** Except to the extent expressly waived in writing by the appropriate State authorities, the School shall comply with all federal and State laws concerning the maintenance and disclosure of student records and student information. The Charter Holder hereby designates EdisonLearning, its officers, employees and agents as having a legitimate educational interest such that they are entitled to access to education records under 20 U.S.C. §1232g of the Family Educational Rights and Privacy Act (“FERPA”). EdisonLearning, its officers, employees and agents shall comply with FERPA at all times. Subject to the limitations set forth herein, EdisonLearning explicitly indemnifies and holds the Charter Holder harmless for any violation of FERPA by EdisonLearning, its officers, employees and agents.

**4.7. Reports to the Board.** EdisonLearning shall provide the Board with information regarding the Charter School that the Board requires in order to timely file such reports as may be required by the Charter Authorizer and other governmental authorities. Additionally, upon reasonable notice, EdisonLearning shall make available to the Board additional reports and information that the Board may reasonably require from time to time.

## ARTICLE 5 CAPITAL RESOURCES & SERVICES

### **5.1. School Technology, Curriculum Materials, Furniture & Fixtures.**

(a) **School Technology, Curriculum Materials, Furniture & Fixtures.** EdisonLearning shall procure all school technology, curriculum materials, furniture and fixtures for

the Charter School (“Assets”), consistent with the needs of the Charter School’s students and the specifications required by EdisonLearning eCourses™, and in accordance with (and subject to) the Annual Budget and the License Agreement. The costs and expenses of all Assets shall be considered Operating Costs to be funded out of Charter School funds (including External Public Funds). To the extent EdisonLearning pays for any Assets, which it may but shall not be required to do, such payments shall constitute Working Capital Advances. Assets purchased with Charter School funds shall be of the property of the Charter Holder, subject to the provisions of Section 11.4 herein.

All equipment, furniture, fixtures, instructional materials and supplies, software, computers, printers, other digital devices, and other personal property purchased by the Charter Holder or by EdisonLearning with funds that were paid to EdisonLearning by the School as payment for Operating Costs, are property of the Charter Holder and are not property of EdisonLearning. Notwithstanding the foregoing, it is understood that (1) all instructional materials that are proprietary to EdisonLearning, including EdisonLearning eCourses™, shall be and remain proprietary to and owned by EdisonLearning under all circumstances and the Charter Holder’s rights thereto are by limited license to use only which shall terminate immediately on the termination of this Agreement, and (2) any amounts paid by EdisonLearning for any such property shall constitute Working Capital Advances that must be repaid in accordance with this Agreement.

(b) **Asset Leasing.** EdisonLearning may identify certain necessary Assets to be leased by the Charter School and, upon approval by the Board, such approval not to be unreasonably withheld, EdisonLearning shall negotiate such leases with independent leasing companies for the Charter School and the Charter School shall enter into such leases. Ownership of Assets leased through such transactions shall be subject to the terms of the lease agreement.

**5.2. Cleaning, Maintenance & Security.** EdisonLearning shall arrange services for the cleaning, maintenance and security of the School Facilities. Any costs of such services paid by EdisonLearning shall be considered an Operating Cost.

**5.3. Food Service.** EdisonLearning may select a vendor to provide food service to the Charter School and shall administer a food program. Any costs of such services paid by EdisonLearning shall be considered an Operating Cost.

**5.4. School Facilities.** The Charter Holder shall be responsible for procuring the facilities for the Charter School. EdisonLearning shall identify potential Charter School facility sites and, upon and subject to approval by the Board of a facility site, and subject to Board directives, if any, the Charter School shall negotiate a lease for the Charter School facility site and, subject to Board approval thereof, the Charter School shall enter into such lease. EdisonLearning shall provide such reasonable assistance in connection with the procurement of the Charter School’s facilities as the Board may reasonably request.

**5.5. Technology Support Services.** EdisonLearning shall provide technology service desk support services for the Charter School, the expense of which shall be an Operating Cost of the Charter School and paid out of Charter School funds separately from, and in addition to, the Management Fee.

**5.6. Other Related Services.** EdisonLearning shall arrange for the provision of utilities to the Charter School, including, without limitation, electricity, oil, gas, telephone, cable (TV/internet), water and waste charges (“Utilities”) and for all buildings and grounds non-personnel cleaning, maintenance and upkeep (“Upkeep”). All expenses related to Utilities and Upkeep, to the extent paid by EdisonLearning, shall be considered Operating Costs.

**5.7. Disclaimer.** In no event is EdisonLearning’s payment of operating or other expenses for or on the account of the Charter School to be construed as EdisonLearning’s acceptance of any

responsibility for any financial obligations of the Charter School which responsibility EdisonLearning disclaims.

## **ARTICLE 6 FINANCIAL**

**6.1. (a) Application for State and Other Public Funding.** The Charter Holder shall comply with the requirements, terms, and conditions of State law for the purpose of receiving or maintaining the Charter Holder's eligibility to receive from the State the per pupil allowance for each student enrolled and in attendance in the Charter School. The Charter Holder shall also comply with the requirements, terms, and conditions of any External Public Funds described in Appendix A (e.g. federal, State and local funds designated for particular purposes such as Title I and special education) to which the Charter School or its students may be entitled. All such external funds and the per pupil allowance are referred to herein, collectively, as the "External Public Funds." EdisonLearning shall, on behalf of the Charter Holder, report enrollment and attendance data to the State Department of Education in conjunction with the Charter School as required under the Charter Agreement and State law in order to allow the Charter School to receive the External Public Funds to which it is entitled. The Charter Holder shall apply for External Public Funds on a timely basis. EdisonLearning and the Charter Holder shall cooperate in applying for External Public Funds and any other federal, State or local aid, funds or resources for which the Charter School or its students may be eligible, and the Charter Holder shall ensure that its employees provide EdisonLearning with all required information and documentation in a timely manner in order for EdisonLearning to fulfill its duties under this Section 6.1. Upon reasonable advance request, EdisonLearning shall provide evidence to the Board that the Charter School is in compliance with the requirements, terms and conditions associated with the External Public Funds, and shall provide all reports, data, and information reasonably necessary for the Charter School to meet any reporting, certification or other requirements for such funding. Upon reasonable advance notice, EdisonLearning will make available to the Charter Holder or the Chartering Authority any information deemed necessary by either of them for formulating a budget, quarterly reports or financial audits.

Upon reasonable advance notice, the Charter Holder shall have the right to request and obtain from EdisonLearning's designee financial information pertaining to the Charter School's operations. The Charter Holder shall promptly supply to EdisonLearning copies of any communications received in relation to the receipt of any External Public Funds.

**(b) Quarterly Financial Statements.** EdisonLearning shall provide quarterly financial statements to the Charter Holder. These statements shall reflect the Charter School's entire financial operation, including an itemized accounting of all amounts paid to EdisonLearning or otherwise paid for the services, which amounts shall be itemized in a manner that clearly corresponds with those categories provided in the Charter School's annual budget or this Agreement.

**6.2. Charter Account.** The Charter Holder shall maintain a bank account (the "Charter Account") into which the Charter Holder shall deposit or cause to be deposited all External Public Funds and other funds received by or for the benefit of the Charter Holder or the Charter School. The Charter Holder shall provide EdisonLearning with access to all Charter Account statements and records. The funds in the Charter Account shall be used to pay the Operating Costs, Management Fees, Working Capital Advances, Start-Up Expense Loans and other amounts owed hereunder. The Charter Holder shall either designate EdisonLearning as an authorized signer with respect to the Charter Account or cause the funds in the Charter Account to be promptly (but in any event, within three business days after receipt) paid over to EdisonLearning to use to pay Operating Costs, Management Fees, Working Capital Advances, Start-Up Expense Loans and other amounts owed hereunder.

### **6.3. Expenditures on behalf of the Charter Holder.**

(a) EdisonLearning shall use the External Public Funds in the Charter Account to pay the costs associated with operating the Charter School, including the costs of procuring, delivering, installing and supporting in accordance with the budgets provided to the Charter Holder pursuant to Section 6.5 below. Such costs shall include all costs and expenses incurred by, or on behalf of, or for the benefit of, the Charter School, including, without limitation, personnel and non-personnel costs related to instruction, technology costs, start-up costs, insurance costs, the Management Fee, the eCourse license fees pursuant to the License Agreement, the repayment of Working Capital Advances, compensation and benefits provided to administrators, teachers and staff, amounts paid to acquire and maintain the Charter School facility and grounds, costs of Utilities and Upkeep, costs of food service, amounts paid for furniture, fixtures, technology, hardware and software, books, school supplies, and instructional materials, and all other amounts paid to third parties to provide services to the School, and all other administrative costs (“Operating Costs”). Operating Costs shall not include the out-of-pocket general administrative, legal, and accounting expenses of the Charter Holder (which shall be borne by the Charter Holder). The parties acknowledge that because the State and other public funding sources may make payments to the Charter Holder in arrears, certain Operating Costs may be paid by EdisonLearning (in its sole discretion) prior to the remittance of External Public Funds by the Charter Holder to EdisonLearning (such event shall constitute a “Shortfall”). The Charter Holder shall seek to cover such Shortfall by applying for funds under any State loan programs available for such purpose, and to the extent such funds are not available, EdisonLearning may in its sole and absolute discretion lend the Charter School funds to cover such Shortfall (each such loan shall constitute a “Working Capital Advance”). Working Capital Advances shall be repaid by the Charter School to EdisonLearning immediately upon funds becoming available to the Charter School. The Charter Holder acknowledges that each Working Capital Advance shall constitute a loan to the Charter Holder which shall be evidenced by this Section 6.3 and neither a promissory note nor any other documentation shall be required to evidence the obligation to repay Working Capital Advances. Other types of loans to, or investments in, the Charter Holder or the Charter School by EdisonLearning shall be evidenced by appropriate documentation. In the case of investments, such documentation shall explain how the investment shall be treated on the books of the Charter Holder and shall clearly state EdisonLearning’s expected return on equity.

(b) Should EdisonLearning ever advance or loan the Charter Holder money to pay expenses, which it may or may not do in its sole and absolute discretion, all such advances and loans shall constitute Working Capital Advances that must be repaid in accordance with this Agreement. EdisonLearning shall reasonably document all expenses and items associated with these Working Capital Advances and shall work with the School’s fiscal officer to report such to the Board. All Working Capital Advances shall bear interest at a fair market rate.

(c) The Charter Holder acknowledges that EdisonLearning will be, in its sole and absolute discretion, advancing funds for start-up costs associated with the Charter School to assist the Charter School during the period before it starts receiving External Public Funds (the “Start-Up Expense Loans”), including for the security deposit under the lease for the School’s premises. If the Start-Up Expense Loans are paid in full by the end of the second school year hereunder, they shall not bear interest; provided that commencing on July 1, 2017, the unpaid balance of the Start-Up Loans (if any) shall bear interest at a fair market rate and the Charter Holder shall repay such unpaid balance (plus interest) in 12 equal monthly payments, with the first payment being due and payable on July 1, 2017 and each subsequent payment being due and payable on the 1<sup>st</sup> day of each calendar month thereafter until the balance is paid in full.

(d) Upon termination or expiration of this Agreement, all Working Capital Advances

then outstanding shall become immediately due and payable, and the Charter Holder shall repay EdisonLearning for any outstanding Working Capital Advances and Start-Up Loans within thirty (30) days of the termination or expiration of this Agreement.

#### **6.4. EdisonLearning's Management Fee.**

(a) In consideration for the services provided by EdisonLearning hereunder, the Charter Holder shall pay EdisonLearning a management fee for each school year of the Term as follows: (each a "Management Fee" and collectively, the "Management Fees");

(i) for the first school year of the Term (i.e. the period from July 1, 2016 to June 30, 2017), the Charter Holder shall pay EdisonLearning a Management Fee equal to 12.5% of the External Public Funds received by the Charter Holder or the Charter School for that school year; and

(ii) for each school year of the Term after the first school year, the Charter Holder shall pay EdisonLearning a Management Fee equal to 15% of the External Public Funds received by the Charter Holder or the Charter School for that school year.

For the avoidance of doubt, the Management Fee is separate from and does not cover any Operating Costs, Working Capital Advances or Start-Up Expense Loans (including the license fees under the License Agreement, which shall be billed separately pursuant to the License Agreement).

(b) The Management Fee for each school year of the Term shall be paid from the Charter Account in monthly installments, beginning on July 25, 2016 and continuing monthly thereafter, on or about the 25th of each month, throughout the Term (each, an "Installment"). Should the Charter Holder have not received External Public Funds in time to pay the first Management Fee Installment on July 25, 2016, the first payment shall be made immediately upon receipt of such External Public Funds.

(c) In the event revenue received as External Public Funds falls sufficiently below the Annual Budget (as described more fully in Section 6.5 below) so much so that the Charter

Holder is unable to pay the Management Fee in full during a particular school year, the Charter Holder shall:

(1) comply with Section 6.5(a) and (b) herein with respect to meeting budget targets and necessary measures; and

(2) be permitted to carry over the unpaid Management Fee to the next school year interest-free with the understanding that (x) the unpaid Management Fee from the prior year shall be paid prior to payment of the current year's Management Fee; and (y) in any event, the carried-over unpaid Management Fee from a prior school year must be paid in full by the completion of that next school year. Thereafter, any unpaid amounts shall accrue interest, payable to EdisonLearning, at a rate of 5% per annum. In the event there is an unpaid Management Fee upon termination or expiration of the Agreement for any reason, the unpaid Management Fee shall be paid to EdisonLearning within sixty (60) days after such termination or expiration.

#### **6.5. Budgets.**

(a) EdisonLearning shall, for each school year of the Term, work with the Charter Holder's independent Fiscal Officer to prepare and submit to the Board for its approval, an annual projected budget, which shall be in reasonable detail and consistent with requirements of the Charter Agreement (each, as approved by the Board, an "Annual Budget"). The Board shall approve for each school year an Annual Budget that includes full payment of the Management Fee and any and all debt service, lease commitments, or other financial obligations to EdisonLearning. The projected Annual Budget for the first school year is attached hereto as Exhibit 3. The projected Annual Budget for each subsequent year shall be submitted to the Board for its approval by the last day of the prior school year. The Board's expenditures on behalf of the Charter School shall not in the aggregate deviate materially from the approved Annual Budget without prior notice to EdisonLearning. The Board and EdisonLearning agree that the projected Annual Budget attached hereto as Exhibit 3 will form the basis for all future Annual Budgets.

(b) The Charter Holder acknowledges that EdisonLearning is making a substantial financial investment in order to open the Charter School, that the margin of return to EdisonLearning is low in the initial years of the Charter School's operation, and, while this margin of return should increase in subsequent years, the Charter School has the obligation to pay EdisonLearning the Management Fee set forth in Section 6.4. Therefore, if the actual funds reasonably projected to be remitted to EdisonLearning during a particular fiscal year with respect to the Charter School fall below those projected in the Annual Budget, the Charter Holder shall be obligated to implement all necessary measures to increase such revenues (including, without limitation, increasing enrollment targets) or to reduce expenses to offset such reduction in revenues, provided that such measures shall comply with all applicable laws and the Charter Agreement. If actual funds reasonably projected to be paid as Operating Costs are higher than those projected in the Annual Budget, the Charter Holder shall be obligated to implement all necessary measures to reduce such amounts or to increase enrollment to offset such increases, provided that any such measures shall comply with all applicable laws and the Charter Agreement. If the Charter Holder is unable to cure a budget variance by the end of the fiscal year in which such variance occurs, EdisonLearning shall have the right to terminate this Agreement without liability or penalty to the Charter Holder. In the event of termination of this Agreement pursuant to this Section 6.5, such termination shall be effective at the end of the school year in which the failure to cure the budget variance by the Charter Holder occurs

#### **6.6. Financial and Business Records.**

(a) EdisonLearning shall, on behalf of the Charter Holder and in cooperation with Charter Holder's independent Fiscal Officer, maintain accurate financial and business records pertaining to the operation of the Charter School. EdisonLearning agrees to maintain such records at all times during the Term of this Agreement. Upon the termination or expiration of this Agreement, EdisonLearning agrees to transfer or transfer control of such records to the Charter Holder. EdisonLearning also agrees that, consistent with applicable federal and State laws and regulations concerning the maintenance and disclosure of such records, the Charter School's financial records shall be made available to the Board or the Chartering Authority upon request, or any appropriate regulatory agency entitled by law to review such records. EdisonLearning also acknowledges that all financial statements and records pertaining to the Charter School are subject to an independent annual audit. EdisonLearning agrees to cooperate fully with the independent auditor selected or retained by the Board and to make available all financial and other records pertaining to the School to such independent auditor as requested in a timely manner.

(b) Consistent with Section 6.2 above, the Charter Holder shall promptly provide to EdisonLearning a copy of each monthly bank statement it receives throughout the Term.

**6.7. Grant Applications.**

(a) The parties recognize that the EdisonLearning educational design provides programs and services that are supplemental to the prevailing area public schools' educational programs and that as such EdisonLearning, on behalf of the Charter Holder, reserves the right to seek external source revenue (such as competitive grants) to assist in the provision of these enriched programs. EdisonLearning shall have the right to apply for and receive grant money on its own or together with the Board, and to retain any such funds for its use consistent with the terms of such grants.

(b) The Charter Holder may also solicit and receive grants and donations for its own use consistent with the mission of the Charter School provided that EdisonLearning's prior approval shall be required for any grants or donations that require implementation of specific programs or the purchase of specific assets for the Charter School, so as to ensure consistency with the EdisonLearning educational design. If no prior approval is required, the Charter Holder shall still provide notice to EdisonLearning within five (5) days of its submission of a grant application. Additionally, with respect to any grant applied for by the Charter Holder (whether with or without EdisonLearning's prior approval needed), the Charter Holder shall be solely responsible for the receipt and administration of the funds and EdisonLearning shall not be responsible for any assurances made by the Charter Holder nor shall EdisonLearning be responsible for an compliance or reporting requirements connected to a grant initiated by the Charter Holder.

**ARTICLE 7  
PERSONNEL**

**7.1. Personnel Responsibilities.** To the extent permitted by law, all personnel working at the Charter School shall be employees of EdisonLearning, unless otherwise agreed upon by the Charter Holder and EdisonLearning, but, in any event, all expenses associated with Charter School staff, regardless of whether EdisonLearning or Charter School employees, shall be expenses of, and for the account of, the Charter School and paid out of Charter School funds. EdisonLearning shall be responsible for determining staffing levels in the Charter School and to select, evaluate, assign, and discipline personnel consistent with applicable federal and State laws, rules and regulations (unless waived by appropriate authorities). The Charter Holder and EdisonLearning shall ensure that criminal background checks are completed for all employees and contractors who have direct, daily contact with students of the Charter School consistent with applicable State laws, rules and regulations.

**7.2. Selection of Personnel.** EdisonLearning shall have the authority, consistent with State law, to select all Charter School personnel. EdisonLearning shall provide reports to the board on the status of Charter School personnel and shall select such personnel for the Charter School as required by the Charter Contract.

**7.3. Employment Terms.** EdisonLearning shall compensate employees at the Charter School strictly in accordance with its compensation policies, which may include performance-based incentives. The levels of compensation for all staff members shall be included in the Annual Budget, which shall be provided to the Charter Holder for approval in accordance with Section 6.5 of this Agreement.

**7.4. Employee Salaries and Benefits.** EdisonLearning shall, on behalf of the Charter

Holder, administer payroll including payment of salaries, fringe benefits and employment taxes of their employees working at the Charter School.

**7.5. Training.** EdisonLearning shall be responsible for providing all necessary training to Charter School employees. Such training may be held onsite or offsite, at locations selected by EdisonLearning. EdisonLearning shall also provide ongoing professional development programs throughout the school year.

**7.6. Personnel Policies.**

(a) EdisonLearning shall implement policies concerning the recruitment, assignment, promotion, discipline and termination of personnel and the methods and standards for evaluating performance.

(b) EdisonLearning and the Charter Holder shall ensure that the Charter School complies in all material respects with applicable federal and State laws concerning employee welfare, safety and health.

(c) EdisonLearning and the Charter Holder shall ensure that the Charter School complies in all material respects with all applicable federal and State laws and regulations concerning the maintenance and disclosure of employee records.

(d) EdisonLearning and the Charter Holder shall not illegally discriminate against any employee or applicant for employment on the basis of race, creed, color, sex, national origin, religion, ancestry, age, disability, marital status, citizenship, veteran status, sexual orientation or membership in any other protected class in its recruitment, selection, training, utilization, termination or other employment-related activities.

**7.7. Non-solicitation of EdisonLearning Employees.** During the Term of this Agreement, and for two years after its expiration or termination, the Charter Holder agrees that it shall not hire or attempt to hire EdisonLearning's Controllars(s), Student Success Directors, Director of Client Relations or any other personnel of EdisonLearning who is a direct liaison to the Charter School (the "EdisonLearning HQ Employees"). Since it would be difficult to measure the damages EdisonLearning would suffer in the event that Charter Holder hired an EdisonLearning HQ Employee in violation of this Section 7.7, the parties agree that the Charter Holder shall pay liquidated damages to EdisonLearning in such event in an amount equal to 50% of the EdisonLearning HQ Employee's total annual compensation.

For two years after the expiration or termination of this Agreement, EdisonLearning shall not solicit Charter Holder employees, should there be any employees. Since it would be difficult to measure the damages Charter Holder would suffer in the event that EdisonLearning hired a Charter Holder employee in violation of this Section 7.7, the parties agree that the EdisonLearning shall pay liquidated damages to Charter Holder in such event in an amount equal to 50% of the Charter Holder employee's total annual compensation. Notwithstanding the foregoing, neither party shall be deemed to be in violation of this section for making general public solicitations of employment not directed at the other party's employees in particular or for hiring any employee that responds thereto.

**ARTICLE 8  
PROPRIETARY INFORMATION**

**8.1. Proprietary Information.**

(a) The Charter Holder acknowledges and agrees that EdisonLearning either owns, co-owns, and/or licenses from third parties certain confidential, proprietary information including, without limitation, Bridgescape<sup>®</sup>, EdisonLearning eCourses<sup>™</sup> and eSchoolware<sup>®</sup>, and all instructional materials, training materials, curriculum and lesson plans, and other materials, teaching methodologies and school management methodologies developed by EdisonLearning, its employees, agents or subcontractors (collectively, the “Proprietary Information”). The Charter Holder agrees that neither it nor the Charter School own or shall own any existing, or any hereafter created, copyrights or other intellectual property rights with respect to the Proprietary Information. Neither the Charter Holder nor the Charter School shall have any right to license any Proprietary Information to third parties. EdisonLearning shall have the sole and exclusive right to license the Proprietary Information to third parties. The Charter Holder shall use reasonable care to protect the Proprietary Information from disclosure to or use by any third party without EdisonLearning’s prior written consent, which consent may be withheld in EdisonLearning’s discretion. The Charter Holder shall require all Charter School employees and agents to agree in writing that they shall not disclose the Proprietary Information to any third party without EdisonLearning’s prior written consent; provided, however, that nothing in this section shall prevent a person from using lesson plans or other instructional material that he or she has developed for his or her own use, provided that such materials do not incorporate any Proprietary Information or otherwise violate the intellectual property rights of EdisonLearning or of any third party. Notwithstanding the foregoing, nothing in this section shall be construed in a manner that would require the Charter Holder or the Charter School to act in violation of any applicable federal or State open records or similar law.

(b) Neither the Charter Holder nor the Charter School shall have any right to bring any infringement claim or other claim in the Proprietary Information. The Charter Holder or Charter School may defend any infringement or other claim in the Proprietary Information brought against them; provided that they shall cooperate with EdisonLearning in the defense of any such claim or any related settlement negotiations. The Charter Holder shall promptly notify EdisonLearning in writing of any actual or suspected infringement or violation of any right, title, or interest related to the Proprietary Information of which the Charter Holder becomes aware.

(c) The Charter Holder shall and shall permit the Charter School to take all measures reasonably necessary to protect the Proprietary Information from being disclosed to or used by any third party without EdisonLearning’s prior written approval, which may be withheld in EdisonLearning’s sole and absolute discretion. EdisonLearning may require all Charter School personnel or agents to agree in writing that they shall not disclose to any third party, publish, copy, transmit to any third party, modify, alter or utilize the Proprietary Information without EdisonLearning’s prior written consent.

(d) Upon expiration of this Agreement, the Charter Holder shall, and shall cause the Charter School to, shall return and/or destroy any and all copies of the Proprietary Information.

(e) Any advertising or promotional material with respect to EdisonLearning and/or the Charter School with respect to products, services or terms in this Agreement shall be subject to review and approval by EdisonLearning prior to distribution. The Charter Holder agrees that EdisonLearning may refer to its relationship with the Charter Holder and the Charter School on its internet website or in marketing materials, press releases, or any other print or electronic medium.

## **ARTICLE 9 REPRESENTATIONS AND UNDERTAKINGS**

**9.1. Representations and Warranties of the Charter Holder.** The Charter Holder represents and warrants to EdisonLearning that now and throughout the Term that:

(a) the Charter Holder is and will be a nonprofit corporation duly organized, validly existing, and in good standing under the laws of the State, and that the Charter Holder has and will have all requisite authority under State law and pursuant to its organizational documents, including the Charter Agreement, to execute, deliver and perform its obligations under this Agreement;

(b) the execution, delivery and due performance of the terms of this Agreement shall not violate or constitute a default under, nor shall it conflict with, any other agreement to which the Charter Holder is a party;

(c) the execution, delivery and performance by the Charter Holder of this Agreement has been authorized by the Board, and the Charter Holder has taken all requisite action necessary to duly execute and deliver this Agreement;

(d) this Agreement constitutes a legal, valid and binding obligation of the Charter Holder enforceable against it in accordance with the terms hereof;

(e) the Charter Agreement shown attached as Exhibit 1 has not been amended since the date thereof, and the Charter Holder has no knowledge of any changes to the Charter Agreement under consideration by the Chartering Authority;

(f) there is no pending or threatened litigation against the Charter School or the Charter Holder; and

(g) (i) there are no material contracts by which the Charter School is bound; and (ii) the Charter School is in good standing with the Chartering Authorizer and the Charter Holder is not aware of any material issues which might affect such good standing.

## **9.2. Undertakings of the Charter Holder**

(a) The Charter Holder undertakes to comply with all federal and State laws, including, without limitation, all requirements necessary to maintain its status as a non-profit corporation in good standing under the laws of the State, as well as any such requirements for obtaining and maintaining its status as a tax exempt organization under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

(b) The Charter Holder undertakes to comply with all aspects of the Charter Agreement.

(c) The Charter Holder undertakes to at all times during the term hereof appoint two members of the Board as President and Treasurer, respectively, and to take reasonable measures to ensure that the President and Treasurer, respectively, shall be available by phone or, if necessary, in person (or in their stead other Board members shall be designated to perform such responsibilities) at normal business hours during the Term and such persons shall be responsive when contacted by EdisonLearning.

(d) The Board understands that overseeing the academic, fiscal and operational components of a charter school is an important responsibility. Upon execution of this Agreement, the Board agrees to seek out and obtain a regular program of board training that includes, at a minimum, intensive training for new Board members and periodic enhancement training for all Board members. At the request of the Board, EdisonLearning shall provide the

Board a list of board training resources. Board training is a material term of the Agreement and failure of the Board to consistently seek and obtain such training may be considered a breach of this Agreement.

**9.3. Representations of EdisonLearning.** EdisonLearning represents and warrants that now and throughout the Term that:

(a) EdisonLearning is a corporation duly organized validly existing, and in good standing under the laws of the State of Delaware, and is (or will, within the time allowed by law, become) duly authorized and qualified to do business in the State, with lawful power and authority to enter into this Agreement, acting by and through its duly authorized officers; and

(b) this Agreement constitutes a legal, valid and binding obligation of EdisonLearning enforceable against it in accordance with the terms hereof.

**9.4. Undertaking of EdisonLearning.** At all times during the term hereof, EdisonLearning shall designate an employee who shall be available by phone or, if necessary, in person (or in his or her stead other EdisonLearning employees shall be designated to perform such responsibilities) at normal business hours during the Term and such persons shall be responsive when contacted by EdisonLearning. EdisonLearning shall at all times comply in all material respects with the terms of the Charter Contract.

## **ARTICLE 10 INDEMNIFICATION**

### **10.1. Legal Representation and Costs.**

(a) Except as expressly provided herein or in connection with insurance coverage required to be provided in this Agreement by for party for the benefit of the other, each party shall be responsible for its own legal representation and legal costs.

(b) Except where there is an actual or potential conflict of interest, the Charter Holder and EdisonLearning shall reasonably cooperate with legal counsel for one another in connection with any legal claim asserted against either of them.

**10.2. Challenges to the Legality of this Agreement.** Should any claim, demand, or suit be filed against the Charter Holder which arises out of any claim that this Agreement or any part thereof is in violation of law, or of any constitutional provision, statute, law, rule, contract, or collective bargaining agreement binding upon the Charter Holder, the Charter Holder agrees to promptly notify EdisonLearning and shall actively seek its assistance and participation in the defense of such claim.

### **10.3. Indemnity to Property or Persons.**

(a) Subject to the limitations set forth herein, EdisonLearning shall indemnify, save and hold the Charter Holder and its employees, officers, directors, subcontractors and agents harmless from any and all claims, demands, suits, costs, judgments, or other forms of liability to third parties, actual or claimed, including attorney fees, for injury to property or persons, occurring or allegedly occurring in, on or about the Charter School from the grossly negligent or reckless actions and omissions or willful misconduct committed by EdisonLearning or by its employees, officers, directors, subcontractors, agents. Upon timely written notice from the Charter Holder, EdisonLearning shall defend the Charter Holder in any such action or proceeding

brought thereon.

(b) The Charter Holder and the Charter School shall jointly and severally indemnify, save and hold EdisonLearning, its partners, employees, officers, directors, subcontractors, agents and authorized volunteers (collectively, the “EdisonLearning Indemnitees”) harmless from any and all claims, demands, suits, costs, judgments or other forms of liability to third parties, actual or claimed, including attorney fees, for injury to property or persons, occurring or allegedly occurring from the grossly negligent or reckless actions and omissions or willful misconduct committed by the Charter Holder, the Charter School or by their respective employees, officers, directors, subcontractors, or agents (including claims, demands, suits or other forms of liability actual or claimed of whatsoever kind or character including attorney fees brought against Charter Holder or Charter School employees) unless such conduct is committed by Charter Holder or Charter School employees assigned to and working in conformity with EdisonLearning’s supervision in the School. Upon written notice from EdisonLearning, the Charter Holder shall defend the EdisonLearning Indemnitees in any such action or proceeding brought thereon.

(c) The Charter Holder and the Charter School shall jointly and severally indemnify and save and hold the EdisonLearning Indemnitees harmless from any and all claims, demands, suits, costs, judgments or other forms of liability to third parties, actual or claimed, of whatsoever kind or character, including attorney fees, for injury to property or persons, occurring or allegedly occurring or arising out of any environmental conditions existing or allegedly existing at any School, unless such conditions have been created by substances brought onto the site by EdisonLearning.

**10.4. No Waiver.** The foregoing provisions shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability to third parties provided or available to any of the parties under applicable state governmental immunities laws.

**10.5. Limitation of Liability.** NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EDISONLEARNING SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE FOR MORE THAN THE AGGREGATE AMOUNT OF THE MANAGEMENT FEE EDISONLEARNING ACTUALLY RECEIVED DURING THE TERM.

## ARTICLE 11 TERMINATION

**11.1. Termination Due to Non-Renewal of Charter Agreement.** This Agreement shall terminate upon and on the expiration or upon the termination of the Charter Agreement or any renewal term of the Charter Agreement.

**11.2. Charter Holder Termination for Cause.**

(a) The Charter Holder may terminate this Agreement for cause prior to the end of the Term, in accordance with the procedures set forth in subsection (b) below, for any of the reasons set forth in subparagraphs (1) or (2) below:

(1) if EdisonLearning materially breaches any of the material terms and conditions of this Agreement and fails to remedy such breach within 90 days after receipt of written notice of such breach from the Charter Holder, unless such breach is incapable of being reasonably cured within 90 days in which case this Agreement may be terminated if EdisonLearning fails to initiate and continue a cure for such breach within 90 days after receipt of such written notice; or

(2) 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 Charter School in conformity with this Agreement, would violate the Charter Holder's responsibilities, duties or obligations under the State or federal constitutions, statutes, laws, rules or regulations.

(b) The following procedures shall apply to any termination pursuant to Section 11.2(a). The Charter Holder shall give EdisonLearning written notice of its intent to terminate this Agreement at least 90 days prior to the effective date of termination stated in the notice. The cause for termination shall immediately be submitted to the Board President and EdisonLearning's Chief Executive Officer, or their respective designees, for consideration and discussions to attempt to resolve the matter. If these representatives are unable to resolve the matter, then termination shall become effective in accordance with the Charter Holder's termination notice unless the alleged default is cured within 90 days of the date of the notice. Notwithstanding the foregoing, any termination will not become effective until the end of a school year unless there are unusual and compelling circumstances which would justify the disruption to the educational program and the students which would be caused by a mid-year termination, and the Charter Holder must fulfill its obligations set forth in this Agreement until the effective date of termination.

(c) The Charter Holder agrees, in the event of termination, to return and/or destroy any and all copies of EdisonLearning Proprietary Information.

### **11.3 EdisonLearning Termination for Cause.**

(a) In addition to the right of termination set forth in Section 6.2 of this Agreement, EdisonLearning may terminate the Agreement for cause prior to the end of the Term, in accordance with the procedures set forth in subsection (b) below as applicable, for any of the reasons set forth in subparagraphs (1)-(6) below:

(1) if the Charter Holder fails to adopt the reasonable budget, personnel, curriculum, program or similar recommendations of EdisonLearning with respect to the Charter School, which EdisonLearning reasonably determines to be necessary for the implementation of EdisonLearning's educational design at the Charter School;

(2) if the Charter Holder fails to pay within 30 days after the date when due any monetary obligation of the Charter School as required by the provisions of this Agreement;

(3) if the Charter Holder materially breaches any of the material non-monetary provisions of this Agreement and fails to remedy such breach within 90 days after receipt of written notice of such breach from EdisonLearning, unless such breach is incapable of being cured within 90 days in which case this Agreement may be terminated if the Charter Holder fails to initiate and continue a cure for such breach within 90 days after receipt of such written notice;

(4) a material reduction (as determined by EdisonLearning) in the funding or revenue for the Charter School in comparison to the funding or revenue for the prior fiscal year;

(5) the 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 EdisonLearning's ability to operate the Charter School in accordance with its budget or its educational design; or

(6) if the Charter Holder, or any of its employees or agents, breaches its obligations under Section 8.1 hereof.

(b) The following procedures shall apply to any termination pursuant to Section 11.3(a)(1), (3), (4), or (5): EdisonLearning shall give the Board written notice of its intent to terminate this Agreement at least 90 days prior to the effective date of the termination stated in the notice. The cause of termination shall immediately be submitted to the Board President and EdisonLearning's Chief Executive Officer, or their respective designees, for consideration and discussions to attempt to resolve the matter. If these representatives are unable to resolve the matter, then termination shall become effective in accordance with EdisonLearning's termination notice unless the alleged default is cured within 90 days of the date of the notice. Notwithstanding the foregoing, any termination will not become effective until the end of a school year unless there are unusual and compelling circumstances that justify the disruption to the educational program and the students which would be caused by to a mid-year termination. The failure of Charter Holder to pay EdisonLearning pursuant to the provisions of Article 6 of this Agreement shall constitute an "unusual or compelling" circumstance warranting a mid-year termination.

(c) In the case of a termination pursuant to Section 6.2 or 11.3(a)(2), termination shall be effective upon notice thereof. In the case of a termination pursuant to Section 11.3(a)(6), termination shall be effective immediately upon the delivery of notice, provided that EdisonLearning has reasonable grounds to believe that the provisions of Section 8.1 have been violated.

**11.4 Disposition of Assets Upon Termination.** Upon the termination or expiration of this Agreement for any reason, the Charter Holder shall pay to EdisonLearning within thirty (30) days of such termination or expiration, all amounts due to EdisonLearning hereunder, including, but not limited to, amounts owed in respect of the Management Fee, Working Capital Advances, Start-Up Expense Loans and amounts due under leases (if any) pursuant to Section 5.1(b) above. To the extent EdisonLearning has placed any of its own assets in the Charter School during the Term, upon termination of this Agreement for any reason, the Charter Holder shall pay to EdisonLearning the Net Book Value of such assets. All assets purchased by the Charter Holder shall remain the property of the Charter Holder upon termination, or as may otherwise be required by applicable Law.

**11.5 Remedies.** The sole remedies for breaches of this Agreement shall be specific performance of the obligations outlined herein or termination of this Agreement in accordance with Sections 11.2 and 11.3, except for any breach of any obligation to make monetary payments to the other party, and except that nothing herein is intended to prevent or prohibit EdisonLearning from seeking or obtaining equitable remedies, including injunctive relief, in a court of competent jurisdiction.

## ARTICLE 12 INSURANCE

### 12.1. Liability Insurance.

(a) During the term of this Agreement, EdisonLearning and the Charter Holder

shall each, at its own expense, maintain and carry in full force and effect, insurance as set forth in the attached Appendix B. The insurance carried by EdisonLearning shall cover solely EdisonLearning's liability arising out of its performance of its duties under this Agreement. The insurance carried by the Charter Holder shall cover EdisonLearning against liability arising out of the Charter School's operations. Each party's insurance policies shall be issued by an insurance company or companies selected by such party. Except as otherwise agreed in writing by the Charter Holder and EdisonLearning, all such insurance coverage shall be primary insurance, and, whenever possible, shall be occurrence based insurance and not claims made insurance. The Charter Holder will be an additional insured on EdisonLearning's commercial general liability and crime insurance policies, but such additional insured status shall only extend coverage to the Charter Holder for its liability for the negligent or intentional acts or omissions of EdisonLearning in performing under this Agreement. The Charter Holder shall cause EdisonLearning to be named as additional insured on the Charter Holder's commercial general liability, automobile liability and crime insurance policies, but such additional insured status shall only extend coverage to EdisonLearning for its liability for the negligent or intentional acts or omissions of the Charter Holder, the Charter School or their other service providers.

(b) The Charter Holder shall require that its contractors, if any, providing transportation, food and security services to the Charter School shall name EdisonLearning and its agents, representatives and subcontractors as additional insureds under their respective commercial general liability and automobile liability insurance policies (which policies must be reasonably acceptable to EdisonLearning and issued through reputable insurance carriers) for personal injury and property damage; and if such services are provided directly by the Charter Holder rather than by contracted service, then EdisonLearning and its agents, representatives and subcontractors shall be named as additional insureds under the Charter Holder's insurance policies.

(c) 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 days prior written notice to EdisonLearning and the Charter Holder, as applicable. The parties shall furnish one another certified copies of the insurance policies or Certificates of Insurance which demonstrate compliance with this Agreement on request.

#### **12.2. Hazard Insurance.**

(a) EdisonLearning shall maintain property insurance for all ancillary property and other personal property provided by EdisonLearning (if any) at the Charter School site(s). EdisonLearning shall seek to obtain from its insurers waivers of subrogation as against the Charter Holder with respect to damages to EdisonLearning's property at the site(s), and shall otherwise hold the Charter Holder harmless against liabilities arising out of any such damages.

(b) The Charter Holder shall maintain property insurance for the Charter School site(s) and for all ancillary property on such site(s) provided by the Charter Holder. The Charter Holder shall seek to obtain from its insurers waivers of subrogation as against EdisonLearning and its facilities managers, with respect to damages to the site(s), and shall otherwise hold EdisonLearning and its facilities managers, and their respective offices, employees and agents, harmless against liabilities arising out of any such damages.

**12.3. Workers' Compensation Insurance.** EdisonLearning and the Charter Holder shall each secure and maintain workers' compensation insurance covering its employees as required by applicable law.

**12.4. Coordination of Risk Management.** The parties shall coordinate risk management

activities with one another. This will include the prompt reporting of any and all pending or threatened claims, filing of timely notices of claim, cooperating fully with one another in the defense of any claims and complying with any defense and reimbursement provisions of state governmental immunity laws and applicable insurance policies. Regardless of whether or not EdisonLearning provides insurance for the Charter Holder, EdisonLearning shall give the Charter Holder prompt written notice of each legal claim made against it arising out of its management of the Charter School. Similarly, the Charter Holder shall promptly notify EdisonLearning in writing of any claim against EdisonLearning, the Charter School or the Charter Holder arising out of or relating to the Charter School or EdisonLearning, and shall cooperate fully with EdisonLearning in the defense of any claims. Neither EdisonLearning nor the Charter Holder shall compromise, settle, negotiate or otherwise affect any disposition of any claim or potential claims asserted against it to the extent such claims are insured or indemnified by or through the other party without the approval of the other party.

### **ARTICLE 13 MISCELLANEOUS**

**13.1. Alternate Dispute Resolution.** The parties agree to cooperate in good faith in all actions relating to the Agreement, to communicate openly and honestly, and generally to attempt to avoid disputes in connection with the Agreement. If, nevertheless, a dispute should arise in connection with the Agreement, the parties agree to use their best efforts to resolve such dispute in a fair and equitable manner and without the need for expensive and time-consuming litigation. Except as otherwise set forth in Article 11 of this Agreement, in the event any dispute arises between the Charter School or Charter Holder and EdisonLearning concerning this Agreement, it shall be resolved in accordance with the alternate dispute resolution procedure that is set forth in Appendix C hereto. If a dispute arises over the amount of funds that the Charter Holder is to remit to EdisonLearning, the Charter Holder shall remit all funds that are not in dispute to EdisonLearning, hold the disputed funds in escrow, and the amount in dispute shall be resolved in accordance with Appendix C. Nothing herein is intended to prevent or prohibit EdisonLearning from seeking or obtaining equitable remedies, including injunctive relief, in a court of competent jurisdiction.

**13.2. Injunctive Relief.** Notwithstanding anything to the contrary in Section 13.1, A violation or threatened violation of the provisions contained in Article 8 or Section 7.7 of this agreement would cause irreparable harm to EdisonLearning, the cost of which would be difficult to measure, and, therefore, EdisonLearning shall be entitled injunctive relief in connection with any such violations or threatened violations without the necessity of proving irreparable harm or posting a bond.

**13.3. Remedies Cumulative.** Except as otherwise provided herein, the rights and remedies provided in this Agreement and all other rights and remedies available to either party at law or in equity are, to the extent permitted by law, cumulative and not exclusive of any other right or remedy now or hereafter available at law or in equity.

**13.4. 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.

**13.5. Independent Contractor Status.** The parties to this Agreement intend that the relationship between them created by this Agreement is that of an independent contractor, and not employer-employee. No agent, employee, or servant of EdisonLearning shall be deemed to

be the employee, agent or servant of the Charter Holder except as expressly acknowledged in writing by the Charter Holder.

**13.6. Subcontracting.** EdisonLearning reserves the right to subcontract any and all services specified in this Agreement to the Charter Holder and/or to public or private subcontractors, as permitted by law. However, EdisonLearning shall not subcontract the management, oversight or operation of the teaching and instructional program, except as specifically permitted herein or as expressly agreed to in writing by the Charter Holder.

**13.7. No Third Party Beneficiary Rights.** No third party, whether a constituent of the Charter Holder or otherwise, may enforce or rely upon any obligation of, or the exercise of or failure to exercise any right of, the Charter Holder or EdisonLearning in this Agreement. This Agreement is not intended to create any rights of a third party beneficiary.

**13.8. Appendices and Exhibits.** The parties agree to the terms and conditions of this Agreement and the Appendices and Exhibits attached hereto and incorporated herein by reference.

**13.9. Entire Agreement.** This Agreement and the 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.

**13.10. Construction and Enforcement.** The Agreement shall not be construed against the party that drafted the Agreement and shall be construed and enforced in accordance with the laws of the State.

**13.11. Amendments.** This Agreement may be altered, amended, changed or modified only by agreement in writing executed by EdisonLearning and the officer of the Board authorized to so execute by action of the Board on behalf of the Charter Holder.

**13.10. Section Headings.** The section headings shall not be treated as part of this Agreement or as affecting the true meaning of the provisions hereof. The reference to section numbers herein shall be deemed to refer to the numbers preceding each section.

**13.11. Invalidity of Provisions of this Agreement.** If any one or more of the provisions of this Agreement should be ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, the validity and enforceability of all provisions of this Agreement that are not ruled to be invalid or unenforceable will be unaffected and the provision(s) held wholly or partly invalid or unenforceable will be deemed amended, and the court or other government body is authorized to amend such provision(s), to the minimum extent necessary, to render them valid and enforceable in conformity with the parties' intent as manifested in this Agreement.

**13.12. Assignment.** EdisonLearning reserves the right to subcontract and/or assign the performance of any and all of EdisonLearning's duties and obligations specified under this agreement to public or private subcontractors, as permitted by law, provided EdisonLearning retains the legal responsibility for satisfactory performance of all such duties and obligations. EdisonLearning may assign this agreement to a successor entity that acquires, through a corporate reorganization, substantially all of EdisonLearning's assets and liabilities subject to the prior written consent of the Charter School, and provided further that it does not result in an increased cost for the services under this agreement to the Charter School.

**13.12. No Waiver.** No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

**13.13. Survival.** All representations, warranties and indemnities made herein shall survive termination or expiration of this Agreement. Without limiting the foregoing, in addition to any provisions that by their terms survive the termination or expiration of this agreement, all disclaimers and limitations of liability and the Charter School's obligations to pay to EdisonLearning all amounts payable to EdisonLearning hereunder shall survive the termination or expiration of this Agreement.

**13.14. Notices.** All notices required or permitted by this Agreement shall be in writing and shall be either personally delivered or sent by nationally-recognized overnight courier, facsimile or by registered or certified U.S. mail, postage prepaid, addressed as set forth below (except that a party may from time to time give notice changing the address for this purpose). A notice shall be effective on the date personally delivered, on the date delivered by a nationally-recognized overnight courier, on the date set forth on the receipt of a telecopy or facsimile, or upon the earlier of the date set forth on the receipt of registered or certified mail or on the fifth day after mailing.

To EdisonLearning at:

EdisonLearning, Inc.  
Harborside Financial Center  
2910 Plaza 5  
Jersey City, NJ 07311-4043  
Attn: \_\_\_\_\_  
Fax No.:

with a copy to:

EdisonLearning, Inc.  
Harborside Financial Center  
2910 Plaza 5  
Jersey City, NJ 07311-4043  
Attn: General Counsel  
Fax No.: (201) 333-5424

To Charter Holder at:

with a copy to:

\_\_\_\_\_  
Amy Goodson Co., LLC  
\_\_\_\_\_  
288 S. Munroe Rd.  
\_\_\_\_\_  
Tallmadge, Ohio 44278

**13.15. Counterparts.** This Agreement may be executed in one or more counterparts (including those delivered by facsimile or other electronic means), each of which shall for all

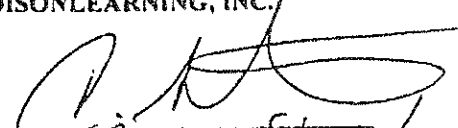
purposes be deemed to be an original and all of which shall constitute the same instrument. Signatures delivered by facsimile or other electronic means shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

URBAN EARLY COLLEGE NETWORK, INC.

By: Bever R. Frazier  
Name: Vice President (Interim)  
Title:

EDISONLEARNING, INC.

By:   
Name: Curtis Stencil  
Title: Chief Sales & Marketing Officer