

**MEMORANDUM OF UNDERSTANDING
FOR SHARED PERSONNEL SERVICES**

This Memorandum of Understanding for Shared Personnel Services (“MOU”) is entered into as of July 1, 2023 (“Effective Date”) by and between the following California nonprofit public benefit corporations, which may each be referred to herein as a “Party” and collectively as the “Parties” to this MOU: California Pacific Charter Schools (“CPCS”) and Sage Oak Charter Schools (“SOCS”).

RECITALS

WHEREAS, CPCS and SOCS are nonprofits that operate California public charter schools;

WHEREAS, CPCS entered into an employment agreement with Gretchen Chamberlain (“Chamberlain”) on or about May 22, 2023, in order to obtain Chamberlain’s services in the position of Assistant Director of Compliance and Accountability effective July 1, 2023;

WHEREAS, the Parties seek to share the services of Chamberlain as Assistant Director of Compliance and Accountability (the “Shared Personnel”) among them cooperatively in order to achieve cost savings and other scale benefits for each Party, so that each Party may have access to additional, valuable and/or specialized personnel services that might otherwise not be available to them;

WHEREAS, the sharing of services performed by the Shared Personnel among all of the Parties cooperatively is in the mutual interest of each of the Parties and in furtherance of their shared goal to successfully implement their education program and support services in an efficient and cost effective manner; and

WHEREAS, the Parties intend to coordinate the services provided by the Shared Personnel to the Parties and to allocate costs among the Parties according to the terms and conditions set forth in this MOU.

NOW, THEREFORE, in consideration of their mutual promises set forth in this MOU, the sufficiency of which is acknowledged, the Parties hereby agree as follows.

AGREEMENT

1. **Shared Personnel Services.** During the term of this MOU, the Parties may coordinate with each other for the Shared Personnel to perform the services described in Attachment A (the “Services”) on behalf of the Parties.

2. **Relationship of Parties.** The Parties acknowledge that Shared Personnel are and shall remain the employee of CPCS, which shall constitute the sole employer and “Lessor” of Services performed by Shared Personnel under this MOU. The SOCS or non-Lessor Party entitled to receive Services from Shared Personnel pursuant to the terms of the MOU shall constitute the “Lessee.” Shared Personnel shall be subject to the ultimate oversight, direction and control of Lessor and its governing board, officers, and designated representatives, but will be subject to the supervision of Lessee when performing Services on their behalf. The termination of this MOU shall not terminate the Shared Personnel’s employment relationship with Lessor. Lessee is not, and nothing in this MOU shall cause Lessee to become a third party beneficiary to Lessor’s employment agreements with the Shared Personnel. Nothing in this MOU shall confer upon any Party any rights or remedies, including any right to employment, as an employee of any other Party. Nothing in this MOU shall create a joint venture between the Parties. Each Party shall remain solely responsible for its own governance, operations and

educational program, if any.

3. **Allocation.** Each Party's right to receive Services and obligation to pay fees under this MOU shall be determined based upon their proportionate share of Shared Personnel, as set forth in Attachment B (the "Allocation"), as it may be adjusted from time to time. The Allocation shall be assessed at the intervals set forth in this Section 3 for each year of this MOU. The Allocation and any adjustments thereto, notating the effective date, shall be memorialized in Attachment B, which may be updated as a matter of contract administration without the need for a formal amendment to this MOU.

a. First Assessment. The Parties shall determine the Allocation no later than July 1.

b. Second Assessment. The Parties shall re-assess the Allocation no later than December 15, and any resulting adjustments shall be effective as of January 1.

4. **Allocation of Services.** Each Party will have the right to receive Services from Shared Personnel in an amount reasonably equivalent to that Party's Allocation. The Parties shall work cooperatively with each other and the Shared Personnel to coordinate the performance of such Services. Any Party which asserts that it has not received its Allocation of Services from Shared Personnel, must provide written notice to the Parties, describing in detail the alleged deficiency and allowing thirty (30) days to cure before seeking any other remedy.

5. **Allocation of Fees and Expenses.** As consideration for the Services provided by Shared Personnel, each Lessee shall pay to Lessor the fees and expenses set forth herein.

a. Fees. Each Lessee shall pay to Lessor a fee that is calculated based on their Allocation of the annual total cost incurred by Lessor in employing the Shared Personnel as set forth in Attachment C. The total cost shall be fixed by July 1 for each year of this MOU and may be subject to change only with the written consent of all Parties.

b. Expenses. Reasonable and necessary expenses incurred by Shared Personnel in the course of performing Services under this MOU shall be split evenly between those Parties on whose behalf the expenses were incurred. Invoices for expenses shall be sent within thirty (30) days of payment and shall include copies of supporting documentation (e.g. receipts).

6. **Monthly Payment and Deposit.** Lessor shall provide monthly statements to each Party which shall include the billing period, the fees and any expenses owed and a description of the method by which the fees and expenses were calculated. Each Party shall submit payment to Lessor within thirty (30) days after receipt of the monthly invoice. Lessor shall provide access to reasonable backup documentation for such fees upon request and subject to privacy considerations. In addition, within ten (10) days of executing this MOU, each Party shall provide Lessor with a deposit of one month's Allocation of fees, to ensure Lessor has adequate cash flow to cover Shared Personnel costs. Upon termination of this MOU, Lessor shall apply each Party's deposit as a credit on that Party's final monthly statement. In the event a Party's final monthly statement is less than that Party's deposit amount, Lessor shall return any remaining deposit amount to the Party within thirty (30) days of termination of the MOU.

7. **Lessor Responsibilities.** In addition to any other promises and covenants identified here, Lessor shall have the following responsibilities under this MOU:

a. Timely pay Shared Personnel consistent with applicable law and their employment agreements, if any.

b. Ensure that Shared Personnel maintain the qualifications and competency

necessary to provide the Services, including but not limited to: (i) complete all required training, including, but not limited to initial and annual training on mandated child abuse and neglect reporting; (ii) are free from active tuberculosis; (iii) have passed a criminal background check through the Department of Justice; (iv) have not been convicted of a serious or violent felony (as defined by Penal Code §§ 667.5 and 1192.7); and (v) are eligible to work in the United States.

c. Supervise and evaluate Shared Personnel and make and implement, in its sole discretion, all employment related communications and decisions with respect to Shared Personnel, including, but not limited to matters relating to discipline, termination, accommodations, disability claims, complaints, leaves of absence, compensation and benefits.

8. Lessee Responsibilities. In addition to any other promises and covenants identified here, each Lessee shall have the following responsibilities under this MOU:

a. Provide to Shared Personnel, in writing, copies of any of Lessee's policies and procedures applicable to the Services.

b. Provide a safe working environment for Shared Personnel.

c. Supervise and evaluate Shared Personnel when providing Services on behalf of the Lessee in order to ensure that Shared Personnel meet their performance obligations and comply with all of Lessee's applicable policies and procedures.

d. Provide feedback to Lessor regarding the performance of Shared Personnel.

9. Term and Termination. The term of this MOU commences on the Effective Date and continues through June 30, 2024, unless extended by mutual agreement of the Parties or terminated earlier as set forth below.

a. **Termination Without Cause.** Any Party may terminate this MOU for any reason by providing thirty (30) days advance written notice to all Parties. Termination under this subsection shall not relieve the terminating Party of any of its obligations under this MOU prior to the effective date of such termination. In the event of such termination effective before the expiration of the Shared Personnel's employment contract, the terminating party shall be responsible for paying for any severance required by that contract as a result of a termination without cause, or in the event of a mutual termination without cause, any such severance shall be split equally between the Parties.

b. **Termination for Cause.** Any Party may terminate this MOU in the case of another Party's material or persistent breach of any one or more of the terms of this MOU, which breach is not remedied within thirty (30) days after written notice is provided. If after thirty (30) days the non-breaching Party determines that the breach has not been remedied or appropriate actions have not commenced to cure the breach, the non-breaching Party may terminate the MOU effective immediately. Following termination under this subsection, the breaching Party remains responsible for paying its Allocation of fees through the last day of the month in which the MOU is terminated.

c. **Termination for Change in Shared Personnel.** Any Party may terminate this MOU upon a change in the employment status of Shared Personnel. A legally protected leave of absence taken by Shared Personnel shall not constitute a change in employment status under this subdivision and shall not give cause for termination of this MOU. In the event Shared Personnel are on an extended leave of absence or are no longer employed by Lessor, Lessor and Lessee may mutually agree upon a replacement. In the event Shared Personnel are terminated without cause resulting in a requirement to pay severance to Shared Personnel, the Parties shall be responsible for that cost as set forth in Section 9.a.

d. Termination for Change in Law. In the event a Party's performance under this MOU is materially impacted by a change in applicable federal, state, or local law or regulation, including a change in interpretation of the same by a court or oversight body with jurisdiction over a Party, the Parties shall promptly commence good faith negotiations to find a mutually agreeable resolution (including without limitation, an amendment to the MOU). If, despite such good faith negotiations, the Parties are unable to agree upon a resolution, any Party may terminate its participation in this MOU by providing thirty (30) days advance written notice to the other Parties. The entire MOU will terminate under this subdivision only upon such notice by the Lessor.

10. Work Product; Intellectual Property. Any work product created by a Party, including by any Shared Personnel in the context of providing Services on behalf of a Party, shall be the sole and exclusive Property of that Party. Any intellectual property owned by a Party that is used by or on behalf of another Party in the context of providing Services, shall remain the property of the originating Party. No Party shall have the right to grant a license, sublicense, or any other use or rights to the property of another Party. A Party's use of another Party's property under this MOU shall not create any ongoing license or other right to continuing use of that property after the expiration or termination of this MOU. Upon termination or expiration of this MOU, the property of each Party in the possession of any other Party shall be returned and/or destroyed.

11. Confidentiality. Each Party acknowledges that during the term of this MOU, it may have access to certain Confidential Information of the other Parties as defined below. Each Party shall maintain and enforce reasonable administrative, technical, and physical safeguards, including but not limited to conspicuously labeling and restricting access to Confidential Information, in order to reasonably protect the confidentiality of the other Parties' Confidential Information. The Parties' obligations hereunder with respect to Confidential Information shall survive termination of this MOU.

a. Scope. "Confidential Information" means non-public information marked either "confidential" or "proprietary," or that otherwise should be understood by a reasonable person to be confidential in nature. Confidential Information may include but is not limited to trade secrets, policies, procedures, closed session records and communications, student education records, intellectual property, business or strategic plans, contractual arrangements or negotiations, fundraising and marketing strategies, financial information and employee information. Confidential Information does not include any information which (i) is rightfully known to the recipient prior to its disclosure; (ii) is released to any other person or entity (including governmental agencies) without restriction; (iii) is independently developed by the recipient without use of or reliance on Confidential Information; (iv) is or later becomes publicly available without violation of this MOU or may be lawfully obtained by a Party from a non-party; or (v) which is a public record under California law.

b. Notice. If disclosure of Confidential Information is requested pursuant to law, statute, rule or regulation (including through a subpoena or request under the California Public Records Act), the Party to which the request for disclosure is made shall provide the Party(ies) whose Confidential Information is requested with prior prompt written notice thereof to the extent practicable, and if practicable under the circumstances, shall allow the applicable Party(ies) to seek a restraining order or other appropriate relief.

c. Return. Upon the termination or expiration of this MOU, Confidential Information of each Party in the possession of the other Party shall be returned.

12. Student Information. Each Party is responsible for its compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) ("FERPA") and other applicable state and federal laws pertaining to student information and privacy.

a. To the extent necessary, the Lessor shall be designated as having a legitimate educational interest in accessing each Lessee's student education records, as that term is defined by and for purposes of FERPA, thereby allowing Shared Personnel to access personally identifiable information from student education records from the Lessee as needed to perform the Services. For purposes of this MOU, the term "personally identifiable information" ("PII") means any information that can be used on its own or with other information to (i) distinguish one person from another, (ii) identify, contact, or locate a single person, or (iii) de-anonymize anonymous data.

b. Lessor shall not use or disclose pupil records, including PII, received from or on behalf of another Party except as necessary with respect to the performance of the Services, as required by law, or as otherwise authorized in writing by the applicable Lessee. Lessor shall protect the student education records it receives from or on behalf of another Party no less rigorously than it protects its own student education records. In the event of an unauthorized disclosure of PII, Lessor shall notify the affected Lessee(s) as soon as practicable, and shall, upon the affected Lessee's request, notify affected parents, legal guardians and eligible pupils using reasonably available technological means such as electronic mail.

13. Insurance. Lessor shall procure and maintain in full force and effect for the duration of this MOU, the following insurance in connection with Lessor's performance under MOU and the provision of Services by Shared Personnel.

a. California Workers' Compensation Insurance, insurance as required by the State of California and consistent with Labor Code section 3602(d)(1), with statutory limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease, covering all Shared Personnel provided under this MOU.

b. General Liability Insurance including coverage for personal injury, death, property damage and sexual abuse/molestation (if not included with ELL) with a combined single limit of no less than One Million Dollars (\$1,000,000) per occurrence, and a minimum annual aggregate of Two Million Dollars (\$2,000,000).

c. Employment Practices Liability Insurance with a combined single limit of no less than One Million Dollars (\$1,000,000) per occurrence.

d. Professional Liability Insurance, which may also be called Educator's Legal Liability Insurance, with a combined single limit of no less than One Million Dollars (\$1,000,000) per claim, and Two Million Dollars (\$2,000,000) policy aggregate.

e. Lessor will provide additional insured insurance coverage and policy endorsements for Lessee and its officers, directors, employees, volunteers or agents (collectively referred to as the "Additional Insureds") under the General Liability and Employment Practices policies. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. Lessor's insurance shall be primary as respects Additional Insureds, and any insurance, self-insurance or other coverage maintained by Additional Insureds shall be excess to Lessor's insurance and shall not contribute to it.

f. Lessor hereby agrees to waive rights of subrogation which any insurer of Lessor may acquire from Lessor by virtue of the payment of any loss. Lessor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

g. Upon request at any time, Lessor shall furnish any Lessee with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable

policy language affecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements. Failure to obtain the required documents prior to the work beginning shall not waive Lessor's obligation to provide them. Lessee reserves the right to require complete, certified copies of all required insurance policies, including endorsements, herein required, at any time.

h. Lessor will provide 30 days prior written notice to Lessee in the event of any material modification or cancellation of insurance required by this MOU. If any of the required coverages expire during the term of this MOU, Lessor shall deliver the renewal certificate(s) including the additional insured endorsements to Lessee at least ten (10) days prior to the expiration date.

i. Except as indicated above, all policies shall be provided on an occurrence basis. If any of the required policies provide coverage on a claims-made basis: (i) the retroactive date must be shown and must be before the date of the MOU or the beginning of the work; (ii) insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the work; (iii) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Lessor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

14. Liability. Each Party shall be and remain responsible for its own debts and obligations. Nothing in this MOU shall be construed as imposing on a Party any liability arising out of the operations of any other Party, except as such liability may result from the performance of the first Party's obligations under this MOU.

15. Indemnification. Each Party shall defend, indemnify, and hold harmless the other Parties, and their employees, officers, directors, and agents, from and against any liability, loss, claims, demands, damages, expenses, and costs (including attorneys' fees, expert witness fees, and other costs of litigation or other proceedings) of every kind or nature arising in any manner out of the performance of its obligations under this MOU, except for such loss or damage caused solely by the negligence or willful misconduct of another Party. Notwithstanding anything to the contrary, Lessor agrees to defend, indemnify and hold harmless Lessee, its employees, officers, directors, and agents from and against any and all liability for base pay, overtime, double time, premium or incentive pay, contributions or taxes payable under any workers compensation, unemployment compensation, disability benefits, old age benefit, tax withholding laws, wage and hour laws (including any claims for off the clock time, unpaid working hours, premium pay, penalties, liquidated damages, overtime, doubletime, and any incentive compensation), leaves of absence, or other applicable laws for which Lessee may be liable as a joint employer with respect to any compensation due and owing to Shared Personnel for the performance of Services pursuant to this MOU.

16. Assignment. No Party shall assign this MOU, any interest in this MOU, or its rights or obligations under this MOU without the express prior written consent of the other Parties. This MOU shall be binding on, and shall inure to the benefit of, the Parties and their respective successors and assigns.

17. Fiduciary Obligations. The governing body for each Party has reviewed this MOU in good faith, and in a manner in which it believes to be in its best interests, and with such care, including reasonable inquiry, as an ordinary prudent person in a like position would use under similar circumstances, and has determined that the MOU is in the best interests of its Party and that the cost allocation to be paid is fair and reasonable.

18. Dispute Resolution. If there is any dispute or controversy between the Parties arising out of or relating to this MOU, the Parties agree to confidentially meet in good faith to discuss a mutually

amicable resolution to the dispute. If informal efforts at dispute resolution are not successful, the Party with the complaint shall give written notice of the dispute and the desired resolution to the other Party. The Parties agree that, within thirty (30) days of the date of written notice of the failure to resolve the dispute despite good faith efforts, they will again meet with a mutually agreeable mediator for non-binding mediation in good faith, with a principal of each of the Parties present. If the Parties are still unable to come to a resolution within thirty (30) days of the external mediation, the Parties may agree to arbitrate the dispute in San Diego County before a retired California state or federal court judge under the Comprehensive Arbitration Rules of JAMS, rather than resorting to litigation.

19. Notice. All notices, requests, demands, or other communications (collectively “Notice”) given to or by the Parties under this MOU shall be in writing and shall be deemed to have been duly given on the date of receipt if transmitted by email or personally served on the Party(ies) to whom Notice is to be given, or seventy-two (72) hours after mailing by United States mail first class, registered or certified mail, postage prepaid, addressed to the Party(ies) to whom Notice is to be given, at the applicable address set forth below:

To: California Pacific Charter Schools
ATTN: Chief Executive Officer
940 South Coast Drive, Suite 185
Costa Mesa, CA 92626

To: Sage Oak Charter Schools
ATTN: Chief Executive Officer
1473 Ford Street, Suite 105
Redlands, CA 92373

20. Headings. The descriptive headings of the sections and/or paragraphs of this MOU are inserted for convenience only, are not part of this MOU, and do not in any way limit or amplify the terms or provisions of this MOU.

21. Amendments. This MOU may be amended by the mutual written consent of all Parties.

22. Entire MOU. This MOU constitutes the entire agreement between the Parties with respect to the subject matter contained herein and supersedes all agreements, representations and understandings of the Parties with respect to such subject matter made or entered into prior to the date of this MOU.

23. Compliance with Laws. The Parties will comply with all applicable federal, state and local laws and regulations, including laws prohibiting harassment, discrimination and retaliation.

24. Arm’s Length and Independent Counsel. This MOU has been negotiated at arm’s length and between persons (or their representatives) sophisticated and knowledgeable in the subjects in this MOU. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities against the Party that has drafted it is not applicable and is waived. The provisions of this MOU shall be interpreted in a reasonable manner to affect the purpose of the Parties and this MOU. Each Party has been advised by, or had opportunity to seek advice from, its independent counsel regarding this MOU.

25. No Waiver. No waiver of any provision of this MOU shall constitute, or be deemed to constitute, a waiver of any other provision, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

26. Severability. If any provision of this MOU is invalid or contravenes California law, such provision shall be deemed not to be a part of this MOU and shall not affect the validity or enforceability of its remaining provisions, unless such invalidity or unenforceability would defeat an essential purpose

of this MOU.

27. Governing Law. This MOU shall be governed by and interpreted under California law.

28. Authority to Contract. Each Party warrants to the others that it has the authority to enter into this MOU, that it is a binding and enforceable obligation of said Party, and that the undersigned has been duly authorized to execute this MOU.

29. Counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. A faxed, .pdf, or other electronic copy of the fully executed original version of this MOU shall have the same legal effect as an executed original for all purposes.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties execute this MOU as of the Effective Date above.

<p>California Pacific Charter Schools, a California nonprofit public benefit corporation</p> <p>By: Chief Executive Officer Name: <u>Christine Feher</u></p> <p>Signature: _____</p> <p>Date: _____, 2023</p>	<p>Sage Oak Charter Schools, a California nonprofit public benefit corporation</p> <p>By: Chief Executive Officer Name: <u>Krista Woodgrift</u></p> <p>Signature: _____</p> <p>Date: _____, 2023</p>
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ATTACHMENT A

Shared Services

(See Job Description)

ATTACHMENT B

Allocation

The following Allocation is approved and effective as of July 1, 2023:

School	Allocation
California Pacific Charter Schools	60%
Sage Oak Charter Schools	40%

ATTACHMENT C

Total Cost

The following total cost of employing Shared Personnel is approved and effective as of July 1, 2023:

1. Gretchen Chamberlain, 1.0 FTE, Assistant Director of Compliance and Accountability

Year	Annual Salary	Stipends	Benefits	Retirement	Payroll Taxes	Total Comp
2023-2024	\$130,037.01	\$600 (cell)	\$15,600	\$24,837.07	\$2,123.54	\$172,647.62

California Pacific Charter Schools \$103,588.57

Sage Oak Charter Schools \$69,059.05