

SCHOOL BOARD OF POLK COUNTY, FLORIDA  
CHARTER SCHOOL CONTRACT

**I. GENERAL PROVISIONS**

This is a Contract made and entered into as of the 26 day of June 2007, between The School Board of Polk County, Florida, hereinafter referred to as the *Sponsor*, and Berkley Accelerated Middle School, Inc. a non-profit organization organized under the laws of the State of Florida, hereinafter referred to as the *School*.

**A. SCHOOL CONCEPT**

This School will:

(1) The goal of Berkley Accelerated Middle School is to have all students studying Algebra in grade 8 and reading on at least an 8<sup>th</sup> grade reading level thus allowing all students to follow whatever path they choose in higher education. Our motto is: "Accelerated Learning for All; Whatever it Takes". Berkley Accelerated Middle School plans to enroll up to 600 students at full capacity from primarily the areas of Auburndale and Polk City in grades 6-8.

(2) Include all of the information required to service Limited English Proficient (LEP) students e.g., language proficiency assessment data, level of language proficiency, home language survey, and LEP Committee information, as applicable to School in the Sponsor's Plan for Limited English Proficient Students. Additionally, it will include all of the information required for Exceptional Student Education (ESE) students.

(3) Establish the current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. Part II , Section B(1) of this Contract includes a detailed description of how the baseline student academic achievement levels and prior rates of academic progress will be established, how these

baseline rates will be compared to rates of academic progress achieved by these same students while attending the Charter School, and how these rates of progress will be addressed if found to be deficient when compared to the rates of progress of other closely comparable student populations as delineated in the Sponsor's annual review of Charter Schools.

(4) Employ appropriate instruments, with documented validity and reliability that will be used to measure and monitor growth of students, and collaborate as appropriate with outside professionals to develop and select these alternative evaluative instruments.

It is the intent of the parties that this Contract shall constitute the School's Charter. The application and renewal document approved by the Sponsor on March 13, 2007 is attached hereto as Appendix 1.

#### **B. TERM**

(1) This Contract shall become effective as of the date first above written upon signing by both parties, and the term shall cover ten (10) years commencing on the first day of the 2007-2008 school year, and ending on June 30, 2017.

(2) This Contract may be renewed for up to an additional fifteen (15) years by mutual agreement of the parties and upon the terms and conditions established by §1002.33, Florida Statute, for such renewal.

(3) This Contract may be modified during its initial term or any renewal term upon the approval of both parties, and such modifications shall be in writing and executed by the parties.

(4) At the end of the term of the Contract, the Sponsor may choose not to renew the Contract for any of the following grounds:

(a) failure to participate in the state's education accountability system created

in §1008.31, as required in this Contract section, or failure to meet the requirements for student performance stated in this Contract (See below Part II B;

- (b) failure to meet generally accepted standards of fiscal management;
- (c) violation of law; and/or
- (d) other good cause shown.

(5) During the term of the Contract, the Sponsor may terminate the Contract for any of the grounds listed in paragraph (5) (a) - (d) as well as for failing to maintain an appropriate racial balance for its student population specifically set forth in Part III, Section A(3) of this Contract. For purposes of this Contract, the term “good cause,” as used in paragraph (5) (d) shall mean the following: A School’s failure to materially comply with the terms and conditions of the Contract after being notified of its non-compliance; and continuing failure by the School to cure its non-compliance with the terms and conditions of the Contract after being issued the requisite notice under §1002.33(8), Florida Statute.

(6) At least ninety (90) calendar days prior to renewing or terminating a Contract, the Sponsor shall notify the governing body of the School of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and stipulate that the School’s governing body may, within fourteen (14) calendar days after receiving the notice, request an informal hearing before the Sponsor. The Sponsor shall conduct the informal hearing within thirty (30) calendar days after receiving a written request. The School’s governing body may, within fourteen (14) calendar days after receiving the Sponsor’s decision to terminate or refusal to renew the Contract, appeal the decision pursuant to the procedure in §1002.33(8)(c), Florida Statute.

(7) This Contract may be terminated immediately if the Sponsor determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. The Sponsor may assume the operation of the School under these circumstances. The School agrees to submit to the Sponsor all records related to the School without undue delay and follow the termination procedures and practices developed. The Sponsor must provide the basis for termination in writing detailing the basis for this and such findings should be made concurrently with termination. The School's governing board may, within fourteen (14) calendar days after receiving the Sponsor's decision to terminate the Contract, appeal the decision pursuant to the procedure established in §1002.33(8)(d), Florida Statute.

(8) In case of termination of the Contract, the School shall be dissolved under the provisions of law under which the School was organized. In that event, any property, improvements, furnishings, and equipment purchased with public funds shall automatically revert to the Sponsor (subject to any lawful liens and encumbrances). If the School's accounting records fail to clearly establish whether a particular asset was purchased with public funds or non-public funds, then it shall be presumed public funds were utilized and ownership of the asset shall automatically revert to the Sponsor. Property and assets purchased with public funds shall be defined as those goods purchased directly with grants and funds provided by a governmental entity. Property and assets purchased by an educational management organization in conjunction with operating the School shall not be deemed purchased with public funds.

(9) In case of termination or non-renewal of the Contract, the School shall be responsible for all the debts of the School. The Sponsor may not assume the debt from any contracted services made between the governing body of the School, the management company- if applicable - and/or third party, except for a debt that is previously detailed and agreed upon in

writing and executed with the same formalities as set forth in this Contract by both the Sponsor, the governing body of the School, and that may not reasonably be assumed to have been satisfied by the Sponsor.

(10) To facilitate the transition in the event a Charter School Contract is terminated, the parties will follow the steps outlined in Appendix 2.

### **C. FORUM FOR CONFLICT**

(1) If a conflict arises out of the terms, construction, or rights or obligations contained in this Contract, the Sponsor or the School shall first commence the Dispute Resolution Procedure contemplated within Appendix 3.

(2) All conflicts between the School and the parents/legal guardians of the students enrolled at the School shall be handled by the School or its governing board. Evidence of each parent's/guardian's acknowledgement of the School's Parent Conflict Resolution Process shall be available for review upon request by the Sponsor.

### **D. STATUTORY REQUIREMENTS**

(1) The School shall operate in accordance with its Contract and shall be exempt from all statutes in chapters 1000-1013 of the Florida School Code, with the exception of the following:

- (a) Those statutes specifically applying to charter schools, including §1002.33, Florida Statute.
- (b) Those statutes pertaining to the student assessment program and school grading system.
- (c) Those statutes, laws, rules, and regulations pertaining to the provision of services to students with disabilities.

- (d) Those statutes pertaining to civil rights, including §1000.05, Florida Statute, relating to discrimination.
  - (e) Those statutes, rules, and regulations pertaining to student health, safety, and welfare.
- (2) Additionally, the School shall be in compliance with:
- (a) Section 286.011, Florida Statute, relating to public meetings and records, public inspection, and criminal and civil penalties.
  - (b) Chapter 119, Florida Statute, relating to public records.
  - (c) Chapter 112, Florida Statute, relating to conflicts of interest.
- (3) The School's governing board may apply to the Commissioner of Education for a waiver of the provisions of Chapters 1000-1013, Florida Statutes, which are applicable to charter schools, as long as it does not affect funding allocations or create inequity in public school funding. Failure of the Sponsor to apply for a waiver shall not constitute default under this Contract or invoke the Dispute Resolution Procedure contained in Appendix 3.
- (4) The School agrees to adhere to a policy of non-discrimination in educational programs/activities and employment and to provide equal access and opportunity for all, as required by federal and state laws, State Board of Education Administrative rules, and School Board rules.

#### **E. ANNUAL REPORT**

- (1) The School shall make annual progress reports to its Sponsor thirty (30) days prior to the date required by the state for submittal by the Sponsor, which, upon verification, shall be forwarded to the Commissioner of Education. The report shall follow the Department of Education format and contain at least the following:

- (a) Student achievement performance data and student achievement information that links baseline student data to the School's performance projections. The School shall also identify reasons for any differences between the projected and actual student performance;
- (b) Information required in the annual school report and the education accountability system governed by ss. 1008.31 and §1008.345, Florida Statute;
- (c) Financial status of the School which must include revenues and expenditures at a level of detail that allows for analysis of the ability to meet financial obligations and timely repayment of debt in a form and manner consistent with State and Florida Red Book standards;
- (d) Documentation of the facilities in current use and any planned facilities for use by the School for instruction of students, administrative functions, or investment purposes; and
- (e) Descriptive information about the School's personnel, including salary and benefit level of School employees, the proportions of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.

(2) The School agrees to do an annual cost accounting in a form and manner consistent with generally accepted governmental accounting standards in Florida and provide such information to the Sponsor by August 15 each year.

#### **F. LENGTH OF SCHOOL YEAR**

The School shall provide instruction for at least the number of days required by law for

other public schools. The School shall commence its initial start-up with the beginning of the public school calendar for Polk County. The School may choose to provide a summer school program utilizing the Supplemental Academic Instruction (SAI) funds provided by the State of Florida, or other available funds.

## **II. ACADEMIC ACCOUNTABILITY**

### **A. EDUCATIONAL PROGRAM**

The School agrees to implement its educational and related programs as specified in the School's approved application and renewal document (Appendix 1), setting forth the School's curriculum, the instructional methods, any distinctive instructional techniques to be used, and the identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards. The School ensures that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. Further, the curriculum and instructional strategies for reading are consistent with the Sunshine State Standards and are grounded in scientifically based reading research. The Sponsor's Plan for Limited English Proficient Students is included in Appendix 4, which the School shall adopt or amend as agreed, or submit its own STATE APPROVED DOCUMENT.

### **B. ACCOUNTABILITY PLAN**

(1) During the first year of the Contract, the School agrees to implement the current baseline standard of achievement, the outcomes to be achieved, and the methods of measurement that have been mutually agreed upon and identified in the School's application and renewal document. In addition, the School will develop an accountability plan in accordance with and /or



outlined in the Accountability Plan Guidelines adopted by the Sponsor and attached here in Appendix 5.

(2) In subsequent years, the School agrees to the baseline standard of achievement, the outcomes to be achieved, and the methods of measurement that have been mutually agreed upon in the School Accountability Plan submitted to the Sponsor. This Contract may be terminated by the Sponsor if insufficient progress has been made towards the goals and outcomes designated in the School Accountability Plan or the School receives a state designated grade of “F” in two of any four years.

(3) In addition to evaluating the School’s success in achieving the objectives stated in either the application, renewal document or the School Accountability Plan, all Charter schools will be held accountable for meeting the State’s student performance requirements as delineated in State Board of Education Administrative Rule 6A-1.09981, *Implementation of Florida’s System of School Improvement and Accountability*. Specific Authority for this is found in §1001.02, §1008.33, and §1008.345, Florida Statute.

(4) The methods used to identify the educational strengths and needs of students and the educational goals and performance standards are set forth in the School’s approved application, renewal document and/or the School Accountability Plan. This accountability criterion shall be based upon the assessment systems of the School, the Sponsor and the State.

### **C. ASSESSMENT PROGRAM**

(1) All students at the School will participate in all State assessment programs and may participate in all district assessment programs in which the district students in comparable grades/schools participate. All School personnel involved with any aspect of the testing process must have knowledge of and abide by State (and, if applicable, Sponsor’s) policies, procedures,

and standards regarding test administration, test security, test audits, and reporting of test results.

The School shall implement the current baseline standard of achievement, the outcomes to be achieved, and the methods of measurement identified in the documents previously submitted to the Sponsor and incorporated herein. When determining the baseline standard of achievement for students, the School shall develop, maintain, monitor, track, and include the following:

- (a) How the baseline student academic achievement levels and prior rates of academic progress will be established.
  - (b) How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the School.
  - (c) To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.
  - (d) Sponsor is required to provide academic student performance data to School for each of its students coming from Sponsor's system, as well as rates of academic progress of comparable student populations in Sponsor's system.
- (2) If an ESE student's IEP indicates an alternate assessment, in lieu of full/partial participation in a State assessment, the School will facilitate the alternate assessment and comply with State reporting procedures.

#### **D. DATA USE AND ACCESS**

- (1) The School agrees to use data provided through its participation with the Sponsor in electronic data processing systems pertaining to admissions, registration, and student records.
- (2) The School agrees to allow the Sponsor reasonable access to its facilities and records to review data sources, including collection and recording procedures, in order to assist the Sponsor in making a valid determination about the degree to which student performance

requirements have been met as stated in the Contract, and required by §1002.33(23), Florida Statute.

(3) Sponsor is required to provide to the State Board of Education and the Commissioner of Education an analysis and comparison of the overall performance of the School's students. The parties agree that the Sponsor will use results from the State required assessment programs referenced in this Contract (and any of Sponsor's assessment programs in which the School elects to participate) and the data elements to be included in the annual report which the School is required to submit pursuant to §1002.33(23), Florida Statute.

(4) The Sponsor shall ensure that the School's program is consistent with the state education goals established by §1000.03(5), Florida Statute.

(5) The School will use records and grade procedures that adequately provide the information required by the Sponsor. This may be an alternative grading and recording system. The School's grading and recording system must be in accordance with the State's reporting guidelines.

(6) The School shall follow the Polk County Public Schools Authorized Courses for Secondary Schools as appropriate.

(7) The School will maintain both active and archival records for current/former students in accordance with Florida Statutes.

(8) All permanent cumulative records (Both Category A, Permanent Information and Category B, Temporary Information) of students leaving the School, whether by transfer to a traditional public school within the school system, or withdrawal to attend another charter school, shall be transferred upon receipt of an official request from a receiving Polk County public school or a charter school sponsored by The School Board of Polk County, Florida. The

School may retain copies of the departing student's academic records created during the student's attendance at the School.

(9) Upon termination of a student's enrollment at the School, all permanent cumulative records (Both Category A, Permanent Information, and Category B, Temporary Information) of students leaving the School, but not transferring to a Polk County public school or a charter school sponsored by The School Board of Polk County, Florida, shall be sent via school mail to the Sponsor's Office of Magnet, Choice and Charter Schools. The School may retain copies of the departing student's academic grades and attendance during the student's enrollment at the School.

#### **E. EXCEPTIONAL STUDENT EDUCATION**

(1) Exceptional education students shall be provided with programs implemented in accordance with federal, state and local policies and procedures, (or other State approved procedures) and, specifically, the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, §1000.05, §1003.57, §1001.42 (4)(I), and §1002.33, Florida Statute, and Chapter 6A-6 of the State Board of Education Administrative Rule. The School will be responsible for the delivery of all educational and related services indicated on the student's Individual Education Plan (IEP). Related services e.g., speech/language therapy, occupational therapy, physical therapy, and counseling must be provided by the School staff or paid for through a separate contract.

(2) The Sponsor will have the responsibility of conducting the evaluation of students referred for potential ESE placement in accordance with federal and state mandates. The School agrees that the Sponsor will perform all evaluations of students initially referred for ESE placement, and that the Sponsor shall bill the School for the actual cost of such evaluations. The

School will be billed for these services not covered by the five percent (5%) administrative fee at the actual cost of these services. The School may obtain independent evaluations of students at their expense. These evaluations may be considered in determining eligibility but will not necessarily substitute for an evaluation conducted by Sponsor district personnel in a manner and timeframe consistent with that of all other schools in the district.

(3) If it is determined by an IEP committee that the needs of a student with disabilities cannot be met at the School, the Sponsor will take steps to secure another placement for the student in accordance with federal and state mandates. The Sponsor will provide a Staffing Specialist to serve as the Local Education Agency (LEA) when the IEP meeting is considering an initial placement, a change in placement, a dismissal from a program or a change in personnel assignments or reassignments.

(4) The Sponsor may participate in all IEP meetings (including initial staffing and annual IEP review meetings) at the School and will serve as the Local Educational Agency (LEA) Representative when attending. The Sponsor will be responsible for the review of the Matrix of Services form following the completion or revision of an IEP. The Sponsor will make final determinations of the Matrix of Services scores.

(5) Students with disabilities will be educated in the least restrictive environment as outlined in Appendix 6, Special Programs and Procedures for Exceptional Students. Those students, whose needs cannot be adequately addressed at the School as determined by an IEP committee, will be appropriately referred; and the School staff will work together with the Sponsor's personnel to ensure that the needs of these students are met. The School's staff will work closely, and as early as possible in the planning/development stages, with Sponsor staff to discuss the services needed by the School's students with disabilities.

(6) In the event there is a Due Process Hearing in accordance with Section 615 of the Individuals with Disabilities Education Act involving the provision of education and related services to a student with disabilities at the School, the School shall bear all the costs of the hearing, including legal representation. In the event that the party representing the parents or guardians is prevailing, any and all attorneys fees awarded to prevailing party will be paid by the School.

#### **F. ENGLISH SPEAKERS OF OTHER LANGUAGES**

Students at the School who are of limited proficiency in English will be served by English for Speakers of Other Languages (ESOL)-certified personnel who will follow the Sponsor's District Plan for Limited English Proficient Students. The Sponsor's or School's state approved plan, which meets the requirements of the League of United Latin American Citizens (LULAC) et al. v. State Board of Education Consent Decree, is attached as part of Appendix 4.

#### **G. STUDENT PROGRESSION AND DISASTER PLANS**

(1) The School will adopt the Sponsor's "Student Progression Plan" (SPP), which is attached as Appendix 7, with the exceptions attached in Appendix 7, or the School may develop its own SPP in accordance with applicable Florida State Statutes. This plan must be submitted to the Sponsor's Curriculum Committee for review prior to the first working day in June of the opening year and no later than sixty (60) days following Sponsor's approval of its SPP.

The School must be aware of what is in Sponsor's SPP and the School must write exceptions for Sponsor's review.

The SPP is a document that is revised yearly; therefore the School agrees to implement the SPP for the current operational year. Notwithstanding the above acceptance of the Sponsor's SPP, the School and the Sponsor may agree to any additional reasonable exemptions from the

SPP the School may wish. Any failure to agree on exemptions shall not be considered a dispute.

(2) The School will adopt the Sponsor's "Disaster Preparedness Plan," ("DPP") which is attached as Appendix 8. Notwithstanding the above acceptance of the DPP, the School and the Sponsor may agree to any reasonable exemptions from the DPP the School may wish. Any failure to agree on exemptions shall not be considered a dispute.

(3) The School agrees to maintain applicable certification/accreditation for its educational program in order to ensure transferability of courses completed by the students at the School.

### **III. STUDENTS**

#### **A. DEFINITION OF STUDENTS**

(1) The parties agree that the School shall be open to any student residing in Polk County and any student who is covered by an interdistrict agreement. This School will serve students in grades six (6) through eight (8). The parties agree that the primary communities to be served by this Charter School are to be the cities of Auburndale and Polk City as per the Charter application and renewal document.

The capacity of the school shall be determined annually by the School, in conjunction with the Sponsor, in consideration of the factors identified in section 1002.33(10), Florida Statutes. The School shall notify the Sponsor no later than the last working day in February of its proposed enrollment.

(2) Following is the student enrollment projection breakdown by year:

Years 1 - 10: 2007-2008 – 2016-2017 Grades 6-8 - up to 400 students

The student enrollment capacity will be contingent on the student capacity as stated on the valid certificate of occupancy for the school facility in whose jurisdiction the facility is located and

at no time shall the School's enrollment exceed the maximum capacity established by the School site's certified occupancy.

(3) The School shall comply with all applicable terms and conditions of those desegregation court orders and settlement stipulations and conditions to which Sponsor is subject. Based on such orders and settlements, the School shall maintain a racial balance of no less than fifteen percent (15%) and no more than forty percent (40%) black students. In the event that the School's student enrollment does not comply with the racial balances required by any applicable desegregation court orders, plans, and/or settlement agreements adopted pursuant thereto, the School shall immediately notify the Sponsor of the noncompliance and develop a plan to bring the School into compliance. The School shall have sixty (60) days from the date of noncompliance to address and cure the racial imbalance. If after sixty (60) days the School fails to maintain the racial balances required by desegregation court orders and settlement stipulations, as provided above (15%: 40%) then this Contract may be terminated at the discretion of the Sponsor pursuant to Part I, A(7), above. If during the termination process, the School achieves the appropriate racial balances, then the termination process will cease. The Sponsor may initiate termination proceedings only after expiration of the 60-day cure period. The Sponsor agrees to provide the specific court orders, plans and/or settlement agreements adopted pursuant thereto regarding the specific racial balances as they pertain to the School.

#### **B. ENROLLMENT PROCESS**

(1) The School agrees to enroll any eligible student who submits a timely and completed application. However, if the number of applications exceeds the capacity of a program, class, grade level, or building all eligible applicants shall have an equal chance of being admitted through a random selection process that complies with Florida law and all applicable



desegregation court orders, and/or settlement stipulations and conditions relating to maintenance of appropriate racial balance. The School shall maintain a racial balance as provided above in Part III, A(3). The School may give enrollment preference to eligible siblings of students enrolled in the School, to the child of an employee of the School, to the child of a member of the governing board of the School or to any other student as authorized by Florida law. Preference may also be given to students living in the same household with an accepted/attending student (i.e., foster home, foreign exchange student) with appropriate documentation.

The School will be responsible for its enrollment process. The School shall comply with the Sponsor's enrollment monitoring plan attached hereto as Appendix 9, as well as all desegregation requirements to which the Sponsor is subject.

(2) Informational meetings will be held by the School to inform interested parents/guardians of the mission of the School, the registration process, and required contractual obligations. The School will provide this information to parents/guardians in English as well as in other languages (e.g., Spanish and Haitian Creole).

### **C. WITHDRAWAL OR TRANSFER OF STUDENTS**

The School may not withdraw or transfer a student involuntarily, unless the withdrawal or transfer is accomplished through established administrative procedures mutually agreed upon in this Contract, or through existing administrative procedures in the Sponsor's Board Rules and/or Policies.

### **D. DISCIPLINE**

(1) The School agrees to maintain a safe learning environment at all times. In order to provide criteria for addressing discipline issues that will ensure the health, safety and welfare of all students attending the School, the School will adopt and follow the Sponsor's Code of

Student Conduct with exceptions or as later modified which is attached as Appendix 10 until such time as the School develops and receives Sponsor's approval of its own Code of Conduct. Students who attend the *Berkley Accelerated Middle School* and their parents/guardians will enter into contracts with the School. Such contracts will detail the responsibilities staff members, students, and parents/guardians are expected to fulfill. If parents/guardians or students do not meet these obligations, it will be recommended that the student attend another school. For compliance with ESE student discipline procedures refer to Sponsor's ESE SIP document, which is attached as Appendix 6.

(2) Notwithstanding the above acceptance of the Sponsor's Code of Student Conduct, the School and the Sponsor may agree to other reasonable exemptions from the Code. Any failure to agree on exemptions shall not be considered a dispute.

(3) The School agrees that it will not engage in the corporal punishment of its students.

#### **E. EXTRACURRICULAR ACTIVITIES**

(1) The Sponsor agrees to support the School in its efforts to recognize student accomplishments. Such support shall include, but not be limited to, district competitions, district recognition programs, and district scholarship programs. If there are any costs not paid for or reimbursed by the State, then the School shall pay its pro rata share of the costs of such recognition programs.

(2) Enrollment and student eligibility are subject to Section 1003.21, Florida Statutes, concerning minimum age requirements and evidence of date of birth.

(3) Enrollment is subject to compliance with the provisions of Section 1003.22, Florida Statutes, concerning school entry health examinations and immunizations.

(4) The School's admissions policies as well as its program, employment practices and operations shall be non-sectarian.

(5) The School shall not violate the anti-discrimination provisions of Section 1000.05, Florida Statutes, known as "The Florida Education Equity Act."

(6) The School's students may participate in extracurricular activities in accordance with the provisions in §1002.33(11), Florida Statute.

#### **IV. FINANCIAL ACCOUNTABILITY**

##### **A. GENERAL TERMS**

(1) Pursuant to section 1002.33(17), Florida Statutes, students enrolled in the School shall be funded as if they are in a basic program or a special program the same as students enrolled in other public schools in the School District. The basis of the funding shall be the sum of the Sponsor's operating funds from the Florida Education Finance Program (FEFP) as provided in Section 1011.62, Florida Statutes, and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the Sponsor's current operating discretionary millage levy; divided by the total funded weighted full-time equivalent students (WFTE) in the Sponsor's district; multiplied by the WFTE of the School.

(2) If the School's students or programs meet the legal eligibility criteria, the School shall be entitled to its proportionate share of categorical program funds included in the total available FEFP funds by the legislature, including transportation.

(3) Total funding for the School shall be recalculated during the year to reflect the revised calculations under the FEFP by the state and the actual WFTE students reported by the School during the full-time equivalent survey periods designated by the Commissioner of Education.

(4) With regard to any program or service provided by the Sponsor which is funded by federal funds that follow an eligible student, the Sponsor agrees that if the same program or service is provided to an eligible student at the same level of service by the School, then upon receipt of adequate documentation from the School, the Sponsor shall transfer to the School the federal funds received by the Sponsor attributable to that student, provided that federal law or regulation does not prohibit such transfer of funds and subject to the provisions of the Sponsor's policy codified at 6Gx53.4.020 VIII(H) and IX and X. All current federal funds will be forwarded to the School on an equitable basis. Sponsor will provide the calculation method and support documentation. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, the School shall receive all federal funding for which the School is otherwise eligible, including Title I funding, not later than five (5) months after the School enrolls students for the start of the new school year. The IDEA discretionary portion of the IDEA appropriation will remain with the Sponsor to provide training as required by IDEA guidelines. All other IDEA funds will be distributed on a per student basis using all category areas. The School may participate in discretionary IDEA training offered by the Sponsor at no cost.

(5) The Sponsor agrees to timely notify the School of all dates and other information regarding reporting of student data, calendar of district in service opportunities, and other dates and information pertinent to the School's compliance with this Contract.

(6) The Sponsor agrees to support the School in its efforts to secure grants by timely processing and submitting all documentation prepared by the School and necessary for the School's competition for grants and other monetary awards, including, but not limited to, Federal Start-up Grant and Dissemination Grant.

(7) Unless otherwise provided in this Contract, if the School's students, programs, staff and/or facilities are used to generate funds for the Sponsor, the Sponsor agrees to give the School its proportionate share of federal and/or state funds generated. This includes any changes in law creating new categories of funds.

(8) Should the School receive notice of a negative funding adjustment which is attributable to non-compliance by a school other than this Charter School, then the School will not be assessed any penalty.

(9) The School shall report its student enrollment to the Sponsor as required in Section 1011.62, Florida Statutes, and in accordance with the definitions in Section 1011.61, Florida Statutes, at the agreed upon intervals and shall use the reporting method required by the Florida Department of Education (if any) and the Florida Auditor General (if any) when reporting cost data by program. The Sponsor shall include the School's enrollment in the Sponsor's district report of student enrollment.

(10) The School shall not charge tuition or fees, except those fees normally charged by other Polk County public schools or as allowed by Florida law.

(11) The Sponsor shall make certain that the School receives timely distribution of all funding for which School is eligible. Payment will be broken into eleven (11) monthly payments with no payment in June. Each payment shall be issued no later than ten (10) working days after Sponsor receives a distribution of state or federal funds. The first payment of every subsequent year shall be adjusted by any final amounts due to or from the Sponsor for services provided the School during the previous year as well as for administrative oversight. If a warrant for payment of a scheduled disbursement is not issued within thirty (30) working days after the receipt of funding by the Sponsor, the Sponsor shall pay to the School, in addition to the amount of the

scheduled disbursement, interest at a rate of one percent (1%) per month calculated on a daily basis on the unpaid balance from the expiration of the thirty (30) day period until such time as the warrant is issued. The Sponsor will cooperate and assist the School, as required by Florida Statutes, to obtain capital outlay funding for which the School may be eligible. The School agrees to use procedures for submitting and approving requests for funding under §1013.62, Florida Statute, Charter Schools Capital Outlay Funding which are attached to this Contract as Appendix 11.

## **B. ADMINISTRATIVE MANAGEMENT**

(1) The School's financial activities and reporting of same will be subject to the Florida Department of Education (FDOE), Technical Assistance Notes (TAN), 99-09, 2000-05, and 2001-15, incorporated into this Contract as Appendix 12, as well as any other applicable subsequently issued directives by the State.

(2) The School agrees to provide reasonable proof of the ability to fund the initial startup and the on-going operation of the School, but in no event shall the School be required to prove the ability to fund more than two (2) months of expenditures based on the yearly operating budget.

(3) The administrative fee charged by the Sponsor shall be limited to five percent (5%) of available funds for the first 500 students as defined in §1002.33(20)(a), Florida Statute not including capital outlay funds, federal and state grants, or any other funds, unless explicitly provided by law. The Sponsor shall not withhold an administrative fee from federal or state grants unless explicitly authorized by law. If the School has a population of 501 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may be used for capital outlay purposes specified in §1013.62(2),

Florida Statute. The Sponsor shall not withhold an administrative fee from capital outlay funds unless explicitly authorized by Florida law. Access by the School to services not required in, but available through the Sponsor, may be negotiated separately by the parties. The Sponsor shall provide certain services to the School at no additional fee. The services shall include contract management services, FTE and data reporting, exceptional student education administration, test administration services, including payment of the costs of state-required or district-required student assessments, processing of teacher certificate data, and information services, including equal access to student information systems that are used by public schools in the district in which the School is located. The 5% administrative fee shall be deducted from the monthly FTE invoices rather than all at one time. Sponsor shall not charge School any additional fees or surcharges for administrative and educational services in addition to the 5% administrative fee withheld above. If goods and services are made available to School they shall be provided to School at a rate no greater than the Sponsor's actual cost, unless otherwise agreed.

The Sponsor will charge the School for additional services that are beyond the scope of the services described above provided the parties mutually agree in writing that the School shall be charged for such additional services prior to the rendering of such services. Payment shall be made to Sponsor upon submission of invoices to the School. Examples of such additional services are purchasing goods for the School, deliveries from the Sponsor's warehouse to the School, electronic equipment repairs, and technological services and installation of dedicated telephone lines and participation in teacher training. This is not intended to be an exhaustive list.

(4) The School shall utilize the standard state codification of accounts as contained in the Financial and Program Cost Accounting and Reporting for Florida Schools (Red Book), as a means of codifying all transactions pertaining to its operations. Federal, state and local funds

shall be maintained according to existing mandates and practices, i.e., separate funds and bank accounts for federal, state, and local funds as required under applicable statutes.

(5) The School shall provide monthly financial statements to the Sponsor, which shall include a balance sheet and a statement of revenues and expenditures and changes in fund balances prepared in accordance with Generally Accepted Accounting Principles as specified in section (4) herein above and in a format to include a detail of all revenue and expenditure activities relating to its operations, and file the appropriate reports with the respective state and federal agencies. In the event the School elects to follow generally accepted accounting standards for not-for-profit organizations, it shall be reformatted for reporting purposes. Submission of the monthly financial statements shall be within thirty (30) days of the end of each month for the months of July through May. Failure to timely submit monthly financial reports without reasonable cause shall constitute a material breach of this Contract.

(6) The School shall provide the Sponsor with annual unaudited financial reports as of August 15 of each year for inclusion in the Sponsor's financial statements. These reports shall include a complete set of annual financial statements and notes thereto, prepared in accordance with Generally Accepted Accounting principles and reflecting the detail of revenue sources and expenditures by function and object at a level of detail that allows for analysis of the ability to meet financial obligations and timely repayment of debt. Additionally, the financial statements must be presented in the new format as required by Governmental Accounting Standards Board (GASB) Statement 34, applicable for state and local governments and their component units which became effective for periods beginning after June 15, 2001. The following timeline must be adhered to for submitting the School's financial reports:

**Unaudited Statements** – NO LATER THAN AUGUST 15<sup>th</sup> OF EACH YEAR



**Audited Statements** - NO LATER THAN SEPTEMBER 30<sup>TH</sup> OF EACH YEAR

**Cost Report** – NO LATER THAN AUGUST 15<sup>th</sup> OF EACH YEAR

An annual financial audit, requested and paid for by the School, shall be performed by a licensed Certified Public Accountant. The audit shall be performed in accordance with Generally Accepted Auditing Standards; Government Auditing Standards, issued by the Comptroller General of the United States; and the Rules of the Auditor General, State of Florida, incorporated into this Contract as Appendix 13, and in accordance with the requirements specified in the Audit Completion/Checklist attached as Appendix 14. The School shall submit this audit no later than the last working day in September including the information required in Section 1010.20, Florida Statutes. In addition to conforming to applicable accounting standards and statutory requirements, the independent CPA shall consider appropriate analysis of financial trends and conditions. At a minimum, the independent CPA should examine the level of unreserved fund balance within the general fund in relation to general fund revenues. Such level should be 2.5% or higher. The Florida Office of the Auditor General has identified this percentage as indicating a minimum level of resources to be available for emergencies and unforeseen situations. The School further agrees to provide the Sponsor with a copy of such audit and the corresponding responses to the findings, which shall be bound together in one complete report. Furthermore, if the School's internal audit reveals a deficit financial position, the auditors are required to notify the School's governing board, the Sponsor, and the Department of Education. The Internal auditor shall report such findings in the form of an exit interview to the principal or the principal administrator of the Charter School and the chair of the governing board within seven (7) working days after finding the deficit position. A final report shall be provided to the entire governing board, the Sponsor and the Department of Education within fourteen (14) working

days after the exit interview. Funding for any subsequent year or Contract extension, if approved by the School Board, shall be contingent upon the receipt and subsequent approval of the audit by the Sponsor and/or its representatives, and such funding shall be adjusted as necessary to reflect audit results. Additionally, failure of the School to comply with the timely submission of all financial statements will result in the Sponsor's withholding of subsequent payments to the School without penalty of interest as described in Part IV (5) of this Contract until such time as the statements are received. The Sponsor reserves the right to perform additional audits at its expense as part of the Sponsor's financial monitoring responsibilities as it deems necessary. The Sponsor will notify the School of this procedure in a timely manner consistent with the notification given to other public schools. Additionally, a cumulative listing of all property valued over \$750 purchased with public funds i.e., FEFP, grant, and any other public-generated funds; and a cumulative listing of all property valued at more than \$750 purchased with private funds will be submitted yearly along with the annual audited financial statements. These lists will include: (1) date of purchase; (2) item purchased; (3) cost of item; and (4) item location. If the School has been granted tax-exempt status, the School will provide the Sponsor with a copy of correspondence from the Internal Revenue Service (IRS) granting tax-exempt status as a section 501(c)(3) organization. In the event it is not included in the audit report, the School also will provide the Sponsor a copy of its Form 990, Return of Organization Exempt from Income Tax, and all schedules and attachments, within fifteen (15) days of filing with the IRS. If the IRS does not require Form 990 to be filed, the School will provide the Sponsor with written confirmation from the IRS of such non-requirement. Notwithstanding anything set forth in this Contract, the Sponsor does not covenant to extend or pledge its tax-exempt authority in any way for the use and benefit of the School.

(7) The Sponsor reserves the right to require the School and the School agrees to adhere to any additional financial requirements mandated by the State and/or Federal laws and regulations.

(8) The School shall not suggest or represent to third parties, including, but not limited to, vendors, creditors, other business entities or their representatives, governmental entities, or other individuals, that the Sponsor will guarantee payment for any purchases made or debts incurred by the School, nor shall the School represent that the Sponsor will guarantee payment for any loans secured by the School, or that the Sponsor will lend its good faith and credit in order for the School to obtain a loan or other forms of credit.

The School agrees to provide to the Sponsor proof that it will have sufficient funds to cover operating expenses associated with the operation of the Charter School, including without limitation the amount of any lease payments, teacher and other staff salaries and benefits, and transportation costs, for the school year 2007-2008 and each school year during the term of this Contract and /or any renewal. The parties agree that the submission of the School's approved budget shall satisfy this requirement. Pursuant to section 1002.33(9)(j), Florida Statutes, the School's governing board shall adopt and maintain an annual budget. Provided further that the School agrees that any adopted budgets shall be balanced budgets. The School agrees to transmit to the Sponsor a copy of the School's adopted budget at the beginning of the Sponsor's fiscal year.

### **C. FOOD SERVICE**

Responsibilities for providing food and related services, and meeting reporting requirements will be assumed by the School. The School may contract with the Sponsor if the Sponsor is agreeable to provide food service for the term of which will be set forth in a separate

annual contract.

**D. FTE**

(1) The School must provide the Sponsor with the following year's projected FTE by April 15 of the current year. The Sponsor may initially calculate monthly distributions to the School until the results of the October FTE become available.

(2) Any eligible student enrolled in the School shall be provided federal funds for the same level of service provided other eligible students in the schools operated by the Sponsor, including Title I funding.

(3) Total funding shall be recalculated during the school year to reflect actual WFTE students reported by the School during the FTE student survey periods. Additionally, funding for the School shall be adjusted during the year as follows:

(a) In the event of a state holdback or a proration, which reduces or increases district funding, the School's funding will be reduced or increased proportionately. The Sponsor will not be responsible for any liabilities incurred by the School in the event of a state holdback.

(b) In the event that the district exceeds the state cap for WFTE for Group 2 programs established by the Legislature, resulting in unfunded WFTE for the district, then the School's funding shall be reduced to reflect its proportional share of any unfunded WFTE.

(4) The School shall not levy taxes or issue bonds secured by tax revenue.

(5) All payments shall be made to the School no later than the 15<sup>th</sup> of each month from July through May. See Appendix 15 for a sample worksheet for calculating the School's revenues. The Sponsor shall complete this worksheet the month following the actual FTE survey

periods. An invoice will be prepared by the Sponsor based upon the original revenue worksheet divided by the number of payments (eleven) in the school year until a revised worksheet schedule is completed.

#### **E. MONITORING**

The parties agree that the Sponsor, with reasonable notice, may schedule and perform periodic monitoring site visits. This does not preclude additional unscheduled site visits as deemed necessary by the Sponsor. These site visits will monitor school operations and student performances and the School shall provide responses in a timely manner or within thirty days of receipt of said requests.

#### **F. TITLE I**

(1) Any Title I funds allocated to the School must be used to supplement students greatest instructional needs that have been identified by a comprehensive needs assessment of the entire School and shall be spent in accordance with federal regulations. The School's eligibility to receive Title I funds will be based on the percentage of students participating in the Free and/or Reduced Price Lunch Program as determined by an Economic Survey using a predetermined cut-off level established by the Sponsor.

(2) The per pupil allocation of Title I funds will be determined annually in accordance with the economic survey conducted by the Sponsor for that purpose. The allocation of Title I Funds shall be made in accordance with the Public Charter Extension Act of 1998 and all corresponding guidance and regulations.

(3) Any capital outlay item purchased with Title I funds costing \$250 or more, which is classified as Audio Visual, Software, Furniture or Equipment remains the property of Title I. This property must be identified and labeled for Title I property audits.

(4) Schools receiving Title I funds will employ highly qualified staff: teachers that are certified and teaching infield; paraeducators with two years of college or that have passed an equivalent exam.

(5) If the School accepts Title I funds, at least one percent of the Title I funds budget must be spent in support of parental involvement activities.

(6) Charter schools receiving Title I funds are subject to all terms and conditions pertaining thereto, including the requirement to make Adequate Yearly Progress.

(7) The district and regional Title I staff will provide technical assistance and support in order to ensure that Title I guidelines are being followed at the School and that students are meeting high content and performance standards.

#### **G. GRANTS**

(1) When the funding source requires that the Sponsor serve as the fiscal agent for a grant, the School shall, prior to generating any paperwork to the funding agency, notify the Sponsor in writing of its intent to submit a grant application and attach grant application guidelines.

(2) If the Sponsor develops a districtwide grant, the School may be included in the district proposal, if mutually agreed to by the School and the Sponsor. The Sponsor shall not agree to such participation unless the School specifically agrees to all terms, conditions, and requirements of the grant. If the School fails in any material respect to comply with said terms, conditions, and requirements, the School shall be solely responsible and liable for any consequences.

(3) When a charter school elects to participate in a districtwide grant prepared by the Sponsor's staff or when grant proposals are developed by district staff using student or School

counts that include the students of the School, dollars and/or services distributed via grant funds will be provided to charter schools in the same manner as traditional public schools.

#### **H. REPORTING OF STUDENTS**

(1) In order to facilitate the School's reporting requirements as reflected in the law and in order to provide continuous data for students participating in the School, the parties agree that the School will use the Sponsor's electronic data processing facility and procedures for the processing of student enrollment, attendance, FTE collection, and assessment information. The Sponsor will analyze the School's facility and develop a hardware/software solution which provides the School with limited access to the Sponsor's data processing facility. The School will provide hardware and related infrastructure. There will be no cost to the School for the related installation of software programs.

(2) The Sponsor will also provide training for the School's personnel in the use of designated district applications necessary to respond to the requirements of §1008.345, Florida Statute, including the annual report and the state/district required assessment program. The Sponsor's support for this function will be provided at cost and will not exceed the administrative fee provided in the law. Access by the School to additional data processing applications not required by law but available through the Sponsor may be negotiated separately by the parties.

(3) If the School submits data relevant to FTE funding that is later determined through the audit procedure to be inaccurate, the School shall be responsible for any reimbursement to the State for any errors or omissions for which the School is responsible.

(4) Access by the School to materials and forms not required by law but available through the Sponsor may be negotiated separately by the parties.

## **I. FACILITIES**

### **START-UP CHARTER**

(1) The School shall use facilities which comply with the State Uniform Building Code for Public Education Facilities Construction adopted pursuant to Section 1013.37, Florida Statutes, or pursuant to Chapter 553, Florida Statutes, and comply with state minimum fire protection codes enacted pursuant to section 633.025, Florida Statutes, as adopted by the authority in whose jurisdiction the facility is located. Upon implementation, the School shall use facilities that comply with the Florida Building Code pursuant to chapter 553, and the Florida Fire Prevention Code pursuant to chapter 633. All inspections (Health, Fire and Certificates of Occupancy) shall be delivered to the Sponsor's Office of Magnet, Choice and Charter Schools by July 15<sup>th</sup> annually. Written evidence of inspections and certificates of occupancy for a public school building shall be delivered to the Sponsor no later than July 1<sup>st</sup> immediately preceding the opening of school.

(2) The School shall provide the Sponsor with a copy of its lease or proof of ownership of the buildings that will house the School's program by the effective date of this Contract (July 1, 2007).

(3) The School shall maintain a racial balance as provided in Part III(A)(3) above.

(4) In the event the School is dissolved or is otherwise terminated, all property and improvements, furnishings, and equipment purchased with public funds shall, if applicable, automatically revert to and become the property of the Sponsor in accordance with Florida law.

(5) The School agrees to inspections by the Sponsor or its designee.

(6) The School agrees not to affix any religious symbols, statutes, artifacts, etc., on or about the property and facilities where the School will operate.



## **J. TRANSPORTATION**

(1) Pursuant to section 1002.33(20)(c), Florida Statutes, the School agrees to provide for transportation of the School's students consistent with the requirements of Chapter 1006, Florida Statutes. At the discretion of the School's governing body, transportation may be provided through private providers who meet all applicable State and Sponsor's safety and transportation standards with funds allocated to eligible students. The School and the Sponsor shall cooperate in making arrangements that ensure that transportation is not a barrier to equal access for all students residing within a reasonable distance of the School. Notwithstanding this section, the governing board of the School may, at its discretion, provide transportation to students outside the "reasonable distance" area.

The School and the Sponsor, if agreeable to the Sponsor, may enter into a separate contract for the provision of transportation services.

(2) If applicable, the School will provide the Sponsor the name of the private transportation provider and a copy of the signed transportation contract ten (10) working days prior to the opening day of classes.

## **K. INSURANCE & INDEMNIFICATION**

### **(1) Evidence of Insurance**

The School shall provide evidence of liability insurance in the following manner:

(a) As evidence of compliance with the insurance required by this contract, the School shall furnish the Sponsor with fully completed certificate(s) of insurance signed by an authorized representative of the insurer(s) providing the coverage before the initial opening day of classes.

(b) The evidence of insurance shall provide that the Sponsor be given no less

than sixty (60) days written notice prior to cancellation.

(c) Until such time as the insurance is no longer required to be maintained by the School, the School shall provide the Sponsor with evidence of the renewal or replacement of the insurance no less than 30 days before the expiration or termination of the required insurance for which evidence was provided. Failure to comply with this section or to maintain the requisite insurance coverage shall constitute a material breach of this contract.

(2) Requirements of Insurance

(a) Insurance required under the terms of this contract must either be authorized by subsisting certificates of authority by the Department of Financial Services of the State of Florida or an eligible surplus lines insurer under Florida Statutes. In addition, the insurer must have a Best's Rating of "A" or better and a Financial Size Category of "VI" or better, according to the latest edition of Best's Key Rating Guide, published by A.M. Best Company.

If, during this period when an insurer is providing the insurance as required by this Contract, an insurer fails to comply with the foregoing minimum requirements, as soon as the School has knowledge of any such failure, the School shall immediately notify the Sponsor and promptly replace the insurance provided by the insurer with another insurer meeting the requirements. Such replacement insurance coverage must be obtained within twenty (20) days of cancellation or lapse of coverage.

(b) Without limiting any of the other obligations or liabilities of the School, the School shall, at the School's sole expense, procure, maintain and keep in force the amounts and types of insurance conforming to the minimum requirements set forth in this Contract. Except as otherwise specified in this Contract, the insurance shall commence prior to the commencement of the opening of the School and shall be maintained in force, without

interruption, until this Contract is terminated.

(3) Commercial General Liability Insurance

Except as otherwise provided, the Commercial General Liability Insurance provided by the School shall conform to the requirements hereinafter set forth:

(a) The School's insurance shall cover the School for those sources of liability (including, but not by way of limitation, coverage for operations, Products/Completed Operations, independent contractors, and liability contractually assumed) which would be covered by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office.

(b) The minimum limits to be maintained by the School (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per occurrence/\$3 million annual aggregate.

(c) Except with respect to coverage for Property Damage Liability, the Commercial General Liability coverage shall apply on a first dollar basis without application of any deductible or self-insured retention. The coverage for Property Damage Liability may be subject to a maximum deductible of \$1,000 per occurrence.

(d) The School shall include the Sponsor and its members, officers, and employees as Additional Insured on the required Commercial General Liability Insurance. The coverage afforded such Additional Insured shall be no more restrictive than that which would be afforded by adding the Sponsor as Additional Insured using the latest Additional Insured - Owners, Lessees or Contractors (Form B) Endorsement (ISO Form CG 20 10). The certificate of insurance shall be clearly marked to reflect "The Sponsor, its members, officers, employees, and

agents as Additional Insured.”

**(4) Automobile Liability Insurance**

The Automobile Liability Insurance provided by the School shall conform to the following requirements:

(a) The School’s insurance shall cover the School for those sources of liability which would be covered by Section II of the latest occurrence edition of the standard Business Auto Policy (ISO Form CA 00 01), including coverage for liability contractually assumed, as filed for use in the State of Florida by the Insurance Services Office.

(b) Coverage shall be included on all owned, non-owned, and hired autos used in connection with this Contract.

(c) The minimum limits to be maintained by the School (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per occurrence, and if subject to an annual aggregate, \$3 million annual aggregate.

**(5) Workers’ Compensation/Employers’ Liability Insurance**

The Workers’ Compensation/Employers’ Liability Insurance provided by the School shall conform to the following requirements:

(a) The School’s insurance shall cover the School (and to the extent its subcontractors and its sub-subcontractors are not otherwise insured), for those sources of liability which would be covered by the latest edition of the standard Workers’ Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers’ Compensation Act, where appropriate, coverage is to be included for the Federal Employers’ Liability Act and any other applicable federal or state law.

(b) Subject to the restrictions found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy. The minimum amount of coverage for those coverage's customarily insured under Part Two of the standard Workers' Compensation Policy shall be: EL Each Accident: \$500,000; EL Disease-Policy Limit: \$500,000; EL Disease-Each Employee: \$500,000.

(6) School Leader's Errors and Omissions Liability Insurance

The School shall provide, subject to reasonable commercial availability, the School Leader's Errors and Omissions Liability Insurance conforming to the following requirements:

(a) The School Leader's Errors and Omissions Liability Insurance shall be on a form acceptable to the Sponsor and shall cover the School for those sources of liability typically insured by School Leader's Errors and Omissions Liability Insurance. This coverage address liability arising out of the rendering or failure to render professional services in the performance of this Contract, including all provisions of indemnification, which is part of this Contract.

(b) The insurance shall be subject to a maximum deductible not to exceed \$25,000 per claim.

(c) If on a claims-made basis, the School shall maintain, without interruption, the Professional Liability Insurance until three (3) years after termination of this Contract.

(d) The minimum limits to be maintained by the School inclusive of any amounts provided by an umbrella or excess policy, shall be \$1 million per claim/annual aggregate.

(7) Property Insurance

Option #1: If the School is the owner and/or has a mortgage on the school site location, the School shall furnish on a form acceptable to the Sponsor, Property Insurance for the "Building" which is to include the structure as described in Section C. Facilities, including permanently installed fixtures, machinery and equipment: outdoor fixtures, and personal property to service the premises. If the building is under construction the School shall provide evidence of property insurance for the additions under construction and alterations, repairs, including materials, equipment, supplies, and temporary structures within 100 feet of the premises.

In addition, the School shall provide evidence of Business personal property coverage to include furniture, fixtures, equipment, and machinery used in the School.

Option #2: (lease property).If the School leases the site location, then the School shall provide on a form acceptable to the Sponsor no later than ten (10) days prior to the opening of school, evidence of Business Personal Property Insurance, to include furniture, fixtures, equipment and machinery used in the School.

Option #3 – If the School occupies a physical plant owned by the Sponsor, then the School shall provide a form acceptable to the Sponsor no later than ten (10) days prior to the opening of school, evidence of Business Personal Property Insurance to include furniture, fixtures, equipment and machinery used in the School.

In addition, if the School is the owner and/or has a mortgage on any temporary or relocatable facilities, wherever located, the School shall furnish on a form acceptable to the Sponsor, Property Insurance for any such temporary or relocatable facilities, including permanently installed fixtures, machinery and equipment, outdoor fixtures, and personal property to serve the premises.

(8) Applicable To All Coverages

The insurance provided by the School shall apply on a primary basis and any other insurance or self-insurance maintained by the Sponsor or its members, officers, employees or agents, shall be in excess of the insurance provided by or on behalf of the School. Except as otherwise specified, the insurance maintained by the School shall apply on a first dollar basis without application of deductible or self-insurance retention. Compliance with the insurance requirements of this Contract shall not limit the liability of the School, its subcontractors, its sub-subcontractors, its employees or its agents to the Sponsor or others. Any remedy provided to the Sponsor or its members, officers, employees or agents by the insurance shall be in addition to and not in lieu of any other remedy available under the Contract or otherwise.

The School shall require its subcontractors and its sub-subcontractors to maintain any and all insurance required by law. Except to the extent required by law, this Contract does not establish minimum insurance requirements for subcontractors or sub-subcontractors.

Neither approval by the Sponsor nor failure to disapprove the insurance furnished by the School shall relieve the School of the School's full responsibility to provide the insurance as required by this Contract. The School shall be in default of this Contract for failure to maintain such insurance as required by this Contract, provided further that the insurance requirements in this Contract shall not be construed to waive the Sponsor's sovereign immunity or limits of liability set forth in Section 768.28, Florida Statute.

**L. INDEMNIFICATION**

(1) The School, to the extent immunity may be waived pursuant to §768.28, Florida Statute, agrees to indemnify, defend with competent counsel and hold the Sponsor, its members, officers, and agents, harmless from any and all claims, actions, costs, expenses, damages, and

liabilities, including reasonable attorney's fees, arising out of, connected with or resulting from:

(a) the negligence of the School's employees, contractors, subcontractors, or other agents in connection with and arising out of their services within the scope of this agreement; (b) disciplinary action or the termination of a School employee; (c) the debts accrued by the School and/or non-payment of same; (d) the School's material breach of this agreement or violation of law; (e) any failure by the School to pay its suppliers or any subcontractors, or (f) personal injury, property damage, or violations of civil rights that may arise out of, or by reason of actions of the School and/or its employees, agents, and representatives. However, the School shall not be obligated to indemnify the Sponsor, against claims, damages, expenses or liabilities to the extent these may result from the negligence of the Sponsor, its directors, officers, employees, and subcontractors. The duty to indemnify for professional liability as insured by the School Leaders Errors and Omissions Liability Policy described in this Contract will continue in full force and effect notwithstanding the expiration or early termination of this Contract with respect to any claims based on facts or conditions which occurred prior to termination. In no way shall the School Leader's Errors and Omissions Liability Policy three (3) year limitation on post-termination claims of professional liability impair the Sponsor's claims to indemnification with respect to a claim for which the School is insured or for which the School should have been insured under Commercial General Liability Insurance. In addition, the School shall indemnify, defend and protect and hold the Sponsor harmless against all claims and actions brought against the Sponsor by reason of any actual or alleged infringement of patent or other proprietary rights in any material, process, machine or appliance used by the School.

(2) The School shall notify the Sponsor of the existence of any third party claim, demand or other action giving rise to a claim for indemnification under this provision (a "Third



Party Claim”) and shall give each other a reasonable opportunity to defend the same at its own expense and with its own counsel, provided that the Sponsor shall at all times have the right to participate in such defense at its own expense. If, within a reasonable amount of time after receipt of notice of a Third Party Claim, the School shall fail to undertake to so defend, the other party shall have the right, but not the obligation, to defend and to compromise or settle (exercising reasonable business judgment) the Third Party Claim for the account and at the risk and expense of the School which the School agrees to assume. The School or the Sponsor shall make available to each other, at their expense such information and assistance as each shall request in connection with the defense of a Third Party Claim.

(3) The School's indemnity obligations under this provision and elsewhere in the Contract shall survive the expiration or termination of this Contract.

## **V. GOVERNANCE STRUCTURE**

### **A. REQUIREMENTS**

(1) As stated in the By-Laws and the Articles of Incorporation (Appendix 16), the corporation shall be a Florida not for profit entity, and a governing board, shall manage its activities and affairs. Voting shall control the corporation, and only the governing board shall vote. The officers shall consist of a president, a vice president, a treasurer, and a secretary.

(2) The School’s governing body shall be made up of its governing board. This board will define and refine policies regarding educational philosophy, and oversee assessment and accountability procedures to assure that the School’s student performance standards are met or exceeded.

(3) The School's governing board will include representation from parents/guardians and professionals qualified to support the educational and moral development of the School's

students.

(4) The School's governing body will be held accountable to its students, parents/guardians, and the community at large, through a continuous cycle of planning, evaluation, and reporting as set forth in Florida's Charter School law.

(5) The governing board, in consultations with School staff, will be responsible for the over-all policy decision making of the School, including the approval of the curriculum and the annual budget.

(6) Within 45 days of appointment to the School's governing board, the members shall be fingerprinted pursuant to § 1002.33(12)(g) Florida Statute.

(7) The teachers, support, and contractual staff will be directly supervised by the Principal.

(8) Continuity between the organizing group and the governing board will be maintained in the following ways:

- where possible and appropriate (as per above criteria and process), organizing group members will serve as Directors for staggered terms;
- organizing group members not on the governing board are not allowed to vote for trustees or approve changes to the corporation's Articles or By-Laws; and
- the governing board will be the fiscal agent for the School and will be involved from the inception in policy matters, pursuant to the provisions of the corporation's bylaws.

(9) As indicated above, the School will be responsible for administrative school functions, such as bookkeeping, pursuant to the rules and policies that are developed by the School's governing board.

(10) No member of the School's governing board will receive compensation, directly or indirectly from the School's operations. Violation of this provision shall constitute a material breach of the Contract.

(11) The School's parents/guardians will contractually agree to be responsible for their children's attendance (per applicable rules and regulations), classroom participation, and behavior. Attached, as Appendix 17 is the School's Parental Contract. To insure that parents/guardians will have ready access to the governance of the School, board meetings will be open to the public in accordance with §286.011, Florida Statute, and public notice shall be given in a timely manner.

(12) The School will comply with §1002.33(16)(b)(2), Florida Statute, relating to public records.

(13) The School's governing body will publish a calendar on its website that contains a schedule of all governing body meetings for the school year, including the date and time of the meetings and the locations. The School will provide reasonable notice to the Sponsor of any changes or cancellation of scheduled meetings, to the extent practical. The School agrees to hold meetings at least once a quarter during the school year.

(14) The School agrees to allow reasonable access to its facilities and records to duly authorized representatives of the Sponsor. Conversely, the Sponsor agrees to allow reasonable access to its records to duly authorized representatives of the School to the extent allowable by law. Failure to provide such access will constitute a material breach of this Contract.

## **B. MANAGEMENT COMPANIES**

(1) If a management company will be operating the School, the contract between the management company and the governing body of the School shall be submitted to the Sponsor

prior to the approval of the School's Contract. All amendments to the contract between the management company and the governing body of the School shall be submitted to the Sponsor within five (5) days of execution.

(2) The contract between the governing body of the School and the management company shall require that the management company operate the School in accordance with the terms stipulated in the School's Contract and all applicable laws, ordinances, rules, and regulations.

(3) Any default or breach of the terms of this Contract by the management company shall constitute a default or breach under the terms of the Contract between the School and Sponsor.

## **VI. HUMAN RESOURCES**

### **A. HIRING PRACTICES**

The School is a public employer and all its employees are public employees for all purposes, including participation in the Florida Retirement System.

(1) The School shall hire its own employees. Leave will be available to Sponsor's employees as contemplated in Section 1002.33(12) Florida Statutes and/or other leave arrangements approved by Sponsor.

(2) The School agrees to complete a PCSB Personnel Action Form (PAF) and Data Flow Sheet within fourteen (14) days to report new hires, leaves of absence, transfers and terminations. Teaching assignments for new hires must match the state course code directory numbers and teacher certification.

(3) The School agrees that its employment practices shall be nonsectarian and non-discriminatory. The School's governing board will determine salaries, benefits, and

Position/Title classification, provided that the School's governing board may establish any additional positions it deems necessary.

(4) The School shall be responsible for promoting diversity in its staff and will strive to maintain a racial balance of no less than ten percent (10%) and no more than twenty percent (20%) black professional staff, administration, and faculty.

(5) All teachers employed by or under contract to the School shall be certified and highly qualified as required by Chapter 1012, Florida Statutes and any other applicable state or federal law. The School may employ or contract with skilled selected non-certified personnel to provide instructional services or to assist instructional staff members as education paraprofessionals in the same manner as defined in Chapter 1012; however, in order to comply with NCLB requirements, all teachers in core academic areas must be certified/qualified based on Florida Statutes and highly qualified as required by NCLB. Employee resumes/biographies will be available to parents/guardians and community members upon request.

(6) The School agrees to provide the Sponsor the names of all applicants for employment if requested by the Sponsor's Office of Magnet, Choice and Charter Schools.

(7) The School agrees not to knowingly employ an individual for instructional services if the individual's certification or licensure as an educator is suspended or revoked by this or any other state.

(8) The School agrees not to knowingly employ an individual who has resigned in lieu of disciplinary action with respect to child welfare or safety or who has been dismissed for just cause by any school district with respect to child welfare or safety.

(9) The School agrees to fingerprint at its cost all applicants for instructional and non-instructional positions including contracted personnel, as required by §1012.32(2)(a), Florida

Statute. The Sponsor shall perform the processing of each applicant's fingerprints. The School agrees that new applicants shall be on probationary status pending fingerprint processing and determination of compliance with standards of good moral character. These fingerprints shall be submitted to the Florida Department of Law Enforcement for state processing and the Federal Bureau of Investigations for federal processing. Potential School employees shall submit official court dispositions for criminal offenses of moral turpitude listed as part of their fingerprint results. The School agrees not to hire applicants whose fingerprint check results reveal non-compliance with standards of good moral character.

## **B. EMPLOYMENT PRACTICES**

(1) The School is a Drug-Free Work Place. School shall attach either its applicable policy or adopted and/or amended Sponsor's plan in Appendix 18.

(2) The School agrees that its employees will be required to abide by the guidelines set forth in Chapter 6B-1.001, Code of Ethics of the Education Profession in Florida, and Chapter 6B-1.006, Principles of Professional Conduct for the Education Profession in Florida, hereby attached as Appendix 19.

(3) The School's employee handbook is attached as Appendix 20.

(4) Pursuant to §1002.33(12)(b), Florida Statute, School employees shall have the option to bargain collectively and may collectively bargain as a separate unit or as part of the existing district collective bargaining unit as determined by the structure of the School.

(5) The School will provide payroll services for all of its employees.

(6) All School employees will be evaluated by the School.

(7) Any School employee who meets Sponsor's certification and employment qualifications and who has not been released in the Sponsor's ninety-seven (97) day probationary

period or is non-renewed has access to any transfer list and may request transfer to any Sponsor position for which he/she qualifies.

### **C. LEAVE**

(1) The School's employees, who are on Sponsor approved leave, will maintain credit on the teacher salary schedule, credit for seniority, and credit for accumulated sick leave (as long as they meet Sponsor's certification and employment qualifications), for the time they are on approved charter school leave.

(2) Employees who are on Sponsor approved leave to become School employees will not be eligible to participate in the Sponsor's sick leave bank. Upon return to Sponsor employment, said employees may reapply to join the Sponsor's sick leave bank if eligible.

(3) The Sponsor agrees to reimburse any qualifying employees for their vacation days accrued while actively employed by the Sponsor, upon their termination or retirement from the Sponsor.

(4) A School employee who has previously accumulated sick leave days as a Sponsor employee will be reimbursed by the Sponsor for such sick leave days as provided by law and School Board policy at the same rate as other Sponsor employees.

(5) A School employee who is on charter school leave from Sponsor shall not earn additional sick leave days from the Sponsor while a School employee.

### **D. DISTRICT EMPLOYEE AGREEMENTS**

(1) Training activities shall be made available to School employees and the School shall pay all of the additional costs associated with such training activities at the same rates and reimbursement methodologies currently charged to the Sponsor.

(2) The School's teachers may participate in training conducted by the Sponsor and the Sponsor's teachers may participate in training conducted by the School.

## **VII. MISCELLANEOUS**

**A.** The Sponsor agrees to process and submit in a timely manner all documentation prepared by and necessary for the School's competition for applicable grants or other monetary awards.

**B.** The School shall establish and maintain a property inventory and label all purchases of items that cost more than \$750.00 in public funds. In addition, the School shall also clearly identify all property, equipment, materials and other items that are purchased with public funds generated by the operation of the School. The School shall provide a copy of the property inventory to the Sponsor each year as part of its annual report delivered to the Sponsor's Office of Magnet, Choice and Charter Schools as more particularly set forth in PART IV. B(6) of this Contract. The property inventory shall show the status of all such property including but not limited to the location of all such property.

**C.** Neither party shall be in default of this Contract, if the performance of any or all of this Contract is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, hurricane, riot, fire, explosion, war, act of God, sabotage or any other casualty or cause beyond either party's control, and which cannot be overcome by reasonable diligence and without unusual expense.

**D.** If any provision or any part of this Contract is determined to be unlawful, void, or invalid, that determination shall not affect any other provision or any part of any other provision of this Contract and all such provisions shall remain in full force and effect.



**E.** This Contract is made and entered into in the State of Florida and shall be interpreted according to the laws of Florida. Any provisions of the Contract that shall later be determined to be inconsistent or conflict with the laws of the State of Florida or of the United States of America shall be reformed or construed in such a way as to resolve such conflict; in all instances, state and federal law shall control, and the language of the Contract shall be subordinate.

The School's approved Application to operate as a charter school is incorporated herein by reference as if set forth in full. Any provision of the Application that is inconsistent with or contrary to this Contract shall be reformed or construed in such a way as to resolve such conflict; in all instances, the language of this Contract shall control, and the language of the Application shall be subordinate.

The School's approved Renewal Document is incorporated herein by reference as if set forth in full. The Parties agree that certain provisions of the Renewal Document are intended to replace provisions of the School's approved Application to operate as a charter school. Accordingly, any provision of the School's Application that is inconsistent with or contrary to language contained in the approved Renewal Document shall be reformed or construed in such a way as to resolve such conflict; in all instances, the language of the Renewal Document shall control, and the language of the Application shall be subordinate.

The Parties agree that Polk County shall be the proper venue for any litigation arising under this Contract.

**F.** This Contract shall constitute the full, entire, and complete agreement between the parties hereto. All prior representations, understandings and agreements whether written or oral

are superseded and replaced by this Contract. This Contract may be altered, changed, added to, deleted from or modified only through the voluntary, mutual consent of the parties. Any amendment to this Contract shall require approval of the School Board.

**G.** This Contract shall not be assigned by either party. The School may, without the consent of the Sponsor, enter into contracts for services with an individual or group of individuals organized as a partnership or cooperative so long as the School remains ultimately responsible for said services as set forth in this Contract.

**H.** No waiver of any provision of this Contract shall be deemed or shall constitute a waiver of any other provision unless expressly stated. The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the provisions of this Contract shall not be construed as a waiver or relinquishment of said term or provision, and the same shall continue in full force and effect. No waiver or relinquishment to any provision of this Contract shall be deemed to have been made by either party unless in writing and signed by the parties.

**I.** In the case that this Charter School Contract must be terminated, the goal of the School and the Sponsor should be to provide a smooth and seamless transition for students from the Charter School to the assigned public school. Non-compliance with any of the terms and conditions of this Contract shall constitute a material breach of Contract.

**J.** All representations and warranties made herein shall survive termination of this Contract.

**K.** This Contract is not intended to create any rights of a third party beneficiary. This clause shall not be construed, however, as a waiver of any right possessed by a member of the community, a student or parent/guardian of a student of the School.

L. Every notice, approval, consent or other communication authorized or required by this Contract shall not be effective unless same shall be in writing and sent postage prepaid by United States mail, directed to the other party at its address hereinafter provided or such other address as either party may designate by notice from time to time in accordance herewith:

Berkley Accelerated Middle School, Inc.  
Jill Bolender  
5316 Berkley Road  
Auburndale, FL 33823

The School Board of Polk County, Florida  
1915 South Floral Avenue  
Bartow, Florida 33830  
Attn.: Superintendent of Schools

Copies of all Notices to:

Office of Magnet, Choice and  
Charter Schools  
1915 South Floral Avenue  
Bartow, Florida 33830

Polk County School Board  
General Counsel  
1915 South Floral Avenue  
Bartow, FL 33830

M. The headings in the Contract are for convenience and reference only and in no way define, limit or describe the scope of the Contract and shall not be considered in the interpretation of the Contract or any provision hereof.

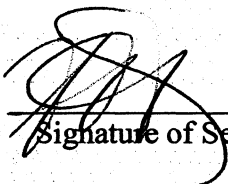
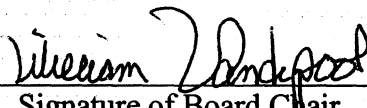
N. This Contract may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one Contract.

O. Each of the persons executing this Contract represent and warrant that they have the full power and authority to execute the Contract on behalf of the party for whom he or she signs and that he or she enters into this Contract of his or her own free will and accord and in accordance with his or her own judgment, and after consulting with anyone of his or her own choosing, including but not limited to his or her attorney.

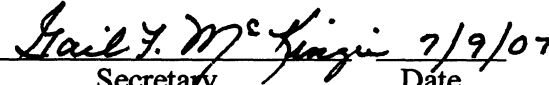
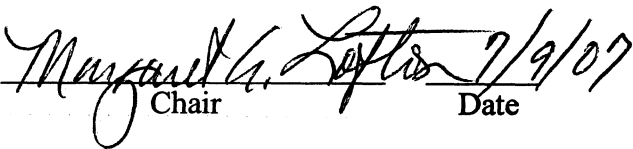
P. In the event of any conflict between the provisions of this Contract and any Appendix, this Contract shall prevail.

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

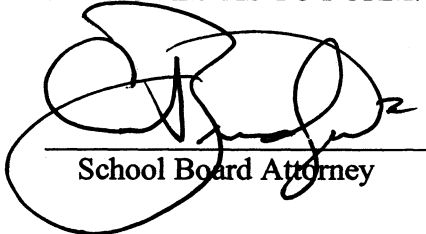
ATTEST: **BERKLEY ACCELERATED MIDDLE SCHOOL, INC.**

By:  10 AUG 07 By:  8-14-07  
Signature of Secretary Date Signature of Board Chair Date  
Name: Jennifer Clarke Johnson Name: William Vanderpool  
Secretary Board Chair

ATTEST: **THE SCHOOL BOARD OF POLK COUNTY, FLORIDA**

By:  7/9/07 By:  7/9/07  
Secretary Date Chair Date  
Name: Gail F. McKinzie Name: Margaret A. Lofton  
Secretary Chairman

APPROVED AS TO FORM:

 6/24/07  
School Board Attorney Date