

# **EDUCATIONAL PRODUCTS AND SERVICES AGREEMENT**

Between

**IDAHO COLLEGE AND CAREER READINESS ACADEMY**

And

**K12 VIRTUAL SCHOOLS LLC**

**FOR THE IDAHO COLLEGE AND CAREER READINESS ACADEMY, AN ONLINE  
PROFESSIONAL-TECHNICAL HIGH SCHOOL AUTHORIZED BY THE IDAHO STATE PUBLIC  
CHARTER COMMISSION, SERVING IDAHO STUDENTS STATEWIDE IN GRADES 9-12**

## **TABLE OF CONTENTS – EDUCATIONAL PRODUCTS AND SERVICES AGREEMENT**

RECITALS.....	1
1. DEFINITIONS.....	2
2. K12 RESPONSIBILITIES, EDUCATIONAL PRODUCTS AND SERVICES.....	3
3. BOARD RESPONSIBILITIES.....	4
4. FINANCIAL MATTERS. ....	5
5. TERM OF AGREEMENT.....	8
6. PRICING, FEES AND PAYMENT. ....	8
7. PERSONNEL SUPPORTING THE SCHOOL. ....	9
8. PAYMENT OF PRODUCT AND SERVICE FEES. ....	10
9. RELATIONSHIP OF THE PARTIES.....	11
10. OTHER SCHOOLS .....	12
11. TERMINATION.....	12
12. TERMINATION EFFECTS. ....	13
13. INTELLECTUAL PROPERTY RIGHTS.....	14
14. LIMITS ON LIABILITY AND DAMAGES. ....	15
15. ASSIGNMENT.....	16
16. INDEMNITY.....	16
17. INSURANCE.....	17
18. REPRESENTATIONS AND WARRANTIES.....	18
19. OFFICIAL NOTICES.....	19
20. NON-SOLICITATION/NON-HIRING.....	20
21. DISPUTE RESOLUTION, VENUE AND GOVERNING LAW. ....	20
22. MISCELLANEOUS.....	21
EXHIBIT A.....	24
EXHIBIT B.....	30

## EDUCATIONAL PRODUCTS AND SERVICES AGREEMENT

This EDUCATIONAL PRODUCTS AND SERVICES AGREEMENT ("**Agreement**") is made and entered into by and between the Governing Board of Directors (the "**Board**") of the Idaho College and Career Readiness Academy, Incorporate an Idaho nonprofit corporation and K12 Virtual Schools LLC ("**K12**"), a Delaware limited liability company, each a "**Party**" together the "**Parties**", as of the date signed by both Parties, and includes the following exhibits:

- a. Exhibit A (Products and Services)
- b. Exhibit B (K12 Proprietary Marks)

### RECITALS

A. **WHEREAS**, the Board governs the Idaho College and Career Readiness Academy also known in abbreviated form as IDCCRA (the "**School**").

B. **WHEREAS**, the mission of the School is to provide an innovative model of an online professional-technical public charter school adapted to the needs of high school students throughout the State of Idaho in order to inspire every student to succeed in their academic and occupational pursuits.

C. **WHEREAS**, the Board has filed a charter petition (application) with the Idaho State Board of Education's Public Charter School Commission (the "**Commission**") pursuant to the Idaho Charter Schools Act (Section 33-5201 *et seq.*) of the Idaho Education Code ("**IEC**"), to open an online professional-technical charter school that will utilize K12 products and services, subject to the Commission's approval. The Board is also seeking certain funding approval from the Division of Professional-Technical Education which is the administrative arm of the State Board of Education's State Board for Professional-Technical Education.

D. **WHEREAS**, once the Board's charter petition is approved, a charter shall be granted (the "**Charter**") to operate a professional-technical public charter school called the Idaho College and Career Readiness Academy, and the Board will utilize K12's products and services in the School in accordance with this Agreement.

E. **WHEREAS**, K12 and its Affiliates were established, among other things, for the following purposes:

- promoting and encouraging new methods of effective education;
- implementing innovative and effective instructional systems in elementary and secondary education.

F. **WHEREAS**, K12 will provide the Board with a variety of educational products and services in furtherance of the School's mission. These educational products and services include providing the highly regarded K12® Curriculum as well as third party professional and technical curriculum procured by K12 on behalf of the Board, online school and learning management systems; teacher training, recruitment and management; financial and school administration services; technology services for a student account management system and other administrative and technology support services specified in this Agreement and the Charter as applicable to the School.

G. **WHEREAS**, upon approval of the Charter, it is the intention of both Parties to enter into a long-term relationship in which the Board governs the School while K12 provides comprehensive educational products and services, including turnkey management services, and in which K12 will assure the financial solvency of the School in accordance with the terms of this Agreement.

**NOW, THEREFORE,** the Parties mutually agree as follows:

**1. DEFINITIONS.** For the purposes of this Agreement, capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in this Section 1 as follows:

1.1. Affiliates. An "Affiliate" of K12 is an entity that controls, is controlled by, or under common control with K12, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of an entity, whether through the ownership of securities, by contract or otherwise.

1.2. Applicable Law. Applicable Law is defined herein as the Constitution of the State, the State education laws and/or code, the federal Elementary and Secondary Education Act, the federal Individuals with Disabilities in Education Act, other applicable federal, state or local statutes, ordinances and regulations, any amendments to or recodification of the aforementioned laws, and other binding rulings applicable to public charter schools in the State.

1.3. Charter. The Charter is defined as the authorization provided to the Board by the Charter Authorizer pursuant to Applicable Law, permitting the Board to operate as a public charter school and entitled to receive public funds, appropriations and other revenues.

1.4. Charter Authorizer. The Charter Authorizer is the entity which has been granted the authority by law to permit the Board to operate in accordance with the Charter and Applicable Law. The Charter Authorizer is currently the Idaho State Board of Education's Public Charter School Commission.

1.5. Change in Net Assets. A Change in Net Assets is the difference in a given Fiscal Year between the School Revenues and School Expenses as certified by an independent audit in accordance with Generally Accepted Accounting Principles (GAAP).

1.5.1. A "Positive Change in Net Assets" means School Revenues exceeded School Expenses in a given Fiscal Year.

1.5.2. A "Negative Change in Net Assets" means School Expenses exceeded School Revenues in a given Fiscal Year.

1.6. Fiscal Year. The Fiscal Year shall run July 1 through June 30.

1.7. Net Asset Position. Net Asset Position means the difference between total assets and liabilities of the School at the end of a given Fiscal Year as certified by an independent audit in accordance with GAAP.

1.7.1. A "Positive Net Asset Position" means that total assets of the School exceed total liabilities of the School.

1.7.2. A "Negative Net Asset Position" means that total liabilities of the School exceed total assets of the School.

1.8. School Revenues. School Revenues are all revenues and income generated or appropriated for and received by or on behalf of the Board as attributed to any Student or the School which includes, but is not limited to, the following sources as applicable: State and local per-pupil general and special education funds, funds and apportionments for professional-technical schools and other public school State and local funding; federal funds specific to the School and/or its Students; other funding including, but not limited to, Title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. §6301 *et seq.*, as amended);

State provided facility funding and other income or revenue sources provided by law and obtained by the Board and/or K12 which are not specifically excluded herein and all contributions and grants (including but not limited to Charter School Block Grants and other grants as applicable) received by or on behalf of the Board and granted as a matter of right and/or practice or through competitive and non-competitive grant processes, which are to assist in the improvement of any applicable School-related facility(ies), the implementation or maintenance of the School operations.

1.9. Shareholder. A Shareholder is a holder of greater than one percent (1%) of K12's outstanding shares of common stock.

1.10. State. The State is Idaho.

1.11. Student. A Student is any student enrolled and/or otherwise taking course(s) in the School or previously enrolled, including those pupils who have withdrawn.

## **2. K12 RESPONSIBILITIES, EDUCATIONAL PRODUCTS AND SERVICES.**

2.1. Description of Educational Products. During the Term, K12 and Affiliates shall license to the Board solely for use in the School, on a non-exclusive, non-assignable, non-sublicensable basis the products and offerings, as described in Exhibit A, to include the K12® curriculum, access to its online school and designated learning management system(s) and/or available third party curriculum, instructional tools and other products and offerings (collectively the "**Educational Products**"). During the Term, the Parties may agree upon K12 and Affiliates licensing additional products (e.g., new curriculum, supplementary curriculum, and/or educational programs) beyond those listed in Exhibit A. Provision of additional products will be mutually agreed upon and shall be governed by the terms of this Agreement unless otherwise agreed in writing.

2.2. Description of Administrative and Technology Services. During the Term, K12 and Affiliates shall provide to the Board solely for the School "**Administrative Services**", including financial and school administration services, teacher recruiting, training and management, and "**Technology Services**" to include a student information system, hosting of an online platform, a student account management system and related technical support and other educational services as described in Exhibit A. The Administrative Services and Technology Services shall collectively be referred to as the "**Services**". During the Term, the Parties may agree upon K12 and Affiliates providing the Board with additional services beyond those listed in Exhibit A. Provision of additional services shall be governed by the terms of this Agreement unless otherwise agreed in writing.

2.3. Special Education Services. K12 shall assist with the provision of special education and/or related special needs services including but not limited to recruiting teachers and procuring related service providers for Students with special education needs or any Students who have, will have or require an Individualized Education Program ("**IEP**"). All special education-related funding from any source for the Special Education Students shall be included within School Revenues.

2.4. Place of Performance. Performance of Services is not required to be rendered at the School's facility(ies) (if any), unless specifically stated in Exhibit A or for compliance with Applicable Law or the Charter.

2.5. Standards of K12 Performance.

2.5.1. K12 Compliance. K12 will provide the Educational Products and Services set forth in this Agreement and any amendments hereto in accordance with Applicable Law, the Charter, and Board policies made known to K12 in writing and relating to the School. Subject to Section 11, K12 shall

also comply with changes in Board policies within thirty (30) days of receipt of written notice and a copy thereof; however, School Policies (as defined in section 3.2) shall be adopted in accordance with Section 3.2.

2.5.2. Confidentiality of Records/FERPA. K12 will maintain the confidentiality of School personnel, student and other records in accordance with the requirements of Applicable Law. The Board recognizes and agrees that for purposes of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g; 34 CFR Part 99 (“FERPA”) and the State open records act, K12 has a legitimate educational interest for purposes of the Board (or its designees) disclosing a student’s educational records to K12 and such records shall be disclosed to K12 in order for K12 to perform the Services. The Board shall define “school officials” and “legitimate educational interest” as permitted by FERPA, broadly enough to permit the provision of the Educational Products and Services hereunder.

2.5.3. Licensure or Other State Requirements. Except as otherwise provided in this Agreement, K12 will comply with all applicable licensure or other requirements of the State and any regulations promulgated thereunder.

2.5.4. Non-Discrimination. K12 prohibits discrimination in all its programs and activities on the basis of race, color, religion, sex, national origin, age, disability, and where applicable, marital status, familial status, and sexual orientation.

### **3. BOARD RESPONSIBILITIES.**

3.1. Payment Obligation. For the Educational Products and Services, the Board shall compensate K12 at the rates and conditions set forth in this Agreement or as amended as mutually agreed in writing.

3.2. Oversight of K12. The Board shall be responsible for monitoring K12’s performance under, and compliance with, the terms of this Agreement in accordance with Applicable Law. Accordingly, the Board shall be responsible for overseeing the School’s quality, operational and financial performance and for working with the Charter Authorizer as required. K12 shall reasonably cooperate with such monitoring and oversight.

3.3. Adoption of Policies. The Parties acknowledge and agree that in providing the Services, it shall be the responsibility of K12 to recommend various policies for the operation of the School (“**School Policies**”). K12 will implement procedures consistent with such policies, but the Board retains ultimate responsibility for adopting policies and for overseeing K12’s implementation. K12 will cooperate with such oversight and policy implementation subject to Section 11. K12 and the Board will work collaboratively and in a timely manner on the creation of School Policies that may include, but are not limited to, policies relating to the budget, authorization of expenditures, curriculum, admissions procedures, student conduct online and at any applicable School facility, School calendars, procedures for resolution of parent or student complaints and disputes between School employees, and the responsible use of computer equipment and other instructional property. To the extent any of the foregoing collaborative policies are not yet in effect, the Parties agree that K12’s applicable standard policies and best practices shall be used to avoid a lack of any policy. The Board shall promptly provide K12 written copies of all School Policies adopted and must promptly notify K12 in writing of any changes to such policies.

3.4. School-Related Correspondence. The Board shall provide K12 with any reports, documents and other findings that are related or may have an impact on the School, the Charter and/or K12’s obligations herein. Such School-related correspondence includes, but is not limited to, adopted Board minutes, resolutions and Board reports, State audit preliminary and final reports, and Charter Authorizer reports, findings and correspondence, and any reports, financial or otherwise, submitted to a State regulatory body.

3.5. School Compliance. The Board will perform its obligations under this Agreement and shall comply with, and govern itself in a manner consistent with, the requirements of Applicable Law, the Charter and the Charter Authorizer's policies.

#### 4. FINANCIAL MATTERS.

4.1. Financial Risks Assumed by K12. K12 assumes the risks, except as otherwise set forth in this Agreement that its fees may not allow it: i) to operate profitably, and/or ii) to fully recover the amounts invoiced by K12 to the Board in accordance with this Agreement. In addition, the Parties agree that the School will not conclude a Fiscal Year during the Term in a Negative Net Asset Position. Accordingly, the Parties further agree that each of them shall take all reasonable steps and approaches necessary to avoid a negative change in Net Assets or conclude a Fiscal Year in a Negative Net Asset Position during the Term. For each year of the Agreement, provided that there has been no material breach of the Agreement by the Board, if the Board ends a fiscal year in a Negative Net Asset Position, the Parties agree that K12 will provide sufficient credits ("**Balanced Budget Credits**") to be applied to K12 invoices to ensure that the School does not experience a Negative Net Asset Position during or at the end of said Fiscal Year.

4.2. Balanced Budget Credit Remittances. Should the School end a Fiscal Year in a Positive Net Asset Position, as evidenced by its audited financial statements conducted in accordance with GAAP for such Fiscal Year, and K12 has issued Balanced Budget Credits in prior years for which a balance remains, the Board will reimburse K12 up to the cumulative amount of previously issued Balanced Budget Credits, as follows:

- a. Of the first \$100,000 or less of the Positive Net Asset Position, the amount due to K12 will be twenty-five percent (25%) of such amount, not to exceed \$25,000.
- b. Of the second \$100,000 or less of the Positive Net Asset Position, if any, the amount due K12 will be fifty percent (50%) of such \$100,000 or \$50,000. The amount due K12 will not exceed \$75,000, for the first \$200,000 of School's Positive Net Assets.
- c. If the School's Positive Net Asset Position exceeds \$200,000 any outstanding amount of Balanced Budget Credits due to K12 will be seventy-five percent (75%) of the amount over \$200,000 plus the \$75,000 noted in the point immediately above.

Such amounts shall be paid to K12 in accordance with the preceding payment schedule, subject to the following conditions:

- a. The total amount of Balanced Budgets Credits remitted over the Term will not exceed the amount of Balance Budgets Credits issued during the Term;
- b. Balanced Budget Credits will not be due until the School is in a Positive Net Asset Position, if ever; and
- c. In no single school year will the amount of any remittance exceed fifty percent (50%) of the then current school year's Positive Net Asset Position, as determined by an independent audit before the payment of Balanced Budget Credits.

Finally, at the end of the Term if there is a balance of Balance Budgets Credits which have not been remitted such credits will be forgiven by K12, subject to the termination provisions of this Agreement.

4.3. Financial Risk Mitigation. As an inducement for entering into this Agreement and issuing Balanced Budget Credits, the Board and K12 agree that K12 is willing to assume the financial risks set forth herein, subject to both the Balanced Budget Credit remittance (Section 4.2) above and all of the risk mitigation efforts set forth below, each of which are material terms of this Agreement:

4.3.1. Exclusivity. K12 shall be the sole provider of the Educational Products and Services for the School unless otherwise waived in writing by an authorized officer of K12. Nothing within this provision, however, shall be construed to preclude the Board in the exercise of its fiduciary obligations to the School. Moreover, the Board shall be permitted to procure goods and services from a third party to the extent required by law, solely provided such goods and services are not otherwise included in the Educational Products and Services. Prior to any third party procurements, the Board shall give K12 a thirty (30) day right of first refusal to provide such services or goods not enumerated herein or in the future, and if K12 is able and willing to provide such services or goods the Board shall procure them from K12.

4.3.2. Final School Budgets. The Board will adopt an annual School budget for each Fiscal Year during the Term and the Parties agree that K12 will present to the Board (or its authorized delegates or subcommittee) a proposed School budget for each such Fiscal Year. The proposed School budget will include assumptions provided by K12. K12 will present a proposed budget for the upcoming school year by May 15 of the then current Fiscal Year and the Board shall consider the budget proposed by K12 and will act to approve a final School budget not later than thirty (30) days prior to the start of the Fiscal Year (or sooner if required by Applicable Law). In the event the Parties cannot agree in writing upon a final budget (or any budget modification), K12 shall only be obligated to issue Balanced Budget Credits, if any, up to the amount proposed and reflected in the original budget submission or any proposed modifications to such budget by K12.

4.3.3. Budget Modifications. K12 may submit to the Board proposed modifications to a School budget to take into account the actual Student enrollment for the applicable school year, other changes in key assumptions or other changes deemed necessary or appropriate. The Parties will work in good faith to agree in writing on modifications to the final School budget but, in any event, the Board shall act on any modifications proposed by K12 within thirty (30) days of the proposal thereof.

4.3.4. Variances from Budgets. In the event that the Board causes (or its employees or designees cause) the School to experience a Negative Net Asset Position within the Fiscal Year of more than an aggregate of two percent (2%) during the entire Fiscal Year above the agreed to amount in writing by K12, if any, then K12 reserves the right to limit the Balanced Budget Credits up to such 2% variance.

4.3.5. Material Deviations. In the event the Board materially breaches this Agreement or otherwise acts in a manner that will have the effect of materially increasing K12's obligations, including payment obligations, or materially decreasing its rights herein, including changing the name of the School, amending the Charter or Lease, or adopting adverse policies and the Agreement is not terminated, then to the extent K12 has not otherwise expressly agreed to such material change in writing, K12 reserves the right to suspend the issuance of Balanced Budget Credits effective immediately beginning with the School year that such breach or action occurred in addition to other remedies available.

4.3.6. Lease Terms and Compliance. To the extent the Board enters into a lease for example, for administrative offices or Student training, all facility-related costs shall be a School Expense. The Board agrees that it will not modify, terminate or enter into any lease for any facility or location without the prior written consent of K12 (or the Charter Authorizer as required) if any such action will have the effect of materially impacting any of K12's rights or obligations hereunder, including its financial obligations. For the avoidance of doubt, in the event the Board violates this Section or otherwise breaches any such lease so as to have the effect of materially impacting K12's rights or obligations, K12 reserves the right to suspend the issuance of Balanced Budget Credits effective immediately beginning with the Fiscal Year that such breach occurred.



4.4. Advances Made by K12 on Behalf of the School. If the available cash receipts of the School are, from time to time, insufficient to cover payment of School Expenses on a timely basis, and the Board is unable to seek funding from other sources to cover such deficiency, K12 may advance the Board such amounts (not to exceed maximum amounts set by Applicable Law) to allow payment of such School Expenses on a timely basis (collectively hereinafter referred to as “**Advances**”) provided that, K12 will have no obligation to make any Advances in any Fiscal Year for expenditures: (i) for any items that are in excess of the lesser of the amount proposed by K12 for the budget or the approved budgeted amount except to the extent that such excess amounts are beyond the Board’s control and due to events beyond the Board’s control; (ii) for amounts payable to K12 pursuant to this Agreement or any other agreement between K12 or its Affiliates and the Board; or (iii) for any matters as to which K12 or any other person or entity is entitled to indemnification under this Agreement. The Advances will be due and owing to K12 by the Board thirty (30) days after K12 invoices the Board for such funds.

4.5. Start Up Costs. “**Start Up Costs**” are those project management, insurance, legal, recruiting and hiring fees, computers, phones and other administrative costs that have been incurred on behalf of the School, together with advances made to the School by K12, prior to and subsequent to the execution of this Agreement in order to obtain School approval by the applicable Charter Authorizer(s) or to open the School. In order to sufficiently verify the Start Up Costs are valid and applicable to the School, the Board agrees to provide a detailed breakdown with the appropriate receipts for all such costs which will be subject to audit by K12. To the extent the Start Up Costs were paid to or on behalf of the School by K12 and/or Advances were made to the Board for Start Up Costs, K12 shall invoice the Board for reimbursement of such Start Up Costs and Advances in accordance with Sections 4.4 and 8.3 herein. Payment will be due within thirty (30) days of receipt of such invoice unless sufficient cash is not on hand to do so at which time such invoices will accrue interest per the Agreement.

4.6. Financial Reports. The Board may request that K12: (i) prepare and submit reports on the School’s finances as often as on a monthly basis in addition to those financial reports required by Applicable Law or the Charter; or (ii) provide the Board with such other information as reasonably necessary and appropriate to enable the Board to monitor performance under the Charter and related agreements, including the effectiveness and efficiency of the School’s operations. All such requests shall be made in writing. The Parties agree that K12 shall supply the foregoing reports and information, solely provided that the Board or other third parties have given K12 all necessary and current data needed for such reports (as reasonably requested by K12), including, but not limited to, relevant audit findings, Board expenditures and funding detail. Accordingly, the Board shall not withhold, and shall cooperate with K12 to ensure K12 has the needed data and information the Board’s control in a timely manner.

4.7. School Audit. K12, in collaboration with the Board, will arrange for an independent audit of the School’s financial statements. The cost of such audit shall be a School Expense.

4.8. School Expenses. The Board will be responsible for all debts, liabilities, and obligations incurred on behalf of the School by or on behalf of the Parties (collectively, “**School Expenses**”) during the Term of the Agreement. School Expenses shall be determined in accordance with the budget process set forth herein, will be paid out of the School Revenues and shall include, but are not limited to, the following School-related costs:

4.8.1. oversight fees to the Charter Authorizer, if any;

4.8.2. School teacher (master and lead) and lab attendants (individually a “**Teacher**”, collectively “**Teachers**”) salaries;

4.8.3. Teacher related expenses, including, Teacher training related expenses and other Teacher expenses;

4.8.4. offices for administrative staff and related expenses;

4.8.5. Student Support Staff (defined in Section 7.4 below) related expenses;  
4.8.6. related services expense for Students with special education needs (as applicable);  
4.8.7. state test related expenses;  
4.8.8. school community relationship building;  
4.8.9. direct mail, printing and related expenses for enrolled Students;  
4.8.10. amounts due to K12 and its Affiliates, including interest on Advances and past due amounts;  
4.8.11. supplemental curriculum and other academic services as agreed to by K12 in writing;  
4.8.12. reasonable legal fees for representation of the Board as it pertains directly to the School and not for legal representation or related expenses adverse to K12;  
4.8.13. insurance including directors' and officers' liability insurance, general liability insurance and other School-related insurance coverage, as appropriate;  
4.8.14. accounting and reporting not comprehended in K12's Services to be provided, payroll processing, audit, and/or tax preparation fees directly associated with the School;  
4.8.15. use, sales, income, property or other taxes, if any;  
4.8.16. fees for required background investigations of School employees;  
4.8.17. office and School facility and infrastructure related expenses; and  
all other School-related expenses approved in the budget, however, if any total School Expenses are, as reasonably known, going to be incurred at a variance of two percent (2%) or more above the budgeted amount, they must be pre-approved in writing by K12.

## **5. TERM OF AGREEMENT.**

5.1. **Term.** This Agreement will become effective upon the date of full execution by the Parties, for commencement on July 1, 2014 ("**Effective Date**") and will terminate on June 30, 2024 (the "**Term**") unless sooner terminated under the Section 11 of this Agreement. In the event the Charter Authorizer and/or the Charter changes, this Agreement shall automatically survive and be performed in accordance with the new Charter, these terms and conditions and Applicable Law, unless this Agreement is otherwise terminated in accordance with Section 11 herein.

5.2. **Renewal.** Following the Initial Term, this Agreement will automatically extend for successive additional periods of seven (7) year(s) (each such period a "**Renewal Term**"), unless (a) either Party provides the other with written notice of non-renewal at least two (2) years before the expiration of the then-current Initial Term or Renewal Term (as applicable); or (b) the Agreement is sooner terminated under Section 11. The Initial Term and any Renewal Terms will be referred to collectively as the "**Term**".

## **6. PRICING, FEES AND PAYMENT.**

6.1. **Educational Product Prices.** In consideration of the value of the Educational Products provided by K12 (including teaching support) as specified in detail in Exhibit A, the Board will pay K12 and its Affiliates for the Educational Products based on the then current national K12 Managed Virtual School Pricing for similarly situated, similarly branded professional-technical schools ("**Product Price List**"), to include third party product pricing as applicable. Notwithstanding anything in this Agreement to the contrary, for each Educational Product set forth in the Product Price List, the School agrees that the fees for such Educational Products will be subject to change, no more than once per calendar year, at K12's reasonable discretion and communicated to the Board during the annual budget process. Payment for the Educational Products shall be made in accordance with Section 8 below.

6.2. **Administrative Services Fee.** In consideration of the value of the Administrative Services provided by K12, as specified in detail in Exhibit A, the Board agrees to pay K12 and its Affiliates fifteen percent (15%) of the School Revenues (the "**Administrative Services Fee**") for each Fiscal Year of the Agreement. Payment for the Administrative Services Fee shall be made in accordance with Section 8 below.

6.3. Technology Services Fee. In consideration of the value of the Technology Services provided by K12 as specified in detail in Exhibit A, the Board agrees to pay K12 and its Affiliates seven percent (7%) of the School Revenues for the Technology Services (the “**Technology Services Fee**”) for the each Fiscal Year of the Agreement. Payment for the Technology Service Fee shall be made in accordance with Section 8 below.

6.4. Priority of Payments. Payments from the School Revenues shall be paid by the Board in the following order of priority: (1) Teacher salaries, including applicable payroll taxes, (2) School Expenses identified in Section 4.8 above, (3) Advances made by K12, (4) fees for Educational Products, (5) Administrative and Technology Services Fees payable to K12 and its Affiliates, including any fees for administrative or technology products and services purchased by the Board in addition to those enumerated in Exhibit A, and (6) Balanced Budget Credits, if any.

6.5. Business Judgment. The Board hereby agrees, in the exercise of its business judgment, that the economic arrangement included herein, including the Balanced Budget Credits and fees payable to K12 hereunder are reasonable, necessary, and fair compensation for the Educational Products and Services provided for the Term, particularly in light of the Agreement’s provision requiring K12 to provide assurance of the School’s financial solvency to the extent set forth in Section 4 of this Agreement.

## **7. PERSONNEL SUPPORTING THE SCHOOL.**

7.1. K12 Staff Assigned to the School. K12 will employ and determine the employment terms for administrative personnel who may include a Head of School (“**HOS**”) or equivalent administrative staff position, and such other staff, including teaching staff, as K12 deems necessary to deliver the Educational Products and Services described in this Agreement. The responsibilities and performance of K12’s staff will be consistent with Applicable Law. Such administrative personnel may be assigned to the School on a full- or part-time basis. K12 will have the sole authority to select, supervise, compensate and determine compensation, evaluate, transfer, promote, discipline and dismiss its staff members.

7.2. Complaints About K12 Staff. If the Board is dissatisfied or concerned about the job performance of a K12 staff member assigned to the School, the Board shall discuss the matter first with the HOS or its equivalent. In the event the Board has a concern or is not satisfied with the HOS’ job performance, the Board will provide K12 official written notice pursuant to this Agreement and set forth the specific issues and requested action with supporting documentation and K12 shall review such request and respond in a timely manner.

7.3. Teachers and School-Student Support Staff. The Board shall, within budgetary limitations, employ and be ultimately responsible for the Teachers and “**Student Support Staff**” (defined below) for the School, except in limited circumstances where K12 deems it reasonably necessary to employ such staff to deliver the Educational Products and Services hereunder to the extent allowed by Applicable Law. K12, however, will take the lead to help recruit, set the terms of employment, hire, supervise, discipline and terminate Teachers and Student Support Staff and such activities will be performed in consultation with the Board (or its designees). In accordance with Section 4.8, the Board will be responsible for all costs associated with the employment of such staff (including, without limitation, salaries, benefits, travel and other School-related expenses). “**Student Support Staff**” is defined as any position that provides direct services to the School and its Students which may include, for example, a Nurse and a Guidance Counselor or similar positions. For the avoidance of doubt, any HOS (Principal) for the School shall be an employee of K12 or its Affiliates. To the extent required by law, all Student Support Staff personnel shall be State licensed or possess the necessary credentials, qualifications, background and conduct checks as required by Applicable Law and/or the Charter.

7.4. Complaints About School-Student Support Staff. If K12 is dissatisfied or concerned about the job performance of any of the Board's staff, including Teachers or Student Support Staff assigned to the School, the Board shall delegate to K12's HOS (or its designee), the authority to discipline such staff member and as necessary or required, K12 shall promptly notify the Board of such actions. In some cases, K12 may recommend termination or elimination of specific positions to the Board for prompt action by the Board (who maintains the exclusive right to hire and terminate its employees), approval of which will not be unreasonably withheld.

7.5. Determination of Employer Entity. The Parties anticipate that, except as otherwise required by Applicable Law or to the extent necessary for the Board to maintain its status as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended ("IRC"), the HOS and other administrative personnel will be provided by K12. In the event that K12 determines that it is necessary or desirable that any of the K12 staff members providing services under this Agreement become an employee of the Board, K12 shall notify the Board of such determination in writing and upon the written agreement of the Board, such K12 staff member shall become an employee of the Board; such change shall become effective on the date specified by K12 in such notice. In the event that at any time or from time to time K12 determines that it is necessary or desirable that any of the Board's staff members to become an employee of K12, K12 shall notify the Board of such determination in writing and upon the written agreement of the Board such School employee shall become an employee of K12; such change shall become effective on the date specified by K12 in such notice.

7.6. Background Investigations on K12 Employees. As part of its Administrative Services, K12 will be responsible for arranging for criminal background checks to be conducted on its employees assigned to the School to the extent required by Applicable Law and will maintain documentary evidence that it has done so. Upon the Board's request, K12 will provide the Board with documentary evidence of its compliance, subject to any confidentiality requirements imposed by Applicable Law.

7.7. Background Investigations on School Employees. As part of its Administrative Services, K12 will help ensure that the Board fulfills its responsibilities to: a) conduct criminal background checks required by Applicable Law; and b) maintain evidence that it has performed such actions.

## **8. PAYMENT OF PRODUCT AND SERVICE FEES.**

8.1. Invoicing and Payment of Fees. K12 will submit to the Board, a detailed invoice for the Educational Products and Services delivered for the prior calendar month. For any fees calculated as a percentage of School Revenue, such fees will be calculated based upon the approved budget or subsequent updates in effect for the applicable calendar month and will be billed for services rendered on a monthly basis during the Term, even though School Revenue may be received by the Board beyond the expiration of the Term.

8.2. Location of Payment. All payments made hereunder will be made to K12 (or its designated Affiliate) and at the address set forth above, or such other address provided by K12 in writing.

8.3. Payment Date and Interest. All invoices payable to K12 and its Affiliates are due within thirty (30) days from the invoice date. Advances will be due thirty (30) days from the date an Advance is invoiced by K12. The Board agrees to pay interest on overdue Advances at a rate of prime plus two percent (2%), not to exceed fifteen percent (15%) per annum, or the maximum amount allowed by Applicable Law. All other amounts past due and owing by the Board to K12 will accrue interest at one and one-quarter percent (1¼ %) per month but not to exceed fifteen percent (15%) per annum, or the maximum amount allowed by Applicable Law, on each overdue amount. The Board shall not intentionally withhold payments due to K12. In the event the Board intentionally withholds payments due hereunder, no Balanced Budget Credits shall be issued by K12 to cover any late fees due hereunder.

8.4. Taxes. Except as otherwise stated herein, K12 is not responsible for any taxes or third-party charges related to the activities, or the ownership or operation of the School. Without limiting the foregoing, the Board agrees to pay any sales, use, property, excise, value-added, or other similar taxes, if any, imposed by Applicable Law, except for taxes based on K12's income. For the avoidance of doubt, all fees for the Educational Products and Services set forth herein are exclusive of such taxes.

8.5. Year-End Adjustments. Within thirty (30) days after completion of the School's audited financial statements for each Fiscal Year, K12 will prepare and submit to the Board a statement of the total amounts of the Administrative Services and Technology Services Fees or other Service fees set forth in this Agreement (collectively "**Service Fees**") payable with respect to such Fiscal Year, including the calculation of such amounts (which calculations will be based upon the School's audited financial statements for such Fiscal Year). If the total amount of the Service Fees calculated in accordance with the foregoing sentence exceeds the total amount invoiced by K12 pursuant to Section 8.1, then the excess amount will be payable to K12; if such total amount is less than the total amount invoiced by K12 pursuant to Section 8.1, then the shortfall amount will be payable to the Board. Payment of any excess Service Fees payable to K12 will be due thirty (30) days after the submission of the statement thereof. Reimbursement to the Board of any overpayment of Service Fees will be due thirty (30) days after the submission of the statement thereof, provided, that K12 may elect in its discretion to set-off the amount any such overpayment against any outstanding obligations of the School to K12 or any Affiliate of K12.

8.6. Payment Out of School Funds Managed by K12 Only. K12 is authorized by the Board to pay itself the fees set forth in this Agreement out of the Board's funds managed by K12, if any, subject to the School's applicable expenditure authorization policies approved by the Board.

8.7. Disputed Amounts. If the Board disputes any charge invoiced by K12 the Board (or its authorized designee) must submit a good faith claim in writing regarding the disputed amount with documentation reasonably necessary to support the claim no later than ninety (90) days beyond the Fiscal Year audit regarding the disputed amount. If the Board (or its authorized designee) does not submit a documented claim to K12 within such time frame regarding the disputed amount, then notwithstanding anything in this Agreement to the contrary, the Board waives all rights to dispute or otherwise claim that it does not owe or to seek any credits or reimbursements thereafter regarding such disputed amount.

## **9. RELATIONSHIP OF THE PARTIES.**

9.1. Status of the Parties. K12 is not a division or any part of the Board. The Board is a body corporate organized under State law which independently governs the School, and is not a division or a part of K12. The relationship between the Parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement. The Parties are independent contractors. Nothing herein will be construed to create a partnership or joint venture by or between the Board and K12. Neither Party will be the agent of another except to the extent otherwise specifically provided by this Agreement where K12 is authorized to take action on behalf of the Board. The Board and its employees will in no case represent to third parties, and will whenever needed disclaim to such parties, any ability to bind K12 to any duty imposed by contract, other than this Agreement or as otherwise agreed in writing by K12.

9.2. Relationship Between the Board and the School. The Idaho College and Career Readiness Academy is an Idaho public charter school authorized by the Charter Authorizer and governed by its Board. Although certain provisions in this Agreement refer to the School and may grant rights or impose obligations on the School, it is the Board that has the final legal responsibility under this Agreement to K12 and the Charter Authorizer. Therefore, it is the responsibility of the Board to ensure that the School fulfills all its obligations under this Agreement.

9.3. No Related Parties or Common Control; Certain Permitted Participations. Except as contemplated by this Agreement or any agreement between the Board and any Affiliate with respect to the provision of services described hereunder, K12 will not have any role or relationship with the Board that, in effect, substantially limits the Board's ability to exercise its rights, including termination rights, under this Agreement. None of the Board's voting power shall be vested in K12 or its directors, trustees, members, managers, officers, Shareholders, or employees, and none of the voting power of K12's Board of Directors or Shareholders of K12 shall be vested in the Board's or its Charter Authorizer's directors, trustees, members, managers, officers, shareholders, or employees. The Board agrees to take such action as is necessary to permit employees or agents of K12 to have a nonvoting presence at the Board meetings, including executive sessions, during the Term of this Agreement, provided that, the inclusion of employees or agents of K12 in executive sessions will be at Board's discretion and is not inconsistent with Applicable Law.

**10. OTHER SCHOOLS.** The Parties acknowledge that K12 and its Affiliates will have the right to render similar services to other persons or entities including other public or private schools or institutions within and outside of the State ("**Other Schools**").

**11. TERMINATION.** Events of termination are as follows:

11.1. Termination for Cause. The Parties shall use good faith efforts to resolve all disputes relating to this Agreement as set forth in Section 21; however, either Party may terminate this Agreement at any time with ninety (90) days' prior written notice to the other Party for cause. Termination for cause shall mean the breach of any material term or failure to fulfill any material condition, term, provision, representation, warranty, covenant or obligation contained in this Agreement, and a failure to cure such a breach within forty-five (45) days after receiving written notification from the terminating Party. Upon termination of this Agreement, the non-breaching Party shall be entitled to seek any remedies for which it would be entitled at law or in equity. Additionally, in the event the Board does not cure the material breach of this Agreement as set forth in this provision K12's, in its sole discretion, may suspend the issuance of Balanced Budget Credits detailed in Section 4 in lieu of terminating this Agreement.

11.2. Termination for Material Reduction in School Revenue. K12 may terminate this Agreement in the event there is a material reduction in School Revenue below the amount for the prior Fiscal Year or such reduction will materially increase the financial risk to K12 in providing the Educational Products and Services. K12 shall notify the Board of its intent to terminate under this provision and provide the Board thirty (30) days' notice so that the Parties may work together to find alternative funding or other means to offset the reduction in School Revenue. If the Parties are unable to find additional revenue or other means in the thirty (30) day time-frame, K12 may terminate this Agreement and such termination shall be effective: (i) immediately upon written notice by K12 to the Board, if notice or publication of such reduction is given at least ninety days (90) prior to the commencement of the school year to which such reduction is applicable; or (ii) at the end of the school year upon written notice to the Board if notice or publication of such reduction is given during the school year to which such reduction is applicable. In the event K12 elects not to terminate this Agreement in accordance with this provision, K12 may reasonably revise and determine the level of products and services to be provided in accordance with Applicable Law, considering any such funding reduction.

11.3. Termination Upon Loss of Charter or Judicial Ruling. This Agreement may be terminated immediately by either Party upon written notice to the other Party: (i) if the Charter Authorizer (or a successor governing body duly appointed by the State Legislature) provides written notice that it has terminated, revoked, or non-renewed the Charter or (ii) upon a final adverse determination by the highest court in the State that the School is no longer valid under law or its ruling has the effect of terminating the School.

11.4. Termination for Failure to Approve Budget. In the event that the Board does not approve a budget or reasonable modifications to a budget within thirty (30) days following the submission of a proposal thereof by K12, K12 may terminate this Agreement effective at the end of the then-current school year in which the budget or reasonable modification is not approved, or if the lack of approval is for an upcoming school year that has not commenced, K12 may terminate this Agreement upon written notice prior to the commencement of the upcoming school year.

11.5. Termination in the Event of Certain Changes in the Charter or School Policies. K12 may terminate this Agreement effective immediately upon written notice to the School in the event that the Charter is amended or the Board or the Charter Authorizer adopts or amends a policy, in each case without the prior written approval of K12, and the effect of such amendment or policy could reasonably be determined to require K12 to increase materially the level of services (or other obligations) required to be provided hereunder or to increase materially the financial risk to K12 arising from its performance of its obligations hereunder, thus rendering K12's performance economically unviable as determined by K12. In the event the Board or Charter Authorizer adopts such an adverse policy in the middle of a school year, K12 agrees to use its best efforts to complete the then current school year without waiving any rights and remedies hereunder.

11.6. Change in Applicable Law. If any change in Applicable Law enacted after the date hereof could reasonably be expected to have a material adverse effect on the ability of any Party to carry out its obligations under this Agreement, such Party, upon written notice to the other Party (which notice may be given at any time following enactment of such change in Applicable Law, whether or not such change is effective on the date of such enactment or is effective at a later date), may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith. If the Parties are unable to renegotiate and agree upon revised terms within one hundred twenty (120) days after such notice of renegotiation, then this Agreement will be terminated effective at the end of the school year in which such notice was given, unless earlier termination is necessary to protect the health, welfare, or safety of students.

## **12. TERMINATION EFFECTS.** Effects of termination are as follows:

12.1. Outstanding Payments Due. Except as otherwise agreed by the Parties in writing, termination does not relieve the Board of any obligations for payments outstanding to K12 as of the date of termination or other obligations that continue upon termination as provided in this Agreement.

12.2. Return of Equipment. Return of K12-provided equipment is mandatory. As such, all K12 assets including, but not limited to, computers, printers, related equipment and non-consumable materials that may be provided by or on behalf of K12 are to be returned upon the expiration or termination of this Agreement, in accordance with the policies governing the use and reclamation of such materials. Nonetheless, any damages to such equipment and materials or unreturned equipment and materials will be invoiced to the School at the Replacement Value. The Replacement Value is the cost to replace the equipment anew, without regard to depreciation. Shipping costs, if applicable, shall be paid by the Board to K12.

12.3. Balanced Budget Credits Outstanding. In the event this Agreement expires or is terminated pursuant to Section 11, to the extent there are outstanding Balanced Budget Credits remaining, the Board shall fully exhaust its Net Assets to pay off the outstanding balance of Balanced Budget Credits, provided however, if any Balanced Budget Credits remain after the Net Assets are fully exhausted, the remaining Balanced Budget Credits shall be fully forgiven.

12.4. Fees Owed. In the event this Agreement terminates as provided for herein, or it expires pursuant to its terms, and unless otherwise agreed by the Parties in writing, the Board shall owe for all products and services rendered to include the Administrative and Technology Services Fees, Educational Products and Services in accordance with this Agreement for the period up to and including then current Fiscal Year of the



termination or expiration. All such fees will be determined on an accrual basis per the Board's audited financial statement up to and including the year in which this Agreement terminates or expires.

12.5. Loss of Value. The Board acknowledges and agrees that the subject matter of this Agreement is unique and that it would not be possible for K12 to resell the Educational Products or the Services that are the subject of this Agreement. In view of the difficulty in estimating K12's damages incurred, the Parties agree to the extent not precluded by Applicable Law, for the purposes hereof that K12's damages (in addition to those entitled under law or equity) shall be fifteen percent (15%) of the School Revenues in the Fiscal Year in which the Agreement is being terminated, due within thirty (30) days following date of such termination, if the Agreement is terminated as set forth in Section 11 because of the Board's actions or omissions unless said action or omission is in response to state or federal law or direction which is not caused by the negligent action or omission or the willful misconduct of the Board, and except as action is taken by the School to terminate this Agreement in accordance with Section 11.1.

### **13. INTELLECTUAL PROPERTY RIGHTS.**

13.1. Proprietary Materials. The Board acknowledges and agrees that K12 has the right to license (or sublicense as the case may be) certain intellectual property rights and interests in and to K12 and its Affiliate's (and respective licensor's) intellectual property, including but not limited to curriculum, trade secrets, know-how, proprietary data, documents and written materials in any format, artwork, graphics, charts, software, licenses, marketing materials, School Charter application (to the extent prepared by or on behalf of K12), presentations and related petitions and documents, School logo, website design and domain numbers and names including those registered by K12 and/or for K12, its Affiliates and the Board and other materials created for the School, and curricular materials and any and all customizations and derivative works thereof (collectively, "**K12 Proprietary Materials**"). The Board further acknowledges and agrees that: (i) it has no intellectual property interest or claims in the K12 Proprietary Materials or any customizations and derivative works thereof or any other materials created for use in connection with the K12 Proprietary Materials, (ii) it has no right to use the K12 Proprietary Materials unless expressly agreed to herein by K12, and (iii) K12 and its Affiliates (and respective licensors as the case may be) own all intellectual property rights in and to the K12 Proprietary Materials.

13.2. Sub-License of K12 Proprietary Materials. K12 hereby grants the Board a royalty-free, non-exclusive, non-transferable sub-license, during the Term and for a period of thirty (30) days following the expiration or earlier termination of this Agreement, to use and distribute the K12 Proprietary Materials solely in connection with the School operations as contemplated in this Agreement. Notwithstanding the foregoing, the Board shall not: (i) modify or otherwise create, or permit third parties to modify or otherwise create, derivative works from or using the K12 Proprietary Materials, (ii) sublicense any rights under this Agreement without the advance written approval of K12, which approval may be withheld by K12 in its sole discretion, or (iii) frame any website owned by K12. Upon the termination of such license, the Board will cease use of the K12 Proprietary Materials, and will return all K12 Proprietary Materials to K12 promptly, including those in the possession of the Board, any Teachers and Board employees participating in the School, and students participating in the School.

13.3. Rights of K12 in K12 Proprietary Marks. The Board acknowledges and agrees that, as between the Board and K12, K12 (and its applicable Affiliates) owns and shall maintain all intellectual property rights, title and interest, including any goodwill, in and to K12 and its Affiliate's trademarks, service marks, trade dress and trade names including the School name(s), School logo(s) and related marks and trade dress and the K12 mark, K12 (& Design) and as may be featured in Exhibit B (collectively, "**K12 Proprietary Marks**"). The Board further acknowledges and agrees that it has no intellectual property interest or claims in the K12 Proprietary Marks any customizations and derivative works thereof or any other materials created for use in connection with the K12 Proprietary Marks and has no right to use the K12 Proprietary Marks



except in the limited capacity as set forth in Section 13.4 or unless expressly agreed to in writing in advance by K12, which agreement K12 may withhold in its sole discretion.

13.4. Use of K12 Proprietary Marks. During the Term and for a period of thirty (30) days following the expiration or earlier termination of this Agreement, K12 hereby grants the Board the non-exclusive, non-transferable right to use those K12 Proprietary Marks relating to the School solely in connection with the operations of School as contemplated in this Agreement. Notwithstanding the foregoing, the Board will not be permitted to sublicense any rights under this Agreement without the advance written approval of K12, which approval may be withheld by K12 in its sole discretion. Upon the termination of the rights to use the K12 Proprietary Marks, the Board will immediately cease use of the K12 Proprietary Marks.

13.5. Limitations on Use of K12 Proprietary Materials and K12 Proprietary Marks. The Board will use the K12 Proprietary Materials and the K12 Proprietary Marks only as provided in this Agreement. Notwithstanding the foregoing rights, the Board agrees not to alter, copy, disassemble, reverse engineer or modify the K12 Proprietary Materials and/or the K12 Proprietary Marks in any way, nor will the Board act or permit action in any way that would impair the rights of K12 in them. The Board's authorized use will not create any right, title, or interest in or to the K12 Proprietary Materials or the K12 Proprietary Marks any customizations and derivative works thereof or any other materials created for use in connection with the foregoing. K12 will have the right to monitor the quality of the Board's use of the K12 Proprietary Materials and the K12 Proprietary Marks, and the Board will notify K12 promptly in writing of any known infringement or unauthorized use of such property in which the Board becomes aware. K12 and the Board agree to reasonably assist each other in pursuing measures to prevent further use of K12's intellectual property by said unauthorized party. Any references to or use of the K12 Proprietary Materials or the K12 Proprietary Marks by the Board will contain the appropriate trademark, copyright or other legal notice provided from time to time by K12 and will be subject to additional trademark usage standards developed by K12 and modified from time to time by K12 with advance notice in writing.

13.6. Intellectual Property Assignment. To the extent the Board has established any rights, title or interest in the K12 Proprietary Materials or K12 Proprietary Marks, the Board hereby assigns and transfers to K12, its successors and assigns, all of the Board's right, title and interest in and to such intellectual property, together with the goodwill of the business symbolized by any of the K12 Proprietary Marks and the right to sue and collect damages and/or profits for past infringements of the such marks.

13.7. Publicity/Press Release. K12 may use the School's name and make School references in a listing of new, representative or continuing schools in press releases, on its website, or in other marketing materials or dissemination of information. The Parties may agree to cooperate in joint marketing activities or in issuing a joint press release at the request of either of them, subject to prior written consent and approval of the form and substance of both the Board and K12.

## **14. LIMITS ON LIABILITY AND DAMAGES.**

14.1. LIMIT OF LIABILITY. K12'S MAXIMUM LIABILITY AND OBLIGATION TO THE BOARD AND THE BOARD'S EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE RECOVERY OF ACTUAL DIRECT DAMAGES UP TO THE AMOUNT OF THE AMOUNT OF FEES PAID UNDER THIS AGREEMENT IN THE PRIOR SIX (6) MONTHS.

14.2. CONSEQUENTIAL DAMAGES. EXCEPT IN CONNECTION WITH ITS INDEMNITY OBLIGATIONS EXPRESSLY SET FORTH HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES,

INCLUDING, WITHOUT LIMITATION, ANY LOST SAVINGS, LOST PROFITS, LOST SALES, BUSINESS INTERRUPTIONS, DELAY DAMAGES, DAMAGES FOR THIRD PARTY CLAIMS, LOST OR DESTROYED DATA, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER OCCASIONAL SHORT-TERM INTERRUPTIONS OF SERVICE OR PRODUCTS, WHICH ARE NOT UNREASONABLE UNDER COMPARABLE INDUSTRY STANDARDS NOR INTERRUPTIONS OF SERVICE OR PRODUCTS RESULTING FROM EVENTS OR CIRCUMSTANCES BEYOND K12'S REASONABLE CONTROL SHALL BE CAUSE FOR ANY LIABILITY OR CLAIM AGAINST K12 HEREUNDER, NOR SHALL ANY SUCH OCCASION RENDER K12 IN BREACH OF THIS AGREEMENT.

**15. ASSIGNMENT.** Except as otherwise provided in this Agreement, neither Party may assign or delegate any rights or obligations under this Agreement without the prior written consent of the other Party, provided, however, K12 may assign all of its rights and obligations under this Agreement to any Affiliate, acquiror, or successor in interest to the extent not otherwise expressly prohibited by Applicable Law. K12 may delegate the performance of its duties hereunder to any person, contractor or entity, but K12 shall be responsible for the performance, in accordance with the terms of this Agreement, of any services performed by its delegees.

**16. INDEMNITY.** The Party charged with indemnifying and/or defending under this provision (the "**Indemnifying Party**") shall conduct the defense in any such third party action arising as described herein and the Party claiming the benefits of this Section 16 (the "**Indemnified Party**") promises to cooperate with such defense, provided the Indemnifying Party reasonably consults with the Indemnified Party on any settlement (subject to the consent requirement in the last sentence of this paragraph). Notwithstanding the foregoing, the Indemnified Party may, at its own expense, assist in such defense if it so chooses, provided that the Indemnifying Party shall be entitled to control such defense and all negotiations relative to the settlement of any such claim. Any settlement that would admit any liability on the part of the Indemnified Party shall require such Indemnified Party's prior written consent.

**16.1. Indemnification of the Board.** K12 will indemnify, defend, and save and hold the Board and all of its employees, officers, directors, subcontractors and agents (collectively "**Board Indemnitees**") harmless against any and all claims, demands, suits, or other forms of liability including without limitation costs and reasonable attorneys' fees (each a "**Claim**") that may arise out of, or by reason of, any (a) breach of any expressed representation or warranty, covenant or agreement made or to be performed by K12 pursuant to this Agreement, (b) noncompliance by K12 with any Applicable Law in connection with the School's operations, but excluding any Claims that arise from conduct undertaken in accordance with the Charter Authorizer's, the Board's or the Board Indemnitees' instructions, procedures or written policies, except where such instructions arise from and are in accordance with explicit recommendations formally provided by or on behalf of K12, and (c) act or omission of K12 or K12 Indemnitees (defined below) in connection with School's operations that results in injury, death, or loss to person or property except to the extent any Claims arise out of actions or omissions of the Board or Board Indemnitees.

**16.2. Indemnification of K12.** The Board will indemnify, defend, and save and hold K12 and its Affiliates and all of their respective employees, officers, directors, subcontractors and agents, their respective successors and permitted assigns (collectively "**K12 Indemnitees**"), harmless against any and all Claims that may arise out of, or by reason of, any (a) breach of any expressed representation or warranty, covenant or agreement made or to be performed by the School pursuant to this Agreement, (b) noncompliance by or on behalf of the Board with any Applicable Law in connection with School's operations, (c) act or omission of the Board or any Board Indemnitees in connection with the School's operations that results in injury, death, or loss to person or property except to the extent any Claims arise out of actions or omissions of K12 or K12 Indemnitees.

16.3. Indemnification Procedures.

16.3.1. Notice Requirement. Each Indemnified Party must give written notice to the other of the existence of a Claim promptly after such Indemnified Party first receives notice of the existence of the potential Claim, provided that such Indemnified Party will not be foreclosed from seeking indemnification hereunder by any failure to provide such prompt notice except and only to the extent the Indemnified Party actually incurs an incremental expense or otherwise has been materially prejudiced as a result of such delay.

16.3.2. Defense and Settlement of Claims. Each Indemnified Party seeking indemnification hereunder will permit the Indemnifying Party (at the expense of the Indemnifying Party) to assume the defense of such Claim, provided, that (i) counsel for the Indemnifying Party who will conduct the defense of such Claim must be reasonably satisfactory to such Indemnified Party and (ii) such Indemnified Party may participate in such defense at such Indemnified Party's expense. Except with the prior written consent of the Indemnified Party seeking indemnification hereunder, the Indemnifying Party, in the defense of any Claim, will not consent to entry of any judgment or enter into any settlement. In the event that any Indemnified Party seeking indemnification hereunder has been advised by counsel for the Indemnifying Party that such Indemnified Party may have available to it one or more defenses or counterclaims that are different from or in addition to one or more of those that may be available to the Indemnifying Party in respect of such Claim and, in such counsel's reasonable opinion, such counsel could not assert such defenses or counterclaims without creating a conflict of interest, such Indemnified Party will have the right to take over and assume control over the defense of such claim at the sole cost of the Indemnifying Party, provided that if such Indemnified Party does so take over and assume control, such Indemnified Party will not settle such claim without the written consent of the Indemnifying Party. In the event that the Indemnifying Party does not accept the defense of any matter as above provided, the Indemnified Party seeking indemnification hereunder will have the right to defend against such Claim, provided that such Indemnified Party will not settle such Claim without the written consent of the Indemnifying Party. In any event, any Indemnified Party seeking indemnification hereunder and the Indemnifying Party will cooperate in the defense of any claim subject to this Section entitled "Indemnification".

**17. INSURANCE.**

17.1. Liability Coverage. Each Party will initiate and maintain for a period of two (2) years after the expiration or termination of this Agreement, at its own expense, comprehensive professional and general liability insurance, including product liability, contractual liability (applicable to the indemnification obligations of the said Party set forth herein), and advertising injury insurance, with reputable and financially secure insurance carriers to cover the operations of the said Party, for not less than \$5,000,000 (combined single limit for bodily injury and property damage per occurrence and in the aggregate). Such insurance required by the Board (excluding D&O and E&O insurance) will include K12 and its Affiliates and their respective directors, officers, employees, contractors and agents as additional insureds within thirty (30) days after the date of this Agreement. Such insurance required by K12 (excluding D & O and E & O insurance) will include the Board and its respective directors, officers, employees, contractors and agents as additional insureds within thirty (30) days after the date of this Agreement. Each Party's insurance will be written to cover claims incurred, discovered, manifested, or made during or after the Term.

17.2. Evidence of Insurance. Each Party will furnish a certificate of insurance evidencing such coverage to the other Party within five (5) days of written request by that Party. The Parties will endeavor to provide thirty (30) days' advance written notice to the other Party of any cancellation or material adverse change to such insurance.

17.3. Insurance Coverage No Limitation on K12's Rights. The Board's insurance will be primary

coverage and any insurance K12 may purchase shall be excess and non-contributory for all claims directly related to actions or omissions of the Board. K12's insurance will be primary coverage and any insurance the Board may purchase shall be excess and non-contributory for all claims directly related to actions or omissions of K12. The minimum amounts of insurance coverage required herein will not be construed to impose any limitation on a Party's indemnification obligations expressly set forth herein.

17.4. Workers' Compensation Insurance. Both Parties will initiate and maintain workers' compensation insurance for its respective employees working at or for the School as required by Applicable Law.

17.5. Cooperation. All Parties will comply with any information or reporting requirements required by the other Party's insurer(s), to the extent reasonably practicable.

## **18. REPRESENTATIONS AND WARRANTIES.**

18.1. Representations and Warranties of K12. K12 hereby represents and warrants to the Board:

18.1.1. Organization and Good Standing. K12 is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware and is a wholly owned subsidiary of K12 Inc.

18.1.2. Power and Authority; Authorization; Binding and Enforceable Agreement. K12 has full limited liability company power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized and executed by K12 and constitutes the valid and legally binding obligation of K12, enforceable against K12 in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting creditors' rights and by general principles of equity.

18.1.3. Professional Services. K12 warrants that the Services will be performed in a professional and workmanlike manner in accordance with commercially reasonable industry standards, and deliverables, if any, will materially comply with the agreed upon functional specification set forth in the applicable Exhibit A, if used in a manner consistent with the conditions for which it was designed. THE FOREGOING WARRANTIES MADE BY K12 IN THIS SECTION (AND ITS SUBSECTIONS) ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND K12 AND ITS AFFILIATES MAKE NO GUARANTEES AS TO THE RESULTS OR ACHIEVEMENTS OF THE STUDENTS. WITHOUT LIMITING THE FOREGOING, K12 MAKES NO GUARANTEES AND SHALL NOT BE LIABLE FOR NON-ACCESSIBILITY OF THE K12 WEBSITE, END-USER CONNECTION SPEED OR CONNECTIVITY PROBLEMS.

18.1.4. Non-Conformities. The foregoing warranties shall not apply to defects or non-conformities: (a) resulting from software, hardware or interfacing not supplied by K12, its Affiliates or authorized contractors; (b) resulting from inadequate or improper maintenance, modification, storage, access or usage by the Board, its employees or Students. In addition, the foregoing warranty shall not apply to requirements not expressly included in this Agreement.

18.2. Representations and Warranties of the Board. The Board hereby represents and warrants to K12:

18.2.1. Organization and Good Standing. The Board is a body corporate duly organized, validly existing, and in good standing under the laws of the State.

18.2.2. Power and Authority; Authorization; Binding and Enforceable Agreement. The Board has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized and executed by the Board and constitutes the valid and legally binding obligation of the Board, enforceable against it in accordance with its terms and conditions, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting creditors' rights and by general principles of equity.

18.2.3. Authority Under Applicable Law. The Board has the authority under Applicable Law to: (i) contract with an educational management company to obtain the Educational Products and Services and all other programs and services under this Agreement; (ii) to execute, deliver, and perform this Agreement; and (iii) to incur the obligations provided for under this Agreement.

18.2.4. Non-Contravention. The execution, delivery and performance of this Agreement by the Board will not constitute, under any other agreement, note, lease, or other instrument to which the Board is a party or by which it or any of its assets is bound, any violation, breach or event of default by the Board or any other party thereto.

18.2.5. Provision of Authority to K12. The Board has provided and will provide K12 with all authority and power necessary and proper for K12 to undertake its responsibilities, duties, and obligations provided for in this Agreement.

18.2.6. Charter Enforceability and Renewal. During the Term, the Charter shall be in full force and effect and shall constitute a valid and binding obligation of each party thereto, enforceable in accordance with its terms. The Board shall deliver a true and complete copy of the Charter (and all Board-Charter Authorizer agreement(s), if any) to K12. The Board will use best efforts to maintain the Charter in full force and effect during the Term and to renew the Charter upon its expiration and seek any performance certificate's required for renewal in accordance with State law, with assistance from K12 within a reasonable time before any Charter expiration.

18.2.7. Certain Provisions of the Charter. The Charter will, when approved, authorize the Board to operate the School and receive the federal, state and local education funds identified in this Agreement, as well as other revenues, and otherwise vests the Board with all powers necessary and desirable for carrying out the School program and other activities contemplated in this Agreement.

**19. OFFICIAL NOTICES.** All notices and other communications required by the terms of this Agreement will be in writing and sent to the Parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees). Notice may be given by: (i) certified or registered mail, postage prepaid, return receipt requested, (ii) reputable overnight carrier, postage prepaid, (iii) facsimile (with confirmation of transmission by sender's facsimile machine), or (iv) personal delivery (with written receipt confirming such delivery). Notice will be deemed to have been given (i) three business days after mailing as described in clauses (i) or (ii) of the foregoing sentence, (ii) on the date of personal delivery or (iii) on the date of transmission of a facsimile if on a business day during normal business hours (or, if not, the next succeeding business day). Electronic mail does not constitute official notice under this Agreement. The addresses of the Parties are:

For K12:

K12

ATTN: EVP of School Management & Services  
2300 Corporate Park Drive, Suite 200  
Herndon, Virginia 20171  
Phone: 703-483-7000  
Fax: 703-483-7330

For Board:

Idaho College and Career Readiness Academy

ATTN: Board President

TBD *Kary Lupatkin*

Idaho

Phone: 208-870-7218

Fax: \_\_\_\_\_

With Copy To K12's Counsel:

K12

ATTN: General Counsel  
2300 Corporate Park Drive, Suite 200  
Herndon, Virginia 20171  
Phone: 703-483-7000  
Fax: 703-483-7496

With Copy To The Board's Counsel:

Yorgason Law Offices, PLLC

ATTN: Chris Yorgason

6200 N. Meeker Place

Boise, Idaho 83713

Phone: (208) 861-3332

Fax: (208) 375-3271

**20. NON-SOLICITATION/NON-HIRING.**

20.1. Non-Solicitation. Each Party agrees that during the Term of this Agreement and for a period ending twelve (12) months after the expiration or termination of this Agreement for any reason, unless mutually agreed by the Parties in writing, one Party will not directly solicit, recruit for employment, offer employment to, offer subcontracting opportunities to, or otherwise employ or use the services of any employees of the other Party or their related companies if that employee or former employee had been assigned to or worked under this Agreement.

20.2. Unpermitted Solicitation/Hiring Remedies. In the event of such unpermitted use or engagement by a Party or its related company of such consultant or employee whether directly or indirectly, in contravention of the clause immediately above, the other Party, at its option, may seek receipt of a sum equivalent to one hundred percent (100%) of that employee's base starting salary with the new employer, or seek any legal or equitable relief against such actions including, but not be limited to, immediate injunctive relief in any court of competent jurisdiction. The Board acknowledges and agrees that no Balanced Budget Credits shall be issued by K12 to cover any penalty, damages or other relief owed by the Board upon a violation of this provision.

20.3. Solicitation Exceptions. For the avoidance of doubt, newspaper, periodical or Internet-based listings of employment opportunities by a Party shall not be considered direct or indirect solicitation of an employee of the other Party; however, such Party shall continue to be precluded from engaging or otherwise using a Party's employee, former employee or consultant as provided for in Section 20.2.

**21. DISPUTE RESOLUTION, VENUE AND GOVERNING LAW.**

21.1. Dispute Resolution Procedure. The Parties agree that they will attempt in good faith to settle any and all disputes arising in connection with this Agreement amicably in the ordinary course of business. If a dispute is not resolved in the ordinary course of business, the aggrieved Party will submit its dispute in writing to the Board's authorized designee and to the Head of School for K12. If the dispute is not resolved after ten (10) calendar days from the receipt of such written notice, then the Parties shall escalate the matter to the Board's authorized executive designee and the Western Regional Vice President for K12. If the dispute is not resolved after five (5) business days thereafter, then the Parties shall escalate the effort to resolve to the Board President and the Executive Vice President of School Management and Services for K12 who shall have five (5) days to seek resolution of the matter. The dispute resolution procedures described herein will

be deemed complete upon the earlier to occur of the following: (i) the Parties mutually agree in writing to discontinue the dispute resolution procedures; and (ii) the relevant dispute is not resolved within the time periods provided under.

21.2. Mediation and Arbitration. If the Parties are unable to resolve the dispute pursuant to the Section immediately above, the Parties agree that they will attempt in good faith to settle any and all disputes arising out of this agreement, including those disputes relating to the enforceability or validity of this Agreement, through a process of mediation in Ada County, Idaho, under the supervision of a mutually agreed upon mediator. In the event that mediation fails to settle any such dispute(s), the Parties hereby agree to proceed to mandatory binding arbitration in Ada County, Idaho, pursuant to the then existing rules of the American Arbitration Association. Except as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties. Judgment upon the award rendered shall be final and binding and may be enforced by any state or federal court with competent jurisdiction over the arbitrated matter. Each Party will bear its own costs and expenses associated with the dispute resolution procedures set forth in this Section except that the Parties will share equally any fees payable to a professional mediator and/or arbitrator.

21.3. Injunctive Relief. Notwithstanding the foregoing dispute resolution procedures, the Board acknowledges that in the event it breaches any provision contained in the Section entitled "Intellectual Property Rights", K12 may suffer irreparable harm in which the full extent of damages may be impossible to ascertain and monetary damages may not be an adequate remedy. As such, in its sole discretion, K12 may seek immediate judicial relief as available in law or equity, and the initiation of any judicial proceeding will suspend the dispute resolution procedures set forth above. K12 will be entitled to enforce this Agreement by an injunction or other equitable relief without the necessity of posting bond or security, in addition to its right to seek monetary damages or any other remedy. The decision by K12 not to seek judicial relief during the above described dispute resolution procedures, will not create any inference regarding the presence or absence of irreparable harm.

21.4. Governing Law. The laws of the State without regard to its conflict of laws provisions will govern this Agreement, its construction, and the determination of any rights, duties, and remedies of the Parties arising out of or relating to this Agreement.

## **22. MISCELLANEOUS.**

### **22.1. Coordination; Exercise of Approval or Consent Rights:**

22.1.1. Coordination and Consultation. The Parties will coordinate the performance of their respective activities hereunder and will establish such procedures as they shall mutually agree to be effective for achieving the purposes of this Agreement and allowing each of them to perform its obligations and exercise its rights under this Agreement. Without limiting the generality of the foregoing, K12's legal counsel and the Board's legal counsel will consult from time to time with respect to the requirements of Applicable Law, the Charter, and the Board's and the Charter Authorizer's policies as they relate to the School's operations.

22.1.2. Approval or Consent Rights. In performing services and its other obligations under this Agreement, or in exercising its rights under this Agreement, including granting or withholding any consents or approvals or making any requests of the other Party, each Party must act reasonably (including as to the timing of its actions) except to the extent that this Agreement provides that it may act as it determines "in its sole judgment" or "its sole discretion," or words to that effect, in the applicable provision. Whenever it is provided in this Agreement that the Parties will or may agree as to a certain matter, each Party will have the right to agree or disagree in its sole discretion following good faith discussions.

22.2. Force Majeure. Notwithstanding any other sections of this Agreement, no Party will be liable for any delay in performance or inability to perform (except for payments due hereunder) due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, labor strike, Internet outage or other acts beyond its reasonable control and unrelated to its fault or negligence.

22.3. Entire Agreement. This Agreement including its attachments hereto constitutes the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all previous and contemporaneous oral and written negotiations, commitments, agreements, warranties, representations and understandings. This Agreement will not be altered, amended, modified, or supplemented except in a written document executed by the Parties.

22.4. Counterparts, Facsimile or PDF Transmissions. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument. Each Party may rely on facsimile or PDF signature pages as if such facsimile or PDF pages were originals.

22.5. License Audit. Upon forty-five (45) days written notice, K12 may audit the School's use of the Educational Products and the Board agrees to cooperate and provide reasonable assistance with such audit. The Board agrees to pay within thirty (30) days of written notification any fees applicable to the School's use of the Educational Products in excess of the license rights granted herein or K12 may revoke the related technical support and license(s).

22.6. Amendment. This Agreement will not be altered, amended, modified, or supplemented except in a written document executed by the Parties.

22.7. Waiver. No waiver of any provision of this Agreement will be effective unless in writing, nor will such waiver constitute a waiver of any other provision of this Agreement, nor will such waiver constitute a continuing waiver unless otherwise expressly stated.

22.8. Interpretation. The Parties hereto acknowledge and agree that the terms and provisions of this Agreement, will be construed fairly as to all Parties hereto and not in favor of or against a Party, regardless of which Party was generally responsible for the preparation of this Agreement.

22.9. Severability. In the event any term, provision or restriction is held to be illegal, invalid or unenforceable in any respect, such finding shall in no way affect the legality, validity or enforceability of all other provisions of this Agreement. To the extent that any of the services to be provided by K12 are found to be overbroad or an invalid delegation of authority by the Board, such services will be construed to be limited to the extent necessary to make the services valid and binding.

22.10. Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

22.11. No Third-Party Rights. This Agreement is made for the sole benefit of the School and K12 and their respective successors and permitted assigns. Except as set forth in Sections 13 and 16 and except for each Affiliate of K12, which shall be a third party beneficiary of this Agreement, nothing in this Agreement will create or be deemed to create a relationship between the Parties to this Agreement, or any of them, and any third person, including a relationship in the nature of a third-party beneficiary or fiduciary.

22.12. Survival of Termination. All representations, warranties, and indemnities expressly made in this Agreement will survive termination of this Agreement.

22.13. Headings and Captions. The headings and captions appearing in this Agreement have been included only for convenience and shall not affect or be taken into account in the interpretation of this Agreement.



\* \* \* \* \*

IN WITNESS WHEREOF the Parties have entered into this Agreement as of the date set forth below.

For and on behalf of

IDAHO COLLEGE AND CAREER  
READINESS ACADEMY

Signed:

Kerry L. Wysocki

Name:

Kerry L. Wysocki

Position:

BOARD PRESIDENT

Date:

6-13-2013

For and on behalf of

K12 VIRTUAL SCHOOLS LLC

Signed:

Ron Packard

Name:

Ron Packard  
CEO & Founder

Position:

Date:

6-25-13

## **EXHIBIT A**

### **Curriculum and Services**

**I. Educational Products, Pupil Recruiting and Product Related Services:** During the Term, K12 and its Affiliates will provide or cause to be provided to the Board for the School, its Students and its personnel the following Educational Products and related services in accordance with the fees published on the Product Price List provided to the Board:

1. Online School: For each school year during the Term, K12 will provide a license for and access to: (i) K12® Curriculum and associated learning management system for grades 9 through 12, in each case in Language Arts, Math, Science and History in addition to applicable electives per the K12 course catalogue; and (ii) any third party curriculum K12 generally offers its managed virtual schools, or procures for the School on behalf of the Board, in each case for such courses required by Applicable Law or as otherwise agreed in writing.

2. Instructional Tools and Materials. Such instructional tools and supplies, including without limitation textbooks and multi-media teaching tools, as K12 determines in its discretion to be necessary to deliver the educational program. K12 shall identify which of such materials are durable shall be reclaimed. These materials will be returned in accordance with Section 12.2.

3. Product Related Services. Pupil Recruitment and related services are included in the cost of the curriculum and materials in the Product Price List:

a. Additional Instructional Support. K12 will make available the necessary instructional support and teachers as mutually agreed upon in accordance with the Product Price List as the School may require for the Educational Products and related offerings.

b. Pupil Recruitment. Recruitment of students in K12's and its Affiliates discretion, including creation, design and preparation of recruitment materials and advertisements; assist with information sessions and other events via mail, e-mail, print, radio, television, and outdoor advertising. Additionally recruitment includes designing school recruitment materials, letterhead, business cards, and logos to create school identity and developing, designing, and maintaining the School website. Recruiting campaigns undertaken may be general awareness or combined campaigns, launched to inform potential students about the School and/or K12 and its Affiliate's programs (including K12 partner schools and programs) in the local area. Information that K12 obtains with respect to leads generated including, but not limited to, statistics, trends and contact information shall be owned by K12 (and its Affiliates).

c. Admissions. Implementation of the School's admissions policy and the Student enrollment process. Communicating with potential students and their families and conducting a random lottery or waitlist if required.

d. Family Services. Plan and arrange School orientation sessions. Assist with the design and implementation of parent orientation sessions. Field and respond to incoming calls, letters, faxes, and e-mails received by K12 about the School, its curriculum, the application/enrollment process, instructional materials, etc. Help facilitate the creation of a parent manual and/or student handbook.

e. School Feedback. Obtain feedback on how to improve the School and curriculum, as appropriate. Create methods for Students, their parents, and teachers to submit comments and suggestions; implement improvements where K12 deems them to be valuable.

f. Computers. K12 may provide or cause to be provided computers, monitors, software and other hardware as K12 determines in its discretion to be necessary to deliver the curriculum and as agreed to in writing by K12 during the budgeting process. All such equipment shall be promptly returned to K12 upon a Student's withdrawal or upon expiration or termination of this Agreement.

g. Student Clubs and Contests. Access to monitored, private, virtual social clubs for Students. Clubs meet monthly and are formed based on Student feedback on their interests. K12 also provides access to participation opportunities in nationwide art, poetry and craft contests. Access to both Student clubs and contests is voluntary and is open to all Students.

h. High School Services: As requested and as available, K12 may offer the following for High School Students:

i. Counseling Tools - Students will have access to various counseling tool(s) to support college, career planning and exploration. These tools and related offerings are described below.

- National and local counseling efforts are buttressed by an online college and career planning platform that helps students organize and plan their futures. This tool helps students keep track of their high school coursework, log extracurricular activities/work hours, and set goals and strategies for achieving those goals. Further, this tool provides values, skills, and interests assessments to help direct students toward professional fields in which they are inclined while also offering a robust college search engine, allowing students to compare colleges across many different facets. Finally, this tool assists students in managing their college applications and searching for scholarships.
- Nationally, K12 offers virtual sessions that aid in helping students recognize the importance of high school performance and post-secondary education planning. K12 exposes students and their parents to a multitude of pathways including attendance at a four-year college or university, community college, vocational/technical college, military, and civilian service opportunities. K12 offers career exploration sessions presenting adults who are professionals across a variety of career clusters. K12 provides college application and admissions sessions covering various types of colleges, components of college applications, and strategies for crafting a competitive application.
- Additionally, during the school year students can take advantage of college and career-focused teacher-led virtual clubs and during the summer K12 offers college and career-focused virtual camps.
- The High School Business Unit provides support for different high school models by working with schools to create offerings and programs that match the needs of various student populations.

**II. Administrative Services:** During the Term, K12 and its Affiliates will provide or cause to be provided to the Board for the School the administrative services (the "Administrative Services") set forth below. K12 will provide the Administrative Services at School's facility and from K12's offices in Herndon, Virginia and elsewhere, as deemed necessary in K12's discretion.

1. Educational Program Consulting. Propose educational goals, curriculum (including securing third party curriculum), methods of pupil assessment, admissions policy, student recruitment policy, school calendar, school day schedule, and age and grade range of pupils to be enrolled in the School. K12's recommendations for the School will be consistent with Applicable Law and the Charter. As mutually agreed, K12 will also assist the Board with obtaining student internships to provide Students with hands on training and career opportunities.
2. Personnel Assistance. Supervision of all personnel providing Educational Products, Administrative Services, and Technology Services. Management of all School employees including discipline and hiring recommendations in accordance with the Agreement, but excluding performing the following: payroll functions or securing of payroll services; negotiation, securing and management of health, retirement and other benefits, each of which shall be Board's (or its non-K12 designee's) responsibility. Provide teacher performance evaluation models to the Board as requested, and recommend and, if approved, carry out effective ways to measure teacher performance in a virtual setting.
3. Insurance. Assist the Board with obtaining general liability insurance or other insurance required with a reputable carrier for the Board in accordance with this Agreement, the Charter, the Lease (if applicable) and Applicable Law.
4. Facility Management. As may be applicable, help identify location of the Board's administrative office facility(ies) for the School and facilities for hands on Student training and internships. Together with Board's attorney and designees, assist with negotiating and approving facility licenses, leases, leasehold improvements and lease amendments entered into in accordance with the Agreement.
5. Business Administration. Administration of all business aspects and day-to-day management of the School. These services shall include:
  - a. Consultation, and services as liaison on behalf of the School with the Charter Authorizer, and other governmental offices and agencies;
  - b. Consultation and advice regarding special education programs, processes, support services and reimbursements;
  - c. Consistent with other provisions of the Agreement, provide School administrative staff as appropriate;
  - d. Work with Board's counsel, if any, on legal matters affecting the School;
  - e. Preparation of forms, operations manuals, handbooks, guides, and policies and procedures as necessary or required by the Charter or Charter Authorizer;
  - f. Consultation with respect to, and monitoring and oversight of, state reporting systems;
  - g. Assist the Board in identifying and applying for grants and other funding opportunities;
  - h. Assist with the administration of federal entitlement programs (e.g., Title I, I.D.E.A.);
  - i. Arrange contracts with school districts, education services centers, and professional service providers for special education, testing and other support services on School's behalf;
  - j. Help establish and implement policies and procedures to maintain proper internal controls;
  - k. Provision of regulatory compliance services, including responses to audits; and
  - l. Provision of such other administrative and consulting services as agreed in writing by the Parties from time to time.
6. Budgeting and Financial Reporting.
  - a. Preparation of a proposed annual budget for the School, including projected revenues, expenses and capital expenditures. The School budget and subsequent modifications shall be adopted in accordance with the process set forth in Section 4 of the body of Agreement.
  - b. As practical and as possible, provide to Board on a periodic basis, but no more frequently than monthly, detailed statements of all revenues received, from whatever source for the School,

and detailed statements of all direct expenditures for services rendered to the School.

c. Provide to the Board all financial reports required under Applicable Law and by the Charter Authorizer including an annual financial report.

d. Subject to any confidentiality obligations imposed on K12 by third parties, provide to the Board such other information either required by the Charter Authorizer to be made available to the Board or the Charter Authorizer as requested, in each case within a reasonable time following such written request therefore, and in all cases consistent with Applicable Law.

Notwithstanding the foregoing, K12 will not be responsible for filing any tax forms for the Board.

7. Financial Management.

a. In accordance with the Agreement and the School's expenditure authorization policy, K12 will, within commercially reasonable periods of time or as required by any agreement governing same, make payment for all School Expenses, out of the School funds managed by K12 to the extent such funds are managed by K12.

b. All School funds will be maintained in an account(s) belonging to the Board over which designated representatives of K12 will have signature authority as approved by the Board. The Board will immediately transfer to such account(s) all School Revenues received by the Board from any source, including but not limited to per pupil payments or reimbursements received from the State or federal government and/or any other source, as well as any and all contributions received by the Board for the School.

c. Perform necessary planning, forecasting, accounting and reporting functions as appropriate.

d. Assist and coordinate in any third-party financial audit(s) of the School.

8. Maintenance of Financial and Student Records.

a. K12 will maintain and keep the records and books of the School at the facility. K12 may maintain electronic or paper copies of records and provide other services elsewhere, unless prohibited by Applicable Law. The Board recognizes and agrees that for purposes of the Family Educational Rights and Privacy Act and the State open records act, K12 has a legitimate educational interest for purposes of the Board or its designees (including Teachers) disclosing to K12 the School student's educational records.

b. K12 will maintain accurate financial records pertaining to the operation of the School and will retain all such records for a period of seven (7) years (or longer/shorter if required/allowed by Applicable Law) from the close of the Fiscal Year to which such books, accounts, and records relate.

c. K12 will maintain accurate student records pertaining to students enrolled in the School in the manner required by Applicable Law, and retain such records on behalf of the Board at the agreed facility until this Agreement is terminated, at which time such records will be retained by and become the sole responsibility of Board.

d. Ensure accessibility of School records to the Board, its independent auditor and the State for completion of audits required by Applicable Law. The Parties agree to maintain, retain, disclose, and withhold School records as may be required and in the manner required by Applicable Law.

9. Student Discipline. Provide necessary information and cooperate with the Board on the handling of all student disciplinary matters, including without limitation attendance and truancy matters. K12 will recommend policy and procedures for Board adoption consistent with Applicable Law.

10. Annual Reports to Charter Authorizer. Create, design, and arrange for publication and dissemination of an annual report regarding the School in accordance with Applicable Law.

11. Teacher Effectiveness and Training. Develop new teacher training and ongoing professional development for teachers. Develop and maintain the K12 Teacher Handbook. Host ongoing teacher

professional development sessions throughout the school year for new and returning teachers.

12. Charter Authorizer Policies and Charter Renewal. Assist the Board in complying with all applicable Charter Authorizer policies as reasonably interpreted to apply to the School program. Assist the Board with drafting the School's Charter renewal application, including working with the Board to develop any necessary budgetary and curriculum information. Provide information to help prepare Board members to present and defend School's Charter renewal application before the Charter Authorizer.

13. Instructional Property Management. Prepare and submit to the Board proposed policies and procedures regarding the responsible use of equipment and other instructional property. Arrange for the distribution and re-shipment or return (as necessary) of equipment for families, administrators, and teachers, to the extent provided by or on behalf of K12 as agreed in writing during the budget process.

14. Grants and Donations for the School. On behalf of the Board, K12 may solicit and receive grants and donations from public funds through competitive or non-competitive processes, and private sources consistent with the School's objectives; provided, however, that any solicitation of such grants and donations by K12 will be subject to the approval of the Board and such fund shall be used as designated.

15. Additional Administrative Services. Any other services as agreed to in writing by the Parties from time to time.

**III. Technology Services:** During the Term, K12 and its Affiliates will provide or cause to be provided to the Board for the School the technology services (the "Technology Services") described below. K12 will provide the Technology Services at the facility and from K12's offices, as deemed necessary and in K12's discretion.

1. 24-7 monitoring of production services, i.e., the Student account management systems (currently to include the system known as "SAMS") and the on-line learning management system;
2. Monitor and analyze system data, to fix production issues as they may arise;
3. Generate reports on pupil academic performance, attendance and progress;
4. Seek and secure competitive pricing and centralized purchase discounts for computers, monitors, printers, software and other peripherals for the School;
5. Train School staff, as deemed appropriate and necessary, on technology systems;
6. Develop, design, publish, and maintain the School's website;
7. Install and maintain the School's computer network;
8. Generate technology related reports as may be required by the Charter Authorizer or Applicable Law;
9. Develop community tools on the School's website and/or K12 platform which may include password protected threaded discussion and message boards, moderation functionality, directories, etc.;
10. Determine hardware configurations (including software and operating systems) for the School's technology needs;
11. Provide onsite and telephone support for the School administration in troubleshooting system errors, and telephone support for current students;
12. Propose for the Board adoption policies and procedures regarding the responsible use of computer equipment and other School property;
13. Support Teachers and School care associates in answering technology-related questions from students, parents, teachers, and administrators;
14. Install software to generate master image of computer configurations for teachers, administrators, and students in order to standardize the user experience and lower costs and turn-around time for implementation and troubleshooting;

15. Help ensure electronic security of Student records (through the use of encryption, firewalls, etc.);
16. Provide a Web-filtering device to ensure that current Students do not have access to inappropriate materials on the Internet;
17. Prepare for, supervise, and implement all system roll-overs at the end of each academic year;
18. Design and implement inventory management systems with the School's distribution and hardware vendors, as well as reclamation programs, as needed;
19. Provide online enrollment, registration and placement services;
20. Provide School email accounts for School employees;
21. Provide School care and technology support services on the learning management system, computer and software issues;
22. Oversee changes to the School website to maintain quality assurance and make sure that there are not "version control" problems;
23. Coordinate security, creative, and content issues pertaining to the website;
24. Coordinate Web hosting contracts and relationships with vendors across the State as needed;
25. Handle troubleshooting issues for the school's website and send issues to the appropriate person or division for resolution; and
26. Additional Technology Services in K12's discretion and any other services as agreed to in writing by the Parties from time to time.

**EXHIBIT B**

**K12 Proprietary Marks**

