

THIRD RENEWAL CHARTER

This agreement is executed by and between the Board of Regents of the State of New York ("the **Regents**") and the Board of Trustees of the **Discovery Charter School** to renew the charter of the **Discovery Charter School** (the "**Charter School**" or "**School**" or "**Discovery**"), an independent public school established under the New York Charter Schools Act of 1998.

WITNESSETH:

WHEREAS, the State of New York enacted the New York Charter Schools Act of 1998, codified as Article 56 of the Education Law, as amended from time to time (the "**Act**");

WHEREAS, pursuant to §2851 and §2852 of the Act, the Board of Regents is a charter entity with the authority to (i) approve applications to establish charter schools in the State of New York and thereafter to enter into agreements with applicants setting forth the terms and conditions under which a charter school is to operate, and (ii) to renew charters for a period of up to five years;

WHEREAS, an application was submitted to the Regents for the establishment of the Charter School pursuant to §2852 of the Education Law and pursuant to its authority under §2852 of the Act, the Regents approved a charter for the Charter School;

WHEREAS, subsequent thereto the Regents issued a charter with a term of five years (the "**Initial Charter**") and incorporated an education corporation to establish and operate the Charter School, which Initial Charter may have been renewed or extended one or more times by the Regents; and

WHEREAS, the Charter School recently submitted an application for renewal to the Regents pursuant to Education Law subdivision 2851(4), which may have been modified or supplemented, and at its meeting on March 15, 2021 the Regents thereafter (i) determined that the application for renewal in conjunction with the terms of this Charter, satisfies each and every requirement set forth in subdivisions 2851(4) and 2852(2) of the Education Law, (ii) approved the application for renewal, and (iii) authorized the renewal of the School's current charter, all of the foregoing subject to the limitations, restrictions and conditions in this agreement; and

WHEREAS, pursuant to the Education Law, the Regents are authorized to approve the proposed renewal charter and extend the School's current charter for the term set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained here, the parties hereby agree as follows:

SECTION 1. CHARTER, EFFECTIVE DATE & LOCATION

1.1. Charter. This agreement (the “**Charter Agreement**”) and the exhibits hereto, specifically, certain terms of operation, set forth collectively and attached hereto as Exhibit A (the “**Renewal Application**”); the Oversight Plan as described in §6.2 of this agreement, Exhibit B; and where applicable, the Comprehensive Management Contract Requirements, attached hereto as Exhibit C (the “**Management Contract Requirements**”); shall constitute the charter (the “**Charter**”) and shall be binding on the Charter School. The Charter, together with the amended certificate of incorporation issued by the Regents, shall set the terms and expectations for the operation of the School and shall be binding on the Charter School. Upon its effective date, the Charter supersedes and replaces any previous charter agreement or understandings between the parties hereto.

1.2. Effective Date; Term. The Charter shall take effect immediately upon its (i) approval by the Regents *and* (ii) expiration of the school’s current charter (the “**Effective Date**”). The Charter shall expire on **June 30, 2024** unless earlier terminated or renewed pursuant to the terms of this Charter or of the Act.

1.3. Location. The Charter School shall be located at a site (the “**School Building**”) within the school district of location as identified in the Renewal Application or, if the Charter School is located within the City School District of the City of New York, the community school district identified in the Renewal Application. The Charter School shall ensure that all necessary leases, contracts, certificates of occupancy, and health and safety approvals for the school building are valid and in force at all times as set forth in the Opening Procedures section of the Oversight Plan. The Charter School may change its physical location or obtain additional facilities within the same school district, or if the Charter School is located within the City School District of the City of New York, the community school district, provided that the Charter School obtains the same permits and certificates as are required by this paragraph, as well as satisfies the provisions of the Act, including but not limited to §2853(1)(b-1), and provided further that (i) the Charter School notifies SED of the proposed change in location or addition of facilities not less than sixty (60) days prior to taking any final action in connection therewith; and (ii) SED does not issue a rejection to the Charter School within thirty (30) days of its receipt of such notification. SED shall issue a rejection only for good cause. SED may shorten or otherwise waive the 60-day notice requirement for good cause shown.

SECTION 2. OPERATION OF SCHOOL

2.1. Mission Statement. The Charter School shall operate under the mission statement set forth in the Renewal Application.

2.2. Age; Grade Range; Number of Students. The Charter School shall provide instruction to pupils in such grades and numbers in each year of operation under the Charter as described in the Renewal Application, provided that the Charter School, upon making all reasonable efforts to recruit students, may enroll a lesser or greater number of students in each grade, or lesser or greater number students from one year to the next, within reason, without being

deemed in material breach of the Charter, as long as such enrollment variation does not substantially alter the school's educational design as described in the Renewal Application. Notwithstanding the foregoing sentence, the Charter School must obtain prior written approval from SED prior to (i) enrolling any student, who, if enrolled, would cause the school's enrollment to exceed the total maximum enrollment of the school as set forth in the Renewal Application or (ii) commencing or continuing instruction where the total number of students enrolled is less than eighty-five percent (85%) of the Projected Enrollment for a given academic year as set forth in the Renewal Application or the total enrollment is less than fifty (50) students. The Charter School shall demonstrate good-faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students eligible for free and reduced-price lunch when compared to the enrollment figures for such students in the school district (or if the charter school is located within the City School District of the City of New York, the community school district) in which the charter school is located.

2.3 Admission; Enrollment; Attendance. The Charter School shall have in place and implement policies for admission, enrollment, attendance and student withdrawal that are consistent with §2854(2), and any other applicable law and regulations, and policies set forth in the Renewal Application. The Charter School shall ensure the taking of attendance pursuant to 8 NYCRR §104.1.

2.4 Student Transfers and Exits. Any student transfer out of the Charter School shall be documented by a transfer form signed by the student's parent/guardian, which affirmatively states that the student's transfer is voluntary. The Charter School shall annually collect and report to SED, in a format required or approved by SED, exit data on all students transferring from or otherwise exiting the school for any reason (other than graduation), voluntary or involuntary. Such exit data shall identify each departing student by name and shall document the date of and reason(s) for each student departure.

2.5 Student Learning and Achievement. The Charter School shall implement the educational programs described in the Renewal Application so that its students may meet or exceed the performance standards adopted by the Regents and in the 2019 Performance Framework (section III of the Oversight Plan described in section 6.2 of this agreement). The Charter School understands that its success in meeting the goals, measures, and standards set forth in the 2019 Performance Framework shall be the predominant criterion by which the success of its education program will be evaluated by the Board of Regents upon the School's application for future renewal of the Charter.

2.6 Evaluation of Pupils. The Charter School shall implement student assessment requirements applicable to other public schools to the same extent such examinations are required of other public school students in New York State. In addition, the Charter School shall supplement the above assessment tools with other assessment tools, consistent with those set forth in the Renewal Application.

2.7 Curriculum. The curriculum established by the Charter School shall be consistent with the curriculum described in the Renewal Application. The Charter School shall have the right to make reasonable modifications to such curriculum to permit the school to meet its educational

goals and student achievement standards. However, any modifications, either individually or cumulatively, that are of such a nature or degree as to cause the education program as described in the Renewal Application to no longer be in operation will require a material charter revision in accordance with Education Law §2852(7) and 8 NYCRR §3.16(c).

2.8 School Calendar; Days and Hours of Operation. The days and hours of the operation of the Charter School shall be as set forth in the Renewal Application and in no event shall the school provide less instructional time during a school year than is required of other public schools.

2.9 Disciplinary Code. The Charter School shall implement written rules and procedures for discipline, including guidelines for suspension and expulsion, consistent with the policies, if any, set forth in the Renewal Application, and disseminate those rules and procedures to students and parents. The rules and procedures shall be consistent with the requirements of due process, the provision of alternative instruction and with federal laws and regulations governing the placement of students with disabilities. The Charter School shall adopt and implement the provisions of 34 CFR Part 300 relating to the discipline of students with disabilities. To the extent that any provision of the Renewal Application conflicts with the provisions of this paragraph or 34 CFR Part 300, the provisions of this paragraph and 34 CFR Part 300 shall govern.

2.10 Nonsectarian Status. The Charter School shall be nonsectarian in its programs, admissions policies, employment practices and all other operations. The Charter School shall ensure that the school is not wholly or in part under the control or direction of any religious denomination and that no denominational tenet or doctrine shall be taught.

2.11 Code of Ethics. The Charter School, its trustees, officers and employees shall abide by the Code of Ethics of the school, which must be consistent with the provisions of Sections 800 through 806 of the General Municipal Law as made applicable by the Act, and must also include standards with respect to disclosure of conflicts of interest regarding any matter brought before the Charter School Board of Trustees (the “**Board**”). The Code of Ethics shall be consistent with the policies, if any, set forth in the Renewal Application.

2.12 Non-discrimination. The Charter School shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by any other public school.

2.13 Governance; School Trustees; By-laws. (a) The Charter School shall be governed by a Board of Trustees. All individuals elected or appointed to the Board shall possess the qualifications for such position as are set forth in the Renewal Application. In no event shall a teacher, school administrator, school employee, or person with an interest in a for-profit contract with the Charter School serve on the Board except to the extent permitted by the General Municipal Law. Prior to the appointment or election of any individual to the Board, the School and/or Board must conduct and provide for the cost of a background check via fingerprint scan for any prospective candidate that a Board seeks to add. The Board must also submit to SED, in writing and/or in person, documents and information in accordance with the Forms and Guidance posted on the SED Charter School Office website at www.p12.nysed.gov/psc/addbotmember.html.

(b) If, at any time, the information provided for a prospective candidate to a Board of Trustees contains material misstatements or material omissions of fact, this shall constitute misconduct. Providing false, misleading, and/or incomplete information may lead to a withdrawal of the Department's approval of a prospective candidate, nullifying that candidate's appointment to the Board of Trustees. Each member of the Board of Trustees must immediately disclose the discovery of any misstatements or material omissions of fact related to the prospective candidate.

(c) Within forty-five (45) days of receiving the name of, and all required background information about, the proposed member of the Board, SED may in writing approve, disapprove, or request additional information about, such individual. In the event that SED does not provide in writing an approval, disapproval, or a request for additional information within the 45-day time period, the proposed member may be seated by the Board. If SED requests additional information about the proposed member, such proposed member may not be seated unless and until SED indicates in writing that the member may be seated. A failure by the Board or the proposed member to timely provide the School Trustee Background Information to SED shall be grounds for disapproval. If the School Trustee Background Information contains material misstatements or material omissions of fact, this shall constitute misconduct and the Regents may remove the School Trustee. The Board shall operate pursuant to the bylaws and other rules and procedures set forth in the Renewal Application, including but not limited to the term of office permitted and the provisions for the election and appointment of new members. The Board shall have final authority and responsibility for policy and operational decisions of the school, though nothing shall prevent the Board from delegating day-to-day decision-making authority to officers and employees of the Charter School.

(d) Except as provided by subparagraph (f) of this paragraph, the Board shall operate pursuant to the bylaws of the Charter School set forth in the Renewal Application or as amended pursuant to subparagraph (c) of this paragraph 2.13 and the relevant governance provisions of the Not-for-Profit Corporation Law and Education Law.

(e) The By-laws shall not conflict with any term of the Charter or with applicable law, including provisions of the Education Law, General Municipal Law and Not-for-Profit Corporation Law applicable to charter schools.

(f) Notwithstanding any provision to the contrary in the Charter Agreement, Terms of Operation or By-laws, in no event shall the Board of Trustees, at any time, be comprised of voting members of whom more than forty (40) percent are directors, officers, employees, agents or otherwise affiliated with any single entity (with the exception of the Charter School or of another charter school), regardless of whether said entity is affiliated or otherwise partnered with the Charter School. For the purposes of this paragraph, "single entity" shall mean any individual entity, as well as any and all related entities to such entity as parents, subsidiaries, affiliates and partners. SED may, at its sole discretion, waive this restriction upon a written request from the Charter School.

(g) Where the Charter School has engaged an educational service provider (ESP), charter management organization (CMO), education management organization (EMO), or other

entity that provides comprehensive management services (see guidance posted on the Education Department's Charter School Office website defining an entity that provides comprehensive management services) to the school pursuant to a contract between such entity and the Charter School:

(i) if such entity is a for-profit entity, no employee, director, officer, agent or individual otherwise affiliated with such entity and/or any related entity, nor any immediate family members of such persons, shall be eligible to serve on the Board of Trustees;

(ii) if such entity is a not-for-profit entity, no more than two (2) trustees may be affiliated with such not-for-profit entity, or have immediate family members so affiliated, and one (1) such trustees' affiliation is limited to serving as director of such entity; provided however, that in such case the following restrictions shall apply and be contained in the By-laws:

(A) termination of the contract with the not-for-profit educational service provider or other entity shall constitute cause for removal of such person(s) from the Board of Trustees, and upon such termination such person(s) may be removed from the Board of Trustees by vote of the Board of Trustees provided there is a quorum of at least a majority of the entire Board of Trustees present at the meeting; and

(B) such person(s) shall not hold the offices of chair or treasurer of the Board of Trustees; and

(C) when the Board of Trustees has proper grounds to go into executive session pursuant to the Open Meetings Law, and the Board of Trustees is to discuss or vote upon an issue related to the not-for-profit management company or entity, the personnel of such company or entity, or such person(s), the Board of Trustees may, after such person(s) has had an opportunity to fully address the Board of Trustees, continue such executive session outside of the presence of such person(s); and

(D) the number of trustees on the Board of Trustees shall not be less than seven (7) where two (2) trustees are affiliated with the not-for-profit entity and not less than six (6) where one (1) trustee is affiliated with the not-for-profit entity.

(h) The Board shall require that each Trustee who has served on the Board during a school year shall file annually a Disclosure of Financial Interest by a Charter School Trustee with the Regents, the form and requirements of which shall be provided by the Regents. The report shall set forth and attest to transactions between the Charter School on the one hand and a Trustee and any entity with which such Trustee is affiliated, on the other, as such transactions may be defined by the Regents. As set forth in paragraph 6.1 of this Charter Agreement, the report for each Trustee shall be submitted yearly as part of the School's annual report ("**Annual Report**"). In the event that any Trustee fails to file a report within thirty (30) days of its due date of August 1, or such report is in material respects incomplete, misleading or untruthful, and the Regents and/or their agents inform the Board of its determination in this regard, the Charter School, notwithstanding any provision of its By-laws, shall in a timely fashion remove such Trustee pursuant to a vote of the Board and the failure of the Board to so act shall be a material violation

of the Charter and be subject to further action in accordance with law. Should a Trustee resign from or otherwise leave the Board without having submitted a report for any year in which such Trustee served, the Charter School shall provide the Regents with a record of the transactions required by the report for that Trustee for each relevant school year, such reports to be signed by the Charter School and due on August 1 as part of the Annual Report.

2.14 Partnership with a Management Provider. To the extent that the Renewal Application provides for entering into (or renewing) a contract with any third-party entity (including an entity referenced in 2.13 (g) above) under which such entity will provide comprehensive (all or a substantial portion of the) services necessary to manage and operate the Charter School, then the Charter School shall, no later than the “**Effective Date**” as set forth in paragraph 1.2 of this Charter Agreement, execute a legally binding and enforceable agreement with such entity named in the Renewal Application (the “**Management Provider**”) in a form substantially similar to that contained in the Renewal Application (the “**Management Contract**”), subject to the approval of SED and the requirements set forth in Exhibit C. The Management Contract shall set forth with particularity inter alia, (i) the contingent obligations and responsibilities of each party in the event that the contract must be modified in order to obtain or maintain the Charter School's status under federal law as a 501(c)(3) entity; and (ii) in the case of a Charter School that intends to renew a Management Contract with a for-profit business or corporate entity and is not prohibited from doing so pursuant to §2851(1) of the Act, the extent of the Management Provider's participation in the organization, operation and governance of the Charter School. No later than forty-five (45) days prior to entering into (or renewing) the Management Contract, the Charter School shall provide a copy of the Management Contract in proposed final form to the Regents. Such Management Contract shall be accompanied by a letter from legal counsel retained by the Charter School stating that the Management Contract meets such counsel's approval. Such counsel may not represent the Management Provider. The Management Contract shall not be executed until the Charter School is notified by SED that the Management Contract meets its approval. The Charter School shall not enter into any contract for comprehensive school management services to be performed in substantial part by any other entity not identified as such in the Renewal Application without receiving prior written approval from the Regents in accordance with §2852(7) of the Act. In addition, to the extent that, pursuant to §2851(1) of the Act, the Charter School was prohibited from entering into a Management Contract with a for-profit business or corporate entity, such prohibition is applicable to this charter renewal as well.

2.15 Parental and Staff Involvement. The Charter School shall take such steps and implement such processes consistent with those described in the Renewal Application to promote parental and staff involvement in school governance.

2.16 Student Transportation. The Charter School shall meet the transportation needs of students not otherwise eligible for transportation pursuant to Education Law §§3635 and 2853(4)(b), to the extent provided for in the Renewal Application. The Charter School may contract with a school district for the provision of supplemental transportation services to the school. All transportation provided by the Charter School shall comply with all safety laws and regulations applicable to other public schools. The Charter School shall not require parents to transport their child to and/or from school or school-sponsored events related to the curriculum.

Notwithstanding the above, the Charter School's failure to provide such supplemental transportation as is contemplated in the Renewal Application, where such transportation was to be provided by contract with the school district, shall not be deemed a material or substantial violation of the Charter, where the Charter School has attempted to negotiate such contract in good faith with the applicable school district. In such event, the Regents may require the Charter School to provide the contemplated supplemental transportation services by alternative means if such means would be reasonable under the circumstances.

2.17 Health Services. The Charter School shall provide health services directly or through the school district in which the charter school is located pursuant to Education Law §912, and in accordance with §2854(1)(b) of the Act.

2.18 Food Services. The Charter School shall provide food services to students as required by applicable law and regulation.

2.19 F.O.I.L. and Open Meetings Law. The Charter School shall implement policies to ensure that it is in full compliance with Articles Six and Seven of the Public Officers Law.

SECTION 3. STUDENTS WITH DISABILITIES

3.1 Provision of Services. The Charter School shall provide special education, related services and accommodations to students with disabilities consistent with those described in the Renewal Application and in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1401 et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and Education Law §2853(4), including such special education and related services set forth in a student's Individualized Education Program recommended by the committee or subcommittee on special education of the student's school district of residence.

3.2 Funding of Services. The Charter School is authorized to receive from a local school district direct payment of any federal or state aid attributable to a student with a disability attending the Charter School in proportion to the level of services for such student with a disability that the Charter School provides directly or indirectly. The amounts payable directly by a school district to a charter school may be increased by mutual agreement of such school district and the Charter School in order to provide the appropriate levels of services required by the individualized education program of a student with a disability.

SECTION 4. PERSONNEL

4.1 Status. The Board shall employ and contract with necessary teachers, administrators and other school personnel. The staffing structure of the School shall be consistent with that set forth in the Renewal Application, provided, however, that the contract of employment

of the principal, headmaster or other chief school officer of the Charter School shall include a provision requiring said individual to cooperate fully with any distinguished educator appointed pursuant to Education Law §211-c.

4.2 Personnel Policies; staff responsibilities. The Board shall make available in written form its hiring and personnel policies and procedures, including the qualifications required by the Board in the hiring of teachers, school administrators and other school employees as well as a description of staff responsibilities. Such policies and procedures shall be consistent with those, if any, set forth in the Renewal Application.

4.3 Instructional Providers. (a) The Charter School shall employ or otherwise utilize in instructional positions only those individuals who are certified in accordance with the requirements applicable to other public schools, or who are otherwise qualified to teach under §2854(3)(a-1) of the Act and applicable federal law. For purposes of this section, "instructional positions" means all those positions involving duties and responsibilities that, if otherwise undertaken in the public schools of New York, would require teacher certification, including positions as teaching assistants. A teacher certified or otherwise approved by the Commissioner of Education of the State of New York (the "**Commissioner**") shall not be counted against the numerical limits under §2854(3)(a-1) of the Act.

(b) Paraprofessionals. Paraprofessionals (teachers' aides) employed by the Charter School must meet all credentialing requirements imposed by applicable federal law.

4.4 Criminal History Checks. The Charter School shall maintain and implement established procedures for conducting criminal history record checks of all employees and prospective employees of the Charter School as well as all other individuals who have regular access to the students enrolled in the school (including but not limited to volunteers and employees and agents of any company and organization which is party to a contract to provide services to the School) as is required or permitted by law and regulation.

4.5 Pension Payments. The employees of the Charter School may be deemed employees of the local school district for the purpose of providing retirement benefits, including membership in the teachers' retirement system and other retirement systems open to employees of public schools. The financial contributions for such benefits shall be the responsibility of the Charter School and its employees. Notwithstanding any contrary provision of the Charter, the parties shall comply with §119.2 of the Commissioner's regulations and with any additional regulations promulgated by the Commissioner, in consultation with the New York State Comptroller, to implement the provisions of this paragraph.

SECTION 5. FINANCE AND MANAGEMENT

5.1 Management and Financial Controls. The Charter School shall at all times maintain appropriate governance and management procedures and financial controls.

5.2 Financial Statements; Interim Reports. The Charter School shall maintain financial statements that are prepared in accordance with generally accepted accounting principles. All statements required by the Financial Accounting Standards Board (FASB) Statement No. 117, *Financial Statements of Not-for-Profit Organizations*, should be presented including a Statement of Financial Position, Statement of Activities, and Statement of Cash Flows. In addition, the statements shall include the required note disclosures and a supplemental schedule of functional expenses. Upon request by SED, the Charter School shall prepare and submit to SED within **forty-five (45) days** of the end of each quarter unaudited financial statements for that preceding quarter in accordance with guidelines issued by the SED.

5.3 Audits. The Charter School shall retain an independent certified public accountant (CPA), licensed in New York State, to perform an audit of the Charter School's annual financial statements, in accordance with any audit guidelines issued by SED ("Audit Guide"). Section 2851(2)(f) of the Act requires that the audit be comparable in scope to those required of other public schools. The independent audit must be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States as well as any additional requirements and guidelines provided by the Regents. The audit must include a management letter, if applicable, and other reports required by GAGAS. The audited financial statements must be submitted to SED by **November 1** of each fiscal year. The Charter School must submit this report along with a corrective action plan addressing any weaknesses or problems identified in the report. SED may waive this requirement. If the Charter School spends \$500,000 or more in federal awards during the fiscal year, an independent audit as prescribed in the federal Office of Management and Budget ("OMB") Circular A-133 must also be completed and filed with the federal government and NYSED. Starting in the 2015-2016 school year, if the Charter School spends \$750,000 or more in federal awards during the fiscal year, an independent audit as prescribed in OMB's Uniform Guidance must be completed and filed with the federal government and NYSED.

5.4 Fiscal Year. The fiscal year of the Charter School shall commence on July 1 of each calendar year of the term of this Charter and shall end on June 30 of the subsequent calendar year.

5.5 Annual Budget and Cash Flow Projections. Upon request, the Charter School shall prepare and provide to SED a copy of its annual budget and monthly cash flow projection for each fiscal year.

5.6 Funding Procedure. The Charter School shall maintain accurate enrollment data and daily records of student attendance and shall report enrollment to SED and the school districts of residence of its students in a timely manner. Pursuant to §2856(1) of the Act, payments by the school district of residence shall be made in six substantially equal installments each year, the first on the first business day of July and every two months thereafter, such amounts to be calculated as set forth at 8 NYCRR 119.1.

5.7. Exemption from Taxation. The Charter School shall be exempt to the same extent as other public schools from all taxation, fees, assessments or special *ad valorem* levies on its earnings and its property, including property leased by the Charter School. Instruments of

conveyance to or from the Charter School and any bonds or notes issued by the Charter School, together with income therefrom, shall at all times be exempt from taxation.

5.8. Collateral for Debt. The Charter School may pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit. However, the Charter School shall not pledge or assign monies provided pursuant to §2856(1) of the Act in connection with the purchase or construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility.

5.9. Tuition and Fees. The Charter School shall not charge tuition to any student, provided that the Charter School may require the payment of fees on the same basis and to the same extent as other public schools.

5.10. Outside Funding. The Board may accept gifts, donations or grants of any kind made to the Charter School and expend or use such gifts, donations, or grants in accordance with the conditions prescribed by the donor. However, no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the Charter.

5.11. Maintenance of Corporate Status: Tax Exemptions. The Charter School shall maintain its status as an education corporation and its federal tax-exempt status. The Charter School shall provide the Regents with copies of all applications and filings relating to maintaining its federal tax-exempt status and shall immediately notify the Regents of any action by the Internal Revenue Service to withdraw the school's status as a §501(c)(3) entity.

5.12. Insurance. The Charter School shall, at its own expense, purchase and maintain at all times the insurance coverage for liability, property loss, and the personal injury of students as required by the Act and described in the Renewal Application, together with any other additional insurance that the Charter School deems necessary. Upon request by SED, the Charter School shall provide SED with certificates of insurance or other satisfactory proof evidencing coverage. All such insurance policies shall contain a provision requiring notice to SED, at least thirty days (30) in advance, of any material change, nonrenewal or termination. Notwithstanding any provision to the contrary, the Charter School shall take all steps necessary to comply with any regulations promulgated by the Commissioner and Superintendent of Insurance to implement §2851(2)(o) of the Act.

SECTION 6. REPORTS AND OVERSIGHT

6.1. Annual Reports. No later than August 1 succeeding a school year in which the Charter School has provided instruction, the Charter School, pursuant to §2857(2) of the Act, shall submit to the Regents an annual report (the "**Annual Report**") setting forth the academic program and performance of the Charter School for the preceding school year in accordance with the 2019 Performance Framework as applicable. As required by the Act, the Annual Report shall be posted on the Charter School's website, transmitted to local newspapers, and available for distribution at Board of Trustee meetings. The format for the Annual Reports shall be prescribed by the Commissioner (the "**Annual Report Guide**").

The Regents may require the Charter School to provide other reasonable supplements to the Annual Report.

6.2. Oversight Plan. The Charter School and the Board acknowledge that the Regents are authorized to oversee the Charter School's operations in all respects, including the right to visit, examine and inspect the school and its records. To permit the Regents to fulfill this oversight function under the Act and ensure that the Charter School is in compliance with all applicable laws and regulations, and the terms and conditions of the Charter, the Charter School agrees to abide by and implement the Oversight Plan, which is posted on the Department's website. It is understood that updates, clarifications, amendments and revisions may be made to such plan by SED during the charter term.

The Oversight Plan consists of the following sections:

(a) Section I: Opening Procedures. (Relevant only to charter schools prior to beginning their first year of instruction)

(b) Section II: Monitoring Plan. The oversight and monitoring activities to be conducted by SED in its oversight and charter authorization role.

(c) Section III: 2019 Performance Framework. The performance benchmarks and measures in the areas of educational success, organizational soundness, and faithfulness to the Charter and law, that the Charter School agrees to meet in order to earn renewal of its charter, including the requirement in Education Law §2851(4)(e) concerning enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program.

(d) Section IV: Closing Procedures. Those procedures, as published at the time on the Department's website, required to be completed by the Charter School if the school's charter is: revoked, not renewed, or is otherwise terminated.

6.3. Corrective Action. If SED determines that the Charter School is not progressing toward one or more of the performance or education goals set forth in the Charter, that the quality of the Charter School's educational program or governance is not satisfactory, or that the Charter School is not in compliance with the terms and conditions of the Charter and/or applicable law or regulation, then SED may require the Charter School to develop and implement a corrective action plan, and provide evidence of implementation of same. Nothing contained herein shall be in derogation of the Regents' ability to revoke the Charter, place the Charter School on probationary status, or initiate mandatory remedial action in accordance with the Act and § 8.3 of this Charter Agreement.

SECTION 7. OTHER COVENANTS AND WARRANTIES

7.1. Compliance with Laws and Regulations. The Charter School shall operate at all times in accordance with the Act and shall meet the same health and safety, civil rights, and student

assessment requirements as applicable to other schools. The Charter School acknowledges that the laws that it must comply with include Education Law §409-h and the regulations promulgated thereunder which set forth requirements for notification of pesticide applications.

7.2. Transactions with Affiliates. The Charter School shall not, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any affiliate of the Charter School, any member of the Board or any employee of the Charter School, unless the terms of such transaction (considering all the facts and circumstances) are no less favorable to the Charter School than those that could be obtained at the time from a person or entity that is not such an affiliate, member or employee.

SECTION 8. RENEWAL AND REVOCATION

8.1. Renewal Applications. No later than the first of July¹ in the year prior to expiration of the Charter, the Charter School may provide to the Regents an application to renew the Charter in accordance with §2851(4) of the Act, in a format prescribed by SED and in accordance with guidelines issued by SED ("**Renewal Application**").

Nothing herein shall require the Regents to approve a future renewal application. In the event that an application for renewal is not approved, the parties to the Charter shall fulfill their respective obligations hereunder until expiration of the term of the Charter, and the Charter School shall follow the procedures for dissolution as set forth in §2851(2)(t) of the Act and section 8.4 of this Charter.

8.2. Grounds for Revocation. This Charter may be terminated and revoked:

- (a) by the Regents in accordance with §2855 of the Act; or
- (b) by mutual agreement of the parties hereto.

8.3. Notice and Procedures. Should the Regents determine that one or more of the grounds set forth in §2855(1) of the Act exists for revocation of the Charter, the Regents may, at their discretion, elect:

- (a) to revoke the Charter in accordance with the procedures set forth in §2855(2) of the Act; or
- (b) to place the Charter School on probationary status, pursuant to §2855(3) of the Act, and cause the Charter School to implement a remedial action plan, the terms and conditions of which the Charter School must agree to abide by in all respects. The failure of a Charter School to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's Charter.

¹ The deadline for submission of a renewal application is subject to change and will be set forth in the NYSED CSO Guidelines for Submitting an Application for Charter Renewal.

8.4. Dissolution. In the event of non-renewal, termination or revocation of the Charter, the Charter School shall follow the procedures set forth in Section IV of the Oversight Plan ("Closing Procedures") and §2851(2)(t) of the Act. In addition, in case of such an event, the Charter School will follow any additional procedures required by SED to ensure an orderly dissolution process, including compliance with the applicable requirements of Education Law §§ 219 and 220.

8.5. Escrow Account for Dissolution. The Charter School agrees to maintain an escrow account of no less than \$100,000 to pay for legal and audit expenses that would be associated with a dissolution should it occur. The School's failure to maintain the full amount by December 31st of the second year of the renewal charter term shall be deemed a material violation of the charter.

SECTION 9. MISCELLANEOUS

9.1 Disclaimer of Liability. The parties acknowledge that the Charter School is not operating as the agent, or under the direction and control, of SED, or the Regents, except as required by law, and that SED or the Regents do not assume any liability for any loss or injury resulting from: (i) the acts and omissions of the Charter School, its directors, trustees, agents or employees; (ii) the use and occupancy of the building or buildings, occupied by the Charter School, or any matter in connection with the conditions of such building or buildings; or (iii) any debt or contractual obligation incurred by the Charter School. The Charter School acknowledges that it is without authority to extend the faith and credit of SED, the Regents or the public schools, to any third party.

9.2 Governing Law. This Charter shall be governed by, subject to and construed under the laws of the State of New York without regard to its conflicts of laws provisions.

9.3. Waiver. No waiver of any breach of this Charter shall be held as a waiver of any other or subsequent breach of this Charter.

9.4 Counterparts: Signature by Facsimile. This Charter may be signed in counterparts, which shall together constitute the original Charter. Signatures received by facsimile by either of the parties shall have the same effect as original signatures.

9.5 Terms and Conditions of Operation. The parties hereto expressly agree that the Renewal Application sets forth the overall goals, standards and general operational terms, policies and procedures of the Charter School, and that the Renewal Application is not a complete statement of each detail of the Charter School's operation. To the extent that the Charter School desires to implement specific policies, procedures or other specific terms of operation that supplement or otherwise differ from those set forth in the Renewal Application, the Charter School shall be permitted to implement such policies, procedures, and specific terms of operation without seeking permission from the Regents or a revision to the Charter, provided that such policies, procedures and terms of operation are (i) not otherwise prohibited or restricted by the Act, other applicable law or the Charter, (ii) are not materially different from those set forth in the Renewal Application, and (iii) are approved by the Department's Charter School Office. To the extent that any conflict

or incompatibility exists between the Renewal Application and other terms of this Charter, such other terms of this Charter shall govern.

9.6 Revision. This Charter may be revised only by written consent of the parties hereto and, in the case of material revisions, only in accordance with both §2852(7) of the Act and 8 NYCRR §3.16(c).

9.7 Assignment. This Charter may not be assigned or delegated by the Charter School under any circumstances, it being expressly understood that the Charter granted hereby runs solely and exclusively to the benefit of the Charter School incorporated herein.

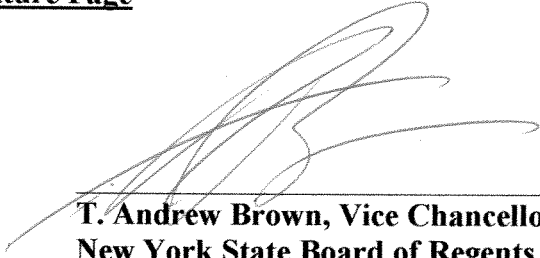
9.8 Notices. Any notice, demand, request or submission from one party to any other party or parties hereunder shall be deemed to have been sufficiently given or served for all purposes if, as of the required date, it is delivered by hand, overnight courier or facsimile (with confirmation and followed by the original). If delivered by registered or certified mail, postage prepaid, such notice, demand, request or submission shall be mailed 5 days prior to the date required. All notices, demands, requests or submissions will be provided to the Charter School at the address provided by the Charter School to SED for the purposes of receiving such notices. Such notices will be provided to the Regents at the following address: Charter School Office, NYSED, Room EB 5N Mezzanine, 89 Washington Avenue, Albany, NY, 12234.

9.9 Severability. In the event that any provision of this Charter or its application thereof to any person or in any circumstances shall be determined to be invalid, unlawful, or unenforceable to any extent, the remainder of this Charter and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected thereby, and each remaining provision of this Charter shall continue to be valid and may be enforced to the fullest extent permitted by law.

9.10 Entire Charter. This Charter supersedes and replaces any and all prior charters, agreements and understandings between the Regents and the Charter School.

9.11 Construction. This Charter shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Charter.

Signature Page



T. Andrew Brown, Vice Chancellor
New York State Board of Regents

STATE OF NEW YORK)


: ss.:

COUNTY OF ALBANY)

On the 15 day of December, 2020, before me, the undersigned, a Notary Public in and for said state, personally appeared **T. Andrew Brown**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within **Third Renewal Charter** and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public - State of New York

AARON M. BALDWIN
Notary Public - State of New York
No. 02171-130114
Qualified in Albany County
Commission Expires Sept 13, 2021


Sara Varhus, Board Chair
Discovery Charter School

STATE OF NEW YORK)

: ss.:

COUNTY OF Monroe)

On the 24th day of September, 2021, before me, the undersigned, a Notary Public in and for said state, personally appeared **Sara Varhus**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within **Third Renewal Charter** and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public - State of New York

MIREILLE ALKHOURY
Notary Public - State of New York
NO. 01AL6393767
Qualified in Monroe County
My Commission Expires Jun 24, 2023

MIREILLE ALKHOURY
Notary Public - State of New York
NO. 01AL6393767
Qualified in Monroe County
My Commission Expires Jun 24, 2023

EXHIBIT A

RENEWAL APPLICATION

[TO BE INSERTED]

EXHIBIT B

OVERSIGHT PLAN

The four sections of the Oversight Plan, as described in Section 6.2 of the Charter Agreement, are posted on the Education Department's Charter School Office website at:

<http://www.p12.nysed.gov/psc/OversightPlan.html>

EXHIBIT C

COMPREHENSIVE MANAGEMENT CONTRACT REQUIREMENTS²

In the event the Charter School intends to contract with a third party for comprehensive school management or operations services (“Management Contract”), or renew or amend an existing management contract, the Charter School must meet all of the following requirements:

1. Required Provisions of Bylaws. The bylaws of the Charter School shall provide that the Charter School may not enter into any contract for comprehensive school management or operations services (“Management Contract”) without first submitting such Management Contract to SED for review. The Charter School shall further incorporate within its bylaws, or duly establish pursuant to such bylaws, procedures for the termination of the Management Contract as provided herein.

2. Submission of Management Contract. The Management Contract shall be submitted to SED for approval no later than forty-five (45) days prior to its effective date. If SED determines that the Management Contract does not comply with the provisions set forth in Section 3 of this Exhibit, or that the Charter School’s entering into the Management Contract would otherwise be in violation of the conditions set forth in this Exhibit, the Charter, or the Charter School Law, then SED shall notify the Charter School within thirty (30) days, stating with particularity the grounds for its objections. In such event, the Charter School shall not enter into the Management Contract unless and until the deficiencies noted by SED have been remedied to SED’s reasonable satisfaction.

3. Required Terms of Management Contract. The Management Contract shall include, without limitation, the following Required Terms:

i. The Management Contract shall be subject to, and shall incorporate by reference, the terms and conditions of the Charter.

ii. The Management Contract shall clearly delineate the respective roles and responsibilities of the provider of comprehensive school management or operations services (“the Management Provider”) and the Charter School in the management and operation of the school facility for which the Management Provider shall provide management or operations services. The Management Contract shall also include clear performance terms and procedures by which the Charter School will regularly evaluate the Management Provider and hold the Management Provider accountable for performance.

iii. The Management Contract shall clearly state all contract payments, lease payments, management fees, administrative fees, licensing fees, performance bonuses, expenses and any other amounts to be paid to the Management Provider, or otherwise to be paid for the Contract Services by the Charter School, and shall clearly explain the method for calculating such fees or payments.

² See guidance posted on the Education Department’s Charter School Office website defining an entity that provides comprehensive management services.

iv. The Management Contract shall be terminable by the Charter School, in accordance with its bylaws or other established termination procedures, (a) upon default by the Management Provider, including without limitation any act or omission of the Management Provider that causes a default under the Charter or that causes the Charter School to be in violation of the Act, or (b) for other good cause shown.

v. The Management Contract shall require that the Management Provider furnish the Charter School with all information deemed necessary by the Charter School or SED for the proper completion of the budget, quarterly reports, or Financial Audits, as required by the Charter.

vi. The Management Contract shall provide that all financial reports provided or prepared by the Management Provider shall be presented in GAAP/FASB approved nonprofit format.

vii. The Management Contract shall provide that all employees or contractors of the Management Provider who have direct, regular contact with students of the Charter School shall be subject to fingerprint-based criminal background investigations and checks in compliance with applicable laws.

viii. The Management Contract shall contain provisions requiring compliance with all requirements, terms and conditions established by any Federal or State funding source.

4. Financial Reporting.

a. Budget. The budget prepared by the Charter School pursuant to paragraph 5.5 of the Charter shall include, without limitation, the following itemized information:

i. All revenue anticipated to be received from school districts of residence under the Charter.

ii. All expenses and anticipated expenses associated with the operation and management of the Charter School.

iii. All expenses associated with the operation of the Board of Trustees of the Charter School including, without limitation, personnel, occupancy and travel expenses, if any, provided that any such expenses not paid out of revenues received from school districts of residence are not required to be separately itemized hereunder.

iv. All contract payments, lease payments, management fees, administrative fees, licensing fees, performance bonuses, expenses and other amounts budgeted for the Management Provider, or otherwise budgeted for the Contract Services by the Charter School, with the method for calculating such fees or payments clearly explained.

v. All loan repayments for any loans made to the Charter School by the Service Provider, including separate line items for interest, principal and premium, if any, on such loan repayments.

vi. All investments in the Charter School by the Management Provider, including the expected returns on equity for such investments.

b. Quarterly Financial Statements. In the event that quarterly financial statements are required to be furnished by the Charter School pursuant to paragraph 5.2 of the Charter, such financial statements shall reflect the entire school's financial operations, including an itemized accounting of all amounts paid to the Management Provider or otherwise paid for the Contract Services, which amounts shall be itemized in a manner that clearly corresponds to those categories provided in the Charter School's annual budget or the Management Contract.

c. Annual Audit. The Financial Audits required under paragraph 5.3 of the Charter shall include review of all fees and payments made by the Charter School to the Management Provider.

d. Reporting of Loans and Investments. All loans to, or investments in, the Charter School by the Management Provider must be provided to SED and evidenced by appropriate documentation, either in the contract between the Charter School and the Management Provider, or through separate agreements. In the case of investments, such documentation shall explain how the investment shall be treated on the books of the Charter School and shall clearly state the Management Provider's expected return on equity.

Nothing in this paragraph 4 shall be construed to waive or otherwise limit the obligation of the Charter School to provide information otherwise required to be reported by the Charter School under the Act or the Charter.