

CHARTER SCHOOL CONTRACT
BOREAL SUN CHARTER SCHOOL

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CHARTER SCHOOL CONTRACT
THIS AGREEMENT EFFECTIVE AS OF JULY 1, 2017

BETWEEN FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT
520 Fifth Avenue
Fairbanks, Alaska 99701

hereinafter referred to as the "Buyer"

AND BOREAL SUN CHARTER SCHOOL INC.
1062 Steele Creek Road
Fairbanks, Alaska 99712

hereinafter referred to as "Contractor"

WITNESSETH THAT:

IN CONSIDERATION OF the promises and mutual covenants and agreements herein contained, the parties agree as follows:

1. SCOPE OF WORK

Subject to the terms and conditions hereinafter provided, the Buyer engages the Contractor for the furnishing of services specifically described in Exhibit "A-1", "Boreal Sun Charter School Application," dated June 2016 which is hereby incorporated by reference, presented to the Contractor at the School Board Work Session on June 6, 2016 and for such other tasks as may be mutually agreed upon in writing between the Contractor and the Buyer.

The Scope of Work defined at Exhibit "A-1" is clarified and modified by the Special Conditions for Boreal Sun Charter School at "Exhibit A-2."

2. TERM

The services called for under this Contract shall commence upon approval by the State of Alaska Board of Education and terminate on June 30, 2027, subject to earlier termination as provided in this agreement and the exhibits thereto, and subject to annual review by the Buyer as provided in Paragraph 7(B) below.

3. CONSIDERATION AND PAYMENT

A. As consideration for such services, as hereinafter provided, the Buyer agrees to pay the Contractor as provided in Exhibits A-1 and A-2.

B. There is no guarantee of any minimum amount to be paid under this contract.

4. DIRECTION

The Contractor shall report to and be responsible for its performance and receive its direction from the Fairbanks North Star Borough School District Board of Education.

5. GENERAL CONDITIONS

The General Conditions, set forth in Exhibit "B" entitled "General Conditions for Charter School Contracts," which is attached hereto, are hereby incorporated by reference herein.

6. DEFAULT; BREACH OF CONTRACT; REMEDIES

"Default," for the purposes of this contract, is defined as (a) a failure by a party to timely perform any duty, obligation or task delegated to it by this contract or the exhibits to this contract, (b) a failure by a party to adhere to Buyer's Policy No. 935, "Charter Schools," (c) a failure to comply with applicable State and Federal laws and regulations, or (d) the failure by the Contractor to adhere to any of Buyer's rules or regulations not waived by the Buyer. In the event of a default by the Contractor in the performance of this contract, the Buyer and the Contractor shall attempt in good faith to resolve the default informally. Where the default does not jeopardize the safety or well-being of students, the Buyer will attempt to resolve the default through negotiation and discussion before declaring a breach of contract to exist. If the safety and well-being of students is jeopardized, or if negotiations and discussions fail, then the Buyer may declare a breach of contract to exist. In the event of a breach of contract, the Buyer and the Contractor shall have those remedies available under Buyer's regulations and policies and Alaska law.

7. CONDITIONS TO APPROVAL

A. This contract is subject to approval by the State of Alaska Board of Education, and shall create no enforceable rights in either party unless and until the contract is so approved.

B. Approval of this contract by the Fairbanks North Star Borough School District Board of Education is not a commitment to fund the contract in any year except the 2017/2018 school year, and funding for the 2017/2018 school year is expressly contingent upon the terms and conditions of the motion by which this contract is approved by the Fairbanks North Star Borough School District Board of Education.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year first above written.

BOREAL SUN
CHARTER SCHOOL INC.

FNSB SCHOOL DISTRICT

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT "A-2"
SPECIAL CONDITIONS FOR
BOREAL SUN CHARTER SCHOOL

Dated: August 2, 2016

The following special conditions and clarifications apply to this contract:

1. Approval of Boreal Sun Charter School Application adopted by the Fairbanks Board of Education on August 2, 2016 is made a part of this agreement and is incorporated by reference.
2. The Contractor has arranged for the availability of premises in and on which it will deliver the services described in the charter school application. The Buyer shall have no responsibility for any claim by any person relating to the premises selected by the Contractor. Claims relating to the premises shall be within the scope of the Contractor's duty of indemnity provided in Exhibit B to the Charter School Contract.

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Dated: August 2, 2016

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EXHIBIT "B"

GENERAL CONDITIONS FOR CHARTER SCHOOL CONTRACTS

1. **APPLICABLE LAW**

Any controversy or claim arising out of or relating to this Contract shall be governed by the law of the State of Alaska. Any litigation under this Contract, if commenced by Contractor, shall be brought in a Court of competent jurisdiction in the Fourth Judicial District of State of Alaska. Pending the resolution of any dispute, the Contractor shall proceed as directed by the Buyer in writing.

2. **ASSIGNMENT**

This Contract is for personal services and shall not be transferred or assigned in whole or in part by the Contractor without prior written consent of the Buyer.

3. **CONFIDENTIAL MATTERS**

The Contractor shall keep in strictest confidence all information relating to this Contract which may be acquired in connection with or as a result of this Contract. During the term of this Contract and at any time thereafter, without the prior written consent of the Buyer, the Contractor shall not publish, communicate, divulge, disclose or use any of such information which has been designated as Buyer proprietary or which from the surrounding circumstances in good conscience ought to be treated as Buyer proprietary. The Buyer shall in all ways comply with statutory requirements of confidentiality. Upon termination or expiration of this Contract, Contractor shall deliver all records, data, information, and other documents and all copies thereof to the Buyer and such shall remain the property of the Buyer.

4. **CONFLICT OF INTEREST**

The Contractor shall not act as an agent, or in a liaison capacity as an officer, employee, agent, or representative of any Buyer supplier or prospective supplier. Except as permitted in the composition of the Academic Policy Committee of the Contractor, the Contractor hereby warrants that there is no conflict of interest in Contractor's full time or other employment, if any, or other personal service contracts, if any, with the activities to be performed hereunder and Contractor shall advise the Buyer if a conflict of interest arises in the future.

5. **GENERAL RELATIONSHIP**

In all matters relating to this Contract, the Contractor shall be acting as an independent contractor. Neither the Contractor nor employees of the Contractor, if any, are employees of the Buyer under the meaning or application of any Federal or State Unemployment or Insurance Laws or Worker's Compensation Laws, or otherwise, unless provided otherwise by separate contract. The Contractor shall assume all liabilities or obligations imposed by any one or more of such laws with respect to employees of the Contractor, if any, in the performance of this Contract. The Contractor shall not have any authority to assume or create any obligation, express or implied, on behalf of the Buyer and the Contractor shall have no authority to represent itself as an agent, employee, or in any other capacity of the Buyer.

6. **INDEPENDENT CONTRACTORS AND EMPLOYEES OF CONTRACTOR**

The Contractor shall not utilize any entities, persons or employees on the work to be performed hereunder except as permitted by Exhibits A-1 and A-2.

7. **NON-ASSERTION OF RIGHTS BY CONTRACTOR OR OTHERS**
During and after the term of this Contract, Contractor shall not assert or permit any other party to assert against the Buyer, any patent or other rights with respect to which Contractor has the right to assert or license at the termination or expiration of this Contract because of the practice of any process or the manufacture, use or sale of any product arising out of the subject matter of this Contract.
8. **NOTICES**
Any notice required to be given hereunder shall be deemed to have been sufficiently given either when served personally or when sent by first class mail addressed to the Parties at the addresses set forth in this Contract.
9. **REPORTS**
The Contractor, when directed, shall provide written reports to the Fairbanks North Star Borough School District Board of Education with the respect to the services rendered hereunder.
10. **SAFETY AND SECURITY REGULATIONS**
The Contractor shall comply with all applicable Buyer security regulations. If the Contractor renders services at the Buyer's facility, Contractor shall not remove any Buyer proprietary information therefrom. The Contractor shall comply with all applicable safety regulations.
11. **STRICT LOYALTY**
The Contractor and its employees shall avoid all circumstances and actions which would place the Contractor in a position of divided loyalty with respect to the obligations undertaken under this Contract.
12. **SUPERSEDING EFFECT**
This Contract supersedes all prior oral or written agreements, if any, between the parties, and constitutes the entire agreement between the parties.
13. **MODIFICATIONS, AMENDMENTS**
No modification or amendment to this Contract shall be effective unless it is in writing and signed by the Contractor and the Buyer. Oral amendments shall be ineffective.
14. **INDEMNIFICATION**
The Contractor shall indemnify, hold harmless and defend the Buyer, its Board of Education, officers, agents, employees and advisors from liability for the actions and inaction's of the charter school, its Academic Policy Committee, teachers, employees, and volunteers. The duties imposed by this paragraph shall include, but not be limited to, (a) disputes and claims, including mediation and 'due process' hearings, arising directly or indirectly out of individualized education plans, the right to such a plan and implementation of such a plan; (b) disputes and claims involving violations or claims of violations of the confidentiality laws regulating schools, parents and children; (c) disputes and claims arising out of imposition of discipline by the Contractor, it officers, agents, employees and volunteers on students; and (d) disputes and claims involving, directly or indirectly, Buyer's Board Policies or Administrative Policies that are waived by the Contractor under Exhibit A-1.

The itemization of specific instances of the Contractor's duty to indemnify, hold harmless and defend is solely for purposes of illustration and is not intended to be complete.

15. SCHOOL DISTRICT POLICIES

The Contractor acknowledges that, except where it has opted out of School District Policies and Administrative Regulations in the Contract, the Contractor, its officers, directors, agents, employees and volunteers remain bound by and must comply with School District Policies and Administrative Regulations.

16. SPECIAL EDUCATION FUNCTIONS

To the extent that the Contractor may have undertaken special education functions under Exhibit A-1, the Contractor shall be solely responsible for the development, maintenance and implementation of those assumed special education functions for those special education students. The Contractor recognizes and agrees that the Buyer, under federal law, may have liability of the consequences of the Contractor's failure to comply with special education laws, including but not limited to compliance with the Individuals with Disabilities Education Act ("IDEA"). Except where the Buyer has specifically agreed to perform IDEA functions for the Contractor, the Contractor shall have the duty to indemnify the Buyer as set out in Paragraph 14 above. That duty to indemnify shall apply even if federal law would otherwise impose liability on the Buyer.

17. RULES OF INTERPRETATION

The Contractor recognizes that while the charter school statutes of Alaska transfer control of enrolling charter school students to the Contractor, certain portions of Alaska law and federal law hold that Buyer accountable for educational deficiencies, injury or other harm the may befall a charter school student enrolled with the Contractor. The Contractor agrees that this charter school contract shall be interpreted to require the Contractor to indemnify, hold harmless and defend the Buyer from all liability whatsoever for performance or non-performance of those duties and responsibilities which the Contractor has agreed to perform under this contract.