

## **Southern California Flex Academy**

### **REGULAR BOARD MEETING AGENDA**

Friday, September 8, 2023, 12:00 PM

**Meeting Location:** 2335 W Foothill Blvd. Upland, Ca. 91786

**Teleconference Location:** Clairemont Public Library 2920 Burgener Blvd. San Diego, CA 92110

Individuals wishing to speak at the board meeting during the public comment period may do so at the designated time, in-person at the location(s) above, or by directing advance written comments to the Chief Executive Officer, Michelle Romaine, at [mromaine@scfa.org](mailto:mromaine@scfa.org).

#### **MEETING AGENDA & RELATED MATERIALS**

For more information concerning this agenda or for materials relating to this meeting, please contact the Chief Executive Officer, Michelle Romaine, at [mromaine@scfa.org](mailto:mromaine@scfa.org). Any public records relating to an agenda item for an open session of the Board shall be available for inspection at 2335 W. Foothill Blvd., Upland, CA 91786.

#### **THE ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE**

Notice is hereby given that the order of consideration of matters on this agenda may be changed without prior notice.

#### **REASONABLE LIMITATIONS MAY BE PLACED ON PUBLIC TESTIMONY**

The Board's presiding officer reserves the right to impose reasonable time limits on public testimony to ensure that the agenda is completed.

#### **REASONABLE ACCOMMODATION WILL BE PROVIDED FOR ANY INDIVIDUAL WITH A DISABILITY**

Pursuant to the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, any individual with a disability who requires reasonable accommodation to attend or participate in this meeting may request assistance by contacting the Chief Executive Officer, Michelle Romaine, at [mromaine@scfa.org](mailto:mromaine@scfa.org).

#### **I. Opening Items**

- A. Meeting Called to Order**
- B. Welcome and Roll Call**
- C. Adoption of Agenda**

**D. Approval of Minutes**  
8/16/23 Special Board Meeting Minutes

**E. Public Comment**

Members of the public may address the Board at regular meetings on agenda or non-agenda items that are within the subject matter jurisdiction of the Board, and at special meetings on agenda items only. At the designated time for public comment, speakers line up at the designated podium at the meeting locations(s), use Speakers on items not on the agenda for action will be heard at the conclusion of the public input period. Each speaker is allowed a maximum of two minutes for his or her comments. Accommodations are made for translation and for those needing assistance. Each speaker may only make a single appearance at each Board Meeting. Exceptions are made for items labeled “Public Hearing”.

**F. Administrative Reports**

Michelle Romaine, Chief Executive Officer  
Kristen Mandell, Principal

**II. Action Items**

**A. Unaudited Actuals**

The Board will review and consider approval of the Unaudited Actuals. The Unaudited Actuals Financial Report includes a schedule of actual revenues, expenditures, and fund balance components.

**B. CalSTRS Pension2 403(b)**

The Board will review and consider approval of the Pension2 Program of the California State Teachers' Retirement System (CalSTRS).

**C. Meeting Cancellation**

The Board will consider cancelling its regular meeting on September 13, 2023.

**D. Charter Asset Management**

The Board will consider approval of an amendment addressing the school's name change.

**E. Closing Items**

**a. Board Member Comments**

**b. Motion for Adjournment**

CHARTER SCHOOL UNAUDITED ACTUALS  
 FINANCIAL REPORT -- ALTERNATIVE FORM

July 1, 2022 to June 30, 2023

Charter School Name: Virtual Preparatory Academy at Lucerne  
 CDS #: 36-75051-0138107  
 Charter Approving Entity: Lucerne Valley Unified  
 County: San Bernardino  
 Charter #: 1975

This charter school uses the following basis of accounting:  
 (Please enter an "X" in the applicable box below; check only one box)

- X **Accrual Basis (Applicable Capital Assets/Interest on Long-Term Debt/Long-Term Liabilities/Net Position objects are 6900, 6910, 7438, 9400-9489, 9660-9669, 9796, and 9797)**
- Modified Accrual Basis (Applicable Capital Outlay/Debt Service/Fund Balance objects are 6100-6170, 6200-6500, 6600, 7438, 7439, and 9711-9789)**

Description	Object Code	Unrestricted	Restricted	Total
<b>A. REVENUES</b>				
1. LCFF Sources				
State Aid - Current Year	8011	6,532,573.00		6,532,573.00
Education Protection Account State Aid - Current Year	8012	117,386.00		117,386.00
State Aid - Prior Years	8019	19,391.63		19,391.63
Transfers to Charter Schools in Lieu of Property Taxes	8096	132,284.00		132,284.00
Other LCFF Transfers	8091, 8097			0.00
Total, LCFF Sources		6,801,634.63	0.00	6,801,634.63
2. Federal Revenues (see NOTE in Section L)				
No Child Left Behind/Every Student Succeeds Act	8290		124,197.00	124,197.00
Special Education - Federal	8181, 8182		81,218.00	81,218.00
Child Nutrition - Federal	8220			0.00
Donated Food Commodities	8221			0.00
Other Federal Revenues	8110, 8260-8299		796,933.70	796,933.70
Total, Federal Revenues		0.00	1,002,348.70	1,002,348.70
3. Other State Revenues				
Special Education - State	StateRev SE		412,173.00	412,173.00
All Other State Revenues	StateRev AO	129,347.60	62,693.40	192,041.00
Total, Other State Revenues		129,347.60	474,866.40	604,214.00
4. Other Local Revenues				
All Other Local Revenues	LocalRev AO			0.00
Total, Local Revenues		0.00	0.00	0.00
5. TOTAL REVENUES				
		6,930,982.23	1,477,215.10	8,408,197.33
<b>B. EXPENDITURES (see NOTE in Section L)</b>				
1. Certificated Salaries				
Certificated Teachers' Salaries	1100	1,841,845.30	356,326.07	2,198,171.37
Certificated Pupil Support Salaries	1200	67,449.53	87,016.79	154,466.32
Certificated Supervisors' and Administrators' Salaries	1300	311,488.06	351,334.10	662,822.16
Other Certificated Salaries	1900			0.00
Total, Certificated Salaries		2,220,782.89	794,676.96	3,015,459.85
2. Noncertificated Salaries				
Noncertificated Instructional Salaries	2100			0.00
Noncertificated Support Salaries	2200	61,397.83	8,255.46	69,653.29
Noncertificated Supervisors' and Administrators' Salaries	2300			0.00
Clerical, Technical and Office Salaries	2400	75,930.00		75,930.00
Other Noncertificated Salaries	2900			0.00
Total, Noncertificated Salaries		137,327.83	8,255.46	145,583.29
3. Employee Benefits				
STRS	3101-3102	446,590.01	48,086.25	494,676.26
PERS	3201-3202			0.00
OASDI / Medicare / Alternative	3301-3302	79,065.53	527.50	79,593.03

	Health and Welfare Benefits	3401-3402	191,335.48	3,634.56	194,970.04
	Unemployment Insurance	3501-3502			0.00
	Workers' Compensation Insurance	3601-3602			0.00
	OPEB, Allocated	3701-3702			0.00
	OPEB, Active Employees	3751-3752			0.00
	Other Employee Benefits	3901-3902			0.00
	Total, Employee Benefits		716,991.02	52,248.31	769,239.33
4.	Books and Supplies				
	Approved Textbooks and Core Curricula Materials	4100	2,099.32	5,456.57	7,555.89
	Books and Other Reference Materials	4200			0.00
	Materials and Supplies	4300	11,560.43	430.96	11,991.39
	Noncapitalized Equipment	4400	115,791.65	168,757.86	284,549.51
	Food	4700			0.00
	Total, Books and Supplies		129,451.40	174,645.39	304,096.79
5.	Services and Other Operating Expenditures				
	Subagreements for Services	5100	3,145,096.50	61,440.40	3,206,536.90
	Travel and Conferences	5200	35,270.55	17,962.96	53,233.51
	Dues and Memberships	5300	1,429.00		1,429.00
	Insurance	5400	12,789.35		12,789.35
	Operations and Housekeeping Services	5500			0.00
	Rentals, Leases, Repairs, and Noncap. Improvements	5600	18,405.06		18,405.06
	Transfers of Direct Costs	5700-5799			0.00
	Professional/Consulting Services and Operating Expend.	5800	552,529.44	356,126.96	908,656.40
	Communications	5900	28,132.13	10,608.14	38,740.27
	Total, Services and Other Operating Expenditures		3,793,652.03	446,138.46	4,239,790.49
6.	Capital Outlay				
	(Objects 6100-6170, 6200-6500 modified accrual basis only)				
	Land and Land Improvements	6100-6170			0.00
	Buildings and Improvements of Buildings	6200			0.00
	Books and Media for New School Libraries or Major				
	Expansion of School Libraries	6300			0.00
	Equipment	6400			0.00
	Equipment Replacement	6500			0.00
	Lease Assets	6600			0.00
	Depreciation Expense (accrual basis only)	6900	24,705.89		24,705.89
	Amortization Expense - Lease Assets	6910			0.00
	Total, Capital Outlay		24,705.89	0.00	24,705.89
7.	Other Outgo				
	Tuition to Other Schools	7110-7143			0.00
	Transfers of Pass-Through Revenues to Other LEAs	7211-7213			0.00
	Transfers of Apportionments to Other LEAs - Spec. Ed.	7221-7223SE			0.00
	Transfers of Apportionments to Other LEAs - All Other	7221-7223AO			0.00
	All Other Transfers	7281-7299			0.00
	Transfers of Indirect Costs	7300-7399			0.00
	Debt Service:				
	Interest	7438	1,106.00		1,106.00
	Principal (for modified accrual basis only)	7439			0.00
	Total Debt Service		1,106.00	0.00	1,106.00
	Total, Other Outgo		1,106.00	0.00	1,106.00
8.	TOTAL EXPENDITURES		7,024,017.06	1,475,964.58	8,499,981.64
	<b>Description</b>	<b>Object Code</b>	<b>Unrestricted</b>	<b>Restricted</b>	<b>Total</b>
C.	<b>EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES BEFORE OTHER FINANCING SOURCES AND USES (A5-B8)</b>		(93,034.83)	1,250.52	(91,784.31)
D.	<b>OTHER FINANCING SOURCES / USES</b>				
1.	Other Sources	8930-8979			0.00

Less:					
2. Other Uses	7630-7699			0.00	
3. Contributions Between Unrestricted and Restricted Accounts (must net to zero)	8980-8999			0.00	
4. TOTAL OTHER FINANCING SOURCES / USES		0.00	0.00	0.00	
<b>E. NET INCREASE (DECREASE) IN FUND BALANCE /NET POSITION (C+D4)</b>		(93,034.83)	1,250.52	(91,784.31)	
<b>F. FUND BALANCE / NET POSITION</b>					
1. Beginning Fund Balance/Net Position					
a. As of July 1	9791	264,125.66		264,125.66	
b. Adjustments/Restatements	9793, 9795	58,395.29		58,395.29	
c. Adjusted Beginning Fund Balance /Net Position		322,520.95	0.00	322,520.95	
2. Ending Fund Balance /Net Position, June 30 (E+F1c)		229,486.12	1,250.52	230,736.64	
<b>Components of Ending Fund Balance (Modified Accrual Basis only)</b>					
a. Nonspendable					
1. Revolving Cash (equals Object 9130)	9711			0.00	
2. Stores (equals Object 9320)	9712			0.00	
3. Prepaid Expenditures (equals Object 9330)	9713			0.00	
4. All Others	9719			0.00	
b. Restricted	9740			0.00	
c. Committed					
1. Stabilization Arrangements	9750			0.00	
2. Other Commitments	9760			0.00	
d. Assigned	9780			0.00	
e. Unassigned/Unappropriated					
1. Reserve for Economic Uncertainties	9789			0.00	
2. Unassigned/Unappropriated Amount	9790M			0.00	
3. Components of Ending Net Position (Accrual Basis only)					
a. Net Investment in Capital Assets	9796	0.00		0.00	
b. Restricted Net Position	9797		1,250.52	1,250.52	
c. Unrestricted Net Position	9790A	229,486.12	0.00	229,486.12	
	<b>Description</b>	<b>Object Code</b>	<b>Unrestricted</b>	<b>Restricted</b>	<b>Total</b>
<b>G. ASSETS</b>					
1. Cash					
In County Treasury	9110				0.00
Fair Value Adjustment to Cash in County Treasury	9111				0.00
In Banks	9120	1,153,168.34	1,250.52		1,154,418.86
In Revolving Fund	9130				0.00
With Fiscal Agent/Trustee	9135				0.00
Collections Awaiting Deposit	9140				0.00
2. Investments	9150				0.00
3. Accounts Receivable	9200				0.00
4. Due from Grantor Governments	9290	2,098,064.50			2,098,064.50
5. Stores	9320				0.00
6. Prepaid Expenditures (Expenses)	9330	47,221.99			47,221.99
7. Other Current Assets	9340				0.00
8. Lease Receivable	9380				0.00
9. Capital Assets (accrual basis only)	9400-9489	29,708.21			29,708.21
10. TOTAL ASSETS		3,328,163.04	1,250.52		3,329,413.56
<b>H. DEFERRED OUTFLOWS OF RESOURCES</b>					
1. Deferred Outflows of Resources	9490				0.00
2. TOTAL DEFERRED OUTFLOWS		0.00	0.00		0.00
<b>I. LIABILITIES</b>					
1. Accounts Payable	9500	1,036,226.51			1,036,226.51
2. Due to Grantor Governments	9590	227,585.06			227,585.06
3. Current Loans	9640	1,049,376.35			1,049,376.35
4. Unearned Revenue	9650	785,489.00			785,489.00

5. Long-Term Liabilities (accrual basis only)	9660-9669			0.00
6. TOTAL LIABILITIES		3,098,676.92	0.00	3,098,676.92
<b>J. DEFERRED INFLOWS OF RESOURCES</b>				
1. Deferred Inflows of Resources	9690			0.00
2. TOTAL DEFERRED INFLOWS		0.00	0.00	0.00
<b>K. FUND BALANCE /NET POSITION</b>				
Ending Fund Balance /Net Position, June 30 (G10 + H2) - (I6 + J2)				
(must agree with Line F2)				
		229,486.12	1,250.52	230,736.64

**L. FEDERAL EVERY STUDENT SUCCEEDS ACT (ESSA) MAINTENANCE OF EFFORT REQUIREMENT**

**NOTE: IF YOUR CHARTER SCHOOL RECEIVED FEDERAL FUNDING, AS REPORTED IN SECTION A2, THE FOLLOWING ADDITIONAL INFORMATION MUST BE PROVIDED IN ORDER FOR THE CDE TO CALCULATE COMPLIANCE WITH THE FEDERAL EVERY STUDENT SUCCEEDS ACT (ESSA) MAINTENANCE OF EFFORT REQUIREMENT:**

**1. Federal Revenue Used for Capital Outlay and Debt Service**

Included in the Capital Outlay and Debt Service expenditures reported in sections B6 and B7 are the following amounts paid out of federal funds:

Federal Program Name (If no amounts, indicate "NONE")	Capital Outlay	Debt Service	Total
a. _____	\$ _____		0.00
b. _____			0.00
c. _____			0.00
d. _____			0.00
e. _____			0.00
f. _____			0.00
g. _____			0.00
h. _____			0.00
i. _____			0.00
j. _____			0.00
<b>TOTAL FEDERAL REVENUES USED FOR CAPITAL OUTLAY AND DEBT SERVICE</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

**2. Community Services Expenditures**

Provide the amount of State and Local funds reported in Section B that were expended for Community Services Activities:

Objects of Expenditures	Amount (Enter "0.00" if none)
a. Certificated Salaries 1000-1999	0.00
b. Noncertificated Salaries 2000-2999	0.00
c. Employee Benefits 3000-3999 except 3801-3802	0.00
d. Books and Supplies 4000-4999	0.00
e. Services and Other Operating Expenditures 5000-5999	0.00
<b>TOTAL COMMUNITY SERVICES EXPENDITURES</b>	<b>0.00</b>

**3. Supplemental State and Local Expenditures resulting from a Presidentially Declared Disaster**

Date of Presidential Disaster Declaration	Brief Description i.e., COVID-19 (If no amounts, indicate "None")	Amount
a. _____		
b. _____		
c. _____		
d. _____		
<b>TOTAL SUPPLEMENTAL EXPENDITURES (Should not be negative)</b>		<b>0.00</b>

**4. State and Local Expenditures to be Used for ESSA Annual Maintenance of Effort Calculation:**

Results of this calculation will be used for comparison with 2021-22 expenditures. Failure to maintain the required 90 percent expenditure level on either an aggregate or per capita expenditure basis may result in reduction to allocations for covered programs in 2024-25.

a. Total Expenditures (B8)	8,499,981.64
b. Less Federal Expenditures (Total A2) [Revenues are used as proxy for expenditures because most federal revenues are normally recognized in the period that qualifying expenditures are incurred]	1,002,348.70
c. Subtotal of State & Local Expenditures [a minus b]	7,497,632.94
d. Less Community Services [L2 Total]	0.00
e. Less Capital Outlay & Debt Service [Total B6 plus objects 7438 and 7439, less L1 Total, less objects 6600 and 6910]	25,811.89
f. Less Supplemental Expenditures made as the result of a Presidentially	0.00

Declared Disaster

TOTAL STATE & LOCAL EXPENDITURES SUBJECT TO MOE

[c minus d minus e minus f]

\$ 7,471,821.05

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# Table of Contents

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Plan Provisions Section	1
Section 1: Definition of Terms Used	6
Section 2: Participation and Contributions	6
Section 3: Limitations on Amounts Deferred	7
Section 4: Loans	8
Section 5: Benefit Distributions	8
Section 6: Rollovers to the Plan and Transfers	9
Section 7: Investment of Contributions	11
Section 8: Amendment and Plan Termination	12
Section 9: Miscellaneous	12
Section 10: Employer Contributions	13
Section 11: Roth 403(b) Contributions	14

# 403(b) Plan for a Public School

## Plan Provisions Section

### 1. Employer Information

Employer name: \_\_\_\_\_

Employer address: \_\_\_\_\_

Person at Employer to contact: \_\_\_\_\_

Contact's telephone number: \_\_\_\_\_

Contact's email address: \_\_\_\_\_

2. Plan Name: \_\_\_\_\_

3. Plan Effective/Restatement date: \_\_\_\_\_

Note: is this the first document for your plan? If yes, insert date established. If no, enter date plan was restated to this document.

4. State where Employer is located: \_\_\_\_\_

5. The Administrator (see Section 1.3) shall mean the following person(s) or organization and shall perform the following administrative service functions for the Plan:

Name	Administrative Services Performed
_____	_____
_____	_____
_____	_____
_____	_____

NOTE: If the Employer chooses not to delegate any administrative services, this section should be left blank.

6. Valuation Date (see Section 1.22) shall mean:

- Each business day
- The last business day of each month

7. List of Funding Vehicles that are authorized to receive Elective Deferrals :

- CalSTRS Pension2

8. List of Vendors that can receive Contract Exchanges :

- CalSTRS Pension2

9. Roth 403(b) Contributions (see Section 11)

- shall be permitted under the Plan
- shall not be permitted under the Plan

10. (a) Employer Discretionary Contributions (see Section 10):

- shall be permitted under the Plan
- shall not be permitted under the Plan

If permitted, for each Plan Year, the Employer Discretionary Contribution shall be:

- \_\_\_\_\_ % of each Participant’s Compensation contributed to the Employer Contributions Account of each Participant.
- \$\_\_\_\_\_ contributed to the Employer Contributions Account of each Participant.
- An amount, determined uniformly with respect to each Employee classification within the applicable collective bargaining agreement, to the Employer Contributions Account of each Participant as specified in the applicable collective bargaining agreement.

(b) If permitted, Employer Discretionary Contributions shall be made to the following Participants:

- All Employees
- Collectively bargained employees who participate in the following unions:

\_\_\_\_\_

- Employees whose employment is NOT governed by a collective bargaining agreement between the Employer and employee representatives
- Management employees
- Superintendent
- Principals
- Treasurer
- Administrator
- Other (specify): \_\_\_\_\_

## 11. (a) Employer Matching Contributions (see Section 10):

- shall be permitted under the Plan
- shall not be permitted under the Plan

If permitted, Employer Matching Contributions shall match a Participant's (select all that apply):

- Elective Deferrals
- Roth 403(b) Contributions

If permitted, the amount of Employer Matching Contributions for each Plan Year shall be:

- A matching contribution equal to \_\_\_\_ % of each Participant's contribution to the Plan.
- A matching contribution equal to \_\_\_\_ % of the first \_\_\_\_ % of each Participant's Compensation that is contributed to the Plan for the Plan Year.
- A matching contribution equal to \$ \_\_\_\_ of each Participant's contribution to the Plan.
- A matching contribution equal to a percentage of each Participant's contribution to the Plan in an amount to be determined each Plan Year by the Employer or the applicable collective bargaining agreement.

(b) If permitted, Employer Matching Contributions shall be made to the following Participants:

- All Employees
- Collectively bargained employees who participate in the following unions:  
\_\_\_\_\_
- Employees whose employment is NOT governed by a collective bargaining agreement between the Employer and employee representatives
- Management employees
- Superintendent
- Principals
- Treasurers
- Administrator
- Other (specify): \_\_\_\_\_

## 12. Signature and acknowledgement

- a 403(b) plan document for public schools intended to meet the requirements of the final 403(b) regulations issued on July 24, 2007 (Federal Register (72 FR 41128));
- a plan document substantially similar to the IRS model plan language under Rev. Proc. 2007-71. Additional features in this 403(b) plan document are the ability to offer Roth 403(b) and/or Employer Contributions under your 403(b) plan, which are not addressed by the IRS model plan language. The document has not been reviewed or approved by the Internal Revenue Service.

A plan sponsor should review this plan document, together with legal counsel to the extent appropriate, to determine whether additional modifications to the plan document may be necessary to address specific facts, circumstances, and applicable law.

If a plan sponsor elects to adopt this plan document, it must complete the Plan Provisions Section and return the Section to CalSTRS Pension2 to the following address:

CalSTRS Pension2  
P.O. Box 15275, MS-44  
Sacramento, CA 95851-0275

If CalSTRS Pension2 does not receive a copy of the completed Plan Provisions Section from the plan sponsor, we cannot provide future updates to this plan document as they become available.

IN WITNESS WHEREOF, the undersigned individual, as authorized by the Employer, has caused this Plan to be executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Employer: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

## SECTION 1: Definition of Terms Used

The following words and terms, when used in the Plan, have the meaning set forth below.

- 1.1 **"Account"**: The account or accumulation maintained for the benefit of any Participant or Beneficiary under an Annuity Contract or a Custodial Account.
- 1.2 **"Account Balance"**: The bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant's Account under all Accounts, including the Participant's Elective Deferrals, any Employer Contributions, and Roth 403(b) Contributions, the earnings or loss of each Annuity Contract or a Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established under Section 6 for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in Section 414(p)(8) of the Code).
- 1.3 **"Administrator"**: means the person(s) or organization, such as the Vendor, third party administrator or other designee, approved by the Employer to administer the Plan and perform administrative functions for the Plan as identified in the Plan Provisions Section.
- 1.4 **"Annuity Contract"**: A nontransferable contract as defined in Section 403(b)(1) of the Code, established for each Participant by the Employer, or by each Participant individually, that is issued by an insurance company qualified to issue annuities in the State in which the Employer is located as indicated in the Plan Provisions Section and that includes payment in the form of an annuity.
- 1.5 **"Beneficiary"**: The designated person who is entitled to receive benefits under the Plan after the death of a Participant, subject to such additional rules as may be set forth in the Individual Agreements.
- 1.6 **"Custodial Account"**: The group or individual custodial account or accounts, as defined in Section 403(b)(7) of the Code, established for each Participant by the Employer, or by each Participant individually, to hold assets of the Plan.
- 1.7 **"Code"**: The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to Sections of the Code are to such Sections as they may from time to time be amended or renumbered.
- 1.8 **"Compensation"**: All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election under Section 2 made to reduce compensation in order to have Elective Deferrals under the Plan).
- 1.9 **"Disabled"**: The definition of disability provided in the applicable Individual Agreement.
- 1.10 **"Elective Deferral"**: The Employer contributions made to the Plan at the election of the Participant in accordance with Section 2 in lieu of receiving cash compensation. Elective Deferrals are limited to pre-tax salary reduction contributions.
- 1.11 **"Employee"**: Each individual, whether appointed or elected, who is a common law employee of the Employer performing services for a public school as an employee of the Employer. This definition is not applicable unless the employee's compensation for performing services for a public school is paid by the Employer. Further, a person occupying an elective or appointive public office is not an employee performing services for a public school unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of a State or local government.
- 1.12 **"Employer"**: The public school adopting this Plan indicated in the Plan Provisions Section.
- 1.13 **"Funding Vehicles"**: The Annuity Contracts or Custodial Accounts issued for funding amounts held under the Plan and specifically approved by the Employer for use under the Plan and are identified in the Plan Provisions Section.
- 1.14 **"Includible Compensation"**: An Employee's actual wages in box 1 of Form W2 for the most recent one year period of service for the Employer, but increased (up to the dollar maximum) by any compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including any Elective Deferral under the Plan). The amount of Includible Compensation is determined without regard to any community property laws. Pursuant to Reg. Section 1.415(c).2(e)(3) of the Income Tax Regulations, Includible Compensation will include any payments made to a Participant who has had a Severance from Employment, provided that the Includible Compensation is paid by the later of 2 months after the Participant's

Severance from Employment or the end of the Plan Year that contains the date of such Participant's Severance from Employment. In addition, pursuant to Reg. Section 1.415(c).2(e)(4) of the Income Tax Regulations, Includible Compensation will include payments made to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in Section 414(u)(5) of the Code) to the extent those payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than enter qualified military service. If the Plan permits Employer Contributions pursuant to Section 10, then such Employer Contributions shall be subject to a maximum of \$200,000 (or such higher maximum as may apply under Section 401(a)(17) of the Code).

- 1.15 **"Individual Agreement"**: The agreements between a Vendor and the Employer or a Participant that constitutes or governs a Custodial Account or an Annuity Contract with respect to that Participant's Account.
- 1.16 **"Participant"**: An individual for whom Elective Deferrals (or Roth 403(b) Contributions) are currently being made, or for whom Elective Deferrals (or Roth 403(b) Contributions) have previously been made, under the Plan and who has not received a distribution of his or her entire benefit under the Plan.
- 1.17 **"Plan"**: The name of the plan as indicated in the Plan Provisions Section.
- 1.18 **"Plan Year"**: The calendar year.
- 1.19 **"Related Employer"**: The Employer and any other entity which is under common control with the Employer under Section 414(b) or (c) of the Code. For this purpose, the Employer shall determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under Notice 89.23, 1989-1 C.B. 654.
- 1.20 **"Severance from Employment"**: For purpose of the Plan, Severance from Employment means Severance from Employment with the Employer and any Related Entity. However, a Severance from Employment also occurs on any date on which an Employee ceases to be an employee of a public school, even though the Employee may continue to be employed by a Related Employer that is another unit of the State or local government that is not a public school or in a capacity that is not employment with a public school (e.g., ceasing to be an employee performing services for a public school but continuing to work for the same State or local government employer).
- 1.21 **"Vendor"**: The provider of an Annuity Contract or Custodial Account.
- 1.22 **"Valuation Date"**: The date(s) selected in the Plan Provisions Section.

## SECTION 2: Participation and Contributions

- 2.1 **Eligibility**. Each Employee shall be eligible to participate in the Plan and elect to have Elective Deferrals or Roth 403(b) Contributions in accordance with Section 11 made on his or her behalf hereunder immediately upon becoming employed by the Employer.
- 2.2 **Compensation Reduction Election General Rule**.  
An Employee elects to become a Participant by executing an election to reduce his or her Compensation (and have that amount contributed as an Elective Deferral and/or Roth 403(b) Contributions in accordance with Section 11 on his or her behalf) and filing it with the Administrator. This Compensation reduction election shall be made on the agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The Administrator may establish an annual minimum deferral amount no higher than \$200, and may change such minimum to a lower amount from time to time. The participation election shall also include designation of the Funding Vehicles and Accounts therein to which Elective Deferrals (and/or Roth 403(b) Contributions) are to be made and a designation of Beneficiary. Any such election shall remain in effect until a new election is filed. Only an individual who performs services for the Employer as an Employee may reduce his or her Compensation under the Plan. Each Employee will become a Participant in accordance with the terms and conditions of the Individual Agreements. All Elective Deferrals shall be made on a pre-tax basis. All Roth 403(b) Contributions shall be made in accordance with the terms of Section 11. An Employee shall become a Participant as soon as administratively practicable following the date applicable under the Employee's election.
- 2.3 **Information Provided by the Employee**. Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including any information required under the Individual Agreements.
- 2.4 **Change in Elective Deferrals Election**. Subject to the provisions of the applicable Individual Agreements, an Employee may at any time revise his or her participation election, including a change of the amount of his or her Elective Deferrals (and/or Roth 403(b) Contributions), his or her investment direction, and/or his or her designated Beneficiary. A change in the amount of Elective Deferrals (and/or Roth 403(b) Contributions) investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Vendor.

- 2.5 **Contributions Made Promptly.** All contributions under the Plan shall be transferred to the applicable Funding Vehicle within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.
- 2.6 **Leave of Absence.** Unless an election is otherwise revised, if an Employee is absent from work by leave of absence, Elective Deferrals (and/or Roth 403(b) Contributions) under the Plan shall continue to the extent that Compensation continues.

## SECTION 3: Limitations on Amounts Deferred

- 3.1 **Basic Annual Limitation.** Except as provided in Sections 3.2 and 3.3, the maximum amount of the Elective Deferrals (and/or Roth 403(b) Contributions to the extent permitted under Section 11) under the Plan for any calendar year shall not exceed the lesser of (a) the applicable dollar amount or (b) the Participant's Includible Compensation for the calendar year. The applicable dollar amount is the amount established under Section 402(g)(1)(B) of the Code, which is \$15,500 for 2008, and is adjusted for cost-of-living thereafter to the extent provided under Section 415(d) of the Code.
- 3.2 **Special Section 403(b) Catch-up Limitation for Employees With 15 Years of Service.** Because the Employer is a qualified organization (within the meaning of Section 1.403(b)-4(c)(3)(ii) of the Income Tax Regulations), the applicable dollar amount under Section 3.1(a) for any "qualified employee" is increased (to the extent provided in the Individual Agreements) by the least of:
- (a) \$3,000;
  - (b) The excess of:
    - (1) \$15,000, over
    - (2) The total special 403(b) catch-up elective deferrals made for the qualified Employee by the qualified organization for prior years; or
  - (c) The excess of:
    - (1) \$5,000 multiplied by the number of years of service of the Employee with the qualified organization, over
    - (2) The total Elective Deferrals and, if applicable, Roth 403(b) Contributions made for the Employee by the qualified organization for prior years made pursuant to this subsection.
- For purposes of this Section 3.2, a "qualified employee" means an Employee who has completed at least 15 years of service taking into account only employment with the Employer.
- 3.3 **Age 50 Catch-up Elective Deferral Contributions.** An Employee who is a Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Elective Deferrals (and/or Roth 403(b) Contributions), up to the maximum age 50 catch-up Elective Deferrals (or Roth 403(b) Contributions) for the year. The maximum dollar amount of the age 50 catch-up Elective Deferrals (or Roth 403(b) Contributions) for a year is \$5,000 for 2008, and is adjusted for cost-of-living thereafter to the extent provided under the Code.
- 3.4 **Coordination.** Amounts in excess of the limitation set forth in Section 3.1 shall be allocated first to the special 403(b) catch-up under Section 3.2 and next as an age 50 catch-up contribution under Section 3.3.
- 3.5 **Special Rule for a Participant Covered by Another Section 403(b) Plan.** For purposes of this Section 3, if the Participant is or has been a participant in one or more other plans under Section 403(b) of the Code (and any other plan that permits elective deferrals under Section 402(g) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Section 3. For this purpose, the Administrator shall take into account any other such plan maintained by any Related Employer and shall also take into account any other such plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan. Notwithstanding the foregoing, another plan maintained by a Related Entity shall be taken into account for purposes of Section 3.2 only if the other plan is a Code Section 403(b) plan.
- 3.6 **Correction of Excess Elective Deferrals.** If the Elective Deferrals (or Roth 403(b) Contributions) on behalf of a Participant for any calendar year exceeds the limitations described above, or the Elective Deferrals (and/or Roth 403(b) Contributions) on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another plan of the employer under Section 403(b) of the Code (and any other plan that permits elective deferrals under Section 402(g) of the Code for which the Participant provides information that is accepted by the Administrator), then the Elective Deferral (and to the extent applicable, Roth 403(b) Contributions), to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant. Excess Deferrals (and, if applicable, Roth 403(b) Contributions) will be distributed to the Participant, with allocable net income, no later than April 15 of the following taxable year or otherwise in accordance with Section 402(g) of the Code.
- 3.7 **Protection of Persons Who Serve in a Uniformed Service.** An Employee whose employment is interrupted by qualified military service under Section 414(u) of the Code or who is on a leave of absence for qualified military service under Section 414(u) of the Code



may elect to make additional Elective Deferrals upon resumption of employment with the Employer equal to the maximum Elective Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under Section 414(u) of the Code, this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

## SECTION 4: Loans

- 4.1 **Loans.** Loans shall be permitted under the Plan to the extent permitted by the Individual Agreements controlling the Account assets from which the loan is made and by which the loan will be secured.
- 4.2 **Information Coordination Concerning Loans.** Each Vendor is responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans. To minimize the instances in which Participants have taxable income as a result of loans from the Plan, the Administrator shall take such steps as may be appropriate to coordinate the limitations on loans set forth in Section 4.3, including the collection of information from Vendors, and transmission of information requested by any Vendor, concerning the outstanding balance of any loans made to a Participant under the Plan or any other plan of the Employer. The Administrator shall also take such steps as may be appropriate to collect information from Vendors, and transmission of information to any Vendor, concerning any failure by a Participant to repay timely any loans made to a Participant under the Plan or any other plan of the Employer.
- 4.3 **Maximum Loan Amount.** No loan to a Participant under the Plan may exceed the lesser of:
- (a) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period); or
  - (b) one half of the value of the Participant's vested Account Balance (as of the Valuation Date immediately preceding the date on which such loan is approved by the Administrator). For purposes of this Section 4.3, any loan from any other plan maintained by the Employer

and any Related Employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

## SECTION 5: Benefit Distributions

- 5.1 **Benefit Distributions At Severance from Employment or Other Distribution Event.** Except as permitted under Section 3.6 (relating to excess Elective Deferrals), Section 5.3 (relating to withdrawals of amounts rolled over into the Plan), Section 5.4 (relating to hardship), or Section 8.3 (relating to termination of the Plan), distributions from a Participant's Account may not be made earlier than the earliest of the date on which the Participant has a Severance from Employment, dies, becomes Disabled, or attains age 59.. Distributions shall otherwise be made in accordance with the terms of the Individual Agreements. Notwithstanding the foregoing, Elective Deferrals made to an Annuity Contract and corresponding earnings as of December 31, 1988 are "grandfathered" and withdrawal restrictions do not apply to the extent that such amounts can be appropriately identified by the Vendor.
- 5.2 **Minimum Distributions.** Each Individual Agreement shall comply with the minimum distribution requirements of Section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of Section 401(a)(9) of the Code, each Individual Agreement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of Section 1.408-8 of the Income Tax Regulations, except as provided in Section 1.403(b)-6(e) of the Income Tax Regulations.
- 5.3 **In-Service Distributions From Rollover Account.** If a Participant has a separate account attributable to rollover contributions to the Plan, to the extent permitted by the applicable Individual Agreement, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.
- 5.4 **Hardship Withdrawals.**
- (a) Hardship withdrawals shall be permitted under the Plan in accordance with the financial need safe harbor rules described in Section 1.401(k)-1(d)(3)(iii)(B) of the Income Tax Regulations to the extent permitted by the Individual Agreements controlling the Account assets to be withdrawn to satisfy the hardship. If applicable under an Individual Agreement, no Elective Deferrals (or Roth 403(b) Contributions) shall be allowed under the Plan during the 6-month period beginning on the date the Participant receives a distribution on account of hardship.

(b) The Individual Agreements shall provide for the exchange of information among the Employer and the Vendors to the extent necessary to implement the Individual Agreements, including, in the case of a hardship withdrawal that is automatically deemed to be necessary to satisfy the Participant's financial need (pursuant to Section 1.401(k)-1(d)(3)(iv)(E) of the Income Tax Regulations), the Vendor notifying the Employer of the withdrawal in order for the Employer to implement the resulting 6-month suspension of the Participant's right to make Elective Deferrals (or Roth 403(b) Contributions) under the Plan.

(c) An Individual Agreement may make distributions to a Participant for expenses described in Section 1.401(k)-1(d)(3)(iii)(B)(1), (3), or (5) of the Income Tax Regulations for a primary Beneficiary. For this purpose, a "primary Beneficiary" is an individual who is named as a Beneficiary and has an unconditional right to all or a portion of the Account balance upon the death of the Participant.

### 5.5 Rollover Distributions.

(a) A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in Section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution (as defined in Section 402(c)(4) of the Code) from the Plan paid directly to an eligible retirement plan (as defined in Section 402(c)(8)(B) of the Code) specified by the Participant in a direct rollover. In the case of a distribution to a Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Section 408(d)(3)(C) of the Code).

(b) Each Vendor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

(c) A Participant or a spouse who is the designated Beneficiary of the Participant may elect to roll over amounts in accordance with Section 408A(e) of the Code directly to a Roth IRA.

## SECTION 6: Rollovers to the Plan and Transfers

### 6.1 Eligible Rollover Contributions to the Plan.

(a) Eligible Rollover Contributions. To the extent provided in the Individual Agreements, an Employee who is a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code. However, in no event does the Plan accept a rollover contribution from a Roth elective deferral account under an applicable retirement plan described in Section 402A(e)(1) of the Code or a Roth IRA described in Section 408A of the Code.

(b) Eligible Rollover Distribution. For purposes of Section 6.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) a payment if it is part of a series of equal (or almost equal) payments that are made at least once a year and that will last for (i) the life of the Participant (or the joint lives of the Participant and the Participant's Beneficiary), (ii) the life expectancy of the Participant (or the joint life and last survivor expectancy of the Participant and the Participant's Beneficiary), or (iii) any installment payment for a period of 10 years or more; (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the Participant; (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Section 401(a)(9) of the Code; (4) corrective distributions of excess contributions under a qualified cash or deferred arrangement described in Section 1.401(k).2(b)(2) of the Income Tax Regulations and excess aggregate contributions described in Section 1.401(m).2(b)(2) of the Income Tax Regulations, together with the income allocable to these distributions; (5) loans that are treated as deemed distributions pursuant to Section 72(p) of the Code and (6) similar items designated by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. In addition, an eligible retirement plan means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of

the Code, an annuity plan described in Section 403(a) or 403(b) of the Code, or an eligible governmental plan described in Section 457(b) of the Code, that accepts the eligible rollover distribution.

(c) **Separate Accounts.** The Vendor shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan.

## 6.2 Plan-to-Plan Transfers to the Plan.

(a) At the direction of the Employer, for a class of Employees who are participants or beneficiaries in another plan under Section 403(b) of the Code, the Administrator may permit a transfer of assets to the Plan as provided in this Section 6.2. Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the Plan and the participant is an employee or former employee of the Employer. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Section 1.403(b).10(b)(3) of the Income Tax Regulations and to confirm that the other plan is a plan that satisfies Section 403(b) of the Code.

(b) The amount so transferred shall be credited to the Participant's Account Balance, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant or Beneficiary immediately before the transfer in accordance with Section 1.414(l)(1) of the Code.

(c) To the extent provided in the Individual Agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as an Elective Deferral by the Participant under the Plan, except that

(1) the Individual Agreement which holds any amount transferred to the Plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under Section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant or Beneficiary whose assets are being transferred that are not less stringent than those imposed on the transferor plan and (2) the transferred amount shall not be considered an Elective Deferral under the Plan in determining the maximum deferral under Section 3.

## 6.3 Plan-to-Plan Transfers from the Plan.

(a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance

transferred to another plan that satisfies Section 403(b) of the Code in accordance with Section 403(b).10(b)(3) of the Income Tax Regulations. A transfer is permitted under this Section 6.3(a) only if the Participants or Beneficiaries are employees or former employees of the employer (or the business of the employer) under the receiving plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred in accordance with Section 1.414(l)(1) of the Code.

(b) The other plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under Section 403(b) of the Code, the other plan shall impose restrictions on distributions to the Participant or Beneficiary whose assets are transferred that are not less stringent than those imposed under the Plan. In addition, if the transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the Plan, the other plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after tax employee contributions).

(c) Upon the transfer of assets under this Section 6.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 6.3 (for example, to confirm that the receiving plan satisfies Section 403(b) of the Code and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Section 1.403(b)-10(b)(3) of the Income Tax Regulations.

## 6.4 Contract and Custodial Account Exchanges.

(a) A Participant or Beneficiary is permitted to change the investment of his or her Account Balance among the Vendors identified in the Plan Provisions Section. However, an investment change that includes an investment with a Vendor that is not eligible to receive contributions under Section 2 (referred to below as an exchange) is not permitted unless the conditions in paragraphs (b) through (d) of this Section 6.4 are satisfied.

(b) The Participant or Beneficiary must have an Account Balance immediately after the exchange that is at least equal to the Account Balance of that Participant or Beneficiary immediately before the exchange (taking into account the Account Balance of that Participant or Beneficiary under both Section 403(b) contracts or

custodial accounts immediately before the exchange).

(c) The Individual Agreement with the receiving Vendor has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged.

(d) The Employer enters into an agreement with the receiving Vendor for the other contract or custodial account under which the Employer and the Vendor will from time to time in the future provide each other with the following information:

(1) Information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made by the Employer, to satisfy Section 403(b) of the Code, including the following: (i) the Employer providing information as to whether the Participant's employment with the Employer is continuing, and notifying the Vendor when the Participant has had a Severance from Employment (for purposes of the distribution restrictions Section 5.1); (ii) the Vendor notifying the Employer of any hardship withdrawal under Section 5.4 if the withdrawal results in a 6-month suspension of the Participant's right to make Elective Deferrals (and, if applicable, Roth 403(b) Contributions) under the Plan; and (iii) the Vendor providing information to the Employer or other Vendors concerning the Participant's or Beneficiary's Section 403(b) contracts or custodial accounts or qualified employer plan benefits (to enable a Vendor to determine the amount of any plan loans and any rollover accounts that are available to the Participant under the Plan in order to satisfy the financial need under the hardship withdrawal rules of Section 5.4); and

(2) Information necessary in order for the resulting contract or custodial account and any other contract or custodial account to which contributions have been made for the Participant by the Employer to satisfy other tax requirements, including the following:

(i) the amount of any plan loan that is outstanding to the Participant in order for a Vendor to determine whether an additional plan loan satisfies the loan limitations of Section 4.3, so that any such additional loan is not a deemed distribution under Section 72(p)(1); and (ii) information concerning the Participant's or Beneficiary's after-tax employee contributions in order for a Vendor to determine the extent to which a distribution is includible in gross income.

(e) If any Vendor ceases to be eligible to receive Elective Deferrals (or Roth 403(b) Contributions) under the Plan as indicated in the Plan Provisions Section, the Employer will enter into an information sharing agreement as described in Section 6.4(d) to the extent the Employer's contract with the Vendor does not provide for the exchange of

information described in Section 6.4(d)(1) and (2) in order for such Vendor to be listed in the Plan Provisions Section.

### 6.5 Permissive Service Credit Transfers.

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Section 414(d) of the Code) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan. A transfer under this Section 6.5(a) may be made before the Participant has had a Severance from Employment.

(b) A transfer may be made under Section 6.5(a) only if the transfer is either for the purchase of permissive service credit (as defined in Section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which Section 415 of the Code does not apply by reason of Section 415(k)(3) of the Code.

(c) In addition, if a plan-to-plan transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the transferor plan, the Plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after-tax employee contributions).

## SECTION 7: Investment of Contributions

7.1 **Manner of Investment.** All Elective Deferrals or other amounts contributed to the Plan, all property and rights purchased with such amounts under the Funding Vehicles, and all income attributable to such amounts, property, or rights shall be held and invested in one or more Annuity Contracts or Custodial Accounts. Each Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

7.2 **Investment of Contributions.** Each Participant or Beneficiary shall direct the investment of his or her Account among the investment options available under the Annuity Contract or Custodial Account in accordance with the terms of the Individual Agreements. Transfers among Annuity Contracts and Custodial Accounts may be made to the extent provided in Section 6.4 of the Plan, the Individual Agreements and permitted under applicable Income Tax Regulations.

**7.3 Current and Former Vendors.** The Administrator shall maintain a list of all Vendors under the Plan, including those eligible to receive Elective Deferrals, Roth 403(b) Contributions, and Employer Contributions, as applicable, and, those only eligible to receive contract exchanges made under Section 6.4, if applicable, which shall be listed in the Plan Provisions Section. Such list is hereby incorporated as part of the Plan. Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy Section 403(b) of the Code or other requirements of applicable law. In the case of a Vendor which is not eligible to receive Elective Deferrals (or Roth 403(b) Contributions) under the Plan (including a Vendor which has ceased to be a Vendor eligible to receive Elective Deferrals (or Roth 403(b) Contributions) under the Plan and a Vendor holding assets under the Plan in accordance with Section 6.2 or 6.4), the Employer shall keep the Vendor informed of the name and contact information of the Administrator in order to coordinate information necessary to satisfy Section 403(b) of the Code or other requirements of applicable law.

## SECTION 8: Amendment and Plan Termination

- 8.1 Termination of Contributions.** The Employer has adopted the Plan with the intention and expectation that contributions will be continued indefinitely. However, the Employer has no obligation or liability whatsoever to maintain the Plan for any length of time and may discontinue contributions under the Plan at any time without any liability hereunder for any such discontinuance.
- 8.2 Amendment and Termination.** The Employer reserves the authority to amend or terminate this Plan at any time.
- 8.3 Distribution upon Termination of the Plan.** The Employer may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed as soon as administratively practicable under the Plan, provided that the Employer and any Related Employer on the date of termination do not make contributions to an alternative Section 403(b) contract that is not part of the Plan during the period beginning on the date of plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Income Tax Regulations.

## SECTION 9: Miscellaneous

- 9.1 Non-Assignability.** Except as provided in Section 9.2 and 9.3, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.
- 9.2 Domestic Relation Orders.** Notwithstanding Section 9.1, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State ("domestic relations order") and Section 414(p) of the Code, then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.
- 9.3 IRS Levy.** Notwithstanding Section 9.1, if a Participant or Beneficiary is entitled to a distribution in accordance with Section 5, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.
- 9.4 Tax Withholding.** Contributions to the Plan are subject to applicable employment taxes (including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to Elective Deferrals (and, if applicable, Roth 403(b) Contributions), which constitute wages under Section 3121 of the Code). Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including Section 3401 of the Code and the Employment Tax Regulations thereunder). A payee shall provide such information as the Administrator may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code.

9.5 **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

9.6 **Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

9.7 **Procedure When Distributee Cannot Be Located.** The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the funding vehicle shall continue to hold the benefits due such person.

9.8 **Incorporation of Individual Agreements.** The Plan, together with the Individual Agreements, is intended to satisfy the requirements of Section 403(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Individual Agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or Section 403(b) of the Code.

9.9 **Governing Law.** The Plan will be construed, administered and enforced according to the Code and the laws of the State in which the Employer has its principal place of business.

9.10 **Headings.** Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

9.11 **Gender.** Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.

## SECTION 10: Employer Contributions

### 10.1 Definitions.

(a) "Employer Contributions Account" means the account established and maintained by the Administrator for each Participant with respect to his total vested interest (including any earnings and losses attributable thereon) under the Plan resulting from Employer Discretionary Contributions and/or Employer Matching Contributions.

(b) "Employer Discretionary Contributions" means the Employer's discretionary contributions to the Plan in accordance with the formula selected by the Employer in the Plan Provisions Section.

(c) "Employer Matching Contribution" means the Employer's contributions to the Plan that match a Participant's Elective Deferrals or Roth 403(b) Contributions in accordance with the formula selected in the Plan Provisions Section.

(d) "Vested" means the nonforfeitable portion of any Account maintained on behalf of a Participant.

10.2 **Employer Contributions.** For each Plan Year, the Employer will contribute to the Plan the amount and form of contributions as specified in the Plan Provisions Section, subject to any limitations imposed under applicable law or under any applicable collective bargaining agreement. Such contributions will be allocated to the Participant's Employer Contributions Account.

### 10.3 Maximum Annual Additions.

(a) The maximum permissible Annual Additions that may be contributed or allocated to each Participant's Account under the Plan for any Plan Year will not exceed the lesser of:

- (i) \$40,000, as adjusted for increases in the cost of living under Section 415(d) of the Code, or
- (ii) 100 percent of the Participant's Includible Compensation for the Plan Year.

(b) For purposes of this Section, "Annual Additions" means, for any Plan Year, the sum of Elective Deferrals, Roth 403(b) Contributions, and Employer Contributions to the Plan made to the Participant's Account and the sum of any employee and employer contributions made on behalf of such individual under any other 403(b) plan, whether or not sponsored by the Employer.

(c) If a Participant has a "controlling interest" in another employer and participates in that employer's qualified 401(a) defined contribution plan, a welfare benefit fund (as defined in Section 419(e) of the Code), an individual medical account (as defined in Section 415(l)(2) of the Code) or a simplified employee pension (as

defined in Section 408(k) of the Code) which provides Annual Additions, the amount of Annual Additions which may be credited to a Participant's Account for any Plan Year will not exceed the maximum permissible amount described in subsection (a), taking into account employer contributions that have been allocated to such other plans as described in this subsection. a complete discharge of any liability for such payments under the Plan.

(d) If the Annual Additions are greater than the maximum permissible amount described in subsection (a) in a Plan Year, no amount will be contributed to the Participant's Account under the Plan for that Plan Year. If there is any such excess amount under the Plan, the Employer or its delegate will direct the Vendor as to the appropriate method of correction of such excess amounts in accordance with the Income Tax Regulations. If timely correction of such excess is not made, such excess will remain in the Plan and will be separately accounted for in accordance with Section 403(c) of the Code.

10.4 **Vesting.** A Participant will be 100% Vested in any Employer Discretionary Contributions and Employer Matching Contributions.

## SECTION 11: Roth 403(b) Contributions

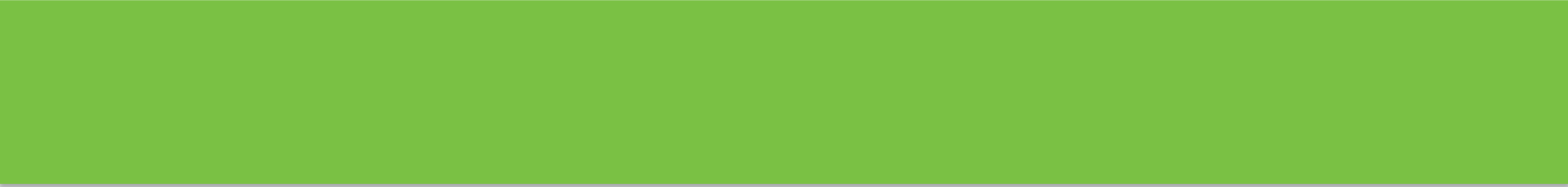
### 11.1 Definitions.

- (a) "Roth 403(b) Contributions" means, if so elected by the Employer in the Plan Provisions Section, contributions that are:
- (i) made by the Employer to the Plan pursuant to a Compensation reduction agreement entered into by a Participant, which qualifies as a "designated Roth contribution" within the meaning of Code Section 402A;
  - (ii) irrevocably designated by the Participant at the time of the cash or deferred election as a Roth elective deferral that is being made in lieu of all or a portion of the Elective Deferrals the Participant is otherwise eligible to make under the Plan; and
  - (iii) treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a cash or deferred election.
- (b) "Roth 403(b) Contributions Account" means the account established and maintained by the Administrator for each Participant with respect to his total interest (including and earnings and losses attributable thereon) under the Plan resulting from Roth 403(b) Contributions.

11.2 **Roth 403(b) Contributions.** For each Plan Year, each Participant may elect to make Roth 403(b) Contributions to the Plan up to the applicable limit under Code Section 402(g) and as aggregated with Elective Deferrals as described in Section 3.1, 3.2, and 3.3, and subject to any limitations imposed under applicable law or under any applicable collective bargaining agreement. Such contributions will be allocated to the Participant's Roth 403(b) Contributions Account.

### 11.3 Distribution of Roth 403(b) Contributions.

- (a) Qualified Distributions: Distributions from a Roth 403(b) Contributions Account will be tax free for federal income tax purposes if:
- (i) The amounts are held for a 5 year holding period, measured from the first year that the initial Roth 403(b) Contribution was made on behalf of the Participant to a Roth 403(b) Contributions Account, and
  - (ii) The distribution is due to a Participant's attainment of age 59 ½, death, or in the event of the Participant's becoming Disabled.
- (b) Nonqualified Distributions: Amounts distributed from a Roth 403(b) Contributions Account that are not considered "Qualified Distributions" as defined in Section 11.3(a), may be distributed from a Roth 403(b) Contributions Account subject to the distribution rules applicable to Elective Deferrals as described in Section 5.1. Such nonqualified distributions shall be subject to federal income tax to the extent that the amount distributed exceeds the value of the Roth 403(b) Contributions.
- (c) In no event shall amounts held in a Roth 403(b) Contributions Account shall be used for a loan in accordance with Section 4, distributed due to a hardship withdrawal under Section 5.4, transferred in accordance with Sections 6.3 or 6.5, or exchanged in accordance with Section 6.4.
- (d) Participant may elect to have certain portions of the Participant's Vested Account Balance under the Plan treated as being distributed to the Participant as an eligible rollover distribution that is credited via an in-Plan direct rollover to a Roth After-Tax Employee Contribution Account under this Plan.



**For more information, contact:**

John Schiffler  
Pension Program Manager  
916-414-1007  
Jschiffler@calstrs.com



## OMNIBUS AMENDMENT AGREEMENT

THIS OMNIBUS AMENDMENT AGREEMENT (this “Amendment”) is entered into as of September 8<sup>th</sup>, 2023 (the “Effective Date”), by and between SOUTHERN CALIFORNIA FLEX ACADEMY (“CORPORATION”), a nonprofit public benefit corporation (“SCFA”), formerly known as Elite Academic Academy Adult Work Force Investment Charter School, Inc., DBA Virtual Preparatory Academy Lucerne, and CHARTER ASSET MANAGEMENT FUND, L.P., a Delaware limited partnership (“CAM”).

### RECITALS

WHEREAS, SCFA and CAM are parties to (i) that certain Factoring Agreement dated as of June 30, 2023 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “June 2023 Factoring Agreement”), (ii) that certain Factoring Agreement dated as of August 3, 2023 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “August 2023 Factoring Agreement”, and together with the June 2023 Factoring Agreement, collectively, the “Factoring Agreements”, and each, a “Factoring Agreement”), and (iii) that certain Security Agreement dated as of June 30, 2023 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “Security Agreement”, and together with the Factoring Agreements, collectively, the “Agreements”, and each, an “Agreement”; capitalized terms used but not otherwise defined herein shall have the meanings given to such terms in the Agreements);

WHEREAS, SCFA changed its name from Elite Academic Academy Adult Work Force Investment Charter School, Inc., to Southern California Flex Academy (“Corporation”) by filing a Certificate of Amendment of Articles of Incorporation with the California Secretary of State on August 11, 2023 (the “Company Name Change”);

WHEREAS, SCFA did not obtain CAM’s prior written consent for the Company Name Change as required pursuant to Sections 3(p) of each of the Factoring Agreements, resulting in an Event of Default under Section 7.1(a) of each Factoring Agreement, or notify CAM at least thirty (30) days’ prior to the Company Name Change as required pursuant to Section 7(a) of the Security Agreement, resulting in an Event of Default under Section 7.1(j) of each Factoring Agreements (collectively, the “Specified Events of Default”);

WHEREAS, SCFA may desire to further change its name from “Southern California Flex Academy (“Corporation”)” to “Southern California Flex Academy” by filing another certificate of amendment to its articles of incorporation with the California Secretary of State following date of this Amendment (such further name change, the “Additional Company Name Change”);

WHEREAS, SCFA has requested that CAM (i) waive the Specified Events of Default, and (ii) consent to the Additional Company Name Change; and

WHEREAS, CAM has agreed to SCFA’s foregoing requests as provided in, and subject to the terms and conditions of, this Amendment.

### AGREEMENTS

NOW, THEREFORE, the parties hereto, intending to be legally bound, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, hereby agree as follows:

1. Incorporation of Recitals. The parties hereto hereby acknowledge and agree that the recitals hereinabove set forth are true and correct in all respects and that the same are incorporated herein and made a part hereof.

2. Limited Waiver. At the request of and as an accommodation to SCFA and subject to the terms and conditions set forth herein, CAM hereby waives the Specified Events of Default. The limited waiver set forth in this Section 2 is effective solely for the purposes set forth herein and shall be limited precisely as written and shall not, and shall not be deemed to: (a) except as expressly provided herein, be a consent to any amendment, waiver or modification of any term or condition of the Agreement; (b) prejudice any right that CAM has or may have in the future under or in connection with the Agreements; (c) waive any default or Event of Default that may exist as of the date hereof except with respect to the Specified Events of Default; or (d) establish a custom or course of dealing between SCFA, on the one hand, and CAM, on the other hand.

3. Limited Consent. At the request of and as an accommodation to SCFA and subject to the terms and conditions set forth herein, CAM hereby consents and agrees to the Additional Company Name Change; provided, however, SCFA shall provide CAM with a copy of the certificate of amendment filed to effectuate the Additional Company Name Change promptly, and in any event within three (3) business days, after the filing thereof. The limited consent set forth in this Section 3 is effective solely for the purposes set forth herein and shall be limited precisely as written and shall not, and shall not be deemed to: (a) except as expressly provided herein, be a consent to any amendment, waiver or modification of any term or condition of the Agreements; (b) prejudice any right that CAM has or may have in the future under or in connection with the Agreements; (c) waive any default or Event of Default that may exist as of the date hereof except with respect to the Specified Events of Default; or (d) establish a custom or course of dealing between SCFA, on the one hand, and CAM, on the other hand.

4. Omnibus Amendments. The parties hereto hereby acknowledge and agree that as of the Effective Date:

(a) Any reference in the Factoring Agreements to “Seller” or “Elite Academic Academy Adult Work Force Investment Charter School, Inc. shall mean and be a reference to “Southern California Flex Academy (“Corporation”)”, and upon the Additional Company Name Change shall mean and be a reference to “Southern California Flex Academy”; and

(b) Any reference in the Security Agreement to “Grantor” or “Elite Academic Academy Adult Work Force Investment Charter School, Inc. shall mean and be a reference to “Southern California Flex Academy (“Corporation”)”, and upon the Additional Company Name Change shall mean and be a reference to “Southern California Flex Academy”.

5. Conditions Precedent. The effectiveness of this Amendment is subject to, and contingent upon, CAM receiving each of the following items, each in form and substance acceptable to CAM, unless waived in writing by CAM, in its sole and absolute discretion:

(a) Duly executed counterpart of this Amendment executed on behalf of SCFA; and

(b) such other documents, certificates, schedules, exhibits, instruments, consents or other agreements as CAM shall reasonably require in connection with this Amendment.

6. Expenses. Without limiting any obligation of SCFA to reimburse CAM for fees and expenses incurred by CAM as specified in the Agreements, SCFA agrees to pay on demand all costs and

expenses (including reasonable attorney's fees and expenses) incurred by CAM in connection with the preparation, execution and delivery of this Amendment.

7. Representations and Warranties. SCFA hereby represents and warrants to CAM, which representations and warranties shall survive the execution and delivery hereof, that on and as of the date hereof after giving effect to this Amendment:

(a) SCFA has the corporate power and authority to execute and deliver this Amendment and to perform its obligations hereunder. This Amendment has been duly authorized by SCFA and constitutes the legal, valid and binding obligation of SCFA, enforceable against SCFA in accordance with its terms, subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar law affecting creditor's rights generally and general principles of equity;

(b) SCFA's representations and warranties set forth in the Agreements are true, correct and complete in all material respects (or, if any such representation or warranty is by its terms qualified by concepts of materiality, such representation or warranty is true and correct in all respects) on and as of the date hereof except to the extent that such representations and warranties expressly related solely to an earlier date, in which case such representations were true, correct and complete in all material respects (or, if any such representation or warranty is by its terms qualified by concepts of materiality, such representation or warranty is true and correct in all respects) on and as of such earlier date;

(c) no default or Event of Default (other than the Specified Events of Default) under any of the Agreements, as amended hereby, has occurred and is continuing;

SCFA acknowledges that CAM is specifically relying upon the representations, warranties and agreements contained in this Amendment and that such representations, warranties and agreements constitute a material inducement to CAM in entering into this Amendment.

8. Reaffirmation of Security Interest. SCFA hereby ratifies and reaffirms any and all grants of a security interest to CAM in, to and on the Collateral (as defined in the Security Agreement) as security for the Secured Obligations (as defined in the Security Agreement), and SCFA acknowledges and confirms that the grants of such security interest to CAM in, to and on the Collateral: (i) represent continuing liens on all of the Collateral, (ii) secure the payment and performance; of the Secured Obligations when due or declared due in accordance with the terms of the Agreements, and (iii) represent a valid and first priority perfected security interest in the Collateral.

9. Release. In further consideration of the execution of this Amendment by CAM, SCFA (on behalf of itself and its shareholders, directors, members, managers, partners, officers, affiliates, successors and assigns) hereby unconditionally, absolutely and irrevocably forever remises, releases, acquits, satisfies and forever discharges CAM and its respective successors, assigns, affiliates, parent entities, officers, employees, directors, shareholders, agents and attorneys (collectively, the "Releasees") from any and all claims, demands, liabilities, disputes, damages, suits, controversies, penalties, fees, costs, expenses, actions and causes of action (whether at law or in equity) and obligations of every nature whatsoever, whether liquidated or unliquidated, known or unknown, matured or unmatured, fixed or contingent, that such Borrower (or any of its respective shareholders, directors, members, managers, partners, officers, affiliates, successors or assigns) ever had, now has, or may have against or seek from any or all of the Releasees, which arise from or relate to any actions, omissions, conditions, events, or any other circumstances whatsoever prior to the date hereof with respect to the Secured Obligations, any Collateral, the Agreements and the transactions relating thereto or hereto, other than for the gross negligence, bad faith, or willful misconduct of CAM as finally determined in a non-appealable order of a court of competent jurisdiction (with CAM having an opportunity to be heard).

10. References; No Waiver.

(a) References. Upon the effectiveness of this Amendment, each of the Agreements, and any and all other agreements, documents or instruments now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Agreements, as amended hereby, are hereby amended so that any reference in any of the Agreements to the Factoring Agreements shall mean a reference to the Factoring Agreements, as amended hereby, and any reference in any of the Agreements to the Security Agreement shall mean a reference to the Security Agreement, as amended hereby.

in the Loan Agreement and such other Loan Documents to the Loan Agreement shall mean a reference to the Loan Agreement, as amended hereby.

(b) No Waiver. The failure of CAM, at any time or times hereafter, to require strict performance by SCFA of any provision or term of any of the Agreements shall not waive, affect or diminish any right of CAM hereafter to demand strict compliance and performance herewith or therewith. Any suspension or waiver by CAM of a breach of this Amendment or any Event of Default under the Agreements shall not, except as expressly set forth in a writing signed by CAM, suspend, waive or affect any other breach of this Amendment or any Event of Default under the Agreements, whether the same is prior or subsequent thereto and whether of the same or of a different kind or character. None of the undertakings, agreements, warranties, covenants and representations of SCFA contained in this Amendment, shall be deemed to have been suspended or waived by CAM unless such suspension or waiver is (i) in writing and signed by CAM and (ii) delivered to SCFA. It is the intention of the parties hereto that the execution and delivery of this Amendment does not effectuate a novation of the liabilities and obligations of SCFA to CAM pursuant to the Agreements, but merely serves as a modification of certain terms thereof. Except as otherwise set forth in Section 2 of this Amendment, CAM hereby expressly reserves all of its rights, powers and remedies, both with respect to other defaults or Events of Default that may now or hereafter exist, and otherwise, under the Agreements and otherwise available at law and in equity.

11. Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

12. Successors and Assigns. This Amendment is binding upon and shall inure to the benefit of CAM and SCFA and their respective successors and assigns, except that SCFA may not assign or transfer any of its rights or obligations hereunder without the prior written consent of CAM.

13. Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument. This Amendment may be executed by electronic (.pdf) transmission, which electronic (.pdf) signatures shall be considered original executed counterparts, and each party to this Amendment agrees that it will be bound by its own electronic (.pdf) signature and that it accepts the electronic (.pdf) signature of each other party to this Amendment.

14. Full Force and Effect. The Agreements, in case as amended hereby, shall remain in full force and effect and are hereby ratified and confirmed.

15. Effect of Waiver. No consent or waiver, express or implied, by CAM to or for any breach of or deviation from any covenant or condition by SCFA shall be deemed a consent to or waiver of any other breach of the same or any other covenant, condition or duty.

16. Miscellaneous. The headings, captions, and arrangements used in this Amendment are for convenience only and shall not affect the interpretation of this Amendment. This Amendment may only be amended or modified by a writing signed by CAM and SCFA. Neither this Amendment nor any uncertainty or ambiguity herein shall be construed or resolved against CAM, whether under any rule of construction or otherwise.

17. Governing Law. THIS AMENDMENT SHALL BE CONSTRUED IN ALL RESPECTS IN ACCORDANCE WITH, AND ENFORCED AND GOVERNED BY THE INTERNALS LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN THE CHOICE OF LAW AND FORUM PROVISIONS CONTAINED THEREIN). WITH RESPECT TO ANY DISPUTES ARISING HEREUNDER, SCFA HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF CALIFORNIA, THE COURTS OF THE UNITED STATES OF AMERICA FOR THE CENTRAL DISTRICT OF CALIFORNIA AND APPELLATE COURTS FROM ANY THEREOF AND WAIVES ANY OBJECTION IT MAY HAVE IN RESPECT OF SUCH DISPUTE ON THE GROUND OF VENUE OR THAT ANY PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

18. Final Agreement. THE AGREEMENTS, EACH AS AMENDED HEREBY, REPRESENT THE ENTIRE EXPRESSION OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF ON THE DATE THIS AMENDMENT IS EXECUTED. THE AGREEMENTS, AS AMENDED HEREBY, MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

**[SIGNATURES TO FOLLOW ON SEPARATE PAGE]**

IN WITNESS WHEREOF, the undersigned parties have executed this Omnibus Amendment Agreement as of the date first above written.

SCFA:

SOUTHERN CALIFORNIA FLEX ACADEMY  
("CORPORATION"),  
a nonprofit public benefit corporation

By: \_\_\_\_\_  
Name: Rina Fernandez  
Title: Chairperson, Board of Directors

CAM:

CHARTER ASSET MANAGEMENT FUND, L.P.,  
a Delaware limited partnership

By: Charter Asset Management GP LLC.,  
a Delaware limited liability company,  
its General Partner

By: \_\_\_\_\_  
Name: Paul Im  
Title: Managing Partner

By: \_\_\_\_\_  
Name: David Park  
Title: Managing Partner