

EXCELLENT EDUCATION DEVELOPMENT MANAGEMENT AND ACCOUNTING SERVICES AGREEMENT

This Management and Accounting Services Agreement (the “Agreement”) is entered into as of the 30th day of June 2017 (the “Effective Date”) by Ocean Charter School (“Client”), a California nonprofit public benefit corporation operating one or more charter schools, and Excellent Education Development (“ExED”), a California nonprofit public benefit corporation, with reference to the following facts:

BACKGROUND

ExED is in the business of providing accounting and related business services to charter schools in California (the “Services” as defined below). Client represents that it has authority to operate one or more charter schools authorized by the LAUSD. In consideration of the premises, and of the mutual covenants and conditions contained herein, Client and ExED agree as follows:

1. DEFINITIONS

- a. “ADA” means the average daily attendance, reported as required by the California Department of Education that must be filed by the Client with the State of California in accordance with applicable laws and regulations.
- b. “Additional Services” means any supplemental services to be provided by ExED at request of Client. If Additional Services are part of this Agreement, they are described in a Schedule entitled “Additional Services Scope of Work to be Performed by ExED” and attached hereto. Additional services supplement the Basic Services provided by ExED under this Agreement.
- c. “Auditable Items” means business practices performed at the Client site which are or should be documented, that may be identified as being inconsistent with Client’s policies, procedures, and/or charter or inconsistent with generally-accepted accounting practices.
- d. “Basic Services” means the services provided by ExED as selected by Client and described in Schedule A.
- e. “Budget” means the current and future budgets of the Client prepared by ExED in coordination with the Client as described in this Agreement and adopted by the governing body of the Client.
- f. “Categorical Funding Applications” means State funding programs for which the Client may be eligible and apply for and not included within the Local Control Funding Formula (LCFF).

- g. “CBEDS” means California Basic Educational Data System.
- h. “Confidential Information” means any and all technical and non-technical information including copyright, trade secret, and proprietary information, inventions, know-how, processes and algorithms, software programs, and software source documents. Confidential Information includes, without limitation, information acquired from a Student Information System, financial information, procurement requirements, purchasing information, plans and personnel information of the parties, and student information as protected under the Family Educational Rights and Privacy Act (FERPA) and other privacy protection laws, as applicable to the operations of Client and ExED under this Agreement.

Confidential Information does not include information that: (a) is now publicly or generally known or available or that hereafter, through no act or failure on the part of the receiving party, or through any violation of law or contract becomes generally known or available; (b) is legally known to the receiving party at the time of receiving such information; (c) is furnished to others by the disclosing party without a restriction on disclosure; (d) is hereafter furnished to the receiving party by a third party without restriction on disclosure, where such third party legally obtained such information and the right to disclose it to the receiving party; or (e) is independently developed by the receiving party without violation of any legal rights which the disclosing party may have in such information.

- i. “Compliance Check” means a review conducted by ExED staff, based upon examining a sample of test transactions, to determine whether Client is following financial control practices outlined in any of Client’s adopted policies and procedures, including, but not limited to, employee handbook and fiscal policies.
- j. “P-1/P-2” means the attendance reports that must be submitted to the State of California for ADA apportionment purposes.
- k. “Mandate” means activities performed by the Client as required by the State of California as a public or charter school, e.g., employee criminal background checks, submission of periodic financial and budget reports.
- l. “myExED Portal” means the ExED client portal (myexed.org) and the associated applications made available to select Client staff via this website.

- m. “Outliers” means actual expenditures or costs that differ materially from budgeted or projected Client expenditures or costs reflected in the applicable Budget.
- n. “Paycom” is a third-party human capital management software provider that Client has contracted with to provide payroll processing and other human resource services.
- o. “Proprietary Property of ExED” means all right, title and interest in and to the materials and systems developed and used by ExED in the performance of the Agreement including, without limitation, all trade secrets, know-how, protocols, policies, specifications, software, forms, as well as additions and modifications thereto developed and/or used by ExED in the furtherance of its operations and in performance of its obligations under this Agreement. Proprietary Property also includes ExED work product, reports, templates, studies, specifications, business methods, tools, methodologies, techniques, solution construction aids, analytical frameworks, algorithms, products, documentation, abstracts and summaries thereof. Proprietary Property includes “ExED Core Business Components,” defined as those general skills, know-how, expertise, techniques, methodologies, processes, templates, and business methods that are acquired or developed during the performance of the Agreement and that are related to ExED’s primary business, such as, by way of example, but not of limitation, methodologies and processes for managing school budgets and financial reporting, that do not contain or embody Client’s Confidential Information. Proprietary Property also includes “ExED Knowledge Capital,” which means ExED materials existing prior to commencement of the Agreement, or developed outside the scope of the Agreement, that are proprietary to ExED, and all associated intellectual property rights and any enhancements and modifications to such materials, whether or not such enhancements and modifications are developed as part of the Agreement.
- p. “Services” means the Basic Services and any Additional Services agreed upon by the parties as further described in Schedule A and additional Schedules (if applicable) attached hereto.
- q. “Student Information System (SIS)” refers to a web-based student information system used to maintain individual-level data including student demographics, course data, discipline, assessments, staff demographics, staff assignments, and other data.
- r. “Site” means a site at which Client conducts its business.

- s. “Standard Financial Reports” means the financial reports prepared by ExED for use by Client management or Client’s governing body that include: Financial Dashboard, Monthly Forecast, Financial Analysis, Income Statement, Balance Sheet, Statement of Cash Flows, Check Register, and General Ledger.
- t. “State Budget” means the current budget of the State of California as approved and signed by the Governor of the State of California for the current fiscal year.
- u. “State Standardized Account Codes” means the account codes mandated by the California Department of Education.

2. **THE SERVICES**

- a. Basic Services. ExED will provide Client with the Basic Services described on Schedule A. ExED shall provide Client a non-exclusive, non-assignable license to use the Proprietary Property of ExED solely for Client operations, at no additional cost, during the term of this Agreement.
- b. Additional Services. Client may request ExED to provide additional Services.

If ExED agrees to provide Additional Services, the Additional Services will be described in detail in a separate Schedule to be added to this Agreement and signed by authorized representatives of both parties. Charges, fees, responsibilities and obligations with respect to the Services will be adjusted as described in that Schedule.

3. **PAYMENT AND TERMS**

- a. Fees and Charges. Client will pay ExED a flat fee of \$95,000 for the 2017-18 school year for the Basic Services and reimburse ExED for its actual, reasonable out-of-pocket expenses incurred in providing the Basic Services as provided for in Schedule A. These out-of-pocket expenses will not exceed \$100 per month without written authorization from the Client.
- b. Invoicing. ExED will invoice Client \$7,916.67 monthly from July 1st, 2017, through June 30, 2018, as well as for out-of-pocket expenses incurred not to exceed \$100 per month without written authorization from the Client. ExED will automatically prepare a check for ExED’s payment on a monthly basis for execution by the person authorized by the Client to execute such checks.

- c. Payment Terms. Payment is due thirty (30) days from the date of delivery of the monthly invoice.
- d. Right to Suspend Performance. In the event of default or delay in payment greater than 45 days from the date of delivery of the monthly invoice, ExED reserves the right to suspend part or all of its performance of duties under this Agreement until all amounts for Services that are due and payable are paid in full. In the event Client disputes all or any portion of the invoice that is due, Client shall notify ExED within 20 days of receipt of the invoice; and initiate the dispute resolution process under Section 10 hereof, but shall pay the invoice in full, pending the outcome of such process.
- e. Taxes. Except as expressly stated in this Agreement, ExED and Client are responsible for any and all taxes on their respective incomes, and for payment and withholding of all applicable taxes, including but not limited to income, property and sales taxes.
- f. Late Payments. Payments made after the 30 day period set forth in Section 3.c. are subject to a late payment penalty equal to an annual rate not to exceed twelve percent (12%).
- g. Price Changes. The prices and related charges for the Services are subject to increase upon renewal of this Agreement. ExED reserves the right to immediately pass through increases in costs incurred from third parties (e.g., vendors, subcontractors and licensors) to the extent such services and supplies are identified in Schedule A and the Additional Services Schedule, if any. In addition, ExED will give Client not less than sixty (60) days prior written notice of any price increases for monthly Services.

4. **RELATIONSHIP OF THE PARTIES**

- a. Independent Contractors. ExED and Client are independent contractors. No representations or assertions shall be made nor actions taken by either party that would create any agency, joint venture, partnership, employment or trust relationship between the parties with respect to the subject matter of this Agreement. Except as may be expressly agreed upon in this Agreement or a Schedule attached hereto, neither party has any authority or power to enter into any agreement, contract or commitment on behalf of the other, or to create any liability or obligation whatsoever on behalf of the other, to any third person or entity.

- b. No Benefits. No ExED employee is eligible to participate in any benefits programs offered by Client to its employees, nor in any pension plans, insurance plans or other similar plans offered by Client to its employees.
- c. Employees. Each party will exercise day-to-day control over and supervision of their respective employees, including, but not limited to, hiring, evaluation, promotion, demotion, compensation, employee benefits, discipline and discharge. All work assignments, instruction, scheduling, staffing and direction of Client employees shall be the exclusive province of the Client. Each party is responsible for obtaining and maintaining worker's compensation coverage and unemployment insurance for its employees.
- d. Subcontractors. ExED reserves the right to subcontract with other individuals and businesses for the Services. ExED will be responsible for all payments to, as well as the direction and control of the work to be performed by, its subcontractors, if any. Subconsultants, if any, will be required by ExED to comply with the terms and conditions of this Agreement respecting confidentiality.

5. **THE CLIENT'S OBLIGATIONS.**

- a. Authorized Personnel. The governing body of the Client may identify to ExED, in writing, the Client Administrator and other staff member(s) authorized to work with ExED with respect to: general information about the Client, accounts payable, personnel and payroll, attendance records as well as funding compliance and reporting. In the absence of such designated persons, ExED shall be authorized to communicate with the chief executive officer and the presiding officer of the governing body of the Client.
- b. Principal Contact. The governing body of the Client may also identify, in writing to ExED, its key or principal contact, if other than the Client Administrator, who is authorized to receive and disclose Confidential Information, receive payroll checks and discuss personnel issues; as well as an alternate contact in the event the Client Administrator cannot or should not serve as the Client's contact due to conflict or suspected misconduct. In the absence of such designated persons, the chief executive officer and the presiding officer of the governing body of the Client shall have such authority.

- c. Financial Records and Audit.
- (i) The Client will maintain customary and reasonably correct, complete and accurate books and records of account as required by the United States government, the State of California (and any other funding authority such as philanthropic organizations). The Client will deliver all supporting documentation in accordance with the monthly close timeline developed by ExED and provided to Client.
 - (ii) The Client will obtain a timely annual audit of its books and records from a qualified independent certified public accounting firm and immediately provide ExED with a copy of any annual audit and related reports, notes or statements. Client authorizes and instructs its independent accountants to speak and work directly with ExED on any matter or issue pertinent to the Services, and will confirm such authorization upon request by ExED.
 - (iii) Client covenants that it will respond promptly and professionally to any and all questions or investigations from any governmental investigating or funding authority or Client's accountants, to the extent required by law, including exceptions noted in any independent accountant's report.
- d. Coordination and Cooperation. Client, the Client Administrator, authorized staff members and the principal contact will work closely and cooperatively with ExED to facilitate the effective performance and delivery of the Services. Client will comply with and respond promptly to all reasonable requests of ExED for information or documents from the Client.
- (i) Client covenants to: assist ExED in reconciling outstanding invoices, and to provide ExED with copies or originals of vendor invoices and correspondence, as well as other statements and receipts in accordance with the monthly close deadline established by ExED.
 - (ii) Client staff with access to the myExED Portal will take steps necessary to maintain the confidentiality of their myExED login credentials. Client staff will notify ExED if the confidentiality of their myExED login credentials has been compromised.
 - (iii) Client staff will take reasonable steps to ensure the security of the devices used to access the myExED Portal and will use their

best effort to notify ExED if the security of a device has been compromised.

- (iv) Client staff will only use the myExED Portal for work related activities.
- e. Payroll. Client will provide all necessary and proper data to ExED for payroll processing.
- (i) All original documents as it relates to personnel files or payroll logs will be maintained at the Client Site.
 - (ii) If necessary, Client will use, and purchase if necessary to use, commercially reasonable time clocks for hourly personnel.
 - (iii) Client will sign, or has signed, the Paycom Payroll Service Agreement and Paycom will deposit and file Client's Federal, State Withholding and State Disability taxes and tax returns, quarterly and annual, associated with payrolls processed through Paycom. Paycom will file Client's annual forms W-2/W-3.
 - (iv) Client will be responsible for all fees and charges assessed by Paycom.
 - (v) Client will submit all necessary payroll and time and attendance data within the Paycom software.
 - (vi) Client will be responsible for maintaining employee information, not related to payroll processing, within the Paycom software.
- f. Attendance Records and Reports. Client must take all necessary and proper steps to provide regular, accurate and timely responses to daily attendance tracking reports and CBEDS.
- (i) Client is responsible for taking daily attendance records compliant with the California Education Code. Client must maintain phone logs, tardy logs and other pertinent information related to appropriate attendance tracking.
- g. Grant and Funding Requirements. Client covenants to use its best efforts to comply with all material grant and funding requirements, including record keeping, reporting, management and financial controls and policies and procedures.

- h. Chartering Authority Requirements. Client covenants to make good faith efforts to comply with all material requirements, including policies and procedures, of the Chartering Authority to the extent applicable to the Client.
- i. Client Policies and Procedures. Client covenants to develop, apply and follow not less than customary and reasonable policies and procedures applicable to: Human Resources, Payroll Administration, Internal Financial Controls, Accounts Payable and other disbursements and, if applicable, competitive bid procedures for vendors.
- j. Insurance. Client will obtain and maintain customary and reasonable general liability coverage for its facilities and operations. ExED shall be entitled to request evidence of such coverage.
- k. Notice and Information. Client covenants that it will provide ExED with prompt, complete and accurate notice of and information concerning any material errors in Client data and Client's books and records, as well as with respect to investigations or inquiries into the Client, its activities, operations and reports by any governmental authority other than Client, to the extent permitted by law. Client will provide ExED promptly with copies of every report, including any schedules or exhibits, provided to any governmental agency.
- l. Designation of ExED. Client hereby designates employees and subconsultants of ExED whose duties require access to Confidential Information, including personnel and student information, as having a legitimate educational interest under FERPA.
- m. Protection of Proprietary Property of ExED. Client shall maintain the confidentiality of all Proprietary Property of ExED and shall not divulge such information to any third parties both during the term of this Agreement and after its termination except (i) as may be necessary for the discharge of its obligations under this Agreement, and (ii) as required by law. Client shall take reasonable precautions against disclosure of any Proprietary Property of ExED to any unauthorized person by any of its officers, directors, employees or agents. Client shall not directly or indirectly, without the express prior written permission of ExED, use the Proprietary Property of ExED for any purpose except to the limited extent necessary for the conduct of its operations in accordance with this Agreement. Upon termination of this Agreement for any reason, Client shall cease all use of Proprietary Property of ExED and shall return to ExED all manifestations and copies thereof in Client's possession or control.

- n. Integrity and Financial Responsibility. Client will act with integrity and alert the management of ExED to any fraudulent activity which is reasonably related to the Services as soon as the Client becomes aware, to the extent permitted by law. Client acknowledges that ExED's ability to provide Services is premised upon the Client acting in a financially prudent manner, including but not limited to timely approval of balanced budgets and maintaining a positive variance to budget throughout the year to the extent feasible.

6. **REPRESENTATIONS AND WARRANTIES OF CLIENT**

- a. Organization of Client. Client is a California nonprofit public benefit corporation, duly organized, validly existing, and in good standing under the laws of the State of California and eligible for determination as a tax-exempt organization which has all requisite power and authority to own, lease and operate its properties and to carry on its educational operations as they are now being conducted.
- b. Corporate Power and Authorization. Client has full corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution, delivery and performance of this Agreement by Client have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by Client and constitutes the valid and legally binding obligation of Client enforceable in accordance with its terms and conditions. Client need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of any government or governmental agency in order to consummate the transactions contemplated by this Agreement.
- c. No Breach. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) violate any, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which Client is subject or any provision of its Articles of Incorporation, Bylaws or Charter, nor (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument or other arrangement to which Client is a party or by which it is bound or to which any of its assets is subject.

7. **REPRESENTATIONS AND WARRANTIES OF ExED**

- a. Corporate Power and Authorization. ExED has full corporate power and authority to execute and deliver this Agreement and to perform its

obligations hereunder. The execution, delivery and performance of this Agreement by ExED have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by ExED and constitutes the valid and legally binding obligation of ExED enforceable in accordance with its terms and conditions. ExED need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of any government or governmental agency in order to consummate the transactions contemplated by this Agreement.

- b. No Breach. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) violate any, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which ExED is subject or any provision of its Articles of Incorporation or Bylaws or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument or other arrangement to which ExED is a party or by which it is bound or to which any of its assets is subject.
- c. Insurance and Bonding. ExED will obtain and maintain customary and reasonable comprehensive general liability insurance and errors and omissions insurance appropriate to its business under this Agreement and its school-site employees will be covered under ExED's Crime coverage for employee dishonesty.
- d. No Duty to Monitor Compliance with Obligations. In the course of its work, and consistent with Client's obligations hereunder, ExED may become aware of instances of non-compliance by Client with its own policies, procedures or other obligations described in Section 5 of this Agreement. ExED may bring such failures to the attention of the point of contact or chief executive officer or the presiding officer of the governing body of the Client, but shall have no obligation to do so, unless the failure directly and materially affects ExED's ability to carry out its obligations under this Agreement or is the basis for termination of the Agreement for cause.
- e. Confidentiality. ExED shall keep all Confidential Information made available to it under this Agreement confidential to the extent required by law; provided that nothing herein shall be construed as restricting ExED in performing the Services, which require routine disclosure of such information to auditors, regulatory agencies, insurance carriers, and providers, and the Client. With the Client's consent, ExED will provide

financial references upon request by certification organizations, financial institutions, and potential grantors. Confidential Information shall be handled by ExED, its employees and consultants, in accordance with the following “Standard Conditions”:

- (i) ExED shall not use the Confidential Information disclosed by the Client pursuant to this Agreement for any purpose other than carrying out its obligations under this Agreement. ExED shall maintain reasonable security measures to safeguard the Confidential Information.
- (ii) ExED shall not disclose information from the Confidential Information to any third party except as authorized by Client.
- (iii) ExED shall destroy the Confidential Information in its possession when no longer needed to carry out the purposes of this Agreement. To the extent such Confidential Information resides only on equipment or in files owned or controlled by ExED, upon termination of this Agreement, ExED shall provide copies to Client at Client’s expense. ExED shall require its employees and subconsultants to agree to comply with these Standard Conditions for the handling of Confidential Information.

f. Limited Services Warranty. ExED represents and warrants that it has the requisite personnel, equipment, expertise, experience and skill to perform its obligations hereunder and provide the Services to Client in a timely and professional manner.

- (i) Disclaimer of all Other Warranties.

THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE FACE HEREOF. ExED DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

- (ii) Limited Remedy. Client’s exclusive remedy for defective Services – upon ExED’s confirmation of the defect after receiving notice of a claimed defect from Client – is re-performance of the Services by ExED at ExED’s expense.

(iii) Limitation of Liability. EVEN IF ExED CANNOT OR DOES NOT RE-PERFORM ANY DEFECTIVE SERVICES, AND CLIENT'S EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE, ExED'S ENTIRE LIABILITY SHALL IN NO EVENT EXCEED \$60,000. ExED HAS NO LIABILITY FOR GENERAL, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES ARISING FROM A DEFECT IN ANY SERVICES.

(iv) Allocation of Risk. Client acknowledges that the pricing of the Services and the other terms of this Agreement have been set based on the foregoing sections of this Agreement providing for an agreed allocation of the risk for any defective Services between the parties. Client further acknowledges that the pricing and terms would have been different if there had been a different allocation of the risk.

g. Warranty Exclusion ExED MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THIRD PARTY SOFTWARE OR HARDWARE. ExED DOES NOT HAVE RESPONSIBILITY FOR CLIENT DATA.

h. Limited Liability. EXCEPT FOR FAILURE TO COMPLY WITH THE PROPRIETARY RIGHTS PROVISIONS CONTAINED IN THIS AGREEMENT:

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OR INJURIES TO EARNINGS, PROFITS OR GOODWILL, OR FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY PERSON OR ENTITY WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE, EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY EVEN IF ANY REMEDIES FAIL IN THEIR ESSENTIAL PURPOSE.

8. INDEMNITIES.

Client and ExED indemnify each other and hold each other, and each other's officers, directors, employees, agents harmless, from and against any and all direct claims, costs, losses, liabilities and expenses for personal injury and property damage,

including reasonable attorneys' fees, attributable to their actions and omissions under this Agreement, but excluding claims that would not be made but for the gross negligence or willful misconduct of the party seeking indemnification.

9. **TERM AND TERMINATION EXPIRATION.**

This Agreement shall continue in full force and effect from July 1, 2017, until June 30, 2018.

- a. Termination for Uncured Breach. If either party to this Agreement materially defaults in the performance of any of the terms of this Agreement, the non-defaulting party may terminate this Agreement by providing written notice of termination to the defaulting party of the nature of the default or material breach of this Agreement and the termination shall be effective thirty days from receipt of notice unless the defaulting party cures such default within said thirty-day period.
- b. Insolvency. In the event that Client is unable to pay its debts when they become due, declares bankruptcy or insolvency, or makes an assignment for the benefit of its creditors, ExED may terminate this Agreement upon written notice to Client.
- c. Other Rights. The rights of the parties to terminate this Agreement are not exclusive of any other rights and remedies available at law or in equity, and such rights are cumulative. The exercise of any right or remedy under this section 9 does not preclude the exercise of any other right or remedy.
- d. Termination for convenience. Either party may terminate this Agreement upon 30 days written notice to the other party, without cause. During the notice period, the parties shall cooperate to wind up and complete the pending work for the current month.
- e. Immediate termination for cause. ExED may immediately terminate this Agreement in the event it determines that it cannot provide the Services in a professional manner, due to the actions or inaction of the Client with respect to financial controls and management; in such event, ExED will cooperate with Client to transition its duties to Client personnel or another vendor.

10. **DISPUTE RESOLUTION.**

Any controversy or claim, whether based on contract, tort, strict liability, fraud, misrepresentation, or any other legal theory, arising out of either party's performance of this Agreement ("Dispute") shall be resolved solely in accordance

with the terms of this Section 10.

- a. Resolution Sequence. If the Dispute cannot be settled by good faith negotiation between the Chief Executive Officers of the parties – which must take place within thirty days of receipt by one party of a claim of a Dispute – ExED and Client will submit the Dispute to non-binding mediation in Los Angeles. If complete agreement cannot be reached within thirty days of submission to mediation, any remaining issues will be resolved by binding arbitration in accordance with Sections (c) and (d) below. Except as otherwise provided herein, arbitration shall be governed by the provisions of the California Code of Civil Procedure, commencing with Section 1280.
- b. Arbitrator. A single Arbitrator who is a retired judge and knowledgeable in commercial matters will conduct the arbitration. The Arbitrator’s decision and award will be final, must be made in writing with findings of fact and conclusions of law, will be binding and may be entered in any court with jurisdiction. The Arbitrator will not have authority to make errors of law or legal reasoning, nor to modify or expand any of the provisions of this Agreement. The Arbitrator will not have the authority to award damages not permitted by this Agreement.
- c. Rules and Expenses. Any mediation or arbitration commenced pursuant to this Agreement will be conducted under the then current rules of the alternate dispute resolution (“ADR”) firm in the site selected by the parties. If the parties are unable to agree on an ADR firm, the parties will conduct the mediation and, if necessary, the arbitration, under the then current rules and supervision of the American Arbitration Association. ExED and Client will each bear its own attorneys’ fees associated with the mediation and, if necessary, the arbitration. ExED and Client will pay all other costs and expenses of the mediation/arbitration as the rules of the selected ADR firm provide. ExED and Client shall divide the amounts charged by the ADR firm equally.
- d. Equitable Relief and Indemnification. Each of the parties acknowledges and agrees that due to the unique nature of the Confidential Information and the Proprietary Information of ExED there can be no adequate remedy of law for any breach of its obligations to maintain the confidentiality and security of such information, and that any breach may allow the breaching party or third parties to unfairly compete with the non-breaching party resulting in irreparable harm to the non-breaching party that cannot be adequately compensated for through damages. Therefore, notwithstanding the foregoing provisions of this Section 10, upon any such breach or any threat thereof, the non-breaching party

may, at its option, seek temporary, preliminary, and permanent injunctive relief and to be indemnified by the breaching party from any loss or harm, including without limitation, actual attorney fees, in connection with any breach or enforcement of the breaching party's obligations to keep the non-breaching party's information confidential and secure, or the unauthorized use or release of any such proprietary or confidential information. Each party will notify the other party in writing immediately upon the occurrence of any unauthorized release or other breach of which it is aware. The obligations of the parties under this paragraph shall survive the expiration or termination for any reason of this Agreement.

- e. Limitation on Actions. Any Dispute either party may have against the other with respect to this Agreement must be brought within two years after the cause of action arises. This Section 10 shall survive the expiration or termination for any reason of this Agreement.

11. **GENERAL.**

- a. Entire Agreement. This Agreement sets forth the entire agreement between the parties hereto, fully supersedes any and all prior agreements or understandings pertaining to the subject matter hereof and no change in, modification of or addition, amendment or supplement to this Agreement shall be valid unless set forth in writing and signed and dated by each and all of the parties hereto subsequent to the execution of this Agreement.
- b. Waiver in Writing. During the term of this Agreement, neither party shall be deemed to have waived any right, power or privilege under this Agreement or any provision thereof unless such waiver shall have been duly executed in writing and acknowledged by the party to be charged with such waiver.
- c. No Implied Waiver. The failure of any party to act or exercise its rights hereunder upon the breach of any of the terms or conditions hereof shall not be construed as a waiver of such breach, nor shall it prevent such party from hereafter enforcing strict compliance with any and all of the terms and conditions herein set forth.
- d. Communications. Any notice or other communication required by, or permitted to be made by or given to, either party pursuant to this Agreement shall be sent to such party by registered, certified or express mail, postage prepaid or prepaid courier service, addressed to such party at its address set forth below, or to such other addresses as such party

shall designate by written notice given to the other party, and shall be deemed to have been made, given or provided on the date of receipt.

Client: 12606 Culver Blvd
Los Angeles, CA 90066
E-mail: msedwards@oceans.org

ExED: 11858 La Grange Avenue 2nd Floor
Los Angeles, CA 90025
E-mail: tanderson@exed.net

- e. Applicable Law. This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with the laws of the State of California, provided, however, that any provision of this Agreement which may be prohibited by or otherwise held invalid under such laws shall be ineffective only to the extent of such prohibition or invalidity and shall not invalidate or otherwise render ineffective any or all of the remaining provisions of this Agreement.
- f. Assignment; Successors. This Agreement is personal, being entered into in reliance upon and in consideration of the skill, qualifications and representations of, and trust and confidence reposed in, ExED and its employees and its selected subconsultants. Accordingly, neither this Agreement nor any of its rights or privileges shall be sold, assigned, transferred, shared, or encumbered, by operation of law or otherwise, without the prior written consent of the affected (non-assigning) party. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- g. Force Majeure. Neither party shall be liable for any delay or failure in its performance of any of the acts required by this Agreement when such delay or failure arises from circumstances beyond the control and without the fault or negligence of such party. Such causes may include, without limitation, acts of God, acts of public enemies, acts of civil or military authority, labor disputes, material or component shortages, embargoes, rationing, quarantines, blockades, sabotage, utility or communication failures or delays, earthquakes, fire, flood, epidemics, riots or strikes. The time for performance of any act delayed by any such event may be postponed for a period equal to the period of such delay.
- h. Publicity. Client agrees to act as a reference for ExED with respect to the Services upon ExED's reasonable request. ExED may issue press releases or identify Client in marketing materials provided that all

references to Client are fair, accurate and not misleading. ExED will notify Client prior to such use.

- i. Headings. The headings of the several articles and sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto execute this Agreement in counterparts as of the Effective Date through duly authorized representatives.

CLIENT:

By: _____ Dated: _____,

Name: Stephanie Edwards

Title: Executive Director

ExED:

By: _____ Dated: _____,

Name: Tait G. Anderson

Title: Executive Vice President

SCHEDULE A:

SUMMARY OF BASIC SERVICES TO BE PERFORMED BY EXED

1) Budgeting and Forecasting

A) Budget Development

- 1) Work with Client administrators to develop annual budget for subsequent fiscal year beginning in March of each year for approval by Client's governing board no later than June 30th. The budget will be aligned with State Standardized Account Code structure per mandate. The budget will be for the overall organization and will include an annual budget, monthly cash flow for five years, and multi-year projections for the next five years.

B) Final Operating Budget

- 1) Upon the approval of the State Budget, ExED will work with Client administrators to perform any needed revisions to the Budget to reflect legislation adopted. Revisions will be kept to a minimum and forwarded to Client's governing body for approval.

C) Additional Budget Versions

- 1) As requested by the Client for its charter petition renewal with authorizer, ExED will prepare the budget to be submitted with the petition.
- 2) As needed for other purposes including State Budget uncertainty, facility projects, new charter school petitions, and loan applications, ExED will prepare alternate budget scenarios for the Client. Extensive budget models may require an additional fee.

D) Cash Flow Forecast

- 1) ExED will prepare a cash flow forecast monthly throughout the year as part of the monthly financial report presented to the Client.

E) Budget & Deferral Monitoring

- 1) ExED will closely monitor changes to the State Budget revenues and deferral schedule as they change during budget season and throughout the year. ExED will analyze these changes and the impact on charter school finance.

2) Financial Management and Reporting

A) Standard Financial Reports

- 1) Prepare and email and/or make electronically available Standard Financial Reports, or subset of Standard Financial Reports approved by Client Administrator, to Client Administrator monthly by the 10th of the month following month end reconciliation. For example, financial reports for September will be available by November 10th.
- 2) Standard Financial Reports include:

- (a) Financial Dashboard (excluded from July Financial Package)
 - (b) Monthly Forecast (excluded from July Financial Package)
 - (c) Financial Analysis (excluded from July Financial Package)
 - (d) Income Statement
 - (e) Balance Sheet
 - (f) Statement of Cash Flows
 - (g) Check Register
 - (h) General Ledger
- B) Financial Dashboard
- 1) Prepare a dashboard which displays key indicators of financial health – income statement summary with variances and forecast, cash flow charts with actuals and forecast for the year, ADA chart with actuals and forecast, and balance sheet summary.
- C) Monthly Forecasting
- 1) ExED will analyze cash flow on a monthly basis and project out timing of revenue and expenses for the rest of the year. This tool will enable stakeholders to make timely decisions of expense reductions that may need to be made or additional revenue that could be spent. This tool ensures that the Executive Director or Principal can understand at any point in the year, what the end of the year is expected to look like financially.
- D) Financial Analysis
- 1) ExED will perform on-going analysis of actual versus budget revenue and expenses and monitor cash flow. As it relates to Standard Financial Reports, any unusual items and/or unfavorable trends identified by ExED will be reported to the Client at that time.
- E) Client & Board Meetings
- 1) At a minimum once every quarter, ExED shall prepare and review Client’s financials with Client Administrator.
 - 2) Prepare and present Client’s financial health to the governing body as appropriate, but no less than once every quarter, and including special Board meetings.
 - 3) Prepare and present Client’s financial reports to Finance Committees as appropriate.
 - 4) Present annual audit to Audit Committee as appropriate.
- F) Charter School Authorizer Financial Reporting
- 1) Complete and submit all financial reporting required to charter school authorizer including First Interim, Second Interim, Unaudited Actuals, and Preliminary Budget as required by any mandated due dates.
- G) Facility Financing Reporting
- 1) As appropriate, ExED will prepare necessary facility financing reports and attend facility financing meetings. Extensive facility financing reports may require an additional fee.

3) Accounting and Bookkeeping Services

- A) General Ledger Maintenance
 - 1) Establish and maintain Client's general ledger per the State Standardized Account Code Structure. ExED will monitor and edit revenue and expenditure account code structure, add program and location codes when needed, and perform all other regular maintenance.
- B) Bookkeeping
 - 1) Record all transactions into accounting system with appropriate coding to enable the required reporting.
- C) Balance Sheet Reconciliation
 - 1) Perform monthly reconciliation of all bank statements. Quarterly perform reconciliation of remaining balance sheet accounts: Prepaid/Deposits, Accounts Receivable, Accounts Payable, Payroll Liability, Debt/Loans, and any Other Asset or Liability Item. Perform monthly depreciation and valuation analysis and update asset values for items such as property, equipment, and furniture.
- D) Accounts Payable
 - 1) Process vendor invoices for payments, including: verify approval of payment, determine cash flow availability, verify non-duplication of payment, log appropriate accounting entries, produce check payments, and verify check security. ExED will process vendor invoices approved for payment on a schedule to be determined in consultation with the Client. At a minimum, ExED will process vendor invoices once per week. Any discrepancies will be reported to the Client within three business days of ExED becoming aware of the discrepancy.
 - (a) Rush Checks: The Client will be allowed one rush check a month. After that, the Client will be charged a fee of twenty dollars (\$20.00) per rushed check that is the fault of the Client (e.g., invoices held up at the Client site). The Client will also be charged the cost of delivery, if applicable.
 - 2) Complete 1099s for independent contractors.
- E) Accounts Receivable
 - 1) Monitor receipt of revenue to ensure the Client receives all entitlements. Perform collection activities to receive past due funding from government agencies, not including initiation of legal proceedings.
- F) Audit Preparation
 - 1) Collect all information required by auditors (e.g., loan documentation, grant award letters, building leases, copier leases, attendance, National School Lunch Program, public grant documentation, school board minutes, internal control questionnaires, etc.).
 - 2) Prepare required schedules (e.g., accrual worksheet, fixed asset ledger, balance sheet account detail, etc.).

- 3) Serve as the point of contact for all communication with the auditors regarding financial data maintained by ExED.
 - 4) Prepare and collect required information for auditor to complete the 990 tax return.
 - 5) Work and meet with Client's Audit Committee as needed.
- G) Training
- 1) Train Client personnel on accounting and internal control procedures.

4) Cash Management

- A) Cash Position Reports
- 1) Prepare and distribute weekly cash position report to the Client. The cash position report summarizes current book balance and details checks cut by ExED in last week, outstanding checks that have not cleared the bank, upcoming items such as payroll, and any unpaid bills.
 - 2) As needed, cash position report will include a detailed forecast for the next 30-60 days for cash flow analysis.
- B) Loans & Lines of Credit
- 1) Analyze future cash flow needs that may require loan or line of credit.
 - 2) Prepare applications for new and/or renewal of loans or lines of credit.
 - 3) Present loans or lines of credit to board and obtain board resolutions as needed.
- C) State Revenue Deferral Exemption Applications
- 1) Analyze future cash flow and determine whether the Client needs to apply for exemption from upcoming deferrals when available. Prepare and complete applications for deferral exemptions.
- D) Manage timing of invoice payment.
- E) Plan and manage payment of outstanding debt.

5) Payroll Processing and Retirement Reporting

- A) Payroll Processing
- 1) Maintain employee information related to payroll processing within the Paycom software based on information Client has submitted to ExED.
 - 2) Notify Client if Client does not have sufficient funds to cover its payroll amounts, taxes, processing charges and fees in Client's designated Demand Deposit Account, on or before 1:30 p.m., Central Time, based on one of the following schedules: Three (3) banking days prior to each check date, unless the check date is on a Saturday, Sunday, or bank holiday, in which case four (4) banking days prior to check date.
 - 3) Maintain within Paycom software non-tax payment information, such as voluntary deductions and garnishments, which accurately reflect the data the Client has submitted to ExED.
 - 4) Assist Client in instructing the Bank holding the Client's Demand Deposit

Account to honor the charges as initiated from time to time by Paycom.

- 5) Regular Payroll Schedules: ExED will provide the Client a payroll schedule for the calendar year which includes accrual period and deadlines for ExED to receive from the Client the following information: new hire documentation, personnel change forms and payroll time data for each respective pay period. The Client is responsible to submit all information by the deadlines established per Client's payroll schedule.
- 6) Supplemental Payroll Schedules: For all supplemental payroll schedules requested by the Client, ExED will charge Client at the following rates (note: Client may incur charges from Paycom in addition to ExED charges outlined below):
 - (a) Late Submission/Unexpected Payroll Schedules: The Client will be charged a fee of twenty dollars (\$20.00) per check. Such supplemental checks include, but are not limited to:
 - (i) Late Submission of Payroll Data: If the Client submits late payroll information and specifically requests checks be processed as a supplemental run;
 - (ii) Supplemental Checks Regarding Terminating Employees:
 - (i) Involuntary Termination by the Client: California law generally requires an employee who is being terminated to receive a check upon exit from the Client. If the Client anticipates an employee termination, the Client is expected to communicate with ExED's payroll department as soon as it becomes aware of the termination and work together to get the check to the Client as expeditiously as possible.
 - (ii) Voluntary Termination by Employee: California law generally requires an employee to be paid within 72 hours of terminating. The Client is expected to provide payroll information to ExED's payroll department immediately upon notification of a terminating employee.
 - (iii) Supplemental Checks Regarding Employees Going on Family/Maternity Leave or Family Medical Leave: The Client is expected to communicate with ExED's payroll department as soon as it becomes aware that an employee is going on family/maternity leave or leave that falls under the Family and Medical Leave Act.
 - (b) Scheduled Bonus/Stipend Supplemental Runs: When a bonus/stipend payroll is agreed upon in advance and ExED is given sufficient lead time to prepare, the Client will not be charged. If the Client requires a quick turnaround (less than 72 hours), ExED will charge the Client twenty dollars (\$20.00) per check.
 - (c) Unscheduled/Emergency Supplemental Runs: When a special check is requested without advance notice and preparation time, the Client will be charged twenty dollars (\$20.00) per check.

- 7) File and deposit Client's State Unemployment taxes and quarterly returns associated with payrolls processed through Paycom.
 - 8) If Client is closed for school break and cannot receive payroll package, Client can approve payroll package to be mailed to ExED. ExED will deliver the payroll package to Client at the next scheduled school meeting. At Client's direction and Client's expense, ExED can mail out each individual employee's paystub.
- B) Retirement Reporting
- 1) STRS/PERS - ExED will timely submit monthly the required information to the local county office of education or the designated 3rd party administrator. The retirement division at the county office of education will then forward the information to CalSTRS/CalPERS. ExED will coordinate remittance of STRS/PERS contributions with the county office of education accounting department via check, ACH or debit from Client's apportionment account.
 - 2) 403B – ExED will process appropriate deductions for employees upon receipt of appropriate paperwork from the Client. ExED will submit payment to the applicable retirement company based on Client payroll schedule.
- C) Personnel
- 1) Assist Client in developing sound procedures for management of employee records.
 - 2) Assist Client in completing unemployment insurance claims and workers' compensation audits.
 - 3) If applicable, process and report on summer savings.

6) Compliance and Data Management Services

- A) Attendance Reporting
- 1) Prepare PENSEC 20-Day, P-1, P-2, and Annual attendance reports from Client-provided records, and submit to the chartering agency as required.
 - 2) Prepare and submit monthly statistical and classification attendance reports, if required by chartering agency.
 - 3) Attendance Reporting Revisions: All attendance reporting revisions identified by ExED and/or the Client will be charged at the following rates:
 - (i) The Client will be charged a fee of one-hundred dollars (\$100.00) if any of the period reports (i.e., P-1, P-2, or Annual) need to be revised. Such revisions include, but are not limited to: The Client submits attendance documentation that indicates changes made to a prior month(s) or specifically requests that prior month(s) be amended as a result of errors located in the source documentation and/or Student Information System maintained by the Client.
- B) Categorical Funding Applications

- 1) Prepare funding applications for funding sources identified in Client's Budget. This includes the following (if applicable): Consolidated Application, Title III consortia, the Annual Funding Survey, the PENSEC Report for new/expanding schools, SB 740 Facility Grant Program, and the Facilities Incentive Grant, if the Client is eligible and requests that ExED complete the application.
 - 2) Assist with budget/financial sections of Public Charter Schools Grant Program (PCSGP) and other grant applications, if applicable.
 - 3) In the event that new funding programs become available, funding program elements and pricing will be revised if the Client wishes ExED to pursue such funding. These applications will be subject to the timelines and conditions of the funding programs and will be the primary responsibility of the Client.
 - 4) While ExED may suggest funding sources and opportunities, Client shall be responsible for identifying those it wishes to pursue.
- C) Compliance and Fiscal Reporting
- 1) Prepare preliminary Budget report and submit to chartering agency in required format.
 - 2) Twice a year, prepare Interim Financial Reports and submit to chartering agency in required format.
 - 3) Annually, prepare the Unaudited Actuals Report and submit to the chartering agency in required format.
 - 4) Provide Local Control Funding Formula (LCFF) funding numbers (LCFF Base Revenue, LCFF Supplemental and Concentration, and Minimum Proportionality Percentage) required for Local Control and Accountability Plan (LCAP). Assist with budget estimates related to the actions and services included in LCAP.
 - 5) Prepare and disseminate fiscal reports to lenders and creditors as appropriate.
 - 6) Prepare and submit federal reporting as appropriate.
 - 7) Prepare and submit Title I, II, III and V reporting as appropriate.
 - 8) Prepare Semiannual Certifications and/or Personnel Activity Reports to account for salaries paid for with federal funds.
 - 9) If appropriate, complete After School Educational & Safety program reporting.
 - 10) Prepare per pupil expenditure section of the School Accountability Report Card (SARC).
 - 11) Prepare school expenditure section of the Civil Rights Data Collection.
- D) Nutrition Claims Reporting
- 1) Prepare monthly claim information for National School Lunch Program, as appropriate, and transfer information into Child Nutrition Information and Payment System (CNIPS). Client reviews and submits monthly claim information in CNIPS.
 - 2) Prepare and submit year-end Cost and Revenue reporting.

- 3) Provide assistance in preparing for financial components of the School Nutrition Program administrative review.

7) Meetings and Trainings

- A) Office Manager Meetings & Document Delivery
 - 1) ExED will coordinate with the Client to arrange for how inter-office communication will be delivered to ExED.
- B) Annual ExED Business of Charter Schools Meeting
 - 1) ExED provides an annual meeting to provide an update of State Budget and share best practices for school operations related to internal controls, compliance (e.g., attendance and nutrition reporting), payroll, and other procedures and policies to prepare the Client for the upcoming school year.
- C) Office Manager and other Staff Trainings
 - 1) ExED provides initial and ongoing training as needed to the Office Manager and other Client staff regarding proper internal controls, ExED and Client procedures and policies, and systems or software ExED may employ to serve the Client.
- D) Finance Committee Guidance
 - 1) ExED provides guidance to Client's governing body and Committee members on best practices to monitor financial reports.
- E) Community Meetings
 - 1) ExED attends meetings with teachers and/or parents of the Client community as appropriate regarding the budget and related financial issues.
- F) Principal/Executive Director Meeting
 - 1) ExED's Team Leader meets regularly with Client's Principal and/or Executive Director to discuss the latest forecast and financial report and any other outstanding issues or concerns. Provides coaching on best practices to monitor Client's finances.
- G) Charter Authorizer Meetings
 - 1) ExED prepares required materials for and attends authorizer fiscal visits.
 - 2) ExED attends charter renewal meetings and hearings as needed. Any air-travel or overnight lodging expenses for ExED staff associated with these meetings will be the responsibility of the Client. Any ExED travel will be pre-approved by the Client.
- H) WASC Review
 - 1) Prepare fiscal materials for and attend WASC review meetings as needed.
- I) Other Meetings
 - 1) As needed ExED meets with landlords, banks, brokers, vendors, etc. to assist the Client.
 - 2) As needed, ExED meets with county office of education regarding retirement reporting.

8) Other Support Systems, Tools, and Services

- A) myExED Portal
 - 1) Provide secure access to myExED Portal (myexed.org) for relevant Client staff to access ExED applications and exchange necessary information.
 - 2) From within the myExED Portal, ExED will provide select Client staff access to various applications, including but not limited to the following:
 - (a) ExED Marketplace (powered by SpendBridge)
 - (b) ExED FileShare (powered by Box)
 - (c) ExED Financials (powered by QlikView)
- B) Compliance Calendar and Newsletter
 - 1) Distribute a monthly newsletter (ExED Monthly) which summarizes important information regarding compliance related deadlines and news.
- C) Facility Financing
 - 1) If appropriate, assist the Client in securing facility financing.
- D) Policies and Internal Controls
 - 1) Provide suggested policies and procedures for proper internal controls.
 - 2) Provide sample 990 policies including conflict of interest.
- E) Vendor Support
 - 1) Provide charter school industry vendor list.
 - 2) Provide annual insurance renewal support.
- F) Other Audits/Reporting
 - 1) Prepare for other audits as appropriate including Workers Compensation, Special Education, After School Education & Safety, Federal Single audit, Office of Inspector General, IRS, etc.
 - 2) As appropriate, file property tax exemptions and provide sales and use tax reporting.

9) Infrastructure Set-Up (if applicable)

- A) County Office of Education Set-up
 - 1) Complete Charter School Application and collect all required documentation to submit to local county office of education. This includes collecting documentation for charter and employer tax status, drafting fiscal resolutions of Client's governing body, and completing authorization forms.
 - 2) Work with county office of education to set up the charter school as a pass through district and establish funding stream from District and the State.
- B) Revenue Enhancement Services
 - 1) Assist in preparing Child Nutrition Application. Client is responsible for submitting.
 - 2) Prepare the Charter School Funding Survey and submit it by the required deadline.

- C) Human Resources
 - 1) Apply for state employer identification numbers through the Employment Development Department.
- D) Accounting System
 - 1) Set up Chart of Accounts in line with State Accounting Code Structure.
 - 2) Set up Internal Control Procedures and Fiscal Policies.
- E) Technical Assistance
 - 1) Provide advice and recommendations on issues that may impact the fiscal soundness of the school, such as growth, matriculation, etc.
 - 2) Provide support for strategic planning issues.