

Memorandum of Agreement
By and Between
THE BOSTON PLAN FOR EXCELLENCE (“BPE”) and
THE BOARD OF TRUSTEES OF THE DUDLEY STREET NEIGHBORHOOD
CHARTER SCHOOL OF BOSTON

This Memorandum of Agreement (the “Agreement”) represents a formal agreement between the Dudley Street Neighborhood Charter School (“DSNCS”), by and through its Board of Trustees (the “Board”), and The Boston Plan for Excellence (“BPE”) regarding the services provided by BPE to DSNCS (collectively, DSNCS and BPE shall be referred to as “the Parties”). The Board has engaged BPE to serve as the *educational management organization* for DSNCS in order to ensure that the school faithfully executes on the terms of its charter, as described in the DSNCS Horace Mann Charter School application, approved on February 28, 2012, by the Massachusetts Board of Elementary and Secondary Education (BESE). To that end, BPE commits to supporting the school in pursuit of the DSNCS mission:

- To provide a world class education for all students, preparing them for long-term academic success and responsible civic engagement,
- To serve as a driver of human and social capital development, preparing outstanding new teachers to drive excellent student outcomes throughout Boston,
- To serve as a partner in catalyzing improvement of all schools in the Dudley Square area.

1. AUTHORITY

1.1 Delegation of Authority to BPE.

The Board of Trustees of DSNCS hereby authorizes BPE to undertake the functions specified in this Agreement in regards to business and academic services of DSNCS on behalf of the Board, exercised in a manner consistent with the Charter and the DSNCS bylaws, and the Memorandum of Understanding, it being understood that, at all times, BPE remains accountable and subject to the oversight and direction of the Board as provided for in this Agreement and by law. DSNCS, through its Board, also authorizes BPE to take such other actions consistent with the terms of this Agreement, and which are necessary in BPE’s good faith and reasonable judgment to properly and efficiently manage or operate DSNCS, provided such actions are consistent with the Charter, policies of the Board, applicable laws, and the annual DSNCS budget approved by the Board. DSNCS and the members of its Board shall ensure that BPE has authority necessary to carry out the duties of BPE under this Agreement. BPE shall keep the Board regularly apprised of the functions undertaken pursuant to this Agreement.

1.2 Conflict with Charter.

To the extent there are any conflicts between the terms of the Charter and the terms of this Agreement, the terms of the Charter shall control if the subject of such conflict would require an amendment to the Charter.

2. DUTIES AND OBLIGATIONS OF BPE

In addition to any duties and obligations expressly designated to BPE as set forth in Article 3, BPE (in collaboration with DSNCS) shall have the duties and obligations as set forth below in this Article.

2.1 Services.

BPE will provide a number of instructional and operational services. These services are listed below. Specific services are subject to change, upon mutual agreement of the Parties. BPE shall provide any other services it deems necessary or expedient for the provision of teaching and learning at DSNCS, and as may be approved by the Board of DSNCS. Specifically, BPE will:

- Support DSNCS in the development and implementation of an instructional system.
- Advise DSNCS's Principal on the development and implementation of the school's curriculum, subject to the Board of Trustees' approval, in line with the Massachusetts curriculum frameworks, and consistent with all applicable laws.
- Provide oversight, measurement and management of overall school quality – with particular attention to measures detailed in the DSNCS charter.
- Provide staff, resources, management, and supervision for the training of BTR residents and collaborating teachers at DSNCS.
- Support the preparation of an annual budget which is fiscally responsible and designed to maximize instructional impact.
- Provide consultation and recommend appropriate subcontractors to manage the day-to-day IT function at the school.
- Provide direct support to DSNCS for the following financial, accounting, and bookkeeping functions:
 1. timely payment of invoices
 2. monthly reconciliation of bank statements
 3. debit and credit entries
 4. procurement
 5. provide support and training to the Principal or designee as may pertain to the functions listed above
 6. work closely with DSNCS to ensure accurate and timely financial reporting to the Board and funding agencies, including but not limited to the annual report and any other reports to DESE.
- Assist with the selection of the auditor to be retained by the Board.
- Recruit the Principal. If the Principal leaves the school, BPE will recruit a replacement for presentation to and approval by the Board.
- Provide initial training, ongoing support, and supervision of the Principal.
- Complete the Principal evaluation for approval by the Board, consistent with State law and any applicable Memoranda of Understanding with BPS.
- Support and guide the recruitment of other school administrators, teachers and staff.

- Serve as key conduit to MA DESE and BPS including, but not limited to, issues related to the charter, governance, autonomy and funding of DSNCS.
- Support DSNCS with compliance and reporting mandates issued by district, state and federal entities.
- Provide assistance with required data submissions to Department of Elementary and Secondary education (DESE), including but not limited to reports in connection with Coordinated Program Review and SIMS.
- Support the resource development capacity of DSNCS.
- Provide consultation to supporting student recruitment efforts.
- Support the charter renewal process.

BPE may, but is not obligated to, provide additional services to DSNCS upon request. BPE may perform functions off-site, except as prohibited by State law. BPE may utilize web-based systems to provide support and counsel to DSNCS.

2.2 BPE Personnel.

(a) BPE shall employ and supervise sufficient personnel in order to effectively deliver the services herein and to meet its obligations under this Agreement.

(b) The services to be provided by BPE under this Agreement shall be provided by the Key Employees or by such other BPE personnel acting under the direct supervision of the Key Employees (the “Supervised Personnel”). All such Supervised Personnel shall have the qualifications and training necessary to provide the contracted services in a competent, suitable and timely manner. Key BPE Employees may include the Executive Director, Chief Financial Officer, Chief Advancement Officer, Director of Operations, Director of Professional Learning, Instructional Coaches, Chief Improvement Officer, Director of Family and Community Engagement, and Director of Talent.

(c) It is understood that the Key Employees are deemed to be “special state employees” for purposes of the Massachusetts Conflict of Interest Law. G.L. c. 268A, and they are subject to the provisions of that Law. It is not the intention of the Parties that the supervised personnel be special state employees, but the Parties acknowledge that the application of the Conflict of Interest Law to such supervised personnel is subject to the judgment of the State Ethics Commission.

2.3 Budget and Financial Statements.

Subject to the requirements of 603 CMR 1.07 and the Memoranda of Agreement, BPE and the Principal will jointly develop a projected budget for the next fiscal year, which the Principal will submit to the DSNCS Board for review and approval, no later than February 1st of each year. The Board shall have exclusive authority to approve the annual budget or supplements or amendments thereto.

The annual budget for DSNCS shall provide for all anticipated sources of revenue and for

payment of all operating expenses related to the opening and operation of DSNCS.

With support from DSNCS, BPE will prepare quarterly financial statements. Such statements shall include whatever information and data as is reasonably necessary to enable the Board and BPE to monitor DSNCS's performance under this and related agreements including the effectiveness and efficiency of its operations. Such statements will furnish DSNCS with all information deemed necessary by the school for the proper completion of the budget, financial reports and audits. Such statements will follow generally accepted auditing principles and will comply with DESE's prescribed format for charter school reporting.

The DSNCS Principal is responsible for completing any and all relevant financial trainings from BPS, and responsible for making sure that appropriate staff attend required trainings and have access to the necessary systems.

DSNCS shall be the lawful owner, lessee or licensee, as applicable of all real and personal property acquired with DSNCS funds (subject to the intellectual property and other proprietary or property rights of third parties therein). Property covered by Article 6 shall be the sole and exclusive property of BPE, subject to the license to DSNCS described therein; all other intellectual property developed by employees of DSNCS shall be the sole and exclusive property of DSNCS, subject to a license to BPE during the term of this Agreement. BPE shall have no responsibility to make any purchases on behalf of DSNCS or to act as disbursement agent for DSNCS.

2.4 Principal.

The accountability of BPE to the DSNCS Board is an essential foundation of the Parties' relationship, and the performance of the Principal is critical to DSNCS's success. Therefore, the BPE Executive Director and his/her delegate shall have the authority and responsibility, to the maximum extent consistent with State law and any applicable Memoranda of Understanding with BPS, to recruit and supervise the Principal and to hold the Principal accountable for the success of DSNCS, subject to oversight by the Board.

When a vacancy arises in the Principal position, BPE shall nominate a candidate to become the new Principal. The Board shall vote on whether to accept the candidate nominated by BPE. If the Board votes not to accept the candidate, BPE shall nominate additional candidates until the Board votes to accept a nominated candidate who meets the Parties' shared standards of excellence.

Once a candidate has been accepted by the Board, BPE shall present the proposed terms of the Principal's employment to the Board, including therein the duties and compensation of the Principal, for the Board's approval. The Board shall then vote on the approval of the terms of the Principal's employment. If the Board should vote not to accept the terms of the employment, BPE shall propose either new terms of employment or a new candidate for Principal. To the extent required by State law and the Memoranda of Understanding, the appointment of the Principal and his or her salary shall be subject to the approval of the Superintendent of BPS.

The Principal shall serve pursuant to a contract, which contract may be renewed by the Board, subject to approval by BPE. If the Board, upon consultation with the BPE, wishes not to renew the Principal's contract, the Board shall pursue non-renewal of the Principal's contract, subject to the approval of the Superintendent of BPS, to the extent required by State law and the Memoranda of Understanding, which approval shall not be unreasonably withheld.

In that event, BPE shall nominate a new candidate to become the Principal and then present terms of that Principal's employment, as provided above, until the Board votes to accept nominated candidate who meets the Parties' shared standards of excellence, and until the Principal receives approval by the Superintendent of BPS to the extent required by State law and the Memoranda of Understanding between DSNCS and BPS, which approval shall not be unreasonably withheld.

Either Party may recommend to the other Party the termination of the Principal's contract at any time. In that case, both Parties agree to thoroughly review the recommendation and, upon approval of the Board, will present the BPS Superintendent with a recommendation to terminate the Principal's contract.

The Principal shall coordinate the management of DSNCS with, and report on a frequent basis to, the DSNCS Board of Directors and the BPE Executive Director (or a designee specified in writing by the BPE Executive Director).

BPE will (a) draft for presentation to and vote by the Board an evaluation of the Principal once per year, using a comprehensive performance assessment model consistent with the policies of the Board and state educator evaluation regulations, and (b) provide ongoing coaching and training for the Principal.

2.5 Teachers and Other School Personnel.

BPE shall support DSNCS in the recruitment of teachers, administrators, and other personnel for DSNCS. Specifically, BPE will work with DSNCS to build a pool of highly qualified applicants who are licensed and meet all applicable requirements in accordance with State law, through advertising, networking and other methods. Subject to the oversight of the Board, the Principal shall have the authority to hire all teachers, administrators, and such other personnel as are contemplated in the schedule of positions set forth in the Charter Application and as may be duly agreed upon by the School and BPE hereafter subject to the Memoranda of Understanding. Subject to the oversight of the Board, the Principal shall have the authority to terminate DSNCS employees, although BPE may recommend termination of a DSNCS employee.

The Principal, with the assistance of BPE, shall have the authority to determine the compensation of all DSNCS employees, subject to annual review and approval by the Board, within the constraints of the budget adopted by the Board, the Memorandum of Understanding with BPS, established BPS salary scales, and Massachusetts state law.

The Principal, in consultation with BPE, shall determine staffing levels, and determine staff responsibilities, within the constraints of the budget adopted by the Board, the Memorandum of

Understanding, the Charter Application, and Massachusetts state law.

BPE will assist DSNCS (specifically the Principal) to deliver ongoing teacher training and support. BPE will work closely with the Principal to jointly plan and deliver ongoing teacher training. BPE will provide counsel to the principal with regard to evaluation and discipline of personnel.

2.6 Equipment and Information Technology.

BPE will make recommendations to DSNCS regarding the School's acquisition and use of information technology ("IT"). All vendor products and services will be paid for by DSNCS, consistent with its budget. BPE is not required to provide any IT support or maintenance under the terms of this Agreement.

The Parties acknowledge that any procurement or purchase of supplies or services for DSNCS referenced herein shall be made in compliance with State law, including Mass. Gen. Laws, Chapter 30B ("Chapter 30B").

2.7 Fundraising.

BPE and DSNCS may together, or DSNCS may independently, solicit and receive grants and donations from public and private sources consistent with the mission and Charter of DSNCS, for the benefit of DSNCS, provided that

- (a) monies raised from BPE fundraising activities specifically for DSNCS shall be given to DSNCS, or to be used for the benefit of DSNCS as directed by the donor;
- (b) BPE and the Board shall set fundraising targets for BPE to raise on behalf of DSNCS on an as-needed basis; BPE has the autonomy, to the extent provided by its grant agreements with funders, to determine which sources of raised funds shall be granted to DSNCS.

Nothing herein shall be construed to prohibit BPE from soliciting grants and donations solely for its own general corporate purposes and using such donations or grants solely for such purposes. Monies derived from general BPE fundraising activities that do not expressly reference DSNCS shall be used or distributed as BPE deems appropriate, in its sole discretion, including but not limited to use for the benefit of, or distribution among, other schools with which BPE partners.

2.8 Marketing.

BPE will assist DSNCS in its student recruitment efforts, both independently and in conjunction with BPS's existing marketing, including but not limited to the annual Showcase of Schools.

BPE may coordinate and manage public relations services with the community and the media, pursuant to the policies and directives of the Board.

2.9 Evaluation of BPE.

Both parties are committed to the achievement of the goals set forth in the Accountability Plan, as approved by DESE.

The Parties recognize that ongoing feedback from the Board of Trustees to BPE regarding BPE's performance is in the mutual best interest of the parties. Thus, in addition to the annual written evaluation noted below, the Board Chair(s) shall share ideas for improvement and/or concerns with the BPE Executive Director or his/her designee as part of their regularly scheduled periodic verbal communication, which occurs at least quarterly. The parties assume the majority of feedback to BPE from the Board will be provided through this forum.

Additionally, the Board, at any time, shall document any serious concerns about BPE's actions that may be limiting progress towards goals set forth in the Accountability Plan, if such concerns have arisen, and submit such documentation to BPE. BPE shall have thirty (30) days to submit a formal documented response, including when appropriate a remediation plan, to the Board of Trustees.

At least once per year, BPE and the Board of Trustees will complete a formal written evaluation of BPE's performance as a school management organization with respect to DSNCS. The evaluation will be based upon a template and format for input jointly agreed to by the Board Chair and the Executive Director of BPE. [The Board of Trustees shall have final approval over the template and format of the evaluation.](#) The evaluation will include, at a minimum, an assessment of BPE's performance against DSNCS's approved Accountability Plan. The evaluation will be designed to ensure that at least once per year, the Board of Trustees can utilize the Accountability Plan to determine whether the School is achieving its goals related to academic success, organizational viability, and faithfulness to its Charter, set forth in the Accountability Plan and to evaluate operational support described herein. On an annual basis, the written evaluation report will be presented to the Board of Trustees for discussion and approval. The written evaluation of BPE's performance will be conducted after the conclusion of each school year no later than July 30.

3. DUTIES AND OBLIGATIONS OF DSNCS

In addition to any duties and obligations expressly attributed to DSNCS as set forth in Article 2, DSNCS (in collaboration with BPE) shall have the following duties and obligations:

3.1 Provision of Suitable School Facilities.

Subject to the Memoranda of Understanding, should DSNCS need to be moved in any subsequent year, BPE and the Board will work collaboratively to find an adequate facility for the school. DSNCS will consult with and obtain approval (not to be unreasonably withheld or delayed) from BPE prior to entering into a lease or purchase of a facility.

3.2 Annual Audit.

DSNCS shall arrange and pay for a financial annual audit of DSNCS to be conducted in compliance with State law and regulations, and showing the manner in which funds are spent at DSNCS. The annual audit shall be performed by an independent, certified public accountant hired by the Board, who shall consult with BPE prior to selecting the certified public accountant.

3.3 Legal Services.

DSNCS shall arrange and pay for its own legal services.

3.5 Payroll, Employee Salaries and Benefits.

While the Parties expect that BPS will be responsible and accountable for the funding and payment of the salaries, fringe benefits, and State and federal payroll taxes for all individuals employed at DSNCS, in accordance with the Memorandum of Understanding, DSNCS shall be responsible for monitoring BPS's implementation of these obligations.

4. OPERATION OF THE SCHOOL

4.1 Students with Special Needs and English Language Learners

DSNCS recognizes its obligation to provide an appropriate education to all students enrolled in DSNCS, regardless of special need in accordance with the requirements of the *Individuals with Disabilities Education Act (IDEA)* and Section 504 of the *Rehabilitation Act of 1973* and in accordance with M.G.L. c. 71B and 603 CMR 28.00, and/or English language learning need, Title VI of the Civil Rights Act of 1964, the Equal Educational Opportunities Act of 1974, and chapter 71A of the Massachusetts General Laws. As required by law, DSNCS shall be open to individuals with handicapping conditions, other special needs and English language learning needs. BPE may, on behalf of DSNCS, subcontract as necessary and appropriate to a municipal, public or private contractor or otherwise for the provision of special education services, subject to approval by DSNCS. Any cost, fee or expense associated with such subcontract will be paid by DSNCS.

4.2 Recruitment and Admission.

DSNCS shall be responsible for the recruitment of students, both independently and in coordination with BPS's existing recruitment efforts, including but not limited to the Showcase of Schools, and BPE shall provide consultation, as provided in Section 2.1. DSNCS shall be responsible for administration of an admissions lottery, if necessary.

4.3 Family Educational Rights and Privacy Act.

DSNCS hereby designates employees of BPE as agents of DSNCS having a legitimate educational interest such that they are entitled access to education records under 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act ("FERPA") to the extent necessary. BPE,

its officers and employees shall comply with FERPA at all times.

4.4 Student and Personnel Records.

Student Records. DSNCS hereby designates the Key Employees of BPE as “Authorized School Personnel” pursuant to 603 CMR 23.00 et seq. BPE and DSNCS shall only release student records in accordance with law (including, without limitation, 603 CMR 23.00 et. seq.) and the Charter.

Personnel Records. Each Party shall be responsible for maintaining personnel records for such Party’s employees, in accordance with law. For purposes of protecting the confidentiality of personnel records in accordance with all applicable laws, each Party shall treat the personnel records of the employees of the other Party to which it has access as though such records are those of its own employees.

4.5 Public Records Laws.

BPE acknowledges that DSNCS is subject to the Massachusetts public records laws, and BPE shall assist DSNCS to ensure that DSNCS has access to any and all records deemed public records of DSNCS in order for DSNCS to respond to any public records requests.

5. FINANCIAL ARRANGEMENTS

5.1 Funding Eligibility.

The Principal shall be responsible for complying with applicable requirements for the purpose of receiving or maintaining DSNCS’s eligibility to receive from Boston, from Massachusetts, and from the federal government all applicable funds to which DSNCS is entitled. DSNCS shall apply for all state and federal aid or other monies it is eligible to receive. BPE shall provide such assistance to DSNCS in the preparation or review of State aid applications and reports as DSNCS may request. DSNCS shall permit BPE to review any such applications and reports prior to their submission, as BPE may request.

6. PROPRIETARY INFORMATION AND CONFIDENTIALITY

6.1 Proprietary Information.

Prior to entering into this Agreement, BPE has developed proprietary information. DSNCS acknowledges that BPE has a proprietary interest in its proprietary information, and that the proprietary information is core to BPE’s mission. BPE shall own all existing and hereafter created proprietary information, except for proprietary information created using the public funds of DSNCS, which shall be owned by DSNCS subject to a non-exclusive perpetual, royalty-free transferrable license to BPE to access and use the DSNCS intellectual property. BPE shall have the sole and exclusive right to license any of its proprietary information to third

parties.

BPE hereby grants to DSNCS, solely as may reasonably be required in connection with the performance of this Agreement, a nonexclusive, nontransferable, limited right to have access to and use the proprietary information during the term of this agreement. DSNCS may permit its agents, subcontractors, vendors and consultants to have access to and use the proprietary information, solely as may be reasonably necessary in connection with the performance of this agreement, provided that it ensures that such agents, subcontractors, vendors and consultants comply with the terms of this article. All materials furnished by BPE to DSNCS containing any proprietary information, including all written and electronic copies, shall be returned to BPE promptly upon termination or expiration of this agreement.

7. GOVERNING LAW

7.1 Governing Law.

This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of Massachusetts, without giving effect to the principles of conflict of laws thereof.

8. TERM AND TERMINATION

8.1 Term.

(a) Term. Upon approval of the Board and execution by the parties, this agreement shall become effective on the Effective Date and shall end on June 30, 2022, pursuant to approval by BESE. Subsequent Terms shall become effective pursuant to Section 8.1(b), below.

(b) Option to Extend. Each Party shall have the option to extend this agreement, pursuant to approval by BESE, provided that it is not subject to Termination for Cause, as set forth in Section 8.2(a) or Section 8.3(a) below, as applicable.

8.2 Termination by DSNCS.

DSNCS may terminate this agreement in accordance with the following provisions:

(a) Termination for Cause. Subject to the provisions of subparagraph (b) below, DSNCS may terminate this agreement at any time during the Term. For purposes of this Section 8.2, the term “for cause” shall mean:

- (i)** BPE becomes insolvent, enters into receivership, is the subject of a voluntary or involuntary bankruptcy proceeding, or makes an assignment for the benefit of creditors;
- (ii)** DSNCS’s auditor determines that there is a “material weakness” or a “significant deficiency”, as those terms are defined by GASB, the material weakness or significant

deficiency is one that BPE can correct within the notice and cure period provided to BPE pursuant to this Agreement, and BPE fails to make such correction, as determined by DSNCS's auditor;

(iii) BPE fails to manage the School on a financially prudent basis by operating within the constraints of the annual budget approved by the Board of Trustees, provided that the Board of Trustees has not unreasonably withheld its consent to required budget adjustments;

(iv) a Regulatory Authority has revoked any license which may be required for BPE to carry on its business and perform its obligations and functions under this Agreement;

(v) The School is not meeting or making substantial progress towards the goals laid out in the Accountability Plan;

(vi) BPE violates any material provision of law with respect to the School from which DSNCS was not specifically exempted and which results in material adverse consequences to DSNCS;

(vii) BPE materially breaches any of the material terms and conditions of this Agreement;

(viii) BESE revokes the School's Charter, does not renew the School's Charter at the end of the five-year charter term, places the School on probation, or imposes conditions on the School; or

(b) BPE Right to Cure. Prior to exercising its right to terminate this agreement pursuant to Section 8.2(a), DSNCS shall give BPE written notice of its basis for terminating the agreement. The termination notice shall specify the section(s) of this agreement upon which DSNCS is relying on for the termination and the requirements for correction of the breach. Upon receipt of the termination notice, BPE shall have 60 business days to remedy the breach. If the breach is one that is curable but is not corrected within the cure period, DSNCS may immediately terminate the Agreement. If the breach is one that is not curable within the 60 business day period described herein, the cure period shall be extended to such reasonable period of time as to permit cure.

(c) Deferral of Termination for Waivers. Notwithstanding the foregoing provisions of this Section 8.2, in the event that federal or State rules or regulations, existing as of the Effective Date or thereafter enacted, interfere with the BPE School Model, DSNCS's termination right under Section 8.2(b) shall be deferred for a period of time as may be reasonably required for DSNCS, with BPE's reasonable assistance, to timely apply for and support the waiver of any federal or State rules or regulations that interfere with the BPE School Model. Upon either (i) failure of the Parties' good faith efforts to obtain such a waiver or (ii) the determination of BPE, in its sole discretion, that such waiver is (a) unnecessary, (b) highly unlikely to be obtained or (c) not in the best interests of BPE and DSNCS, DSNCS's right to terminate, and BPE's right to

cure, will be restored as set forth in Section 8.2(a) and Section 8.2(b).

8.3 Termination by BPE.

BPE may terminate this agreement in accordance with the following provisions:

(a) Termination For Cause. Subject to the provisions of subparagraph (b) below, BPE may terminate this agreement for cause at any time during the term. For purposes of this Section 8.3, the term “for cause” shall mean that:

- (i) DSNCS materially breaches any of the material terms and conditions of this Agreement;
- (ii) DSNCS fails to comply with a material provision of its charter, except to the extent that such failure is caused by BPE;
- (iii) DSNCS violates any material provision of law with respect to DSNCS from which DSNCS was not specifically exempted and which results in material adverse consequences to BPE or to DSNCS;
- (iv) DSNCS takes any action which effectively prevents BPE from performing services in accordance with the terms of this agreement; or
- (v) BESE revokes DSNCS’ Charter, does not renew the school’s charter at the end of the five-year charter term, places the school on probation, or imposes conditions on the school.

(b) DSNCS Right to Cure. Prior to exercising its right to terminate this agreement pursuant to Section 8.3(a), BPE shall give DSNCS a termination notice specifying the section of this agreement upon which BPE is relying for the termination and the requirements for correction of the breach. Upon receipt of the termination notice, DSNCS shall have 60 business days to remedy the breach. If the breach is one that is curable but is not corrected within the cure period, BPE may immediately terminate the agreement. If the breach is one that is not curable within the 60 business day period described herein, the cure period shall be extended to such reasonable period of time as to permit cure.

8.4 Termination Upon Agreement of the Parties.

This Agreement may be terminated upon written agreement of the parties.

8.5 Avoidance of Disruptions to Students.

Notwithstanding the foregoing provisions of this Article 8, each party shall use its good faith reasonable efforts to avoid a termination of the agreement that becomes effective during the school year because of the disruption of such termination to the educational program and the students. Therefore, in the event this agreement is terminated by either party prior to the end of

the term, absent unusual and compelling circumstances, the termination will not become effective until the end of the school year.

8.6 Assistance Following Termination.

As noted in Section 8.5, notwithstanding the foregoing provisions of this Article 8, each Party shall use its good faith reasonable efforts to avoid a termination of the Agreement that becomes effective during the school year because of the disruption of such termination to the educational program and the students. In the unusual event of termination of this agreement that becomes effective during the school year, BPE shall provide reasonable assistance to DSNCS for the shorter of the remainder of the current school year or 90 days after the effective date of termination of the agreement, to assist in the transition to another plan for management of DSNCS.

8.7 Records upon Termination.

Upon termination or expiration of this agreement, BPE shall give to DSNCS all student, fiscal and other school records. All school records shall be kept at the school.

9. GOVERNING LAW

9.1 Governing Law. This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of Massachusetts, without giving effect to the principles of conflict of laws thereof.

IN WITNESS WHEREOF, THE PARTIES HEREBY CAUSE THIS MEMORANDUM OF AGREEMENT TO BE EXECUTED AND MADE EFFECTIVE AS OF _____.

FOR THE DSNCS BOARD OF TRUSTEES

FOR BPE

