Action Item No. 1
August 26, 2022

Re: Universal Bluford Charter School and Universal Daroff Charter School; Approval of Release and Settlement Agreement

WHEREAS, pursuant to the Charter School Law ("CSL"), 24 P.S. § 17-1701-A et seq., the School Reform Commission ("SRC") granted a charter in 2010 to Universal Daroff Charter School ("DAROFF") to operate the Samuel H. Daroff Elementary School ("Daroff School") as a Renaissance charter school for a five-year term commencing on July 1, 2010 and ending on June 30, 2015; and

WHEREAS, the SRC renewed DAROFF's charter in 2015, for a five-year term commencing on July 1, 2015 and ending on June 30, 2020; and

WHEREAS, the Board of Education replaced the SRC and became its successor on July 1, 2018; and

WHEREAS, on April 30, 2020, the Board of Education adopted Action Item No. 9, instituting nonrenewal proceedings against DAROFF; and

WHEREAS, following the completion of the nonrenewal process outlined in 24 P.S. § 17-1729-A(c), on April 22, 2021, the Board of Education adopted Action Item No. 31, which denied DAROFF's renewal; and

WHEREAS, DAROFF thereafter appealed the April 22, 2021 Action Item to the State Charter School Appeal Board ("CAB), which voted to deny DAROFF's appeal on July 12, 2022 but has not yet issued a written order or decision reflecting its final decision on the appeal; and

WHEREAS, effective July 31, 2022, the management relationship between DAROFF and Universal Education Companies, Inc. ("UEC") and Universal Community Homes ("UCH"), two charter management organizations, ended, and UEC and UCH are no longer providing any staffing or other services to DAROFF; and

WHEREAS, the school year for students enrolled at DAROFF is anticipated to be pushed back to begin on September 6, 2022; and

WHEREAS, pursuant to the CSL, the SRC granted a charter in 2010 to Universal Bluford Charter School ("BLUFORD") to operate the Guion S. Bluford Elementary School ("Bluford School") as a Renaissance charter school for a five-year term commencing on July 1, 2010 and ending on June 30, 2015; and

WHEREAS, the SRC renewed BLUFORD's charter in 2016, for a five-year term commencing on July 1, 2015 and ending on June 30, 2020; and

WHEREAS, on April 30, 2020, the Board of Education adopted Action Item No. 8, instituting nonrenewal proceedings against BLUFORD; and

WHEREAS, following the completion of the nonrenewal process outlined in 24 P.S. § 17-1729-A(c), on April 22, 2021, the Board of Education adopted Action Item No. 30, which denied BLUFORD's renewal and directed BLUFORD to surrender and forfeit its Charter in accordance with language in the Charter executed by the parties on May 19, 2016; and

WHEREAS, BLUFORD did not surrender or forfeit its Charter or close following the adoption of Action Item No. 30; and

WHEREAS, on June 7, 2021, the School District of Philadelphia ("SCHOOL DISTRICT") filed a declaratory judgment action against BLUFORD in the Philadelphia Court of Common Pleas, Docket No. 210600163 ("Common Pleas Litigation"), seeking enforcement of the surrender clause in BLUFORD's Charter, which remains pending; and

WHEREAS, BLUFORD also appealed the April 22, 2021 Action Item to CAB, which quashed BLUFORD's appeal on December 6, 2021 without prejudice; and

WHEREAS, effective July 31, 2022, the management relationship between BLUFORD and UEC and UCH ended, and UEC and UCH are no longer providing any staffing or other services to BLUFORD; and

WHEREAS, the school year for students enrolled at BLUFORD is anticipated to be pushed back to begin on September 6, 2022; and

WHEREAS, based upon site visits to the Daroff School building and the Bluford School building by the SCHOOL DISTRICT and information received from DAROFF and BLUFORD, various facilities and staffing issues have come to the attention of the SCHOOL DISTRICT and the Charter Schools Office ("CSO") that could place the health and safety of BLUFORD's and DAROFF's pupils, staff or both at serious risk;

WHEREAS, in order to avoid the time, expense and uncertainty of further litigation, DAROFF, BLUFORD and the SCHOOL DISTRICT desire to enter into an Agreement in order to provide a full and final settlement and resolution of any and all issues, disputes, and differences among the parties related to the nonrenewal of DAROFF's Charter and the nonrenewal and surrender of BLUFORD's Charter and the circumstances that have arisen with respect to the opening of the schools for the 2022-2023 school year, without trial, hearing or adjudication of any issue of fact or law, and without admission with respect to any such issue, and to terminate and conclude the various legal proceedings related to the nonrenewal of DAROFF's Charter and the nonrenewal and surrender of BLUFORD's Charter;

WHEREAS, the Combined Board of Trustees on behalf of DAROFF and BLUFORD has agreed to certain terms and conditions in connection with a full and final settlement and resolution of any and all issues, disputes, and differences with the SCHOOL DISTRICT related to the nonrenewal of DAROFF's Charter and the nonrenewal and surrender of BLUFORD's Charter and the circumstances that have arisen with respect to the opening of the schools for the 2022-

2023 school year, and to terminate and conclude the various legal proceedings related to the nonrenewal of DAROFF's Charter and the nonrenewal and surrender of BLUFORD's Charter;

WHEREAS, the Combined Board of Trustees has submitted to the SCHOOL DISTRICT a Release and Settlement Agreement ("Agreement") signed by DAROFF and BLUFORD setting forth the agreed terms and conditions; now be it

RESOLVED, that the Board of Education authorizes the President of the Board of Education to execute, perform and deliver the Agreement with DAROFF and BLUFORD, through their Combined Board of Trustees ("Combined Board"), which shall incorporate the following terms and conditions:

1. The Combined Board must provide the District on or before August 29, 2022 with a plan satisfactory to the District for operating BLUFORD in the manner described below. Such plan shall include a full staffing list for all staff at BLUFORD who will be employed and have all the required background checks and clearances as of September 1, 2022; confirmation of adequate liability and other insurance coverage in effect for BLUFORD; and a facilities report for the Bluford School identifying the repair status as of August 29, 2022 of all issues identified by the SCHOOL DISTRICT on August 15, 2022.

2. DAROFF Operations. DAROFF agrees to surrender and forfeit its Charter effective immediately upon full execution of the Agreement, to close DAROFF effective immediately upon full execution of the Agreement, and to promptly dissolve DAROFF thereafter, pursuant to the CSL and the Pennsylvania Nonprofit Corporation Law. DAROFF will maintain adequate insurance coverages during the dissolution process. DAROFF and the SCHOOL DISTRICT acknowledge and agree that final dissolution of DAROFF will be dependent upon final reconciliation of payments and charges. DAROFF agrees to waive its rights to any further appeals or reconsideration to CAB, the Commonwealth Court, to any administrative agency or to any other court, or to the commencement of any legal actions related to nonrenewal, the immediate surrendering or forfeiting of the Charter, or the operation of DAROFF. DAROFF further agrees that it will not file an appeal to the Commonwealth Court from CAB's decision, and further agrees that it will not seek a stay from CAB or any other tribunal.

2.1 If DAROFF fails to surrender and forfeit its Charter effective immediately upon full execution of the Agreement, fails to close DAROFF effective immediately upon full execution of the Agreement, or fails to promptly dissolve DAROFF thereafter, DAROFF shall be in breach of the Agreement and shall be responsible for the SCHOOL DISTRICT's attorneys' fees, expenses and costs in pursuing litigation to enforce the Agreement or for pursuing other remedies in connection with DAROFF'S actions. DAROFF further agrees that if it fails to surrender and forfeit its Charter effective immediately upon full execution of the Agreement, fails to close DAROFF effective immediately upon full execution of the Agreement, or fails to promptly dissolve DAROFF thereafter, such a failure constitutes irreparable injury to the SCHOOL DISTRICT that cannot be adequately compensated by monetary damages, and the SCHOOL DISTRICT

will be entitled to equitable relief to enjoin DAROFF'S failure to perform its duties under the Agreement and to enjoin DAROFF from opening for the 2022-2023 school year.

2.2 The licensing arrangement and understandings between the SCHOOL DISTRICT and DAROFF for use of the Daroff School shall end upon the full execution of the Agreement, and the SCHOOL DISTRICT shall regain sole possession of the Daroff School upon full execution of the Agreement without waiving any rights or claims. DAROFF shall ensure that the fire alarm system in the Daroff School is fully operational and certified to the SCHOOL DISTRICT'S satisfaction no later than September 2, 2022. If required, DAROFF or its designated contractors shall be given access to the Daroff School to ensure that the fire alarm system is repaired and certified by September 2, 2022. DAROFF agrees that it shall have no further rights or claims under the licensing arrangement after the Agreement is executed, except as otherwise agreed to by the SCHOOL DISTRICT. The parties shall make arrangements at mutually convenient times for the removal of DAROFF'S personal property or the personal property of DAROFF staff from the Daroff School premises.

2.3 DAROFF agrees to proceed with an orderly winding up and dissolution of DAROFF, to provide the SCHOOL DISTRICT with a written plan for winding up the operations of DAROFF, and to identify a person responsible for the winding up and the maintenance of required records by September 30, 2022.

2.4 DAROFF agrees to provide to the SCHOOL DISTRICT by September 30, 2022 complete copies of all student records, including copies of all available transcripts, grades, Individualized Education Programs (IEPs), disciplinary records, and health records ("Student Records") for all former students and current students who are not enrolled in BLUFORD for the 2022-2023 school year.

2.5 DAROFF acknowledges and agrees that for the July 2022 and the August 2022 per-pupil charter payments by the SCHOOL DISTRICT, DAROFF was paid for 492 regular education students and 140 special education students. DAROFF agrees that upon execution of the Agreement, DAROFF will not receive any per-pupil charter payments from the SCHOOL DISTRICT for September 2022 or any month thereafter. DAROFF agrees to work with the SCHOOL DISTRICT's Child Accounting Office and Finance Department to reconcile per-pupil payments and to address any charges due and owing to the SCHOOL DISTRICT by DAROFF, including, licensing fees for the Daroff School; any remaining charges from the 2021-2022 or for the 2022-2023 school years attributable to DAROFF; any Public School Employees' Retirement System ("PSERS") charges; or other costs or charges related to DAROFF. The SCHOOL DISTRICT further agrees that any deductions from funding will be communicated to DAROFF in advance.

3. BLUFORD Operations. As set forth in more detail below, BLUFORD may

remain in operation during the 2022-2023 school year and provide an educational program and all required services to all enrolled students through June 30, 2023, in compliance with all applicable federal, state and local laws, including the provision of all services to English Learners and all required special education programs including Extended School Year ("ESY") services during the summer of 2023.

3.1 The SCHOOL DISTRICT shall provide per-pupil funding to BLUFORD through June 30, 2023, for those students enrolled in BLUFORD in accordance with its Charter and as may be modified through the Agreement. The SCHOOL DISTRICT further agrees that any deductions from funding will be communicated to BLUFORD in advance of the deduction and will be fully reconciled along with any final charter payments reconciliation for BLUFORD. BLUFORD shall input, update and maintain accurate student enrollment, residency and family contact information in the SCHOOL DISTRICT'S student information system, Infinite Campus, during the 2022-2023 school year, and shall ensure that BLUFORD staff or contractors are trained to do so.

3.2 BLUFORD agrees to surrender and forfeit its Charter effective June 30, 2023, to close BLUFORD as of June 30, 2023, and to promptly dissolve BLUFORD thereafter, pursuant to the CSL and the Pennsylvania Nonprofit Corporation Law. BLUFORD agrees to waive its rights to any further appeals to CAB, the Commonwealth Court, to any administrative agency or to any other court, or to the commencement or appeal of any legal actions related to nonrenewal, the surrender or forfeiture of the Charter, or the operation of BLUFORD.

3.3 The licensing arrangement and understandings between the SCHOOL DISTRICT and BLUFORD for the Bluford School shall end on June 30, 2023, and the SCHOOL DISTRICT shall take back possession of the Bluford School on July 1, 2023 without waiving any rights or claims. BLUFORD shall provide building engineering services, cleaning, maintenance and repairs during the 2022-2023 school year for the Bluford School at BLUFORD'S sole cost and expense. In order for BLUFORD to provide ESY services in July 2023, BLUFORD will enter into a use of facilities agreement with the SCHOOL DISTRICT through the Facilitron system, including all standard indemnification and insurance provisions and facilities charges.

3.4 If BLUFORD fails to surrender and forfeit its Charter effective June 30, 2023, fails to close BLUFORD effective June 30, 2023, or fails to promptly dissolve BLUFORD after June 30, 2023, BLUFORD shall be in breach of the Agreement and shall be responsible for the SCHOOL DISTRICT'S attorneys' fees, expenses and costs in pursuing litigation to enforce the Agreement or for pursuing other remedies in connection with BLUFORD'S actions. BLUFORD further agrees that if it fails to surrender and forfeit its Charter effective June 30, 2023, fails to close BLUFORD effective June 30, 2023, or fails to promptly dissolve BLUFORD after June 30, 2023, such a failure constitutes irreparable

injury to the SCHOOL DISTRICT that cannot be adequately compensated by monetary damages, and the SCHOOL DISTRICT will be entitled to equitable relief to enjoin BLUFORD'S failure to perform its duties under the Agreement and to enjoin BLUFORD from opening for the 2023-2024 school year.

3.5 If circumstances should arise that would require BLUFORD to close prior to June 30, 2023, BLUFORD agrees to give the SCHOOL DISTRICT at least sixty (60) calendar days' notice of an impending mid-year closure so that the SCHOOL DISTRICT can accelerate transition plans and staff, students and families can be notified. In the instance of a mid-year closure during the 2022-2023 school year, BLUFORD shall provide the SCHOOL DISTRICT with access to all Student Records upon notice of the impending closure so that appropriate programming decisions can be made. Payments owed to BLUFORD shall be pro-rated to the last day of school.

3.6 Upon BLUFORD's closure at the end of the 2022-2023 school year or earlier, BLUFORD agrees to work with the SCHOOL DISTRICT's Child Accounting Office and Finance Department to reconcile per-pupil payments and to address any charges due and owing to the SCHOOL DISTRICT by BLUFORD, including licensing fees for the Bluford School; any remaining charges from the 2022-2023 school year attributable to BLUFORD; any PSERS charges; or other costs or charges related to BLUFORD. The SCHOOL DISTRICT further agrees that any deductions from funding will be communicated to BLUFORD in advance.

4. Conditions for BLUFORD'S 2022-2023 Operations. BLUFORD shall operate in accordance with the following terms and conditions for the 2022-2023 school year:

4.1 Through September 15, 2022, BLUFORD shall provide updated facilities, enrollment, and staffing information to the CSO every Monday, Wednesday, and Friday with the exception of holidays by 5:00 p.m. to ensure that the facilities issues and the staffing vacancies are being adequately addressed. After September 15, 2022, BLUFORD shall provide updated facilities and staffing information to the CSO weekly, no later than every Friday at 5:00 p.m. with the exception of holidays and school closings, in which case the update shall be provided on the next business day.

4.2 Students enrolled in DAROFF in Infinite Campus as of August 22, 2022 at 5:00 p.m. may attend BLUFORD, notwithstanding BLUFORD'S assigned catchment area, if there is space available at BLUFORD based on facility capacity. Any enrollment of DAROFF students at BLUFORD must be with written parental consent.

4.3 BLUFORD'S maximum authorized enrollment only for the 2022-2023 school year would be raised to the BLUFORD facility capacity limit, which is a

number to be determined by the SCHOOL DISTRICT by August 26, 2022 and is anticipated to be between 636 and 700 students. The maximum authorized enrollment shall be comprised of only BLUFORD students enrolled at BLUFORD by August 22, 2022 (no more than 571 students) with the remaining students being students previously enrolled at DAROFF as of August 22, 2022.

4.4 For the 2022-2023 school year only, BLUFORD is permitted to enroll 7th and 8th grade students from DAROFF as long such students were enrolled in DAROFF as of August 22, 2022 at 5:00 p.m. and space is available at BLUFORD.

4.5 If there is not sufficient space available at BLUFORD to accommodate all DAROFF students and BLUFORD students, DAROFF students will be enrolled in BLUFORD through a lottery system agreed upon by the parties, with priority/preference in enrollment for DAROFF students with IEPs, siblings, homeless students, and students in the Department of Human Services ("DHS") system.

4.6 The SCHOOL DISTRICT will assist DAROFF and BLUFORD families who are interested in finding alternative school options and DAROFF families whose children were not offered a placement at BLUFORD through the lottery process. This may include school options in SCHOOL DISTRICT schools or in other Philadelphia charter schools that have space available.

4.7 BLUFORD shall immediately provide to the SCHOOL DISTRICT Student Records for all students enrolled at BLUFORD during the 2021-2022 school year who will not be remaining at BLUFORD and shall provide by September 30, 2022 Student Records for all former students.

4.8 BLUFORD and DAROFF shall cease enrolling new students and accepting applications through Apply Philly Charter or by any other means as of August 19, 2022.

4.9 BLUFORD may seek to solicit DAROFF staff to change employment to BLUFORD, and the Combined Boards shall take appropriate board action in public to confirm such employment changes. The SCHOOL DISTRICT will provide assistance to any DAROFF staff not hired by BLUFORD to apply for employment opportunities with the SCHOOL DISTRICT.

4.10 In consultation with the SCHOOL DISTRICT, BLUFORD shall delay the start of the 2022-2023 school year to at least September 6, 2022. BLUFORD must adjust its 2022-2023 school calendar to meet the 180-days or 990 hours requirement. BLUFORD shall communicate all changes to the opening date to families of enrolled students by electronic, telephone and U.S. mail means and shall provide them with resources to address the change. In conjunction with the

SCHOOL DISTRICT, BLUFORD shall notify DHS at the City of Philadelphia of the delay in the opening date of BLUFORD.

4.11 BLUFORD may change its name to "Bluford Charter School" and must take steps to legally change its name with the Pennsylvania Corporations Bureau, IRS and Pennsylvania Department of Education.

4.12 BLUFORD shall pay all employees for all income earned through June 30, 2023. BLUFORD shall keep current on both the employee and employer contributions to PSERS, and Section 403(b) deferred compensation retirement plan, and any other retirement program, and shall pay all bills and obligations in a timely fashion as such bills and obligations come due. The SCHOOL DISTRICT will withhold and segregate in a separate account $25,000 from BLUFORD'S June 5, 2023 payment to cover any final PSERS member and/or employer contributions due to PSERS by BLUFORD. Such funds will be paid over to BLUFORD once the SCHOOL DISTRICT and BLUFORD receive confirmation from PSERS that no amounts are due and owing.

5. Transition. As of July 1, 2023, the parties agree that BLUFORD will be closed and the SCHOOL DISTRICT will manage and control a School District school at the Bluford School. During the 2022-2023 school year, BLUFORD agrees to cooperate with the CSO and the SCHOOL DISTRICT to transition the students and operations of BLUFORD to a School District school operating for the 2023-2024 school year. Such cooperation shall include the following:

5.1 BLUFORD shall provide SCHOOL DISTRICT employees and representatives regular access to the Bluford School, upon request and reasonable notice to BLUFORD. Reasonable notice is defined as 48-hour notice, unless otherwise agreed to by the parties or unless there is an emergency situation or potential health or safety issue.

5.2 BLUFORD agrees to provide to the SCHOOL DISTRICT a de-identified list of all students enrolled in BLUFORD who are attending out-of-Charter School programs, such as approved private schools, including the names and types of programs, the grade levels of such students, and the costs of such placements, by October 1, 2022 and on a monthly basis on the 1st of the month until June 1, 2023. BLUFORD further agrees that if a student is in 8th grade, and BLUFORD is recommending a more restrictive environment for the student, BLUFORD shall notify the SCHOOL DISTRICT of the recommendation and shall meet with the SCHOOL DISTRICT before any change in placement for the student is agreed to by BLUFORD.

5.3 The parties shall consult with each other about the status of equipment, technology, and property at the Bluford School, and any terms and conditions under which any non-fixtures will be transferred to the SCHOOL DISTRICT.

5.4 The CSO shall monitor BLUFORD'S operations during the 2022-2023 school year. To assist in such monitoring, BLUFORD shall provide the CSO with its monthly financial reports prepared by its business contractor(s); notice of the date, time, location, agenda and zoom link for all Combined Board meetings; copies of all minutes from Combined Board meetings, and copies of all contracts entered into with vendors, contractors or service providers. BLUFORD agrees that the CSO may perform site visits and inspections of the Bluford School and BLUFORD's operations during the 2022-2023 school year upon 48-hour notice, unless otherwise agreed to by the parties or unless there is an emergency situation or potential health or safety issue.

5.5 BLUFORD shall cooperate with the SCHOOL DISTRICT to provide information to BLUFORD employees about SCHOOL DISTRICT employment opportunities for the 2023-2024 school year.

5.6 On or about September 10, 2022, BLUFORD shall notify BLUFORD staff, students, and parents/guardians/caregivers and former DAROFF students enrolled at BLUFORD for the 2022-2023 school year and their parents/guardians/caregivers that BLUFORD will be closing at the end of the 2022-2023 school year and about the transition of the Bluford School to SCHOOL DISTRICT operation for the 2023-2024 school year, in a form acceptable to the CSO. BLUFORD shall provide electronic copies of these communications to the CSO within three (3) business days after their dissemination. The SCHOOL DISTRICT will provide BLUFORD information about the transition by September 6, 2022 for inclusion in the notification required in the first sentence. Additionally, the SCHOOL DISTRICT will post the same information on its website. BLUFORD will allow the SCHOOL DISTRICT to hold information sessions for BLUFORD students, families and/or staff at the Bluford School on mutually convenient dates and times.

5.7 BLUFORD agrees to provide to the SCHOOL DISTRICT complete copies of all Student Records for all students including former DAROFF students enrolled in BLUFORD during the 2022-2023 school year. BLUFORD shall provide copies of Student Records for all current students by April 1, 2023, and shall update such records for current students by June 30, 2023.

5.8 BLUFORD agrees to proceed with an orderly winding up and dissolution of BLUFORD, to provide the SCHOOL DISTRICT with a written plan for winding up the operations of BLUFORD, and to identify a person responsible for the winding up and the maintenance of required records by June 1, 2023.

6. Reservation of Rights. Notwithstanding any provision herein, should circumstances exist that place the health or safety of the Charter School's pupils, staff or both at serious risk, the SCHOOL DISTRICT reserves all rights to take immediate steps

to revoke the BLUFORD Charter and order the closure of BLUFORD prior to June 30, 2023.

7. Indemnification**.** Pursuant to the CSL, the SCHOOL DISTRICT shall not be held liable for or in connection with any activity or operation related to the program of BLUFORD or DAROFF. The indemnity, defense and hold harmless language in the respective "Article XVI. Indemnification" sections of the BLUFORD Charter and the DAROFF Charter and the release and indemnity provisions found in Paragraphs 10.3, 10.4, 11, and 11.1-11.5, 11.5.1-11.5.4, and 11.6 of the respective Licensing Agreements between the SCHOOL DISTRICT and DAROFF and between the SCHOOL DISTRICT and BLUFORD (collectively referred to as the "Indemnity Provisions") are incorporated herein by reference and are attached hereto as Exhibit "A". The parties agree that the Indemnity Provisions shall survive any termination or expiration of the Agreement, termination or expiration of the respective Licensing Agreement and/or licensing arrangements, or the termination, expiration or revocation of the Charters issued to BLUFORD or DAROFF. .

8. Unconditional and Irrevocable Releases. In exchange for the consideration, covenants and conditions contained herein, the receipt and sufficiency of which is acknowledged, DAROFF and BLUFORD unconditionally and irrevocably remise, release and forever discharge the SCHOOL DISTRICT, the Board of Education and their past, current and future employees, officers, directors, commissioners, agents, assigns, representatives, attorneys, affiliates and successors, from **any and all** claims, withholding requests, demands, damages, actions, causes of actions, suits at law or in equity, disputes, administrative complaints, investigations, charges, debts, dues, costs, sums of money, attorneys' fees, accounts, bills, judgments, rights, demands, or otherwise, of whatever kind or nature, known or unknown, accrued or unaccrued, contingent or non-contingent, whether or not capable of proof, whether common law or statutory, whether sounding in tort or contract, whether arising under any state or federal constitutional or statutory right, substantive or procedural, whether or not now recognized, that DAROFF or BLUFORD, or anyone claiming by, through or under DAROFF or BLUFORD, in any way might have, or could have, regarding the proceedings related to the nonrenewal of DAROFF'S Charter or BLUFORD'S Charter, the operation of BLUFORD or DAROFF, the charters issued to BLUFORD or DAROFF, the CSO's and Board of Education's evaluation or oversight of the performance and operations of BLUFORD or DAROFF including claims of discrimination, the surrender or forfeiture of either of their Charters or proceedings related to same, or the Agreement. BLUFORD and DAROFF expressly acknowledge the broad scope of this Release.

9. Termination of Common Pleas Litigation. Upon execution of the Agreement by all parties hereto, the SCHOOL DISTRICT, BLUFORD and their respective counsel shall promptly take all necessary actions to discontinue the Common Pleas Litigation , with prejudice. Nothing herein shall preclude the SCHOOL DISTRICT from taking any

action to enforce the Agreement should BLUFORD violate the Agreement or fail to surrender its Charter or close as of June 30, 2023; and be it

FURTHER RESOLVED, that the Agreement shall not take effect unless and until such Agreement has been signed by the President of the Board of Education and by the President or Chair of the Combined Board of Trustees of BLUFORD and DAROFF on behalf of both entities.

Charter

P.S. § 17-1703-A) with students enrolled in the Charter School for the last full or partial school year of the Charter School.

ARTICLE XVI. INDEMNIFICATION

A. **Indemnification**.

1. The Charter School hereby agrees to indemnify and hold harmless the School District, the Board of Education, the SRC, and any governing body authorized to carry out the terms, supervise, or have any control over of this Charter, and their respective members, designees, agents, directors, employees and representatives ("the Indemnified Parties") and, at the option of the School District, defend by counsel approved by the School District in its sole discretion (provided that the cost to the Charter School of such School District counsel shall not exceed the rates then generally paid by the School District to its outside counsel handling comparable matters on behalf of the School District) from and against any and all claims, liabilities, demands, costs, charges, liens, expenses, actions, causes of action, lawsuits, administrative proceedings, (including informal proceedings), investigations, audits, demands, assessments, adjustments, settlement payments, deficiencies, penalties, fines, interests, judgments and or executions, (including without limitation reasonable expenses of investigation, legal fees, and court costs) past and present, known, and unknown, suspected or unsuspected, asserted, or unasserted, in contract, tort, statutory, constitutional, equity or common law, whether or not ascertainable at the time of the execution of this Charter which arise out of the willful or negligent act or omission of the Charter Board, the Charter School or any member, officer, director, employee or agent thereof, or out of any misfeasance, malfeasance or nonfeasance of the Charter School, the Charter Board or its or their members, officers, directors, employees or agents.

2. The Charter School, for itself, the Charter Board, and the Charter School's members, officers, directors, employees and agents, hereby irrevocably waives and releases any right of or claim for contribution or in recoupment from the SRC or the School District with respect to any claims, liabilities, demands, etc. covered by subparagraph XVI.A.1 above.

3. The Charter School agrees that the indemnification obligation in this Charter shall survive any termination, expiration or revocation of this Charter.

4. The Parties agree to cooperate fully with one another in responding to any allegation, claim, lawsuit, administrative action, investigation, audit or demand arising out of this Charter. This obligation shall survive the termination of this Charter and revocation of the Charter. The Charter School and School District agree to notify one another if either Party receives notice of such a matter by providing a copy of the relevant document to the other Party.

B. School District Statutory Immunity. Any other provision of this Charter to the contrary notwithstanding, the School District, its officers, employees and agents and the members

of the School Reform Commission and the Board of Education retain their statutory governmental, official and any other immunity provided pursuant to the laws of the Commonwealth of Pennsylvania, including under 42 Pa. C.S.A. §§ 8501 and 8541 et seq., and do not waive the defenses of governmental and official immunity derived from such laws. The School District does not waive for itself or for its officers, employees, agents and the members of the School Reform Commission and Board of Education any other defenses or immunities available to it or any of them.

ARTICLE XVII.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY

A. **Certification**. By signing this Charter, in addition to binding itself to the terms and conditions of this Charter, the Charter Board and the Charter School hereby certify for themselves, their principals and including, without limitation, their affiliates, if any, that none of them are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from performing services under any contract, bid, request for proposals or other governmental contracting opportunity by any federal government department, agency or instrumentality, or any Commonwealth of Pennsylvania department, agency or instrumentality, including any other School District in the Commonwealth of Pennsylvania, or by The City of Philadelphia.

B. **Notices**. In the event the Charter School is unable to certify to any of the statements in the above certification, the Charter School shall provide **an immediate written explanation** to the School District representative named in Article XVIII, Paragraph M (Notices) of this Charter. The Charter School shall provide **immediate written notice** to the School District representative named in Article XVIII, Paragraph M of this Charter if at any time, during the term of this Charter, the Charter School learns that the above certification was erroneous when the Charter School signed this Charter or subsequently became erroneous by reason of changed circumstances.

C. **Reimbursement of Costs**. If the Charter School is unable to certify to any statements in the above certification, or has falsely certified, then in that event the Charter School shall reimburse the School District for any and all reasonable costs incurred by the School District as a result of any investigation by the School District, the federal government or the Commonwealth of Pennsylvania concerning the Charter School's compliance with the terms and conditions of this Charter that results in the debarment or suspension of the Charter School.

D. **Survival**. This Article XVII shall survive termination of this Charter.

ARTICLE XVIII. MISCELLANEOUS

A. **Applicable Law**. This Charter shall be governed by, and construed in accordance with the laws of the Commonwealth of Pennsylvania notwithstanding any conflict-of-law

License

all underlying liability coverages required under this Agreement and under the Charter unless a separate $5,000,000 limit is maintained for Professional Liability.

10.2.5. Professional Liability/Educators Liability/ Malpractice/ Errors and Omissions Insurance.

Professional Liability/Educators Liability / Malpractice/Errors and Omissions Insurance with limits not less than the following: (a) $1,000,000 General Aggregate; (b) $1,000,000 Per Occurrence. The Charter School shall obtain a Sexual Molestation and Child Abuse Endorsement.

10.2.6. Directors and Officers Liability and Employment Practice Liability.

The Charter School shall maintain Directors and Officers Liability and Employment Practices Liability Insurance in an amount not less than $1,000,000.

10.2.7. Special Perils or Special Form Non-Contributory Property Damage Insurance.

"Special perils" or "special form" non-contributory property damage insurance (formerly known as "all risks" insurance) for the full replacement cost of all alterations, furniture, trade fixtures, equipment, inventory, and all other items of Licensee's property on the Licensed Premises, with limits not less than $1,000,000 per occurrence and $2,000,000 general aggregate.

10.3. **No effect on Indemnity Obligations:**

The insurance requirements set forth in this Agreement are not intended and shall not be construed to modify, limit or reduce the indemnification obligations set forth below or limit Licensee's liability to the limits of the policies of insurance required to be maintained hereunder and under the Charter.

10.4. **Release.**

Licensee hereby releases Licensor, its partners, shareholders, officers, directors, agents and employees, from all liability by reason of damage to or loss of property in the Licensed Premises, whether such damage or loss shall be caused by or result from the negligence of Licensor, its partners, shareholders, officers, directors, agents or employees, or from any cause whatsoever.

11. **Indemnification of the Licensor.**

11.1. Licensee shall defend, indemnify and hold harmless the Licensor, the Board of Education ("Board"), the SRC and each of their members, board directors, officers, employees and agents (the "Indemnified Parties") from and against any and all claims, actions, suits, judgments, liabilities, damages, losses, expenses and costs arising from any act or failure to

act of Licensee or Licensee's breach of any covenant in this Agreement, or arising out of any action or activity of any of Licensee's employees, agents, contractors, or guests, licensees, invitees or trespassers, or arising from the performance of any improvements to the Licensed Premises by or on behalf of Licensee and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon, except to the extent said claim, action, suit, judgment, liability, damage, loss, expense or cost is caused by the negligence or willful misconduct of any of the Indemnified Parties.

11.2. Licensee's obligation to defend, indemnify and hold the Indemnified Parties harmless hereunder is separate and distinct from Licensee's obligation to insure. Licensee's obligation to defend, indemnify and hold the Indemnified Parties harmless as aforesaid shall survive termination of this Agreement for any bodily injury (including death) injury or property damage which occurred or is alleged to have occurred during the Term or any renewals thereof. If for any reason Licensee's insurance carrier refuses to defend the Indemnified Parties or denies coverage, Licensee shall, upon receiving notice from the Indemnified Parties, defend, indemnify and hold the Indemnified Parties harmless as stated herein.

11.3. In the event Licensee is unable or unwilling to defend the Indemnified Parties, Licensee shall reimburse the Indemnified Parties for reasonable counsel fees incurred by the Indemnified Parties in defending any action brought against it by reason of Licensee's use of the Licensed Premises. Reimbursement for attorney's fees shall be due and payable within ten (10) days of receipt of invoice.

11.4. **Non-liability of the Licensor**. The Licensor shall not be liable for any injury or damage occasioned by Licensee's failure to keep any part of the Licensed Premises in repair, or from plumbing, gas, water, sprinkler, steam or other pipes or sewerage bursting or leaking or running in, above, upon or about said Building or premises, nor for any injury or damage occasioned by water, snow or ice being upon parking areas adjacent to the Licensed Premises or upon the sidewalks adjacent to the parking areas, or coming through the roof, skylights, trap door or otherwise, nor for any injuries or damages arising from acts, or neglect of other occupants of the same Building, or of any owners, or occupants, of adjacent or contiguous property.

11.5. **Indemnification for Claims of Employees**.

11.5.1. Licensee agrees to assume liability for and does specifically agree to indemnify, save, protect, and hold harmless the Indemnified Parties from and against any and all liability, losses, claims, suits, actions, costs, damages and expenses (including, but not limited to, attorneys' fees, court costs and legal expenses of whatever kind or nature) imposed on or asserted against the Indemnified Parties, and arising out of or in any way related to Licensee's carrying out the provisions of this Agreement, including, but not limited to, any claim for loss of life, bodily injury, personal injury, or damage to property not covered under the builder's risk policy, alleged to have been caused, in whole or in part, by the acts, errors or omissions of, or breaches of this Agreement by, Licensee, its officers, agents, employees, servants, or contractors acting pursuant to this Agreement, arising out of this Agreement with the

Licensor and related to any claim whatsoever brought by or against any agent, servant, employee, or contractors of Licensee for any alleged negligence or condition caused or contributed to, in whole or in part, by the Licensor, including civil rights, harassment, insufficient security or other claims and other claims relating to terms or conditions of employment; and from any claim for which the Licensee is or may become responsible. Licensee agrees that in the event that any employee of Licensee makes any claim or files a lawsuit against any of the Indemnified Parties for any alleged injury on Licensor's property or in connection with services being performed for Licensee under this Agreement, that Licensee shall fully defend, indemnify and hold harmless the Licensor for all damages, losses and expenses which may result therefrom (including attorneys' fees, court costs and legal expenses of whatever kind or nature). This indemnity provision is expressly intended to waive the statutory immunity, if any, afforded to Licensee if Licensee is or is deemed to be an employer pursuant to §481(b) of the Pennsylvania Workers' Compensation Act, 77 P.S. §481(b), and to permit the Licensor to seek contribution or indemnity from Licensee in the event that any of the Indemnified Parties are sued by an employee of Licensee or its agents or contractors. The parties further intend that this waiver satisfy the judicial requirements applicable to an express waiver as articulated by the Superior Court of Pennsylvania in Bester v. Essex Crane Mental Cg M. v. Russell Construction Co., 619 A.2d 304 (Pa. Super. 1993).

11.5.2. This indemnity provision is intended, *inter alia*, to protect the Indemnified Parties from all claims of employees or workers of Licensee or its agents or contractors who are injured on Licensor's real property or as a result of Licensor's personal property, during the term of this Agreement, whether the death, injury, damage or loss to persons and/or property, or the economic loss, damage or expense, is due to negligence of any Indemnified Party, in whole or in part, and is not limited by the Pennsylvania Workers' Compensation Act. This indemnity provision shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or persons against Licensee, and is independent of whether or not Licensee has insurance.

11.5.3. In the event the Licensor receives notice of a claim for which it believes this indemnification is applicable, the Licensor will promptly notify Licensee in writing of such claim and will require and permit Licensee to assume the defense of the Indemnified Party. Licensee shall require all insurance policies in any way related to the Licensed Premises and secured and maintained by Licensee and any tiers of its contractors to include clauses stating each underwriter will waive all rights of recovery, under subrogation and otherwise, against the Licensor or an Indemnified Party.

11.5.4. This indemnification shall apply, particularly, but not exclusively, to the claims of Licensee and its officers, agents, representatives and employees against the Licensor. Any violation of any of the provisions of this Paragraph by Licensee shall be deemed a material breach of this Agreement. Licensee and its agents, and contractors and its and their employees, shall have no claim against the Indemnified Parties for the acts, failures to act or negligence of the Indemnified Parties; and should this exculpatory clause be declared invalid by law, such invalidity shall in no manner affect or invalidate any or all other foregoing provisions in this Paragraph.

11.6. Nothing in this Paragraph 10 or this Agreement shall not, and shall not be construed to, amend or limit any indemnity obligation of Licensee under the Charter.

12. **No Assignment by Licensee.**

Licensee shall not have the right to assign this Agreement or to give any other person or entity any right to use or occupy the Licensed Premises.

13. **Use and Occupancy Taxes.**

Licensee shall pay Licensor all use and occupancy taxes applicable to the Licensed Premises.

14. **Rules and Regulations.**

Licensee shall comply with all rules and regulations established by Licensor for occupants of the Building.

15. **Surrender.**

Licensee shall surrender the Licensed Premises to Licensor at the expiration or earlier termination of the Term in the same condition as existed on the Effective Date, reasonable wear and tear excepted.

16. **Default and Licensor's Remedies.**

16.1. Any (i) failure of Licensee to perform any of its obligations under this Agreement to pay any sum (including, without limitation, the License Payments) when due and such failure continues for five (5) business days after notice ("Default Notice") from the School District to Licensee; or (ii) failure of Licensee to perform any other covenants, terms and obligations under this Agreement and such failure continues for ten (10) business days after the Default Notice; or (iii) event of revocation or nonrenewal of the Charter shall constitute an event of default under this Agreement ("Event of Default"), upon the occurrence of which, the School District shall have, in addition to all remedies available under this Agreement and at law or equity, the right to terminate this Agreement and to reenter and take possession of the Licensed Premises. The notice provided for in this Section is in lieu of any other notices required pursuant to the terms of any statute or ordinance, and Licensee waives all notices except those specifically required in this Paragraph.