

AGREEMENT

This AGREEMENT is made between The Fletcher Academy, School of Achievement, Inc. (“TFA”) and The Exploris Charter School, Inc. (“PARTNER SCHOOL”) effective as of the 1st day of July, 2018 (the “Effective Date”). PARTNER SCHOOL desires for TFA to administer an in-school reading tutoring program (“Program”) for certain PARTNER SCHOOL students (“Participants”), and TFA desires to administer the Program and provide such services pursuant to the terms of this Agreement.

Therefore, TFA and PARTNER SCHOOL agree as follows:

1. Term and Termination. This Agreement shall commence as of the Effective Date and continue for a 12-month term (“Term”), unless agreement is terminated prior to the end of the term. Either party may terminate this Agreement within thirty (30) days’ upon having provided written notice to the other party. If at the end of the 12-month term no notice of termination is given by either party, then this agreement shall be renewed for another 12-month term.

2. TFA Responsibilities.

a. TFA will operate the Program and maintain and responsibility for delivery of Program. TFA will employ instructors to provide tutoring services in the Program, and will provide training in TFA’s proprietary reading methodologies. TFA will determine, in its sole discretion, the number of tutors to be utilized in the Program.

b. In consultation with PARTNER SCHOOL, TFA will determine the schedule for the Program, including instructional dates and hours in which tutoring services will be provided, and the total number of tutoring sessions that will be provided.

c. TFA will obtain and maintain workers’ compensation coverage for TFA employees while they provide Program services within PARTNER SCHOOL’s facilities.

d. TFA will ensure that all of its employees (“TFA Tutoring Personnel”) who work on PARTNER SCHOOL’s campus and with its students meet background qualifications, including, but not limited to, successful annual criminal background checks to include sex-offender registry checks as specified in Paragraph 8 of this Agreement.

e. TFA will ensure that all TFA Tutoring Personnel are highly qualified instructors who hold relevant degrees, background and experience necessary to successfully perform their instructional tasks. While active teacher certification may be desired, TFA Tutoring Personnel with expired certification shall still be considered acceptable.

3. PARTNER SCHOOL Responsibilities.

a. PARTNER SCHOOL shall designate a liaison responsible for ongoing communication and collaborative planning with TFA Tutoring Personnel.

b. PARTNER SCHOOL shall properly orient TFA Tutoring Personnel to facilitate proper understanding of PARTNER SCHOOL's policies, rules, systems and structures. Orientation shall also include collaborative time with relevant PARTNER SCHOOL faculty members and other school personnel.

c. PARTNER SCHOOL shall provide sufficient and adequate instructional space, furniture network connectivity, shared teacher resources, and access to common faculty facilities within its PARTNER SCHOOL SE Raleigh Charter School location.

d. PARTNER SCHOOL shall treat TFA Tutoring Personnel similar to other approved independent contractors or school volunteers, and PARTNER SCHOOL is responsible for maintaining and sharing up-to-date policies and rules that pertain to volunteers and independent contractors.

4. Joint PARTNER SCHOOL and TFA Responsibilities.

a. PARTNER SCHOOL and TFA shall jointly screen and approve all TFA Tutoring Personnel assigned to PARTNER SCHOOL

b. PARTNER SCHOOL and TFA shall jointly screen and approve Participants for entry into the Program.

c. As PARTNER SCHOOL may wish to provide additional school services outside of what is provided by TFA through its in-school tutoring program, PARTNER SCHOOL and TFA shall jointly define in writing between PARTNER SCHOOL's and TFA's Heads' of School the precise schedule for TFA's tutoring at PARTNER SCHOOL, including any changes or revisions to said schedule.

5. Indemnity. Each party shall defend, indemnify and hold harmless the other party (and its parents, subsidiaries and affiliates, and its and or their directors, officers, employees, and agents) from any and all claims, damages, suits, judgments, fines, settlements, or liabilities of any kind, including damage to property, death, and bodily and personal injury, arising out of or resulting from the negligence, gross negligence or willful misconduct of indemnifying party or its employees and agents.

6. Insurance. PARTNER SCHOOL shall obtain and maintain throughout the Term of this Agreement insurance to sufficiently protect PARTNER SCHOOL and TFA from any and all potential claims or damages, including but not limited to Comprehensive General and Contractual Liability Insurance. TFA shall be named as an additional insured on such liability insurance policies. Copies of certificates of insurance and other insurance documents listing TFA as an additional insured shall be provided to TFA upon request.

7. Confidentiality.

a. Confidential Information and Intellectual Property. PARTNER SCHOOL recognizes and acknowledges that during the term of this Agreement, it and its employees and agents may be given access to and obtain knowledge of the curriculum guides, methodologies, teaching materials, approaches, techniques, and other inventions, works

of authorship, and know-how used by TFA which are of a unique quality, have special value, and are important proprietary assets of TFA's business ("Confidential Information and Intellectual Property"). PARTNER SCHOOL agrees that it will not, during or after the term of this Agreement, disclose or use any Confidential Information and Intellectual Property in any form without the prior, express written consent of TFA, and PARTNER SCHOOL agrees that it will implement policies and procedures prohibiting its employees and agents from doing the same. PARTNER SCHOOL acknowledges and agrees that TFA owns all right, title, and interest in and to the Confidential Information and Intellectual Property and all modifications, enhancements, improvements, derivative works, and compilations thereto and thereof and PARTNER SCHOOL hereby presently, irrevocably, and unconditionally assigns to TFA, and forever waives and agrees never to assert, any and all such right, title, and interest that vests or shall vest in PARTNER SCHOOL. PARTNER SCHOOL acknowledges that any and all work performed and services rendered by PARTNER SCHOOL in connection with this Agreement shall constitute work performed and services rendered solely on behalf of TFA and, in no event, on behalf of any other entity or individual. PARTNER SCHOOL agrees and acknowledges that services under this Agreement require the exchange of Confidential Information and Intellectual Property between TFA and the PARTNER SCHOOL. PARTNER SCHOOL agrees that upon termination of this Agreement, PARTNER SCHOOL will require its employees and agents to:

(i) return to TFA all records, memoranda, data, documents and other property of any type or description which refer or relate in any way to Confidential Information and Intellectual Property, including all copies thereof, which are in its or their possession, custody or control;

(ii) return TFA-owned materials or property of any type or description (including but not limited to keys, credit cards, files, work in process, manuals, forms, computer stored records or work in process and other computer data, research materials, and other items of information concerning students or TFA's business, including all copies thereof) which is in its or their possession, custody or control;

(iii) fully cooperate with TFA in winding up the Program.

b. Remedies. PARTNER SCHOOL acknowledges that its or its employees' or agents' failure to provide by the provisions of this Paragraph 7 would cause irreparable harm to TFA for which legal remedies would be inadequate. Therefore, in addition to any legal or other relief to which TFA may be entitled by virtue of PARTNER SCHOOL's failure to abide by these provisions, TFA may seek legal and equitable relief, including but not limited to preliminary and permanent injunctive relief, for PARTNER SCHOOL's or its employees' or agents' actual or threatened failure to abide by these provisions, and PARTNER SCHOOL will indemnify TFA for all expenses including reasonable attorneys' fees in seeking to enforce these provisions.

8. Criminal Background Checks. TFA shall conduct criminal background checks on all TFA personnel who, pursuant to this Agreement, interact with PARTNER SCHOOL students

or provide services on PARTNER SCHOOL property or attend PARTNER SCHOOL events. TFA shall also conduct an annual check through a reputable background check service “Background Check Provider” of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry; provided, however, if Background Check Provider discovers that TFA personnel have resided in a state other than North Carolina during the seven (7) years prior to worker’s placement at PARTNER SCHOOL, Background Check Provider will also conduct checks of the applicable sex-offender registries in each of the individual states in which the worker resided during such 7-year period. Under no circumstances shall any TFA personnel be assigned to work with any PARTNER SCHOOL student or on PARTNER SCHOOL property or at PARTNER SCHOOL events if (1) said worker appears on any of the aforesaid sex-offender registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any crime, whether misdemeanor or felony, involving sex, violence or drugs; or (4) said worker has been engaged in any crime or conduct indicating that such worker may pose a threat to the safety or well-being of students or school personnel. TFA shall maintain and shall provide to PARTNER SCHOOL prior to any TFA personnel placement at PARTNER SCHOOL a copy of the results of such background checks and sex-offender registry searches. Upon request, TFA will furnish PARTNER SCHOOL with sufficient information to allow PARTNER SCHOOL to perform its own criminal background checks on TFA personnel. Upon TFA’s failure to comply with this Paragraph 8, PARTNER SCHOOL shall have the right to terminate this Agreement effective immediately.

9. Designations and Appointments. TFA, including its directors, officers and employees, is hereby designated by PARTNER SCHOOL as an “other School Official having a legitimate educational interest in education records” for the purposes of the Family Educational Right and Privacy Act, 20 U.S.C. §§ 1232g *et seq.*, as amended (“FERPA”).

10. Survival. The provisions of Paragraphs 5–16 shall survive the termination of this Agreement.

11. Non-Exclusivity. This Agreement does not create an exclusive arrangement between TFA and PARTNER SCHOOL or constitute any commitment by TFA, whether express or implied, to provide after-school reading tutoring services only in collaboration with PARTNER SCHOOL.

12. Waiver or Breach. The waiver by either party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach.

13. Independent Contractor. The parties hereby acknowledge that TFA Tutoring Personnel working at PARTNER SCHOOL are to be treated as independent contractors. In no event shall this Agreement be construed as establishing a partnership, joint venture or similar relationship between the parties hereto, and nothing herein shall be construed to authorize either party to act as agent for the other. Each party shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes or benefits. TFA Tutoring Personnel shall not be considered employees of PARTNER SCHOOL.

Additionally, because TFA serves as an independent contractor for PARTNER SCHOOL, TFA hereby acknowledges and accepts that “*No indebtedness of any kind, incurred or created, by the charter school shall constitute an indebtedness of the State or its political subdivisions and no indebtedness of the charter school shall involve or be secured by the faith, credit or taxing power of the State or its political subdivisions*” (NCGS 115C-238.29H(a)).

14. Entire Agreement, Amendment, Severability. This Agreement contains the entire agreement between the parties with respect to the matters set forth herein and supersedes all prior agreements and understandings between the parties with respect to the same. No provision of this Agreement may be amended, modified, deleted, or waived in any manner except by a written agreement executed by the parties. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.

15. Assignment. Neither party shall assign, subcontract or transfer any interest in or obligation under this Agreement to any other entity or individual without the prior written approval of the other party.

16. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina, other than its rules with respect to choice of law. The parties agree that any action or proceeding arising out of this Agreement shall be instituted in the Superior Court of Wake County, North Carolina or in the United States District Court for the Eastern District of North Carolina (assuming such court has subject matter jurisdiction over the action or proceeding). Each of the parties hereby waives any objection that it or s/he may have to the venue of any such action or proceeding, and irrevocably consents to the personal jurisdiction of any such court in any such action or proceeding.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year above written.

The Exploris Charter School, Inc.

THE FLETCHER ACADEMY,
SCHOOL OF ACHIEVEMENT, INC.

Sig: _____
Name: _____
Title: Head of School

Sig: _____
Name: _____
Title: Head of School

Should be an Exhibit w/timing and scope here; can modify/attach as needed

TFA Tutoring Schedule at PARTNER SCHOOL

The following times have been approved for TFA to provide tutoring services on PARTNER SCHOOL's campus:

- [Insert days of the week and times], through the conclusion of the 2018-2019 academic year.

Any work performed from PARTNER SCHOOL students outside of these approved times will be done as a service provided exclusively by PARTNER SCHOOL, through its employees, and under the direction of its management. TFA will not authorize its employees to perform any work or volunteer activities with students on its behalf outside of these hours or in areas outside of PARTNER SCHOOL's physical campus address.

Agreed upon by:

PARTNER SCHOOL Name: _____

Head of School Signature: _____

Date: _____

The Fletcher Academy, Inc. (TFA)

Head of School Signature: _____

Date: _____