

LAUP EARLY EDUCATION MANAGEMENT AND
ACCOUNTING SERVICES AGREEMENT

PILOT PROGRAM

This agreement (the "Agreement") is entered into between _____
("School"), and LAUP, a California nonprofit public benefit corporation.

BACKGROUND

LAUP is developing a business to provide accounting and related business services to early education providers in California (the "Services" as defined below). In the development of that business, LAUP has created this "Pilot Program" to develop and test its Services. In exchange for participating in this Pilot Program and agreeing to the terms herein, LAUP has substantially reduced the price of its Services to School. School represents that it has authority to operate one more or early education facilities in the state of California and acknowledges that its continued participation in this Pilot Program for the entire duration of the Agreement is crucial to LAUP's ability to develop and refine its Services. In consideration of the promises, and of the mutual covenants and conditions contained herein, School and LAUP agree as follows:

1. **DEFINITIONS**

- a. "ADA" means the average daily attendance, reported as required by California Department of Education that must be filed by the School with the State of California in accordance with applicable laws and regulations.
- b. "Additional Services" means any supplemental services to be provided by LAUP at request of School. If Additional Services are part of this Agreement, they are described in a Schedule entitled "Additional Services Scope of Work" and attached. Additional services supplement the Basic Services provided by LAUP under this Agreement.
- c. "Auditable Items" means business practices performed at the School site which are or should be documented, that may be identified as being inconsistent with the School's policies, procedures, and/or charter or inconsistent with generally-accepted accounting practices.
- d. "Basic Services" means the services provided by LAUP selected by School and described in Schedule A.
- e. "Budget" means the current and future budgets of the School prepared by LAUP in coordination with the School as described in this Agreement and adopted by the governing body of the School, if any.

- f. "Categorical Funding Applications" means State funding programs for which the School may be eligible and apply for and not included within the Block Grant per Education Code sections 47633 et seq.
- g. "CBEDS" means California Basic Educational Data System.
- h. "Confidential Information" means any and all technical and non-technical information including copyright, trade secret, and proprietary information, inventions, know-how, processes and algorithms, software programs, software source documents. Confidential Information includes, without limitation, data kept on a student information system, financial information, procurement requirements, purchasing information, and plans and personnel information of the parties and students as protected under FERPA and other privacy protection laws, as applicable to the operations of School and LAUP under this Agreement.

Confidential Information does not include information that (a) is now publicly or generally known or available or that hereafter, through no act or failure on the part of the receiving party, or through any violation of law or contract becomes generally known or available; (b) is legally known to the receiving party at the time of receiving such information; (c) is furnished to others by the disclosing party without a restriction on disclosure; (d) is hereafter furnished to the receiving party by a third party without restriction on disclosure, where such third party legally obtained such information and the right to disclose it to the receiving party; or (e) is independently developed by the receiving party without violation of any legal rights which the disclosing party may have in such information.
- i. "Compliance Check" means review by LAUP staff, based upon examining a sample of test transactions, that School is following financial control practices outlined in any of School's adopted policies and procedures, including, but not limited to, employee handbook and fiscal policies.
- j. "P-1/P-2" means the attendance reports that must be submitted to the State of California for ADA apportionment purposes.
- k. "Mandate" means activities performed by the School as required by the State of California e.g., employee criminal background checks, submission of periodic financial and budget reports.
- l. "Onboarding Services" means activities which will allow LAUP to set up the required systems and upload data needed for LAUP to provide the Services for the term of this Agreement
- m. "Outliers" means actual expenditures or costs that differ materially from budgeted or projected School expenditures or costs reflected in the applicable Budget.

- n. "Proprietary Property of LAUP" means all right, title and interest in and to the materials and systems developed and used by LAUP in the performance of the Agreement including, without limitation, all trade secrets, know how, protocols, policies, specifications, software, forms, as well as additions and modifications thereto developed and/or used by LAUP in the furtherance of its operations and in performance of its obligations under this Agreement. Proprietary Property also includes LAUP work product, reports, templates, studies, specifications, business methods, tools, methodologies, techniques, solution construction aids, analytical frameworks, algorithms, products, documentation, abstracts and summaries thereof. Proprietary Property includes "LAUP Core Business Components," defined as those general skills, know-how, expertise, techniques, methodologies, processes, templates, and business methods that are acquired or developed during the performance of the Agreement and that are related to LAUP's primary business, such as, by way of example, but not of limitation, methodologies and processes for managing School Budgets and financial reporting, that do not contain or embody School's Confidential Information. Proprietary Property also includes "LAUP Knowledge Capital," which means LAUP materials existing prior to commencement of the Agreement, or developed outside the scope of the Agreement, that are proprietary to LAUP, and all associated intellectual property rights and any enhancements and modifications to such materials, whether or not such enhancements and modifications are developed as part of the Agreement.
- o. "School" means the legal entity entitled to do business under the name on this Agreement and anyone authorized to represent the legal entity named in this Agreement.
- p. "Services" means the Basic Services and any Additional Services agreed upon by the parties as further described in Schedule A and additional Schedules (if applicable) attached.
- q. "Site" means a school site at which School conducts its business.
- r. "Standard Financial Reports" means the financial reports prepared by LAUP for use by School management or the School's governing body that include: Financial Dashboard, Monthly Forecast, Financial Analysis, Income Statement, Balance Sheet, Statement of Cash Flows, Check Register, and General Ledger.
- s. "State Budget" means the current budget of the State of California as approved and signed by the Governor of the State of California for the current fiscal year.
- t. "State Standardized Account Codes" means the account codes mandated by the California State Department of Education per Mandate.

2. **THE SERVICES**

- a. **Basic Services.** LAUP will provide School with the Basic Services at the Sites described on Schedule A. LAUP shall provide School a non-exclusive, non-assignable license to use the Propriety Property of LAUP solely for School operations, during the term of this Agreement.
- b. **Additional Services.** School may request LAUP to provide additional Services.

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

3. **PAYMENT AND TERMS**

- a. **Fees and Charges.**
 - (i) School will pay LAUP \$_____ for Basic Services and Onboarding Services for the term of this Agreement.
 - (ii) School will pay LAUP a non-refundable fee of \$_____ due upon the execution of the Agreement for Onboarding Services.
- b. **Invoicing.** LAUP will invoice School \$_____ monthly from the Effective Date, through the term of this Agreement for the Basic Services, which are not inclusive of the Onboarding Services.
- c. **Payment Terms.** Payment is due thirty (30) days from the date of delivery of the monthly invoice.
- d. **Right to Suspend Performance.** In the event of default or delay in payment greater than 45 days from the date of delivery of the monthly invoice, LAUP reserves the right to suspend part or all of its performance of duties under this contract until all amounts for Services that are due and payable are paid in full. In the event School disputes all or any portion of the invoice that is due, School shall notify LAUP within 20 days of receipt of the invoice; and initiate the dispute resolution process under Section 10 hereof, but shall pay the invoice in full, pending the outcome of such process.
- e. **Taxes.** Except as expressly stated in this Agreement, LAUP and School are responsible for any and all taxes on their respective incomes, and for payment and withholding of all applicable taxes, including but not limited to income, property and sales taxes.
- f. **Late Payments.** Payments made after the 30 day period set forth in 3.c. may be subject to a late payment penalty equal to an annual rate of twelve percent (12%).

- g. Price Changes. The prices and related charges for the Services are subject to increase upon renewal of this Agreement. LAUP reserves the right to immediately pass through increases in costs incurred from third parties, e.g., vendors, subcontractors and licensors, to the extent such services and supplies are identified in Schedule A and the Additional Services schedule, if any. In addition, LAUP will give School not less than sixty (60) days prior written notice of any price increases for monthly Services.

4. **RELATIONSHIP OF THE PARTIES**

- a. Independent Contractors. LAUP and School are independent contractors. No representations or assertions shall be made nor actions taken by either party that would create any agency, joint venture, partnership, employment or trust relationship between the parties with respect to the subject matter of this Agreement. Except as may be expressly agreed upon in this Agreement or a Schedule, neither party has any authority or power to enter into any agreement, contract or commitment on behalf of the other, or to create any liability or obligation whatsoever on behalf of the other, to any third person or entity.
- b. No Benefits. No LAUP employee is eligible to participate in any benefits programs offered by School to its employees, nor in any pension plans, insurance plans or other similar plans offered by School to its employees.
- c. Employees. Each party will exercise day-to-day control over and supervision of their respective employees, including, but not limited to, hiring, evaluation, promotion, demotion, compensation, employee benefits, discipline and discharge. All work assignments, instruction, scheduling, staffing and direction of School employees shall be the exclusive province of the School. Each party is responsible for obtaining and maintaining worker's compensation coverage and unemployment insurance for its employees.
- d. Subcontractors. LAUP reserves the right to subcontract with other individuals and businesses for the Services. LAUP will be responsible for all payments to, as well as the direction and control of the work to be performed by, its subcontractors, if any. Subcontractors, if any, will be required by LAUP to comply with the terms and conditions of this Agreement respecting confidentiality.

5. **THE SCHOOL'S OBLIGATIONS.**

- a. Authorized Personnel. The School must identify to LAUP, in writing, the authorized School Administrator and other staff member(s) to work with LAUP with respect to: general information about the School, accounts payable, personnel and payroll, attendance records as well as funding compliance and reporting. In the absence of such designated persons, LAUP shall be authorized to communicate with the chief executive officer, or owner or the presiding officer of the Governing Body of the School.
- b. Principal Contact. The School must also identify, in writing to LAUP, its key or principal contact, if other than the authorized School Administrator, who is authorized to receive and disclose Confidential Information, receive payroll checks and discuss personnel

issues; as well as an alternate contact in the event the School Administrator cannot or should not serve as the School's contact due to conflict or suspected misconduct. In the absence of such designated persons, the owner, chief executive officer and the presiding officer of the Governing Body of the School shall have such authority.

c. Financial Records and Audit.

(i) The School will maintain customary and reasonably correct, complete and accurate books and records of account as required by the United States government, the State of California (and any other funding authority such as philanthropic organizations). The School will deliver all supporting documentation in accordance with the monthly close timeline developed by LAUP and provided to School.

(ii) If required by law or some other authority, School will obtain a timely annual audit of its books and records from an independent certified public accounting firm (reasonably acceptable to LAUP) and immediately provide LAUP with a copy of any annual audit and related reports, notes or statements. School authorizes and instructs its independent accountants to speak and work directly with LAUP on any matter or issue pertinent to the Services, and will confirm such authorization upon request by LAUP.

(iii) School covenants that it will respond promptly and professionally to any and all questions or investigations from any governmental investigating or funding authority or School's accountants, to the extent required by law, including exceptions noted in any independent accountant's report.

d. Coordination and Cooperation. School, its authorized staff members and principal contact will work closely and cooperatively with LAUP to facilitate the effective performance and delivery of the Services. School will comply with and respond promptly to all reasonable requests of LAUP for information or documents from the School.

(i) School covenants to: assist LAUP in reconciling outstanding invoices, and to provide LAUP with copies or originals of vendor invoices and correspondence, as well as other statements and receipts in accordance with the monthly close deadline established by LAUP.

e. Payroll. School will provide all necessary and proper data to LAUP for payroll processing.

(i) All original documents as it relates to personnel files or payroll logs will be maintained at the School Site.

(ii) If necessary, School will use, and purchase, commercially reasonable time clocks for hourly personnel.

f. Attendance Records and Reports. School must take all necessary and proper steps to provide regular, accurate and timely responses to daily attendance tracking reports and CBEDS.

- (i) School is responsible for taking daily attendance records compliant with the California Education Code Statutes. School must maintain phone logs, tardy logs and other pertinent information related to appropriate attendance tracking.
- g. Grant and Funding Requirements. School covenants to use its best efforts to comply with all material grant and funding requirements, including record keeping, reporting, management and financial controls and policies and procedures.
- h. Chartering Authority Requirements. School covenants to make good faith efforts to comply with all material requirements, including policies and procedures, of the School.
- i. School Policies and Procedures. School covenants to develop, apply and follow not less than customary and reasonable policies and procedures applicable to: Human Resources, Payroll Administration, Internal Financial Controls, Accounts Payable and other disbursements and competitive bid procedures for vendors.
- j. Insurance. School will obtain and maintain customary and reasonable general liability coverage for its facilities and operations. LAUP shall be entitled to request evidence of such coverage.
- k. Notice and Information. School covenants that it will provide LAUP with prompt, complete and accurate notice of and information concerning any material errors in School data and School's books and records, as well as with respect to investigations or inquiries into the School, its activities, operations and reports by any governmental authority other than School, to the extent permitted by law. School will provide LAUP promptly with copies of every report, including any schedules or exhibits, provided to any governmental agency.
- l. Access to Confidential Information of School. School hereby designates employees and subcontractors of LAUP whose duties require access to Confidential Information, including personnel and student information, as having a legitimate educational interest under FERPA.
- m. Protection of Proprietary Property of LAUP. School shall maintain the confidentiality of all Proprietary Property of LAUP and shall not divulge such information to any third parties both during the term of this Agreement and after its termination except; (i) as may be necessary for the discharge of its obligations under this Agreement, and (ii) as required by law. School shall take reasonable precautions against disclosure of any Proprietary Property of LAUP to any unauthorized person by any of its officers, directors, employees or agents. School shall not directly or indirectly, without the express prior written permission of LAUP, use the Proprietary Property of LAUP for any purpose except to the limited extent necessary for the conduct of its operators in accordance with this Agreement. Upon termination of this Agreement for any reason, School shall cease all use of Proprietary Property of LAUP and shall return to LAUP all manifestations and copies thereof in School's possession or control.
- n. Integrity and Financial Responsibility. School will act with integrity and alert the management of LAUP to any fraudulent activity which is reasonably related to the

Services as soon as the School becomes aware, to the extent permitted by law. School acknowledges that LAUP's ability to provide Services is premised upon the School acting in a financially prudent manner, including but not limited to, timely approval of balanced budgets and maintaining a positive variance to budget throughout the year to the extent feasible.

- o. School acknowledges that in exchange for a reduction in the standard fee for the Services, LAUP requires School to participate in a study to help LAUP evaluate its Services. School agrees to:
 - (i) Participate in a customized School satisfaction survey.
 - (ii) Facilitate the administration of a customized parent satisfaction survey.
 - (iii) Participate in a School focus group with other schools participating in this Pilot Program.
 - (iv) Provide School's business credit ratings upon request.
 - (v) Undergo the process to receive a tier rating under the California Quality Continuum Framework as administered under the Quality Start LA program, unless School has already received such a rating.
 - (vi) Complete monthly surveys documenting School program improvements, if any, and verifying reductions of time that School spends on Services, if any.

6. **REPRESENTATIONS AND WARRANTIES OF SCHOOL**

- a. Corporate Power and Authorization. School has full corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution, delivery and performance of this Agreement by School have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by School and constitutes the valid and legally binding obligation of School enforceable in accordance with its terms and conditions. School need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of any government or governmental agency in order to consummate the transactions contemplated by this Agreement.
- b. No Breach. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will; (i) violate any, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which School is subject or any provision of its Articles of Incorporation, Bylaws or Charter, nor (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument or other arrangement to which School is a party or by which it is bound or to which any of its assets is subject.

7. **REPRESENTATIONS AND WARRANTIES OF LAUP**

- a. Corporate Power and Authorization. LAUP has full corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution, delivery and performance of this Agreement by LAUP have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by LAUP and constitutes the valid and legally binding obligation of LAUP enforceable in accordance with its terms and conditions. LAUP need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of any government or governmental agency in order to consummate the transactions contemplated by this Agreement.
- b. No Breach. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will; (i) violate any, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which LAUP is subject or any provision of its Articles of Incorporation or Bylaws or; (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument or other arrangement to which LAUP is a party or by which it is bound or to which any of its assets is subject.
- c. Insurance and Bonding. LAUP will obtain and maintain customary and reasonable comprehensive general liability insurance and errors and omissions insurance appropriate to its business under this Agreement.
- d. No Duty to Monitor Compliance with Obligations. In the course of its work, and consistent with School's obligations hereunder, LAUP may become aware of instances of non-compliance by School with its own policies, procedures or other obligations described in Section 5 of this Agreement. LAUP may bring such failures to the attention of the point of contact or chief executive officer or the owner of the School, but shall have no obligation to do so, unless the failure directly and materially affects LAUP's ability to carry out its obligations under this Agreement or is the basis for termination of the Agreement for cause.
- e. Confidentiality. LAUP shall keep all Confidential Information made available to it under this Agreement confidential to the extent required by law; provided that nothing herein shall be construed as restricting LAUP in performing the Services, which require routine disclosure of such information to auditors, regulatory agencies, insurance carriers, and providers, and the School. With the school's consent, LAUP will provide financial references upon request by certification organizations, financial institutions, and potential grantors. Confidential Information shall be handled by LAUP, its employees and consultants, in accordance with the following "Standard Conditions":
 - (i) LAUP shall not use the Confidential Information disclosed by the School pursuant to this Agreement for any purpose other than carrying out its obligations under this Agreement. LAUP shall maintain reasonable security measures to safeguard the Confidential Information.

- (ii) LAUP shall not disclose information from the Confidential Information to any third party except as authorized by School.
 - (iii) LAUP shall destroy the Confidential Information in its possession when no longer needed to carry out the purposes of this Agreement. To the extent such Confidential Information resides only on equipment or in files owned or controlled by LAUP, upon termination of this agreement, LAUP shall provide copies to School at School's expense. LAUP shall require its employees and subcontractors to agree to comply with these Standard Conditions for the handling of Confidential Information.
- f. Limited Services Warranty. LAUP represents and warrants that it has the requisite personnel, equipment, expertise, experience and skill to perform its obligations hereunder and provide the Services to School in a timely and professional manner.
- (i) Disclaimer of all Other Warranties.

There are no warranties that extend beyond the face hereof. LAUP disclaims all other representations and warranties, express or implied, regarding the services, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose.
 - (ii) Limited Remedy. School's exclusive remedy for defective Services, upon LAUP's confirmation of the defect after receiving notice of a claimed defect from School, is re-performance of the Services by LAUP at LAUP's expense.
 - (iii) Limitation of Liability. Even if LAUP cannot or does not re-perform any defective services, and school's exclusive remedy fails of its essential purpose, LAUP'S entire liability shall in no event exceed \$5,000. LAUP has no liability for general, consequential, incidental or special damages arising from a defect in any services.
 - (iv) Allocation of Risk. School acknowledges that the pricing of the Services and the other terms of this Agreement have been set based on the foregoing sections of this Agreement providing for an agreed allocation of the risk for any defective Services between the parties. School further acknowledges that the pricing and terms would have been different if there had been a different allocation of the risk.
- g. Warranty Exclusion. There are no warranties, express or implied, including but not limited, to the implied warranties of merchantability or fitness for a particular purpose. LAUP makes no warranty, express or implied, regarding third party software or hardware. LAUP does not have responsibility for school data.
- h. Limited Liability. Except for failure to comply with the proprietary rights provisions contained in this agreement:

In no event shall either party be liable to the other party for any loss or injuries to earnings, profits or goodwill, or for any incidental, special, punitive or consequential damages of any person or entity whether arising in contract, tort or otherwise, even if either party has been advised of the possibility of such damages.

The limitations set forth in this section shall apply even if any remedies fail in their essential purpose.

8. **INDEMNITIES.**

School and LAUP indemnify each other and hold each other, and each other's officers, directors, employees, agents harmless, from and against any and all direct claims, costs, losses, liabilities and expenses for personal injury and property damage, including reasonable attorneys' fees, attributable to their actions and omissions under this Agreement, but excluding claims that would not be made but for the gross negligence or willful misconduct of the party seeking indemnification.

9. **TERM AND TERMINATION EXPIRATION.**

This Agreement shall continue in full force and effect from October 1, 2016 until September 30, 2017.

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

10. **DISPUTE RESOLUTION.**

Any controversy or claim, whether based on contract, tort, strict liability, fraud, misrepresentation, or any other legal theory, arising out of either party's performance of this Agreement ("Dispute") shall be resolved solely in accordance with the terms of this Section 10.

- a. Resolution Sequence. If the Dispute cannot be settled by good faith negotiation between the authorized representatives of the parties- which must take place within thirty days of receipt by one party of a claim of a Dispute - LAUP and School will submit the Dispute to non-binding mediation in Los Angeles. If the Dispute cannot be settled through non-binding mediations, the parties are free to pursue any and all other forms of dispute resolution including but not limited to binding arbitration. If binding arbitration is selected by the parties as the method of dispute resolution, arbitration shall be governed by the provisions of the California Code of Civil Procedure, commencing with Section 1280, unless otherwise provided herein.
- b. Arbitrator. A single Arbitrator who is a retired judge and knowledgeable in commercial matters will conduct the arbitration. The Arbitrator's decision and award will be final, must be made in writing with findings of fact and conclusions of law, will be binding and may be entered in any court with jurisdiction. The Arbitrator will not have authority to make errors of law or legal reasoning, nor to modify or expand any of the provisions of this Agreement, and the award may be vacated or corrected on appeal to a court of competent jurisdiction. The Arbitrator will not have the authority to award damages not permitted by this Agreement.
- c. Rules and Expenses. Any mediation or arbitration commenced pursuant to this Agreement will be conducted under the then current rules of the alternate dispute resolution ("ADR") firm in the site selected by the parties. If the parties are unable to agree on an ADR firm, the parties will conduct the mediation and, if necessary, the arbitration, under the then current rules and supervision of the American Arbitration Association. LAUP and School will each bear its own attorneys' fees associated with the mediation and, if necessary, the arbitration. LAUP and School will pay all other costs and expenses of the mediation/arbitration as the rules of the selected ADR firm provide. LAUP and School shall divide the amounts charged by the ADR firm equally.
- d. Equitable Relief and Indemnification. Each of the parties acknowledges and agrees that due to the unique nature of the Confidential Information and the Proprietary Information of LAUP there can be no adequate remedy of Law for any breach of its obligations to maintain the confidentiality and security of such information, and that any breach may allow the breaching party or third parties to unfairly compete with the non-breaching party resulting in irreparable harm to the non-breaching party that cannot be adequately compensated for through damages. Therefore, notwithstanding the foregoing provisions of this Section 10, upon any such breach or any threat thereof, the non-breaching party may, at its option, seek temporary, preliminary, and permanent injunctive relief and to be indemnified by the breaching party from any loss or harm, including without limitation, actual attorney fees, in connection with any breach or enforcement of the breaching party's obligations to keep the non-breaching party's information confidential and secure, or the unauthorized use or release of any such proprietary or confidential information. Each party will notify the other party in writing immediately upon the occurrence of any unauthorized release or other breach of which it is aware. The obligations of the parties under this paragraph shall survive the expiration or termination for any reason of this Agreement.

- e. Limitation on Actions. Any Dispute either party may have against the other with respect to this Agreement must be brought within two years after the cause of action arises. This Section 10 shall survive any termination of the Agreement.
- f. Attorneys' Fees. For costs incurred by other dispute resolution methods not described herein, the prevailing party shall have the right to collect from the other party its reasonable costs and necessary disbursements and attorneys' fees incurred in enforcing this Agreement.

11. **GENERAL.**

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

School:

LAUP: _____ (name) _____
 888 S. Figueroa Street, Suite 800
 Los Angeles, CA 90017

E-mail: _____

- e. Applicable Law. This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with the laws of the State of California, provided, however, that any provision of this Agreement which may be prohibited by or otherwise held invalid under such laws shall be ineffective only to the extent of such prohibition or invalidity and shall not invalidate or otherwise render ineffective any or all of the remaining provisions of this Agreement.
- f. Assignment; Successors. This Agreement is personal, being entered into in reliance upon and in consideration of the skill, qualifications and representations of, and trust and confidence reposed in, LAUP and its employees and its selected subcontractors. Accordingly, neither this Agreement nor any of its rights or privileges shall be sold, assigned, transferred, shared, or encumbered, by operation of law or otherwise, without the prior written consent of the affected (non-assigning) party. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- g. Force Majeure. Neither party shall be liable for any delay or failure in its performance of any of the acts required by this Agreement when such delay or failure arises from circumstances beyond the control and without the fault or negligence of such party. Such causes may include, without limitation, acts of God, acts of public enemies, acts of civil or military authority, labor disputes, material or component shortages, embargoes, rationing, quarantines, blockades, sabotage, utility or communication failures or delays, earthquakes, fire, flood, epidemics, riots or strikes. The time for performance of any act delayed by any such event may be postponed for a period equal to the period of such delay.
- h. Publicity. School agrees to act as a reference for LAUP with respect to the Services upon LAUP's reasonable request. LAUP may issue press releases or identify School in marketing materials provided that all references to School are fair, accurate and not misleading. LAUP will notify School prior to such use.
- i. Headings. The headings of the several articles and sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.
- k. Severability, Amendment, Integration. The invalidity or unenforceability of any one or more provisions of this Agreement shall in no way affect any other provision.
- l. No Third Party Beneficiaries. This Agreement is made an entered into for the sole benefit of the parties hereto. No other person shall have any right of action based upon any provision of this Agreement.
- m. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

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

SCHOOL:

By: _____

Dated: _____

Name: _____

Title: _____

LAUP:

By: _____

Dated: _____

Name: _____

Title: _____