



# Lumen Scholar Institute Board of Directors Meeting

Date: February 19, 2026

Time: 3:00 PM

Anchor Location via Teleconference: <https://us02web.zoom.us/j/85350660271>

Meeting ID: 853 5066 0271

## AGENDA

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### CALL TO ORDER

### AUDIT PRESENTATION & TRAINING

### REPORTS

- Director's Report
  - 2024/2025 School LAND Trust Report
- Finance Report

### VOTING & DISCUSSION ITEMS (to be discussed and/or voted on)

- 2026/2027 School Year Calendar
- 2026/2027 School LAND Trust Plan
- Helpside Professional Employer Agreement
- Student Conduct & Discipline Policy
- Policy Review:
  - Donation & Fundraising

**CLOSED SESSION-** closed session for the sole purpose of discussing the character, professional competence, or physical or mental health of an individual in accordance with Utah Code Ann. 52-4-2(1)(a).

### CALENDARING

- Next Board Meeting April 16, 2026 at 3:00PM

### ADJOURN

In compliance with the Americans with Disabilities Act, persons needing accommodations for this meeting should call 801-444-9378 to make appropriate arrangements. One or more board members may participate electronically or telephonically pursuant to UCA 52-4-207.

## 2024-2025

### School LAND Trust Report

#### Original Goal:

Improve student reading literacy in Kindergarten through 8th grades, using 4th and 7th grade as the target population.

#### Measurement:

At least 80% of all 4th and 7th-grade students would make typical or better progress or be on grade level in reading literacy by the end of the year, as measured by the Acadience Reading assessment.

#### Action Steps Implemented:

Licensed teachers and support personnel worked directly with students in targeted small groups and individualized sessions. Instruction focused on foundational reading skills, fluency, comprehension, and targeted intervention based on student assessment data. Progress monitoring was used to adjust instruction throughout the year.

#### Resources Utilized:

\$35,689.27 was used for wages and benefits for licensed teachers or support personnel.

#### Results and Data:

Early literacy outcomes showed notable improvement from the previous year.

- **2023–2024**
  - Students reading on grade level: **26.1%**
  - Students making typical or better progress: **63.0%**
- **2024–2025**
  - Students reading on grade level: **40.8%**
  - Students making typical or better progress: **71.4%**

Additionally, statewide assessment data reflected modest improvement in English Language Arts performance:

- Overall ELA performance increased from **24.8 (2023–2024)** to **26.2 (2024–2025)**.

- Student Growth Percentile (SGP) for ELA was **49.7**, indicating average growth.
- Growth for the lowest 25% of students was **51.3**, also indicating average growth.

**Conclusion:**

While the school did not fully meet the 80% target, the data demonstrates clear progress in early literacy and reading growth, particularly in the percentage of students reading on grade level and those making typical or better progress. Targeted instructional support funded through School LAND Trust resources contributed to these gains and provided valuable insight for continued literacy improvement.

**Goal 2: Increase Student Math Progress (Grades 3–8)**

**Target Grade:** 6th Grade

**Original Goal:**

Increase student math progress toward grade level in grades 3 through 8, using 6th grade as the target population.

**Measurement:**

At least 75% of 6th-grade students would make at least 3% growth from the beginning to the end of the year, as measured by approved state and school assessments.

**Action Steps Implemented:**

Licensed teachers and support personnel provided direct math instruction and intervention focused on priority standards. Students received targeted support through small-group instruction and individualized practice based on assessment results.

**Resources Utilized:**

\$35,689.26 was used for wages and benefits for licensed teachers or support personnel, including Tara Kauffman and Alyssa Bauer.

**Results and Data:**

Math performance and growth showed improvement compared to the prior year, though growth targets were not fully met.

- Overall math performance increased from **16.3 (2023–2024)** to **22.4 (2024–2025)**.
- Math Student Growth Percentile (SGP) was **39.0**, indicating low growth overall.

**Conclusion:**

Although math growth did not reach the desired benchmark, overall performance improved year over year. The data highlights the need for continued focus on math intervention, instructional

alignment, and progress monitoring. School LAND Trust funding supported direct instructional services that helped strengthen math foundations and informed next steps for improvement.

As an online school, all instruction is delivered via Zoom and all student work is submitted digitally. The school works closely with technical support staff and online service providers to ensure student digital safety. Digital citizenship and online safety are regularly discussed with both students and teachers, and digital safety principles are integrated into instruction across grade levels.

**Total Estimated Distribution:**

\$71,378.53

School LAND Trust funds were used as planned to provide direct instructional support through licensed teachers and support personnel. The investments contributed to measurable improvements in reading and math performance and informed instructional decisions for future planning.

Lumen Scholar Institute  
 School Year 2026-2027  
[lumenscholar.org](http://lumenscholar.org)

AUGUST 2026							SEPTEMBER 2026							OCTOBER 2026							YEAR AT A GLANCE		
S	M	T	W	Th	F	S	S	M	T	W	Th	F	S	S	M	T	W	Th	F	S			
						1			1	2	3	4	5					1	2	3	August 5	Teacher Contract Da	All non-CE teachers
2	3	4	5	6	7	8	6	7	8	9	10	11	12	4	5	6	7	8	9	10	August 6-7	No School	Professional Development (Teacher Only)
9	10	11	12	13	14	15	13	14	15	16	17	18	19	11	12	13	14	15	16	17	August 10	School Starts	First Day of School, K-12
16	17	18	19	20	21	22	20	21	22	23	24	25	26	18	19	20	21	22	23	24	August 10-14	Online Only	Grades K-12
23	24	25	26	27	28	29	27	28	29	30				25	26	27	28	29	30	31	August 13	Online Only	K-12
30	31		16	2				21							18	1					August 17	Live Classes Begin	K-12
NOVEMBER 2026							DECEMBER 2026							JANUARY 2027									
S	M	T	W	Th	F	S	S	M	T	W	Th	F	S	S	M	T	W	Th	F	S			
1	2	3	4	5	6	7			1	2	3	4	5						1	2	August 25-27	Kindergarten Boot Ca	In Person
8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9	August 28	Field Trip	Kindergarten
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16	September 7	No School	Labor Day
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23	October 13	Online Only	Grades K-12
29	30						27	28	29	30	31			24	25	26	27	28	29	30	October 13	Canvas Closes	
			16						13	1				31		19					October 14	No School	Teacher Work Day
FEBRUARY 2027							MARCH 2027							APRIL 2027									
S	M	T	W	Th	F	S	S	M	T	W	Th	F	S	S	M	T	W	Th	F	S			
	1	2	3	4	5	6		1	2	3	4	5	6					1	2	3	December 17	Canvas Closes	Grades K-12
7	8	9	10	11	12	13	7	8	9	10	11	12	13	4	5	6	7	8	9	10	December 18	No School	Teacher Work Day
14	15	16	17	18	19	20	14	15	16	17	18	19	20	11	12	13	14	15	16	17	December 21	No School	Teacher Comp Day
21	22	23	24	25	26	27	21	22	23	24	25	26	27	18	19	20	21	22	23	24	December 22-January 1	No School	Winter Break
28							28	29	30	31				25	26	27	28	29	30		January 4-5	Online Only	Grades K-12
		19							21	1						17					January 7	Live Classes Resume	Gades K-12
MAY 2027							JUNE 2027							JULY 2027									
S	M	T	W	Th	F	S	S	M	T	W	Th	F	S	S	M	T	W	Th	F	S			
						1			1	2	3	4	5					1	2	3	March 5	No School	Teacher Work Day
2	3	4	5	6	7	8	6	7	8	9	10	11	12	4	5	6	7	8	9	10	March 8	No School	Teacher Comp Day
9	10	11	12	13	14	15	13	14	15	16	17	18	19	11	12	13	14	15	16	17	April 5-9	No School	Spring Break
16	17	18	19	20	21	22	20	21	22	23	24	25	26	18	19	20	21	22	23	24	May 19	School Ends	Last Day of School
23	24	25	26	27	28	29	27	28	29	30				25	26	27	28	29	30	31	May 20-21	No School	Professional Development (Legislative Days)
30	31		13	2																			

Board Approved 02.19.2026

**LUMEN SCHOOL INSTITUTE 2020-2021**

MONTH	STUDENT DAYS PER MONTH	FULL DAYS	EARLY RELEASE DAYS	TEACHER COMP DAYS	LEGISLATIVE PD DAYS	NEW TEACHERS ONLY WORK DAYS	ALL TEACHERS ONLY WORK DAYS	TEACHER DAYS PER MONTH
August	16	16	0	0		18	18	18
September	21	21	0	0	0	21	21	21
October	20	18	0	1	1	20	20	22
November	16	16	0	0	0	16	16	16
December	14	13	0	1	0	15	15	16
January	19	19	0	0	0	19	19	19
February	19	19	0	0	0	19	19	19
March	23	21	0	1	1	22	22	24
April	17	17	0	0	0	17	17	17
May	15	13	0	0	2	15	15	17
June	0	0	0	0	0	0	0	0
<b>Total Days</b>	<b>180</b>	<b>173</b>	<b>0</b>	<b>3</b>	<b>4</b>	<b>182</b>	<b>182</b>	<b>189</b>
<b>Total Hours</b>	<b>990.00</b>	<b>951.50</b>	<b>0.00</b>	<b>16.50</b>	<b>22.00</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**CALENDAR CHECKLIST**

1. Fill in the blank white spaces on the count template and edit the start/end times. The gray/blue spaces will auto-populate.
2. Verify that the total days and total hours meet requirements (exactly 180 days / 990 hours minimum). Kinder must be a minimum of 2 hrs/day (even short
3. Confirm days being used for teacher compensation days and legislative days and that they are clearly labelled.
4. Confirm Kindergarten assessment days. Can be at the beginning and/or the end (not the middle) for a maximum of 10 days.
5. Confirm new and returning teacher work days, compare to previous school year days, and note differences to HR and Director.
6. October 1 should be a regular day with no days off or field trips. If October 1st falls over a weekend, verify that the Friday / Monday is in session.
7. Remind Directors to leave a cushion for snow/emergency make-up days. Consider building in one snow day annually.
8. Check that Legislative Days are labeled and scheduled after the first day of school.
9. For multi-campus schools, determine which campus is the district campus and which calendar will serve as the district calendar.
10. Boards must approve calendar and it must be turned into R&C and HR by March 30 to send to USBE and posted on the school website.

STUDENT HOUR CALCULATIONS	STUDENT FULL DAYS	STUDENT EARLY RELEASE DAYS
Start	8:30 AM	8:30 AM
End	3:00 PM	1:30 PM
<i>Elapsed Time</i>	<i>390.00</i>	<i>300.00</i>
Passing Time	30	30
Lunch	30	30
<b>Total Minutes</b>	<b>330.00</b>	<b>240.00</b>
EMPLOYMENT AGREEMENT INFORMATION		
DAYS	NEW TEACHERS	RETURNING TEACHERS
Start Date	8/6	8/6
End Date	5/21	5/21
25-26 Work Days	182	182
26-27 Work Days	<b>189</b>	<b>7</b>
Difference	<b>7</b>	<b>-175</b>

USBE CALENDAR SUBMISSION	
Opening Institute:	August 6
First Day:	August 10
Fall Break:	October 15-16
Thanksgiving:	November 23-27
Winter Break:	December 22-January 1
Spring Break:	April 5-9
Other Non-School Da	8/6-8/7, 9/7, 10/9, 12/21, 3/8, 5/20-5/21
Last Day:	5/19
Website Link:	<a href="http://lumenscholar.org">lumenscholar.org</a>



## School LAND Trust Plan Proposal for 2026-2027

### 1. Improve student reading literacy in Kindergarten through 8th grade, using 4th and 7th grade as our target population.

- a. **Measurements:** At least 80% of all 4th and 7th-grade students will make typical or better progress or be on grade level in reading literacy by the end of the year, as measured by the Acadience Reading assessment and or school standardized testing.

At least 70% of students participating in Read 180 will demonstrate measurable growth toward grade-level proficiency as measured by progress monitoring and benchmark assessments.

- b. **Action Steps:** Licensed teachers or support personnel will work directly with students to help achieve the outlined goals.
- Implement instruction aligned to essential standards for ELA.
  - Follow a clearly defined scope and sequence to ensure vertical alignment across grade levels
  - Implementation of formative assessment to monitor mastery of phonics & decoding, fluency, vocabulary, and comprehension strategies.
  - Implement Read 180 Intervention program.
  - Provide Tier III interventions for students significantly below the benchmark
  - Data & PIC review: Teachers will participate in structured data meetings.
- c. **Resources Utilized:** Wages and benefits for licensed teachers or support personnel.

### 2. Increase students' Math progress toward grade-level standards in 3rd through 5th grade, using 3rd and 5th-grade students as our target population.

- a. **Measurements:** At least 75% of 3rd and 5th-grade students will make at least 3% growth from the beginning to the end of the year, as measured by approved State or School assessments.

At least 70% of students receiving Tier III math interventions will demonstrate a year's worth of measurable growth

- b. **Action Steps:** School LAND Trust funds will be used to partially or fully fund an Instructional Coach to:
- Implement a new core math program.
  - Support a vertically aligned scope and sequence to ensure consistency across grade levels.
  - Identify and prioritize essential standards. Develop formative assessments to identify areas of reteaching and acceleration.
  - Integrate a standards-aligned supplemental math program.
  - Intensive intervention for Tier III students who fall significantly below grade level.
- c. **Resources Utilized:** Wages and benefits for an Instructional Coach or support personnel.

Because we are an online school, all instruction is completed via Zoom, and all student work is submitted online. We work directly with our technical support and online providers to ensure digital safety for our students. We also discuss digital citizenship regularly with our students and teachers. Students are also taught digital safety principles within each grade.

**Total Distribution:** \$84,941.50

## Policy 0905: Donations and Fundraising

**Original Adopted Date:** 08/11/2015 | **Last Revised Date:** 07/21/2022 | **Last Reviewed Date:** 07/21/2022

### Purpose

Lumen Scholar Institute (the “School”) encourages the contributions of gracious donors who have the resources and the inclination to make donations for the benefit of the School and its students. However, the School does not engage in or sponsor any fundraising activities. The School does not allow its students or its students’ parents to be solicited for fundraising purposes nor does it allow its students or students’ parents to participate in any fundraisers for or on behalf of the School.

This policy establishes guidelines and standards for the School’s acceptance of donations and gifts.

### Policy

1. Donations and Gifts:
  - a. The School may not transfer or expend donated property (funds, gifts, goods, material, equipment, or other items) in a manner contrary to donor restrictions imposed as a condition of making the donation. The Chief Administrative Officer is responsible for ensuring that donor restrictions of accepted donations are complied with and that compliance can be verified. However, the School may not accept donations with the condition that the donation provide direct benefit to specific School employees, students, vendors, or service providers, or that the School purchase a specific brand of goods or services with the donated funds. The Chief Administrative Officer will ensure that charitable donation receipts are provided to donors as necessary;
  - b. The Chief Administrative Officer must approve voluntary donations from private individuals or organizations in excess of \$1,000 and any donation involving donor restrictions prior to accepting the donation. The Board of Trustees (the “Board”) must approve any voluntary donations from private individuals or organizations in excess of \$10,000;
  - c. If advertising or other services are offered to a donor in exchange for a donation or gift, the School will objectively value the donation or gift in order to ensure the School receives at least fair value; and
  - d. The Chief Administrative Officer must ensure that any applicable fiscal policies of the School are complied with in connection with donations. The School will comply with other applicable laws and regulations, including but not limited to procurement requirements, rules related to construction of improvements, IRS regulations and tax deductible directives, and Title IX requirements.
  - e. The Chief Administrative Officer must ensure that charitable donation receipts are provided to donors as necessary.
  - f. The School’s employer identification number and sales tax exemption number may only be used by School personnel in connection with School-sponsored activities. No other entity may use these numbers.
2. Commitment:
  - a. The School is committed to principles of gender equity and compliance with Title IX guidance. The School commits to use all facilities, unrestricted donations and gifts, and

other available funds in harmony with these principles. The School reserves the right to decline or restrict donations and gifts, including those that might result in gender inequity or a violation of Title IX.

The Chief Administrative Officer will ensure that School employees receive appropriate training in connection with these policies. Training shall be provided at least annually to employees whose job duties are affected by the School's fiscal policies.

The Board will review this policy at least annually.

## EXECUTIVE SUMMARY

### AUDIT PRESENTATION

Eide Bailly has completed the annual independent audit of the School's financial statements and compliance for the fiscal year ending June 30. Their audit was conducted in accordance with required standards, and they found that the financial statements fairly represent the School's financial position and activity. They met with the Board to review the audit results, including the financial statements, compliance testing, and this year's required communications.

**Action:** *No action needed*

### FINANCE REPORT

#### **Statement of Activities- Compares budget to actual as of the last closed month.**

- As of January 31<sup>st</sup>, we are 58% of the way through the school year.
- **Local Revenue** is 133% of what was budgeted, mostly due to interest rates remaining high and miscellaneous revenue
- **Federal Revenue** is reimbursement based and must be applied for and spent before it can be received by the school. That is all happening as expected.
- **Purchased Professional and Technical Service expenses** are at 61%. This is due to the RTI professional development that the school hosted this year. Some of this was funded through new Title I funding.

#### **Statement of Financial Position- Balances compared from this year to last year.**

- 1/31/2026 compared to 1/31/2025
- **Cash** is up almost \$900,000
- **Long Term Debt** reflects the previous Lease. The new lease will be included here.
- **Net Income** (Revenue less expenses) is up \$50,000 compared to this point last year.

**Action:** *No action needed*

### SCHOOL YEAR CALENDAR

The Board must approve the annual school calendar that meets the state requirements of 180 days.

**Action:** *Board Vote*

### SCHOOL LAND TRUST PLAN

Each year the school receives funding through the Utah School LAND Trust Program, which distributes state School LAND Trust revenue to support improved student academic achievement. The School LAND Trust Plan outlines how resources will be used to support measurable academic growth for all students.

**Action:** *Board Vote*

#### **HELPSIDE PROFESSIONAL EMPLOYER AGREEMENT**

A new Professional Employer Agreement between the school and Helpside is being presented for board approval. Under the Utah Procurement Code, contract terms are generally limited to five years, with limited exceptions. Helpside provides a comprehensive suite of services, including payroll administration, 401(k) benefits, FMLA administration, unemployment support, and workers' compensation coverage. Helpside has consistently delivered high-quality, comprehensive services at competitive rates. The terms of the new agreement are consistent with the expiring agreement. It is recommended that the Board approve the Professional Employer Agreement with Helpside and authorize the Board President to execute the agreement on behalf of the school.

**Action:** *Board Vote, authorize board chair to sign*

#### **AMENDING STUDENT CONDUCT AND DISCIPLINE POLICY**

SB 170 from the 2025 legislative session and corresponding revisions to USBE rule R277-608 (effective November 2025) brought about changes to the rules and requirements related to the use of emergency safety interventions (physical restraint and seclusion) with students. These new rules and requirements have been built into the Student Conduct and Discipline Policy. Other updates and clarifications have also been added to the policy to increase its compliance with new and existing laws and updates to USBE rules, including those related to due process for student disciplinary actions, reinstatement of students after suspension, reintegration plans, administrative student conduct and discipline plans (plan requirements have decreased), corporal punishment, definitions of suspension and expulsion (as described in R277-609) and the alternative education service requirements related thereto, and state reporting requirements for suspensions and expulsions.

**Action:** *Board Vote*

#### **POLICY REVIEW: DONATION & FUNDRAISING**

Under Utah governance requirements, certain Board policies must be reviewed periodically. The Donation & Fundraising Policy is currently due for its scheduled review. At this time, no revisions are recommended, and no Board action or vote is required.

**Action:** *Review; No Action Needed*



# Helpside PEO Client Service Agreement

This Client Service Agreement is made as of the Effective Date set forth below by and between Helpside, LLC, located at 395 West 600 North, Lindon, Utah 84042 (hereinafter "Helpside" or "PEO") and \_\_\_\_\_, located at \_\_\_\_\_ (hereinafter "Client"). Helpside and Client are sometimes referred to collectively as the "Parties," and individually as a "Party." Terms and Conditions (Exhibit "A"), the Rate Sheet (Exhibit "B"), and State Addenda (Exhibit "C") accompanying this Client Service Agreement, along with any other addenda, exhibits and/or schedules, are incorporated by reference as if fully set forth herein and are referenced herein collectively as "this Agreement."

1. **Effective Date and Service Commencement Date.** This Agreement will be effective as of the date signed by both Parties ("Effective Date"). The term of the Agreement will commence on the Effective Date and will continue until terminated by either Party pursuant to the Terms and Conditions, set forth in Exhibit "A" ("Term"). The services described herein will commence on \_\_\_\_\_. For avoidance of confusion, Helpside's obligation to provide services with respect to any Covered Employee (as defined below) under this Agreement does not commence until the requirements for a Client's employee to be deemed a Covered Employee, as set forth in Paragraph 2, have been satisfied.
2. **Obligations of Helpside.** Helpside's obligations under this Agreement with respect to Client's employees for whom Helpside has timely received and accepted all onboarding documents required by Helpside, including, without limitation, the Worksite Employee Acknowledgement and W-4, in addition to initial payment according to the appropriate rate set forth in the Rate Sheet (Exhibit "B") of this Agreement (hereinafter "Covered Employee") are as follows:
  - 2.1. **Payroll Administration.** Helpside will process payroll payments for Covered Employees in accordance with applicable law, conditioned upon Client timely and accurately supplying all data and funds necessary for Helpside to perform its payroll processing services.
  - 2.2. **Payroll Taxes and Unemployment Insurance.** To the extent required by law, Helpside will withhold, report, and remit federal, state, and local payroll taxes, including, without limitation, unemployment insurance contributions, for Covered Employees. To the extent requested by Client, Helpside will administer unemployment insurance filings and claims, including opposing unemployment claims when appropriate.
  - 2.3. **Employee Benefits.** As agreed to between Helpside and Client, Helpside will offer certain employee benefits to eligible Covered Employees and their eligible dependents through Helpside-sponsored plans ("Helpside Benefit Plans") and administer such Helpside Benefit Plans in compliance with applicable law and the terms and provisions of the applicable plan documents. The applicable plan documents will control eligibility for benefits and the extent of benefits provided under the Helpside Benefit Plans.
  - 2.4. **Workers' Compensation Insurance.** Unless the Parties have otherwise agreed in writing, as evidenced by execution of an Addendum to this Agreement, Helpside will provide workers' compensation insurance coverage for the Covered Employees and, to the extent agreed to by the Parties, administer claims under such coverage in compliance with applicable law. Client workers who are not timely reported to Helpside pursuant to the terms of Paragraphs 3.1 below, and 5.2 of the Terms & Conditions (Exhibit "A"), and in compliance with Helpside's new-hire onboarding requirements are not Covered Employees and will not be covered by workers' compensation insurance provided through Helpside for any period during which they are not a Covered Employee.
  - 2.5. **Human Resources Consulting Services.** Helpside will provide human resources consulting services as detailed in Paragraph 4.5 of the Terms & Conditions (Exhibit "A").
3. **Obligations of Client.** Client's obligations under this Agreement include the following:
  - 3.1. **Onboarding Process.** Client will comply with Helpside directives regarding the requirements to onboard Covered Employees, including, but not limited to, the requirements set forth in the Terms & Condition. Client will ensure all newly hired employees complete electronic onboarding before the newly hired employee begins work for the Client, except as otherwise required by applicable laws.
  - 3.2. **Payroll Data.** Client will timely and accurately provide all data necessary for Helpside to process payroll for the Covered Employees, including, but not limited to, hours worked, rates of pay, payments owed, and exempt/non-exempt status under applicable wage and hour laws ("Payroll Data"). Payroll Data must be provided to Helpside no later than 9:00 AM Mountain Time two (2) business days before the payroll pay date ("Payroll Deadline"). Payroll Data provided after the Payroll Deadline that the Client would like processed on the regularly scheduled pay date results in a "Late Payroll," meaning Helpside has less time to process payroll and a "Late Payroll" fee will apply, as outlined in the Rate Sheet, attached as Exhibit "B." To ensure accurate calculation of fees and proper withholding, reporting, and remitting of taxes, Client agrees not to pay any wages, salaries, bonuses, or other amounts directly to Covered Employees (outside of Helpside's platform) without obtaining Helpside's prior written consent to do so. Client will immediately forward to Helpside any order or notice of garnishment, involuntary deduction, IRS lien or other legal process received by Client affecting wages paid to Covered Employees and, if requested by Helpside, Client will sign documents necessary to authorize Helpside to act on Client's behalf in responding to such legal process. Client will timely report to Helpside any changes in its workforce, such as employees hired or terminated, and any changes in salary or hourly wages, or other compensation. If Client abandons Helpside's services by reporting a payroll cycle of \$0, pays Covered Employees in violation of the conditions set forth in this Paragraph 3.2, or fails to timely report Client's payroll information for a payroll cycle, it will be deemed a material breach

of the Agreement, and the Agreement may be terminated immediately, as set forth in Paragraph 11.2.1 of the Terms & Conditions.

- 3.3. Notice of Covered Employee Termination and Wage Changes. Client shall provide Helpside with timely advance notice (through Helpside Admin Tools) when it terminates the employment of a Covered Employee. At a minimum, Client will provide Helpside with sufficient notice for Helpside to timely issue the final paycheck to a terminated Covered Employee. Additionally, Client shall provide Helpside sufficient notice of a wage change for any Covered Employee to enable Helpside to properly comply with any applicable wage payment requirements.
- 3.4. All Obligations Not Expressly Included. Client understands, acknowledges, and agrees that Client is solely responsible and liable for any and all obligations, duties, and responsibilities that are not expressly delegated to Helpside under this Agreement.

4. **Fees.**

- 4.1. Administrative Fees. Client will pay Helpside’s administrative fees and charges as detailed in Section 7 of the Terms & Conditions (Exhibit “A”), according to the rates set forth in the Rate Sheet (Exhibit “B”).
- 4.2. Timing and Collection of Amounts Owed. As detailed in the Terms & Conditions, prior to the time that one or more Covered Employees is required to be paid, Client shall pay an amount equal to Gross Payroll (as defined in the Terms & Conditions) plus all other fees and charges associated with that payroll, including, but not limited to: Helpside’s administrative fees (as referenced above in Paragraph 4.1); all gross wages; federal, state, and local taxes and related charges (including, but not limited to, FICA, FUTA, and SUTA); and any other applicable fees and charges attributable to Covered Employees, as invoiced by Helpside. Except as otherwise provided in the applicable Rate Sheet, Helpside may adjust any rates, fees, or charges at any time with thirty 30 days’ advance notice, or without any advance notice in the event of immediate or retroactive changes in payroll tax or insurance rates, changes in insurance requirements or costs, or changes in workers’ compensation insurance codes.
- 4.3. Other Fees. There may be additional fees or charges for services requested by Client if such requested services are not specifically identified in this Agreement, such as for services pertaining to background searches, substance screening fees, applicant tracking system access, learning management system access, and other miscellaneous services.

**THROUGH THE SIGNATURES OF THEIR AUTHORIZED REPRESENTATIVES BELOW, AND IN EXCHANGE FOR MUTUAL AND VALUABLE CONSIDERATION, THE PARTIES HEREBY AGREE TO ALL TERMS AND CONDITIONS OF THIS AGREEMENT.**

<b>Helpside:</b>  BY: _____  NAME: _____  TITLE: _____  DATE: _____	<b>Client:</b>  BY: _____  NAME: _____  TITLE: _____  DATE: _____
<b>Address for Notices (Par. 14.6 of the Terms &amp; Conditions (Exhibit “A”))</b>	
<b>Helpside:</b>  Street Address: City, State, Zip: Attn: Email:	<b>Client:</b>  Street Address: City, State, Zip: Attn: Email:

**EXHIBIT "A"**  
**TERMS AND CONDITIONS**

The following terms and conditions apply to this Agreement.

1. **Term.**

The term of this Agreement will commence on the Effective Date and continue for one (1) year ("Initial Term"). Upon completion of the Initial Term, this Agreement will renew and continue for successive one (1) year terms ("Successive Term"), unless and until a written notice of non-renewal is issued by a Party no later than thirty (30) days prior to the completion of the Initial or Successive Term. Initial and Successive Terms will be referenced herein collectively as the "Term." During the Term, this Agreement may also be terminated in accordance with Section 11 of this Agreement.

2. **Scope of Agreement.**

- 2.1. Helpside's services shall not apply to Client employees living and/or working outside of the United States, and such employees shall not be Covered Employees.
- 2.2. Helpside has no responsibility for Client employees who are not Covered Employees, or any other worker, laborer contractor, or subcontractor providing services to Client. In the event Helpside has more than one workers' compensation insurance policy, the coverage provided by such policy or policies is strictly limited to the employees specified in the insurance policy documents. Client will secure and maintain workers' compensation insurance for all Client's workers, if any, who are not Covered Employees under this Agreement.
- 2.3. **Insurance.** Client acknowledges that Helpside is not an insurance carrier and that as such Helpside may not be subject to certain laws and regulations governing insurance or the sale of insurance.

3. **Reservations of Rights.**

This Agreement may reserve certain rights to Helpside for the purpose of Helpside delivering PEO services in compliance with applicable PEO licensing, registration, certification, and other laws authorizing the delivery of PEO services. The reservation of rights in this Agreement is not an admission that Helpside either has exercised, or will exercise, such rights. It is the intent of the parties that no inference of liability arises from the reservation of rights, other than the liabilities arising from the express terms of this Agreement. Furthermore, notwithstanding any reservation of rights sets forth in this Agreement, Client remains solely responsible for the day-to-day supervision of Covered Employees and for the selection of qualified workers for employment.

4. **Obligations of Helpside.** Helpside's obligations are as follows with respect to the Covered Employees:

- 4.1. **Payroll Administration.** If applicable, Client will allocate employee hours worked to any federal or other contracts requiring specific payroll treatment and will provide Helpside the relevant and required Wage Determination and Fringe Benefits information.
- 4.2. **Payroll Taxes and Unemployment Insurance.** In those states or other jurisdictions in which Helpside may or must use Client's employer account for purposes of reporting and remitting unemployment insurance contributions or any other payroll taxes, Client authorizes Helpside to do so and agrees to cooperate with Helpside in the use of Client's account. Client will provide all required and requested forms, signatures, powers of attorney, reports, documents, credentials, and historical data.
- 4.3. **Employee Benefits.** Client will cooperate with Helpside in all matters necessary for Helpside to properly administer the Helpside Benefit Plans, including, without limitation, executing all necessary agreements or other documents. Helpside's obligations with respect to employee benefits will not extend beyond the scope of the Helpside Benefit Plans.
- 4.4. **Workers' Compensation Insurance.** Client will cooperate with Helpside to provide any required notices to state agencies and/or Covered Employees in connection with the provision of workers' compensation insurance to Covered Employees.
- 4.5. **Human Resource Consulting.** To the extent requested by Client, Helpside may provide Human Resource consulting services to designated management employees of Client either directly or through the use of third-party consultants or vendors, including providing consulting services with respect to an Employee Handbook and other personnel policies and procedures (additional fees may apply). Client shall be solely responsible to handle, investigate, and resolve any issue raised by a Covered Employee pertaining to harassment, discrimination, retaliation, leave entitlements, or other employment-related issue. To the extent requested by Client, Helpside may provide best practices information and assistance to Client; however, Client retains sole responsibility for complying with applicable Employment Laws (defined below). Client expressly understands and agrees that in providing Human Resource consulting services, Helpside is not providing legal advice, and Helpside is not providing such services as a joint employer. Regardless of whether Client uses Helpside's Human Resource consulting services, Client is ultimately responsible for all personnel decisions, and Client is responsible to consult with legal counsel as needed regarding Human Resource or employment-related issues.

- 4.6. Use of Affiliates and Other Sources of Revenue. Client understands, acknowledges and agrees that (i) some of the products and/or services provided pursuant to this Agreement may be provided by third parties that are affiliated with or otherwise related in some way to Helpside ("Affiliates") and therefore some of the fees or charges paid by Client may include amounts payable to Affiliates; and (ii) to the extent consistent with applicable law, Helpside and/or Affiliates may receive commissions, referral fees or other sources of revenue with respect to the products and/or services provided pursuant to this Agreement.
5. Obligations of Client. Client's obligations under this Agreement include the following:
- 5.1. Implementation. Client and Helpside will agree upon an implementation schedule shortly after the execution of this Agreement. Client is responsible for providing documents, making decisions, and securing the cooperation of its employees, as needed to complete implementation according to the agreed-upon schedule. Helpside will invoice Client for of the implementation fee immediately upon execution of this Agreement. If, in the sole discretion of Helpside, Client has caused significant delay to the implementation schedule, Helpside reserves the right to begin charging an administrative fee as set forth in the Rate Sheet.
- 5.2. Covered Employee Onboarding. Client is solely responsible for onboarding new Covered Employees by using Helpside's electronic onboarding workflow, or by submitting completed, accurate, new hire paperwork, including without limitation any benefits enrollment forms or packages, for each new employee before a newly hired employee first performs any work for Client. As indicated below in paragraph 5.5, Client is also solely responsible for completing the I-9 verification process for each newly hired employee, and Client understands and agrees that Helpside is unable to process payroll for any newly hired employee for whom Client has not completed all required I-9 processes and procedures.
- 5.3. Covered Employee Termination and Wage Changes. Client is solely responsible for any late payment penalties resulting from Client providing Helpside with inadequate advance notice of termination or wage change. Client authorizes Helpside to add such penalties to the final payment and invoice Client for same and/or to make deductions from Client's accounts as set forth in this Agreement.
- 5.4. Change in Circumstances. Client shall notify Helpside of the principal location of the workplace of each Covered Employee and each location where such Covered Employee performs services for Client, and of any changes in such locations, including Covered Employees who transition to a remote work arrangement, or who are hired to work remotely. Client must provide prior written notice to Helpside of any new lines of business, new locations, and new class codes, and Helpside reserves the right to approve or deny any such new business or class codes. Failure to provide such notice is a material breach of this Agreement.
- 5.5. Immigration. Client is solely responsible for all I-9 and E-Verify processes and procedures. Client will ensure that an I-9 is timely and properly completed for all new hires; retain I-9 documents for the period required by law; and update I-9s when required by law. To the extent requested by Client, Helpside may provide information to Client regarding the proper procedures for completion of the I-9 or E-Verify procedures; however, Client retains sole responsibility for complying with all Form I-9 and E-Verify legal requirements. Any obligation placed upon an employer by applicable law or by Client's decision to verify the eligibility of an individual for employment through the E-Verify program or any successor program or to in any manner utilize the E-Verify system, to the extent allowed by law, is retained solely and exclusively by Client. Any fines or other penalties resulting from Client failing to follow proper I-9 or E-Verify procedures and processes will be solely Client's responsibility. Client will not engage in any discriminatory or other unlawful acts with respect to the I-9, E-Verify process, or immigration status.
- 5.6. Payroll. Client shall be solely responsible for the verification of payroll information, including but not limited to verifying that child labor laws have been complied with, and for providing applicable meal periods, rest breaks, and other breaks, as required under applicable law, and for ensuring that wages, minimum wage, overtime, prevailing wage rate, piece rate, commissions, and bonuses have been correctly calculated. In the event of a public utility or data processing/storage service outage that prevents Helpside from performing its payroll processing services using complete and accurate data, Helpside reserves the right to elect to pay estimated wages until such time as complete and accurate data is available to allow reconciliation and Client funding of outstanding wages. Although Helpside may, at Client's request, consult with Client regarding minimum and overtime wages and exempt status requirements, Client is solely responsible for determining and maintaining the exempt status of Covered Employees and Client agrees that Client alone possesses sufficient information to make such decisions. Client is solely responsible for any prevailing or municipal minimum wage compliance requirements. Client shall be solely responsible for all non-compliance penalties and liabilities resulting from Client's failure to timely forward legal process or other necessary payroll data to Helpside or to sign required authorization documents.
- 5.7. Business Operations. Client will oversee all aspects of the operation of Client's business, including, but not limited to the production and delivery of services and products, product design, accounting, cash control, and loss/breakage/theft prevention. Helpside is not responsible for the acts, errors, or omissions of Client or and Covered Employee, or any crimes, torts, misconduct, or wrongdoing of Covered Employees because they are not under Helpside's direction, supervision, and control. Client is solely responsible for recruiting and selecting competent workers for Client to conduct its business safely and lawfully. To the extent required by applicable law, Client is solely responsible for providing tools and equipment necessary for Covered Employees to perform their job duties and reimbursing Covered Employees for all recoverable expenses incurred in the course of their employment. Client shall supervise, direct, and control Covered Employees to the extent necessary for Client to conduct its business safely and lawfully. Client is solely responsible for compliance with

wage and hour laws governing scheduling, such as holidays, reporting time, on call time, stand by time, make up time, shift spacing, meal periods, breaks, rest periods, days of rest, fluctuating workweeks, flexible scheduling arrangements, scheduling notifications, and all other matters related to hours scheduled and worked. Client acknowledges that such matters are not within Helpside's control and Client agrees to timely pay any penalties, premiums, or other amounts owed related to these issues. Covered Employees in supervisory positions shall have no responsibility for employees other than the Covered Employees.

- 5.8. Business and Occupational Legal Compliance. Client will comply with all laws governing Client's business, including but not limited to laws pertaining to required filings, licensing, taxes, fidelity bonding, insurance, facilities/building codes and regulations, and environmental compliance. If any Covered Employee is required to be licensed, registered, or certified under any federal, state, or municipal law or regulation, or to act under the supervision of such a licensed, registered or certified person or entity in performing the employee's services, then any such person(s) will be deemed an employee of Client for such licensure purposes. Client will be solely responsible for verifying licensure and/or providing the required supervision.
- 5.9. Client Employee Benefit Plans. If Client has requested that Helpside offer Helpside Benefit Plans to Covered Employees, and Helpside has agreed to do so, Client will not provide employee benefits to Covered Employees or their dependents ("Client Plans") in addition to or in lieu of the benefits available under the Helpside Benefit Plans without the express written consent of Helpside. To the extent employee benefits are provided to Covered Employees or their dependents under a Client Plan, Client will: (i) ensure that the Client Plan is administered in compliance with applicable law and the terms and provisions of the applicable plan documents; and (ii) retain sole responsibility and liability for the Client Plan. Client understands, acknowledges and agrees that: (a) Helpside is not a plan sponsor, plan administrator or fiduciary with respect to any Client Plan; (b) Helpside shall have no other role, responsibility or liability with respect to any Client Plan, including, without limitation, that of a third-party administrator; and (c) to the extent that Helpside provides any administrative or other services with respect to a Client Plan, (1) all such services are taken on behalf of Client and at Client's specific direction, (2) Helpside shall have no discretion with respect to such services, (3) Helpside shall not take on any fiduciary or other obligations as result of such services under the Employee Retirement Income Security Act of 1974, as amended (ERISA), or any other law and (4) Client shall remain solely responsible and liable for such services and any underlying Client obligations.
- 5.10. Cooperation with Helpside. Client will respond in a timely and accurate fashion to requests from Helpside for records and data necessary for Helpside to perform its services. Upon receipt Client will immediately (and no later than one (1) business day after receipt) send Helpside copies of demands, notices, claims, summons and other legal papers related to the Covered Employees. Client will cooperate with Helpside in the investigation, remediation, settlement, and defense of legal claims related to the Covered Employees.
- 5.11. Legal Compliance. Client will comply with federal, state, and local laws governing its business, including labor and employment laws. Although Helpside may consult with Client regarding labor and employment related compliance matters, Client is responsible for conducting its business and decision-making in a way that complies with all federal, state, and local labor, employment, wage theft and other wage payment laws, and employee benefit laws, including, without limitation, the Civil Rights Acts of 1866, 1964 (including Title VII), and 1991; the Age Discrimination in Employment Act; the Americans with Disabilities Act (ADA); the Family and Medical Leave Act (FMLA); the Fair Labor Standards Act (FLSA) the Worker Adjustment and Retraining Notification Act (WARN); the National Labor Relations Act (NLRA); the Equal Pay Act; the Pregnancy Workers Fairness Act; the Fair Labor Standards Act, including amendments thereto under the Providing Urgent Maternal Protections for Nursing Mothers Act; the Vietnam Era Veteran's Readjustment Assistance Act; Executive Order 11246; the Rehabilitation Act of 1973; the Fair Credit Reporting Act (FCRA); the Employee Polygraph Protection Act; the Immigration Reform and Control Act (IRCA); the Older Workers Benefits Protection Act (OWBPA); the Occupational Safety and Health Act (OSHA); the Uniformed Services Employment and Reemployment Rights Act (USERRA); the Genetic Information Non-Discrimination Act (GINA); the Coronavirus Aid, Relief and Economic Security Act (CARES Act), the Taxpayer Certainty and Disaster Tax Relief Act of 2020, the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021, and related regulations and guidance, and all other local, state and federal laws governing the employment relationship, including but not limited to, such laws governing discrimination in the workplace (collectively, "Employment Laws").
- 5.12. Employment Contracts. Helpside is not bound by any employment contract between Client and a Covered Employee. However, Helpside will comport with Client's instructions in the course of providing services with respect to a Covered Employee covered by an employment contract with Client, so long as such instructions are lawful, fully disclosed to Helpside, and consistent with all other terms of this Agreement. Client is solely responsible for compliance with and the legal interpretation of any employment contract.
- 5.13. Background Checks and Other Responsibilities. Helpside does not assume any responsibility for, and makes no assurances, warranties, or guarantees as to, the ability or competence of any Covered Employee. This Agreement in no way alters any responsibilities of Client to perform any and all work history, reference checks and background checks on Covered Employees (including driving and accident record history and the maintenance of a valid license to drive Client's vehicles). Additionally, Client assumes full and complete responsibility for the consequences of performing or failing to perform, initially and on an on-going basis such checks. Helpside shall have no responsibility regarding these matters.
- 5.14. Collective Bargaining Agreement. If Client has entered into a Collective Bargaining Agreement (CBA) pertaining to any

Covered Employees, Client agrees that it will remain the sole employer of such Covered Employees for purposes of the National Labor Relations Act (NLRA), and that it will remain solely responsible and liable for all obligations arising under the NLRA and any applicable CBA, including, without limitation, the duty to bargain. Additionally, Client expressly warrants that this Agreement will not modify any of the terms of any applicable CBA. Helpside shall not be considered a party to any such CBA. Client represents and warrants that Client has not entered into a CBA pertaining to any Covered Employee during the Term unless such CBA is attached hereto as an exhibit.

- 5.15. Leave and Disability Accommodation. To the extent applicable to Client and to the extent required by law, Client will accept obligations and costs associated with compliance with the FMLA, ADA, and similar state and local laws, including but not limited to the cost of providing reasonable accommodation of disabilities, recordkeeping requirements related to leave and disability accommodation, reinstating employees returning from leave or finding replacement employment for them if required by law, and the cost of continuing benefits during leave if required by law. Client agrees that should the FMLA be applicable to Client, to the extent allowed by law, Client has sole responsibility for compliance and that it is the intent of the Parties that this Agreement shall have no impact on Client's obligations as an employer responsible for FMLA compliance.
- 5.16. Downsizing Notices. Client will provide all notices required by the WARN Act and similar state and local laws.
- 5.17. Government Contracts. Client will be solely responsible for compliance with requirements pertaining to government contracts pursuant to federal, state, county and local laws, regulations, and ordinances, including but not limited to compliance with Executive Order 11246, the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, the Walsh-Healey Public Contracts Act, the Davis Bacon Act, and the Service Contract Act of 1965, if applicable.
- 5.18. Other Taxes and Fees. Other than required payroll withholding taxes covered by this Agreement, Client is responsible for paying and reporting all applicable taxes and governmental fees (including environmental fees required by the California Health and Safety Code for Covered Employees working in California). Additionally, any tax imposed by any local or state taxing authority based upon Client's relationship with Helpside, such as a sales or use tax, or gross receipts tax, shall be the sole responsibility of Client.
- 5.19. Incentive Compensation and Fringe Benefits. Client is solely responsible for funding and accurately determining eligibility for incentive compensation and fringe benefits, including, without limitation, vacation, paid sick leave (including legally mandated paid sick leave), other paid time off, profit sharing, deferred compensation, bonuses, severance payments, stock- or other equity-based compensation, commissions, and other incentive compensation payments, including determining whether individuals qualify to receive W-2 wages and benefits. Although said payments should be made through Helpside's payroll to ensure proper reporting and remittance of taxes, Helpside has no responsibility for the administration or funding of fringe benefits payments. Notwithstanding the forgoing, Helpside will process payroll with respect to fringe benefits at Client's request, provided Helpside has received any requested documentation in a form and substance reasonably satisfactory to Helpside, and when appropriate and permitted by law, and Helpside will assist Client with tracking accruals and payments of fringe benefits when practicable, so long as such activities are consistent with all other terms of this Agreement. Given Client's unique knowledge of its incentive compensation programs, Client remains solely responsible for determining when overtime compensation is owed on such payments and shall inform Helpside of same.
- 5.20. Work Site Safety. Client is the sole Employer with respect to safety-related compliance. Client retains exclusive control over the safety of the workplace(s) where Covered Employees work, and thus retains sole responsibility for compliance with applicable federal, state, and local health and safety laws, regulations, ordinances, directives, and rules relating to the workplace (Workplace Safety Laws). Client is solely responsible to identify and eliminate all known workplace threats to Covered Employees' health or safety. Client acknowledges and agrees that Client has not retained Helpside to manage or control Client's business or operations, and Helpside has no duty or authority to inspect, install, modify, repair, or maintain any equipment, tools, vehicles, or machinery that Covered Employees may use. However, Helpside reserves the right to inspect Client's workplace for the sole purpose of verifying compliance with the terms of this Agreement. Any inspections that Helpside or its workers' compensation insurance carrier may conduct are not for the purpose of identifying the unique threats to the health and safety of Covered Employees that may exist in Client's workplace(s), thus such inspections would not fulfill a requirement for a full safety audit or inspection under applicable laws or regulations. Thus, Client shall, at its sole cost and expense, take all necessary steps to comply with Workplace Safety Laws, including, without limitation, the following:
  - 5.20.1. Client shall take reasonable steps to evaluate worksite conditions pertaining to the health and safety of Covered Employees, by doing periodic inspections; Client shall identify all known hazards to Covered Employees' health and safety, inform Covered Employees of such health and safety hazards, and take all reasonable measures to eliminate such health and safety hazards; Client shall provide Covered Employees with appropriate and required personal protective equipment; Client shall provide legally required training to Covered Employees regarding the safe performance of job duties, the proper use of personal protective equipment, and the maintenance of a safe work environment; Client shall establish, implement, and maintain a written, effective Workplace Safety Program, including an Injury and Illness Prevention Program, if required ("IIPP") that protects Covered Employees, Client shall implement specific safety programs as required by OSHA or any applicable state or local requirements, depending on the work environment and the type of work being performed by Covered Employees;

- 5.20.2. Client shall ensure that each Covered Employee has, and is informed of, the following protections: (i) Covered Employees have the right to complain or report work conditions that the Covered Employee reasonably believes to be unsafe, unhealthful, or hazardous; (ii) Covered Employees have the right to refuse to work in conditions that the Covered Employee reasonably believes to be unsafe, unhealthful, or hazardous; and (iii) Covered Employees will not be subjected to any sort of retaliation or discrimination for reporting unsafe, unhealthful, or hazardous conditions or for refusing to work in unsafe, unhealthful, or hazardous conditions; and
- 5.20.3. In the event Helpside provides advice or information to Client regarding safety in the workplace, Helpside does so as a consultant only and not as the employer in control of the workplace. Client at all times retains sole responsibility for providing appropriate training regarding job duties, workplace safety, and other related topics.
- 5.21. **Accident and Injury Reporting Procedure.** Client shall immediately, (and under all circumstances within one (1) business day) report accidents and injuries involving Covered Employees including "first-aid" events. Client shall deliver a complete written report of an accident or injury to Helpside no later than three (3) business days after the occurrence of such accident or injury. Failure to provide the complete report of accident or injury within three (3) business days may result in a late reported claim fee. Client is solely responsible to report accidents and injuries involving Covered Employees to OSHA and/or any similar state agency as required by applicable law. Client's failure to timely report an accident or injury involving Covered Employees may result in one or more substantial fines, or other costs, pursuant to applicable law or to insurance company protocols and/or operating procedures. Any fines or any other costs incurred as a consequence of Client's failure to comply with the provisions of Sections 5.20 and 5.21 shall be the sole responsibility of Client. Client agrees that if Helpside receives a citation as a consequence of Client's failure to comply with Sections 5.20 and 5.21, Client's indemnification obligations, set forth in Paragraph 9 shall apply; Client will cooperate in accident/injury investigations by the applicable workers' compensation carrier or its representative. If modified or light duty is required for a Covered Employee by applicable law or requested by Helpside or its workers' compensation carrier for the purpose of reducing the cost of claims that may be incurred, Client may either provide modified or light duty, or pay a Supplemental Claims Management Fee which may be established and charged by Helpside.
- 5.22. **Contractors.** Client shall ensure that contractors, subcontractors, and others providing services to Client have the appropriate and required workers' compensation insurance coverage. Client shall also maintain appropriate and required workers' compensation insurance coverage for Client workers who are not covered by this Agreement, if any. Client is solely responsible for any costs, expenses, employer responsibilities, and liabilities associated with Client independent contractors, including subcontractors of such independent contractors, who are reclassified as Client employees (including, without limitation, paying additional workers' compensation premiums from the date such Covered Employee would be eligible to be covered under any workers' compensation insurance policy made available by Helpside). In the event Helpside is subjected to threatened or actual litigation as a result of such reclassification, whether the reclassification is voluntary or involuntary, Client shall defend and indemnify Helpside pursuant to Section 9.
- 5.23. **Record Keeping.** Client will maintain accurate records of hours worked to the extent required by law and will make such records available to Helpside upon request. Client is solely responsible for creating and maintaining accurate records of hours worked and attendance, including any state or federal requirement to file a report or information providing pay data information, and Client is solely responsible for the proper use of any time and attendance system, regardless of whether the system is provided by Helpside (if any) or another source. Client will ensure that all hours worked by Covered Employees are accurately captured and reported by the time and attendance system. Client will not use any method, including rounding or off-the-clock work, to pay Covered Employees less than the amount due to them pursuant to applicable law. To the extent state or local law requires employers to provide wage statements containing information different than or in addition to the information contained in Helpside's wage statements, Client shall issue supplemental wage statements to Covered Employees in compliance with applicable law. Client will maintain other records as directed by Helpside and in compliance with Helpside's policies and procedures. Client is solely responsible for complying with all federal, state, and local laws that require posting of information at Client's workplace(s) or providing notices to employees.
- 5.24. **Healthcare Reform / ACA Compliance.** Client understands, acknowledges, and agrees that Client is solely responsible and liable for all obligations with respect to Healthcare Reform's Employer "Play or Pay" Mandate under Section 4980H of the Internal Revenue Code of 1986, as amended (IRC), and other applicable laws, including, without limitation, any tax reporting obligations under IRC Sections 6055 and 6056. To the extent that Helpside agrees to assist Client with satisfying these obligations, Client understands, acknowledges and agrees that: (i) Helpside is not providing legal or tax advice to Client and Client will seek appropriate legal and tax advice from its own legal and tax advisors; (ii) Helpside will rely on the accuracy of all information and documents provided by Client with respect to such assistance; and (iii) Client will remain solely responsible and liable for such obligations.
6. **Insurance.** During the Term of this Agreement, Client will at a minimum maintain the following insurance coverage: (i) comprehensive general liability insurance; (ii) cyber-liability insurance; (iii) automobile liability insurance, including non-owned and hired autos (to the extent any Covered Employees will be assigned to positions requiring them to drive for Client); and (iv) professional liability insurance, if appropriate, including, without limitation, malpractice or errors and omissions coverage and in compliance with any regulation mandating such coverage. Each of such policies will have as a minimum a limit of liability not less than \$1,000,000 per occurrence. Upon request, Helpside will be listed as an insured, or additional insured on the policy or on an alternate employer endorsement, or other similar endorsement. Upon request, Client will furnish Helpside with Certificates of Insurance as evidence of coverage.

## 7. **Fees.**

- 7.1. **Rates.** Client will pay Helpside's Service Fee and related additional administrative fees according to the rates set forth in the Rate Sheet (Exhibit "B").
- 7.2. **Fee Calculations.** For purposes of fee calculations, any references to wages refer to gross wages, including but not limited to salary, hourly wages, sick pay, vacation, or paid time off, wages in lieu of notice, overtime wages, piece rate wages, bonuses, other incentive wages, severance, and commissions. Administrative fees are calculated as set forth in the Rate Sheet (Exhibit "B"). In addition to Administrative Fees and all other applicable fees and charges, Client shall pay to Helpside all gross wages; federal, state, and local taxes and related charges (including but not limited to FICA, FUTA, and SUTA); health insurance charges (including but not limited to premiums, administration costs, and Helpside administrative charges); workers' compensation insurance charges (including but not limited to premiums, assessments, and Helpside administrative charges), and other insurance costs and charges attributable to Covered Employees, as invoiced by Helpside. Benefits and insurance charges include all applicable insurance premiums, fees, costs, and Helpside's administrative charges related to same.
- 7.3. **Fee Adjustments.** The Service Fee is subject to an annual 3% increase, effective on each anniversary of the Effective Date. Additionally, Helpside may adjust the administrative fee rates at any time with thirty (30) days' advance notice, or without advance notice in the event of immediate changes in payroll tax or insurance rates, changes in insurance requirements or costs, or changes in workers' compensation insurance codes.
- 7.4. **Invoiced Amounts May Not Equal Costs.** Client understands, acknowledges and agrees that any fees, charges or other amounts invoiced and/or paid pursuant to this Agreement ("Invoiced Amounts") may not equal the actual costs of Helpside, regardless of how such Invoiced Amounts are presented on any invoice, proposal or otherwise, including, without limitation, Invoiced Amounts identified as taxes, contributions, premiums or deductibles. To the extent that any such Invoiced Amounts exceed the actual costs of Helpside, Client understands, acknowledges, and agrees that such excess is part of the reasonable compensation payable to Helpside for the services provided pursuant to this Agreement.
- 7.5. **Minimum Benefits Fees.** In connection with group health plan coverage provided by Helpside to eligible Covered Employees, Client understands, acknowledges and agrees that Client is required to pay minimum benefits fees that are sufficient to cover the cost of the least expensive monthly employee-only coverage for all eligible Covered Employees.
- 7.6. **Client Approval of Insurance Commissions.** In the event Client elects to have its employees participate in any health and welfare plans sponsored by Helpside ('Plans'), Client understands that Helpside is providing valuable plan administration to the Plans, and Helpside's affiliated insurance brokerage, Greystone Insurance Services LLC, Utah License No. 1012046 ('Affiliated Insurance Brokerage'), is providing valuable insurance agency/brokerage services to the Plans, and that Affiliated Insurance Brokerage will be receiving certain commission revenue from the related insurance carrier(s) in exchange for providing these valuable services to the Plans ('Plan-Related Commissions'). Client acknowledges and agrees that it has exercised, and will exercise, independent judgment in reviewing and approving, on a prospective and annual basis, such services and Plan-Related Commissions. Prior to the start of each coverage period, Helpside shall disclose in writing the Plan-Related Commissions that Affiliated Insurance Brokerage expects to receive in connection with the services provided to the Plan. To the extent Client does not approve of Helpside's and Affiliated Insurance Brokerage's provision of services and Affiliated Insurance Brokerage's receipt of such Plan-Related Commissions, Client may elect to not participate in the applicable Plan(s) for the related coverage period. Client understands and specifically concurs that Helpside and Affiliated Insurance Brokerage are providing valuable services to the Plans with respect to day-to-day and ongoing administration of the Plans and insurance agency/brokerage services and that the Plan-Related Commissions may or may not exceed the actual costs in delivering the services to the Plans.
- 7.7. **Retroactive Fees or Charges.** To the extent that any tax, premium or other cost of Helpside is unilaterally increased by a governmental body or other third party beyond the control of Helpside, whether prospectively or retroactively, Client understands, acknowledges and agrees that Helpside will invoice Client for such increases and that any fees or charges associated with such increases will be due and payable in the same manner as any other fees or charges invoiced pursuant to this Agreement, even if such fees or charges are invoiced after the termination of this Agreement.
- 7.8. **Payment Procedures.** No later than 9:00 AM Mountain Time two (2) business days before the Client's payroll pay date, Client will provide to Helpside, in the method authorized by Helpside, the payroll data upon which each Covered Employee's compensation is calculated, in the format proscribed by Helpside. As soon as practicable following receipt of the payroll data, Helpside will make available to Client an invoice for payment. After Client review of the invoice, Client will notify Helpside of any errors or modifications proposed by Client and thereafter waives any right to dispute the content of the invoice. Client shall ensure that sufficient funds will be available to pay the amount of the invoice no later than one business day prior to the applicable payroll issuance date and that such funds will not be otherwise withdrawn prior to the payroll pay date. Client agrees to payment through automated clearing house transaction ("ACH"), and Client shall cooperate with Helpside in setting up ACH payments. Client hereby authorizes Helpside to deduct or debit from Client's bank account any monies due and owing, outstanding, or including outstanding fees, retroactive changes in payroll tax amounts, unpaid insurance premiums, delinquent payroll and other related taxes including assessed fines, penalties and interest, charge backs due to Client's bank account having insufficient funds (NSF charges), and any other amounts that may accrue or may become outstanding relating to services provided by Helpside. In addition, any fees or other charges not paid on or

before the due date will be subject to finance charges equal to One and One-Half percent (1.5%), or such maximum lesser amount set by applicable law, if applicable law sets a lower rate, of the outstanding balance per month. This paragraph will survive termination of this Agreement.

- 7.9. Pre-payment. Helpside in its discretion may require Client to pre-pay the estimated invoicing for any upcoming pay period prior to commencement of that pay period. This requirement may be imposed indefinitely or, in Helpside's discretion, may be imposed temporarily.
- 7.10. Bankruptcy. Client will immediately notify Helpside of the initiation of any bankruptcy or receivership or insolvency proceedings of whatever form (whether voluntary or involuntary). Client agrees that any wages or taxes or contributions paid or advanced by Helpside prior to such bankruptcy that remain unpaid by Client shall be treated as outstanding wage obligations for the purposes of determining priority in the associated legal proceedings with the intended effect that Helpside shall have the same rights as Covered Employees with respect to such wages and associated taxes and shall be entitled to relief as necessary to apply such status.

## 8. Confidential Information.

In the course of performing its obligations set forth herein, a party ("Disclosing Party") may disclose, furnish, or provide to the other party ("Recipient") non-public confidential information, including, but not limited to, personnel information and payroll data (collectively, "Confidential Information"). The Recipient shall keep confidential and shall not directly or indirectly disclose, disseminate, or use Confidential Information except as necessary to perform its obligations hereunder or as required by law, and shall take reasonable efforts to protect Confidential Information. Confidential Information does not include information which: (1) was in the possession or control of the Recipient prior to the time of disclosure hereunder; (2) at the time of disclosure or thereafter becomes public knowledge through no action of the Recipient; or (3) is lawfully obtained by the Recipient from a third party under no enforceable obligation of confidentiality to the Disclosing Party. The Recipient represents that it has implemented and maintains information security policies and procedures that are reasonably designed to protect against unauthorized access to, or use of, Confidential Information. For purposes of this section, "breach" means any unlawful access to, disclosure or use of data that compromises the security, integrity, or confidentiality of Confidential Information. The Recipient will use reasonable information security measures to safeguard Confidential Information against breaches and in compliance with applicable law. If the Recipient discovers reasonable grounds to conclude Confidential Information of the Disclosing Party was breached, the Recipient will comply with investigation and notice requirements dictated by law. The Recipient will also promptly inform the Disclosing Party in writing to the extent required by law. In the event of a breach as defined by applicable law, or any other event regarding Confidential Information that requires notification under applicable law, the Recipient agrees to provide reasonable assistance to the Disclosing Party. Upon receiving written notice about such breach from the Recipient, the Disclosing Party will permit the Recipient to take reasonable steps to stop or remediate unlawful use of Confidential Information and ensure that Recipient's use of Confidential Information is consistent with this Agreement. These obligations shall survive the termination of the Agreement. The Recipient will not be in breach of this Agreement by disseminating Confidential Information as required by legal process or to comply with a disclosure obligation required by law. To the extent permitted by law, Recipient will notify the Disclosing party as far in advance as reasonably possible before the Recipient delivers such Confidential Information to any third party. If Client and Helpside have entered into a separate Confidentiality and/or Non-Disclosure Agreement, the terms of that document will control.

## 9. Indemnification.

The following indemnification provisions will survive termination of this Agreement.

- 9.1. Client's Indemnification Obligations. Client will indemnify, defend, and hold Helpside its agents, shareholders, non-Covered employees, officers, directors, assigns, insurers and representatives ("Helpside Indemnified Parties") harmless from and against any and all claims, losses, and liabilities of whatever nature (including liability to third parties, reasonable attorneys' fees and other costs at all levels of proceedings), and all other consequences of any sort, whether known or unknown, without limit and without regard to the cause or causes thereof arising from: (1) Client's material breach of this Agreement or violation of any representation or warranty associated with this Agreement; (2) Client's violation of any of the Employment Laws or any other local, state or federal law, regulation, ordinance, directive or rule; (3) Client's business or the products or services provided by Client or Helpside's products or services not used by Client as intended or instructed by Helpside; and (4) the unlawful, negligent, or willful actions or inactions of any Covered Employee, agent, or any other person employed by, associated with, or working for Client. Without limiting the foregoing, Client's obligations set forth above include and apply to: (a) claims for unpaid overtime, minimum wage, or other wages, or for wage statements that do not comply with applicable wage payment laws; (b) claims for failure to provide adequate meal and rest breaks; (c) failure to reimburse business related expenses; and (d) unlawful harassment and discrimination.
- 9.1. Helpside's Indemnification Obligations. Helpside will indemnify, defend, and hold Client, its officers, directors, non-Covered Employees, agents, shareholders, assigns, insurers and representatives ("Client Indemnified Parties") harmless from and against any and all claims, demands, losses, and liabilities of whatever nature (including liability to third parties, reasonable attorneys' fees and other costs at all levels of proceedings), and all other consequences of any sort, whether known or unknown, without limit and without regard to the cause or causes thereof arising from Helpside's errors or omissions in the performance of duties expressly required by the terms of this Agreement. Without limiting the foregoing, Helpside's obligations set forth above include and apply to Helpside's failure to remit payroll taxes, workers' compensation premiums and state unemployment insurance. Such obligation is contingent upon Client providing Helpside with timely and

accurate information, as well as payment by Client to Helpside of the required fees and charges, and Helpside's financial obligations pursuant to this indemnification provision are limited to the amount of total fees remitted by Client. Notwithstanding anything to the contrary, Neither Helpside, nor any of Helpside's insurance carriers (except for matters covered by any applicable workers' compensation insurance policy) have a duty to defend Client, or Client Indemnified Parties in any action whatsoever, without exception. Should Helpside's workers' compensation insurance carrier continue to pay indemnity benefits related to a covered injury, Client will cooperate in efforts to recover such overpayments.

- 9.2. Scope. To the maximum extent permitted under applicable law, Helpside and Client expressly waive any right or claim to punitive or exemplary damages against the other. Additionally, the Parties agree that the indemnification provisions of this Agreement shall not be limited to claims, expenses, or liabilities for which one of them is solely liable, but shall also apply to claims, expenses, and liabilities for which Helpside and Client are jointly or concurrently liable. In such event, if either of them advances funds in connection with a claim, expense, or liability in excess of its pro rata share, such Party shall be entitled to recover from the other Party the difference between such Party's share and the actual amount paid.

10. **Client's Representations and Warranties.** Client represents and warrants as follows:

- 10.1. Client's Obligations to Covered Employees. (i) All compensation of the Covered Employees accrued prior to the Effective Date and for which Client or any third party is responsible and obligated has been paid in full; (ii) there are no separate contracts, agreements or other arrangements existing with respect to the Covered Employees as a group or any of them which would bind or obligate Client, except as expressly set forth herein; (iii) Client will provide timely and accurate notification to Helpside of the principal location of the workplace of each Covered Employee and each location where such Covered Employee performs services for Client, and of any changes in such locations; and (iv) all pension, profit-sharing, or other employee benefit plans existing at the Effective Date are current and in compliance with applicable law, and execution of this Agreement will not be deemed a breach under the terms of those plans.
- 10.2. Accuracy of Data. As of the Effective Date, and throughout the term of this Agreement, all information provided by the Client in contemplation of this Agreement or pursuant hereto, including but not limited to financial data, employee lists, job descriptions and classifications, compensation, benefits, and time reports is and will be true and correct. Client maintains, and will continue to maintain during the Term, to the extent required by law, systems and controls which ensure Covered Employees: (i) accurately record and receive credit for all hours worked; (ii) receive breaks and rest periods; and (iii) receive credit for applicable premium and overtime hours. No material adverse change has occurred in the financial condition of the Client or any guarantor of Client's obligations under this Agreement since the date upon which any financial data of Client or guarantor were provided to Client.
- 10.3. Collective Bargaining Agreement. Client has not entered into a CBA pertaining to any Covered Employee during the Term unless such CBA is attached as an exhibit to this Agreement.
- 10.4. No Litigation. Except as previously disclosed to Helpside in writing, there is no action, suit, proceeding or investigation pending, or, to the knowledge of Client, threatened against Client, related to the Covered Employees or the Client's employer/employee relationship with the Covered Employees or which may result in a material adverse change in the financial condition of Client or of any guarantor of Client's obligations under this Agreement. Client will advise Helpside promptly upon the inception of any such action, suit, proceeding, investigation, or threat thereof.
- 10.5. Compliance with Applicable Law. Client has not violated any applicable statute or regulation in any respect, which would adversely affect the Covered Employees or Client's employment relationship with the Covered Employees. Client is and will remain in compliance with all applicable statutes, regulations, and executive orders respecting Covered Employees and employment practices, including but not limited to the state and federal employment laws.
- 10.6. Work Site Safety. Client is in compliance with all applicable Workplace Safety Laws, and Client has maintained, and will continue to maintain throughout the term of this Agreement, Client's workplace(s), machinery, equipment, and environmental factors in compliance with applicable Workplace Safety Laws.
- 10.7. All Client's Employees are Covered Employees. All of Client's employees who provide services to Client and whose wages are reported on an IRS Form W-2 are Covered Employees. Client will notify Helpside within ten (10) days of any changes that result in a failure to meet this requirement.
- 10.8. Obligations Met. Client represents that it has met any and all prior premium and fee obligations regarding workers' compensation premiums and employee leasing/professional employer organization payments, to all prior employee leasing/professional employer organizations and workers' compensation carriers, with which Client has previously had a contractual relationship.

11. **Termination.**

- 11.1. Noticed Termination: Either Party may terminate this Agreement following thirty (30) days' advance notice. Prior to termination of this Agreement, Client shall pay to Helpside all invoiced fees and other monies due and owing. Client shall also reimburse Helpside for any and all payments Helpside has made to any third parties and Covered Employees of behalf of Client prior to the termination of this Agreement. Once notice of termination has been provided, Client will continue to

comply with all obligations as set forth in this Agreement.

11.2. **Immediate Termination.**

11.2.1. **By Helpside.** Helpside may terminate this Agreement immediately, without prior written notice, in the event of: (1) Client's material breach of this Agreement; (2) Client's failure to pay any invoice when due or any other monetary obligation; (3) Client's failure to comply with any Helpside directive when such directive is for the purpose of compliance with applicable law; (4) Client's failure to comply with a directive by an insurance carrier providing coverage with respect to Covered Employees; (5) Client making a direct payment of taxable wages in violation of this Agreement; (6) Client performing any act that expressly or implicitly disclaims Client's obligations under this Agreement; (7) the threat of, or actual, filing by or against Client for bankruptcy, reorganization or appointment of a receiver, supervisor, assignee, or liquidator over its assets or property; (8) a change in the composition or location of Covered Employees; (9) a money judgment against Client which remains unsatisfied for more than thirty (30) days and has not been appealed and/or (10) Client becoming a credit risk, as determined by Helpside in its sole discretion.

11.2.2. **By Client.** Client may terminate this Agreement in the event of a material breach by Helpside following (1) a written notice of breach; and (2) a period of no less than thirty (30) days to cure the breach set forth in said notice.

11.3. **Replacement Coverage.** In the event that this Agreement is terminated, regardless of the reason for the termination, Client will immediately secure: (i) replacement workers' compensation insurance for the benefit of the employees who continue their employment with Client; and (ii) replacement group health insurance for the benefit of both the employees who continue their employment with Client and any former employees (including dependents of such employees) of Client who are maintaining COBRA continuation coverage under a Helpside Plan or who are otherwise entitled to COBRA continuation coverage.

11.4. **Effective Date of Termination.** To the extent permitted by law, upon termination of this Agreement for any reason, or upon Client's failure either to provide payroll data as required herein or to timely pay as required herein, all Helpside obligations set forth herein (including, without limitation, the payment of wages and the provision of benefits) will revert to Client retroactive to the last date on which Helpside was paid in full for Helpside's services.

11.5. **Transition Cooperation.** In the event of termination, regardless of the reason for termination, Helpside agrees to cooperate with Client with the transitioning of payroll, workers' compensation insurance, group health insurance, EPLI, and all other Helpside related functions to Client or to Client's chosen vendor. Additional fees may apply to such transition services.

12. **Intellectual Property of Helpside.**

Client acknowledges and agrees that all computer hardware and software, including, but not limited to, all computer programs, and web designs provided by Helpside (unless such property was created by a third party) (the "Helpside Property"), are Confidential and the sole property of Helpside. Client acknowledges and understands that it has been granted a limited license to use the computer software programs and databases provided by Helpside, and that this license is exclusive to Client and the license will terminate when this Agreement terminates. Client agrees not to copy, distribute, lend, or reproduce any Helpside Property. Client also agrees not to recompile, decompile, disassemble, reverse engineer, or make or distribute any other form of, or any derivative work from the Helpside Property. Client agrees that it will abide by the terms and conditions of any user license or other agreement relating to the Helpside Property.

13. **Dispute Resolution.**

Except for claims for non-payment of fees and claims for injunctive relief, in the event of any claim, dispute or controversy ("Claim") arising out of or relating to the interpretation, performance and/or breach of this Agreement, the parties agree that any Claim which would otherwise require or allow resort to any court or other governmental dispute resolution forum between Client and Helpside will be submitted to, and determined exclusively by, binding arbitration. All claims shall be brought in the individual capacity of Client and Helpside. Under no circumstances shall this Agreement be construed to allow or permit the consolidation or joinder of other claims or controversies involving any other parties or permit such claims or controversies to proceed as a class action or other similar basis. With respect to arbitration, the Federal Rules of Civil Procedure and Evidence will apply, and the arbitrator will be a retired state or federal court Judge. To the extent applicable in civil actions, the following will apply and be observed: all rules of pleading (including the right to file a motion to dismiss or strike), all rules of evidence, all rights to resolution of the dispute by means of dispositive motion including but not limited to motions for summary judgment, and judgment on the pleadings. Resolution of the dispute will be based solely upon the law governing the claims and defenses pled, and the arbitrator may not invoke any basis other than such controlling law. Awards exceeding Fifty Thousand Dollars (\$50,000.00) will include the arbitrator's written opinion providing reasoned explanations for the decision. The parties waive all rights to trial by jury. Any legal proceeding to enforce the terms of this Agreement (including but not limited to arbitration) shall occur in the State of Utah.

14. **Procurement.**

The parties acknowledge that Client is subject to certain procurement laws and regulations. Among other things, government procurement guidelines that are applicable to the School, impose limits on the duration of contracts to which the School is a party. For example, the Utah Procurement Code generally limits multi-year contracts to five years or less (except in certain enumerated

circumstances). In view of law applicable to Client, the parties acknowledge and agree that the term of the Agreement is less than the five-year maximum required by applicable state law. The parties agree that, notwithstanding anything in this Agreement to the contrary, nothing in this Agreement would contractually require the parties to maintain the relationship contemplated herein for more than five years. In other words, although the parties may agree to continue their business relationship for more than five years, neither party is contractually obligated to do so by this Agreement. Further, the parties agree to cooperate every five years in the re-execution of a services agreement. To accomplish this, Client agrees to contact Helpside after the fifth anniversary and prior to the sixth anniversary of the Effective Date, to initiate the process of executing a new services agreement.

15. **General.**

- 15.1. **Applicable Law.** This Agreement will be determined to be a contract made within the State of Utah and venue shall be exclusively in the applicable court in the State of Utah. For all purposes, this Agreement will be governed and construed under and in accordance with the laws of the State of Utah, notwithstanding choice of law principles, except that the PEO licensing laws of the state where the Covered Employee(s) work or worked shall apply, where applicable.
- 15.2. **Assignability.** This Agreement is assignable by either Party with the written consent of the other Party. Such consent to assignment shall not be unreasonably withheld.
- 15.3. **Enforcement Costs.** In the event of any proceeding to enforce the provisions of this Agreement, the prevailing Party will be entitled to an award of its costs and reasonable attorneys' fees incurred at all levels of proceedings.
- 15.4. **Signatures.** Any individual signing this Agreement on behalf of Client or Helpside represents, warrants, and guarantees that she or he has full authority to do so. Signatures may be provided electronically, and the parties agree that all future transactions between them may be executed via electronic signature. The parties agree that digitally signed, scanned, or faxed copies of this Agreement, shall be deemed to have the same legal force and effect as the original signed copy. Thus, neither Party will contest an otherwise valid signature on the basis that it was provided electronically.
- 15.5. **Counterparts.** This Agreement may be executed in one or more counterparts and counterparts signed by Client and Helpside in the aggregate will constitute a single original instrument.
- 15.6. **Force Majeure and Other Events.** Neither Party shall be liable for any delay in delivery or nonperformance or inadequate performance in whole or in part of its obligations under this Agreement if prevented from doing so by a cause or causes beyond its control, including, without limitation, acts of God or public enemy, fire, floods, swarms, earthquakes, hurricanes, riots, strikes, pandemics, war, interruption in services provided by a public utility or a data processing/storage vendor, and restraints of government. The suspension of performance shall be of no greater scope and no longer duration than is reasonably required and the non-performing Party shall use reasonable efforts to remedy its inability to perform.
- 15.7. NEITHER CLIENT NOR HELPSIDE WILL BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES (INCLUDING WITHOUT LIMITATION, LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES) HOWEVER CAUSED OR UNDER ANY THEORY OF LIABILITY EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 15.8. **Definitions.** Terms and phrases that are defined in any part of this Agreement shall have the defined meanings wherever used throughout this Agreement. The terms "hereunder" and "herein" and similar terms used in this Agreement shall refer to this Agreement in its entirety and not merely to the section, paragraph, or subparagraph in which the term is used.
- 15.9. **Construction.** Helpside has prepared this Agreement and provided it to Client for Client's review. Client has either retained counsel or had the opportunity to do so to review this Agreement. With respect to any dispute concerning the meaning of this Agreement, this Agreement will be interpreted as a whole with reference to its relevant provisions and in accordance with its fair meaning, and no part of this Agreement will be construed against Helpside on the basis that Helpside drafted it.
- 15.10. **False or Omitted Information.** Any false statement or omission regarding any information supplied by Client to Helpside in anticipation of Client's contracting with Helpside or at any other time will be deemed a material breach of this Agreement and Helpside, at its option, may terminate this Agreement and seek appropriate relief.
- 15.11. **Headings.** Captions and organization are for convenience and will not be used in construing meaning.
- 15.12. **Reference to "Day" or "Days".** Unless there is a specific reference to the contrary, any reference to "day" or "days" in this Agreement shall mean calendar days.
- 15.13. **Independent Contractor Relationship.** Helpside is an independent contractor of Client and will not be its principal, director, agent, master, servant, or employee.
- 15.14. **Integration and Amendment.** This document, together with the Schedules, Exhibit(s) and/or Addenda attached hereto, constitutes the full, complete, absolute, and entire Agreement between the parties. This Agreement supersedes any prior

statements, understandings, or offers. This Agreement may only be altered or amended by a written amendment signed by the Parties with the exception of any alteration or amendment to this Agreement sent by Helpside to Client in writing, in a manner in which proof of delivery can be established and which shall be deemed to have amended this Agreement and have been accepted by Client if not objected to in writing by Client. Notice of such objection must be received by Helpside within fourteen (14) days of Client's receipt of Helpside's notification of change (proof of Helpside's receipt of objection must be supplied by Client upon request of Helpside).

- 15.15. No Waiver of Rights. The failure of either Party strictly to enforce any provision hereof will not be construed as a waiver thereof or as excusing either Party from future performances in strict accordance with the provisions of this Agreement.
- 15.16. Notices. All notices and demands will be given in writing and transmitted by hand delivery, overnight courier delivery with signature required verifying receipt, or by e-mail. All confirmations by mail shall be made by certified mail, postage prepaid, return receipt requested. Notice will be considered given and effective when received. Unless otherwise advised in writing by the other Party, each Party shall transmit notices and demands to the addresses indicated in the Agreement.
- 15.17. Corporate Status. Client agrees to notify Helpside promptly of any change in the corporate or operating status of Client's business, including subsidiaries and affiliates.
- 15.18. Change of Control. Either Party may terminate this Agreement, effective upon written notice, as set forth in Paragraph 12.1, above, in the event that Client's legal entity is merged with or into a third-party corporation or other entity, or all, or substantially all of Client's assets are sold to a third-party corporation or other entity.
- 15.19. Electronic Signature. By executing this Agreement, Client agrees that Helpside and Client may transact business electronically pursuant to, and is deemed to have opted in, to the "Electronic Signatures in Global and National Commerce Act," P.L. 106-229, and any other similar state or local statute that authorizes electronic signatures in commerce. Client agrees that Helpside may rely on electronic authorization by Client or a Covered Employee to make changes to employee or payroll records or data relating to a Covered Employee. Client hereby releases Helpside and waives any right to bring an action or seek damages from Helpside based in whole or in part on electronic instructions or authorizations by Client or a Covered Employee. The indemnity obligations described in Section 9 shall apply to Helpside's reliance on electronic authorizations or instructions by Client or a Covered Employee.]
- 15.20. Client Intellectual Property. Any and all inventions, discoveries, improvements, copyrightable works, and creations (hereafter referred to as "Intellectual Property"), which Client has previously, solely or jointly, conceived or made or may conceive or make during the Term of this Agreement, whether or not accomplished through the use of Covered Employees, shall be the sole and exclusive property of Client. Client shall have sole and exclusive responsibility, and Helpside shall have no responsibility or liability, for protecting its rights to such Intellectual Property and to all of its other assets.
- 15.21. Scope of Services. Client acknowledges and agrees that Helpside is not engaged in the practice of law or the provision of legal, insurance, financial, tax, or investment advice or services, and that Client alone is completely and independently responsible for its own legal rights and obligations, regardless of any human resource advice or form which may be supplied to Client. Client at all times retains the right to seek appropriate advice from professionals of its own choosing, including, but not limited to attorneys and accountants. Helpside's agreement to perform certain employer functions does not establish an obligation to perform all employer related functions, and Helpside reserves the right to reject claims by Covered Employees with respect to matters that are not the responsibility of Helpside. Helpside will provide only the services expressly described in this Agreement. No other services will be provided or implied. Helpside is not obligated to provide, nor is it responsible for, strategic, operational, or other business-related decisions regarding Client's business. Nor shall Helpside have any obligation to provide equipment for Covered Employees.
- 15.22. Advance Payment, Guarantee or Other Security. In addition to any other rights it may have under the Agreement, Helpside may, in its discretion and at any time, require Client to provide one or more advance payments, guarantees or other forms of security, including, without limitation, a letter of credit. In any case, such security must be in form and substance reasonably satisfactory to PEO.
- 15.23. Severability. Should any term, warranty, covenant, condition, or provision of this Agreement be held to be invalid or unenforceable by a court or other body of competent jurisdiction or pursuant to arbitration, the balance of this Agreement will remain in force and will stand as if the unenforceable part did not exist. The invalid or unenforceable provision will be replaced by a provision as similar as possible and which is valid and enforceable.
- 15.24. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the Parties hereto.
- 15.25. Terms Surviving Termination of Agreement. Termination of this Agreement will not affect the continuation of any outstanding obligation or liability incurred by either Party during the term of this Agreement. The obligation of either Party to notify, indemnify, defend, and hold harmless the other under the terms of this Agreement will continue after the termination hereof with respect to events occurring prior to such termination.
- 15.26. Third Party Beneficiaries. The parties acknowledge and agree that no parties other than the parties hereto are intended to

benefit hereunder. No rights of any third party are created by this Agreement and no person other than parties to this Agreement may rely on any aspect of this Agreement notwithstanding any representation, written or oral, to the contrary.

- 15.27. No Inducement. Client understands, acknowledges, and agrees that the Helpside services provided pursuant to this Agreement are not being provided as an inducement to purchase insurance coverage of any kind, nor do such services constitute insurance or the sale of insurance of any kind.
- 15.28. Time of Performance. Time is of the essence with respect to performance of all obligations set forth herein.
- 15.29. Duty to Cooperate. Each Party will have the duty to cooperate with the other in the event of any claim filed by an employee or former employee, or any government agency investigation of a complaint filed by an employee or former employee covered by this Agreement. Such duty will survive the termination of this Agreement. Client agrees to cooperate with Helpside as needed for any state licensing and/or registration requirements. Client further agrees to cooperate with Helpside as needed for compliance with any additional state statute, regulation, or other requirement not aforementioned or referenced above or below. Such duties will survive the termination of this Agreement.

**Essentials**

Benefits

- Group dental and vision insurance
- Group supplemental term life insurance
- Voluntary group short term and long term disability insurance
- Group supplemental accident, hospital indemnity and critical illness insurance

Payroll

- Pre-tax benefit deductions
- Business payroll reports
- Vacation and sick accrual tracking/reporting
- Dedicated payroll representative
- Garnishments and ORS orders
- Direct deposits
- Employment verifications
- Web-based payroll and HR access
- W-2s, quarterly and annual tax fillings

Human Resources

- Basic employee policy guide
- Unlimited HR telephone consultation
- UI claims filing and representation
- Employment compliance posters
- Annual sexual harassment training
- E-verify program (if requested)
- HR training

Risk Management

- Discounted specialized safety training

**Plus**

- Time clock
- Benefits administration
  - COBRA administration
  - Pre-tax premium deductions
  - Bill payment and reconciliation
  - Participant support
- Flexible spending accounts (FSA)
- 401(k) participation and administration
- Group term life insurance - \$10,000
  - Employee Assistance Program (EAP)
- Helpside workers' compensation program
  - WC claims management
  - WC policy management
  - On-site safety training
  - Safety manual
  - On-site safety audit
  - Accident investigation program and training
  - OSHA 300 log completion
  - WC certificates

**\$14.00 per employee per month**

*\*Price includes Essentials and Plus*

**Select**

Payroll Taxes and Fees	
FICA/Medicare	7.65%
FUTA	0.60%
UT SUTA Tax and Administration	1.90%

Additional Fees and Deposits	
Employee Set-Up Fee	\$ 20.00 / employee

**Additional a la carte services that may have associated fees include:**

- Pre-employment background checks
- Applicant tracking system (ATS)
- Custom documents and forms
- On-site safety training (forklift, first aid/CPR, etc.)
- Salary survey/compensation plans
- Accounting downloads
- Physical timeclocks
- Learning Management System (LMS)
- Employee surveys

**Additional Check Fee:** If Helpside processes more than one check in a pay period for an employee, the regular administration fee will be charged for the initial check (per employee per month fee times 12 divided by the number of payrolls run in a year) and any additional checks run for that same employee during the same payroll will be charged at a rate of \$5.00 per check

**Additional State Admin Fee:** If, during the implementation process or otherwise, Client onboards employees who will work in states outside of the states listed above, the client may be subject to an additional multi-state processing fee.

**Late Payment Fee:** Client shall pay a late fee of 1.5% per pay period, or the maximum permitted under applicable law, whichever is greater, on any invoice amount that Client has not paid on or before the due date.

**Client Onboarding Timeline:**

In order to ensure a smooth transition, new clients participating in benefits through Helpside must complete and submit all client and employee paperwork **no later than 20 business days prior to first payroll date or benefits effective date**, whichever is earlier.

For new clients not participating in benefits through Helpside, client and employee paperwork must be completed and submitted **no later than 15 business days prior to first payroll date**.

## EXHIBIT “C”

# Addendum to Client Service Agreement

*(State Specific Provisions)*

The following state-specific provisions apply only in the respective states where a Covered Employee works during the Term of the Agreement. In the event of a conflict between a state-specific provision and the Agreement, the state-specific provision shall control. Where rights are reserved in order to comply with state or federal laws requiring the reservation of such rights by a PEO, the rights are reserved only to the extent required by such laws. While PEO reserves sufficient rights to perform its core services for Client, PEO does not reserve or exercise a right to control the “essential terms and conditions of employment” for the Covered Employees as defined in 29 CFR 103.40(d). This Preamble shall be applicable in all states where Covered Employees work during the Term of the Agreement, whether or not there is an applicable state-specific provision. PEO will provide, and Client will cooperate with PEO in providing, written notice to Covered Employees of the general nature of the Professional Employer Organization (“PEO”) relationship, to the extent required under applicable PEO licensing and registration laws.

### 1. **Alabama**

- a. As provided by Alabama Statute §25-14-9 of the Alabama Professional Employer Organization Registration Act, PEO: (i) reserves a right of direction and control over each Covered Employee; (ii) assumes responsibility for the payment of wages (excluding payments beyond or in addition to Covered Employees’ salary, draw, or regular rate of pay) to each Covered Employee and to withhold, collect, report, and remit payroll-related and unemployment taxes to the extent Client has funded those obligations; and (iii) retains a right to hire, terminate, and discipline each Covered Employee.
- b. Except as otherwise provided in the Agreement or herein, Client retains the exclusive right to direct or control Covered Employees as is necessary to conduct the business of Client, to discharge the fiduciary responsibilities of Client, or to comply with any licensure requirements application to Client or Covered Employees.
- c. Client is solely responsible for directing, supervising, training, and controlling the work of Covered Employees with respect to the business activities of Client and is solely responsible for the acts, errors, or omissions of Covered Employees with regard to those activities.
- d. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer’s liability which is not covered by workers’ compensation, or other liability insurance, including liquor liability insurance, carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.
- e. Upon termination of this Agreement, PEO will provide to Client, if requested, records regarding the loss experience related to workers’ compensation insurance provided to Covered Employees.
- f. PEO is registered as a PEO and regulated by the Alabama Department of Labor, PEO Division, 649 Monroe Street, Montgomery, AL 36131; phone: (800) 528-5166. Any questions or complaints may be directed to the Director of the Alabama Department of Labor, PEO Division.

### 2. **Alaska**

- a. Client shall post notice of workers’ compensation insurance coverage in three (3) conspicuous locations at Client’s workplace(s) where Covered Employees provide services to Client, in accordance with state requirements.

### 3. **Arizona**

- a. If Client employs any workers in addition to Covered Employees, Client will provide to PEO the name of the workers' compensation insurance carrier that is providing workers' compensation coverage to such workers and any other related information required by the State.
- b. Client shall comply with and agrees to be considered the sole employer for purposes of the Legal Arizona Workers Act and to the extent not prohibited by applicable law, the obligation to comply with this Act is retained solely and exclusively by Client.
- c. If requested by Client, upon termination of the Agreement, PEO will provide to Client records regarding the premiums and loss experience related to workers' compensation insurance provided to Covered Employees under the Agreement.

#### 4. **Arkansas**

- a. As provided by Arkansas Professional Employer Organization Recognition and Licensing Act, Section 23-92-409 PEO: (i) reserves a right of direction and control over each Covered Employee; (ii) assumes responsibility for the payment of wages and salaries to each Covered Employee and to withhold, collect, report, and remit payroll-related and employment taxes; (iii) assumes responsibility to make payments for employee benefits for Covered Employees under the Agreement (if any); and (iv) retains a right to hire, terminate, and discipline each Covered Employee.
- b. The authority to hire, terminate and discipline Covered Employees is specifically retained by Client.
- c. Except as otherwise provided herein, Client retains the exclusive right to direct or control Covered Employees as is necessary to conduct the business of Client, to discharge the fiduciary responsibilities of Client, or to comply with any licensure requirements application to Client or Covered Employees.
- d. Client is solely responsible for directing, supervising, training, and controlling the work of Covered Employees with respect to the business activities of Client and is solely responsible for the acts, errors, or omissions of Covered Employees with regard to those activities.
- e. During the term of this Agreement and for ninety (90) days thereafter, Client may request records of applicable: (i) payroll records; (ii) workers' compensation coverage, losses, and claims; and (iii) employee benefits (if any). Client will pay PEO for all reasonable expenses incurred in reproducing such records.
- f. A Covered Employee is not, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.

#### 5. **California**

- a. With or without consulting assistance from PEO, Client is solely responsible for completing anti-harassment training, to the extent required by California law, for all Covered Employees either live or online, every two (2) years and within six (6) months of a Covered Employee being hired or being promoted to supervisor position.
- b. Client will not engage in operating a garment manufacturing operation or a car wash operation without PEO's written consent.
- c. Client assumes all civil legal responsibility and civil liability under California Labor Code Section 2810.3.
- d. Client is responsible for implementing and maintaining an Illness Injury and Prevention Program and for otherwise complying with all California mandated health and safety requirements, with or without consulting assistance from PEO.
- e. Client is responsible for complying with posting and notice requirements under California law, including but not limited to the Wage Theft Protection Act notices, EDD mandated unemployment and disability

insurance notices, expense reimbursement, and new hire workers' compensation insurance related notices.

- f. Client is responsible for ensuring compliance with California meal period, rest break, heat related break, seating, split shift, and minimum reporting time pay requirements, with or without consulting assistance from PEO.
- g. Client will provide paid sick leave to Covered Employees to the full extent required by California state and local law, with or without consulting assistance from PEO.
- h. Client is solely responsible for all costs associated with "first aid" claims as defined by California law.
- i. Client agrees that PEO is not a joint employer for purposes of liability pursuant to the California Wage Orders, Labor Code, and Government Code.
- j. Client agrees that Client and PEO are not joint employers or dual employers, as those terms are defined by Cal/OSHA. Client is responsible for reporting and recordkeeping requirements under Cal/OSHA regulations related to work-related fatalities, injuries and illnesses of Covered Employees.
- k. Client is responsible for California business taxes, including without limitation, environmental fees required under California Health and Safety Code.
- l. Client is responsible for paycheck statement compliance under California law and compliance with California Labor Code Section 226. Client shall collect and maintain, and ensure payroll statements are issued to Covered Employees which include, the following information: (1) gross wages earned; (2) total hours worked, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece-rate units earned and any applicable piece rate if paying on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for payment; (7) the name of the Covered Employee and only the last four digits of their social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Client acknowledges and agrees that it is responsible to issue its own statements as needed to ensure that all of this information has been provided to Covered Employees in compliance with Labor Code Section 226 and other California wage statement laws and regulations in addition to any payroll statements that may be issued by PEO.
- m. To the extent Client compensates Covered Employees by the job, load, delivery, or piece, Client is solely responsible for ensuring that its pay practices comply with California wage laws. Included in this requirement is the obligation to ensure Covered Employees are paid the applicable minimum wage and overtime rates (if applicable) for hours worked as well as compensable down time and paid rest time, to the extent required by law.
- n. To the extent Client pays any Covered Employees commissions, Client is solely responsible for compliance with California Labor Code section 2751.
- o. Client is responsible for complying with privacy rights requirements, including without limitation the requirements set forth in California Civil Code, sections 1798.100 to 1798.199, and any related regulations or guidance provided by the California Attorney General and/or the California Privacy Protection Agency.
- p. With or without consulting assistance from PEO, Client is solely responsible for compliance with workplace violence prevention requirements, including without limitation: (i) implementing and maintaining a Workplace Violence Prevention Plan; (ii) providing any necessary or required training for Covered Employees regarding the Workplace Violence Prevention Plan; and (iii) creating and maintaining any required or necessary logs or other records or documentation.
- q. During the Term of the Agreement, Client is responsible to maintain Employment Practices Liability Insurance coverage for Covered Employees, listing Helpside as an Insured or Additional Insured, or other

similar endorsement, and Client will provide PEO with a Certificate of Insurance when requested by Helpside.

**6. Colorado**

- a. PEO intends to assign Covered Employees to Client on a long-term basis and not reassign Covered Employees to a series of limited-term assignments.
- b. PEO reserves a right of direction and control over Covered Employees.
- c. PEO reserves a right to set Covered Employees' rate of pay and to pay Covered Employees from its own accounts.
- d. PEO reserves a right to hire, discipline, terminate, and reassign Covered Employees.

**7. Connecticut**

- a. PEO (i) assumes responsibility for the payment of wages and salaries to each Covered Employee and for withholding, collecting, reporting, and remittance of payroll-related and unemployment taxes; and (ii) for making payments for employee benefits for Covered Employees under the Agreement (if any).
- b. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client; and (iii) the acts, errors, or omissions of Client or any Covered Employee with respect to the business activities of Client.
- c. A Covered Employee is not, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.
- d. To the extent Client wants to pay Covered Employees on a different frequency than permitted under applicable law (i.e., weekly or bi-weekly), Client is solely responsible to obtain the required approval from the Connecticut Department of Labor.

**8. District of Columbia**

- a. Client will provide paid sick leave to Covered Employees to the full extent required by District of Columbia's Accrued Sick and Safe Leave Act (ASSL), with or without consulting assistance from PEO.
- b. If Client requests that PEO make any payments to or for the benefit of Client or any Covered Employee or perform any other act required under the ASSL, such request shall be in writing, and Client expressly agrees to pay any associated additional fees or costs in accordance with the terms of this Agreement.
- c. Client shall upon the Effective Date of the Agreement, reimburse PEO for all fees and expenses incurred by PEO in paying such outstanding amounts. Such reimbursement shall include, but not limited to, any owed contributions, administrative assessments, penalties and/or interest imposed by the DES against Client's unemployment account.

**9. Florida**

- a. PEO assumes such responsibility for the payment of wages to the Covered Employees without regard to payments by Client to PEO as is required by applicable law. In the event Client does not pay PEO for all services rendered, PEO may pay Covered Employees at the minimum wage rate or minimum salary provided for in the Fair Labor Standards Act and pursuant to Florida law. This provision in no way affects the obligation of Client to pay PEO for all services rendered and in no way affects the obligations of Client pursuant to local, state and federal law, including but not limited to the requirement to timely pay all Covered Employees their regular rate of pay through PEO (or directly, if otherwise required by law).

Notwithstanding anything to the contrary, unless otherwise required by law, the term "wages," pursuant to Florida Administrative Code Section 61G7-6.001, does not include any obligation on the part of PEO to assume any contractual obligation which may exist between Client and any Covered Employee, or any other compensation or benefit, in any form and does not include any obligation between Client and any Covered Employee for payments beyond or in addition to the Covered Employee's salary, draw, or regular rate of pay unless PEO specifically adopts such obligations by way of a written agreement entered into with the Covered Employee and signed by a Controlling Person of PEO. The parties agree that as of the Effective Date of this Agreement, PEO has not entered into any such written agreement with any Covered Employee and has not assumed any of the aforementioned obligations of Client as set forth in this Section. In this regard, PEO does not assume responsibility for payment of bonuses, commissions, severance pay, deferred compensation, any other compensation or benefit in any form, profit sharing, vacation pay, sick leave, or other paid time off pay, or for any other payment not required by law, where payment for such items has not been received by PEO from Client and PEO assumes no contractual obligation which may exist between Client and any Covered Employee. PEO reserves a right of direction and control over Covered Employees. Client maintains such direction and control over the Covered Employees as is necessary to conduct Client's business and without which Client would be unable to conduct its business, discharge any fiduciary responsibility which it may have, or comply with any applicable licensure, regulatory, or statutory requirement of Client.

- b. PEO shall prepare and distribute payroll disbursements to Covered Employees, make the appropriate payroll deductions and collection of taxes, file the appropriate reports and make payment to proper governmental authorities for federal, state, and local income taxes, Social Security tax, federal and state unemployment insurance taxes and any other local, state or federal tax directly attributed to the employment of the Covered Employees. PEO shall maintain necessary records and comply with reporting procedures and PEO assumes full responsibility for the payment of payroll taxes and collection of taxes from payroll on Covered Employees regarding payroll reported to and paid by PEO.
- c. PEO shall secure workers' compensation coverage in such amounts as is required by applicable law. This will be accomplished by way of a workers' compensation policy issued to PEO by a carrier admitted to issue such policies in the State of Florida. PEO assumes full responsibility for the withholding and remittance of payroll-related taxes for Covered Employees.
- d. PEO reserves such right of direction and control over Covered Employees and shall retain such authority to hire, terminate, discipline, and reassign Covered Employees as may be necessary to fulfill PEO's obligations under Florida law. Client shall, however, retain such sufficient direction and control over the Covered Employees as is necessary to conduct Client's business and without which Client would be unable to conduct its business, discharge any fiduciary responsibility that it may have, or comply with any applicable licensure, regulatory, or statutory requirement of Client. Additionally, to the extent not prohibited by applicable law and Florida Administrative Code Section 61G7-6.001, Client will exercise the assignment of performing such rights and authority to allow Client to exercise sole and exclusive control over the day-to-day job duties of all Covered Employees and sole and exclusive control over the job site at which, or from which, Covered Employees perform their services. Client expressly absolves PEO of control over the day-to-day job duties of the Covered Employees and over the job site at which, or from which, Covered Employees perform their services. Additionally, Client and not PEO, shall have the right to control the manner, means, and details of the work performed by the Covered Employees. In this regard, authority to change Covered Employees' employment and working conditions, the services provided by Covered Employees, the tools and equipment used by Covered Employees, and the ability to determine Covered Employees' rate and method of pay are all the responsibility of Client. The parties acknowledge and agree that any retention of any right of direction and control and any right to hire, terminate, discipline, and reassign the Covered Employees by PEO, to the extent not prohibited by applicable law, does not require the actual exercise of such authority, responsibilities or rights by PEO. PEO only reserves and retains such rights, responsibilities, and authority as is required by applicable law and employment responsibilities not those of PEO pursuant to this Service Agreement or applicable law shall remain with Client. The Client has the right to accept or cancel the assignment of any Covered Employee. PEO retains authority to hire, terminate, discipline, and reassign the Covered Employees, to the extent necessary to fulfill PEO's obligations under State law. Client retains the right to accept or cancel the assignment of any Covered Employee.

- e. PEO retains such right of direction and control over management of safety, risk, and hazard control at the worksite or sites affecting its Covered Employees, including, with regard to Covered Employees: such responsibility for performing safety inspections of Client equipment and premises; such responsibility for the promulgation and administration of employment and safety policies; and such responsibility for the management of workers' compensation claims, claims filings, and related procedures, as is required by Florida law. Notwithstanding this provision, to the extent not prohibited by Florida law and Florida Administrative Code Section 61G7-6.001, Client has contractually undertaken the assignment of performing such rights and responsibilities so as to allow Client to exercise sole and exclusive direction and control over the following: the management of safety, risk, and hazard control at the worksite or sites affecting Covered Employees, including responsibility for performing safety inspections of Client equipment and premises; and responsibility for the promulgation and administration of employment and safety policies. Client agrees that PEO, as a professional employer organization, has no presence at any Client worksite(s) and cannot and is not warranting the safety of Client's business and worksite(s) and Client expressly waives any claim against any PEO Indemnified Party based on any safety, risk or hazard issue at Client's worksite(s). Client acknowledges that PEO, in either providing or not providing such assistance and responsibility as set forth in this Addendum Section assumes no liability and no responsibility regarding safety issues at Client's worksite(s). While PEO shall retain such right of direction and control over the management of safety, risk and hazard control involving Covered Employees performing work at Client worksite(s), as is required by applicable law, compliance with all applicable laws related to such matters is a responsibility of Client. Additionally, PEO shall not be liable for any workers' compensation claim from any employee of Client or from anyone else who is not a Covered Employee. Also, unless otherwise required by law, PEO shall not be liable for any workers' compensation claim from any employee of Client, when Client is maintaining its own workers' compensation policy. PEO retains a right of direction and control over management of safety, risk, and hazard control at the worksite or sites affecting the Covered Employees, including: (1) responsibility for performing safety inspections of Client's equipment and premises; (2) responsibility for the promulgation and administration of employment and safety policies; and (3) responsibility for the management of workers' compensation claims, the filings thereof, and procedures related thereto.
- f. PEO and Client shall each notify, in writing, all Covered Employees of the inception and termination of this Service Agreement. PEO and its assigns retain a right to conduct an annual onsite physical examination of Client to conduct audits of workers' compensation classifications and payroll amounts of Covered Employees.
- g. Upon any request by PEO or its assigns, and at least annually, Client shall allow an on-site physical examination of such books, records, documents and other information sources deemed appropriate by PEO and/or its assigns to aid PEO and/or its assigns in the determination of proper workers' compensation classifications of Covered Employees and to aid in the determination of payroll amounts paid to such Covered Employees to the extent set forth in Section 440.381, Florida Statutes, and the rules promulgated thereunder. Such examination shall be strictly for the purposes of determining proper workers' compensation classifications of Covered Employees and to aid in the determination of payroll amounts paid to such Covered Employees. Client shall remain obligated to PEO for any misclassification, delinquency and/or unpaid premium amount found in the audit. This provision shall survive the expiration or other termination of this Service Agreement.
- h. PEO does not assume any responsibility for and makes no assurances, warranties, or guarantees as to the ability or competence of any Covered Employee. This Agreement in no way alters any responsibilities of Client which arise from Section 768.096, Florida Statutes, and Client assumes all responsibilities pursuant to Section 768.096, including, but not limited to, responsibility to perform any and all work history, reference checks and background checks on Covered Employees, including driving record and accident record background checks.
- i. Client shall immediately report to PEO all complaints, allegations or incidents of any tortious misconduct or workplace safety violations, regardless of the source. Client shall provide to PEO complete and accurate disclosure of all circumstances surrounding such matters.

- j. To the extent allowed by law, all obligations placed upon an employer by applicable law, or by Client's decision, to verify the eligibility of an individual for employment through the E-Verify system operated by the United States Department of Homeland Security ("E-Verify system") or any successor program and to in any manner utilize the E-Verify system, including the obligation to comply with Section 448.095, Florida Statutes, are retained solely and exclusively by Client. This includes, but is not limited to, the obligation of Client, and not PEO, to verify the employment eligibility of any new employee of Client whether or not in a PEO relationship, by utilizing the E-Verify system. In addition, to the extent allowed by law, Client is solely and exclusively responsible to properly obtain and to maintain all supporting E-Verify documentation and to certify to the State of Florida Client's compliance with Section 448.095, Florida Statutes. Any fines or other penalties resulting from Client's failure to follow proper immigration, I-9, or E-Verify obligations, procedures and processes shall be Client's sole responsibility.

## 10. Georgia

- a. PEO is a Professional Employer Organization, as that term is defined under Georgia Code Sections 34-8-32 and 34-7-6. As such, PEO: (i) assumes responsibility for payment of the wages of Covered Employees, and for the withholding and payment of payroll taxes; and (ii) reserves a right of direction and control over Covered Employees.
- b. Client is considered to be the sole employer of Covered Employees for licensing purposes.

## 11. Hawaii

- a. Pursuant to Hawaii Revised Statute §373L-1 and §373L-6, PEO will serve as the employer of record during the term of this Agreement for purposes of complying with all laws relating to unemployment insurance, workers' compensation, temporary disability insurance, and prepaid health care coverage.
- b. Client retains the exclusive right to direct and control Covered Employees as necessary to conduct Client's business, discharge Client's fiduciary responsibilities, and comply with the licensure requirements that apply to Covered Employees.
- c. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client; and (iii) the acts, errors, or omissions of Client or any Covered Employee with respect to the business activities of Client.

## 12. Idaho

- a. Pursuant to the Idaho Professional Employer Recognition Act Section 44-2405, PEO: (i) reserves a right of direction and control over Covered Employees; (ii) assumes responsibility for the withholding and remittance of payroll-related taxes and employee benefits from its own accounts, as long as the Agreement remains in force; and (iii) retains authority to hire, terminate, discipline, and reassign Covered Employees.
- b. Client retains such sufficient direction and control over Covered Employees as is necessary to conduct Client's business and without which Client would be unable to conduct its business, discharge any fiduciary responsibility which it may have, or comply with any applicable licensure, regulatory or statutory requirement of Client.
- c. Client retains the right to accept or cancel the assignment of any Covered Employee.
- d. A Covered Employee is not, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.

## 13. Illinois

- a. Client will provide to PEO Client's unemployment insurance account number, a general description of Client's business and business locations, and a power of attorney with respect to client identity reports to the Department of Employment Security, in accordance with state law.
- b. PEO in conjunction with Client: (i) retains a right of direction and control over Covered Employees; and (ii) retains a right to hire and terminate Covered Employees; and PEO assumes responsibility for the withholding and remittance of payroll-related taxes and employee benefits from its own accounts.

#### 14. **Indiana**

- a. Pursuant to Indiana Statute §27-16-7-2, PEO assumes responsibility for: (i) payment of wages to Covered Employees; (ii) withholding, collection, reporting, and remittance of payroll related and unemployment taxes; and (iii) making payments for employee benefits for Covered Employees (if any).
- b. PEO may exercise and enforce only the rights and is obligated to perform only the duties and responsibilities that are required of PEO or specifically allocated to PEO under state law and this Agreement.
- c. Client retains the exclusive right to direct and control Covered Employees as necessary to: (i) conduct Client's business; (ii) discharge Client's fiduciary responsibilities; and (iii) comply with licensure requirements that apply to Client or Covered Employees.
- d. At or after termination of this Agreement, PEO will provide to Client, if requested, records regarding the loss experience related to workers' compensation insurance provided to Covered Employees under this Agreement.
- e. PEO is not responsible for an obligation between Client and a Covered Employee for payments in addition to Covered Employee's salary, draw, or regular rate of pay, including bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off unless expressly agreed to in this Agreement.
- f. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client; and (iii) the acts, errors, or omissions of Client or any Covered Employee with respect to the business activities of Client.

#### 15. **Kansas**

- a. Pursuant to the Kansas Professional Employer Organization Registration Act ("Act"), K.S.A. 44-1707, PEO (i) assumes responsibility for the payment of wages to Covered Employees and the withholding and remittance of payroll-related taxes; (ii) assumes responsibility to make payments for employee benefits for Covered Employees under the Agreement (if any); and (iii) retains a right to hire, terminate, and discipline Covered Employees only as necessary to fulfill PEO's responsibilities under this Agreement and state law.
- b. Client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship, including the right to hire, discipline, and terminate a Covered Employee.
- c. PEO is entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by state law or set forth in the Agreement. The rights, duties, and obligations of PEO as co-employer with respect to any Covered Employee are limited to those arising under the Agreement and state law during the term of co-employment by PEO of the Covered Employee.
- d. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client; and (iii) the acts, errors, or omissions of Client or any Covered Employee with respect to the business activities of Client.

- e. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.
- f. PEO will provide, and Client will post, in a conspicuous place at Client's worksite, a notice to Covered Employees informing them of the general nature of the co-employment relationship between PEO and Client, as well as any other notices required by state law relating to unemployment compensation and minimum wages.

## 16. Kentucky

- a. Pursuant to Kentucky Revised Statute Section 336.242, PEO: (i) assumes responsibility for the payment of wages to Covered Employees; (ii) withhold, collect, report and remit payroll and unemployment taxes; (iii) assumes responsibility to make payments for employee benefits for Covered Employees under the Agreement (if any); and (iv) retains a right to hire, discipline, and terminate Covered Employees as may be necessary to fulfill the professional employer organization's responsibilities under Kentucky Revised Statute Sections 336.230 to 336.250, and PEO's responsibilities under the Agreement.
- b. Client retains the exclusive right to direct and control Covered Employees as is necessary to conduct its business, to discharge any of its fiduciary responsibilities, and to comply with any applicable licensure requirements.
- c. PEO shall not be liable for the acts, errors or omissions of a client or of any assigned worker acting under the direction and control of a Client.
- d. Client is solely responsible for: (i) workplace safety and for the quality and adequacy of the goods and services produced or sold in Client's business; (ii) directing, supervising, training, retaining, and controlling the work of the Covered Employees with respect to the business activities of Client and solely responsible for the acts, errors, or omissions of the Covered Employees with regard to these activities.
- e. Covered Employees are not, solely as a result of being Covered Employees of the PEO, employees of the PEO for the purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or liquor liability insurance carried by the PEO.

## 17. Louisiana

- a. Pursuant to the Louisiana Professional Employer Act, Revised Statutes, Sections 22:1741-1751 (Part VII—Professional Employer Organizations), and Sections 23:1761-1769 (Part XII—Professional Employer Organizations), PEO (i) assumes responsibility for the payment of wages to Covered Employees and the withholding and remittance of payroll-related taxes; and (ii) retains a right to hire, terminate, and discipline Covered Employees.
- b. Client retains control over its business enterprise and exercises direction and control of Covered Employees as to the manner and method of work done in furtherance of Client's business.
- c. To the extent any Covered Employees are providing services to Client in Louisiana, this Agreement is executed between PEO and Client subject to the provisions of Sections 23:1761-1769 (Part XII—Professional Employer Organizations), and 22:1741-1751 (Part VII—Professional Employer Organizations) of the Louisiana Revised Statutes, and the Parties intend for this Agreement to be ongoing, rather than temporary.

## 18. Maine

- a. As required by Maine Revised Statute Title 32, Chapter 125 Sections 14051 and 14055(5):

- i. Client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship, including the right to hire, discipline, and terminate a Covered Employee.
- ii. PEO is entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by state law or set forth in the Agreement.
- iii. Only to the extent required by state law in order to provide the services contemplated by this Agreement, and for no other purpose express or implied, PEO reserves a right of direction and control over each Covered Employee.
- iv. Client may report any complaints regarding PEO to the Bureau of Consumer Credit Protection.

## 19. **Maryland**

- a. PEO (i) assumes responsibility for the payment of wages to Covered Employees and the withholding and remittance of payroll-related taxes, including payment of wages to Covered Employees from its own accounts; and (ii) reserves a right to hire, assign, discipline, terminate, and reassign Covered Employees.

## 20. **Massachusetts**

- a. Client will notify the Massachusetts Department of Unemployment Assistance of the commencement of the PEO relationship at least sixty (60) days prior to the next due date for the payment of unemployment insurance contributions in accordance with 430 Mass. Code Regs. section 5.10, and thereafter provide proof of proper notice to PEO.
- b. PEO shall have a right to hire and terminate Covered Employees, but only to the extent necessary to fulfill PEO's responsibilities as set forth in this Agreement or pursuant to Mass. Gen. Laws, Ch. 149, sections 192 to 203, inclusive, and Client shall have the right to hire, discipline, and terminate Covered Employees.
- c. Upon initiation of the PEO relationship, PEO shall provide, and Client will post in a conspicuous location at Client's worksite, a notice to Covered Employees informing them of the general nature of the co-employment relationship between PEO and Client, as required under Mass. Gen. Laws, Ch. 149, section 197(c).
- d. Upon termination of the PEO relationship, PEO shall provide Covered Employees with written notice of the termination of the PEO relationship, as required under Mass. Gen. Laws, Ch. 149, section 197(d).
- e. Client retains control over its business enterprise and exercises direction and control of Covered Employees as to the manner and method of work done in furtherance of Client's business.
- f. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; and (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client.
- g. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.
- h. Client is considered to be the sole employer of Covered Employees for licensing purposes.
- i. Client will cooperate with PEO to post required notice in Client's workplace regarding the general nature of the relationship between PEO and Client, as required under 454 Code of Mass. Regs., section 30.06.

## 21. **Michigan**

- a. Pursuant to the Michigan Professional Employer Organization Regulatory Act ("Act"), Michigan Compiled Law Section 338.3737, PEO (i) assumes responsibility for the payment of wages to Covered Employees

and the withholding, collecting, reporting, and remittance of payroll-related taxes; (ii) assumes responsibility to make payments for employee benefits for Covered Employees under the Agreement (if any); and (iii) retains a right to hire, promote, reassign, terminate, and discipline Covered Employees. Client may also hire, promote, terminate, reassign, and discipline Covered Employees.

- b. Both PEO and Client agree to comply with the Michigan Worker's Disability Compensation Act of 1969.
- c. Pursuant to the Michigan Professional Employer Organization Regulatory Act ("Act"), Michigan Compiled Law Section 338.3739, Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; and (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client.
- d. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.
- e. Pursuant to Michigan Administrative Code Section 421.190, Client acknowledges that neither PEO, nor any individual owner of PEO, has an ownership interest of more than 20% in Client, if any, nor does PEO have direct or indirect control over Client, including any Client subsidiaries or affiliates, Client does not have more than a 20% ownership interest in PEO, if any.

## 22. Missouri

- a. Pursuant to Missouri Professional Employer Organization Act, Section 285.730, Client retains the exclusive right to direct and control Covered Employees as is necessary to conduct Client's business, to discharge any of Client's fiduciary responsibilities, or to comply with any licensure requirements applicable to Client or to Covered Employees.
- b. PEO shall be entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required under Sections 285.700 to 285.750 or set forth in the Agreement.
- c. As provided by Missouri Professional Employer Organization Act, Section 285.730, PEO: (i) assumes responsibility for paying wages to Covered Employee; (ii) assumes responsibility to withhold, collect, report, and remit payroll-related and employment taxes; and (iii) assumes responsibility to make payments for employee benefits for Covered Employees under the Agreement (if any).
- d. PEO shall have a right to hire and terminate Covered Employees, but only to the extent necessary to fulfill PEO's responsibilities as set forth in this Agreement or pursuant to Missouri Professional Employer Organization Act, Sections 285.700 to 285.750, inclusive, and Client shall have the right to hire, discipline, and terminate Covered Employees.
- e. Client shall be solely responsible for: (i) the quality, adequacy, or safety of the goods or services produced or sold in Client's business; and (ii) directing, supervising, training, and controlling the work of the Covered Employees with respect to the business activities of Client and solely responsible for the acts, errors, or omissions of the Covered Employees with regard to such activities.
- f. A Covered Employee is not, solely as the result of being a covered employee of PEO, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability that is not covered by workers' compensation, or liquor liability insurance carried by PEO, unless the Covered Employees are included by specific reference in the professional employer agreement and applicable prearranged employment contract, insurance contract, or bond.

## 23. Montana

- a. Pursuant to the Montana Professional Employer Organizations and Groups Licensing Act, MCL § 39-8-207, PEO (i) reserves a right of direction and control over Covered Employees; (ii) assumes responsibility for the payment of wages to Covered Employees, workers' compensation premiums, payroll-related taxes,

and employee benefits (if any) from its own accounts without regard to payment by Client to PEO; and (iii) retains authority to hire, terminate, discipline, and reassign Covered Employees.

- b. Client retains sufficient direction or control over Covered Employees as is necessary to conduct its business and without which Client would be unable to conduct its business, discharge its fiduciary responsibilities, or comply with state licensing laws.
- c. Client will have the right to accept or cancel the assignment of a Covered Employee.
- d. Client is solely responsible for compliance with the Montana Safety Culture Act, Title 39, chapter 71, part 15.
- e. Client is solely responsible for compliance with Montana's Wrongful Discharge from Employment Act, MT Code Section 39-2-901, *et seq.* (WDFEA), and a Covered Employee's employment status with Client, under the WDFEA does not alter Covered Employee's status with PEO.
- f. With respect to Covered Employees, Client shares joint and several liability for any wages, workers' compensation premiums, and payroll-related taxes and for any benefits left unpaid by PEO. In the event that PEO's PEO license is suspended or revoked, this liability is retroactive to Client's entering into this Agreement.

#### 24. **Nebraska**

- a. Pursuant to Nebraska Revised Statute §48-2701, *et seq.* of the Nebraska Professional Employer Organization Registration Act, PEO: (i) assumes responsibility for the payment of wages to Covered Employees and the withholding, collecting, reporting, and remittance of payroll-related taxes; (ii) assumes responsibility to make payments for employee benefits for Covered Employees under the Agreement (if any); and (iii) retains a right to hire, terminate, and discipline Covered Employees only as necessary to fulfill PEO's responsibilities under this Agreement and state law.
- b. Client represents and warrants that a majority of Client's employees who provide services to Client in Nebraska are co-employed under this Agreement.
- c. Client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship.
- d. PEO is entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by state law or set forth in the Agreement. The rights, duties, and obligations of PEO as co-employer with respect to any Covered Employee are limited to those arising under the Agreement and state law during the term of co-employment by PEO of the Covered Employee.
- e. Client retains the exclusive right to direct and control Covered Employees as is necessary to conduct its business, to discharge any of its fiduciary responsibilities, and to comply with any applicable licensure requirements.
- f. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; and (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client.
- g. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.
- h. PEO will provide, and Client will post, in a conspicuous place at Client's worksite, a notice to Covered Employees informing them of the general nature of the co-employment relationship between PEO and Client, as well as any other notices required by state law relating to unemployment compensation and minimum wages.

## 25. Nevada

- a. Pursuant to Nevada Revised Statute, 616B.692, in relation to workers' compensation coverage Client understands that (i) coverage for workers' compensation provided under this Agreement does not take effect until effective date designated on the policy; and (ii) while the workers' compensation coverage provided under this Agreement remains in effect, PEO will pay all required premiums, including without limitation, any adjustments or assessments, and is entitled to any refund of premiums.
- b. Except as provided by this Agreement and by state law, all services provided under this Agreement by PEO will cease immediately on the effective date of any termination under this Agreement.
- c. Client acknowledges that the insurer from whom PEO obtains the policy of workers' compensation insurance has the right to inspect the premises and records of Client.
- d. The loss experience of Client will continue to be reported in the name of Client to the Nevada Commissioner of Insurance and is available to subsequent insurers upon request.
- e. The policy of workers' compensation insurance covers only those employees acknowledged in writing by PEO to be employees of PEO who are being leased to Client.
- f. Client is responsible at all times for providing coverage for workers' compensation for any employees of Client who are not Covered Employees under this Agreement. Client must provide satisfactory evidence of this required coverage to the insurer from whom the policy of workers' compensation insurance is obtained by PEO.

## 26. New Hampshire

- a. PEO and Client shall comply with and divide employment responsibilities as set forth in NHRSA § 277-B:9I and II.
- b. To the extent Client wants to pay Covered Employees on a different frequency than permitted under applicable law (i.e., weekly or bi-weekly), Client is solely responsible to obtain the required approval from the New Hampshire Department of Labor.

## 27. New Jersey

- a. Pursuant to N.J.S.A. section 34:8-68, PEO: (i) reserves a right of direction and control over each Covered Employee; (ii) assumes responsibility for the payment of wages to each Covered Employee without regard to payments by Client to PEO (except that this subsection will not affect Client's obligations with respect to the payment of wages to covered employees; (iii) assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on each Covered Employee; (iv) retains authority to hire, terminate, discipline, and reassign each Covered Employee; (v) except in relation to newly established business entities, will hire its initial employee complement from among employees of Client at the time of execution of this Agreement at comparable terms and conditions of employment as are in existence at Client at the time of execution of this Agreement and as designated by Client; and (vii) will provide workers' compensation insurance for Covered Employees.
- b. The right of direction and control over management of safety, risk and hazard control of the work site including responsibility for performing safety inspections of Client equipment and premises, and responsibility for promulgation and administration of employment and safety policies shall be allocated to Client. Client and PEO each have responsibility for the management of workers compensation claims and filings.
- c. Throughout the term of this Agreement Covered Employees are considered employees of both PEO and Client and upon the termination of this Agreement, Covered Employees will be considered employees of Client.

- d. Client will continue to honor and abide by the terms of any applicable collective bargaining agreements, and upon expiration thereof, any obligations of Client to bargain in good faith in connection with such collective bargaining agreements is not affected in any manner by the Agreement.
- e. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; and (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client.
- f. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability, which is not covered by workers' compensation, or other liability insurance carried by PEO.
- g. In compliance with N.J.S.A. section 34:8-68(a)(8), if Client and PEO have agreed in writing that Client will assume responsibility for providing workers' compensation insurance for Covered Employees, Client will cooperate with PEO in providing documents and information needed for PEO to provide the required notice of such election and proof of coverage to the New Jersey Department of Labor and Workforce Development. Additionally, Client shall provide a copy of the written agreement to the carrier that issued the policy.
- h. Pursuant to N.J.S.A. section 34:8-74, with respect to Covered Employees employed in the State of New Jersey, PEO shall calculate the unemployment benefit experience contribution rates and temporary disability contribution rates with respect to such Covered Employees upon the inception and termination of this Agreement in accordance with the following method:
  - 1. Calculation of Unemployment Benefit Experience. Upon the effective date of this Agreement, PEO shall report wages and pay contributions for Covered Employees who work in the State of New Jersey ("PEO NJ Covered Employees") pursuant to the "Unemployment Compensation Law," N.J.S.A. section 43:21-1 *et seq.*, based on the benefit experience assigned to PEO under N.J.S.A. section 43:21-7. With respect to any employee of Client working in the State of New Jersey who is not co-employed by PEO ("Client NJ Employee"), Client shall continue to report wages and pay contributions for Client NJ Employees using Client's contribution rate based on the benefit experience assigned to Client under N.J.S.A. section 43:21-7.
  - 2. Pursuant to N.J.S.A. section 34:8-73, upon a termination of this Agreement by Client or PEO ("Termination"), if the PEO NJ Covered Employees have been co-employed for less than two full calendar years, PEO shall provide to the New Jersey Department of Labor ("NJDOL") the data required by the NJDOL to calculate the benefit experience associated with the PEO NJ Covered Employees to the extent required by applicable law. The NJDOL shall combine that benefit experience with Client's existing benefit experience to determine Client's new rate as of the following July 1st. Client shall continue to use PEO's contribution rate for the period beginning on the date of the termination of this Agreement and ending the following July 1st; provided, however, that if PEO did not co-employ all employees of Client, Client must use its own contribution rate for the period beginning on the date of the termination of this Agreement and ending the following July 1st.
  - 3. Pursuant to N.J.S.A. section 34:8-73, upon a Termination which occurs after the PEO NJ Covered Employees have been co-employed for at least two full calendar years, Client shall be assigned the rate of a new employer under N.J.S.A. section 43:21-7 until Client is eligible for a rate based on benefit experience pursuant to that section of the "Unemployment Compensation Law" or enters into another professional employer organization agreement; provided, however, that if PEO did not co-employ all employees of Client, the benefit experience associated with that portion of Client's employees that were co-employed by PEO shall not be transferred to Client and shall not be used in the calculation of Client's future contribution rates.
  - 4. Pursuant to N.J.S.A. section 34:8-73, if Client enters into a subsequent professional employer organization agreement with another professional employer organization with respect to the PEO NJ Covered Employees immediately after a Termination, the payroll relative to Client shall be reported and paid at the rate assigned the second professional employer organization.

5. Calculation of Temporary Disability Contribution Rates. For as long as PEO maintains an approved private plan of disability benefits under the "Temporary Disability Benefits Law," Client and PEO are exempt from the requirement to contribute to the New Jersey State Disability Benefits Fund pursuant to N.J.S.A. 43:21-7 with respect to wages paid to the PEO NJ Covered Employees. Client shall instead be required to pay the premium amount established by PEO and its insurance carrier. Upon a Termination, PEO shall provide to the NJDOL the data required thereby to calculate the temporary disability rates of the PEO NJ Covered Employees to the extent required by applicable law. Client remains obligated to contribute to the New Jersey State Disability Fund pursuant to N.J.S.A. 43:21-7 with respect to wages paid to any Client NJ Employees unless Client is subject to an exemption in accordance with applicable law.

## 28. New York

- a. Client represents and warrants that all or a majority of Client's employees who provide services for Client are covered by the Agreement. Client shall notify PEO within ten (10) days of any changes that result in a failure to meet this requirement. PEO agrees to co-employ all or a majority of Client's employees who provide services for Client in New York.
- b. Pursuant to §922 of the New York Professional Employer Act, PEO: (i) reserves a right of direction and control over Covered Employees (Client maintains such direction and control over Covered Employees as is necessary to conduct Client's business and without which Client would be unable to conduct its business, discharge any fiduciary responsibility which it may have, or comply with any applicable licensure, regulatory, or statutory requirement of Client); (ii) assumes responsibility for the withholding and remittance of payroll-related taxes and employee benefits for Covered Employees and for which PEO has contractually assumed responsibility from its own accounts, during the term of the Agreement; (iii) retains authority to hire, terminate and discipline Covered Employees, to the extent necessary to fulfill PEO's obligations under state law; and (iv) will be considered an employer for the purposes of withholding state income taxes for Covered Employees.
- c. Client is solely responsible for compliance with the requirements of Section 195.1 of the New York State Labor Laws, and Client shall ensure that all Covered Employees provide written acknowledgement of receipt of the Notice and Acknowledgement of Pay Rate and Payday Under Section 195.1 of the New York State Labor Laws, as required by applicable law, including utilizing a template prepared by the Commissioner of the New York State Department of Labor, and Client shall maintain records of such acknowledgements.
- d. Client shall notify all Covered Employees, in writing, of any change(s) to the wage payment information provided in the Notice and Acknowledgement of Pay Rate and Payday under Section 195.1, at least seven (7) calendar days prior to the time of such change(s). Additionally, notification of such change(s) shall be supplied by Client, in writing, to PEO at least twenty-one (21) calendar days prior to the implementation of such change(s).
- e. Client shall notify Covered Employees in writing or by publicly posting Client's policies regarding sick leave, vacation leave, personal leave, holidays, and hours.

## 29. North Carolina

- a. Pursuant to North Carolina Professional Employer Organization Act, §58-89A-100, PEO: (i) reserves a right of direction and control over Covered Employees; (ii) assumes responsibility for the payment of wages to Covered Employees and for the collection and remittance of payroll taxes of Covered Employees; (iii) retains authority to hire, terminate, and discipline Covered Employees; and (iv) retains a right of direction or control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal and state laws.
- b. Client retains sufficient direction or control over Covered Employees as necessary to conduct its business and without which Client would be unable to conduct its business, discharge its fiduciary responsibilities, or comply with any applicable licensure, regulatory, or statutory requirement it may have.

- c. Any employment responsibilities not specifically allocated to PEO under state law or under this Agreement will remain with Client.
- d. Upon termination of this Agreement, PEO will provide to Client, if requested, records regarding the loss experience related to workers' compensation insurance provided to Covered Employees.
- e. Client represents and warrants that it does not owe its current or prior workers' compensation carrier any premium for workers' compensation insurance, nor does Client owe its current or prior professional employer organization ("PEO") any amounts due under any PEO agreement, except for premiums or amounts due that are subject to dispute. Client further certifies that Client has met any and all prior premium or fee obligations.

### 30. North Dakota

- a. PEO (i) retains a right to hire, discipline, and terminate Covered Employees; (ii) will pay wages to any Covered Employee and will withhold, collect, report, and remit payroll-related and unemployment taxes on such wages; and (iii) will make payments for employee benefits for Covered Employees (if any).
- b. Nothing in this Agreement will (i) diminish, abolish, or remove any right of a Covered Employee to Client or obligation of Client to a Covered Employee existing before the effective date of the Agreement; or (ii) affect, modify, or amend any contractual relationship or restrictive covenant between a Covered Employee and Client in effect at the time this Agreement becomes effective or prohibit or amend a contractual relationship or restrictive covenant that is entered subsequently between Client and a Covered Employee.
- c. Client retains the exclusive right to direct and control any Covered Employee as is necessary to conduct Client's business, to discharge any of Client's fiduciary responsibilities, or to comply with any licensure requirements applicable to Client or to a Covered Employee. Client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship, including the right to hire, discipline, and terminate a Covered Employee.
- d. PEO is entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by state law or set forth in the Agreement. The rights, duties, and obligations of PEO as co-employer with respect to any Covered Employee are limited to those arising under the Agreement and state law during the term of co-employment by PEO of the Covered Employee.
- e. Client will accurately report all wages of a Covered Employee to PEO.
- f. Client is solely responsible for the quality, adequacy, and safety of the goods or services produced or sold in Client's business.
- g. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability, which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.

### 31. Ohio

- a. Client will establish and maintain a separate active workers' compensation account with the Ohio Bureau of Workers' Compensation, as required by state law.
- b. Client will cooperate with PEO with respect to PEO's duty under state law to (i) maintain a record of workers' compensation claims for Client; and (ii) maintain records separately listing the manual classifications of Client and the payroll reported to each manual classification for each payroll reporting period while this Agreement remains in effect.
- c. To the extent required under applicable Ohio law, the initial term of the Agreement is for twelve months.

### 32. Oklahoma

- a. Pursuant to §40-600.7(C) of the Oklahoma Professional Employer Organization Recognition and Registration Act, PEO (i) reserves a right of direction and control over Covered Employees; (ii) retains a right to hire, discipline, and terminate a Covered Employee; (iii) will pay wages to any Covered Employee and will withhold, collect, report, and remit payroll-related and unemployment taxes on such wages; and (iv) will make payments for employee benefits for Covered Employees (if any).
- b. Client retains sufficient direction or control as necessary to conduct its business and without which Client would be unable to conduct its business, discharge fiduciary responsibilities, or comply with any applicable licensure requirements it may have.
- c. Upon termination of this Agreement, PEO will provide to Client, if requested, records regarding the premiums and loss experience related to workers' compensation insurance provided to Covered Employees.

### 33. Oregon

- a. Only to the extent required by state law in order to provide the services contemplated by this Agreement, and for no other purpose express or implied, PEO reserves a right to ensure that Client provides adequate training, supervision, and instruction to Covered Employees to meet state law requirements. Client likewise agrees to provide adequate training, supervision, and instruction to Covered Employees to meet state law requirements.
- b. Client will cooperate fully with PEO in completing and filing a Worker's and Employer's Report of Occupational Injury or Disease (DCBS Form 801) in connection with any injuries to Covered Employees, as required under state law.

### 34. Pennsylvania

- a. Pursuant to Section 933.301(b) of the Pennsylvania Employer Organization Act, 43 PA. CONS. STAT. 933.101, *et. seq.*, PEO: (i) will have responsibility to pay wages to Covered Employees; (ii) will have responsibility to withhold, collect, report and remit payroll-related taxes and may remit unemployment taxes in accordance with state law; and (iii) will have responsibility to make payments for employee benefits for Covered Employees under the Agreement (if any). As used in this subsection, the term "wages" does not include any obligation between Client and a Covered Employee for payments beyond or in addition to Covered Employee's salary, draw or regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit sharing or vacation, sick or other paid time off pay. However, nothing in this Agreement or applicable state law will relieve Client from compliance with the state's wage and labor laws.
- b. Client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship, including the right to hire, discipline, and terminate a Covered Employee.
- c. PEO is entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by state law or set forth in the Agreement. The rights, duties, and obligations of PEO as co-employer with respect to any Covered Employee are limited to those arising under the Agreement and state law during the term of co-employment by PEO of the Covered Employee.
- d. Client retains the exclusive right to direct and control any Covered Employee as is necessary to conduct Client's business, to discharge any of Client's fiduciary responsibilities, or to comply with any licensure requirements applicable to Client or to a Covered Employee.
- e. PEO has the right to hire, discipline, and terminate a Covered Employee as may be necessary to fulfill PEO's responsibilities under state law and the Agreement.
- f. Nothing in the Agreement, including this Addendum shall relieve Client from its obligation to be in compliance with Pennsylvania's wage and labor laws, including the act of May 13, 1915 (P.L.286, No.177), known as the Child Labor Law, the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, the act of July 14, 1961 (P.L.637, No.329), known as the Wage Payment and

Collection Law, and the act of January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968. If Client is a health care facility as defined in section 2 of the act of October 9, 2008 (P.L.1376, No.102), known as the Prohibition of Excessive Overtime in Health Care Act, Client shall comply with that act.

### 35. Rhode Island

- a. Pursuant to Rhode Island Statute §5-75-7 of the Rhode Island Professional Employer Organizations Act, PEO: (i) reserves a right of direction and control over Covered Employees; (ii) retains a right to hire, discipline, and terminate Covered Employees as may be necessary to fulfill the PEO's responsibilities under state law and the Agreement; (iii) will have the responsibility to pay wages to Covered Employees and will withhold, collect, report, and remit payroll-related and unemployment taxes on such wages; and (iv) will make payments for employee benefits for Covered Employees (if any).
- b. Client retains sufficient direction and control as necessary to conduct its business and without which Client would be unable to conduct its business, discharge fiduciary responsibilities, or comply with any applicable licensure requirements it may have.
- c. Client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship.
- d. PEO is entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by state law or set forth in the Agreement. The rights, duties, and obligations of PEO as co-employer with respect to any Covered Employee are limited to those arising under the Agreement and state law during the term of co-employment by PEO of the Covered Employee.
- e. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; and (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client.
- f. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability, which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.

### 36. South Carolina

- a. PEO: (i) reserves a right of direction and control over Covered Employees; (ii) retains a right to hire, discipline, terminate, and reassign Covered Employees as may be necessary to fulfill the PEO's responsibilities under state law and the Agreement; (iii) will have the responsibility to pay wages to Covered Employees and will collect and pay payroll taxes on such wages, regardless of payments by Client to PEO; and (iv) retains a right of direction or control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures on joint agreement by Client and PEO in accordance with applicable federal and state laws.
- b. PEO and Client agree that (i) notice to or acknowledgment of the occurrence of an injury on the party of Client is notice to or knowledge on the part of PEO and its workers' compensation insurer; (ii) for the purposes of state law, the jurisdiction of Client is the jurisdiction of PEO and its workers' compensation insurer; (iii) PEO and its workers' compensation insurer are bound by and subject to the awards, judgments, or decrees rendered against them under state law; and (iv) insolvency, bankruptcy, or discharge in bankruptcy of PEO or Client does not relieve PEO, Client, their respective workers' compensation insurers from payment of compensation for disability or death sustained by a Covered Employee during the life of a workers' compensation insurance policy under this Agreement.
- c. Client will secure and maintain workers' compensation insurance for any of its employees that are not Covered Employees under this Agreement.

- d. Client will comply with the co-employee notice posting requirements under state law.
- e. PEO is licensed and regulated by the South Carolina Department of Consumer Affairs, and any questions or complaints regarding PEO should be directed to the South Carolina Department of Consumer Affairs, PO Box 5757, Columbia, SC 29250, [www.consumer.sc.gov](http://www.consumer.sc.gov), (803) 734-4200.

### 37. South Dakota

- a. Pursuant to South Dakota Administrative Rule Section 64:06:02:89, PEO assumes the responsibility (i) for the payment of wages, salaries, payroll taxes, payroll deductions, workers' compensation costs, insurance premiums, welfare benefits, and retirement benefits (if any); and (ii) for preparing and filing necessary tax returns and other documents as required by state or federal law.
- b. Client was the employer of Covered Employees prior to the effective date of this Agreement.
- c. Client retains primary control over the hiring, firing, wages rates, salary increases, training, and directing the day-to-day activities of Covered Employees.
- d. If the contractual relationship between PEO and Client is terminated, then the Covered Employee's co-employment relationship with PEO is also terminated.
- e. If a Covered Employee leaves the employment of Client, the co-employment relationship with PEO will also be immediately terminated.
- f. PEO does not manage or direct the operation of Client's business.
- g. At all times, the Agreement and this Addendum shall cover at least seventy-five percent (75%) of Client's full-time or full-time equivalent employees domiciled in South Dakota. If at any time the percentage drops below seventy-five percent (75%) Client agrees to inform PEO immediately.

### 38. Tennessee

- a. Pursuant to Tennessee Professional Employer Organization Act, §62-43-108, PEO: (i) reserves a right of direction and control over Covered Employees; (ii) retains a right to hire, discipline, and terminate Covered Employees as may be necessary to fulfill the PEO's responsibilities under state law and the Agreement; and (iii) assumes responsibility to pay wages to Covered Employees, to collect and pay payroll taxes on such wages, and to pay for employee benefits under the Agreement (if any), regardless of payments by Client to PEO.
- b. Client retains sufficient direction and control over Covered Employees as is necessary to conduct Client's business, to discharge any of Client's fiduciary responsibilities, or to comply with any licensure requirements applicable to Client or to a Covered Employee. Client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship, including the right to hire, discipline, and terminate a Covered Employee.
- c. PEO is entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by state law or set forth in the Agreement. The rights, duties, and obligations of PEO as co-employer with respect to any Covered Employee are limited to those arising under the Agreement and state law during the term of co-employment by PEO of the Covered Employee.
- d. Client is solely responsible, and PEO is not liable, for: (i) the quality, adequacy, and safety of goods or services produced or sold in Client's business; and (ii) directing, supervising, training, and controlling the work of a Covered Employee with respect to the business activities of Client.
- e. A Covered Employee is not considered, solely as the result of being a Covered Employee, an employee of PEO for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability, which is not covered by workers' compensation, or other liability insurance carried by PEO unless the Covered Employee is included by specific, express reference herein or in an applicable employment agreement, insurance contract or bond.

### 39. Texas

- a. Pursuant to Texas Professional Employer Organization Act, §91.032, PEO: (1) shares with Client the right of direction and control over Covered Employees; (2) assumes responsibility for the payment of wages to Covered Employees without regard to payments by Client to PEO; (3) assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on Covered Employees; (4) shares, with Client the right to hire, fire, discipline, and reassign Covered Employees; and (5) shares with Client the right of direction and control over the adoption of employment and safety policies and the management of workers' compensation claims, claim filings, and related procedures.
- b. Client retains responsibility for: (1) the direction and control of Covered Employees as necessary to conduct Client's business, discharge any applicable fiduciary duty, or comply with any licensure, regulatory, or statutory requirement; (2) all goods and services produced by Client, including those produced or provided by Covered Employees; and (3) the acts, errors, and omissions of Covered Employees.
- c. Client is solely obligated to pay any wages for which: (1) the obligation to pay is created by an agreement, contract, plan, or policy between Client and the Covered Employee; and (2) PEO has not contracted to pay.
- d. Any unresolved complaints concerning PEO or questions concerning the regulation of PEOs may be addressed to the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, Telephone: (512) 463-6599.
- e. Client and PEO each certify that the Agreement and this Addendum meet the requirements and conditions set forth in Title 34, Texas Administrative Code, Part 1, Chapter 3, Subchapter O, Rule §3.364 and that both PEO and Client will retain a copy of this certification in their respective files.

### 40. Utah

- a. Pursuant to §31A-40-202 of the Utah Professional Employer Organization Licensing Act, PEO assumes responsibility for: (1) the payment of wages to Covered Employees; (2) for the withholding, remittance, and reporting of payroll-related taxes (including unemployment insurance contributions) for, and on behalf of, Covered Employees; and (3) make appropriate payments for the provision of Employee Benefits to Covered Employees (if applicable).
- b. PEO retains a right to hire, discipline, or terminate a Covered Employee to the extent necessary to fulfill PEO's obligations under this Agreement and state law.
- c. PEO will secure workers' compensation insurance coverage for Covered Employees in a manner consistent with Utah Code § 31A-40-209.

### 41. Vermont

- a. PEO and Client acknowledge joint and several liability for protections required by or damages due under state laws designated to protect the health, safety, or welfare of Covered Employees.

### 42. Virginia

- a. In the event that PEO elects to terminate this Agreement, Client will cooperate with PEO in providing written notification of such intent to terminate to each Covered Employee, as required by state law.
- b. Client retains responsibility to comply with the insuring requirement of § 65.2-801 of the Code of Virginia with respect to any of Client's workers who are not Covered Employees.

### 43. Washington

- a. Client will register and/or maintain its registration with the Washington Employment Security Department and obtain and/or maintain an employment security account number, in accordance with state law.

- b. Client will cooperate with PEO to complete and submit a Power of Attorney for Unemployment Insurance, in accordance with state law.

#### 44. West Virginia

- a. Pursuant to West Virginia Code Section 33-46A-6, PEO: (i) assumes responsibility for the payment of wages to Covered Employees; (ii) assumes responsibility for the withholding, collection, and remittance of payroll-related taxes (including unemployment insurance contributions) for, and on behalf of, Covered Employees; and (iii) assumes responsibility for making appropriate payments for the provision of employee benefits to Covered Employees (if any).
- b. Client retains the exclusive right to hire, discipline, and terminate Covered Employees.
- c. Unless the Parties agree in writing that Client shall provide and maintain workers' compensation insurance coverage for Covered Employees, PEO shall provide and maintain workers' compensation coverage for Covered Employees. Regardless which Party provides and maintains workers' compensation insurance coverage for Covered Employees, such coverage shall be from a carrier authorized to do business in West Virginia.

#### 45. Wisconsin

- a. Pursuant to Wisconsin's Statutes §108.02(21e), PEO: (i) retains a right to hire, terminate, reassign, and set the rate of pay of a Covered Employee; (ii) assumes responsibility for the payment of wages to Covered Employees from its own accounts; (iii) reserves a right of direction and control over Covered Employees; (iv) assumes responsibility for the withholding, remittance, and reporting of payroll-related taxes (including unemployment insurance contributions) for, and on behalf of, Covered Employees; and (v) assumes responsibility for making appropriate payments for the provision of employee benefits to Covered Employees (if any).
- b. Client retains sufficient direction and control over Covered Employees as is necessary to conduct Client's business, to discharge any of Client's fiduciary responsibilities, or to comply with any licensure requirements applicable to Client or to a Covered Employee.
- c. Client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship, including the right to hire, discipline, set the rate of pay, and terminate a Covered Employee.

#### 46. Wyoming

- a. Client shares joint and several liability for any Covered Employees' unemployment taxes left unpaid by PEO or unemployment contribution reports for Covered Employees PEO failed to submit (if any).
- b. PEO reserves a right of direction and control over Covered Employees, including: (i) assigning Covered Employees to perform services for Client; (ii) setting the rate of pay of Covered Employees; (iii) assuming responsibility for the payment of wages to Covered Employees; (iv) retaining authority to assign or refuse to assign a Covered Employee to other clients of PEO if Covered Employee is unacceptable to Client; (v) determining assignments of Covered Employees even though Covered Employees may retain the right to refuse specific assignments; and (vi) negotiating with Client on matters of time, place, type of work, working conditions, quality and price of service.

# Lumen Scholar Institute

## Statement of Activities

Created on February 10, 2026  
For Prior Month

	Annual June 30, 2026 Budget	Year-to-Date January 31, 2026 Actual	% of Budget
<b>Net Income</b>			
Income			
Revenue From Local Sources	60,000	79,919	133.2 %
Revenue From State Sources	5,595,166	3,339,953	59.7 %
Revenue From Federal Sources	95,867	0	0.0 %
Total Income	<u>5,751,033</u>	<u>3,419,872</u>	<u>59.5 %</u>
Expenses			
Instruction/Salaries	3,474,078	1,601,964	46.1 %
Employee Benefits	565,670	236,962	41.9 %
Purchased Prof & Tech Serv	454,466	278,774	61.3 %
Purchased Property Services	75,547	23,445	31.0 %
Other Purchased Services	188,126	95,636	50.8 %
Supplies & Materials	614,573	187,328	30.5 %
Property	72,650	0	0.0 %
Debt Services & Miscellaneous	150,978	77,859	51.6 %
Total Expenses	<u>5,596,088</u>	<u>2,501,968</u>	<u>44.7 %</u>
<b>Total Net Income</b>	<u><u>154,945</u></u>	<u><u>917,904</u></u>	<u><u>592.4 %</u></u>

**Lumen Scholar Institute**  
**Statement of Financial Position**  
**Created on February 10, 2026**  
**For Prior Month**

	<b>Period Ending</b> <b>01/31/2026</b>	<b>Period Ending</b> <b>01/31/2025</b>
	<u>Actual</u>	<u>Actual</u>
<b>Assets &amp; Other Debits</b>		
Current Assets		
Operating Cash	4,090,539	3,201,200
Accounts Receivables	2,723	10,181
Total Current Assets	<u>4,093,262</u>	<u>3,211,381</u>
Net Assets		
Fixed Assets	969,852	941,307
Depreciation	(622,794)	(439,287)
Total Net Assets	<u>347,058</u>	<u>502,020</u>
<b>Total Assets &amp; Other Debits</b>	<b><u>4,440,320</u></b>	<b><u>3,713,401</u></b>
<b>Liabilities &amp; Fund Equity</b>		
Current Liabilities	39,724	5,547
Long-Term Liabilities	22,646	154,144
Fund Balance	3,460,045	2,684,285
Net Income	917,905	869,425
<b>Total Liabilities &amp; Fund Equity</b>	<b><u>4,440,320</u></b>	<b><u>3,713,401</u></b>

Financial Statements  
June 30, 2025

# Lumen Scholar Institute

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## Independent Auditor's Report

The Board of Directors  
Lumen Scholar Institute  
Orem, Utah

### Report on the Audit of the Financial Statements

#### *Opinions*

We have audited the financial statements of the governmental activities and the major fund of Lumen Scholar Institute (the School) as of and for the year ended June 30, 2025, and the related notes to the financial statements, which collectively comprise the School's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the School, as of June 30, 2025, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

#### *Basis for Opinions*

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the School, and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

#### *Responsibilities of Management for the Financial Statements*

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the School's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

## ***Auditor's Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the School's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the School's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, schedule of revenue, expenditures, and changes in fund balance – budget and actual – general fund and notes to the required supplementary information, as listed in the table of contents, be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's

responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated November 20, 2025, on our consideration of the School's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the effectiveness of the School's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the School's internal control over financial reporting and compliance.

*Eide Bailly LLP*

Ogden, Utah  
November 20, 2025

The discussion and analysis of the Lumen Scholar Institute's (the School) financial performance provides an overall review of financial activities for the fiscal year.

## **FINANCIAL HIGHLIGHTS**

During fiscal year 2025, the School experienced a slight decrease in enrollment, yet maintained strong financial growth. The School has an involved Board of Directors (the Board) and Director, both of which are fiscally responsible and active in monitoring school resources and spending. Additionally, the School applied for additional funding to expand programs. The School also benefited from increased values to the Weighted Pupil Unit (WPU) and Local Replacement Fund (LRF). Each of these factors led to a fiscally sound year.

## **OVERVIEW OF THE FINANCIAL STATEMENTS**

This discussion and analysis serve as an introduction to the School's basic financial statements. These financial statements include three primary components:

- Government-wide financial statements
- Fund financial statements
- Notes to the financial statements

The basic financial statements consist of two kinds of statements that present different views of the School's financial activities.

### **Government-Wide Financial Statements (GWFS)**

The GWFS (i.e., Statement of Net Position and Statement of Activities) provide readers with a broad overview of the School's finances. The government-wide statements report information about the School as a whole using accounting methods similar to those used by private-sector companies.

*The Statement of Net Position* provides information on all of the assets and liabilities of the School, with the difference between the two providing the net position. Increases or decreases in the net position may indicate whether the financial position of the School is improving or deteriorating, respectively.

*The Statement of Activities* reflects changes in net position during the fiscal year. Changes in net position are reported using the accrual basis of accounting, similar to that used by private-sector companies. Accrual basis accounting takes into account all current year related revenue and expenditures, regardless of when cash is received or paid.

The GWFS presents an aggregate view of the School's finances and contains useful long-term information as well as information for the just-completed fiscal year.

To assess the overall financial condition of the School, additional non-financial factors, such as changes in the condition of school buildings and other facilities, should be considered.

In the GWFS, the School's activities are all classified as governmental activities. Governmental activities include all regular and special education, all educational support activities, administration, custodial, maintenance, transportation, and food services. Most of these activities are supported by the State of Utah Minimum School Program. The GWFS can be found on pages 9-10 of this report.

### **Fund Financial Statements**

Funds are accounting devices the School uses to keep track of sources of funding and spending on particular programs and to demonstrate compliance with various regulatory requirements. Fund financial statements focus on individual parts of the School. Fund statements generally report operations in more detail than the government-wide statements. This statement focuses on its most significant or "major" funds and not on the School as a whole.

The School establishes other funds, as necessary, to control and manage money for particular purposes or to show that it is properly using certain revenue.

### **Governmental Funds**

Governmental funds account for nearly the same functions as the governmental activities. However, unlike the GWFS, governmental funds focus on near-term inflows and outflows as well as the balances left at year-end that are available for funding future basic services.

It is useful to compare information found in the governmental funds with that of the governmental activities. By doing so, readers may better understand the long-term impact of the School's near-term financing decisions.

The basic governmental funds financial statements can be found on pages 11-14 of this report.

### **Notes**

The notes to the financial statements starting on page 15 provide further explanation of some of the information in the statements and provide additional disclosures so statement users have a complete picture of the School's financial activities and position.

Required supplementary information further explains and supports the financial statements by including a comparison of the School's budget data for the year.

### Government-Wide Financial Analysis

Net position may serve as a useful indicator of an organization's financial position. For the School, it is a positive indicator.

	2025	2024
<b>Assets</b>		
Current and other assets	\$ 3,615,867	\$ 2,930,710
Capital assets	347,057	502,020
	\$ 3,962,924	\$ 3,432,730
<b>Liabilities</b>		
Current and other liabilities	\$ 480,234	\$ 594,302
Long-term liabilities	22,646	154,145
	502,880	748,447
<b>Net Position</b>		
Net investment in capital assets	324,411	347,875
Restricted	2,173	29,440
Unrestricted	3,133,460	2,306,968
	\$ 3,460,044	\$ 2,684,283

A portion of the School's net position is the investment in capital assets (i.e., furniture and equipment, capital improvements and right-to-use leased office space) and the related debt used to acquire those assets still outstanding. These capital assets provide services to students; consequently, these assets are not available for future spending. Restricted net position is restricted for debt service and program restrictions. The remaining portion of the School's net position is unrestricted.

### Governmental Activities

Changes in Net Position – The table below shows the changes in net position for the fiscal years 2025 and 2024. The School relies on state and federal support for 98% of its governmental activities for the year ended June 30, 2025. The School had total revenue of \$5,697,820 and total expenses of \$4,922,059 during the year ended June 30, 2025. The School had an increase in net position of \$775,761 during the year ended June 30, 2025. The increase in net position is primarily due to increases in the WPU and LRF. The Director and Board of Directors are also very involved in monitoring finances and ensuring fiscal responsibility.

	2025	2024	Change
<b>Revenue</b>			
Program revenue			
State and federal aid	\$ 5,573,933	\$ 5,245,855	\$ 328,078
Operating grants and contributions	29	443	(414)
Earnings on investments	95,141	74,806	20,335
Other local revenue	28,717	3,505	25,212
	<u>5,697,820</u>	<u>5,324,609</u>	<u>373,211</u>
<b>Expenses</b>			
Instructional	3,086,791	2,583,901	502,890
Support services			
Students	527,033	589,638	(62,605)
Staff assistance	49,777	39,354	10,423
General	14,980	14,300	680
School administration	678,154	585,140	93,014
Central services	301,839	350,779	(48,940)
Operation and maintenance of facilities	253,522	202,062	51,460
Transportation	5,700	1,722	3,978
Interest and other costs	4,263	9,913	(5,650)
	<u>4,922,059</u>	<u>4,376,809</u>	<u>545,250</u>
Change in Net Position	<u>\$ 775,761</u>	<u>\$ 947,800</u>	<u>\$ (172,039)</u>

**Governmental Funds**

The focus of the School's governmental funds is to provide balances of spendable resources and to provide data on near-term inflows and outflows.

General Fund – The general fund is the general operating fund for the School. At the end of the current fiscal year, the general fund balance is \$3,135,633, which is an increase of \$799,225 from the prior year. The increase is primarily due to increases in WPU and LRF calculations and sound fiscal monitoring and decision making.

Expenditures for general School purposes totaled \$4,898,595, which is an increase of \$333,087 from the prior year. This increase is primarily due to an increase in instructional expenditures of \$502,890.

General fund salaries totaled \$3,230,876, while the associated fringe benefits of retirement, social security, unemployment, workers compensation, health, dental, and vision added \$488,072 to arrive at 76% of the School's general fund expenditures.

### **Budgetary Highlights**

The School adopts an original budget in June for the subsequent year.

Actual expenditures in the general fund were \$519,129 less than the amended budget. This was due to close monitoring when amending the budget allowing for unexpected expenses.

### **Capital Assets**

The School has invested \$969,851 in a wide range of capital assets, but primarily in furniture and equipment and right-to-use leased office space. The total accumulated depreciation and amortization on these assets amounts to \$622,794. There were capital asset additions of \$57,034 for fiscal year 2025. Additional information regarding the School's capital assets can be found in Note 3 to the basic financial statements.

### **Leases**

The School has a lease for office space. The lease payable has a balance of \$22,646 as of June 30, 2025, and matured August 2025. The School entered into a new lease for office space effective September 2025. See Note 4 to the basic financial statements for more information about leases.

### **Requests for Information**

This financial report is designed to provide our citizens, taxpayers, customers, and investors and creditors with a general overview of the School's finances and to demonstrate the School's accountability for the money it receives. If you have questions about this report or need additional financial information, contact the School at 1353 West 760 North, Orem, Utah 84057, or by phone at 801-987-9497.

Lumen Scholar Institute  
Statement of Net Position  
June 30, 2025

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	Governmental Activities
<b>Assets</b>	
Cash	\$ 3,468,250
State receivables	66,582
Federal receivables	78,413
Other receivables	2,622
Capital assets (net of accumulated depreciation and amortization)	347,057
Total assets	3,962,924
<b>Liabilities</b>	
Accounts payable	75,446
Accrued liabilities	404,788
Long-term liabilities	
Due within one year - lease payable	22,646
Total liabilities	502,880
<b>Net Position</b>	
Net investment in capital assets	324,411
Restricted for	
Educator professional time	2,173
Unrestricted	3,133,460
Total net position	\$ 3,460,044

Lumen Scholar Institute  
Statement of Activities  
Year Ended June 30, 2025

Functions/Programs	Expenses	Program Revenue		Net
		Charges for Services	Operating Grants and Contributions	Revenue (Expense) and Changes in Net Position
<i>Governmental activities</i>				
Instructional	\$ 3,086,791	\$ -	\$ 3,035,382	\$ (51,409)
Support services				
Students	527,033	-	-	(527,033)
Staff assistance	49,777	-	-	(49,777)
General	14,980	-	-	(14,980)
School administration	678,154	-	-	(678,154)
Central services	301,839	-	-	(301,839)
Operation and maintenance of facilities	253,522	-	-	(253,522)
Transportation	5,700	-	-	(5,700)
Interest and other costs	4,263	-	-	(4,263)
<b>Total Governmental Activities</b>	<b>\$ 4,922,059</b>	<b>\$ -</b>	<b>\$ 3,035,382</b>	<b>(1,886,677)</b>
<b>General Revenue</b>				
Grants and contributions not restricted to specific programs				
State aid				2,538,580
Interest earnings				95,141
Miscellaneous				28,717
<b>Total general revenue</b>				<b>2,662,438</b>
<b>Change in Net Position</b>				<b>775,761</b>
<b>Net Position, Beginning of Year</b>				<b>2,684,283</b>
<b>Net Position, End of Year</b>				<b>\$ 3,460,044</b>

Lumen Scholar Institute  
Balance Sheet – Governmental Funds  
June 30, 2025

	General
<b>Assets</b>	
Cash	\$ 3,468,250
State receivables	66,582
Federal receivables	78,413
Other receivables	2,622
Total assets	\$ 3,615,867
<b>Liabilities and Fund Balance</b>	
<b>Liabilities</b>	
Accounts payable	\$ 75,446
Accrued liabilities	404,788
Total liabilities	480,234
<b>Fund Balance</b>	
Restricted for	
Educator professional time	2,173
Unassigned	3,133,460
Total fund balance	3,135,633
	\$ 3,615,867

Lumen Scholar Institute  
 Reconciliation for Governmental Funds Balance Sheet to the Statement of Net Position  
 June 30, 2025

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Total Fund Balance - Governmental Funds \$ 3,135,633

The cost of capital assets (furniture and equipment, capital improvements, and right-to-use leased office space) purchased or constructed is reported as an expenditure in governmental funds. The statement of net position includes those capital assets among the assets of the School as a whole. The cost of those capital assets is allocated over their estimated useful lives (as depreciation and amortization expense) to the various programs reported as governmental activities in the statement of activities. Because depreciation and amortization expense does not affect financial resources, it is not reported in government funds.

Costs of capital assets	969,851	
Depreciation and amortization expense to date	<u>(622,794)</u>	347,057

Long-term liabilities applicable to governmental activities are not due and payable in the current period and therefore are not reported as fund liabilities. All liabilities, both current and long-term, are reported in the statement of net position. Balances at year end are:

Lease payable	<u>(22,646)</u>	
Net Position	<u><u>\$ 3,460,044</u></u>	

Lumen Scholar Institute  
Statement of Revenue, Expenditures, and Changes in Fund Balance – Governmental Funds  
Year Ended June 30, 2025

	General
Revenue	
State aid	\$ 5,353,075
Federal aid	220,858
Earnings on investments	95,141
Other local sources	28,746
Total revenue	5,697,820
Expenditures	
Instructional	3,086,791
Support services	
Students	527,033
Staff assistance	49,777
General	14,980
School administration	678,154
Central services	301,839
Operation and maintenance of facilities	41,525
Transportation	5,700
Total support services	1,619,008
Non-instructional	
Capital outlay	57,034
Debt service	
Principal	131,499
Interest and other costs	4,263
Total debt service	135,762
Total expenditures	4,898,595
Net Change in Fund Balance	799,225
Fund Balance, Beginning of Year	2,336,408
Fund Balance, End of Year	\$ 3,135,633

Lumen Scholar Institute  
 Reconciliation of Governmental Funds Statement of Revenue, Expenditures,  
 and Changes in Fund Balance to the Statement of Activities  
 Year Ended June 30, 2025

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Total Net Change in Fund Balance - Governmental Funds \$ 799,225

Amounts reported for governmental activities in the statement of activities are different because:

Capital outlay is reported in governmental funds as expenditures. However, in the statement of activities, the cost of those assets is allocated over their estimated useful lives as depreciation and amortization expense. This is the amount by which depreciation and amortization expense exceeded capital outlay during the fiscal year:

Capital outlay	57,034	
Depreciation and amortization expense	(211,997)	
	(154,963)	(154,963)

The governmental funds report repayment of long-term liability payments as expenditures. Interest is recognized as an expenditure in the governmental activities when it is due. In the statement of activities, interest expense is recognized as it accrues, regardless of when it is due. The net effect of these differences in the treatment of debt and related items is as follows:

Repayment of lease payable principal		131,499
		131,499
Change in Net Position of Governmental Activities		\$ 775,761

## **Note 1 - Summary of Significant Accounting Policies**

Lumen Scholar Institute (the School) was incorporated in the State of Utah on July 15, 2014, as a nonprofit organization involved in public education. The School operates a public charter school in Orem, Utah, and serves students from kindergarten through grade twelve. The School seeks to inspire students to the highest level of achievement excellence. The School provides the following activities: education, encompassing instruction, student and staff support activities, and facilities maintenance and operation. Supporting services include general and administrative services which are overall entity-related administrative costs.

The financial statements of the School have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to local government units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The more significant accounting policies of the School are described below.

### **Financial Reporting Entity**

The School follows GASB in determining the reporting entity and component units. The financial reporting entity consists solely of the primary government. Accordingly, the financial statements include all funds and agencies of the primary government whose budgets are controlled or whose boards are appointed by the Board.

The accounts of the School are organized and operated on the basis of funds. A fund is an independent fiscal and accounting entity with a self-balancing set of accounts. Fund accounting segregates funds according to their intended purpose and is used to aid management in demonstrating compliance with finance-related legal and contractual provisions. The minimum number of funds is maintained consistent with legal and managerial requirements.

The funds of the School are classified as governmental funds. The fund classifications and a description of each existing fund type follow:

### **Governmental Funds**

Governmental funds are used to account for the School's general government activities, including the collection and disbursement of specific or legally restricted monies, the acquisition or construction of general fixed assets, and the servicing of general long-term debt. The general fund is considered a major fund.

Governmental funds include:

General fund – the primary operating fund of the School accounts for all financial resources, except those required to be accounted for in other funds.

### **Measurement Focus and Basis of Accounting**

#### **Government-Wide Financial Statements (GWFS)**

The statement of net position and the statement of activities display information about the reporting government as a whole.

The statement of net position and the statement of activities were prepared using the economic resources measurement focus and the accrual basis of accounting. Revenue, expenses, gains, losses in assets and liabilities resulting from exchange and exchange-like transactions are recognized when the exchange takes place. Revenue, expenses, gains, losses, assets, and liabilities resulting from nonexchange transactions are recognized in accordance with the requirements of GASB Statement No. 33 *Accounting and Financial Reporting for Nonexchange Transactions* in the GWFS.

#### **Program Revenue**

Program revenue included in the statement of activities is derived directly from the program itself or from parties outside the School's citizenry, as a whole; program revenue reduces the cost of the function to be financed from the School's general revenue. Program revenue includes charges to students or applicants who purchase, use, or directly benefit from the goods or services provided by the given function.

#### **Fund Financial Statements**

##### **Governmental Funds**

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. Governmental fund types use the flow of current financial resources measurement focus and the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenue is recognized when susceptible to accrual, defined as measurable and available. Measurable means the amount of the transaction can be determined, and available means collectible within the current period or soon enough thereafter to pay liabilities of the current period. The School considers all revenue available if they are collected within 90 days after year-end. Expenditures are recorded when the related fund liability is incurred, except for unmatured principal and interest on general long-term debt, which is recognized when due, and certain compensated absences and claims and judgments which are recognized when the obligations are expected to be liquidated with expendable available financial resources. With this measurement focus, only current assets and current liabilities and deferred outflows and inflows of resources, as applicable, are generally included on the balance sheet. Operating statements of these funds present increases and decreases in fund balance.

The governmental funds use the following practices in recording revenue and expenditures:

### **Revenue**

Entitlements and shared revenue (which include state equalization and state revenue sharing) are recorded as unrestricted grants-in-aid at the time of receipt or earlier if the susceptible to accrual criteria are met. Expenditure-driven grants are recognized as revenue when the qualifying expenditures have been incurred and all other grant requirements have been met and the susceptible to accrual criteria have been met.

Other receipts become measurable and available (collected within 90 days of year-end) when cash is received by the School and are recognized as revenue at that time. The School's period of availability is 90 days subsequent to year end.

### **Expenditures**

Expenditures are generally recorded when the related fund liability is incurred. General capital asset acquisitions are reported as expenditures in governmental funds. The School has employees who do not work year-round, but receive salary payments on a monthly basis; salaries earned, but unpaid, have been accrued as of June 30, 2025.

### **Receivables**

All receivables are shown net of any allowance for uncollectible amounts. No allowances for uncollectible items have been recorded as of June 30, 2025.

### **Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates, and those differences could be material.

### **Capital Assets**

Capital assets are recorded at historical cost and depreciated and amortized over their estimated useful lives (excluding salvage value). Donated capital assets are recorded at their estimated acquisition value at the date of donation. Estimated useful lives are management's estimate of how long the asset is expected to meet service demands. The School's capitalization threshold is \$5,000. The cost of normal maintenance and repairs not adding to the value of the asset or materially extending asset lives are not capitalized.

Straight-line depreciation is used based on the following estimated useful lives:

Furniture and equipment	3-7 years
Capital improvements	10 years

Right-to-use leased assets are recognized at the lease commencement date and represent the School's right to use an underlying asset for the lease term. Right-to-use leased assets are measured at the initial value of the lease liability plus any payments made to the lessor before commencement of the lease term, less any lease incentives received from the lessor at or before the commencement of the lease term, plus any initial direct costs necessary to place the lease asset into service. Right-to-use leased assets are amortized over the shorter of the lease term or useful life of the underlying asset using the straight-line method. The amortization period matches the period of the lease.

### **Leases**

The School is a lessee for a non-cancellable lease of office space. The School recognizes a lease liability and an intangible right-to-use lease asset in the GWFS.

At the commencement of a lease, the School initially measures the lease liability at the present value of payments expected to be made during the lease term. Subsequently, the lease liability is reduced by the principal portion of lease payments made.

Key estimates and judgments related to leases include how the School determines (1) the discount rate it uses to discount the expected lease payments to present value, (2) lease term, and (3) lease payments.

- The School uses the interest rate charged by the lessor as the discount rate. When the interest rate charged by the lessor is not provided, the School generally uses its estimated incremental borrowing rate as the discount rate for leases.
- The lease term includes the non-cancellable period of the lease. Lease payments included in the measurement of the lease liability are composed of fixed payments and purchase option price that the School is reasonably certain to exercise.

The School monitors changes in circumstances that would require a remeasurement of its leases and will remeasure the lease assets and liabilities if certain changes occur that are expected to significantly affect the amount of the lease liability. Lease assets are reported with capital assets and lease liabilities are reported with long-term debt on the statement of net position.

### **Restricted Net Position**

For the government-wide statement of net position, net position is reported as restricted when constraints placed on net position use is either:

Externally imposed by creditors (such as debt covenants), grantors, contributors, or laws or regulations of other governments;

Imposed by law through constitutional provisions or enabling legislation.

It is the School's policy to consider restricted-net position to have been depleted before unrestricted-net position is applied.

#### Fund Balances of Fund Financial Statements

The governmental fund financial statements present fund balance based on classifications that comprise a hierarchy based primarily on the extent to which the School is bound to honor constraints on the specific purposes for which amounts in the respective governmental funds can be spent. The classifications used in the governmental fund financial statements are as follows:

**Nonspendable:** This classification includes amounts that cannot be spent because they are either (a) not in spendable form or (b) are legally or contractually required to be maintained intact. The School has historically shown prepaids as being nonspendable as these items are not expected to be converted to cash or are not expected to be converted to cash within the next year.

**Restricted:** This classification includes amounts for which constraints have been placed on the use of the resources either (a) externally imposed by creditors (such as through a debt covenant), grantors, contributors, or laws or regulations of other governments; or (b) imposed by law through constitutional provisions or enabling legislation. Debt service resources are to be used for future servicing of the general obligations and are restricted through debt covenants.

**Committed:** This classification includes amounts that can be used only for specific purposes pursuant to constraints imposed by formal action by the Board. These amounts cannot be used for any other purpose unless the Board removes or changes the specified use by taking the same type of action (resolution) that was employed when the funds were initially committed.

**Assigned:** This classification includes amounts that are constrained by the Board's intent to be used for a specific purpose but are neither restricted nor committed. This intent can be expressed by the Board or by the Board delegating this responsibility to the Chief Administrative Officer or her designee through the budgetary process.

**Unassigned:** This classification includes the residual fund balance for the general fund and the amount established for minimum funding.

The School has a policy to use restricted fund balances first, followed by committed resources and then assigned resources, as appropriate opportunities arise, but reserves the right to selectively spend unassigned resources first to defer the use of these other classified funds.

#### Grants and Other Intergovernmental Revenue

Federal and state reimbursement-type grants are recorded as intergovernmental revenue when the related expenditures and expenses are incurred and, in the governmental funds, when the revenue meets the availability criterion.

**Note 2 - Cash**

At June 30, 2025, the School’s cash consisted of the following:

Cash		
Insured		\$ 250,000
Uninsured and not collateralized		<u>3,218,250</u>
Total balance of deposits		<u>\$ 3,468,250</u>

The State of Utah Money Management Council has the responsibility to advise the State Treasurer about investment policies, promote measures and rules that will assist in strengthening the banking and credit structure of the state, and review the rules adopted under the authority of the State of Utah Money Management Act (the Act) that relate to the deposit and investment of public funds.

The School follows the requirements of the Act (Utah Code, Title 51, Chapter 7) in handling its depository and investment transactions. The Act requires the depositing of School funds in a qualified depository. The Act defines a qualified depository as any financial institution whose deposits are insured by an agency of the federal government and which has been certified by the State Commissioner of Financial Institutions as meeting the requirements of the Act and adhering to the rules of the Utah Money Management Council.

The Act defines the types of securities authorized as appropriate investments for the School’s funds and the conditions for making investment transactions. Investment transactions may be conducted only through qualified depositories, certified dealers, or directly with issuers of the investment securities.

**Custodial Credit Risk**

For deposits and investments, custodial credit risk is the risk that, in the event of the failure of the counterparty, the School will not be able to recover the value of its deposits, investments, or collateral securities that are in the possession of an outside party. The School's policy for managing custodial credit risk is to adhere to the Act. The Act requires all deposits of the School to be in a qualified depository, defined as any financial institution whose deposits are insured by an agency of the federal government and which has been certified by the Commissioner of Financial Institutions as meeting the requirements of the Act and adhering to the rules of the Utah Money Management Council.

**Credit Risk**

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The School’s policy for reducing its exposure to credit risk is to comply with the Act, as previously discussed.

### **Concentration of Credit Risk**

Concentration of credit risk is the risk of loss attributed to the magnitude of the School's investment in a single issuer. The School's policy for reducing this risk of loss is to comply with the Rules of the Money Management Council. Rule 17 of the Money Management Council limits investments in a single issuer of commercial paper and corporate obligations to 5-10% depending upon the total dollar amount held in the portfolio.

### **Interest Rate Risk**

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The School's policy for managing its exposure to fair value loss arising from increasing interest rates is to comply with the Act. Section 51-7-11 of the Act requires that the remaining term to maturity of investments may not exceed the period of availability of the funds to be invested. The Act further limits the remaining term to maturity on all investments in commercial paper, bankers' acceptances, fixed rate negotiable deposits, and fixed-rate corporate obligations to 270 days - 15 months or less. The Act further limits the remaining term to maturity on all investments in obligations of the United States Treasury; obligations issued by U.S. government sponsored enterprises; and bonds, notes, and other evidence of indebtedness of political subdivisions of the state to five years. In addition, variable rate negotiable deposits and variable rate securities may not have a remaining term to final maturity exceeding three years.

**Note 3 - Capital Assets**

A summary of activity in the capital assets is as follows:

	<u>June 30, 2024</u>	<u>Additions</u>	<u>Deletions</u>	<u>June 30, 2025</u>
Capital assets being depreciated and amortized				
Furniture and equipment	\$ 413,803	\$ 57,034	\$ -	\$ 470,837
Right-to-use leased office space	486,069	-	-	486,069
Computers	28,490	-	(28,490)	-
Capital improvements	12,945	-	-	12,945
	<u>941,307</u>	<u>57,034</u>	<u>(28,490)</u>	<u>969,851</u>
Less accumulated depreciation and amortization				
Furniture and equipment	(61,432)	(86,862)	-	(148,294)
Right-to-use leased office space	(349,970)	(116,657)	-	(466,627)
Computers	(22,160)	(6,330)	28,490	-
Capital improvements	(5,725)	(2,148)	-	(7,873)
	<u>(439,287)</u>	<u>(211,997)</u>	<u>28,490</u>	<u>(622,794)</u>
Total capital assets, subject to depreciation and amortization	<u>502,020</u>	<u>(154,963)</u>	<u>-</u>	<u>347,057</u>
Total capital assets, net	<u>\$ 502,020</u>	<u>\$ (154,963)</u>	<u>\$ -</u>	<u>\$ 347,057</u>

Depreciation and amortization expense was charged to operation and maintenance of facilities function of the School.

**Note 4 - Leases**

A summary of activity for the lease liability is as follows:

	<u>Balance at June 30, 2024</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance at June 30, 2025</u>	<u>Due Within One Year</u>
Lease liability	\$ 154,145	\$ -	\$ (131,499)	\$ 22,646	\$ 22,646

In a prior year, the School entered into an agreement to lease office space for 60 months. As of July 1, 2021, upon adoption of GASB 87, an initial lease liability was recorded in the amount of \$486,069. As of June 30, 2025, the value of the lease liability was \$22,646. Under the terms of the lease, the School pays a monthly base fee of \$9,733, increasing 4.0% annually on the anniversary of the agreement. The right-to-use asset is being amortized over the life of the lease. The value of the right to use asset as of June 30, 2025, was \$486,069 and had accumulated amortization of \$466,627. The School used a discount rate of 4.50% based on estimated incremental borrowing rate.

Remaining obligations associated with this lease are:

<u>Years Ending June 30,</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2026	<u>\$ 22,646</u>	<u>\$ 127</u>	<u>\$ 22,773</u>

**Note 5 - Concentrations**

The School’s principal source of support is state and federal-based support revenue. For the year ended June 30, 2025, these funding sources accounted for approximately 98% of all revenue.

**Note 6 - Benefit Plan**

The School has a 401(k) retirement plan. All employees 21 years of age are eligible to participate in the plan. The School contributes 4% of all eligible employee’s salaries to the plan. For the year ended June 30, 2025, the School made matching contributions of \$61,313.

**Note 7 - Subsequent Event**

Effective September 1, 2025 the School entered into a new lease agreement to lease office space for 60 months. Under the terms of the lease, the School pays a monthly base fee of \$11,842, increasing 4.0% annually on the anniversary of the agreement

Required Supplementary Information  
June 30, 2025  
Lumen Scholar Institute

Lumen Scholar Institute

Schedule of Revenue, Expenditures, and Changes in Fund Balance – Budget and Actual – General Fund  
Year Ended June 30, 2025

	Budgeted Amounts		Actual Amounts	Variance with Final Budget- Positive (Negative)
	Original	Final		
Revenue				
State aid	\$ 5,154,674	\$ 5,308,374	\$ 5,353,075	\$ 44,701
Federal aid	77,200	220,858	220,858	-
Earnings on investments	40,000	94,936	95,141	205
Other local sources	-	28,649	28,746	97
Total revenue	<u>5,271,874</u>	<u>5,652,817</u>	<u>5,697,820</u>	<u>45,003</u>
Expenditures				
Instructional	<u>3,567,005</u>	<u>3,801,464</u>	<u>3,086,791</u>	<u>714,673</u>
Support services				
Students	550,268	476,588	527,033	(50,445)
Staff assistance	8,629	29,798	49,777	(19,979)
General	12,985	14,980	14,980	-
School administration	507,667	511,033	678,154	(167,121)
Central services	323,337	355,391	301,839	53,552
Operation and maintenance of facilities	167,960	31,427	41,525	(10,098)
Transportation	4,247	4,247	5,700	(1,453)
Total support services	<u>1,575,093</u>	<u>1,423,464</u>	<u>1,619,008</u>	<u>(195,544)</u>
Non-instructional				
Capital outlay	<u>-</u>	<u>57,034</u>	<u>57,034</u>	<u>-</u>
Debt service				
Principal	-	131,499	131,499	-
Interest and other costs	-	4,263	4,263	-
Total debt service	<u>-</u>	<u>135,762</u>	<u>135,762</u>	<u>-</u>
Total expenditures	<u>5,142,098</u>	<u>5,417,724</u>	<u>4,898,595</u>	<u>519,129</u>
Net Change in Fund Balance	<u>\$ 129,776</u>	<u>\$ 235,093</u>	<u>\$ 799,225</u>	<u>\$ 564,132</u>

**Note 1 - Basis of Budgeting**

The School follows these procedures in establishing the budgetary data reflected in the financial statements.

1. The School's Principal is appointed as the budget officer. Before June 1 of each year, the budget officer shall prepare a tentative budget, with supporting documentation, to be submitted to the Board.
2. The tentative budget and supporting documents shall include the following items:
  - a. The revenue and expenditures of the preceding fiscal year,
  - b. The estimated revenue and expenditures of the current fiscal year,
  - c. A detailed estimate of the essential expenditures for all the purposes for the next succeeding fiscal year, and
  - d. The estimated financial condition of the School at the close of the fiscal year.
3. The tentative budget shall be filed with the School's Principal for public inspection at least 15 days before the date of the tentative budget's proposed adoption by the Board.
4. Before June 30 of each year, the Board will adopt a budget for the next fiscal year.
5. By the sooner of July 15 or 30 days of adopting a budget, the Board will file a copy of the adopted budget with the state auditor and the State Board of Education.

Supplementary Information  
June 30, 2025  
Lumen Scholar Institute



**Independent Auditor’s Report on Internal Control over Financial Reporting and on Compliance  
and Other Matters Based on an Audit of Financial Statements Performed  
in Accordance with *Government Auditing Standards***

The Board of Directors  
Lumen Scholar Institute  
Orem, Utah

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States (*Government Auditing Standards*), the financial statements of the governmental activities and the major fund of Lumen Scholar Institute (the School), as of and for the year ended June 30, 2025, and the related notes to the financial statements, which collectively comprise the School’s basic financial statements and the related notes to the financial statements and have issued our report thereon dated November 20, 2025.

**Report on Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the School's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements but not for the purpose of expressing an opinion on the effectiveness of the School’s internal control. Accordingly, we do not express an opinion on the effectiveness of the School’s internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the School’s financial statements will not be prevented or detected and corrected, on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

## **Report on Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the School's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

### **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing and not to provide an opinion on the effectiveness of the School's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the School's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

The image shows a handwritten signature in black ink that reads "Eric Sully LLP". The signature is written in a cursive, flowing style.

Ogden, Utah  
November 20, 2025



**Independent Auditor's Report on Compliance and Report on Internal Control over Compliance  
as Required by the *State Compliance Audit Guide***

The Board of Directors  
Lumen Scholar Institute  
Orem, Utah

**Report on Compliance**

We have audited Lumen Scholar Institute's (the School) compliance with the applicable state compliance requirements described in the *State Compliance Audit Guide*, issued by the Office of the Utah State Auditor, for the year ended June 30, 2025.

State compliance requirements were tested for the year ended June 30, 2025, in the following areas:

- Budgetary Compliance
- Fraud Risk Assessment
- Cash Management
- Crime Insurance for Public Treasurers
- Internal Control Systems
- Public Education Programs

**Opinion on Compliance**

In our opinion, the School complied, in all material respects, with the state compliance requirements referred to above for the year ended June 30, 2025.

**Basis for Opinion**

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); and the *State Compliance Audit Guide* (Guide), issued by the Office of the Utah State Auditor. Our responsibilities under those standards and the *State Compliance Audit Guide* are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the School and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion. Our audit does not provide a legal determination of the School's compliance with the compliance requirements referred to above.

## **Responsibilities of Management for Compliance**

Management is responsible for compliance with the state requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with requirements of laws, statutes, regulations, rules, and provisions of contracts or grant agreements applicable to the School's government programs.

## **Auditor's Responsibilities for the Audit of Compliance**

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the School's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Guide will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the School's compliance with the requirements of the government program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Guide, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the School's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of the School's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Guide but not for the purpose of expressing an opinion on the effectiveness of the School's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

## **Other Matters**

The results of our auditing procedures disclosed an instance of noncompliance, which is required to be reported in accordance with the Guide and which is described in the accompanying schedule of findings and recommendations as item 2025-A. Our opinion on compliance is not modified with respect to this matter.

*Government Auditing Standards* requires the auditor to perform limited procedures on the School's response to the noncompliance findings identified in our audit described in the accompanying schedule of findings and recommendations. The School's response was not subjected to the other auditing procedures applied in the audit of compliance, and accordingly, we express no opinion on the response.

### **Report on Internal Control over Compliance**

*A deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent or to detect and correct noncompliance with a state compliance requirement on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a state compliance requirement will not be prevented or detected and corrected on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a state compliance requirement that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

### **Purpose of this Report**

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control and compliance and the results of that testing based on the requirements of the Guide. Accordingly, this report is not suitable for any other purpose. However, pursuant to *Utah Code* Title 63G, Chapter 2, this report is a matter of public record, and as such, its distribution is not limited.

The signature is written in a cursive, handwritten style. It reads "Eide Bailly LLP". The letters are fluid and connected, with a prominent "E" at the start and "LLP" at the end.

Ogden, Utah  
November 20, 2025

**2025-A Crime Insurance for Public Treasurers**

*Criteria:* The Crime Insurance for Public Treasurers guidelines require the governing body to have a certain amount of crime insurance coverage based on the budgeted gross revenue for the previous fiscal year.

*Condition:* The School's crime insurance coverage did not meet the minimum insurance threshold as required.

*Cause:* The School's crime insurance coverage did not meet the minimum insurance threshold as required.

*Effect:* The School failed to comply with the guidelines of the Crime Insurance for Public Treasurers.

*Recommendation:* We recommend that the School increase their current crime insurance coverage to be in compliance with the minimum insurance coverage required.

*Management Response:* Management agrees with this finding and plans to increase their current crime insurance coverage to be in compliance with the minimum insurance coverage required.

## Policy 115: Student Conduct and Discipline

Original Adopted Date: 10/13/2015 | Last Revised Date: 02/19/2026 | Last Reviewed Date: 02/19/2026

### Purpose

The purpose of Lumen Scholar Institute's (the "School") Student Conduct and Discipline Policy is to help all students develop positive relationships with other students and adults, take responsibility for their actions and learning, and develop the self-discipline necessary to create an environment that is characterized by physical and emotional safety in order to enhance learning for everyone.

### Definitions

1. Suspension means a temporary removal of a student from School-related and School-sponsored activities for a period of up to one (1) year. Suspension means the same as defined in R277-100-2 and as described in Utah Code Ann. § 53G-8-206 and includes both in-school suspension and out-of-school suspension.
  - a. A student who is suspended for ten (10) or fewer school days may, at the administration's discretion, have access to homework, tests, and other schoolwork but will not be allowed to attend or participate in any classes or other School activities during the period of suspension.
  - b. A student who is suspended for more than ten (10) school days shall be provided, or at least offered, alternative education services by the School, but such students will not be allowed to attend classes or participate in any School activities during the period of suspension.
2. Expulsion means a disciplinary removal from the School for more than ten (10) school days without an offer of alternative education services. An expulsion may be for a fixed or indefinite period of time. If a student is expelled from the School, that student's status as an enrolled student of the School is terminated. Expelled students are excluded from all School programs or activities for the period of expulsion.
3. Gang means any ongoing organization, association or group of three or more persons, whether formal or informal, having as one its primary activities the commission of criminal acts, which has a unique name or identifiable signs, symbols, or marks, and whose members individually or collectively engage in criminal or violent behavior to persons or property, or who create an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of a school.
4. Change of Placement (for Students with Disabilities under IDEA and Section 504) means the removal of a student with a disability from the student's current educational placement. A "change of placement" occurs if the removal is for more than ten (10) consecutive school days or the student is subjected to a series of removals that constitute a pattern because they total more than ten (10) school days in a school year or because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another. Any "change of placement" requires compliance with the procedures outlined in Section I of this policy.

5. Disruptive Student Behavior means the behavior identified as grounds for suspension or expulsion described in Section C, below.
6. Parent means a custodial parent of a school-age child, a legally appointed guardian of a school-age child, or any other person purporting to exercise any authority over the child which could be exercised by a person described above.
7. Qualifying Minor means a school-age child who is at least nine years old, or turns nine years old at any time during the school year.
8. School Year means the period of time designated as the school year by the Board of Trustees (the "Board") in the calendar adopted each year.
9. School-age child means a minor who (i) is at least six years old but younger than 18 years old; and (ii) is not emancipated.

## **Policy**

### **A. Beliefs, Expectations, and Philosophy**

1. The School will foster a School and community-wide expectation of good citizenship for students and a sense of responsibility in the School community for rules and standards of behavior. The School will promote and require:
  - a. Student responsibility for learning and behavior;
  - b. Student conduct that produces a proper learning environment and respect for the personal, civil, and property rights of all members of the School community; and
  - c. Parents of all students to assume proper responsibility for their students' behavior and to cooperate with School authorities in encouraging student self-discipline and discouraging behavior that is disruptive to the School's educational program.
2. The School's beliefs and expectations set a positive and inviting culture for dealing with student behavior issues:
  - a. Beliefs:
    - i. Punishment alone will not change behavior;
    - ii. Much aggressive behavior is a relationship problem, not a behavior problem;
    - iii. Adults must model the behaviors they expect from the students; and
    - iv. We expect conflicts, but we expect conflicts to be resolved and relationships mended.
  - b. Expectations:
    - i. Students will show respect for other students;
    - ii. Students will show respect for adults;
    - iii. Adults will show respect for students; and
    - iv. Students will develop self-discipline.
3. The School recognizes that establishing a procedural philosophy consistent with the desired positive school environment is as important as following legal and due process procedures. The School's policy sets forth appropriate legal and due process procedures and will be followed within the context of the procedural philosophy outlined below:

- a. When students are involved in conflicts with other students, they will, when appropriate:
  - i. Work together to resolve the conflict;
  - ii. Work to repair the relationship and build trust; and
  - iii. Be subject to additional consequences if they exhibit unsafe behaviors during the conflict.
- b. When students are involved in a conflict with or feel they have been treated unfairly by a member of the staff or a volunteer, they will:
  - i. Report their feelings to their parent or to the administrator or counselor, who will work together to set up a conference with the student, the parent, an administrator or counselor, and/or the adult involved in order to resolve the conflict and mend the relationship.
- c. When students flagrantly disregard the safety of others, show blatant disrespect to others, or consistently behave in a disrespectful or unsafe way:
  - i. The student will be subjected to consequences and positive behavior support to ensure that the student will make better choices in the future. Consequences might include:
    1. Suspension;
    2. Expulsion;
    3. Restitution; and
    4. Repayment for damages.
- d. The student will work to earn back the trust of the school community by actions such as:
  - i. Genuine apology to injured or affected parties;
  - ii. Demonstration of appropriate behaviors following the incident; and
  - iii. Repair or replace any damaged items.
- e. Due process to protect the rights of students will include:
  - i. All students will be treated with dignity and respect as they go through correction procedures. The administration will see to it that their rights are protected through the process. If parents feel their student has not been treated fairly, they may follow the School's Stakeholder Grievance Policy or the provisions in this policy, as applicable;
  - ii. Parents will be notified when students are involved in situations that are deemed to be serious; and
  - iii. Parents and students will be notified of the expectations, possible consequences, and the procedures involved in this policy at the beginning of each school year.

## **B. Environment**

1. **Safe School Environment:** It is the School's policy to promote a safe and orderly school environment for all students and employees. Accordingly, the School holds all students, employees, and other adults to the highest standards of behavior in connection with the use of the School's electronic resources and while participating in School-related or School-sponsored activities. Criminal acts or disruptive behavior of any kind will not be

tolerated, and any individual who engages in such activity will be subject to disciplinary action, criminal prosecution, or both; and

2. **Discrimination Prohibited:** It is the School's policy to provide equal educational and employment opportunity for all individuals. Therefore, the School prohibits all discrimination on the basis of race, color, religion, sex, age, national origin, disability, or veteran status. Complaints of discrimination or unfair application of this policy should be submitted pursuant to the School's Stakeholder Grievance Policy.

**C. Grounds for Suspension, Expulsion, or Change of Placement**

1. A student **may** be suspended from School for the following reasons:
  - a. Frequent, flagrant, or willful disobedience, defiance of proper authority, or disruptive behavior, including, but not limited to: fighting; gang activity; harassment, including sexual, racial, or religious harassment; the use of foul, profane, vulgar or abusive language; or other unreasonable and substantial disruption of a class, activity, or other function of the School;
  - b. Willful damage to or defacement of School property;
  - c. Behavior or threatened behavior that poses an immediate and significant threat to the welfare, safety, or morals of other students or School personnel or to the operation of the School;
  - d. Possession, distribution, control, use, sale, or arranging for the sale of an alcoholic beverage as defined in Utah Code Ann. § 32B-1-102;
  - e. Possession, distribution, control, use, sale, or arranging for the sale of cigars, cigarettes, electronic cigarettes, or tobacco, as defined by Utah Code Ann. § 76-10-101;
  - f. Possession, distribution, control, use, sale, or arranging for the sale of contraband, including but not limited to weapons, fireworks, matches, lighters, alcohol, tobacco, mace, pepper spray, laser pointers, pornography, illegal drugs and controlled substances, drug paraphernalia, or any other material or item that has caused or will imminently cause substantial disruption to School operations;
  - g. Inappropriate use or possession of electronic devices in class, during a School-sponsored activity, at home, or in any other way that substantially disrupts the educational environment;
  - h. Any criminal activity;
  - i. Any serious violation involving weapons, drugs, or the use of force that threatens harm or causes harm to the School or School property, to a person associated with the School, or property associated with any such person, regardless of where it occurs; or
  - j. Bullying or hazing as defined in Utah Code Ann. § 53G-9-601 and/or the School's Bullying, Cyberbullying, Harassment, Hazing, Retaliation, and Abusive Conduct Prohibition and Prevention Policy.
2. A student **shall** be suspended or expelled from School for the following reasons:
  - a. A serious violation affecting another student or a staff member, or a serious violation occurring in connection with the School's electronic resources or any School-related or School-sponsored activity, including:

- i. The possession, control, or actual or threatened use of a weapon, explosive, or noxious or flammable material;
    - ii. the actual use of violence or sexual misconduct, including but not limited to such violence or sexual misconduct related to hazing;
    - iii. The actual or threatened use of a lookalike weapon with intent to intimidate another person or to disrupt normal School activities;
    - iv. The sale, control, or distribution of a drug or controlled substance as defined in Utah Code Ann. § 58-37-2, an imitation controlled substance defined in Utah Code Ann. § 58-37b-2, or drug paraphernalia as defined in Utah Code Ann. § 58-37a-3;
  - b. The commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor; or
  - c. Making a false report of an emergency at the School or another school under Utah Code Ann. § 76-9-202(2)(d).
3. A student **may** be expelled from School for any violation listed under Section C of this policy if the violation is serious or persistent.
4. Weapons – Mandatory Expulsion for One Year – Utah Code Ann. § 53G-8-205(2)(b); 20 U.S.C. § 7151:
  - a. Any student who commits an act for which mandatory suspension or expulsion is provided under Section C-2 above, involving a weapon, explosive, or noxious or flammable material shall be expelled from School and all School programs and activities for a period of not less than one (1) year, subject to the following:
    - i. Within forty-five (45) days after the expulsion, the student shall appear before the Case Management Team (CMT), which shall be comprised of the Director and/or Chief Administrative Officer, a Board member, and a teacher selected by them, accompanied by a parent; and
  - b. The CMT shall determine:
    - i. What conditions must be met by the student and the student's parent for the student to return to School;
    - ii. If the student should be placed on probation in a regular school setting consistent with Utah Code Ann. § 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the School; and
    - iii. If it would be in the best interest of both the School and the student to modify the expulsion term to less than a year, conditioned on approval by the Board and giving highest priority to providing a safe school environment for all students.
  - c. For purposes of this policy, the term "firearm", "explosive", and "noxious or flammable material" include but are not limited to: guns, starter pistols, cap guns, bombs, bullets and ammunition, gasoline or other flammable liquids, mace, pepper spray, matches, and lighters.
  - d. Students with disabilities under IDEA and Section 504:



- iv. Any student who is suspended or expelled for violation of Section C-5 may be subject to random drug testing, at any time and for any reason, for a period of one year from the date of offense. If the student tests positive, he/she may be expelled from all School programs or activities. Any student who refuses consent for random drug testing under these conditions shall be expelled from all School programs or activities.
    - d. Students with Disabilities under IDEA:
      - i. Whenever a student receiving special education and related services under IDEA knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at School or a School-sponsored activity, the procedures outlined in Section I of this policy must be followed.
- 6. Gangs:
  - a. Gang activity and apparel prohibited:
    - i. Students who engage in any form of gang activity at any School-sponsored activity may be suspended or expelled under the terms of this policy. For the purposes of this policy, "gang activities" include, but are not limited to, any of the following:
      1. Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, apparel, emblems, badges, tattoos or manner of grooming, accessories, symbols, signs, or other thing which is evidence of membership in or affiliation with any gang;
      2. Committing any act or omission or using any speech, either verbal or nonverbal, (flashing signs, gestures, handshakes, etc.) that demonstrates membership in or affiliation with a gang;
      3. Soliciting others for membership in a gang;
      4. Requesting any person to pay for "protection", claiming "turf", or otherwise intimidating, bullying, retaliating against, threatening, or harassing any person;
      5. Possessing a weapon, controlled substances, drug paraphernalia, or other contraband;
      6. Committing any illegal act; and
      7. Encouraging or inciting another person to act with physical violence upon any other person or cause damage to property.
  - b. Confiscation of Gang Items:
    - i. Subject to the search and seizure provisions of this policy, gang paraphernalia, apparel, or weapons may be confiscated by School officials at any time.
  - c. Consultation with Law Enforcement Authorities:
    - i. School officials shall consult with local law enforcement authorities and gang detectives whenever they have questions regarding gang-related clothing, apparel, or other gang activity.
- 7. Possession or Use of Electronic Cigarette Products:

- a. Students are prohibited from possessing or using electronic cigarette products, as defined by Utah Code Ann. § 76-10-101, on School property or during School-sponsored events or activities.
- b. The administration or their designee shall request the surrender of or confiscate electronic cigarette products as provided in Section O of this policy.
- c. The administration will ensure that any surrendered or confiscated electronic cigarette product is destroyed or disposed of. However, the administration may allow the release of any surrendered or confiscated electronic cigarette product to local law enforcement if School personnel have a reasonable suspicion that the electronic cigarette product contains an illegal substance and local law enforcement requests that the School release it to them as part of an investigation or action.

**D. Authority to Suspend or Expel**

1. Authority to Suspend for Ten (10) School Days or Fewer for Regular Education Students:
  - a. The Director has the authority to suspend a regular education student for up to ten (10) school days. In considering whether to suspend a student, the Director shall consider all relevant factors, including but not limited to, the severity of the offense, the student's age, disability, academic status and disciplinary record, parental capabilities, and community resources; and
  - b. The Director may not suspend for longer than ten (10) school days or otherwise change student placement. Whenever the Director proposes suspending a student for more than ten (10) school days, the Director shall refer the matter to the Chief Administrative Officer. The Chief Administrative Officer may choose to refer the matter to the Board or to a Board member designated by the Board to address such issues.
2. Authority to Suspend and Duration of Suspension for Students with Disabilities:
  - a. The Director has the authority to suspend a student with disabilities (504 or IDEA) for not more than ten (10) consecutive school days, and additional removals of not more than ten (10) total school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a pattern resulting in a change of placement; and
  - b. The School need not provide services during periods of removal of ten (10) school days cumulative or less if services are not provided to a student without disabilities who has been similarly suspended.
3. Authority to Suspend for Longer than Ten (10) School Days or Expel for Regular Education Students:
  - a. Subject to the requirements for due process set forth in Section H of this policy, either the Chief Administrative Officer, the Board, or a Board member designated by the Board may suspend for longer than ten (10) school days or expel a regular education student. Expulsions shall be reviewed by the CMT and the conclusions reported to the Board at least once each year if the parent of the expelled student has expressed a desire for the student to return to the School;
  - b. Parental Responsibility:



issued at the discretion of the Chief Administrative Officer or Director and are not required to be issued prior to suspending or expelling a qualifying minor.

2. Notice of Disruptive Student Behavior:

- a. Authorization and Criteria: The Chief Administrative Officer or Director is authorized to issue notices of disruptive student behavior to qualifying minors who:
  - i. Engage in “disruptive student behavior” that does not result in suspension or expulsion three (3) times during the school year; or
  - ii. Engage in disruptive student behavior that results in suspension or expulsion once during the school year.
- b. Contents of Notice: A notice of disruptive student behavior will:
  - i. Require the qualifying minor and a parent of the qualifying minor to whom the notice is issued to meet with School authorities to discuss the qualifying minor's disruptive student behavior and cooperate with the Chief Administrative Officer or the Director and the Board in correcting the student's disruptive student behavior;
  - ii. Contain a statement indicating:
    1. The number of additional times that, if the qualifying minor engages in disruptive student behavior that does not result in suspension or expulsion, will result in the qualifying minor receiving a habitual disruptive student behavior citation;
    2. That the qualifying minor will receive a habitual disruptive student behavior citation if the qualifying minor engages in disruptive student behavior that results in suspension or expulsion; and
  - iii. Be mailed by certified mail to, or served in person on, a parent of the qualifying minor.
- c. Contesting Notice: A qualifying minor, or a qualifying minor's parent, may contest a notice of disruptive student behavior by requesting in writing, within ten (10) business days after receipt of the notice, a meeting with the CMT at which the parent and the CMT will discuss the facts related to the student's behavior, the basis of the parent's concerns with or objections to the issuance of the notice, and efforts that have been made to address the behavior problems.

3. Habitual Disruptive Student Behavior Citation:

- a. Authorization and Criteria: The Chief Administrative Officer or Director may issue a “habitual disruptive student behavior citation” to a qualifying minor who:
  - i. Engages in disruptive student behavior that does not result in suspension or expulsion at least six (6) times during the school year;
  - ii. Engages in disruptive student behavior that does not result in suspension or expulsion at least three (3) times during the school year;
  - iii. Engages in disruptive student behavior that results in suspension or expulsion at least once during the school year; or

- iv. Engages in disruptive student behavior that results in suspension or expulsion at least twice during the school year.
    - b. Notice to Parents: Within five (5) days after the day on which a habitual disruptive student behavior citation is issued, the Chief Administrative Officer or Director shall provide documentation to a parent of the qualifying minor who receives the notice of the efforts made by a School representative under Section F, below.
- 4. Response to School-Based Behavior:
  - a. Alternative School-Related Interventions: The Board may establish or partner with a certified youth court program or establish or partner with a comparable restorative justice program. The School may refer a student to youth court or a comparable restorative justice program in accordance with § 53G-8-211.
  - b. Referrals of Minors: A qualifying minor to whom a habitual disruptive student behavior notice is issued may not be referred to the juvenile court. The School will follow § 53G-8-211 with respect to referring a minor who is alleged to be a habitual truant or is alleged to have committed an offense on School property when School is in session or during a School-sponsored activity. In accordance with § 53G-8-211:
    - i. If the alleged offense on School property is a class C misdemeanor, an infraction, or a status offense, or a minor is alleged to be a habitual truant, the minor shall be referred:
      - 1. to an evidence-based alternative intervention, including:
        - a. a mobile crisis outreach team;
        - b. a youth services center, as defined in § 80-5-102;
        - c. a certified youth court, as defined in § 80-6-901, or comparable restorative justice program;
        - d. an evidence-based alternative intervention created and developed by the School or other governmental entities as set forth in § 53G-8-211(3)(a)(v);
        - e. a tobacco cessation or education program if the offense is a violation of § 76-10-105; or
        - f. truancy mediation; or
      - 2. for prevention and early intervention youth services, as described in § 80-5-201, by the Division of Juvenile Justice and Youth Services if the minor refuses to participate in an evidence-based alternative intervention described above.
    - ii. Except as provided in subsection (iii) below, if a minor is alleged to have committed an offense on School property that is a class C misdemeanor, an infraction, or a status offense, the minor may be referred directly to a law enforcement officer or agency or a court only if:
      - 1. the minor allegedly committed an offense on School property on a previous occasion; and
      - 2. the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth

services, as described in subsection (i) above for the previous offense.

- iii. If a minor is alleged to have committed a traffic offense that is an infraction, the minor may be referred directly to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.
  - iv. If a minor is alleged to have committed an offense on School property that is a class B misdemeanor or a class A misdemeanor, the minor may be referred directly to a court or to the evidence-based alternative interventions in subsection (i) above.
  - v. If a minor is alleged to be a habitual truant, the minor may be referred to a law enforcement officer or agency or a court if:
    1. the minor was previously alleged of being a habitual truant at least twice during the same school year; and
    2. the minor was referred to an evidence-based alternative intervention, or for prevention and early intervention youth services, as described in subsection (i) above for at least two of the previous habitual trancies.
  - vi. If a minor commits an offense on School grounds when School is in session or at a School-sponsored activity and that information is reported to, or known by, a School employee, the School employee shall notify the Director. After receiving such a notification, the Director shall notify a law enforcement officer or agency if the Director may refer the offense to a law enforcement officer or agency as explained above in this Section. The Director shall also notify other School personnel if the Director determines that other School personnel should be informed.
- c. Referral of Students for Firearm Offense. If a student brings a firearm or weapon to School, the student shall be referred directly to a law enforcement officer or agency, a prosecuting attorney, or a court.

**F. Alternatives to Expulsion or Change of Placement for Frequent or Flagrant Disruptive Behavior – Utah Code Ann. § 53G-8-207**

1. A continuum of intervention strategies shall be available to help students whose behavior in School repeatedly falls short of reasonable expectations. Prior to suspending a student for more than ten (10) school days or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not so extreme or violent that immediate removal is warranted, good faith efforts shall be made to implement a remedial discipline plan to allow the student to remain in the School;
2. Before referring the student for long term suspension, expulsion or change of placement under this Section, School staff should demonstrate that they have attempted some or all of the following interventions:
  - a. Talking with the student,
  - b. Class schedule adjustment,
  - c. Phone contact with the parent,

- d. Informal parent/student conferences,
  - e. Behavioral contracts,
  - f. After-school make-up time,
  - g. Short-term suspension,
  - h. Appropriate evaluation,
  - i. Home study,
  - j. Alternative programs, or
  - k. Law enforcement assistance as appropriate.
3. As part of a remedial discipline plan for a student, the School may require the student's parent, with the consent of the student's teachers, to attend class with the student for a period of time specified by a designated School official. If the parent does not agree or fails to attend class with the student, the student shall be suspended in accordance with the provisions of this policy.

**G. Due Process for Suspensions of Ten (10) School Days or Less**

1. The following procedure shall apply to all students facing suspension of ten (10) school days or less:
- a. The Director shall notify the student's custodial parent of the following without delay: that the student has been suspended, the grounds for the suspension, the period of time for which the student is suspended, and the time and place for the parent to meet with the Director to review the suspension:
    - i. The Director shall also notify any non-custodial parent, if requested in writing, of the suspension. This does not apply to the portion of School records which would disclose any information protected under a court order; and
    - ii. The custodial parent is responsible to provide the School a certified copy of any court order under Section G-1-a-i.
  - b. The Director shall document the charges, evidence, and action taken;
  - c. Unless one of the exceptions below applies, before a suspension begins the student shall be given notice of the charges, provided with an explanation of the evidence, and given an opportunity to present his/her version of the incident to the Director. The student shall be requested to present his/her version of the incident in writing. Students with disabilities or young students who are unable to write their own statements shall be accommodated through the use of tape recorder, scribe, etc. ;
    - i. In general, the notice and informal conference described above shall precede the student's removal from the School; and
    - ii. If, in the judgment of the Director, notice and an informal conference is not possible because the student poses a danger to a person or property or an ongoing threat of substantially disrupting the academic process, he/she may be removed immediately. However, in such cases, the necessary notice and informal conference shall follow as soon as possible.

**H. Due Process for Suspensions of More Than Ten (10) School Days and Expulsions**

1. If, after following the due process procedures in Section G, the Director believes that a student should be suspended for more than ten (10) school days or expelled, the Director shall refer the matter to the Chief Administrative Officer. The Chief Administrative Officer may choose to refer the matter to the Board or to the Board member designated by the Board to handle such matters;
2. Prior to sending the referral, but in no instance longer than five (5) school days after the suspension began, the Director shall meet with the parent to discuss the charges against the student and the proposed discipline. A suspension may not extend beyond ten (10) school days unless the student and the student's parent have been given a reasonable opportunity to meet with the Director and respond to the allegations and proposed disciplinary action;
3. The Director shall also notify any non-custodial parent, if requested in writing, of the possible suspension or expulsion as outlined in Section G-1-a-i of this policy;
4. The referral to the Chief Administrative Officer, Board, or designated Board member shall include all relevant documentation of the student's violation(s), including written student statements, written witness statements, evidence of an informal school conference, evidence of a Director meeting with parent and written parental input:
  - a. Notice to Student and Parent: If the Chief Administrative Officer, Board, or the Board member designated by the Board to handle such matters determines, after considering the totality of the circumstances and consulting with the CMT, that a student should be suspended for longer than ten (10) school days or expelled, the Director shall, within ten (10) school days after the suspension or expulsion began, send written notice by certified mail, return receipt requested, to the student's parent, which includes all of the following elements:
    - i. A description of the alleged violation(s) or reason(s) giving rise to disciplinary action;
    - ii. The penalty being imposed (duration of suspension or expulsion);
    - iii. A statement that a due process hearing may be requested in writing within ten (10) working days of receipt of the notice;
    - iv. A statement that, if a hearing is requested, the Board has the authority to appoint an impartial Hearing Officer(s), who may be an employee or volunteer of the School;
    - v. A statement that the suspension or expulsion is taking effect immediately and will continue for the stated period unless a hearing is requested in a timely manner and the Hearing Officer(s) determines otherwise;
    - vi. The mailing date of the notice; and
    - vii. A statement that, if a hearing is not requested within ten (10) working days after receipt of the notice, the School's decision to suspend or expel the student will be final, and the parent's right to oppose the School's decision will be waived.
5. Hearing Procedures: If a hearing is requested in response to the notice of suspension for longer than ten (10) school days or expulsion, the following procedures shall apply:

- a. After receipt of the request, the School shall schedule a hearing as soon as possible but not later than ten (10) school days following receipt of the request, unless the student's parent agrees otherwise;
  - b. A written Hearing Notice shall be sent to the parent informing the parent of:
    - i. The name of the Hearing Officer(s);
    - ii. The date, place, and time of the hearing;
    - iii. The circumstances, evidence, and issues to be discussed at the hearing;
    - iv. The right of all parties to present evidence;
    - v. The right of all parties to cross-examine witnesses subject to the Hearing Officer's determination that this right should be limited to protect student witnesses from retaliation, ostracism or reprisal;
    - vi. The right of all parties to appeal to the President of the Board within ten (10) working days following the decision if the parties disagree with the Hearing Officer's decision;
    - vii. The right of all parties to examine all relevant records to the extent permitted by law; and
    - viii. The right of all parties to representation by legal counsel or otherwise at the hearing.
  - c. The Hearing Officer(s) shall conduct the hearing on the record and shall:
    - i. Ensure that a written record of the Hearing is made, a copy of which shall be provided to all parties upon request, with the cost borne by the School;
    - ii. Consider all relevant evidence presented at the hearing;
    - iii. Allow the right to cross-examination of witnesses, unless the Hearing Officer(s) determines that this right should be limited to protect student witnesses from ostracism, retaliation or reprisal;
    - iv. Allow all parties a fair opportunity to present relevant evidence; and
    - v. Issue a written decision including findings of fact and conclusions.
  - d. Hearing Rules: Formal Rules of Evidence do not apply to the Hearing, and no discovery is permitted. However, the following rules will apply:
    - i. Parties may have access to information contained in the School's files to the extent permitted by law;
    - ii. Hearings shall be closed to the press and the public;
    - iii. Documents, testimony, or other evidence submitted by the parties after the hearing will not be considered by the Hearing Officer(s); and
    - iv. The Hearing Officer(s) may excuse witnesses or parties or suspend or terminate a hearing if persons involved in the hearing are abusive, disorderly, disruptive, or if they refuse to abide by the rules and orders of the Hearing Officer(s).
6. Appeals:
- a. Within ten (10) working days following receipt of the Hearing Officer's written decision, either party may appeal the decision, in writing, to the President of the Board; and

- b. Within ten (10) working days following receipt of the appeal, the Board President shall rule on the appeal.

**I. Due Process for Change of Placement of Students with Disabilities**

- 1. Where the student is receiving special education services or accommodations on the basis of disability under IDEA, 504 or ADA, procedures outlined in the Utah State Board of Education Special Education Rules shall be followed, including prior written notice to parents regarding their procedural due process rights, before any long-term disciplinary action or change of placement takes place.
  - a. Required Services for 504 and ADA Students:
    - i. When a determination is made that the conduct of a 504 or ADA student (but not a student who is disabled under IDEA) is not a manifestation of the student's disability pursuant to Section I, the student shall be subject to the same disciplinary consequences as regular education students, up to and including expulsion from School without educational services.(OSEP memorandum of April 26, 1995.)
  - b. Required services for IDEA students:
    - i. A school need not provide services during periods of removal to a student with a disability under IDEA who has been removed from his or her current placement for ten (10) school days or less in that school year if services are not provided to a student without disabilities who has been similarly removed; and
    - ii. If a student with a disability under IDEA has been removed from his or her current placement for more than ten (10) school days in the same school year, for the remainder of the removals, the School shall provide services to the extent necessary to enable the student to progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP. School personnel, in consultation with the student's special education teacher, determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the goals set out in the student's IEP.
  - c. Change of Placement for Weapons or Drugs:
    - i. A student's IEP team may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than forty-five (45) school days, if:
      - 1. The student carries a weapon to, or possesses at weapon at, School or a School-sponsored activity; or
      - 2. The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at School or a School-sponsored activity.
  - d. Change of Placement Due to Student's Serious Misconduct:

- i. School officials may request an expedited due process hearing in order to change the placement of a student with a disability to an appropriate interim alternative educational setting, recommended by the student's IEP team, for not more than forty-five (45) school days. A Hearing Officer may order such a change, if he/she:
  - 1. Determines that School officials have demonstrated by substantial evidence that maintaining the current placement of a student is substantially likely to result in injury to the student or others;
  - 2. Considers the appropriateness of the student's current placement;
  - 3. Considers whether School officials have made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
  - 4. Determines that the interim alternative educational setting being recommended by School officials:
    - a. Has been selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP;
    - b. Includes services and modifications designed to address the behavior at issue so that it does not recur.
- e. Parental Notice:
  - i. As soon as a decision is made by School officials to remove a student with a disability from his/her current placement for more than ten (10) school days, the student's parents must be notified of that decision and of all procedural safeguards outlined by law and School policy.
- f. Meetings for Manifestation Determination:
  - i. Immediately, if possible, but in no case later than ten (10) school days after the date on which the decision is made to remove the student from the current placement, a review must be conducted of the relationship between the student's disability and the behavior subject to the disciplinary action;
  - ii. The manifestation review must be conducted by the student's IEP team and other qualified School personnel; and
  - iii. In conducting the manifestation review, the IEP team may determine that the behavior of the student was not a manifestation of student's disability only if the IEP team:
    - 1. First considers, in terms of behavior subject to disciplinary action, all relevant information, including:

- a. Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the student;
    - b. Observations of the student; and
    - c. The student's IEP and placement.
  2. Then determines whether:
    - a. The conduct in question was caused by or had a direct and substantial relationship to the child's disability; or
    - b. The conduct in question was the direct result of the School's failure to implement the student's IEP.
  3. If the IEP team determines that either of the standards above was met, the behavior must be considered a manifestation of the student's disability.
- iv. Determination that Behavior was not Manifestation of Disability:
  1. If the result of the manifestation review is a determination that the behavior of a student with a disability was not a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities, except that a free appropriate public education must still be made available to the student if the student is suspended or expelled from School.
- v. Determination that Behavior was Manifestation of Disability:
  1. If the result of the manifestation review is a determination that the behavior of a student with a disability was a manifestation of the student's disability, the student must remain in or be returned to the prior placement.
- g. Meetings for Functional Behavioral Assessments:
  - i. Post-Discipline Functional Behavioral Assessments:
    1. If School officials have not conducted a Functional Behavioral Assessment and implemented a behavioral intervention plan for the student before the behavior that results in a removal from School for longer than ten (10) school days or a change of placement to an interim alternative educational setting, School officials shall convene an IEP meeting to develop an assessment plan and appropriate behavioral interventions to address that behavior.
  - ii. Pre-Discipline Behavioral Intervention Plans:
    1. If the student already has a behavioral intervention plan, the IEP team shall review the plan and modify it, as necessary, to address the behavior.
- h. Placement During Appeals and Stay Put:

- i. If a parent requests a due process hearing to challenge the interim alternative educational setting or the manifestation determination, the student must remain subject to the disciplinary action pending the decision of the Hearing Officer or until the expiration of the forty-five (45) school-day period, whichever occurs first, unless the parent and School officials agree otherwise. If a student is placed in an interim alternative educational setting and School personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed:
  1. Change in placement the student must remain in the current placement (the student's placement prior to the interim alternative education setting), unless School officials succeed in getting an order through an expedited hearing as described in Section I.

**J. Site-Based Safe Schools Measures**

1. Emergency Safety Interventions. A School employee may not use physical restraint on a student or place a student in seclusion except as a necessary emergency safety intervention in compliance with this Section.
  - a. Definitions:
    - i. "Comprehensive emergency safety intervention training" means a training required for key identified school employees that has the components described in R277-608-4(4).
    - ii. "Chemical restraint" means the use of medication administered to a student, including medications prescribed by the student's physician or other qualified health professional, on an as-needed basis for the sole purpose of involuntarily limiting the student's freedom of movement.
    - iii. "Emergency safety intervention" ("ESI") means the use of seclusion or physical restraint when a student presents an immediate danger to self or others. An ESI may not be used for disciplinary purposes.
    - iv. "Immediate danger" or "immediate and significant threat" means the imminent risk of physical violence toward self or others, or other physical behaviors which are likely to cause imminent risk of substantial bodily injury or serious bodily injury.
    - v. "Key Identified School Employee" means a School employee who has completed foundational behavior support training and comprehensive emergency safety intervention training and has been authorized by the Chief Administrative Officer or Director to utilize an ESI at the School when necessary.
    - vi. "Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement.
    - vii. "Foundational behavior support training" means a training required for all School employees who supervise students or may be asked to assist

in managing a student's behavior that has the components described in R277-608-4(1).

- viii. "Physical restraint" means a personal restriction that immobilizes or significantly reduces the ability of a student to move the student's arms, legs, body, or head freely.
  - ix. "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of guiding a student to another location.
  - x. "Seclusion" means seclusionary time out that is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, including: (i) placing a student in a locked room; or (ii) placing a student in a room where the door is blocked by furniture or held closed by staff.
  - xi. "Serious bodily injury" means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.
  - xii. "Substantial bodily injury" means bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.
- b. General Procedures:
- i. All School employees who supervise students, or who may be asked to assist in managing a student's behavior, shall receive foundational behavior support training. This training must be completed within two months, or within 30 days if working directly with a student with disabilities, of employment at the School and bi-annually thereafter.
  - ii. Key Identified School Employees shall receive comprehensive ESI training in addition to foundational behavior support training. Comprehensive ESI training shall be completed before a Key Identified School Employee may use an ESI with a student and annually thereafter.
  - iii. An ESI shall:
    - 1. Be applied for the minimum time necessary to ensure safety, as reasonably understood by the Key Identified School Employee using the ESI;
    - 2. Be released under the following circumstances (release criteria):
      - a. As soon as the student is no longer an immediate danger of physical harm to self or others (e.g., student is no longer hitting, kicking, biting, throwing objects, self-harming, or making other movements that create imminent risk of physical violence; student is able to respond to staff verbally or nonverbally in a regulated way; and/or the student exhibits signs of de-escalation,

- such as having a relaxed body, no longer attempting to break free, or breathing slowly); or
- b. If the student is in severe distress (e.g., student is having difficulty breathing or is vomiting, gagging, experiencing chest pain, or turning pale or blue in the face);
- 3. Never be used as punishment or discipline;
- 4. In no instance be imposed for more than 30 minutes, per occurrence; and
- 5. Be documented and reported, as required.
- iv. The School prohibits dangerous practices as defined by the School, including dangerous practices outlined in the Least Restrictive Behavioral Interventions (LRBI) Technical Assistance manual.
- v. The School shall take prompt and appropriate action, including in-service training and other administrative action, upon confirming a violation related to the use of an ESI on a student. Violations of any standards for seclusion or physical restraint established by the Utah State Board of Education shall also result in a referral to local law enforcement and the Utah Professional Practices Advisory Commission.
- c. Students with Disabilities Receiving Special Education Services:
  - i. Use of ESI for a student with a disability receiving specialized educational services under IDEA or Section 504 shall be subject to all applicable state and federal laws, including LRBI policies and procedures for special education/504 programs.
  - ii. Additionally, ESIs written into a student's IEP as a planned intervention are prohibited unless school personnel, the family, and the IEP team agree less restrictive means have been attempted; a Functional Behavioral Assessment has been conducted; and a positive behavior intervention plan based on data analysis has been written into the plan and implemented.
- d. Physical Restraint:
  - i. Key Identified School Employees may, in compliance with this policy, and when acting within the scope of employment, use physical restraint on a student when the student presents an immediate danger to self or others and when no other safe or effective intervention is available.
  - ii. Key Identified School Employees may use reasonable and necessary physical restraint only:
    - 1. In self-defense;
    - 2. To protect a student or another person from physical injury;
    - 3. To take possession of a weapon or other dangerous object in the possession or under the control of a student;
    - 4. To remove from a situation a student who is violent; or
    - 5. To protect property from serious damage when physical safety is at risk.

- iii. When an employee exercises physical restraint on a student, the following types of physical restraint are prohibited:
    - 1. Prone, or face-down;
    - 2. Supine, or face-up;
    - 3. Physical restraint which obstructs the airway or adversely affects the student's primary mode of communication;
    - 4. Mechanical restraint, except for restraints required by law, including seatbelts or any other safety equipment used to secure students during transportation, protective or stabilizing restraints as prescribed by an appropriate medical or related services professional, and devices used by a law enforcement officer in carrying out law enforcement duties; or
    - 5. Chemical restraint.
  - iv. A Key Identified School Employee may not use physical restraint on a student for more than the shortest of the following before stopping, releasing, and reassessing the intervention used:
    - 1. The amount of time described in the School's ESI training program;
    - 2. 30 minutes; or
    - 3. When law enforcement intervenes.
  - v. Despite the foregoing, a Key Identified School Employee shall first use the least restrictive intervention available to the employee, including a physical escort, to address circumstances described in Section J-2-b. In addition, nothing in this Section prohibits a Key Identified School Employee from subsequently using less restrictive interventions to address circumstances described in Section J-2-b.
  - vi. A student who has been physically restrained and then released shall, in addition to being promptly reassessed by the Key Identified School Employee, be monitored for a reasonable period of time to help ensure the continued safety and well-being of the student and others. Monitoring should include observation for signs of such things as injury, respiratory distress, or continued escalation, and the Chief Administrative Officer or Director and medical personnel shall be notified when warranted.
- e. Seclusionary Timeout:
- i. A Key Identified School employee may, in compliance with this policy and when acting within the scope of employment, place a student who is in grade 1 or higher in seclusion as an ESI when the student presents an immediate danger to self or others and when no other safe or effective intervention is available. Students in kindergarten shall not be placed in seclusion.
  - ii. Key Identified School Employees may use seclusion only when:
    - 1. Other less restrictive interventions have failed;

2. A staff member who is familiar to the student is actively supervising the student for the duration of the seclusion;
  3. The student is observed at all times during the seclusion by School personnel who have received the comprehensive ESI training;
  4. Any door remains unlocked consistent with applicable fire and public safety requirements described in R392-200 and R710-4; and
  5. The seclusion is time-limited to a maximum time of 30 minutes, per occurrence, and monitored.
- iii. A School employee may not place a student in seclusion:
    1. As a behavioral intervention;
    2. As a disciplinary practice;
    3. For coercion, retaliation, or humiliation;
    4. Due to inadequate staffing; or
    5. For the School employee's convenience.
  - iv. A student who has been placed in seclusion and then released shall be promptly reassessed by the Key Identified School Employee and also monitored for a reasonable period of time to help ensure the continued safety and well-being of the student and others. Monitoring should include observation for signs of such things as injury, severe distress, or continued escalation, and the Chief Administrative Officer or Director and medical personnel shall be notified when warranted.
  - v. The Chief Administrative Officer or Director shall ensure that all the following individuals are debriefed at an appropriate time after a student seclusion has taken place:
    1. All witnesses;
    2. All School staff who were involved;
    3. The student who was secluded; and
    4. The parent of the student who was secluded.
  - vi. The Chief Administrative Officer or Director shall also ensure that a proper review of the decision to use seclusion is performed as soon as reasonably possible after a student seclusion has taken place.
  - vii. The School does not allow the designation of any enclosed area in its building for the sole purpose of seclusion.
- f. Notification of the Use of an ESI:
    - i. When an employee exercises physical restraint on a student or places a student in seclusion, the School or the employee who used the ESI shall immediately notify the student's parent and the Director. This notice shall be provided no later than fifteen minutes after the use of an ESI.
    - ii. Parent notifications made under this Section shall be documented with respect to the student in the School's student information system.
  - g. Documentation of the Use of an ESI:



1. Participation in extracurricular activities is not a constitutionally protected civil right. Therefore, students who are suspended or expelled may lose the privilege of participation during the period of suspension/expulsion and may not be allowed to invoke due process procedures to challenge the denial of extracurricular participation. In addition, Educational Units will be denied during this period of suspension/expulsion.

**L. Readmission of Expelled Students and Denial of Admissions Based on Prior Expulsion – Utah Code Ann. § 53G-8-205(3)**

1. A student who is expelled from the School can only be readmitted to the School through the School's standard lottery procedures; and
2. A student may be denied admission to the School if he or she was expelled from the School or any other school during the preceding twelve (12) months.

**M. Investigations**

1. Whenever the Chief Administrative Officer or Director has reason to believe that School rules or policies have been broken, he or she shall proceed with an investigation. However, if the Chief Administrative Officer or Director believes that laws have been broken or child abuse has occurred, he/she shall request appropriate authorities to conduct the investigation;
2. General Investigation Guidelines for Chief Administrative Officer or Director:
  - a. The Chief Administrative Officer or Director has the authority and duty to conduct investigations and to question students pertaining to infractions of School rules, whether or not the alleged conduct is a violation of criminal law. The Chief Administrative Officer or Director shall conduct investigations according to the following general guidelines:
    - i. The Chief Administrative Officer or Director shall conduct investigations in a way that does not unduly interfere with School activities;
    - ii. The Chief Administrative Officer or Director shall separate witnesses and offenders in an attempt to keep witnesses from collaborating their statements and have all parties provide separate statements concerning the incident under investigation; written statements are preferable, if possible;
    - iii. The Chief Administrative Officer or Director shall advise students suspected of wrongdoing orally or in writing of the nature of the alleged offense;
    - iv. Students must be provided an opportunity to give their version of the incident under investigation; however, refusals to respond or provide information should be respected;
    - v. When questioning students as part of an investigation, School staff should have another adult present whenever possible;
    - vi. The Chief Administrative Officer or Director shall accommodate students with disabilities and young children unable to write their own statements through use of tape recorders, scribes, etc.;
    - vii. All students involved in the investigation shall be instructed that retaliation is prohibited. Any act of reprisal against any person who has

testified, assisted, or participated in any manner in an investigation, proceeding, or hearing is strictly prohibited and subject to disciplinary action; and

- viii. When the investigation is completed and if it is determined that disciplinary action may be in order, due process requirements must be met. Specifically, the student must be given proper notice of the charges against him/her and the disciplinary action being recommended, as well as a fair opportunity to present his or her version of the facts.

3. Coordination with Law Enforcement:

- a. The Chief Administrative Officer or Director has the responsibility and the authority to determine when the help of law enforcement officers is necessary, as outlined in this policy and Utah State law:

- i. The School administration may invite law enforcement officials to:
  - 1. Conduct an investigation of alleged criminal conduct in connection with School electronic resources of a School-related or School-sponsored activity;
  - 2. Maintain a safe and orderly educational environment; or
  - 3. Maintain or restore order when the presence of such officers is necessary to prevent injury to persons or property.

- ii. Investigation of Criminal Conduct: During an investigation for violation of School rules, it may become evident that the incident under investigation may also be a violation of criminal law. If the School official has reason to suspect that a criminal act has been committed and, in the opinion of the Chief Administrative Officer or Director, law enforcement should be notified, the following procedure should be followed:

- 1. The Chief Administrative Officer or Director shall request that law enforcement officers conduct an investigation and question students who are potential witnesses to the alleged criminal behavior;
- 2. The School official shall inform the student's parent as soon as possible that the student may have committed a criminal act and that law enforcement authorities will be involved in the investigation;
- 3. Unless circumstances dictate otherwise, questioning of the student by School officials shall not begin or continue until the law enforcement officers arrive;
- 4. Reasonable attempts shall be made to contact the student's parents who, unless an emergency exists, shall be given the opportunity to meet with the student and to be present with the student during questioning by law enforcement authorities;
- 5. The Chief Administrative Officer or Director shall document the contact or attempted contact with the student's parents. If the

Chief Administrative Officer or Director cannot contact the student's parent, or if the parent is unable to be present with the student for questioning, the Chief Administrative Officer or Director shall be present and document generally what occurs during the interview;

6. The student shall not be questioned by law enforcement unless or until he/she has received Miranda warnings from the officer; and
  7. If the parent or student refuses to consent to questioning by law enforcement authorities, the law enforcement authorities shall determine the course of action to be pursued.
- iii. Investigation Initiated by Law Enforcement Authorities: School officials shall cooperate with law enforcement authorities who are carrying out official duties such as investigating crimes, serving subpoenas, etc.:
1. When law enforcement officers can show a need to do so, they shall be permitted to conduct an investigation;
  2. Such a need will ordinarily be shown if delay in police investigation might result in danger to a person, flight from jurisdiction by a person reasonably suspected of a crime, or destruction of evidence. In such cases:
    - a. The officers shall be required to get prior approval of the Chief Administrative Officer or Director or other designated person before beginning an investigation of School property;
    - b. The Chief Administrative Officer or Director shall document the circumstances warranting the investigation as soon as practical;
    - c. Alleged criminal behavior related to the School environment brought to the Chief Administrative Officer's or Director's attention by law enforcement officers shall be dealt with under the provisions of Section M-1 and -2;
    - d. Law enforcement officials (investigating School-related or student-related crimes) may not have access to student education records, aside from directory information, unless they have a subpoena or court order or permission from a parent.
- iv. Release of Student to Law Enforcement Official:
1. Students may not be released to law enforcement authorities voluntarily by School officials unless the student has been placed under arrest or unless the parent and the student agree to the release;
  2. When students are removed for any reason by law enforcement authorities, every reasonable effort shall be made to contact

the student's parent immediately except in cases of child abuse and neglect. Such effort shall be documented;

3. The Chief Administrative Officer or Director shall immediately notify the Board of the removal of a student from School by law enforcement authorities;
4. Where it is necessary to take a student into custody during a School-sponsored activity, the law enforcement officer shall contact the Chief Administrative Officer or Director and relate the circumstances necessitating such action;
5. Whenever the need arises to make arrests or take students into custody during a School-sponsored activity, the Chief Administrative Officer or Director shall make reasonable efforts to consult and confer with the law enforcement officers as to how an arrest is to be made; and
6. When a student has been taken into custody or arrested during a School-sponsored activity without prior notification to the Chief Administrative Officer or Director, the School staff present shall encourage the law enforcement officers to tell the Chief Administrative Officer or Director of the circumstances as quickly as possible. If the officers decline to tell the Chief Administrative Officer or Director, the School staff members present shall immediately notify the Chief Administrative Officer or Director.

v. Quelling Disturbances of School Environment:

1. Law enforcement officers may be requested to assist in controlling disturbances of the School environment that the Chief Administrative Officer or Director has found to be unmanageable by School personnel and that has the potential of causing harm to students and other persons or to property. Such circumstances include situations where a parent or member of the public exhibits undesirable or illegal conduct at a School-sponsored activity and who refuse to abide by the Chief Administrative Officer's or Director's directive to leave the premises.

**N. Investigation of Child Abuse and Neglect**

1. Utah law requires that whenever any person, including any School employee, has reason to believe that a child has been subjected to incest, molestation, sexual exploitation, sexual abuse, physical abuse, or neglect, or observes a child being subjected to conditions or circumstances which would reasonably result in such, he/she shall immediately notify the nearest peace officer, law enforcement agency, or office of the Division of Child and Family Services:
  - a. The School shall distribute annually to all School employees copies of the School's procedures for reporting suspected child abuse or neglect;

- b. If there is reason to believe that a child may have been subjected to abuse or neglect, an oral report shall be made immediately by the School employee reporting the abuse/neglect with a written report to follow within twenty-four (24) hours:
  - i. When making the oral report, always have the person you notify identify himself/herself. The notified person's name shall be entered on the written report;
  - ii. A copy of the written report shall be put in a child abuse-neglect file to be maintained by the Director, for all reported cases of suspected child abuse or neglect;
  - iii. The child abuse-neglect reporting form shall not be placed in the student's personal file;
  - iv. It is not the responsibility of the Director or other School employees to prove that the child has been abused or neglected, or to determine whether the child is in need of protection; and
  - v. Investigation by staff prior to submitting a report shall not go beyond that necessary to support a reasonable belief that a reportable problem exists.
- c. To determine whether or not there is reason to believe that abuse or neglect has occurred, professional School employees may (but are not required to) gather information only to the extent necessary to determine whether a reportable circumstance exists:
  - i. Interviews with the child or suspected abuser shall not be conducted by the Director or any other School employees;
  - ii. Notes of voluntary or spontaneous statements by the child shall be made and given to the investigating agency;
  - iii. The Director, School employees, Division of Child and Family Services and law enforcement personnel are required to preserve the anonymity of those making the initial report and any others involved in the subsequent investigation;
  - iv. Investigations are the responsibility of the Division of Child and Family Services:
    - 1. The Director or other School employees shall not contact the parents, relatives, friends, neighbors, etc. for the purpose of determining the cause of the injury and/or apparent neglect; and
    - 2. School officials shall cooperate with social service and law enforcement agency employees authorized to investigate reports of alleged child abuse and neglect, assisting as asked as members of interdisciplinary child protection teams in providing protective diagnostic, assessment, treatment, and coordination services.
  - v. Persons making reports or participating in good faith in an investigation of alleged child abuse or neglect are immune, in accordance with state

law, from any civil or criminal liability that otherwise might arise from those actions.

#### **O. Searches of Person or Property**

1. Given the School's custodial and tutelary responsibility for children, and the Board's intent to preserve a safe environment for all students and staff, the Board recognizes that School officials must have the authority to conduct reasonable searches of students and student property. School officials engaging in searches of students and property shall abide by the following guidelines:
  - a. General Guidelines for Searches of Person or Property:
    - i. Searches of a student's person, personal property (coats, hats, backpacks, book bags, purses, wallets, notebooks, gym bags, etc.) may be conducted whenever the student's conduct creates a reasonable suspicion that a particular School rule or law has been violated and that the search is reasonably related to the suspicion and not excessively intrusive in light of the age and sex of the student and nature of the infraction; and
    - ii. Circumstances warranting a search include those in which School officials have a reasonable suspicion that the student or student property is concealing items including but not limited to weapons, drugs, controlled substances, electronic cigarette products, alcohol, tobacco, unsafe contraband, pornography, pagers or lost/stolen/misplaced items.
  - b. Searches of Personal Belongings:
    - i. Personal belongings may be searched by School officials whenever School officials have a reasonable suspicion to believe a student is concealing evidence of a policy violation or criminal activity and the items being searched are capable of concealing such evidence;
    - ii. The student may be asked to open personal belongings and to turn over personal property for search by a School official. All searches of student property by School officials shall be witnessed by an objective third party (such as another teacher, or police officer) to observe that the search is not excessively intrusive; and
    - iii. All contraband discovered in a search by School officials shall be immediately confiscated and turned over to law enforcement officers if School officials have reason to believe the contraband is related to the commission of a criminal act.
  - c. Searches of Person:
    - i. School officials shall make sure the search meets the following guidelines:
      1. The search shall be conducted in a private area of the School by a School official of the same sex (where practical) as the student being searched;

2. The search shall be observed by an objective third party of the same sex (where practical) as the student being searched (i.e., Chief Administrative Officer, Director, teacher, police officer);
3. School officials may ask the student to remove his/her hat, coat, shoes and socks, turn pockets inside out, and roll up sleeves to see if the student is hiding contraband;
4. Under no circumstances may School officials require students to remove any other items of clothing or touch students in any way during the search;
5. If this limited search does not turn up suspected contraband and School officials have reasonable suspicion that the student is concealing contraband in his/her inner clothing (i.e., hiding drugs, weapons or other contraband underneath shirts, pants or underwear), law enforcement officers shall be summoned immediately to conduct further search and investigation; and
6. In general, all questioning and searching of students conducted by law enforcement officers shall proceed according to the investigation guidelines in Section M of this policy.

d. Documentation of Searches:

- i. school officials shall thoroughly document the details of any search conducted of a student's property or person. documentation shall be made at the time of the search, or as soon as possible thereafter, and shall include the following:
  1. The time, place and date of the search;
  2. The reasonable suspicion giving rise to the search (what did School officials suspect to find during the search);
  3. The name and title of individuals conducting and observing the search;
  4. A statement about evidence that was found or not found as a result of the search;
  5. A statement about who took possession of contraband (i.e., police, school, etc.); and
  6. Information regarding the attempts of School officials to notify parents about the search.

**P. Records-Interagency Collaboration – 20 U.S.C. § 1232g(h)(i)-(2); Utah Code Ann. § 53G-8-402 to -405**

1. Requirements After Receiving Notification from Juvenile Court and/or Law Enforcement Agencies of a Student's Serious Offense or Sexual Crime:
  - a. If the President of the Board or Chief Administrative Officer is notified by the juvenile court that a current or former student of the School has been adjudicated for a serious offense or sexual crime or is notified by a law enforcement agency that a current or former student of the School has been taken into custody or detention for a serious offense or sexual crime, the

President of the Board or Chief Administrative Officer shall notify the Director within three (3) days of receiving the notification.

- i. "Serious offense" is defined in Utah Code Ann. § 80-6-103 and means the following: a violent felony as defined in § 76-3-203.5; an offense that is a violation of Title 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or an offense in violation of Title 76, Chapter 10, Part 5 Weapons; and
    - ii. "Sexual crime" or "sexual misconduct" means any conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses; Title 76 Chapter 5b, Sexual Exploitation Act; § 76-7-102, incest; § 76-9-702, lewdness; and § 76-9-702.1, sexual battery.
  - b. Upon receipt of the information about a student's serious offense (whether from the President of the Board, the Chief Administrative Officer, or directly from the juvenile court or law enforcement agency), the Director shall make a notation in a secure file other than the student's permanent file. Beginning no later than July 1, 2025, the School shall digitally maintain the secure file or, if available, the student's related reintegration plan described below, for one year from the day the notice is received and ensure the secure file follows the student if the student transfers to a different school.
  - c. Upon receipt of the information about a student's serious offense or sexual crime (whether from the President of the Board, the Chief Administrative Officer, or directly from the juvenile court or law enforcement agency), the Director shall, if the student is still enrolled in the School, notify staff members who, in the Director's opinion, should know of the adjudication, arrest, or detention. Staff members receiving information about a juvenile student's adjudication, arrest or detention may only disclose the information to other persons having both a right and a current need to know.
2. Multidisciplinary Team and Reintegration Plan
  - a. In addition to complying with the requirements above, the School shall, within five (5) days after receiving a notification described above about a student committing a serious offense or sexual crime, or within a reasonable time after otherwise being notified of a student committing a serious offense or sexual crime, develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent. The multidisciplinary team should include the School, the juvenile court, the Division of Juvenile Justice and Youth Services, the School's Safety and Security Specialist, the School's Safety and Security Director, the School's Resource Officer (if any), and any other relevant party that should be involved in a reintegration plan.
  - b. The reintegration plan shall address:
    - i. a behavioral intervention for the student;
    - ii. a short-term mental health or counseling service for the student;
    - iii. an academic intervention for the student; and

- iv. if the serious offense or sexual crime was directed at a School employee or another student within the School, notification of the reintegration plan to that School employee or student and the student's parent.
    - c. The School may deny admission to the student until the School completes the reintegration plan.
    - d. The School's Resource Officer (if any) shall provide input for the School to consider regarding the safety risks a student may pose upon integration. The School shall also notify its Resource Officer (if any) of any student who is on probation.
    - e. The School shall not reintegrate a student when:
      - i. a student or staff member of the School has a protective order against the student being reintegrated; or
      - ii. a student or staff member of the School is a victim of the serious offense or sexual crime or forcible felony (as defined in Utah Code Ann. § 76-2-402) committed by the student being reintegrated.
    - f. The School may elect to not integrate a student into the School if the student has committed, or allegedly committed, a forcible felony. If the School elects to not integrate such a student, the School shall provide alternative education options for the student.
    - g. A reintegration plan under this Section is classified as a protected record under Utah Code Ann. § 63G-2-305. All other records of disclosures under this Section are governed by the Government Records Access and Management Act and the Family Educational Rights and Privacy Act ("FERPA").
- 3. Students Committing a Serious Offense or Sexual Crime are Subject to Suspension or Expulsion
  - a. Students who commit a serious offense or sexual crime, whether on or off School property, are subject to the suspension and expulsion provisions of this policy.
- 4. Student Discipline Records/Education Records:
  - a. School officials may include appropriate information in the education record of any student concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community:
    - i. Disclosure of Discipline Records to Other Educators:
      - 1. School officials may disclose student discipline information described above to teachers and other School officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.
    - ii. Disclosure of Discipline Records to Other Agencies:
      - 1. School officials shall not release personally identifiable student discipline records to other government agencies, including law enforcement agencies, unless the agency produces a subpoena or court order (need for standing court order from juvenile

court), the student's parent has authorized disclosure, or a FERPA exception applies.

**Q. Training**

1. All new employees shall receive information about this policy at new employee orientation. All other employees shall be provided information on a regular basis regarding this policy and the School's commitment to a safe and orderly school environment;
2. Employees who have specific responsibilities for investigating, addressing, and resolving issues addressed in this policy shall receive yearly training on this policy and related legal developments; and
3. The Chief Administrative Officer or Director shall be responsible for informing students, parents, and staff of the terms of this policy including the procedures outlined for investigation and resolution of violations.

**R. Reporting on Suspensions and Expulsions**

1. The School shall develop a consistent process to collect incident, infraction, and discipline data, including the number of days of student suspensions and expulsions.
2. The School shall submit all required incident, infraction, and discipline data, including suspensions and expulsions consistent with R277-484. The School shall submit any yearly and comprehensive updates no later than June 30th of each year.
3. The School shall compile an annual report of all out-of-school suspensions and expulsions and submit it to the Utah State Board of Education as described in Utah Code Ann. § 53G-8-205(5).

**S. Policy Dissemination and Review**

1. This policy shall be posted in a prominent location in the School and on the School's website. The policy shall also be published in student registration materials, student and employee handbooks, and other appropriate School publications as directed by the Board; and
2. This policy shall be reviewed as necessary with appropriate revisions recommended to the Board. The data described in Section R may be used by the School to evaluate the efficiency and effectiveness of this policy.