

**T.R. Paul Academy of Arts and Knowledge
aka Northern Colorado Academy of Arts and Knowledge
4800 Wheaton Drive, Fort Collins, CO 80525**

Board Meeting Agenda for Thursday, July 20, 2017 at 4pm
4800 Wheaton Drive, Fort Collins, CO 80525
Room 100B
Conference Line: 712-432-6100 pin 558-47941

I. OPENING SECTION

- A. Call to Order
- B. Board Members in attendance: Kilbon () Kornfeld () Manguso () Nyberg ()
Walser ()
- C. Approval of Agenda
Motion by: _____ Seconded by:
Kilbon () Kornfeld () Manguso () Nyberg () Walser ()

II. AUDIENCE COMMENTS

III. OLD BUSINESS

- A. Recommendation to increase kindergarten cap from 20 to 22 students per classroom.

Motion to approve increased kindergarten cap of 22 students.

Motion by: _____ Seconded by:
Kilbon () Kornfeld () Manguso () Nyberg () Walser ()

- B. TES Service Provider Agreement

Motion to approve TES Service Provider Agreement for one additional year.

Motion by: _____ Seconded by:
Kilbon () Kornfeld () Manguso () Nyberg () Walser ()

IV. CLOSING SECTION

- A. Motion to Adjourn

Motion by: _____ Seconded by:
Kilbon () Kornfeld () Manguso () Nyberg () Walser ()

AMENDED AND RESTATED PROVIDER SERVICE AGREEMENT

This Amended and Restated Provider Service Agreement (the "Agreement") is made and entered into as of the 30 day of June, 2017, by and between Tatonka Education Services, Inc. PBC, a Colorado public benefit corporation ("TES"), and Northern Colorado Academy of Arts and Knowledge, d/b/a T.R. Paul Academy of Arts and Knowledge, a Colorado nonprofit corporation ("Charter School").

RECITALS

- A. Charter School has been granted a contract (the "Charter") from the Colorado State Charter School Institute (the "Authorizer") to organize and operate a public charter school under the laws of the State of Colorado (the "Code").
- B. TES was established to provide professional assistance and expertise to schools.
- C. Charter School and TES entered into a Provider Service Agreement dated December 22, 2015 with a termination date of June 30, 2016, and Amended and Restated Provider Service Agreement, dated June 30, 2016 with a termination date of June 30, 2017 (the "Prior Agreements").
- D. Charter School and TES desire to amend and restate the Agreement and extend the termination date on the terms and conditions contained herein.

THEREFORE, the parties mutually agree as follows:

ARTICLE I- TERM

1.1 Term. Subject to Article IX and Section 1.2 below, this Agreement will become effective July 01, 2017, and shall terminate June 30, 2018 (the "Termination Date"). The Prior Agreement shall remain in full force and effect until June 30, 2017, unless otherwise terminated per the terms of the Prior Agreement.

1.2 Renewal. After the 2017-2018 school year, renewal will be determined on an annual basis by agreement of both parties no later than April 15, 2018. It is understood by both parties that should no agreement be in place for the FY19 school year, TES shall begin the transferring of information and duties to on-site staff. With the termination of this Agreement TES shall provide all staff on-site with a termination of employment notice effective June 30, 2018 and TES shall have no further obligations and/or on-going relationship with School's on-site staff.

ARTICLE II- SERVICES

2.1 Services. For the term of this Agreement, unless terminated for purposes defined in this Agreement, TES will provide Charter School with the following services (the "Services"):

A. Human Resource Administration. TES will act as a staffing firm and provide personnel management for Charter School for educational, administrative, and all other staff and personnel. As a staffing firm TES shall:

i. Recruit, screen, interview, and assess all staff members necessary to meet the objectives of Charter School as defined by the Board of Directors.

a. TES may physically inspect the work site and work processes to review and address, in coordination with Charter School, work performance issues and employment policies relating to staff conduct.

b. TES shall make recommendations to Charter School for the hiring or termination of staff. While authority to supervise all on-site staff performance shall be held by Charter School, Charter School may delegate this authority to an individual(s) by resolution of Charter School's board. On-site staff, as they are referred to in this Agreement, are TES employees that perform services specifically for Charter School, at Charter School's facility on a daily basis.

c. Charter School shall have authority to recommend personnel and staffing changes to TES, approval of which will not be unreasonable withheld by TES. If TES objects to Charter School's recommendation TES shall provide its reasoning for rejection to Charter School's Board of Directors in writing.

ii. Ensure that all pre-employment background checks are performed on all staff hired after October 1, 2015. Background checks shall be required at each staff member's initial hire, but shall not be required annually for staff member's employed by TES the previous year. TES shall notify all staff hired after October 1, 2015 of all applicable policies, including confidentiality, holidays, vacations, health insurance benefits, employment handbook policies, and all other required legal notices. However, Charter School shall pay costs to perform background checks and print notices, as provided for in an approved budget.

iii. Preparation and transmission of payroll, withholding and taxes; provide unemployment insurance and workers' compensation benefits; and handle unemployment and workers' compensation claims involving staff. However, Charter School shall approve any change of the payroll provider or payment of on-site staff. Any cost of changing providers during the term of the Agreement shall be paid by TES. Charter School shall be responsible for funding the cost of salary, wages, and premiums paid, as provided for in an approved budget, no less than 3 business days prior to any payroll cycle. Failure to make this payment shall be considered an immediate breach of this Agreement TES shall not be responsible for payment of any costs so listed in this section 2.1 (A)(iii).

iv. Acquire health insurance coverage for staff, which policy terms and limitations must be approved by Charter School. Charter School shall be responsible to pay for the cost of such health insurance coverage, as provided for in an approved budget, at the time the insurance premiums are due. Failure to make this payment shall be considered a breach of this agreement. TES shall not be responsible for payment of any costs so listed in this section 2.1 (A)(iv).

v. Ensure compliance, with the assistance of on-site staff, with federal, state and local labor and employment laws applicable to Staff, including the Immigration Reform and Control Act of 1986; the Internal Revenue Code (“Code”); the Employee Retirement Income Security Act (“ERISA”); the Health Insurance Portability and Accountability Act (“HIPAA”); the Family Medical Leave Act; Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act; the Fair Labor Standards Act; the Consolidated Omnibus Budget Reconciliation Act (“COBRA”); the Uniformed Services Employment and Reemployment Rights Act of 1994; and, as set forth in subparagraph vi. (below), the Patient Protection and Affordable Care Act (ACA).

vi. Ensure compliance with all provisions of the ACA applicable to Assigned Employees, including the employer shared responsibility provisions relating to the offer of “minimum essential coverage” to “full-time” employees (as those terms are defined in Code §4980H and related regulations) and the applicable employer information reporting provisions under Code §6055 and §6056 and related regulations.

B. Fiscal Services and Consultation. The parties recognize that TES has expertise in regards to financial data and planning that can be of service to Charter School. As a fiscal consultant TES shall:

i. Prepare a proposed budget each year for presentation to Charter School’s Board of Directors. Authority to approve a budget shall remain solely with Charter School’s Board of Directors.

ii. Prepare and deliver to Charter School’s Board of Directors a monthly accounting and detailed statements of all revenues received, from whatever source, with respect to Charter School, and detailed statements of all expenses, including an accounting of all expenditures for services rendered to, or on behalf of, Charter School by TES, whether incurred on-site or off-site.

iii. Preparation of other financial statements as required by and in compliance with Charter School’s Charter, the Code and other applicable laws and regulations, including such documentation and support as needed by Charter School during an annual audit of Charter School’s financial statements by the independent certified public accountants retained by Charter School’s Board of Directors. However, the cost of the audit shall be the responsibility of Charter School, as provided for in an approved budget.

iv. Prepare such other reports on the finances and operation of Charter School as requested or required by: the Federal Department of Education, the Colorado Department of Education, Charter School's Board of Directors, grant providers, or Charter School's Authorizer, CSI, to ensure compliance with the terms of Charter School's charter.

v. Provide advice regarding large contracts including, but not limited to facilities, curriculum, and purchase and sales agreements. In addition TES will provide advice related to forecasting of future fiscal needs for Charter School.

vi. Dispense funds to meet the financial obligations of Charter School, including payroll expenses. It is understood that all financial obligations of Charter School are solely those of Charter School and that TES is under no obligation to advance any payments due by Charter School to any vendor or for any payroll cycle of the TES staff located at Charter School. It will be Charter School's obligation to mandate which payments are to be made or not made should Charter School not have cash available to meet all of their payment obligations. Charter School shall approve all cash distributions. Payroll shall be processed twice per month on the 15th and last day of each month with funds being made available for distribution no less than three business days prior to the payment date. Charter School's Board of Directors shall provide TES with a written resolution designating the person or persons authorized to disburse funds on behalf of Charter School.

vii Coordinate the preparation and filing of all necessary tax returns for Charter School by an accountant with expertise in tax filings for tax exempt organizations. No tax return shall be filed without Charter School's Board of Directors' review and approval.

C. Paragon™ License. Charter School believes that Paragon™ Curriculum is an important part of its Arts program. Charter School believes that Paragon™ is also an important part of its high social studies scores. To ensure Charter School shall continue to have access to Paragon™, while this Agreement is in full force and effect, TES shall acquire a license for Charter School to continue its use of Paragon™. Charter School shall be responsible for all costs of obtaining and maintaining the license and provide for said cost in its approved budget.

E. Public Relations. TES shall supply Charter School with advisement on public communications and sensitive matters that may affect the image of Charter School in the Community. Communications shall include advertising and releases to the media and shall not include advertising or public relations that pertain solely to TES. All such communications shall be approved by Charter School's Board of Directors prior to dissemination or release.

F. Information Technology. At the request of Charter School's Board of Directors TES shall develop and implement an information technology ("IT") procedure for the use,

troubleshooting and technical support of IT hardware and software for onsite staff and Charter School. Charter School shall maintain its own local IT support for resolution of minor issues.

G. Marketing. At the Request of Charter School's Board of Directors, TES shall supply plans and recommendations to support the increase in Charter School's enrollment. However, Charter School shall be responsible for the supply and printing of all marketing materials.

H. Coordinate, lead and otherwise conduct negotiations with vendors and other third party at the direction of Charter School's Board of Directors.

ARTICLE III RELATIONSHIP OF THE PARTIES

3.1 Status of the Parties. TES is not a division or any part of Charter School. Charter School is governed by its Board of Directors and is a governmental entity authorized under the Code and is not a division or a part of TES. The relationship between the parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement and those of any other agreements that may exist from time to time between the parties. Nothing herein will be construed to create a partnership or joint venture by or between Charter School and TES or to make one the agent or fiduciary of the other. Neither Charter School nor TES will hold itself out as a partner or agent of the other or otherwise state or imply by advertising or otherwise any relationship between it and the other in any manner contrary to the terms of this Agreement. Neither Charter School nor TES has and neither will represent that it has the power to bind or legally obligate the other.

3.2 Records. Student records shall be retained onsite at Charter School's location. To the extent it is practical, both financial and administrative records shall be stored and maintained at Charter School's location or chosen facility. However, records that cannot be practically stored or maintained at Charter School shall be stored with TES and shall be made available at Charter School's request for duration of this agreement and for one year following termination. Charter School will ensure that TES has the right to access personnel, financial, and other information related to and necessary to carry out the services described in this Agreement. In the course of carrying out its responsibilities under this Agreement, TES agrees to maintain the confidentiality of such information as is required to be kept confidential pursuant to applicable law.

3.3 Operations. Charter School's Board of Directors shall maintain authority and control over the operation of Charter School. Charter School's autonomy in control of operations includes, but is not limited to: the configuration, number, and layout of classrooms, the scheduling of classes and class hours, and the choice of academic programs used or taught.

3.4 Facilities. Charter School's Board of Directors shall maintain authority and control over the facilities used by Charter School. Charter School's autonomy regarding facilities includes, but is not limited to: choice of facility structure and location, ability to lease facilities from or too third parties, and ability to purchase or sell facilities and real property.

3.5 Intercept Payments. Charter School's Board of Directors shall maintain authority and control over intercept payments made by Charter School. Charter School's autonomy regarding intercept payments includes, but is not limited to: any acceptance or rejection of intercept payment liability, choice of intercept payment recipient(s), and acceptance or rejection of an intercept payment amount. For purposes of this agreement an intercept payment is an amount of Charter School's student funding which is withheld by the State, or its agents, for application to a debt and loan, whether regarding the purchase, lease, or use of a building, structure, facility, and other real property.

3.6 Charter School's Board of Directors' Authority. Nothing in this Agreement shall be construed to limit in any way the ability of Charter School's Board of Directors to carry out its legal and fiduciary duties to Charter School. Charter School's Board of Directors maintain control over setting the budget, vision, educational program, and strategic priorities for the Charter School. Final decision-making authority with regard to disputes related to discretionary decisions in the course of carrying out this contract rests with Charter School's Board of Directors.

ARTICLE IV- CONSIDERATION

4.1 Compensation for Services. For the term of this Agreement, Charter School will pay TES a fee of Eight Thousand Dollars (\$8,000.00) monthly up to a Full-Time Enrollment count of 250 pupils. If Charter School's Full-Time Enrollment count exceeds 250 pupils the monthly fee shall increase by two thousand dollars to Nine Thousand Dollars (\$9,000.00). For purposes of this agreement Charter School's Full-Time Enrollment count shall be equal to Charter School's funded student count. Each half-day kindergartener student shall count as point six seven (0.67) toward Charter School's Full-Time Enrollment.

4.2 Payment of Costs. In addition to the Service Fee described in Section 4.1 above, Charter School will reimburse TES for all costs incurred and paid by TES in providing the Services to Charter School. However, Charter School shall authorize any expense over One Thousand Dollars (\$1,000.00) which has not previously been budgeted for and approved by Charter School's Board of Directors.

4.3 Time and Priority of Payments. TES will receive its Fee following Charter School's receipt of per pupil revenue. TES will receive its Fee for each month of service for which Charter School's per pupil revenue applies. Each installment of the Fee will be due and payable within five (5) business days of receipt by Charter School of the revenues related thereto.

- A. TES will notify Charter School of payments due and owing to TES pursuant to Section 4.2 as soon as possible when made or in a billing after the end of each month, and Charter School will make such payments to TES within five (5) business days thereafter; provided, however, that any delay in so notifying Charter School shall not relieve Charter School of its obligations to make such payments. If Charter School fails

to make such payments within five (5) business days it will be found in immediate breach of this Agreement, subject to the thirty (30) day period to cure such breach.

ARTICLE V- TERMINATION

5.1 Termination by TES. TES may terminate this Agreement prior to the end of the term specified in Article I in the event that Charter School fails to remedy a material breach within 30 days after written notice from TES. A material breach includes, but is not limited to (i) Charter School's failure to pay any fee or reimbursement as required by the terms of this Agreement, (ii) an act or omission that causes TES to be unable to perform its material obligations under this Agreement. Termination by TES will not relieve Charter School of any obligations for payments outstanding to TES as of the date of termination or liability for financial damages suffered by TES, subject to the limitations in Article 6.

5.2 Termination by Charter School. Charter School may terminate this Agreement prior to the end of the term specified in Article I in the event that TES fails to remedy a material breach of this Agreement within 30 days after written notice from Charter School's Board of Directors. A material breach by TES includes, but is not limited to: (i) a material failure to account for its expenditures of Charter School funds or for other expenses incurred by Charter School at TES's direction, (ii) TES's failure to substantially follow policies, procedures, rules, regulations or curriculum duly adopted by the Board which are not in violation of or conflict with the Charter, this Agreement, the Code, the Paragon™ Curriculum and applicable laws and regulations, (iii) failure to abide by and meet the educational goals set forth in the Charter such that the Charter will be terminated, (iv) the employment of teachers in violation of the Code or this Agreement, (v) any act or omission of gross negligence that causes Charter School to materially breach the Charter or any of Charter School's other material contractual obligations in anyway, or (vi) filing of bankruptcy by TES. Termination by Charter School will not relieve Charter School of any obligations for payments outstanding to TES as of the date of the termination, nor will it relieve TES of liability for financial damages, subject to the limitations in Article 6.

5.3 Fees at Termination. This Agreement will terminate upon Charter School's ceasing to be a party to a valid and binding charter with the Authorizer, provided, however, that this Agreement will continue to remain in effect until the Termination Date or the end of a Renewal Term (as applicable) if (i) Charter School has entered into a subsequent Charter contract, and (ii) this Agreement has not been terminated pursuant to this Article V. Termination pursuant to this paragraph will not relieve Charter School of any obligations for payments outstanding to TES as of the date of termination.

5.4 Change in Law. If any federal, state or local law or regulation, court or administrative decision or Attorney General's opinion has a materially adverse effect on the ability of either party to carry out its obligations under this Agreement, such party, upon written notice, may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith and may include the use of a third party mediator. If the parties are unable to renegotiate the terms within 90 days after such notice and good faith negotiations, the party requesting the

renegotiation may terminate this Agreement on 120 days' further written notice or at the end of a school year, whichever is earlier.

5.5 Real and Personal Property. Upon termination or expiration of this Agreement by either party for any reason, all real and personal property leased by TES to Charter School will remain the real and personal property and leases of TES, and all other personal property purchased by TES with the funds provided to TES by Charter School pursuant to Section 4.02 above will be the personal property of Charter School.

5.6 Termination of Paragon™ License. Upon termination or expiration of this Agreement by either party for any reason, including without limitation Section 2.1(B), the license to use the Paragon™ curriculum shall automatically terminate, and Charter School shall immediately cease any use of the Paragon™ curriculum.

ARTICLE VI- INDEMNIFICATION

6.1 Indemnification of TES. Charter School will indemnify, defend and save and hold TES and its affiliates and all of their respective employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorney's fees and costs) that may arise out of, or by reason of, any noncompliance by Charter School with any agreements, covenants, warranties or undertakings of Charter School contained in or made pursuant to this Agreement, and any misrepresentations or breach of the representations and warranties of Charter School contained in or made pursuant to this Agreement. In addition, Charter School will reimburse TES for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this Section 8.01 may be met by the purchase of insurance pursuant to Article IX below.

6.2 Indemnification of Charter School. TES will indemnify, defend and save and hold Charter School and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorney's fees and costs) that may arise out of, or by reason of, any noncompliance by TES with any agreements, covenants, warranties or undertakings of TES contained in or made pursuant to this Agreement, and any misrepresentation or breach of the representations and warranties of the TES contained in or made pursuant to this Agreement. In addition, TES will reimburse Charter School for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this Section 8.02 may be met by the purchase of insurance pursuant to Article IX below.

6.3 Indemnification of the Authorizer. TES will indemnify and hold the Authorizer, its Board of Directors, officers, employees, agents and representatives harmless from all claims, demands, or liability, including reasonable attorney's fees and related expenses, on account of injury, loss or damages, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever not caused by the acts or negligence of the Authorizer, which arise out or are caused

by the tortuous acts or omissions of TES in connection with the operations of Charter School or which are incurred as a result of the reliance by the Authorizer (or its Board of Directors, officers, employees, agents or representatives) upon representations made to the Authorizer by TES.

6.4 Limitations of Liabilities. Charter School will assert all immunities and statutory limitations of liability in connection with any claims arising from its operations, and will not waive any immunities or limitations without the prior written consent of TES. Notwithstanding this Article VIII, to the fullest extent permitted by law, Charter School will waive the defense of governmental immunity in any dispute between the parties.

6.5 Insurance Coverage. Charter School will maintain general liability insurance and umbrella insurance coverage in the amount of Five Million Dollars (\$5,000,000.00). Such policies shall name TES and its affiliates and their respective directors, officers, employees, subcontractors, and agents as additional insureds under such policies. Charter School will comply with any information requests from its insurer(s) and all reporting requirements applicable to such insurance. The insurance provider, terms and of the policies and deductible levels shall be shall be mutually acceptable to both TES and Charter School.

ARTICLE VII- WARRANTIES AND REPRESENTATIONS

7.1 Representations and Warranties of TES. TES hereby represents and warrants to Charter School:

- A. TES is a duly organized corporation in good standing and is or will be authorized to conduct business in the State of Colorado.
- B. To the best of its knowledge, TES has the authority under the Code and other applicable laws and regulations to execute, deliver, and perform in accordance with this Agreement, and to incur the obligations provided for under this Agreement. This Agreement has been duly authorized and executed by TES and constitutes the legal and validly binding obligation of TES, enforceable against TES in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting creditors' rights and general principles of equity.
- C. TES's actions under the Agreement have been and will be duly and validly authorized, and it will adopt any and all further resolutions or expenditure approvals required for execution of this Agreement.
- D. TES agrees to comply with any terms and conditions imposed by Charter School's authorizing contract subject to its written consent to changes made during a school year.

E. TES agrees to comply with all applicable laws, regulations, Charter School's Board policies, the Authorizer's policies, or other governing authority in carrying out its responsibilities under this Agreement.

7.2 Representations and Warranties of Charter School. Charter School hereby represents and warrants to TES:

A. The Charter (i) authorizes Charter School to operate and receive the state and federal educational funding allocations and other revenues; (ii) approves the Education Program and other activities contemplated by this Agreement; and (iii) vests Charter School with all powers necessary and desirable for carrying out the Education Program and other activities contemplated in this Agreement.

B. Charter School has the authority under the Code and other applicable laws and regulations to contract with a private entity to perform the services under this Agreement and execute, deliver and perform this Agreement, and to incur the obligations provided for under this Agreement.

C. Charter School's actions and those of its Board have been duly and validly authorized.

D. To the best of its knowledge, Charter School is not and will not be in breach of the terms of the Charter and will use its best efforts to ensure that it will not breach the Charter in the future.

E. To the best of its knowledge, Charter School is not in breach or default under any loan or financial obligations, including, but not limited to, salary obligations and related benefits, payroll taxes, and leases for real and personal property, to the extent that any such obligation is related to Charter School's required performance under this Agreement.

F. The Educational Program has been reviewed and approved by unanimous resolution of Charter School's Board of Directors.

G. Charter School's Board of Directors will use its best efforts to ensure that the Educational Program complies with and will continue to comply with the Charter, the Code and other applicable laws and regulations.

7.3 Mutual Warranties. Each party to the Agreement warrants to the other that there are no pending actions, claims, suits or proceedings, to its knowledge, threatened or reasonably anticipated against or affecting it, which if adversely determined, would have a material adverse effect on its ability to perform its obligations under this Agreement.

7.4 Dispute Resolution. Each party shall attempt an informal problem solving before filing an action against the other party in any jurisdiction. Such informal problem solving shall be non-

binding except if resulting in a new or additional agreement signed by both parties. Each party shall give reasonable efforts to resolving issues before escalating matters to a tribunal or court.

ARTICLE VIII MISCELLANEOUS

8.1 Sole Agreement. Upon the effective date, this Agreement supersedes and replaces any and all prior agreements and understandings between Charter School and TES.

8.2 Force Majeure. Notwithstanding any other sections of this Agreement, neither party will be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, labor strike or other acts beyond its reasonable control.

8.3 Governing Law. The laws of the State of Colorado will govern this Agreement, its construction, and the determination of any rights, duties and remedies of the parties arising out of or relating to this Agreement.

8.4 Agreement in Entirety. This Agreement constitutes the entire agreement of the parties.

8.5 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument.

8.6 Official Notices. All notices and other communications required by the terms of this Agreement will be in writing and sent to the parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees). Notice may be given by: (i) certified or registered mail, postage prepaid, returns receipt requested, (ii) facsimile (with confirmation of transmission by sender's facsimile machine) or (iii) personal delivery. Notice will be deemed to have been given two days after mailing or on the date of personal delivery or on the date of transmission of a facsimile if on a business day during normal business hours (or, if not, the first business day thereafter). The addresses of the parties are:

To: T.R. Paul Academy of Arts and Knowledge
4800 Wheaton Drive
Fort Collins, Colorado 80525

To: Tatonka Education Services Inc. PBC
10375 Park Meadows Drive, Suite 230,
Littleton, CO 80124

8.7 Assignment. This Agreement may not be assigned by Charter School without the consent of the TES. This Agreement may not assigned by TES without the consent of Charter School. The parties agree that consent shall not be unreasonably withheld.

8.8 Amendment. This Agreement will not be altered, amended, modified or supplemented except in a written document approved by Charter School's Board of Directors and signed by authorized officers of both Charter School and TES.

8.9 Waiver. No waiver of any provision of this Agreement will be deemed to be or will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly stated.

8.10 Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement will not affect the remaining portions of this Agreement, and this Agreement will be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement. To the extent that any of the services to be provided by TES are found to be an invalid delegation of authority by Charter School, such Services will be construed to be limited to the extent necessary to make the Services valid and binding.

8.11 Successors and Assigns. Except as limited by Section 8.7 above, this Agreement will be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

8.12 No Third Party Rights. This Agreement is made for the sole benefit of Charter School and TES, and their successors and assigns. Except as otherwise expressly provided, nothing in this Agreement will create or be deemed to create a relationship between the parties to this Agreement, or either or them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.

8.13 Survival of Termination. All representations, warranties and indemnities made in this Agreement will survive termination of this Agreement.

8.14 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument.

8.15 FY18 Audit. Should the parties not enter into a new agreement beyond June 30, 2018 it is understood TES shall not be responsible for the filing of the School's FY18 audit, however, TES shall provide to School financial records necessary to meet its audit requirements no later than July 15, 2018.

8.16 Final Payment. Final payment by Charter School to TES will include ALL payments due to TES under this Agreement along with any payroll (salary, wages, and premiums) or trailing compensation payments due to on-site staff after June 30, 2018 but payable for work performed during the FY18 fiscal year. Should any claim arise out of Charter School's non-payment of FY18 compensation earned by an on-site staff member, Charter School shall be responsible for

said claim. Charter School further agrees to include all payments due on-site staff for work performed in FY18 in the FY18 approved budget.

Charter School avoidance of all doubt, it is understood that all financial obligations of Charter School are solely those of Charter School and that TES is under no obligation to advance any payments due by Charter School to any vendor or for any payroll cycle of the TES staff located at Charter School.

ARTICLE IX TABOR

9. Non-Appropriation. As Charter School is bound by Art. X, Section 20(4)(b) of the Colorado Constitution, commonly known as “TABOR,” payments under this Agreement are currently budgeted expenditures and no term of this Agreement may be construed to constitute or give rise to a multiple fiscal year (July 1 — June 30) direct or indirect debt or other financial obligation of any description. Charter School’s District’s obligations to pay any amount under this Agreement shall not constitute a mandatory charge against nor require liability or obligation of Charter School in any ensuing fiscal year beyond the then-current fiscal year. Charter School shall not incur any obligation nor liability in any form under this Agreement beyond the revenues budgeted and appropriated to pay the amount due for a specified fiscal year. This Agreement shall not directly nor indirectly obligate Charter School to make any payments beyond the funds legally available to Charter School and designated for payment under this Agreement for the then-current fiscal year, nor impose any obligation (whether of good faith or fair dealing or otherwise) to make an appropriation for a succeeding fiscal year. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Charter School’s monies. Charter School may, accordingly, terminate this Agreement effective at the end of any fiscal year by actual notice, given during that fiscal year, to TES of Charter School’s decision not to appropriate monies to fund the Agreement for a succeeding fiscal year, without any penalty, charge, or claim arising from such termination. Notwithstanding its power of non-appropriation, it is Charter School’s present intention to maintain the Agreement for the full Term. Accordingly, the cost of maintaining this Agreement shall be included in all regularly prepared budgets during the Term, unless, by formal action of Charter School’s Board of Directors, with advance written notice to the TES and an opportunity for the TES to address the Board, the Board exercises the power of non-appropriation stated in this section. The power of non-appropriation is non-exclusive and shall not modify or exclude Termination of some or all services.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first above written.

Northern Colorado Academy of Arts and Knowledge, Inc., AKA T.R. Paul Academy of Arts and Knowledge
a Colorado Non-profit Corporation

Signature: _____
By: Samuel Kornfeld
Title: Board Chair

Tatonka Education Services, Inc. PBC
a Colorado Public Benefit Corporation

Signature: _____
By: Carol S. Hansen
Title: President