INITIAL CHARTER

This agreement is executed by and between the Board of Regents of the State of New York ("the **Regents**") and **{INSERT NAME]** (the "**Applicant**") to establish and operate the **{INSERT NAME OF SCHOOL} (**the "**Charter School"**), an independent public school established under the New York Charter Schools Act of 1998.

W I T N E S S E T H:

WHEREAS, the State of New York enacted the New York Charter Schools Act of 1998, codified as Article 56 of the Education Law, as amended from time to time (the "**Act**");

WHEREAS, pursuant to §2852 of the Act, the Board of Regents is a charter entity with the authority to approve applications to establish charter schools in the State of New York and thereafter to enter into agreements with applicants setting forth the terms and conditions under which a charter school is to operate;

WHEREAS, the Applicants submitted to the Regents an application, which is incorporated herein and attached hereto as Exhibit A, for establishment of a charter school pursuant to §2851 and §2852(9-a) of the Act (the "**Application**");

WHEREAS, at its meeting {INSERT DATE} the Regents approved the Application, subject to the Applicant meeting the conditions that are required by the Act;

WHEREAS, pursuant to the Act, the Regents are authorized to approve a charter agreement with the applicants and issue a provisional charter incorporating an education corporation to establish and operate a charter school.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained here, the parties hereby agree as follows:

SECTION 1. ESTABLISHMENT OF SCHOOL

1.1 Charter. A charter is hereby authorized and granted to the Applicants on behalf and solely for the benefit of the Charter School as an education corporation chartered by the Regents which, pursuant thereto, will be authorized to establish, organize and operate a school in accordance with the Act and the terms and conditions of the Charter. This agreement (the "**Charter Agreement**"), which incorporates the Application and any Application Supplements, attached hereto as Exhibit A; the Oversight Plan as described in §6.2 of this agreement, including Section III: Performance Framework, Exhibit B; and, where applicable, the Comprehensive Management Contract Requirements, attached hereto as Exhibit C (the **"Management Contract Requirements**"), shall constitute the charter (the "**Charter**") and shall be binding on the Charter School.

1.2 Effective Date and Opening Date: Term. The Charter shall take effect upon its issuance by the Regents (the "**Effective Date**") and shall expire on June 30th of the fifth year after the date of opening of the Charter School for instruction (the "**Opening Date**"), unless earlier terminated or renewed pursuant to the terms of this Charter. The Opening Date may be delayed by planning years as described in paragraph 1.3 hereof.

1.3 Planning Years. The Charter School shall commence instruction as described in the schedule set forth in the Application. The Charter School may also seek approval from the State Education Department ("SED"), to take one (1) to (3) planning years before opening for instruction, which approval shall not be unreasonably withheld. Planning years granted shall be set forth in the Terms of Operation and shall not require further approval of the Regents or constitute a revision to the Charter.

1.4 Prior Actions. Paragraph 1.2 hereof notwithstanding, the Charter School shall not provide instruction to any student until and unless SED shall issue a written statement to the Charter School, attesting to the Charter School's having completed or made satisfactory progress towards completing all or substantially all of the Prior Actions set forth in Section I, Opening Procedures, of the Oversight Plan (the "**Prior Actions**"). Upon such confirmation, the restrictions on the Charter School set forth in the immediately foregoing sentence shall be of no further force and effect. Moreover, notwithstanding anything to the contrary in this paragraph, the Prior Actions are in addition to any other conditions set forth in the Charter or the Act.

1.5 Location. The Charter School shall be located at a site within the school district of location or, if the Charter School is located within the City School District of the City of New York, the community school district identified in the Application. The Charter School must notify SED of the location of its site (the "**School Building**") by the date specified in the Opening Procedures section of the Oversight Plan. SED may reject the proposed location for good cause and direct the Charter School to select another site. SED may extend the deadline for such notification for good cause shown. The Charter School shall ensure that all necessary leases, contracts, certificates of occupancy and health and safety approvals for the school building are valid and in force as set forth in the Opening Procedures section of the Oversight Plan**.** SED may extend the deadline for good cause shown. The Charter School may change its physical location or obtain additional facilities within the same school district, or if the Charter School is located within the City School District of the City of New York, the community school district, provided that the Charter School obtains the same permits and certificates as are required by this paragraph, as well as satisfies the provisions of the Act, including but not limited to §2853(1)(b-1), and provided further that (i) the Charter School notifies SED of the proposed change in location or addition of facilities not less than sixty (60) days prior to taking any final action in connection therewith; and (ii) SED does not issue a rejection to the Charter School within thirty (30) days of its receipt of such notification. SED shall issue a rejection only for good cause. SED may shorten or otherwise waive the 60-day notice requirement for good cause shown.

SECTION 2. OPERATION OF SCHOOL

2.1 Mission Statement. The Charter School shall operate under the mission statement set forth in the Application or as amended.

2.2 Age; Grade Range; Number of Students. The Charter School shall provide instruction to pupils in such grades and numbers in each year of operation under the Charter as described in the Application, provided that the Charter School, upon making all reasonable efforts to recruit students, may enroll a lesser or greater number of students in each grade, or a lesser or greater number of students from one year to the next, within reason, without being deemed in material breach of the Charter, as long as such enrollment variation does not substantially alter the school's educational design as described in the Application. Notwithstanding the foregoing sentence, the Charter School must obtain prior written approval from SED prior to (i) enrolling any student, who, if enrolled, would cause the school's enrollment to exceed the total maximum enrollment of the school as set forth in the Application (the "**Maximum Enrollment**") or (ii) commencing or continuing instruction where the total number of students enrolled is less than eighty-five percent (85%) of the Projected Enrollment for a given academic year as set forth in the Application or the total enrollment is less than fifty (50) students. The Charter School shall demonstrate good-faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students eligible for free and reduced-price lunch when compared to the enrollment figures for such students in the school district (or if the charter school is located within the City School District of the City of New York, the community school district) in which the charter school is located.

2.3 Admission; Enrollment; Attendance. The Charter School shall have in place and implement policies for admission, enrollment, attendance and student withdrawal that are consistent with §2854(2)(a),(b) and (d), and any other applicable law and regulations, and the policies, if any, set forth in the Application. The Charter School shall ensure the taking of attendance pursuant to 8 NYCRR § 104.1.

2.4 Student Transfers and Exits. Any student transfer out of the Charter School shall be documented by a transfer form signed by the student's parent/guardian, which affirmatively states that the student's transfer is voluntary. The Charter School shall annually collect and report to SED, in a format required or approved by SED, exit data on all students transferring from or otherwise exiting the school for any reason (other than graduation), voluntary or involuntary. Such exit data shall identify each departing student by name and shall document the date of and reason(s) for each student departure.

2.5 Student Learning and Achievement. The Charter School shall implement the educational programs set forth in the Application so that its students may meet or exceed the performance standards set forth in the Application and in the Performance Framework (section III of the Oversight Plan described in section 6.2 of this agreement). The educational programs of the Charter School shall be designed to meet or exceed the student performance standards adopted by the Regents and those set forth in the Performance Framework. The Charter School understands that its success in meeting the goals and measures set forth in the Performance

Framework shall be the predominant criterion by which the success of its education program will be evaluated by the Board of Regents upon the School's application for renewal of the Charter.

2.6 Evaluation of Pupils. The Charter School shall implement student assessment requirements applicable to other public schools to the same extent such examinations are required of other public school students in New York State. In addition, the Charter School shall supplement the above assessment tools with other assessment tools, if any, consistent with those set forth in the Application or required by the Performance Framework.

2.7 Curriculum. The curriculum established by the Charter School shall be consistent with the proposed curriculum set forth in the Application. The Charter School shall have the right to make reasonable modifications to such curriculum to permit the school to meet its educational goals and student achievement standards. However, any modifications, either individually or cumulatively, that are of such a nature or degree as to cause the education program as described in the Application to no longer be in operation will require a material charter revision in accordance with 8 NYCRR §3.16(c).

2.8 School Calendar; Days and Hours of Operation. The days and hours of the operation of the Charter School shall be as set forth in the Application and in no event shall the school provide less instructional time during a school year than is required of other public schools.

2.9 Disciplinary Code. The Charter School shall implement written rules and procedures for discipline, including guidelines for suspension and expulsion, consistent with the policies, if any, set forth in the Application, and disseminate those rules and procedures to students and parents. The rules and procedures shall be consistent with the requirements of due process, the provision of alternative instruction and with federal laws and regulations governing the placement of students with disabilities. The Charter School shall adopt and implement the provisions of 34 CFR Part 300 relating to the discipline of students with disabilities. To the extent that any provision of the Application or its Appendices conflicts with the provisions of this paragraph or 34 CFR Part 300, the provisions of this paragraph and 34 CFR Part 300 shall govern.

2.10 Nonsectarian Status. The Charter School shall be nonsectarian in its programs, admissions policies, employment practices and all other operations. The Charter School shall ensure that the school is not wholly or in part under the control or direction of any religious denomination and that no denominational tenet or doctrine shall be taught.

2.11 Code of Ethics. The Charter School, its trustees, officers and employees shall abide by the Code of Ethics of the school, which must be consistent with the provisions of Sections 800 through 806 of the General Municipal Law as made applicable by the Act, and must also include standards with respect to disclosure of conflicts of interest regarding any matter brought before the Charter School Board of Trustees (the **"Board"**). The Code of Ethics shall be consistent with the policies, if any, set forth in the Application.

2.12 Non-discrimination. The Charter School shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by any other public school.

2.13 Governance; School Trustees; By-laws. (a) The Charter School shall be governed by a Board of Trustees. All individuals elected or appointed to the Board shall possess the qualifications for such position as are set forth in the Application. In no event shall a person with an interest in a for-profit contract with the Charter School serve on the Board of Trustees except to the extent permitted by the General Municipal Law. Prior to the appointment or election of any individual to the Board, the Board must submit to SED (pursuant to and together with a duly approved resolution of the Board) the name of the proposed member of the Board and such individual must timely provide to SED, in writing and/or in person, such background information as SED shall require (**the "School Trustee Background Information**"). Within forty-five (45) days of receiving the name of, and all required background information about, the proposed member of the Board, SED may in writing approve, disapprove, or request additional information about, such individual. In the event that SED does not provide in writing an approval, disapproval, or a request for additional information within the 45-day time period, the proposed member may be seated by the Board. If SED requests additional information about the proposed member, such proposed member may not be seated unless and until SED indicates in writing that the member may be seated. A failure by the Board or the proposed member to timely provide the School Trustee Background Information to SED shall be grounds for disapproval. If the School Trustee Background Information contains material misstatements or material omissions of fact, this shall constitute misconduct and the Regents may remove the School Trustee. The Board shall operate pursuant to the bylaws and other rules and procedures set forth in the Application, including but not limited to the term of office permitted and the provisions for the election and appointment of new members. The Board shall have final authority and responsibility for policy and operational decisions of the school, though nothing shall prevent the Board from delegating day-to-day decision-making authority to officers and employees of the Charter School.

(b) Except as provided by subparagraph (d) of this paragraph, the Board shall operate pursuant to the bylaws of the Charter School set forth in the Application or as amended pursuant to subparagraph (c) of this paragraph 2.13 and the relevant governance provisions of the Not-for-Profit Corporation Law and Education Law.

(c) The By-laws shall not conflict with any term of the Charter or with applicable law, including provisions of the Education Law, General Municipal Law and Not-for-Profit Corporation Law applicable to charter schools.

(d) Notwithstanding any provision to the contrary in the Charter Agreement, Terms of Operation or By-laws, in no event shall the Board of Trustees, at any time, be comprised of voting members of whom more than forty (40) percent are directors, officers, employees, agents or otherwise affiliated with any single entity (with the exception of the Charter School or of another charter school), regardless of whether said entity is affiliated or otherwise partnered with the Charter School. For the purposes of this paragraph, "single entity" shall mean any individual entity, as well as any and all related entities to such entity as parents, subsidiaries, affiliates and

partners. SED may, at its sole discretion, waive this restriction upon a written request from the Charter School.

(e) Where the Charter School has engaged an educational service provider or other entity that provides comprehensive management services to the school pursuant to a contract between such entity and the Charter School:

(i) if such entity is a for-profit entity, no employee, director, officer, agent or individual otherwise affiliated with such entity and/or any related entity, nor any immediate family members of such persons, shall be eligible to serve on the Board of Trustees;

(ii) if such entity is a not-for-profit entity, no more than two (2) trustees may be affiliated with such not-for-profit entity, or have immediate family members so affiliated, and one (1) such trustees' affiliation is limited to serving as director of such entity; provided however, that in such case the following restrictions shall apply and be contained in the By-laws:

(A) termination of the contract with the not-for-profit educational service provider or other entity shall constitute cause for removal of such person(s) from the Board of Trustees, and upon such termination such person(s) may be removed from the Board of Trustees by vote of the Board of Trustees provided there is a quorum of at least a majority of the entire Board of Trustees present at the meeting; and

(B) such person(s) shall not hold the offices of chair or treasurer of the Board of Trustees; and

(C) when the Board of Trustees has proper grounds to go into executive session pursuant to the Open Meetings Law, and the Board of Trustees is to discuss or vote upon an issue related to the not-for-profit management company or entity, the personnel of such company or entity, or such person(s), the Board of Trustees may, after such person(s) has had an opportunity to fully address the Board of Trustees, continue such executive session outside of the presence of such person(s); and

(D) the number of trustees on the Board of Trustees shall not be less than seven (7) where two (2) trustees are affiliated with the not-for-profit entity and not less than six (6) where one (1) trustee is affiliated with the not-for-profit entity.

(f)) The Board shall require that each Trustee who has served on the Board during a school year shall file annually a Disclosure of Financial Interest by a Charter School Trustee with the Regents, the form and requirements of which shall be provided by the Regents. The report shall set forth and attest to transactions between the Charter School on the one hand and a Trustee and any entity with which such Trustee is affiliated, on the other, as such transactions may be defined by the Regents. As set forth in paragraph 6.1 of this Charter Agreement, the report for each Trustee shall be submitted yearly as part of the School's annual report ("**Annual Report**"). In the event that any Trustee fails to file a report within thirty (30) days of its due date of August 1, or such report is in material respects incomplete, misleading or untruthful, and the Regents and/or their agents inform the Board of its determination in this regard, the Charter

School, notwithstanding any provision of its By-laws, shall in a timely fashion remove such Trustee pursuant to a vote of the Board and the failure of the Board to so act shall be a material violation of the Charter and be subject to further action in accordance with law. Should a Trustee resign from or otherwise leave the Board without having submitted a report for any year in which such Trustee served, the Charter School shall provide the Regents with a record of the transactions required by the report for that Trustee for each relevant school year, such reports to be signed by the Charter School and due on August 1 as part of the Annual Report.

2.14 Partnership with a Management Provider. To the extent that the Application contemplates entering into a contract with any not-for-profit entity under which such entity will provide comprehensive (all or a substantial portion of the) services necessary to manage and operate the Charter School, then the Charter School shall, no later than 120 days prior to the Opening Date, enter into a legally binding and enforceable agreement with such entity named in the Application (the "**Management Provider**") in a form substantially similar to that contained in the Application (the "**Management Contract**"), subject to the approval of SED and the requirements set forth in Exhibit C. The Management Contract shall set forth with particularity inter alia, (i) the contingent obligations and responsibilities of each party in the event that the contract must be modified in order to obtain or maintain the Charter School's status under federal law as a 501(c)(3) entity, and (ii) the extent of the Management Provider's participation in the organization, operation and governance of the Charter School. No later than thirty (30) days prior to entering into the Management Contract, the Charter School shall provide a copy of the Management Contract in proposed final form to the Regents. Such Management Contract shall be accompanied by a letter from a licensed attorney retained by the Charter School stating that the Management Contract meets the attorney's approval. Such attorney may not represent the Management Provider. The Management Contract shall not be executed until the Charter School is notified by SED that the Management Contract meets its approval. The Charter School shall not enter into any contract for comprehensive school management services to be performed in substantial part by any other entity not identified as such in the Application without receiving prior written approval from the Regents in accordance with §2852(7) of the Act. In addition, the Charter School shall not enter into a Management Contract with a for-profit business or corporate entity.

2.15 Parental and Staff Involvement. The Charter School shall take such steps and implement such processes consistent with those described in the Application to promote parental and staff involvement in school governance.

2.16 Student Transportation. The Charter School shall meet the transportation needs of students not otherwise eligible for transportation pursuant to Education Law §3635. The Charter School may contract with a school district for the provision of supplemental transportation services to the school. All transportation provided by the Charter School shall comply with all safety laws and regulations applicable to other public schools. The Charter School shall not require parents to transport their child to and/or from school or school-sponsored events related to the curriculum. Notwithstanding the above, the Charter School's failure to provide such supplemental transportation as is contemplated in the Application, where such transportation was to be provided by contract with the school district, shall not be deemed a material or substantial violation of the Charter, where the Charter School has attempted to negotiate such contract in

good faith with the applicable school district. In such event, the Regents may require the Charter School to provide the contemplated supplemental transportation services by alternate means if such means would be reasonable under the circumstances.

2.17 Health Services. The Charter School shall provide health services directly or through the school district in which the charter school is located pursuant to Education law §912, and in accordance with §2854(1)(b) of the Act.

2.18 Food Services. The Charter School shall provide food services as set forth in the Application and in accordance with 8 NYCRR § 114.2

2.19 F.O.I.L. and Open Meetings Law. The Charter School shall implement policies to ensure that it is in full compliance with Articles Six and Seven of the Public Officers Law.

2.20 Complaint Policy. The Charter School shall implement and maintain a complaint policy to receive and handle complaints brought pursuant to subdivision 2855(4) of the Education Law. The Charter School's Board of Trustees shall respond in writing to the complainant in any complaint submitted in writing pursuant to the Charter School's complaint policy no later than 30 days from receipt of the written complaint. A copy of the Charter School's complaint policy shall be distributed to the parents and/or guardians of students enrolled at the School and made readily available to all others requesting a copy. Upon resolution of a complaint, the Charter School shall provide to the complainant:

(a) its written determination and any remedial action thereto; and

(b) a written notice to the complainant that he or she may appeal the determination of the Charter School to SED.

SECTION 3. STUDENTS WITH DISABILITIES

3.1 Provision of Services. The Charter School shall provide special education, related services and accommodations to students with disabilities consistent with those described in the Application and in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1401 et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), including such special education and related services set forth in a student's Individualized Education Program recommended by the committee or subcommittee on special education of the student's school district of residence.

3.2 Funding of Services. The Charter School is authorized to receive from a local school district direct payment of any federal or state aid attributable to a student with a disability attending the Charter School in proportion to the level of services for such student with a disability that the Charter School provides directly or indirectly. The amounts payable directly by a school district to a charter school may be increased by mutual agreement of such school district and the Charter School in order to provide the appropriate levels of services required by the individualized education program of a student with a disability.

SECTION 4. PERSONNEL

4.1 Status. The Board shall employ and contract with necessary teachers, administrators and other school personnel as set forth in the Application, provided, however, that the contract of employment of the principal, headmaster or other chief school officer of the Charter School shall include a provision requiring said individual to cooperate fully with any distinguished educator appointed pursuant to Education Law §211-c.

4.2 Personnel Policies: staff responsibilities. The Board shall make available in written form its hiring and personnel policies and procedures, including the qualifications required by the Board in the hiring of teachers, school administrators and other school employees as well as a description of staff responsibilities. Such policies and procedures shall be consistent with those, if any, set forth in the Application.

4.3 Instructional Providers. (a) The Charter School shall employ or otherwise utilize in instructional positions only those individuals who are certified in accordance with the requirements applicable to other public schools, or who are otherwise qualified to teach under clauses (i)-(iv) of § 2854(3)(a-1) of the Act and applicable federal law. For purposes of this section, "instructional positions" means all those positions involving duties and responsibilities that, if otherwise undertaken in the public schools of New York, would require teacher certification, including positions as teaching assistants. Teachers exempted from certification under clauses (i)-(iv) of §2854(3)(a-1) of the Act shall not in total comprise more than thirty percent (30%) of the instructional employees of the Charter School, or five (5) teachers, whichever is less. A teacher certified or otherwise approved by the Commissioner of Education of the State of New York (the "**Commissioner**") shall not be counted against these numerical limits.

(b) Paraprofessionals. Paraprofessionals (teachers' aides) employed by the Charter School must meet all credentialing requirements imposed by applicable federal law.

4.4 Criminal History Checks. The Charter School shall establish procedures for conducting criminal history record checks of all employees and prospective employees of the Charter School as well as all other individuals who have regular access to the students enrolled in the school (including but not limited to volunteers and employees and agents of any company and organization which is party to a contract to provide services to the School) as is required or permitted by law and regulation.

4.5 Pension Payments. The employees of the Charter School may be deemed employees of the local school district for the purpose of providing retirement benefits, including membership in the teachers' retirement system and other retirement systems open to employees of public schools. The financial contributions for such benefits shall be the responsibility of the Charter School and its employees. Notwithstanding any contrary provision of the Charter, the parties shall comply with §119.2 of the Commissioner's regulations and with any additional regulations promulgated by the Commissioner, in consultation with the New York State Comptroller, to implement the provisions of this paragraph.

SECTION 5. FINANCE AND MANAGEMENT

5.1 Management and Financial Controls. The Charter School shall at all times maintain appropriate governance and management procedures and financial controls. To better ensure this outcome from the School's commencement, the Charter School shall provide a statement to SED no later than one hundred-twenty (120) days from the Effective Date concerning the status of management and financial controls (the "**Initial Statement**"). The Initial Statement must address whether the Charter School has documented adequate controls relating to:

a. preparing and maintaining financial statements and records in accordance with generally accepted accounting procedures (GAAP);

b. payroll procedures;

c. accounting for contributions and grants;

d. procedures for the creation and review of interim and annual financial statements, which procedures shall specifically identify the individual(s) who will be responsible for preparing and reviewing such financial statements and ensure that such statements contain valid and reliable data;

e. appropriate internal financial controls and procedures;

f. safeguarding of assets including cash and equipment;

g. compliance with applicable laws and regulation;

h. ensuring that the purchasing process results in the acquisition of necessary goods and services at the best price, and

i. following appropriate guidance relating to a code of ethics, budget development and administration, and cash management and investments.

The Initial Statement shall be reviewed and ratified by the Charter School's Board of Trustees prior to its submission to SED. The Charter School shall thereafter retain an independent certified public accountant (CPA) licensed in New York State to perform an agreed-upon procedures engagement (the "**Independent Accountants' Report**") in accordance with attestation standards established by the American Institute of Certified Public Accountants. The purpose of the engagement will be to assist the Board of Trustees and SED in evaluating the Initial Statement and the procedures, policies and practices established thereunder. The engagement shall commence within sixty (60) days after the date on which the Charter School has received and disbursed more than $50,000 in monies received from payments from school districts, under section 2856 of the Education Law, or from grants or other revenue sources.

The resulting Independent Accountants' Report should be provided to the Board of Trustees no later forty-five days (45) after the commencement of such engagement with a copy to SED. In the event that the Independent Accountants' Report reveals that any of the above management and financial controls (subparagraphs (a) – (i) of this paragraph) are not in place, the Charter School shall remedy such deficiencies no later than forty-five (45) days from the date the Independent Accountants' Report was received by the Board of Trustees and shall provide to SED within that forty-five (45) day period a statement that all deficiencies identified in the Independent Accountants' Report have been corrected. Such statement shall identify the steps undertaken to correct the identified deficiencies. SED may require additional evidence to verify the correction of all such deficiencies. All documents required to be submitted pursuant to this paragraph shall be submitted electronically in accordance with guidance provided by SED.

5.2 Financial Statements; Interim Reports. The Charter School shall maintain financial statements that are prepared in accordance with generally accepted accounting principles. All statements required by the Financial Accounting Standards Board (FASB) Statement No. 117, *Financial Statements of Not-for-Profit Organizations*, should be presented including a Statement of Financial Position, Statement of Activities, and Statement of Cash Flows. In addition, the statements shall include the required note disclosures and a supplemental schedule of functional expenses. The Charter School shall prepare and submit to SED within **forty-five (45) days** of the end of each quarter until the end of its first year of instruction an unaudited statement of activities (revenues and expenses) for that preceding quarter in accordance with guidelines issued by the SED. SED may waive or modify this requirement upon request by the Charter School's Board of Trustees. SED may, by written request, require submission of such statements in future years of the Charter School's operation.

5.3 Audits. The Charter School shall retain an independent CPA, licensed in New York State, to perform an audit of the Charter School's annual financial statements, in accordance with any audit guidelines issued by SED ("Audit Guide"). Section 2851(2)(f) of the Act requires that the audit be comparable in scope to those required of other public schools. The independent audit must be performed in accordance with Generally Accepted Auditing Standards(GAAS) and Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States as well as any additional requirements and guidelines provided by the Regents. The audit must include a management letter, if applicable, and other reports required by GAGAS. The audited financial statements must be submitted to SED by **November 1** of each fiscal year after the Opening Date. The Charter School must submit this report along with a corrective action plan addressing any weaknesses or problems identified in the report. SED may waive or modify this requirement upon request by the Charter School's Board of Trustees. If the Charter School spends $500,000 or more in federal awards during the fiscal year, an independent audit as prescribed in the federal Office of Budget and Management Circular A-133 must also be completed and filed with the federal government and SED. The Charter School must conduct programmatic audits as set forth in the Application and provide copies of such audits to SED.

5.4 Fiscal Year. The fiscal year of the Charter School shall commence on July 1 of each calendar year of the term of this Charter and shall end on June 30 of the subsequent calendar year.

5.5 Annual Budget and Cash Flow Projections. The Charter School shall prepare and provide to SED a copy of its annual budget and monthly cash flow projection for each fiscal year no later than August 1st of that fiscal year, except that the Charter School need only provide to SED an annual budget and cash flow projections for the first full fiscal year after it is incorporated if such budget or projections differ in any material respect from those set forth in the Application. The annual budget and cash flow projection shall be in such form and electronic format as prescribed by SED.

5.6 Funding Procedure. The Charter School shall maintain accurate enrollment data and daily records of student attendance and shall report enrollment to SED and the school districts of residence of its students in a timely manner. Pursuant to §2856(1) of the Act, payments by the school district of residence shall be made in six substantially equal installments each year, the first on the first business day of July and every two months thereafter, such amounts to be calculated as set forth at 8 NYCRR 119.1.

5.7. Exemption from Taxation. The Charter School shall be exempt to the same extent as other public schools from all taxation, fees, assessments or special *ad valorem* levies on its earnings and its property, including property leased by the Charter School. Instruments of conveyance to or from the Charter School and any bonds or notes issued by the Charter School, together with income therefrom, shall at all times be exempt from taxation.

5.8. Collateral for Debt. The Charter School may pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit. However, the Charter School shall not pledge or assign monies provided pursuant to §2856(1) of the Act in connection with the purchase or construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility.

5.9. Tuition and Fees. The Charter School shall not charge tuition to any student, provided that the Charter School may require the payment of fees on the same basis and to the same extent as other public schools.

5.10. Outside Funding. The Board may accept gifts, donations or grants of any kind made to the Charter School and expend or use such gifts, donations, or grants in accordance with the conditions prescribed by the donor. However, no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the Charter.

5.11. Maintenance of Corporate Status: Tax Exemptions. The Charter School shall maintain its status as an education corporation. The Board shall obtain federal tax-exempt status no later than one (1) year following the Effective Date. The Charter School shall provide the Regents with copies of all applications and filings relating to its seeking and maintaining its federal tax-exempt status and shall immediately notify the Regents of any action by the Internal Revenue Service to withdraw the school's status as a §501(c)(3) entity.

5.12. Insurance. The Charter School shall, at its own expense, purchase and maintain the insurance coverage for liability, property loss, and the personal injury of students as described in

the Application, together with any other additional insurance that the Charter School deems necessary. Such insurance shall be effective no later than thirty (30) days prior to the opening date. Upon request, the Charter School shall provide SED with certificates of insurance or other satisfactory proof evidencing coverage. All such insurance policies shall contain a provision requiring notice to SED, at least thirty days (30) in advance, of any material change, nonrenewal or termination. Notwithstanding any provision to the contrary, the Charter School shall take all steps necessary to comply with any regulations promulgated by the Commissioner and Superintendent of Insurance to implement §2851(2)(o) of the Act.

SECTION 6. REPORTS AND OVERSIGHT

6.1. Annual Reports. No later than August 1 of each year after the Opening Date the Charter School, pursuant to §2857(2) of the Act, shall submit to the Regents an annual report (the "**Annual Report**") setting forth the academic program and performance of the Charter School for the preceding school year in accordance with the Performance Framework. As required by the Act, the Annual Report shall be posted on the Charter School's website, transmitted to local newspapers, and available for distribution at Board of Trustee meetings. The format for the Annual Reports shall be prescribed by the Commissioner ("The Annual Report Guide").

The Regents may require the Charter School to provide other reasonable supplements to the Annual Report.

6.2. Oversight Plan. The Charter School and the Board acknowledge that the Regents are authorized to oversee the Charter School's operations in all respects, including the right to visit, examine and inspect the school and its records. To permit the Regents to fulfill this oversight function under the Act and ensure that the Charter School is in compliance with all applicable laws and regulations, and the terms and conditions of the Charter, the Charter School agrees to abide by and implement the Oversight Plan, which is posted on the Department's website. It is understood that amendments and revisions may be made to such plan by SED, in consultation with the Charter School.

The Oversight Plan consists of the following sections:

(a) Section I: Opening Procedures. Those procedures required to be completed before the Charter School is permitted to provide instruction and receive public funds pursuant to Paragraph 1.3 hereof ("Prior Actions"), and those to be completed during the first year of instruction.

(b) Section II: Monitoring Plan. The oversight and monitoring activities to be conducted by SED in its oversight and charter authorization role.

(c) Section III: Performance Framework. The performance benchmarks and measures in the areas of educational success, organizational soundness, and faithfulness to the Charter and law, that the Charter School agrees to meet in order to earn renewal of its charter, including the requirement in Education Law §2851(4)(e) concerning enrollment and retention targets for

students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program. The specific Performance Framework applicable to this Charter School, shall replace the performance goals and measures set forth in the Application and shall be developed jointly between the authorizer and the charter school with finalization expected by June 30th of the first year of instruction, at which time it shall be incorporated into, and appended to, the Charter Agreement as Exhibit B.

(d) Section IV: Closing Procedures. Those procedures require to be completed by the Charter School when the school's charter is: revoked, not renewed, or is otherwise terminated.

6.3. Corrective Action. If SED determines that the Charter School is not progressing toward one or more of the performance or education goals set forth in the Charter, that the quality of the Charter School's educational program or governance is not satisfactory, or that the Charter School is not in compliance with the terms and conditions of the Charter and/or applicable law or regulation, then SED may require the Charter School to develop and implement a corrective action plan. Nothing contained herein shall be in derogation of the Regents' ability to revoke the Charter, place the Charter School on probationary status, or initiate mandatory remedial action in accordance with the Act and § 8.3 of this Charter Agreement.

SECTION 7. OTHER COVENANTS AND WARRANTIES

7.1. Compliance with Laws and Regulations. The Charter School shall operate at all times in accordance with the Act and shall meet the same health and safety, civil rights, and student assessment requirements as applicable to other schools. The Charter School acknowledges that the laws that it must comply with include Education Law §409-h and the regulations promulgated thereunder which set forth requirements for notification of pesticide applications.

7.2. Transactions with Affiliates. The Charter School shall not, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any affiliate of the Charter School, any member of the Board or any employee of the Charter School, unless the terms of such transaction (considering all the facts and circumstances) are no less favorable to the Charter School than those that could be obtained at the time from a person or entity that is not such an affiliate, member or employee, and the involved school trustee, officer or employee recuses him/herself from voting on or deciding any matters related to such transaction.

SECTION 8. RENEWAL AND REVOCATION

8.1. Renewal Applications. No later than the first of July in the year prior to expiration of the Charter, the Charter School may provide to the Regents an application to renew the Charter in accordance with §2851(4) of the Act, in a format prescribed by SED and in accordance with guidelines issued by SED ("Renewal Application").

Nothing herein shall require the Regents to approve a Renewal Application. In the event that an application for renewal is not approved, the parties to the Charter shall fulfill their respective obligations hereunder until expiration of the term of the Charter, and the Charter School shall follow the procedures for dissolution as set forth in §2851(2)(t) of the Act and section 8.4 of this Charter.

8.2. Grounds for Revocation. This Charter may be terminated and revoked:

(a) by Regents in accordance with §2855 of the Act; or

(b) by mutual agreement of the parties hereto.

8.3. Notice and Procedures. Should the Regents determine that one or more of the grounds set forth in §2855(1) of the Act exists for revocation of the Charter, the Regents may, at their discretion, elect:

(a) to revoke the Charter in accordance with the procedures set forth in §2855(2) of the Act; or

(b) to place the Charter School on probationary status, pursuant to §2855(3) of the Act, and cause the Charter School to implement a remedial action plan, the terms and conditions of which the Charter School must agree to abide by in all respects. The failure of a Charter School to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's Charter.

8.4. Dissolution. In the event of termination or revocation of the Charter, the Charter School shall follow the procedures set forth in the Application and in Section IV of the Oversight Plan ("Closing Procedures") and §2851(2)(t) of the Act, for the transfer of students and student records to the school district in which the Charter School is located and for the disposition of the Charter School's assets to the school district in which the Charter School is located or to another charter school located within the school district. In addition, in case of such an event, the Charter School will follow any additional procedures required by SED to ensure an orderly dissolution process, including compliance with the applicable requirements of Education Law §§ 219 and 220.

8.5. Escrow Account for Dissolution. The Charter School agrees to establish an escrow account of no less than $75,000 to pay for legal and audit expenses that would be associated with a dissolution should it occur. The School may provide for the full amount in its first-year budget, or provide for a minimum of $25,000 per year for the first three years of its charter term. The School's failure to provide for a minimum of $25,000 by December 31st in each of the first three years of its charter term, beginning with the first year of instruction, shall be deemed a material violation of the charter.

SECTION 9. MISCELLANEOUS

9.1 Disclaimer of Liability. The parties acknowledge that the Charter School is not operating as the agent, or under the direction and control, of SED, or the Regents, except as required by law, and that SED or the Regents do not assume any liability for any loss or injury resulting from: (i) the acts and omissions of the Charter School, its directors, trustees, agents or employees; (ii) the use and occupancy of the building or buildings, occupied by the Charter School, or any matter in connection with the conditions of such building or buildings; or (iii) any debt or contractual obligation incurred by the Charter School. The Charter School acknowledges that it is without authority to extend the faith and credit of SED, the Regents or the public schools, to any third party.

9.2 Governing Law. This Charter shall be governed by, subject to and construed under the laws of the State of New York without regard to its conflicts of laws provisions.

9.3. Waiver. No waiver of any breach of this Charter shall be held as a waiver of any other or subsequent breach of this Charter.

9.4 Counterparts: Signature by Facsimile. This Charter may be signed in counterparts, which shall together constitute the original Charter. Signatures received by facsimile by either of the parties shall have the same effect as original signatures.

9.5 Terms and Conditions of Application. The parties hereto expressly agree that the Application sets forth the overall goals, standards and general operational policies of the Charter School, and that the Application is not a complete statement of each detail of the Charter School's operation. To the extent that the Charter School desires to implement specific policies, procedures or other specific terms of operation that supplement or otherwise differ from those set forth in the Application, the Charter School shall be permitted to implement such policies, procedures, and specific terms of operation, provided that such policies, procedures and terms of operation are (i) not otherwise prohibited or circumscribed by the Act or the Charter, and (ii) are not materially different from those set forth in the Application.

9.6 Revision. This Charter may be revised only by written consent of the parties hereto and, in the case of material revisions, only in accordance with both §2852(7) of the Act and 8 NYCRR §3.16(c).

9.7 Assignment. This Charter may not be assigned or delegated by the Applicant under any circumstances, it being expressly understood that the Charter granted hereby runs solely and exclusively to the benefit of the Charter School incorporated herein.

9.8 Notices. Any notice, demand, request or submission from one party to any other party or parties hereunder shall be deemed to have been sufficiently given or served for all purposes if, as of the required date, it is delivered by hand, overnight courier or facsimile (with confirmation and followed by the original). If delivered by registered or certified mail, postage prepaid, such notice, demand, request or submission shall be mailed 5 days prior to the date required. All notices, demands, requests or submissions will be provided to the Charter School

at the address provided by the Charter School to SED for the purposes of receiving such notices. Such notices will be provided to the Regents at the following address: Charter School Office, NYSED, Room 471EBA, 89 Washington Avenue, Albany, NY, 12234.

9.9 Severability. In the event that any provision of this Charter or its application thereof to any person or in any circumstances shall be determined to be invalid, unlawful, or unenforceable to any extent, the remainder of this Charter and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected thereby, and each remaining provision of this Charter shall continue to be valid and may be enforced to the fullest extent permitted by law.

9.10 Entire Charter. This Charter supersedes and replaces any and all prior agreements and understandings between the Regents and the Applicant. To the extent that any conflict or incompatibility exists between the Application and the other terms of this Charter, such other terms of this Charter shall control.

9.11 Construction. This Charter shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Charter.

_____

Merryl H. Tisch
Chancellor
New York State Board of Regents

Subscribed and sworn to before me
this _____ day of ____, 20__.

_____
Notary Public

_____

{INSERT NAME}
Applicant

Subscribed and sworn to before me
this _____ day of ____, 20__.

_____
Notary Public

EXHIBIT C

COMPREHENSIVE MANAGEMENT CONTRACT REQUIREMENTS

In the event the Charter School intends to contract with a third party for comprehensive school management or operations services ("Management Contract"), the Charter School must meet all of the following requirements:

1. Required Provisions of Bylaws. The bylaws of the Charter School shall provide that the Charter School may not enter into any contract for comprehensive school management or operations services ("Management Contract") without first submitting such Management Contract to SED for review. The Charter School shall further incorporate within its bylaws, or duly establish pursuant to such bylaws, procedures for the termination of the Management Contract as provided herein.

2. Submission of Management Contract. The Management Contract shall be submitted to SED for approval no later than forty-five (45) days prior to its effective date. If SED determines that the Management Contract does not comply with the provisions set forth in Section 3 of this Exhibit, or that the Charter School's entering into the Management Contract would otherwise be in violation of the conditions set forth in this Exhibit, the Charter, or the Charter School Law, then SED shall notify the Charter School within thirty (30) days, stating with particularity the grounds for its objections. In such event, the Charter School shall not enter into the Management Contract unless and until the deficiencies noted by SED have been remedied to SED's reasonable satisfaction.

3. Required Terms of Management Contract. The Management Contract shall include, without limitation, the following Required Terms:

i. The Management Contract shall be subject to, and shall incorporate by reference, the terms and conditions of the Charter.

ii. The Management Contract shall clearly delineate the respective roles and responsibilities of the provider of comprehensive school management or operations services ("the Management Provider") and the Charter School in the management and operation of the school facility for which the Management Provider shall provide management or operations services. The Management Contract shall also include clear performance terms and procedures by which the Charter School will regularly evaluate the Management Provider and hold the Management Provider accountable for performance.

iii. The Management Contract shall clearly state all contract payments, lease payments, management fees, administrative fees, licensing fees, performance bonuses, expenses and any other amounts to be paid to the Management Provider, or otherwise to be paid for the Contract Services by the Charter School, and shall clearly explain the method for calculating such fees or payments.

iv. The Management Contract shall be terminable by the Charter School, in accordance with its bylaws or other established termination procedures, (a) upon default by the Management Provider, including without limitation any act or omission of the Management Provider that causes a default under the Charter or that causes the Charter School to be in violation of the Act, or (b) for other good cause shown.

v. The Management Contract shall require that the Management Provider furnish the Charter School with all information deemed necessary by the Charter School or SED for the proper completion of the budget, quarterly reports, or Financial Audits, as required by the Charter.

vi. The Management Contract shall provide that all financial reports provided or prepared by the Management Provider shall be presented in GAAP/FASB approved nonprofit format.

vii. The Management Contract shall provide that all employees or contractors of the Management Provider who have direct, regular contact with students of the Charter School shall be subject to fingerprint-based criminal background investigations and checks in compliance with applicable laws.

viii. The Management Contract shall contain provisions requiring compliance with all requirements, terms and conditions established by any Federal or State funding source.

4. Financial Reporting.

a. Budget. The budget prepared by the Charter School pursuant to paragraph 5.5 of the Charter shall include, without limitation, the following itemized information:

i. All revenue anticipated to be received by school districts of residence under the Charter.

ii. All expenses and anticipated expenses associated with the operation and management of the Charter School.

iii. All expenses associated with the operation of the Board of Trustees of the Charter School including, without limitation, personnel, occupancy and travel expenses, if any, provided that any such expenses not paid out of revenues received from school districts of residence are not required to be separately itemized hereunder.

iv. All contract payments, lease payments, management fees, administrative fees, licensing fees, performance bonuses, expenses and other amounts budgeted for the Management Provider, or otherwise budgeted for the Contract Services by the Charter School, with the method for calculating such fees or payments clearly explained.

v. All loan repayments for any loans made to the Charter School by the Service Provider, including separate line items for interest, principal and premium, if any, on such loan repayments.

vi. All investments in the Charter School by the Management Provider, including the expected returns on equity for such investments.

b. Quarterly Financial Statements. In the event that quarterly financial statements are required to be furnished by the Charter School pursuant to paragraph 5.2 of the Charter, such financial statements shall reflect the entire school's financial operations, including an itemized accounting of all amounts paid to the Management Provider or otherwise paid for the Contract Services, which amounts shall be itemized in a manner that clearly corresponds to those categories provided in the Charter School's annual budget or the Management Contract.

c. Annual Audit. The Financial Audits required under paragraph 5.3 of the Charter shall include review of all fees and payments made by the Charter School to the Management Provider.

d. Reporting of Loans and Investments. All loans to, or investments in, the Charter School by the Management Provider must be evidenced by appropriate documentation, either in the contract between the Charter School and the Management Provider, or through separate agreements. In the case of investments, such documentation shall explain how the investment shall be treated on the books of the Charter School and shall clearly state the Management Provider's expected return on equity.

Nothing in this paragraph 4 shall be construed to waive or otherwise limit the obligation of the Charter School to provide information otherwise required to be reported by the Charter School under the Act or the Charter.