

**CHARTER**

issued by

**BALL STATE UNIVERSITY**

to

**Organizer is name on the 501C3**

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for the

**Establishment and Operation**

of a

**PUBLIC CHARTER SCHOOL**

named

**Name of School**

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## CHARTER

This Charter is a contract between Ball State University (the "University"), as sponsor, and name of the 501C3 holder (the "Organizer") for the establishment and operation of a public charter school under IC 20-24.

### Article I Definitions

In addition to those terms specifically defined elsewhere in this Charter, the following terms shall have the meanings set forth below whenever the initial letter of the word or words in such term is capitalized:

- 1.1 "Accountability Framework" means the detailed process the University will use to measure the success of each charter school sponsored by the University over the term of the charter school's charter and any renewal term(s) thereof. The Accountability Framework, including without limitation, the University's Indicators of Success for Charter Schools, delineates the methods and timelines the University will employ in holding the Organizer accountable for achievement of the Charter School's accountability goals and for compliance with all other terms and conditions of this Charter and all Applicable Law.
- 1.2 "Accountability Plan" means the plan developed by the Organizer and approved by the University and updated on an annual basis in accordance with the Accountability Framework. It consists of an update of the academic, non-academic and organizational goals of the Charter School contained in the Proposal.
- 1.3 "Applicable Law" means all federal, state and local laws and regulations and all provisions of the United States Constitution and the Constitution of the state of Indiana now or in the future applicable to Indiana charter schools.
- 1.4 "Charter" means this charter contract, including all Schedules and other documents incorporated by reference herein.
- 1.5 "Charter School" means the public charter school, named Name of School which the Organizer is authorized to establish and operate subject to the terms and conditions of this Charter.
- 1.6 "Charter Schools Law" means IC 20-24.
- 1.7 "Department of Education" means the Indiana Department of Education established by IC 20-1-19-3.
- 1.8 "Educational Management Organization or EMO" means a service provider that manages or operates the Charter School or provides administrative, managerial or instructional staff or services to the Organizer for the Charter School.

- 1.9 "ISTEP+ or ISTEP" means Indiana Statewide Testing for Educational Progress tests established under IC 20-32-5.
- 1.10 "GQE" means the Graduation Qualifying Examination designated by the State Board of Education under the ISTEP program.
- 1.11 "Office of Charter Schools or OCS" means the Office of Charter Schools at Ball State University, which has been delegated the responsibility to serve as the initial point of contact for public charter school organizers.
- 1.12 "Pre-opening Actions" means all of the actions that must be taken before instruction is provided to any student, as set forth in Schedule 5.
- 1.13 "Proposal" or "Proposal to Charter" means the proposal submitted by the Organizer to the University, and any and all amendments thereto, as submitted to the OCS on     date from General Information sheet    . The Proposal is attached hereto and incorporated herein as Schedule 1. The Proposal will also be deemed to include all actions taken, and approved by the OCS, as Pre-opening Actions pursuant to Schedule 5.
- 1.14 "University Board" means the Board of Trustees of Ball State University.
- 1.15 "University Charter Schools Hearing Panel" means the body appointed by the University to conduct a hearing in a case involving the non-renewal or revocation of a Charter in accordance with the provisions of Section 10.2 or Section 10.3.
- 1.16 "University Charter School Policy(ies)" means the policies adopted, and as amended, by the University concerning its sponsorship of charter schools.

## **Article 2**

### **Relationship of the Parties and the Charter School**

- 2.1 The University.
- a. The University is qualified to serve as a "sponsor" under IC 20-24-1-9(2).
  - b. The University, having reviewed and approved the Proposal submitted by the Organizer, grants this Charter to the Organizer to establish and operate the Charter School on the terms and conditions stated herein; and shall serve as the sponsor of said Charter School.
  - c. The University shall exercise all oversight responsibilities as set forth in this Charter and under Applicable Law.
  - d. Except as otherwise provided in this Charter, the Director of the OCS shall be responsible for implementing and managing the University's responsibilities under this Charter and Applicable Law.

2.2 The Organizer.

- a. The Organizer is a non-profit corporation organized under the laws of the state of Indiana, and has, or has applied for, a determination by the Internal Revenue Service (“IRS”) that it is an entity operating under not-for-profit status.
- b. The Board of Directors and the officers of the Organizer, the members and officers of any other governing body designated by the Organizer to operate the Charter School, and the chief administrator of the Charter School shall be jointly responsible for the proper operation of the Charter School and shall each be accountable to the University for compliance by the Organizer and the Charter School with the Charter, University Charter School Policies and all Applicable Law.

2.3 The Charter School.

- a. This Charter confers upon the Charter School the rights, franchises, privileges, and obligations of a charter school in the state of Indiana in accordance with the Charter Schools Law and the terms and conditions of this Charter.
- b. The Charter School is a public school as defined in IC 20-24-1-4 and IC 20-18-2-15.

**Article 3  
Operating Requirements**

3.1 Commencement of Operations and Pre-opening Actions.

- a. The Charter School shall begin school operations by General Information Sheet, and shall have students in attendance at the Charter School by General Information Sheet in the same year. Compliance with this Section 3.1 is a condition precedent to the effectiveness and enforceability of this Charter. The University may declare this Charter void if the Organizer does not fully comply with this provision by the dates specified herein.
- b. The Organizer shall not provide instruction to any student attending the Charter School until:
  - i. The Organizer issues a written statement to the Director of the OCS, attesting to the Organizer's completion, in a timely manner, of all of the actions that must be taken before instruction is provided to any student, as set forth in Schedule 5, and
  - ii. The Director of the OCS shall have confirmed in writing the completion of such Pre-opening Actions.
- c. The Pre-opening Actions shall be completed within the time periods set forth in Schedule 5 during the calendar year in which the opening of the Charter School is scheduled to occur.

- d. Failure to substantially complete any one of the Pre-opening Actions in a timely manner will be grounds for revocation pursuant to Article 10. Completion of all Pre-opening Actions prior to the date specified above for the Charter School to have students in attendance is a condition precedent to the effectiveness and enforceability of this Charter. The Pre-opening Actions are in addition to any other conditions set forth in the Charter.

### 3.2 Governance Structure.

- a. The Organizer and the Charter School shall be organized and governed pursuant to the governance structure described in Schedule 1 “the Proposal” entitled Section A – Clear and Well Articulated Mission. The Organizer shall immediately give notice to the Director of the OCS and the University's Vice President for Business Affairs if the Organizer's tax exempt status is questioned, modified or revoked by the IRS or if its non-profit status is questioned, modified or revoked by the state of its incorporation.
- b. The Organizer shall comply with Applicable Law, this Charter, and University Charter School Policies with regard to criminal background checks for existing and prospective members of its Board of Directors and any other governing body of the Charter School. Any person whose criminal history includes convictions identified in the University Charter School Policies shall be prohibited from serving on the Organizer's Board of Directors or other governing body of the Charter School unless such prohibition is expressly waived in writing by the Dean of the University's Teachers College.
- c. The Organizer's constitution, charter, articles, or similar governance document must contain a clause providing for distribution of the Organizer's funds and assets in accordance with Section 10.5(b) upon dissolution of the Organizer (the "Governance Document"). A certified copy of the Organizer's Governance Document containing this provision is attached hereto as Schedule 2. This provision of the Governance Document shall not be deleted or modified by the Organizer. Neither the Governance Document attached as Schedule 2 nor any other governance document of the Organizer shall contain any provision for distribution of assets which is contrary to Section 10.5.
- d. The Organizer's governing body (or the governing body of a subsidiary or division of the Organizer to which the Organizer has delegated authority and responsibility for operation of the Charter School) shall maintain offices in the state of Indiana. This governing body shall maintain a meaningful mechanism to ensure local and community participation in the governance process. The specific mechanism is outlined in Schedule 1 of “the Proposal” entitled Section B - Solid Governance Structure. All records of the Charter School shall be made available to the University for inspection and copying upon its request in the offices of the Organizer located in the state of Indiana.

### 3.3 Management Structure. The management structure of the Charter School shall be as



described in Schedule 1 of “the Proposal” entitled Section C - Administrative Management. Administrative personnel responsible for serving as liaisons for the Organizer and/or the Charter School with the public and the University, whether employed by Organizer or by an EMO, shall maintain offices in the state of Indiana, and said offices shall be located in the Charter School or within a one (1) mile radius of the Charter School.

- 3.4 Mission and Purpose. The Charter School shall be operated in a manner consistent with its mission and purpose, as set forth in Schedule 1 of “the Proposal” entitled Section A - Clear and Well Articulated Mission.
- 3.5 Educational Goals. The Charter School shall pursue and achieve the educational mission and goals identified in Schedule 1 of “the Proposal” entitled Section A - Clear and Well Articulated Mission as updated and revised in the Charter School's Accountability Plan.
- 3.6 Curriculum and Instructional Methods. The Charter School shall implement and follow the curriculum and instructional methods identified in Schedule 1 of “the Proposal” entitled Section E - Strong Educational Program and Section G - Serving Special Needs, including, but not limited to, the comprehensive special education plan provided in compliance with the Pre-opening Actions requirements in Section 3.1 and Schedule 5.
- 3.7 Methods of Pupil Assessment. The Charter School shall evaluate pupils' work based on the assessment strategies identified in Schedule 1 of “the Proposal” entitled Section I – “Increasing Student Achievement,” or by utilizing assessment methods developed in conjunction with the Ball State University Office of Charter School Research.
- 3.8 Admission Policies and Criteria. The Charter School shall implement the student application, admission and enrollment policies and procedures identified in Schedule 1 of “the Proposal” entitled Section R - Recruitment and Admissions Procedures. Enrollment decisions shall not be made until the advertised application process has been open to the public for at least three (3) weeks. Any random selection drawing held to determine admissions if the number of applications exceeds the Charter School's capacity for any program, class, grade level or building shall be conducted at an advertised public meeting by an independent third party, upon at least ten (10) days' prior written notice to the Director of the OCS. The Director of the OCS or the Director's designated representative may attend the meeting at which the drawing is conducted. A waiting list shall also be created at this public drawing. Applications received after the drawing shall be added to the end of the waiting list in the order received.
- 3.9 School Calendar and School Day Schedule. The Charter School shall implement and comply with the school calendar and school day schedule guidelines as set forth in Schedule 1 of “the Proposal” entitled Attachment 8 - “Parent Student Handbook Outline”. Any changes to the school calendar or school day schedule made in accordance with Section 9.2(c) shall not reduce the total number of days or hours of instruction for the school year below the minimum days or hours of instruction required by law for non-charter public schools.
- 3.10 Age and Grade Range of Pupils. The Charter School shall enroll students and provide

programs only for the student age and/or ranges stated in Schedule 1 of “the Proposal” entitled Attachment A - Age and Grade Range of Pupils to be Enrolled. Any deviation therefrom must be approved in advance by the Director of the OCS.

- 3.11 Desegregation Order. The Charter School shall implement and follow the plan for compliance with an applicable desegregation order as set forth in Schedule 1 of “the Proposal” entitled Section L- Student Enrollment.
- 3.12 Staff Responsibilities. The responsibilities of the staff of the Charter School shall be as set forth in Schedule 1 of “the Proposal” entitled Section C - Administrative Management
- 3.13 Criminal History Checks. The Organizer and the Charter School shall comply with Applicable Law, this Charter, and University Charter School Policies concerning criminal history checks for board members, teachers, school administrator(s), other staff and volunteers. The Organizer shall implement a policy consistent with IC 20-26-5-10 to obtain criminal history checks at the times and to the full extent provided by law for all current and prospective employees in the Charter School who are likely to have direct, ongoing contact with children in the scope of their employment. This provision applies to all such persons irrespective of whether they are employed by the Organizer, the Charter School, an EMO or any other contractor or subcontractor of the Organizer or the Charter School. The Organizer's policy regarding criminal history background checks shall be provided in accordance with the Pre-opening Actions requirements in Section 3.1 and Schedule 5.
- 3.14 Personnel Plan. The Charter School shall implement and comply with the personnel plan set forth in Schedule 1 of “the Proposal” entitled Section F - Qualified and Dedicated Teachers, and Attachment C - Staffing Matrix Years 1-5 including methods for selection, retention, and compensation of employees. The Organizer hereby agrees that all individuals who teach in the Charter School during the term of this Charter shall be required to hold a license to teach in a public school in Indiana under IC 20-28-5 or be in the process of obtaining such a license under the transition to teaching program set forth in IC 20-28-5. A Charter School teacher in the transition to teaching program must complete the transition to teaching program no later than three (3) years after beginning to teach at the Charter School. All non-teaching personnel providing services for which certification or licensure is required shall have the appropriate license or certification as required under Indiana law. The Charter School shall not employ a teacher or administrator whose certification or license is suspended or revoked. The Charter School shall maintain copies of all licenses and certificates of its employees on file in the Charter School's administrative offices. The Organizer's personnel plan for employees in the Charter School shall be consistent with all federal and state requirements for quality teachers and teachers' aides.
- 3.15 Teacher and Staff Benefits. The Charter School shall implement programs for providing teachers and other staff with health insurance, retirement benefits, liability insurance, and other benefits as set forth in Schedule 1 of “the Proposal” entitled Attachment B - Budget.
- 3.16 Collective Bargaining Agreements. The employees of the Charter School may organize

and bargain collectively under IC 20-29. The Organizer shall comply with all provisions of IC 20-29 affecting school employers. Collective bargaining agreements, if any, with employees of the Charter School shall be the responsibility of the Organizer. Any such collective bargaining agreement entered into by the Organizer shall prohibit strikes pursuant to IC 20-29-9.

- 3.17 Transportation Plan. The Charter School shall implement and utilize the transportation plan set forth in Schedule 1 of "the Proposal" entitled Section O - Transportation, including, but not limited to, the updated transportation plan provided in compliance with the Pre-opening Actions requirements in Section 3.1 and Schedule 5.
- 3.18 Discipline Program. The Charter School shall maintain a safe and disciplined learning environment for students and teachers and shall implement and utilize the discipline program set forth in Schedule 1 of "the Proposal" entitled Section J - School Climate and Student Discipline.
- 3.19 Budget and Financial Plan. The Charter School shall implement and comply with the budget and financial plan set forth in Schedule 1 of "the Proposal" entitled Section Q - Budget and Attachment B - Budget. An updated financial plan for the initial school year and thereafter on an annual basis as set forth in Schedule 5 shall be provided in accordance with the provisions for Pre-opening Actions in Section 3.1 and Schedule 5.
- 3.20 Financial Statements and Audits. The Organizer shall, upon the request of the University but no more frequently than quarterly, in the manner set forth in the Accountability Framework, provide to the Director of the OCS copies of the Charter School's current financial statements, in form and content satisfactory to the University (including a balance sheet, profit and loss statement, cash flow statement and source and use of funds statement). These financial statements shall, in every instance, include the Charter School's fiscal year end statements, which shall be provided to the Director of the OCS within ten (10) days after the financial statements are completed. In all years for which the Indiana State Board of Accounts conducts an audit of the Charter School, the Organizer shall provide copies of the State Board of Accounts' audit report to the Director of the OCS within ten (10) days of receipt of the report by the Organizer or by the Charter School. Copies of any responses to such audit made by the Organizer or the Charter School shall be provided to the Director of the OCS at the same time they are submitted to the State Board of Accounts. Unless waived in writing by the OCS, in all years for which no audit is conducted of the Charter School by the State Board of Accounts, the Organizer, at the Organizer's sole expense, shall prepare and submit financial statements which have been audited by an independent certified public accountant ("CPA") for the school fiscal year (July 1 to June 30). The Organizer shall submit two (2) copies of the audited financial statements and the CPA's management letters to the Director of the OCS within ten (10) days of receipt by the Organizer, but no later than October 1 following the end of the fiscal year. The Organizer shall provide to the Director of the OCS a copy of any responses to the CPA's management letters at the same time the responses are provided to the CPA, but no later than November 30 of such year. The Director of the OCS shall forward copies of the financial statements, State Board of Accounts' audit report, and responses to such audit or, as applicable, copies of the audited financial statements, the CPA's management letters and responses thereto, to

the University's Internal Auditor, as and to the extent requested by the Internal Auditor.

3.21 Physical Plant. The address and description of the physical plant for the Charter School are set forth in Schedule 1 of “the Proposal” entitled Section N - Facilities.

- a. A copy of the Organizer's lease or deed for the premises in which the Charter School shall operate and which confirms the Charter School's right to occupy and use the physical plant for school purposes, for the period determined in accordance with the factors described in Schedule 1 shall be provided to the Director of the OCS upon execution of the relevant document(s), as well as copies of any loan documents executed by the Organizer in order to borrow money to acquire, improve and/or renovate the premises where the Charter School is or will be located. If the physical plant is leased, then in the event the lease is amended, the Organizer shall provide a copy of the lease amendment to the Director of the OCS upon its execution.
- b. This Charter shall not in any way be construed to make the University a party to any such lease or loan, nor in any way make the University the guarantor of the Organizer or the Charter School, nor otherwise make the University liable in any way for performance with respect to such lease or loan in any circumstances, including but not limited to circumstances wherein this Charter is revoked or otherwise terminated prior to the end of the term of such lease or the repayment of such loan.
- c. The Charter School shall not be located in a private residence. The Organizer shall ensure that the operation of the Charter School does not violate any applicable zoning ordinances.
- d. The Organizer shall at all times during the term of this Charter:
  - i. Ensure that the Charter School's physical plant complies with all fire, health and safety standards applicable to schools;
  - ii. Possess the necessary occupancy and safety certificates for the Charter School's physical plant; and
  - iii. Provide current copies of such certificates to the Director of the OCS.
- e. This Charter is issued subject to full compliance with this Section 3.21 as well as completion of all Pre-opening Actions pertaining to the physical plant and the school safety plan in accordance with Section 3.1 and Schedule 5 prior to the date specified in Section 3.1 of this Charter for students to be in attendance at the Charter School. The Charter shall be void and unenforceable if such compliance does not occur prior to such date. The Organizer shall not conduct classes until it has complied with this Section 3.21.
- f. The Organizer shall notify the Director of the OCS immediately of any material change (and in no event more than three (3) days following such change) in the availability or condition of the physical plant, such as through flood, fire, or other unanticipated circumstance. The Organizer shall notify the Director of the OCS not more than five (5) days following any allegation that the Organizer, the Charter School, or the lessor has breached any lease or loan agreement concerning the

physical plant. The Organizer shall notify the Director of the OCS immediately if it receives notice of termination of such lease from the lessor.

3.22 Non-Religious and Non-Sectarian School. The Charter School shall be operated in a manner that is nonsectarian and nonreligious. The Organizer and the Charter School shall comply with all state and federal laws and constitutional provisions applicable to public schools concerning church-state issues. Nothing in this Section 3.22 shall be deemed to diminish or enlarge the civil and political rights, privileges and capacities of any person on account of his or her religious belief

3.23 Management Agreement.- Section D Contraction with an Education Management Organization (EMO)

- a. The Organizer may enter into a management agreement with an EMO to subcontract administrative, managerial or educational services only if the Organizer first complies with all applicable University Charter School Policies. The Organizer must provide evidence satisfactory to the University that the Organizer has performed sufficient due diligence to establish that the EMO has the appropriate financial resources, educational services, and managerial experience to provide the contracted services and to support a finding that the EMO agreement will be in the best financial and educational interests of the Charter School.
- b. The Organizer must submit to the University's Vice President for Business Affairs and the Director of the OCS copies of any proposed agreement with an EMO for review and approval by the University prior to execution, as specified in University Charter School Policies, and it shall not enter into any such agreement that is disapproved by the University.
- c. Any management agreement with an EMO must contain language, in form satisfactory to the University, requiring the EMO to indemnify and hold the University, its trustees, officers, employees, agents and representatives harmless from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damages, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of the University, which arise out of or are in any manner connected with acts or omissions of the EMO in connection with the Charter School's operations or which are incurred as a result of the reliance by the University or any of its trustees, officers, employees, agents or representatives upon information supplied directly or indirectly by the EMO.
- d. Any contract between the Organizer or the Charter School and an EMO must require the EMO to agree to and comply with the terms and conditions set forth in this Charter. The provisions of this Charter shall supersede any contrary or competing provisions contained in the contract between the Organizer or the Charter School and the EMO. Further, the contract between the Organizer or the Charter School and the EMO shall include a paragraph incorporating by reference this Section 3.23.

- 3.24 Amendments to Operating Requirements. Changes, amendments or updates to the operating requirements set forth in this Article 3 shall only be made according to Article 9, Amendment.

**Article 4**  
**Additional Obligations of the Organizer and Charter School**

- 4.1 Compliance with Applicable Law. The Organizer and Charter School shall comply with all Applicable Law, which may change from time to time and which may include the laws in this Article 4 and are listed herein by way of example and not by way of limitation.
- 4.2 Non-discrimination. The Organizer and the Charter School are subject to all federal and state laws and constitutional provisions that prohibit discrimination on the basis of disability, race, color, gender, national origin, religion, and ancestry.
- 4.3 Certain Federal Laws. The Organizer and the Charter School shall comply with the following federal laws, together with the regulations promulgated with respect thereto as applicable:
- a. Title VI of the Civil Rights Act of 1964;
  - b. Title IX of the Education Amendments of 1972;
  - c. Title VII of the Civil Rights Act of 1964;
  - d. The Family and Medical Leave Act of 1993;
  - e. The Age Discrimination Act of 1975 and the Age Discrimination in Employment Act of 1967;
  - f. The Individuals with Disabilities Education Act;
  - g. The Americans with Disabilities Act of 1990;
  - h. Section 504 of the Rehabilitation Act of 1973; and
  - i. The Family Educational Rights and Privacy Act.
- 4.4 Certain State Education Laws. The Organizer and the Charter School shall comply with those state laws specifically made applicable to charter schools under the Charter Schools Law at IC 20-24-8-5 and shall comply with other state laws except to the extent exempted pursuant to the Charter Schools Law at IC 20-24-8-4.
- 4.5 Access to Charter School Records. The records of the Charter School relating to the school's operation and to this Charter are subject to inspection and copying to the same extent that records of a public school are subject to inspection and copying under the Indiana Access to Public Records Law (IC 5-14-3). The records provided by the Charter School to the Department of Education and/or to the University that relate to compliance with this Charter or applicable state or federal laws are also subject to inspection and copying under the Indiana Access to Public Records Law (IC 5-14-3).
- 4.6 Open Meetings. The Charter School is subject to the requirements of the Indiana Open Door Law governing public meetings (IC 5-14-1.5).
- 4.7 Annual Performance Reports. The Organizer shall publish an annual performance report that provides the information required under IC 20-20-8-7 in the same manner that a

school corporation publishes an annual report under IC 20-20-8.

## **Article 5 Financial Provisions**

- 5.1 Fiscal Agent. The Organizer is the fiscal agent for the Charter School.
- a. The Organizer shall have exclusive control of funds received by the Charter School and financial matters of the Charter School.
  - b. The Organizer shall maintain separate accountings of all funds received and disbursed by the Charter School and shall follow all laws and regulations concerning separate maintenance of federal funds.
  - c. The Organizer shall adopt and implement the unified accounting system prescribed by the State Board of Education and the State Board of Accounts and shall comply with audits of the State Board of Accounts as required by state law and applicable regulations.
  - d. No later than the date established by the Department of Education for determining average daily membership, the Organizer shall submit student and enrollment information to the Department of Education, with a copy to the Director of the OCS, in accordance with the provisions of the Charter Schools Law for calculation of tuition support and other state funding as well as the Charter School's proportionate share of state and federal funds and local support for the students enrolled in the Charter School.
  - e. If the Organizer and/or Charter School submit data reflecting student counts for funding purposes that are later determined through audit procedures or otherwise to be incorrect, the Organizer agrees that adjustments to the payments based on such data will be made. If the Charter School and/or the Organizer owe funds to any entity as the result of such adjustments, the Charter School and/or the Organizer shall be solely responsible for reimbursement. The University shall not be responsible for any such reimbursement.
- 5.2 University Administrative Fee. The Organizer shall pay an administrative fee to the University in an amount equal to three percent (3%) of the total amount the Organizer receives during the calendar year under I.C. 20-24-7-12 and I.C. 20-43-1-8, which includes only local and state funds. This administrative fee shall be due and payable to the University in the Office of the Vice President for Business Affairs within ten (10) days from the date of the University's invoice for such fee.
- 5.3 Other Funding. The Organizer may apply for and accept for the Charter School independent financial grants or funds from public or private sources other than the Department of Education. No solicitation shall indicate that a contribution to the Organizer or Charter School is for the benefit of the University.

- 5.4 Tuition and Out of State Students. The Charter School may not charge tuition to any student except that it may charge tuition for a preschool program or before-and-after-school latch-key programs, unless barred under federal law. No portion of a kindergarten program, whether full-day or half-day, shall be deemed a "preschool" program for purposes of charging tuition under this clause if the student's age and birthday meet the eligibility requirements for enrollment in kindergarten under Indiana law. Additionally, except for a foreign exchange student who is not a United States citizen, the Charter School shall not enroll a student who is not a resident of Indiana.
- 5.5 Financial Obligations. The Organizer shall be solely responsible for any and all debts, loans and obligations incurred by the Charter School or by the Organizer in connection with the operation of the Charter School. Any contract, mortgage, loan or other instrument of indebtedness entered into by the Organizer or the Charter School and a third party shall not in any way constitute an obligation, whether general, special, or moral, of the state of Indiana, the University Board, or the University. Neither the full faith and credit nor the taxing power of the state of Indiana or any agency of the state of Indiana, nor the full faith and credit of the University Board or the University, shall ever be pledged for the payment of any Organizer or Charter School contract, mortgage, loan or other instrument of indebtedness. This provision shall survive the termination of this Charter.
- 5.6 Distribution of Assets Upon Termination. Upon the termination of the Charter and/or dissolution of the Organizer, the funds and assets of the Organizer and the Charter School shall be distributed according to Section 10.5.

## **Article 6**

### **Accountability for Achieving Educational Goals**

- 6.1 The Organizer and the Charter School shall be held accountable for achieving the educational mission and goals of the Charter School through the pupil assessment provisions and audit provisions in Schedule I and through the oversight provisions of this Charter. These audits and assessments must show evidence of progress in all areas specified in IC 20-24-4-1(8).
- 6.2 The Charter School must comply with applicable provisions of the Accountability for School Performance and Improvement Law (IC 20-31). As a part of that process, the Organizer must annually develop an Accountability Plan acceptable to the Director of the OCS within the timeframe required by the Accountability Framework.
- a. The Accountability Plan shall serve as the Charter School's three (3) year strategic and continuous school improvement and achievement plan as required by the applicable provisions of the Indiana Accountability for School Performance and Improvement statute (IC 20-31), and shall contain the elements of such a plan as required that statute.
  - b. The Accountability Plan, as modified from year to year and approved by the University, is here incorporated by reference and made a part of this Charter.



- c. A copy of the Accountability Framework will be provided to the Organizer and will be available for review at all times in the OCS.
  - d. The Accountability Framework, as so modified by the University from time to time, is here incorporated by reference and made a part of this Charter.
- 6.3 If the Charter School fails to develop an acceptable Accountability Plan in a timely manner, and/or fails to attain its educational goals and meet the requirements of its Accountability Plan, the University may require compliance with a corrective action plan or revoke the Charter according to Article 10.

## **Article 7 Oversight**

- 7.1 Method for Monitoring Compliance with Applicable Law and Achievement of Educational Goals.
- a. The Organizer shall provide to the Director of the OCS on a regular periodic basis an affidavit affirming that the Charter School has operated in compliance with all Applicable Law during the reporting period, as more fully described in the Accountability Framework and/or the Accountability Program that is attached hereto as Schedule 3. The Organizer shall immediately report in writing to the Director of the OCS, who shall provide a copy to the Dean of the University's Teachers College, any failure of the Charter School to comply with any Applicable Law or with the Accountability Framework and/or the Accountability Program as described in Schedule 3.
  - b. The Organizer shall, and shall require that the Charter School and any EMO or other subcontractor of the Organizer or the Charter School, cooperate with the University in any periodic reviews and audits described in Schedule 3 or other oversight requirements in the Accountability Framework.
- 7.2 Access by University. The Organizer and the Charter School shall permit access by any authorized representative, agent or contractor of the University to the Charter School premises at any time, with or without advance notice from the University, for the purpose of observing, reviewing or inspecting the Charter School for compliance with Applicable Law and the provisions of this Charter.
- 7.3 Annual Audit of Charter School Operations. The Organizer shall, and shall require that the Charter School and any EMO or other subcontractor of the Organizer or the Charter School shall, cooperate with the University in an annual audit of the Charter School's program operations to be conducted in the manner described in Schedule 3 and the Accountability Framework.
- 7.4 Annual Report to the Department of Education. The Organizer shall submit to the Department of Education, with a copy to the Director of the OCS, an annual report for informational and research purposes containing the information required by IC 20-24-9-2.

- 7.5 Other Reporting Requirements. The Charter School shall report the following to the Director of the OCS upon reasonable request and/or in accordance with schedules established by the Director of the OCS:
- a. Attendance records;
  - b. Student performance data;
  - c. Financial information, including any financial reports concerning the Charter School requested by an authorized representative of the University at any time, and financial statements meeting the requirements of Section 3.20 and the Accountability Framework;
  - d. Any information necessary to comply with state and federal government requirements; and
  - e. Any other information specified in Schedule 3 or the Accountability Framework.
- 7.6 Litigation. The Organizer and the Charter School shall notify the Director of the OCS and the University's Vice President for Business Affairs within five (5) days of being named as a party in any court proceeding or as the subject of any administrative enforcement proceeding (e.g. proceedings of the Equal Employment Opportunity Commission, the Indiana Civil Rights Commission, or other state or federal or local agencies) arising from the operation of the Charter School.
- 7.7 Copies of Reports. The Organizer shall contemporaneously provide to the Director of the OCS copies of any reports and other information provided by the Organizer and/or the Charter School to the Department of Education or to any other state or federal agency. The Organizer shall promptly provide to the Director of the OCS any responses from such agencies pertaining to the documents filed by the Organizer or the Charter School.

## **Article 8 Insurance, Liability and Indemnification**

- 8.1 Insurance. Attachment G - Risk Management
- a. The Organizer shall secure no later than the dates indicated in Schedule 5 (Pre-opening Actions) and shall thereafter maintain at all times during the term of this Charter the following insurance coverage for the Charter School, with deductibles and coverage minimums as set forth in the Insurance Coverage document that is attached hereto as Schedule 4:
    - i. Real and personal property insurance covering all of the Charter School's real and personal property, whether owned or leased, at replacement value;
    - ii. General liability insurance;

- iii. Vehicle insurance;
  - iv. Workers' compensation insurance, as required by law;
  - v. School leaders legal/professional liability insurance;
  - vi. Umbrella (excess liability) insurance; and
  - vii. Employee dishonesty insurance.
- b. The insurance must be obtained from a licensed mutual, stock, or other responsible company licensed to do business in the state of Indiana, acceptable to the University. The University shall be listed on such insurance policies as an additional insured on the insurance coverage listed in Subsections (ii), (v) and (vi) above.
  - c. The Organizer shall have a provision included in all insurance policies requiring notice to the Director of the OCS and the University's Vice President for Business Affairs at least thirty (30) days in advance of termination or non-renewal of the policy. In addition, the Organizer shall provide copies of (or certificates of insurance for) all insurance policies required by this Charter to the Director of the OCS and the Office of the University's Vice President for Business Affairs.
  - d. When changing insurance policies or carriers, the Organizer must provide copies of (or proposed certificates of insurance for) the proposed policies to the Director of the OCS and the Office of the University's Vice President for Business Affairs at least thirty (30) days prior to the proposed change. The Organizer shall not cancel or modify its existing coverage without the prior approval of the Director of the OCS and the University's Vice President for Business Affairs.
  - e. The Charter School may expend funds for payment of the cost of participation in an accident or medical insurance program to provide protection for pupils while attending school or participating in a school program or activity.
  - f. Other insurance policies and higher minimums may be required by the University depending upon academic offerings and program requirements.
  - g. No funds, assets, insurance or self-insurance of the University or the University Board shall be held to answer for the payment of any claim, judgment, charge, cost or obligation of the Organizer or the Charter School.

8.2 Indemnification of University. The Organizer agrees to indemnify and hold the University and its trustees, officers, employees, agents and representatives harmless from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of the University, which arise out of or are in any manner connected with the Charter School's operations or which are

incurred a result of the reliance of the University upon information supplied by the Organizer or the Charter School, or which arise out of the failure of the Organizer or the Charter School to perform its obligations under this Charter; provided, however, that the Organizer shall not be required to indemnify the University against any claim or loss arising from an act or omission of the Organizer or Charter School made in compliance with specific written directions from the University to the Organizer or Charter School. This section shall not be deemed a relinquishment or waiver of any kind by the University of governmental immunity provided under Indiana law. The Organizer, the Charter School, and the University shall make a good faith effort to advise each other of any actual or potential claims subject to the indemnification provisions in this Section 8.2, but failure to do so shall not invalidate the indemnification provision. The Organizer, the Charter School, or the University will not settle or compromise any claim or suit subject to this indemnification provision without notice to the others.

- 8.3 Survival. The Organizer agrees that the insurance described in this Article, and the duty to indemnify and hold harmless contained in this Article, shall continue in force and effect with respect to any claim arising out of the operation of the Charter School until such claim is barred by any applicable statute of limitations, notwithstanding the expiration, non-renewal or termination of this Charter.

## **Article 9 Amendment**

- 9.1 Amendment by Mutual Agreement. Except as provided in Section 9.2, this Charter may be amended only by mutual agreement of the parties evidenced in writing and signed by the Vice President for Business Affairs or the Associate Vice President for Finance and Assistant Treasurer, in the case of the University, and the Chairman of the Board of Directors, in the case of the Organizer. The Organizer may submit any proposed amendment to the Director of the OCS, and may request a meeting to discuss the reasons for the proposed amendment with the Director of the OCS and/or other officials designated by the University.

- 9.2 Exceptions. The following items may be amended or updated as set forth below:
- a. The Accountability Framework may be unilaterally amended by the University upon sixty (60) days advance written notice to the Organizer.
  - b. The Accountability Plan and educational and other Charter School goals therein shall be updated annually by the Organizer, subject to approval of the Director of the OCS, as described in Section 6.2. Revised or supplemental enrollment targets or limitations may be incorporated into the Charter by inclusion in the Accountability Plan as approved by the Director of the OCS.
  - c. Changes to the following operating requirements under Article 3 shall not require formal amendment of the Charter in accordance with Section 9.1, provided that the Organizer gives the Director of the OCS written notice of the change at least thirty (30) days in advance of its effective date and the Director of the OCS does not give

the Organizer written notice of the Director's objection(s) to the change prior to such effective date:

- i. Section 3.9, School Calendar and School Day Schedule;
- ii. Section 3.12, Staff Responsibilities, except for changes which impact the Charter School's management structure, as described in Schedule 1;
- iii. Section 3.14, Personnel Plan, except for changes which impact the Charter School's management structure, as described in Schedule 1;
- iv. Section 3.15, Teacher and Staff Benefits;
- v. Section 3.17, Transportation Plan;
- vi. Section 3.18, Discipline Program; and
- vii. Section 3.19, Budget and Financial Plan.

9.3 Change in Existing Law. If, after the effective date of this Charter, there is a change in Applicable Law which alters or amends the responsibilities and obligations of either the Organizer or the University, this Charter shall be altered or amended to reflect the change in existing law as of the effective date of such change.

## **Article 10**

### **Term, Renewal, Non-Renewal, Revocation, and Termination**

10.1 Term.

- a. Subject to compliance with any conditions precedent, this Charter shall be effective as of the date executed by the last party to sign the Charter (the "Effective Date").
- b. The initial term of this Charter shall continue from the Effective Date until 5 years later. The Charter may be renewed thereafter as set forth in Section 10.2.

10.2 Extension or Renewal and Non-Renewal.

- a. At any time during the initial term or any renewal term of this Charter, the Charter may be renewed by agreement of the parties for a fixed period of time of not less than one (1) year, evidenced by written amendment of the Charter in accordance with Section 9.1.
- b. Any grounds for revocation of the Charter shall also be grounds for non-renewal. In addition, the University may elect not to renew the Charter if it deems it is no longer in the best interests of the University, the students enrolled in the Charter School, and/or the community at large for the University to renew the Charter.
- c. If the Charter has not been renewed and the Organizer wishes to renew the Charter, the Organizer must initiate the renewal process by filing a written request for renewal with the Director of the OCS no later than September 15 in the last academic year before expiration of the then current term of the Charter. The President of the University shall issue notice of the University's intent to renew or non-renew the Charter by February 10 of the same academic year. The University reserves the right,

however, to withdraw its intent to renew the Charter if it becomes aware of any grounds for revocation after issuing its notice of intent to renew.

- d. The University, through the OCS, shall issue procedures to provide the Organizer with an opportunity to request reconsideration of a decision by the University not to renew this Charter. Such procedures will include an opportunity to request a hearing before the University Charter Schools Hearing Panel. The University's Proposal Review Team shall serve as the University Charter Schools Hearing Panel.

### 10.3 Revocation of Charter.

- a. Statutory Grounds for Revocation. This Charter may be revoked prior to expiration of the initial term or any renewal term by the University upon a determination by the President of the University that one (1) or more of the following has occurred:
  - i. Failure of the Charter School to begin school operations and have students in attendance by the dates specified in this Charter;
  - ii. Failure of the Organizer to comply with the conditions established in this Charter;
  - iii. Failure of the Charter School to meet the educational goals set forth in this Charter as updated in the Accountability Plan;
  - iv. Failure of the Organizer to comply with all applicable laws; and/or
  - v. Failure of the Organizer to meet generally accepted government accounting principles.
- b. Other Grounds for Revocation. In addition to the statutory grounds for revocation set forth in Section 10.3(a), the University may revoke this Charter, upon a determination by the President of the University that one or more of the following has occurred:
  - i. The Organizer fails to operate as a non-profit entity, fails to obtain a determination by the IRS that the Organizer qualifies for tax-exempt status before beginning school operations, or at any time during the term of this Charter loses its tax-exempt status with the IRS;
  - ii. The Organizer or the Charter School is insolvent, has been adjudged bankrupt, or has operated for two or more school fiscal years with a fund balance deficit;
  - iii. The Charter School has insufficient enrollment to successfully operate a public charter school as determined by the President of the University;
  - iv. The Organizer and/or Charter School defaults in any of the terms, conditions, promises or representations contained in or incorporated into this Charter;
  - v. The Organizer modifies or deletes the provision in the Governance Document in

Schedule 2 required by the Charter Schools Law or fails to fully comply with Section 3.2(c) of this Charter;

- vi. The Organizer, or any of its directors, officers, employees or agents has engaged in grossly negligent, fraudulent or criminal conduct in relation to this Charter; or
  - vii. The Organizer, or any of its directors, officers or employees, has provided false or misleading information or documentation to the University in connection with the Proposal, the issuance of this Charter, or the reporting requirements of the Organizer or the Charter School under this Charter or Applicable Law.
- c. University Procedures for Revocation. The University, in accordance with University Charter School Policies, shall issue procedures for revoking charter school charters. These procedures may be modified by the University from time to time upon sixty (60) days' prior written notice to the Organizer. The procedures shall include written notice to the Organizer of intent to revoke the Charter and the grounds for revocation.
- d. Suspension of Charter. Notwithstanding any other provision of this Charter, the University may immediately suspend the Charter at any time upon notice pending completion of the procedures for revocation of the Charter if the President of the University determines that probable cause exists to believe that the Organizer or the Charter School:
- i. has placed staff or students at risk;
  - ii. is not properly exercising its fiduciary obligations to protect and preserve the Charter School's public funds and property;
  - iii. has lost its right to occupancy of the Charter School's physical facilities, and cannot find another suitable physical facility for the Charter School prior to the expiration or termination of its right to occupy its existing physical facilities;
  - iv. has failed to secure or has lost the necessary fire, health, and safety approvals as required by Indiana law and applicable regulations;
  - v. has failed to obtain or has lost any of the insurance coverage required under the provisions of Section 8.1 and/or Schedule 4;
  - vi. has willfully or intentionally violated this Charter or Applicable Law; or
  - vii. has caused or permitted grounds for revocation under Section 10.3(b)(vi) or 10.3(b)(vii).

If this Section 10.3(d) is implemented, expedited notice and hearing procedures for revocation may apply.

- 10.4 Termination of Charter by Organizer. The Organizer may, for any reason, terminate this Charter effective as of the last day of the Charter School's academic year if the Organizer

provides written notice of its intent to terminate the Charter to the President of the University at least six (6) calendar months in advance of the close of the applicable academic year. The President of the University may, in his/her sole discretion, waive the six (6) month advance notice requirement for terminating this Charter.

10.5 Distribution of Funds and Assets Upon Revocation, Non-renewal or Other Termination of Charter and/or Dissolution of Organizer.

- a. If the University revokes this Charter before the end of the term for which it is granted, or does not renew the Charter, or the Charter is otherwise terminated before the end of the term for which it is granted, the provisions of IC 20-24-7-9 concerning distribution of local or state funds that remain to be distributed to the charter school shall apply.
- b. If the Organizer is dissolved, then, consistent with IC 20-24-3-3, all remaining funds and assets shall be distributed as follows:
  - i. All remaining funds received from the Department of Education shall be returned to the Department of Education not more than thirty (30) days after dissolution; and
  - ii. All other remaining assets of the Organizer and the Charter School shall be used for non-profit educational purposes.

**Article 11**  
**General Provisions**

11.1 Proposal. The Organizer hereby certifies and warrants that all representations and information contained in the Proposal, including all attachments to the Proposal, were at the time the Proposal was submitted to the University and are as of the date of execution of this Charter current, complete, and accurate to the best of its knowledge and belief.

11.2 Notices. Any and all notices permitted or required to be given hereunder shall be in writing and shall be deemed duly given: (i) upon actual delivery, if delivery is by hand or by commercial courier service; or (ii) upon delivery into United States mail if delivery is by postage paid first class mail, return receipt requested. Each such notice shall be sent to the respective party at the address indicated below or to any other address or person as the respective party may designate by notice delivered pursuant hereto:

If to the University:

Associate Vice President for Finance  
& Assistant Treasurer  
Administration Building  
Ball State University  
Muncie, Indiana 47306

and



Director, Charter Schools  
Office of the Dean  
Teachers College  
Ball State University  
Muncie, Indiana 47306

If to the Organizer:

\_\_\_\_\_ 501c3 name and address  
\_\_\_\_\_  
\_\_\_\_\_

- 11.3 Severability. If any provision in this Charter is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Charter. If any provision of this Charter shall be or become in violation of any local, state or federal law, such provision shall be modified so as to comply with such law while effecting as nearly as possible the original intent of the parties; or if it cannot reasonably be so modified, then such provision shall be considered null and void, and all other provisions shall remain in full force and effect.
- 11.4 Successors and Assigns. The terms and provisions of this Charter are binding on and shall inure to the benefit of the parties and their respective successors and permitted assigns.
- 11.5 Entire Agreement. This Charter, including the Schedules, the Accountability Framework, the Accountability Plan and any other documents attached hereto or referred to herein, sets forth the entire agreement between the University and the Organizer with respect to the subject matter of this Charter. All prior contracts, representations, statements, negotiations, understandings, and undertakings are superseded by this Charter.
- 11.6 Assignment and Subcontracting. This Charter is not assignable by either the Organizer or the University. The Organizer may not transfer or subcontract any of its rights or responsibilities under this Charter except as provided in Schedule 1, without the prior approval of the President of the University and amendment of this Charter. The Organizer shall not delegate its overall responsibility to set policy and approve budgets for the Charter School.
- 11.7 Non-Waiver. Except as provided herein, no term or provision of this Charter shall be deemed waived and no breach or default shall be deemed excused, unless such waiver or consent or other mutually agreed upon procedures have been reduced to writing and signed by the party claimed to have waived, consented or agreed. No consent by either party to, or waiver of, a breach or default by the other, whether expressed or implied, shall constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.
- 11.8 Governing Law and Jurisdiction. This Charter shall be governed and controlled by the laws of the state of Indiana. Any and all actions brought by either party against the other in connection with or arising out of this Charter shall be brought only in a court of

appropriate jurisdiction in Delaware County, Indiana, or in the United States District Court for the Southern District of Indiana. The Organizer hereby submits itself to the jurisdiction of such courts for purposes of any litigation between the parties in connection with or arising out of this Charter and waives any defense it may have based on jurisdiction or venue.

- 11.9 Reference to Statutes. All references to statutes in this Charter shall be construed as including any amendments to such laws which may become effective during the term of this Charter and shall include any successor laws enacted to replace the referenced statute.
- 11.10 Counterparts. This Charter may be executed in any number of counterparts. Each counterpart so executed shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.
- 11.11 Construction. The body of this Charter and the Schedules attached to the Charter are intended to be read together to give full force and effect to each part of the Charter; however, in the event of any conflict between or among the body of this Charter and any Schedule(s), the terms and conditions of the body of the Charter shall control.
- 11.12 No Third Party Rights. This Charter is made for the sole benefit of the Organizer and the University. Except as otherwise expressly provided, nothing in this Charter shall create or be deemed to create a relationship between the parties hereto, or either of them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.
- 11.13 Non-agency. It is understood that neither the Organizer nor the Charter School is the agent of the University and the University is not the agent of the Organizer or the Charter School.

IN WITNESS WHEREOF, the parties hereto have caused this Charter to be executed by their duly authorized representatives on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.



(Organizer)

(Board)

By: \_\_\_\_\_  
Signature and Title

By: \_\_\_\_\_  
Signature and Title

By: \_\_\_\_\_  
Print Name and Title

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Print Name and Title

BALL STATE UNIVERSITY

By: \_\_\_\_\_  
Randall B. Howard  
Associate Vice President for Finance &  
Assistant Treasurer

\_\_\_\_\_  
Date

Charter issued by Ball State University  
to 501c3 holder

**Schedule 1**

**The Proposal**

Separately bound copy of the \_\_\_\_\_ to Charter submitted to Ball State University, dated \_\_\_\_\_ is here incorporated into this Charter.

Charter issued by Ball State University  
to 501c3 holder

## **Schedule 2**

### **Governance Document**

Copy of Articles of Incorporation and Bylaws of Aspire Charter Academy are attached to the Proposal to Charter and are here incorporated into this Charter.

Charter issued by Ball State University  
to 501c3 holder

### **Schedule 3**

#### **Accountability Program**

##### **1. Affidavit of Legal Compliance**

The Organizer and the Charter School have an affirmative obligation to be aware of and comply with all applicable requirements of the Constitutions of the United States and of the state of Indiana, as well as all applicable federal and state laws and regulations. Pursuant to the Charter Schools Law, the Organizer and the Charter School are accountable to the University for ensuring compliance with such Applicable Law.

The Organizer and the Charter School must report in writing any known violation of applicable laws and regulations or Constitutional requirements to the University's Vice President for Business Affairs and the Director of the OCS immediately upon discovery and must identify and implement appropriate actions to remedy the noncompliance.

Under Section 7.1 of this Charter, the Organizer must provide an affidavit to the University on a periodic basis affirming that the Charter School has operated in compliance with all Applicable Law during the reporting period. This affidavit shall be submitted by the President or other authorized officer of the Organizer to the Director of the OCS in accordance with the schedule established by the Accountability Framework. If any non-compliance occurred during the reporting period covered by the affidavit, it shall be noted as an exception and the current status reported with the affidavit. Reasonable diligence must be exercised by the individual signing the affidavit to discover and report any non-compliance before the affidavit is made.

##### **2. Periodic On-site Visits**

Authorized representatives of the University will make periodic on-site visits to the Charter School for the purpose of observing the operations of the school. The Organizer and the Charter School may not always receive advance notice of these visits. While on-site, the representatives of the University shall be allowed to visit classrooms; review assessment procedures and results; interview administrators, faculty, students, and parents; have access to Charter School records, including, but not limited to, financial records, policies and procedures, other files that are maintained in course of the operation of the Charter School and files which evidence compliance with Applicable Law; and inspect the use and condition of the facility.

Charter issued by Ball State University  
to 501c3 holder

### 3. **Accountability Framework**

The Organizer and the Charter School must comply with the ongoing accountability and reporting requirements and the annual review and Article 10 renewal procedures set forth in the Accountability Framework. The Accountability Framework will focus primarily on the following:

- Demonstration of the ability of the Charter School to accomplish its educational mission and achieve the goals set forth in its Accountability Plan and of its accomplishment and satisfaction of the Office of Charter School's Indicators of Success;
- Demonstration that the Charter School is organizationally sound;
- Demonstration that the Charter School is financially viable;
- Demonstration that the Charter School is operating in compliance with Applicable Law and the terms of the Charter.

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## Schedule 4

### Insurance Coverage

#### 1. Real and personal property

By May 1 of the year in which the Charter School is scheduled to commence operation, the Organizer shall submit to the OCS a schedule of values for the real property in which the Charter School will operate and for the personal property therein, indicating replacement values.

By May 1 of the year in which the Charter School is scheduled to commence operation, the Organizer shall submit to the OCS evidence of coverage, either through its own policy or a policy of the landlord of the leased property, for the real and personal property at replacement value.

#### 2. General liability

General liability insurance is required in the amounts of \$2,000,000 aggregate and \$1,000,000 per occurrence (or such other amounts as may be reasonably required by the University), and such insurance shall have endorsements for the following: 1) coverage for employee benefit plan administration; 2) specialized professional liability coverage for persons such as nurses and athletic trainers; and 3) coverage for groups conducting school sponsored activities, such as parent teacher organizations, booster clubs, and student groups.

#### 3. Vehicles

Vehicle insurance is required for any vehicles owned or leased by the Charter School or owned or leased by the Organizer and used for Charter School purposes, including, without limitation, any school buses and/or other vehicles used for the transportation of students. Coverage shall be in amounts equal to the greater of the amounts listed below (or such other amounts as may be reasonably required by the University) or the amounts required by Indiana law.

Liability	\$1,000,000 aggregate/occurrence
Medical	\$5,000 per person per occurrence
Uninsured motorist	\$1,000,000
Underinsured motorist	\$1,000,000
Property damage	\$50,000
(Comprehensive maximum deductible	\$500)
(Collision maximum deductible	\$500)



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to 501c3 holder

**4. School leaders/legal professional liability:**

School leaders/legal professional liability insurance is required in the following amounts (or such other amounts as may be reasonably required by the University):

Board of Directors Errors & Omissions \$2,000,000 aggregate  
\$1,000,000 per occurrence

**5. Umbrella/excess liability**

Umbrella/excess liability insurance is required over the general liability policy, the vehicle coverage, and the errors and omissions coverage for the board of directors in the amount of \$2,000,000 (or such other amounts as may be reasonably required by the University).

**6. Employee dishonesty**

Bonds are required covering the treasurer in the amount of \$100,000 (or such other amount as may be reasonably required by the University), and bonds or crime insurance for theft and embezzlement are required in the amount of \$100,000 (or such other amounts as may be reasonably required by the University) for other employees handling money.

**7. Workers compensation**

Workers compensation insurance must be provided as required by law.

**8. Annual Certification of Insurance Coverages**

The Organizer shall annually provide the University Vice President for Business Affairs and the Director of the OCS with evidence of the insurance coverages called for in this Schedule.

Charter issued by Ball State University  
to 501c3 holder

## **Schedule 5**

### **Pre-opening Actions**

The Organizer must satisfactorily complete, in a timely manner and subject to the review and approval of the OCS, all of the following actions before instruction is provided to any student attending the Charter School:

#### **1. Physical Plant.**

The Organizer shall provide the OCS by April 1 of the year in which the Charter School is scheduled to commence operation a detailed schedule addressing the Charter School's Physical Plant which detailed schedule includes the following activities and the date by which the Charter School contemplates completion of the designated activity: (a) when it will acquire, through purchase, lease or otherwise, the location of its proposed physical plant and submit such documentation to the OCS; (b) when it anticipates the completion of all inspections of the physical plant, including but not limited to inspections by the State Department of Health, the applicable county Department of Health, the State Fire Marshall, local fire department and building inspectors, understanding that all such inspections must be completed in a timely manner prior to the opening date; and (c) when it anticipates obtaining all required zoning, land use or other building related permits for its proposed physical plant and when it will submit such documentation to the OCS Director;

In addition to the submission of the above schedule, the Organizer shall also obtain the following: (a) the written approval of the OCS Director of the proposed physical plant plan and schedule of activities no later than thirty (30) days after the initial submission of the schedule to the OCS; and (b) a Certificate of Occupancy for the Physical Plant no later than five (5) days prior to the date the Charter School is scheduled to have students in attendance as set forth in Article 3.1.

#### **2. Insurance**

The Organizer shall provide evidence of coverage for real and personal property where the Charter School will operate in accordance with paragraph 1 of Schedule 4. The Organizer shall submit evidence of the general liability and umbrella liability coverage required by Schedule 4 to the OCS at least two (2) weeks prior to acquiring, through purchase, lease, or otherwise, the physical plant of the Charter School and/or in accordance with the date specified in Article 4, whichever date is earlier. Evidence of all other insurance coverages listed in Schedule 4 shall be provided to the OCS in accordance with Schedule 4.

### **3. Comprehensive Special Education Plan**

The Organizer shall set forth a comprehensive special education plan that complies with applicable law and has received approval from the Indiana Department of Education. The Organizer's comprehensive special education plan, as approved by the Indiana Department of Education, must be submitted to the Office of Charter Schools no later than June 15 of the year in which the Charter School is scheduled to commence operations.

### **4. Financial Plan**

By October 1 of the year in which the Charter School commences operations, the Organizer shall submit an updated five-year financial plan, including a detailed budget identifying required start-up costs and a cash flow plan identifying the sources of funds that will be available to pay start-up costs and costs of operations prior to receipt of funds from the state of Indiana and local funds from the county auditor. The financial plan shall also include an initial statement prepared by an independent, certified public accountant to the effect that the Organizer has adopted proper internal financial and accounting controls, and a plan to address any deficiencies noted in the accountant's statement. This financial plan shall be updated annually by October 1 of each year in which the Charter School is operating in order to continue to provide a prospective five (5) year financial plan as set forth herein.

### **5. Transportation**

By July 1 of the year in which the Charter School is scheduled to commence operations, the Organizer shall submit a specific, detailed plan for transporting students that attend the Charter School or which otherwise ensures that transportation will not be a barrier for parents and for children who plan to attend the school and describes how the transportation needs of students will be met.

### **6. School Safety Plan**

By July 15 of the year in which the Charter School is scheduled to commence operations, the Organizer shall submit a detailed, specific school safety plan. The school safety plan shall include an emergency preparedness plan for the Charter School that meets the requirements set forth in applicable statutes and administrative regulations.

### **7. Criminal History Background Checks**

By August 1 of the year in which the Charter School is scheduled to commence operations, the Organizer shall submit a detailed, specific policy regarding criminal history background checks for members of the Organizer's governing body, its teachers, administrators, other staff, volunteers, contractors and employees of contractors or subcontractors, consistent with Applicable Law, Section 3.2, Section 3.13 and other provisions of this Charter, and with University Charter School Policies.

**8. Conflict of Interest Policy**

By July 1 of the year in which the Charter School is scheduled to commence operations, the Organizer shall submit a detailed, specific policy regarding conflicts of interest for members of the Organizer's governing body and the Organizer's employees, consistent with the Organizer's not-for-profit status, applicable laws, regulations and University Charter School Policies.

**9. Submissions Must Be Acceptable to the University**

If any Pre-opening Action in this Schedule requires submission of materials to the OCS, the Pre-opening Action shall not be deemed complete unless the submission is acceptable to the OCS and/or the evidence of compliance is satisfactory to the representative of the University authorized to accept the documentation.

**Ball State University Office of Charter Schools**  
***CONTRACTING WITH EDUCATIONAL MANAGEMENT ORGANIZATIONS***

**Article I.**

**I. Introduction**

These Policies for Contracting with Educational Management Organizations ("Policies") shall apply to all charter schools for which Charters are issued or renewed by Ball State University (the "University") on or after the effective date of the Policies and shall apply prospectively to any existing charter school or organizer that enters into an agreement with an Educational Management Organization ("EMO")<sup>1</sup> on or after the effective date of the Policies. Failure by the organizer to comply with these Policies may result in the non-issuance of a Charter, or for existing charter schools, the initiation of revocation proceedings under the Charter.

**II. Organizer Due Diligence**

A. Prior to executing an agreement with an EMO, the Organizer must provide evidence to the University that it has performed sufficient due diligence to establish that the EMO has the appropriate financial resources, educational services, and managerial experience to provide the contracted services. Prior to contracting with an EMO, the Organizer must obtain sufficient information to conclude that the EMO agreement, on the proposed terms and conditions, is in the best financial and educational interest of the Charter School. In connection with such due diligence, and prior to the execution of an EMO agreement, the Organizer shall provide, at a minimum, the following information to the University Office of Charter Schools:

1. List of all EMO owner(s), directors and officers;
2. Type or form of entity (for-profit corporation, non-profit corporation, limited liability company, etc.);
3. Name of EMO's primary banking institution;
4. Legal counsel for the EMO, and contact information;
5. Accounting firm for the EMO, and contact information; and
6. A written statement regarding the EMO's experience in providing educational services, the types of educational service to be provided and the EMO's educational philosophy.

B. Members of the board of the Organizer and/or the Charter School, and employees of the organizer or Charter School, and their respective spouses or immediate family members may not have any direct or indirect ownership, employment, contractual or management interest in any EMO that contracts with the Organizer or Charter School. The Office of Charter Schools may formally waive this requirement for persons who have an ownership interest in an EMO that contracts

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<sup>1</sup> "Educational Management Organization" or "EMO" means a service provider that manages or operates a charter school or provides administrative, managerial or instructional staff to the charter school.

with the Organizer or Charter School if it concludes that the ownership interest is minimal and such waiver will not violate any applicable laws or regulations.

- C. The Organizer must retain independent legal counsel to review and negotiate the EMO agreement. Legal counsel for the Organizer or the Charter School must not represent the EMO or principals thereof. The EMO agreement must be an arms-length, negotiated agreement between an informed organizer board and the EMO.
- D. Any proposed EMO agreement (which for purposes of this paragraph includes any proposed amendment thereto) must be submitted to the University Office of Charter Schools for review no later than thirty (30) days prior to the proposed date of execution. Earlier submission is strongly encouraged and may accelerate the review process. Together with the proposed EMO agreement, the organizer must submit an opinion letter from its legal counsel, certifying to the University that the organizer has fulfilled its obligations described in these Policies, and that the proposed EMO agreement is in no way inconsistent with these Policies or the Charter. The form attached to these Policies as Exhibit A should be used for this purpose. Unless the University Office of Charter Schools Director extends the review period, the University shall notify the Organizer within thirty (30) days of receiving the proposed EMO agreement if the agreement or amendment is disapproved. The Organizer shall not enter into an EMO agreement that has been disapproved by the University Office of Charter Schools. The University reserves the right to disapprove an EMO agreement that it determines is not in compliance with the Charter, applicable law, and/or University policies. By not disapproving an EMO agreement, the University is in no way giving approval of the EMO, the fee arrangement, or any other provisions contained in the EMO agreement.
- E. The organizer's board shall not approve an EMO agreement until all board members have been given the opportunity to review the proposed EMO agreement with the Organizer's legal counsel.

### **III. Organizer's Administrative and Fiduciary Responsibilities**

- A. If it negotiates an EMO agreement, the organizer must still budget adequate resources to fulfill its Charter requirements which may include, but are not limited to: negotiation of the EMO agreement and any amendments, oversight of EMO, payment of staff costs, insurance required by the EMO agreement and any lease as well as insurance required by the Charter, financial audits, legal counsel, consultants, recording secretary and any other such cost necessary for the Organizer's operations.
- B. The EMO shall present to the Organizer's board, on a frequency established by the Organizer's board, a detail of budget-to-actual revenues and expenditures with an explanation of variances. The EMO shall present to the Organizer's board, on a frequency determined by the Organizer's board, a detailed schedule of expenditures at object level for review and action by the Organizer's board.

- C. The Organizer must be informed of the level of compensation and fringe benefits provided to employees of the EMO assigned to the Charter School.

#### **IV. EMO Agreement Provisions**

- A. No provision of the EMO agreement shall interfere with the Organizer's duty to exercise its statutory, contractual and fiduciary responsibilities governing the operation of the charter school. No provision of the EMO agreement shall prohibit the Organizer from acting as an independent, self-governing body. The Organizer must retain the right to exercise its judgment in accepting or rejecting EMO recommendations and may not abdicate its responsibilities and authority for policy setting, strategic planning, budgeting, the educational program and overall oversight, monitoring and supervision of the Charter School.
- B. No provision of an EMO agreement shall alter the Organizer's obligation to be the fiscal agent for the Charter School as required by law.
- C. EMO agreements must contain at least one of the following methods for paying fees or expenses: (i) the Organizer may reimburse the EMO for budgeted and approved fees or expenses upon properly presented documentation and approval by the Organizer's board; or (ii) the Organizer may advance funds to the EMO for the fees or expenses associated with the Charter School's operation provided that documentation for the fees and expenses is provided before ratification or disallowance by the Organizer's board. The Organizer must retain the ability to disapprove expenditures not within the Charter School's approved budget or otherwise approved by the Organizer's board.
- D. EMO agreements shall provide that the financial, educational, and other records pertaining to the Charter School, whether or not generated or maintained by the EMO, are charter school property, and that such records are subject to inspection and copying to the same extent that records of a public school are subject to inspection and copying under the provisions of the Indiana Access to Public Records Law (IC 5-14-3). All charter school records shall be available, upon request, at the Charter School's physical facilities and, except as permitted or required under the Charter and applicable laws, no EMO agreement shall restrict the access of the Organizer, the University or the public to the Charter School's records.
- E. EMO agreements must contain a provision that all finance and other records of the EMO related to the charter school will be made available to the Organizer's independent auditor and to the State Board of Accounts for completion of audits required by law or by the Charter. Such records must be produced in Indiana at the offices of the Organizer or at the Charter School facility.
- F. The EMO agreement must not permit the EMO to select and retain the independent auditor for the Charter School.

- G. If an EMO purchases equipment, materials and supplies on behalf of or as the agent of the Charter School, the EMO agreement shall provide that such equipment, materials and supplies shall be and remain the property of the Charter School.
- H. EMO agreements must contain a provision that clearly allocates the respective proprietary rights of the Organizer or Charter School and the EMO to curriculum or educational materials. At a minimum, EMO agreements shall provide that the Charter School owns all proprietary rights to curriculum or educational materials that (i) are both directly developed and paid for by the Charter School; or (ii) were developed by the EMO at the direction of the organizer with charter school funds dedicated for the specific purpose of developing such curriculum or materials. EMO agreements may also include a provision that restricts the Charter School's proprietary rights over curriculum or educational materials previously developed or copyrighted by the EMO, or curriculum or educational materials that are developed by the EMO from funds from the Charter School that are not otherwise dedicated for the specific purpose of developing charter school curriculum or educational materials. All EMO agreements shall provide for disclosure of the EMO's educational materials and teaching techniques and other documents used by or in the Charter School in accordance with applicable law, based upon the written opinion of the Organizer's legal counsel.
- I. EMO agreements involving employees must be clear about which positions are to be filled by employees of the EMO, and which positions are to be filled by employees of the Organizer or the Charter School. If the EMO leases employees to the Organizer or the Charter School, the EMO agreement must provide that the leasing company accepts full liability for benefits, salaries, worker's compensation, unemployment compensation and liability insurance for its employees leased to the Charter School or working on Charter School operations.
- J. EMO agreements must contain insurance, bonding, and indemnification provisions outlining the coverage the EMO will obtain. The EMO's insurance is separate from and in addition to the insurance the organizer is required to obtain under the Charter and should be appropriate for risk management of the functions delegated to the EMO. The EMO agreement must contain the clause for indemnification of the University by the EMO specified in the Charter and any other clause specifically required to be included in the EMO agreement by the Charter or these Policies.
- K. Marketing and development costs paid by or charged to the Charter School shall be limited to those costs specific to the Charter School program, and shall not include any costs for the marketing and development of the EMO or other schools operated by the EMO.
- L. The term of an EMO agreement must not exceed the term of the Organizer's Charter.



- M. The EMO agreement must require that the EMO perform all functions delegated to it in compliance with all applicable state and federal laws and with the terms and conditions of the Charter. It must require the EMO to comply with all requirements placed on the organizer and the charter school by the Charter with respect to all services and responsibilities delegated to the EMO. The Charter must be incorporated by reference into the EMO agreement and the agreement must provide that any provisions in the EMO agreement that are contrary to or conflicting with the Charter shall be superseded by the terms and conditions of the Charter.
- N. The EMO agreement must not include payment or financial arrangements inconsistent with the non-profit status of the Organizer.
- O. The EMO agreement shall include requirements for reports on budgeted versus actual expenditures and the overall financial condition of the Charter School, as well as performance reports on the educational program operations from the EMO at public meetings of the Organizer held in accordance with the Indiana Open Door Law (IC 5-14-1.5). The EMO agreement shall not permit activities to be conducted by the EMO in any manner that is inconsistent with the statutory requirement that the Charter School comply with the Indiana Open Door Law.
- P. The EMO agreement must not permit the EMO to further subcontract the management, oversight or operation of the teaching and instructional program.
- Q. If the EMO will perform administrative services for the Charter School, the EMO agreement must require that the EMO maintain administrative offices in the Charter School facility or within the limited radius of the Charter School facility required by the Charter.
- R. The EMO agreement may not limit the manner in which the Organizer or the University may construe applicable laws in determining whether charter school operations and administration as conducted by the EMO are in compliance with such laws.
- S. The EMO agreement must require the EMO to provide to the Organizer and/or the University such reports and information in addition to such access to any books and records (financial or otherwise) and access to personnel, facilities and operations pertaining to the Charter School as may be required for the organizer to comply with the terms and conditions of the Charter and the law. Pursuant to the Indiana Charter Schools Law (IC 20-24), any records provided by the Charter School to the Department of Education or to the University that relate to compliance by the operator with the terms of the Charter or applicable state or federal laws are subject to inspection and copying under the Indiana Access to Public Records Law (IC 5-14-3).

- T. The EMO agreement must require the EMO to cooperate and participate in any corrective action plan approved by the University to remedy any breach of the Charter that in any way involves services provided by the EMO.
- U. The EMO agreement must not permit the EMO to assign the agreement in whole or in part without the prior written consent of the organizer. The Organizer must conduct due diligence with regard to the proposed assignee, as described in Section II (A) and ensure against any conflict of interest as described in Section II (B) of these Policies. The organizer shall not consent to such an assignment if the Organizer's due diligence does not provide evidence that the proposed assignee has the appropriate financial resources, educational services, and managerial experience to provide the services contracted under the EMO agreement.
- V. The EMO agreement must not permit termination without cause by the EMO effective other than at the end of a charter school academic year.

**V. Lease and Loan Agreement Provisions**

If the Organizer or Charter School intends to enter into a lease, execute promissory notes or other negotiable instruments, or enter into a lease-purchase agreement or other financing relationships with the EMO, then such agreements must be separately documented and not be a part of or incorporated into the EMO agreement. A breach of any such other agreement must not be deemed a breach of the EMO agreement.

## **EXHIBIT A**

[Date]

Director  
Office of Charter Schools  
Dean's Office — Teachers College  
Ball State University  
Muncie, Indiana 47306

[Name of Organizer]  
[Address]  
[Name of City], Indiana

Re: [Name of Charter School] Educational Management Organization (EMO)  
Agreement with [Name of EMO]

Ladies & Gentlemen:

In my capacity as legal counsel to [Name of Charter School Organizer] (the "Organizer"), I have represented the Organizer in connection with the proposed Educational Management Organization Agreement between the Organizer and [Name of EMO]. As legal counsel for the Organizer, I have reviewed copies of the following documents:

1. The attached Educational Management Organization Agreement, (the "Agreement"), between the Organizer and [Name of EMO].
2. The Ball State University Office of Charter Schools Policies for Contracting with Educational Management Organizations ("Policies").
3. The Charter effective [Month, Day, Year], (the "Charter"), issued by Ball State University to the Organizer.

I have also reviewed the articles of incorporation and bylaws of the Organizer, and originals and copies of such other documents, records, and statements of facts as I deemed relevant, and I have made such other investigations and inquiries, as I have determined necessary for the purpose of rendering the opinions set forth herein.

Based upon the foregoing, I am of the opinion that:

1. The Organizer is an Indiana nonprofit corporation duly organized, validly existing and in good standing under the laws of the state of Indiana and has full power and authority to enter into the Agreement.

2. The Organizer's execution, delivery and performance of the Agreement does not violate any term or provision in the Policies and, to the best of my knowledge after due inquiry, the Organizer has complied with all terms and provisions in the Policies.
3. The Organizer's execution, delivery and performance of the Agreement do not permit or require an improper delegation of the Organizer's:
  - (a) Statutory and fiduciary responsibilities under applicable law; or
  - (b) Obligations and duties under the Charter.

In addition, the Agreement does not conflict with any of the provisions of the Charter or the Policies.

Very truly yours,

[Name of Organizer's Legal Counsel]