

EMPLOYMENT AGREEMENT

This Employment Agreement is made as of the 16th day of June, 2017, by and between the Alma del Mar Charter School ("the School") and [REDACTED] ("Executive Director") (collectively, the "Parties").

For good and valuable consideration, the parties hereto agree as follows:

I. Employment and Term. Subject to the terms and conditions of this Agreement, the School shall employ the Executive Director for a two (2) year period commencing, retroactively, on July 1, 2016 and continuing through June 30, 2018 (the "Term"). All prior agreements, whether oral or written, between the School and the Executive Director are superseded by this Employment Agreement.

II. Responsibilities and Duties. The Executive Director shall be the chief administrator and educational leader of the School, subject to the supervision and direction of the Board of Trustees (the "Board"). The Executive Director shall dedicate his full time and best efforts to performing all the duties of the Executive Director of School and such other duties as the Board shall reasonably designate consistent with the Executive Director's title and position. The Executive Director shall conduct all his activities in compliance with all by-laws, rules, procedures and policies of the School, and all applicable laws.

In addition to, and without limiting the foregoing, the Executive Director shall have the following specific responsibilities and duties:

- To supervise the operation of the School according to generally accepted standards as promulgated by the Massachusetts Department of Education.
- To implement the policies and goals of the Board as the same may be transmitted from time to time, to the Executive Director.
- To administer the employment and re-employment by yearly contract, letter of intent, or other method as appropriate, sufficient professional and nonprofessional faculty and staff members to permit the effective and economic operation of the School, such agreements to be entered into an appropriate time prior to the beginning of the academic year.
- To devote his entire time, attention, and energies to duties as Executive Director, and not, during the term of this Agreement, be engaged in any other educational or business activity whether or not such activity is pursued for gain, profit, or other pecuniary advantage, except:
 - o Volunteer coaching, civic or church work or similar activities;
 - o Voluntary service in appropriate educational organizations (*e.g.*, trustee, committee members, *etc.*), or

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- o As otherwise permitted in this Agreement, provided, however that at least annually the Executive Director apprises the Board Chair about the nature of and time commitment for these voluntary activities.

III. Compensation and Benefits.

(a) The Executive Director shall receive an annualized base salary in the amount of [REDACTED] subject to applicable taxes, deductions and withholdings (the "Base Salary"), payable in accordance with regular payroll practices of the School. The Board shall review the Executive Director's salary annually for potential increases in connection with the annual evaluation of his job performance and the overall salary pool, and/or as otherwise determined by the Board. Annual increases are at the sole discretion of the Board.

(b) During the term of the Agreement, the Executive Director may participate in all employee benefit plans in effect from time to time for the Leadership Team of the School generally (the "Benefits Package"). The Executive Director's participation in any and all aspects of the Benefit Package is subject to the terms of the applicable plan documents then in effect and generally applicable School policies. The School reserves the right to alter, modify or eliminate the Benefit Package, unless prohibited by applicable law.

IV. Business Expenses. Upon the rendering of an appropriate and timely accounting, the School will reimburse the Executive Director for business expenses reasonably incurred in the discharge of the Executive Director's responsibilities and duties. The accounting in regards to the reimbursement of business expenses must be submitted for approval to the Director of Operations and Finance ("DOF") within thirty days of when the expenses are incurred. The DOF will present an itemized report of the Executive Director's business expenses to the Board Chair upon request, and at least annually.

V. July Remote Work Period. In each year of the Term of this Agreement, during the Month of July, the Executive Director shall be excused from regular attendance on School premises, and *may* perform his job responsibilities and duties remotely (the "July Remote Work Period"). During the July Remote Work Period, the Executive Director shall remain obligated to perform his regular responsibilities and duties, and shall be readily available to communicate with School faculty and staff, parents, and Board members as necessary to execute those responsibilities and duties. In addition to his regular responsibilities and duties, during the July Remote Work Period, the Executive Director shall be required to submit two (2) written reports to the Board, care of the Chair, that summarize his job activities during the July Remote Work Period - the first written report shall be submitted no later than July 15 of the relevant year; the second written report shall be submitted no later than July 31 of the relevant year.

VI. Professional Development. The School shall procure for the Executive Director upon his request services reasonably associated with the Executive Director's professional development, the cost of which is not to exceed an amount of Fourteen Thousand dollars (\$14,000.00) per calendar year. The DOF will present an itemized report of the Executive Director's professional development expenses to the Board Chair upon request, and at least annually.

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VII. Vacation, Sick Days, and Other Benefits. The Executive Director shall be entitled to the same vacation benefit afforded to the Leadership Team of the School generally. This vacation benefit shall be taken during the period or periods determined to be in the best interest of the School (preferably after the close of one school year, and before the beginning of the next and/or during regularly scheduled School vacations.) The Executive Director shall also be entitled to the same sick time benefit afforded to the Leadership Team of the School generally. Any vacation benefit and sick time that is accrued, but unused, by the Executive Director at the end of the applicable academic school year (June 30) may not be carried over to subsequent academic school years, nor shall any cash payments be made to the Executive Director in lieu of unused vacation benefit and sick time, except as required by law.

VIII. Termination. The Executive Director's employment and this Agreement may be terminated as follows:

(a) **Termination by Executive Director.** The Executive Director may, by delivering written notice to the Board no later than November 1 of the academic school year in which the termination will occur, elect to terminate his employment and this Agreement effective June 30 of the same academic school year, or on another date mutually agreeable to the Executive Director and the School. All compensation and benefits under this Agreement shall cease as of the termination date, except as required by law.

(b) **Termination by School For Cause.** The School may terminate the Executive Director's employment and this Agreement immediately at any time for Cause. For purposes of this Agreement, Cause shall mean: (i) the repeated and material failure of the Executive Director to perform his responsibilities and duties under this Agreement; (ii) dishonesty; (iii) theft; (iv) arrest for or conviction of a crime other than a minor misdemeanor or traffic violation; (v) unethical conduct; (vi) a material breach of this Agreement; or (vii) commission of any act which in the good faith opinion of the Board is injurious to the reputation, best interests, business, or operations of the School. Cause shall be determined by a majority vote of the voting members of the Board. If the School terminates the Executive Director's employment under this subparagraph for Cause, the School's obligation to provide the Executive Director with any compensation or benefits shall cease immediately, except as required by law.

(c) **Termination by School without Cause.** The School may terminate the Executive Director's employment and this Agreement at any time without cause by a majority vote of the voting members of the Board and written notice from the Board Chair to the Executive Director. If termination without cause occurs on or after July 1, 2017 but before the expiration of this Agreement on June 30, 2018, then the School will pay the Executive Director the remainder of his base salary for the final year of his employment under Agreement in accordance with its usual pay practices but no further severance. If termination without cause occurs prior to July 1, 2017, then the School will pay the Executive Director severance in the amount of his base salary during the *calendar* year in which he receives notice of termination without cause, to be paid at the School's option either in lump sum or monthly in accordance with its usual pay practices. To be eligible to receive any severance compensation under this paragraph, the Executive Director must (i) execute and not revoke a separation agreement and a general release of claims to be prepared by the School; (ii) at the School's option, continue to serve as Executive Director through

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the end of the academic school year (June 30), and (iii) assist the School in securing an interim or permanent replacement.

(d) **Death or Disability.** If the Executive Director dies during the Term, this Agreement shall terminate as of the date of his death, and the School shall have no further obligation to pay any compensation or benefits except as provided by law. If during the Term, the Executive Director becomes physically or mentally incapacitated, so that the Executive Director is unable to perform the essential functions of his position for a continuous period in excess of ninety (90) days or for a period of ninety (90) non-consecutive days in any twelve (12) month period, the School may terminate this Agreement, and the School shall have no further obligations to pay any compensation or benefits except as provided by law. This subparagraph does not affect any insurance benefits, provided under this Agreement, that may be available to the Executive Director and his beneficiaries as a result of the Executive Director's death or disability.

(e) **Expiration of the Agreement.** The Executive Director's employment hereunder shall end of its own accord at the end of the Term, unless the parties should agree in writing to extend this Agreement. The Executive Director shall not be entitled to any additional compensation or benefits under this Agreement if his employment is terminated according to this subparagraph.

IX. Extension of Agreement. The Board and the Executive Director shall negotiate any extension to this Employment Agreement on or before December 18, 2017 to ensure that both parties have sufficient time to explore other options if agreement on terms is not reached.

X. Confidential Information and Restricted Activities.

(a) **Confidential Information.** During the course of the Executive Director's employment with the School, the Executive Director will learn of Confidential Information, and the Executive Director may develop Confidential Information on behalf of the School. For purposes of this Agreement, "Confidential Information" means any and all information of the School that is not generally known by others outside the School. Confidential Information also includes any information that is deemed confidential by the School, or is received by the School from any Person (as defined herein) with the express understanding that it will be maintained as confidential and not disclosed. The Executive Director agrees that, *during the Term of this Agreement and for a period for three (3) years thereafter*, he will never use or disclose to any Person (except as required or restricted by applicable law or for the proper performance of his duties and responsibilities to the School) any Confidential Information obtained by the Executive Director incident to his employment or any other association with the School. As used herein, "Person" means an individual, a corporation, an association, a partnership, an estate, a trust and any other entity or organization, other than the School. The Executive Director understands that this restriction shall continue to apply after his employment terminates, regardless of the reason for such termination.

(b) **Protection of Documents.** All documents, records and files, in any media of whatever kind and description, relating to the business, present or otherwise, of the School and any copies ("Documents"), whether or not prepared by the Executive Director, shall be the sole and exclusive property of the School. The Executive Director agrees to safeguard all Documents

and to surrender to the School, at the time his employment terminates or at such earlier time or times as the Board or its designee may specify, all Documents then in his possession or control.

(c) **Non-Solicitation of Employees.** Absent the express written approval of the Board Chair, the Executive Director agrees that for one year following the termination of his employment, the Executive Director will not, for himself or for any other person or entity, directly or indirectly hire or solicit for hiring any person who was employed by the School at any time during the twelve (12) months preceding the Executive Director's last day of employment.

(d) The restrictions and conditions set forth in this Section X are meant to be in addition to all other restrictions and conditions placed on the Executive Director's activities as set forth elsewhere in this Agreement or at common law.

XI. Indemnification and Provision of Counsel. In the event that an action is brought or a claim is made against the Executive Director arising out of or in connection with his employment with the School, and the Executive Director is acting within the scope of the duties and responsibilities set forth in this Agreement, the School shall indemnify the Executive Director for any costs not otherwise paid by liability insurance, including, but not limited to reasonable costs associated with legal counsel. Such indemnification and provision of counsel, as provided in this section, shall not apply in the case of malfeasance in office, or willful or wanton neglect of duty.

XII. Commitment to the School. The Executive Director shall not submit an application for or formally interview for any position with any other elementary or secondary school during the term of this Agreement without obtaining express written permission to do so from the Chair of the Board.

XIII. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto in connection with the subject matter of this Agreement, superseding all prior understandings and agreements, whether written or oral.

XIV. Amendment. This Agreement only may be amended by the parties hereto by an instrument in writing duly executed and delivered on behalf of each of the parties hereto.

XV. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any and all actions concerning this Agreement shall be brought by the parties in the courts of the Commonwealth of Massachusetts, as the exclusive venue and jurisdiction, subject to compliance with paragraph XIX below.

XVI. Severability. The provisions of this Agreement are severable, and in the event that any one or more provisions are deemed illegal or unenforceable, the remaining provisions shall remain in full force and effect.

XVII. Successors. This Agreement shall be binding upon the parties' successors and assigns.

XVIII. Assigns. Because the Executive Director's duties and services hereunder are special, personal and unique in nature, the Executive Director may not transfer, sell or otherwise

assign his rights, obligations or benefits under this Agreement.

XIX. Dispute Resolution.

(a) **Mediation Required.** Except as provided herein, no administrative or court action with respect to any dispute, claim or controversy arising out of or relating to this Agreement may be commenced until after the Parties have attempted in good faith to resolve their difference through non-binding mediation. Either party may commence mediation by providing to the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate in selecting a private mediator with experience in employment matters and in scheduling the mediation. The Parties will share equally in the costs of mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or 45 days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire. The provisions of this Section may be enforced by any Massachusetts court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the party against whom enforcement is ordered.

(b) **Exclusive Arbitration.** If mediation is unsuccessful, any dispute, claim or controversy arising out of or relating to this Agreement or the breach thereof or otherwise arising out of the Employee's employment or the termination of that employment (including, without limitation, any claims of unlawful employment discrimination) shall, to the fullest extent permitted by law, be settled exclusively by arbitration in any forum and form agreed upon by the parties or, in the absence of such an agreement, under the auspices of the American Arbitration Association ("AAA") in Boston, Massachusetts in accordance with the Employment Dispute Resolution Rules of the AAA, including, but not limited to, the rules and procedures applicable to the selection of arbitrators. In the event that any person or entity other than the Employee or the Employer may be a party with regard to any such controversy or claim, such controversy or claim shall be submitted to arbitration subject to such other person's or entity's agreement. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. This paragraph shall be specifically enforceable. This paragraph shall not preclude either party from pursuing a court action for the sole purpose of obtaining a temporary restraining order or a preliminary injunction in circumstances in which such relief is appropriate; provided that any other relief shall be pursued through an arbitration proceeding pursuant to this paragraph.

(c) **Payment of Attorney's Fees.** The arbitrator or court of competent jurisdiction will have the authority to allocate attorney's fees to the prevailing party in the action, as appropriate based upon the relative success or failure of the parties in prosecuting or defending the claims in dispute.

(d) **Payment of Arbitrator Fees.** The Employee and the Employer shall each be responsible to pay one-half of the total filing fees for arbitration and the fees paid to the arbitrator for any arbitration initiated under this Agreement. (Each party is responsible to pay its or his own attorney fees.) Either party may request the arbitrator to order one party to reimburse

the other party for all or some of these arbitration fees, as the arbitrator deems appropriate based upon the relative success or failure of the parties in prosecuting or defending the claims in dispute.

XX. Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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Alma del Mar Charter School

Chair of the Board

Executive Director