

## NOTICE OF REGULAR MEETING



Corporate School Board Meeting of  
Somerset Academy Inc., dba  
Brooks Academy of Science and Engineering  
November 13, 2017  
9:00 AM

Notice is hereby given that on Monday November 13, 2017 the Corporate School Board of Directors of Somerset Academy Inc. dba Brooks Academy of Science and Engineering will hold a meeting Brooks Academy of Science and Engineering, 3803 Lyster Road, San Antonio TX 78235 The meeting will be open to remote participation by some members of the Corporate School Board by videoconference call, in compliance with the provisions of the Texas Open Meetings Act. The intent is for a quorum of the Corporate School Board to be physically present at the meeting location Brooks Collegiate Academy, 3803 Lyster Road, San Antonio TX 78235. Any board member who participates by videoconference call must be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected.

*The subjects to be discussed are listed on the agenda which is attached to and made a part of this Notice. If during the course of the meeting covered by this Notice, the Board of Directors should determine that a closed or executive meeting or session of the Board of Directors is required, then such closed or executive meeting or session as authorized by the Texas Open Meetings Act, Texas Government Code Section 551.001 et seq., will be held by the School Board concerning any and all purposes permitted by the Act.*

Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. Such purposes permitted to be discussed in closed session include the following provisions of the Texas Government Code:

- § 418.183(f) Disclosure of certain confidential information
- § 551.071 Private consultation with the Board's attorney
- § 551.072 Discussing or deliberating purchase, exchange, lease or value of real property

- § 551.073 Discussing or deliberating negotiated contract for prospective gift or donation to the school district
- § 551.074 Discussing or deliberating appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee
- § 551.076 Discussing or deliberating the deployment or specific occasions for implementation of security personnel or devices or security audit
- § 551.082 Discussing or deliberating discipline of a public school child or employee complaint against another employee
- § 551.0821 Discussing or deliberating a public school child which reveals personally identifiable information
- § 551.084 Investigation; exclusion of witness from a hearing during examination of another witness
- § 551.086 Discussing economic development negotiations or offer of financial or other incentive to business prospects

Should any final action, final decision, or final vote be required in the opinion of the School Board with regard to any matter considered in such closed or executive meeting, then the final action, final decision, or final vote shall be either:

- (a) in the open meeting covered by the Notice upon the reconvening of the public meeting; or
- (b) at a subsequent public meeting of the School Board upon notice thereof; as the School Board shall determine.

The subjects to be discussed or considered or upon which any formal action may be taken are listed below. Items do not have to be taken in the same order as shown on this meeting notice.

1. Notice of Meeting: This meeting has been posted in accordance with Government Code Section 551.001, State of Texas Open Meetings Act.
2. Meeting called to order and quorum established
3. Public Comment
4. Presentations, Discussion and Possible Action

**Consent Agenda Items:**

The following items will only be considered individually if requested by a member of the Board to be moved for consideration as an individual item.

- 4.1 Presentation, discussion and possible action regarding minutes of the corporate board meeting held on September 25, 2017

**Individual Agenda Items:**

- 4.2 Presentation regarding August 17 Unaudited Financials SY 16/17.
- 4.3 Presentation regarding September 17 Financials SY 16/17
- 4.4 Presentation, discussion and possible action regarding Budget Amendment SY 17/18.
- 4.5 Presentation, discussion and possible action regarding implementing Pre-K at Base.
- 4.6 Presentation, discussion and possible action regarding Sub-Lease of Office Space to Academica SW.
- 4.7 Presentation, discussion and possible action regarding IT Support and Service Agreement between Brooks Academy and Academica South West.
- 4.8 Presentation, discussion and possible action regarding Service Agreement between Brooks Academy and Academica.
- 4.9 Presentation, discussion and possible action regarding Facilities.
  
- 5. Presentation and Discussion
  - 5.1 Academic Update
  - 5.2 Enrollment Update
  - 5.3 Open Meeting Laws Update
- 6. Adjournment

### **CERTIFICATE AS TO POSTING OR GIVING OF NOTICE**

This notice was posted in compliance with the Texas Open Meetings Act on November at 6:00 PM on the entry doors of all Brooks Academy Schools in San Antonio and on the District Website.

*This meeting is accessible to individuals with disabilities and the general public. If you have a disability and require special accommodations, please contact Rosa Malmcrona 210-388-0288 at least one (1) business day before the meeting, for assistance.*

**Meeting Minutes – Corporate School Board Meeting of Somerset Academy, Inc.  
d/b/a Brooks Academy of Science and Engineering (BASE)**

**September 25<sup>th</sup>, 2017  
6:00 PM**

A meeting of the Board of Directors of Somerset Academy, Inc. was held on September 25<sup>th</sup>, 2017 at Brooks Collegiate Academy located at 4802 Vance Jackson Rd, San Antonio, TX 78230

1. **Notice of Meeting:** This meeting has been posted in accordance with Government Code Section 551.001, State of Texas Open Meetings Act.
2. **Board Members present:** Lourdes Isla, Ana Diaz, Matt Cox, David Concepcion, George Ozuna, and Louis Marin.

**Brooks Academy staff present:** Lisa Schutz, Sam de la Rosa, Bonnie Salas, Talisa Wilson, Patricia Lozano Landry, Florencio Zepeda, Coach Almazan, Lisa Smith.

**Academica Southwest staff present:** Rosa Malmcrona, Jan-Kennet Malmcrona, Julie DeClouette, Marcie Thibodeaux, Guadalupe Zapata, Eddie Zapata.

The meeting was called to order by `Louis Marin at 6:22 pm. with an established quorum.

3. **Public Comment**

- No public

4. **Consent Agenda Items:**

**The following items will only be considered individually if requested by a member of the Board to be moved for consideration as an individual item.**

- 4.1 Presentation, discussion and possible action regarding minutes of the corporate board meeting held on August 14, 2017

### **Individual Agenda Items:**

A motion to approve adopting the new Purchasing Policy was made by Louis Marin and seconded by David Concepcion AYE: George Ozuna, and Lourdes Isla and Ana Diaz NAY: None. ABSTAIN: None. Motion carries

#### **4.3 Presentation, discussion and possible action regarding Budget SY 17/18.**

This matter was discussed during Executive Session.

The Board went into Executive Session at 6:40 p.m. and came out of executive session at 7:30 p.m.

No action was taken.

#### **4.4 Presentation, discussion and possible action regarding Purchasing Policy.**

Ms. Malmcrons explained that after discussion with Mr. Hoffer's office the purchasing policy should be updated to be more in line with the actual TEA guidelines and therefore asked the board to approve that the new Purchasing Policy that was presented be adopted by the board. The board requested that we added a note to state that all contracts over 25,000 will be made for only 1 year.

A motion to approve adopting the new Purchasing Policy was made by Louis Marin and seconded by David Concepcion AYE: George Ozuna, and Lourdes Isla and Ana Diaz NAY: None. ABSTAIN: None. Motion carries

#### **4.5 Presentation, discussion and possible action regarding adoption of Capitalization Policy.**

Ms. Malmcrons explained that after discussion with Mr. Hoffer's office, a new capitalization Policy mainly adopting that the threshold for capitalizing Fixed Assets be set at \$500.

A motion to approve adopting the new Purchasing Policy was made by Louis Marin and seconded by David Concepcion AYE: George Ozuna, and Lourdes Isla and Ana Diaz NAY: None. ABSTAIN: None. Motion carries

#### **4.6 Presentation, discussion and possible action regarding application of Pre-K Grant**

Ms. Schulz ask for approval from the board to seek a Pre-K Grant that is due on December 31, 2017

A motion to approve applying for a Pre-K Grant was made by Louis Marin and seconded by David Concepcion AYE: George Ozuna, and Lourdes Isla and Ana Diaz NAY: None. ABSTAIN: None. Motion carries

## 5. Presentation and Discussion Regarding Schools

### 5.1 Enrollment Data.

New Enrollment numbers were given showing a decrease in enrollment in particular at BASE. Ms. Lisa Smith presented the 30 days Marketing Blitz that had planned in order to get enrollment back up.

## 6. Adjournment

A motion to adjourn was made by Louis Marin and seconded by George Ozuna AYE: Ana Diaz, David Concepcion, George Ozuna, and Louis Marin NAY: None. ABSTAIN: None. Motion carries.

The meeting was adjourned at 7:35 p.m.

**Certification of Meeting Minutes of the Board of Somerset Academy, Inc.  
d/b/a Brooks Academy of Science and Engineering (BASE)**

The preceding minutes of the Board meeting of Somerset Academy, Inc. dba Brooks Collegiate Academy) held on September 25<sup>th</sup>. 2017 were approved at a meeting of the Board held on November 13<sup>th</sup>, at 6:00 p.m.

The undersigned hereby certifies that he/she is an Officer and/or Director of Somerset Academy, Inc., a not-for-profit corporation organized and existing under the laws of the State of Florida, and doing business in the State of Texas pursuant to a contract with the State Board of Education and the laws of the State of Texas, that the above is a true and correct copy of the meeting minutes of the Board of Directors of said corporation.

\_\_\_\_\_, President or Vice Chair  
Printed Name

\_\_\_\_\_, President or Vice Chair  
Signature

Date Signed: November 13<sup>th</sup>, 2017



**SOMERSET ACADEMY, INC.**  
**DBA BROOKS ACADEMY OF SCIENCE AND ENGINEERING**  
For Fiscal Year Ending August 31, 2018  
**AMENDMENT-NOVEMBER 13, 2017**

	<b>BOARD APPROVED</b>	<b>CHANGE FOR ACTUAL ENROLLMENT AND STAFFING</b>	<b>REVISED NON- APPROVED</b>	<b>BUDGET CUTS 9.25.17</b>	<b>REVISED NON-APPROVED AFTER BUDGET CUTS</b>	<b>BUDGET CUTS 11.3.17</b>	<b>REVISED NON-APPROVED AFTER 2ND BUDGET CUTS</b>	
<u>ESTIMATED REVENUES</u>	<u>GENERAL FUND</u>	<u>GENERAL FUND</u>	<u>GENERAL FUND</u>	<u>GENERAL FUND</u>	<u>GENERAL FUND</u>	<u>GENERAL FUND</u>	<u>GENERAL FUND</u>	<u>FOOD SERVICE FUND</u>
5700 Local Revenue	\$ -		\$ -		\$ -		\$ -	\$ 314,239
5800 State Revenue	25,437,619	(1,616,973.00)	23,820,646	-	23,820,646	-	23,820,646	
5900 Federal Revenue	-		-		-		-	592,674
Total Estimated Revenues	\$ 25,437,619	\$ (1,616,973)	\$ 23,820,646	\$ -	\$ 23,820,646	\$ -	\$ 23,820,646	\$ 906,913
<u>ESTIMATED EXPENDITURES</u>								
0011 Instruction	\$ 15,120,763	\$ 701,820	\$ 15,822,583	\$ 409,927.00	\$ 15,412,656	\$ 495,417.00	\$ 14,917,239	
0012 Instructional Resources and Media Services	\$ 62,660	\$ (31,326)	\$ 31,334	-	\$ 31,334	-	\$ 31,334	
0013 Curriculum Development	\$ 190,482	\$ 34,522	\$ 225,004	17,581	\$ 207,423	25,000	\$ 182,423	
0021 Instructional Leadership	\$ 75,177	\$ (68,766)	\$ 6,411	-	\$ 6,411	-	\$ 6,411	
0023 School Leadership	\$ 1,864,502	\$ (32,427)	\$ 1,832,075	104,075	\$ 1,728,000	90,810	\$ 1,637,190	
0031 Guidance, Counseling and Evaluation Services	\$ 295,306	\$ 805	\$ 296,111	-	\$ 296,111	57,281	\$ 238,830	
0032 Social Work Services	\$ -	\$ -	\$ -	-	\$ -	-	\$ -	
0033 Health Services	\$ 78,572	\$ 16,750	\$ 95,322	15,950	\$ 79,372	15,950	\$ 63,422	
0034 Student (Pupil) Transportation	\$ 37,885	\$ 1,357	\$ 39,242	-	\$ 39,242	-	\$ 39,242	
0035 Food Service	\$ -	\$ -	\$ -	-	\$ -	-	\$ -	
0035 Food Service - GF Transfer to Lunch	\$ -	\$ -	\$ -	-	\$ -	-	\$ -	1,071,063
0036 Extracurricular Activities	\$ 442,432	\$ -	\$ 442,432	-	\$ 442,432	7,000	\$ 435,432	
0041 General Administration	\$ 2,789,664	\$ (131,313)	\$ 2,658,351	-	\$ 2,658,351	-	\$ 2,658,351	
0051 Maintenance and Operations	\$ 2,087,384	\$ 18,271	\$ 2,105,655	-	\$ 2,105,655	(10,200)	\$ 2,115,855	
0052 Security and Monitoring	\$ 395,832	\$ 8,716	\$ 404,548	-	\$ 404,548	60,800	\$ 343,748	
0053 Data Processing Services	\$ 357,554	\$ 14,880	\$ 372,434	40,000	\$ 332,434	40,000	\$ 292,434	
0061 Community Services	\$ -	\$ -	\$ -	-	\$ -	-	\$ -	
0071 Debt Service	\$ 263,780	\$ -	\$ 263,780	-	\$ 263,780	-	\$ 263,780	
Total Estimated Expenditures	\$ 24,061,993	\$ 533,289	\$ 24,595,282	\$ 587,533	\$ 24,007,749	\$ 782,058	\$ 23,225,691	\$ 1,071,063
Excess:	\$ 1,375,626	\$ (2,150,262)	\$ (774,636)	\$ (587,533)	\$ (187,103)	\$ (782,058)	\$ 594,955	\$ (164,150)

**BOARD RESOLUTION FOR  
NON-EXPANSION AMENDMENT FOR  
SOMERSET ACADEMY, INC. d/b/a  
BROOKS ACADEMY OF SCIENCE AND ENGINEERING**

**WHEREAS**, the Board desires to modify, by non-expansion amendment, the Open Enrollment Charter of Somerset Academy, Inc. d/b/a Brooks Academy of Science and Engineering; and

**WHEREAS**, the Board desires to add grade PK4 to Brooks Academy of Science and Engineering (CD# 015-830-001); and

**WHEREAS**, 19 Texas Administrative Code § 100.1033(a) states that a Charter “may be revised with the consent of the charter holder by written amendment approved by the commissioner of education...”;

**NOW, THEREFORE**, the Board of Directors of Somerset Academy, Inc. d/b/a Brooks Academy of Science and Engineering, the charter-holder of Brooks Academy of Science and Engineering, at a lawfully called meeting of the Board, held in compliance with the Texas Open Meetings Act, do hereby adopt the following Resolution:

**BE IT HEREBY RESOLVED THAT:**

- BROOKS ACADEMY OF SCIENCE AND ENGINEERING (CD# 015-830-001) ADD GRADE PK4 TO ITS GRADE LEVELS SERVED.
- A CHARTER AMENDMENT REQUEST BE SUBMITTED TO THE TEXAS EDUCATION AGENCY, PER THE NON-EXPANSION AMENDMENT REQUEST FORM ATTACHED HERETO AND MADE PART OF THIS RESOLUTION AS EXHIBIT A.

**PASSED AND APPROVED BY THE MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS OF SOMERSET ACADEMY, INC. D/B/A BROOKS ACADEMY OF SCIENCE AND ENGINEERING, ON THIS, THE 13TH DAY OF NOVEMBER 2017.**

*[Signature Page Follows]*

_____	Lourdes Isla Marrero, Chair
_____	Todd German
_____	David Concepcion
_____	Jenny Esquijarosa
_____	Ana Diaz
_____	Louis Marin
_____	Matt Cox
_____	Tony Morales
_____	George B. Ozuna

*The undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of a Resolution of the Directors of the Corporation, duly held on \_\_\_\_\_, which Resolution is in full force and effect and has not been revoked or amended.*

\_\_\_\_\_  
Secretary                      \_\_/\_\_/2017

Non-Expansion Amendment Request Form

Texas Education Agency  
Division of Charter School Administration

Phone: (512) 463-9575  
Email: [charteramendments@tea.texas.gov](mailto:charteramendments@tea.texas.gov)

Name of Charter:

County-District Number:

Name of Charter Holder:

Requested Effective Date:

**Section I:** Check the appropriate box for the Non-Expansion Amendment requested.

**More than one box may be checked.** (Attach additional documents as required.) (Submit all program changes for review.)

**1. Charter District Address Change**

Current:

New:

**9. Close Campus**

Reason:

Campus Number:

**2. Relocation-Campus: Campus #**

Current:

New:

**10. Return of Charter**

Reason:

**3. Charter Name Change:**

Current:

New:

**11. Admissions Policy Revision\***

Attach separate sheet with current and requested language changes.

**4. Campus Name Change : Campus #**

Current:

New:

**12. Enrollment Policy Revision\***

Attach separate sheet with current and requested language changes.

**5. Charter Holder Name Change**

Current:

New:

**13. Articles of Incorporation Revision\***

Attach separate sheet with current and requested language changes.

**6. Management Company Addition/Change\*\***

Current:

Change:

**14. By-Laws Revision\***

Attach separate sheet with current and requested language changes.

**7. Educational Services Addition/Change**

Current:

Change:

**15. Fiscal Revision\***

Current:

Change:

**8. Curricular Addition/Change**

Current:

Change:

**16 Other:**

Continued on next page

For Internal Use Only

Amendment Numbers

Received Date

Due Date

Page 1

## Non-Expansion Amendment Request Form

Texas Education Agency  
Division of Charter School Administration

Phone: (512) 463-9575

Email: [charteramendments@tea.texas.gov](mailto:charteramendments@tea.texas.gov)

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### Section II: Justification for Non-Expansion Amendment Request:

In the space below, please state justification for the non-expansion amendment requested.

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### Section III: Non-Expansion Amendment Request Form Checklist:

1. **Charter Holder Board Resolution**—A written resolution adopted by the governing body of the charter holder, with printed names and signatures, demonstrating that a **quorum** of the members voted in favor of amending the charter. The names should match information on the most recent Annual Governance Reporting Forms submitted to TEA. Otherwise, documentation explaining any differences must be included.

*(If multiple amendment requests are being made, include all board resolutions together.)*

2. **Charter language changes**—The text and page numbers, or photocopies of the charter language to be changed, and the text proposed as the new charter language must be submitted with changes clearly marked, if applicable.\*

3. **Management company**—A copy of the contract must be submitted if the request is to enter into or change a management company contract, if applicable.\*\*

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### Section IV: CEO/Superintendent acknowledgement, signature, and current contact information:

As the CEO/Superintendent of the charter school, I understand that incomplete submissions may cause a delay in processing until all required documentation has been received by the Division of Charter School Administration.

*(Contact the Division of Charter School Administration at [charteramendments@tea.texas.gov](mailto:charteramendments@tea.texas.gov) to confirm the submission of proper documentation. Include the charter name and CDN in the subject line.)*

Name of CEO/Superintendent

Phone Number

Email Address

Signature of CEO/Superintendent

Date

For Internal Use Only

Amendment Numbers

Received Date

Due Date

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## SUBLEASE

This Sublease (this "Sublease") is made as of the Effective Date (as defined below), by and between Somerset Academy, Inc., a Florida not-for-profit corporation ("Sublandlord"), and Academica Management SW, LLC, a Texas limited liability company ("Subtenant").

### **WITNESSETH:**

A. Sublandlord is the "Tenant" under that certain Lease Agreement dated as of November 1, 2016 (the "Master Lease"), with TA Vance Property L.P. a Delaware limited partnership, as landlord thereunder ("Landlord") concerning a charter school facility located at 4802 Vance Jackson Road, San Antonio, Texas ("Facility").

B. Subtenant provides education support services to Sublandlord with respect to Sublandlord's public charter schools in Texas pursuant to a Charter School Management Agreement dated as of March 20, 2012 (as amended or restated, the "Management Agreement"), and Subtenant desires to sublease from Sublandlord a portion of the Facility, more particularly described in Exhibit A (the "Subleased Premises"), for its use in providing education support services, and Sublandlord agrees to sublease the Subleased Premises to Subtenant upon the terms, covenants, and conditions herein set forth.

### A G R E E M E N T :

In consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. Sublease. Subject to the terms and conditions of this Sublease and the Master Lease, Sublandlord hereby subleases to Subtenant and Subtenant hereby subleases from Sublandlord the Subleased Premises.

2. Term. The term of this Sublease shall commence on July 1, 2017(the "Sublease Commencement Date") and shall end on June 30, 2022 (such period, the "Term"), unless sooner terminated as provided in this Sublease. In the event that Sublandlord exercises its right to an extension of the term under the Master Lease and such extension occurs thereunder, then Subtenant shall have the right to extend the Term for an additional period(s) coterminous with such extended term under the Master Lease or a portion thereof as Subtenant may determine (whether one or more, the "Extended Term") provided that (i) Sublandlord receives a notice from Subtenant exercising its right to extend the Term (each, a "Renewal Notice") not less than sixty (60) calendar days prior to the expiration of the term of the Master Lease, and (ii) there is no default or event of default outstanding hereunder at the time of the Renewal Notice unless such Event of Default is waived in writing by the applicable landlord under the Superior Sublease or the Master Lease. Notwithstanding anything to the contrary contained herein, in the event that the Management Agreement is terminated for any reason, this Sublease shall be automatically deemed terminated as of the date of termination of the Management Agreement.

Rent. Subtenant shall pay rent ("Rent") during the Term and Extended Term, if any, of this Sublease at the rate of \$1,843.00 per month, payable in advance on the first day of each month.

All Rent shall be paid to Sublandlord at c/o Academica Dade LLC, 6340 Sunset Drive, Miami, Florida 33143, Attention: Accounting; or at another place that Sublandlord designates in a written notice to Subtenant, without set-off or deduction, except as otherwise provided in this Sublease. Subtenant shall pay to Sublandlord with the installments of Rent any sales or similar taxes on all lease rental payments, if applicable.

3. Full Service. Except as to janitorial services, which Subtenant shall provide at its own expense, Sublandlord shall furnish all utilities, shall obtain and maintain property damage insurance as Sublandlord deems necessary and in accordance with the Master Lease, and shall maintain, repair and replace as necessary all building elements and systems in accordance with the Master Lease, with respect to the Subleased Premises.

4. Use of Subleased Premises; Common Areas. Subtenant shall have the right to use the Subleased Premises for charter school management purposes only and for no other purpose. Subtenant shall have non-exclusive use of the paved driveways and parking areas of the Facility.

5. Master Lease. This Sublease is subject and subordinate to the terms, conditions, and covenants stated in the Master Lease. If the Master Lease shall terminate for any reason then this Sublease shall also terminate. Sublandlord shall not be liable to Subtenant for any such termination.

6. Representations, Warranties and Covenants of Sublandlord.

6.1 Sublandlord represents and warrants to Subtenant as follows:

(a) Sublandlord has provided a copy of the Master Lease to Subtenant, and the Master Lease is in full force and effect; no uncured default under the Master Lease by Sublandlord now exists to its knowledge; Sublandlord has full right and power to execute this Sublease and to sublease the Subleased Premises to Subtenant, subject only to the consent of Landlord as provided in the Master Lease; and the Master Lease has not been amended, modified, supplemented or superseded in any manner except as disclosed herein.

(b) Sublandlord has full power and authority to enter into this Sublease, and the same has been duly authorized by its board of directors.

(c) No right, title, estate or interest of Sublandlord in, to or under the the Subleased Premises has been assigned, subleased, mortgaged, pledged or encumbered, except as to any such mortgages as Landlord may have granted.

6.2 Sublandlord covenants and agrees as follows:

(a) Except to the extent the same are the responsibility of Subtenant under this Sublease, Sublandlord shall perform all obligations of, and comply with all requirements and conditions applicable to, the tenant under the Master Lease, all at such times and in such manners as are required under the Master Lease.

(b) So long as Subtenant pays all Rent due and performs all other obligations hereunder, Subtenant shall be entitled to the peaceful and quiet enjoyment of the Subleased Premises, subject to the terms, covenants, conditions, provisions and agreements

hereof and of the Master Lease. Notwithstanding the foregoing, Subtenant recognizes that Sublandlord is not in a position to render the services or to perform the obligations required of the Landlord under the Master Lease, and therefore Subtenant agrees that performance by Sublandlord hereunder is conditional upon due performance by the Landlord under the Master Lease, and Sublandlord shall not be liable to Subtenant for any default of or lack of performance by Landlord under the Master Lease.

(c) Sublandlord agrees to deliver to Subtenant a copy of all notices of default received by Sublandlord under the Master Lease within three (3) business days after Sublandlord's receipt thereof.

7. Alterations; Condemnation; Subordination.

7.1 Subtenant shall not make any structural or other permanent alterations to the Subleased Premises without the prior written consent of Sublandlord and Landlord, which may be withheld in the sole discretion of Sublandlord or Landlord, as applicable. The foregoing shall not preclude the following improvements which Subtenant may undertake without obtaining such consents: interior painting, wallcovering, flooring, partition walls (but not movement of structural walls), and additional telecommunications or electrical wiring.

7.2 As between Sublandlord and Subtenant only, all condemnation awards in respect of the Subleased Premises shall be deemed to be the property of Sublandlord. Notwithstanding anything contained in this Sublease or the Superior Sublease to the contrary, Subtenant shall be entitled to receive and retain only such amounts that may be specifically awarded or allocated to it in any condemnation proceedings with respect to its personal property, business interruption damages or relocation expenses.

7.3 Article XIV of the Master Lease provides for the subordination of the Master Lease to certain other estates in the Facility and the documents creating and regulating such estates. This Sublease is subordinate to the Master Lease, and perforce is subject to the terms and conditions of Article XIV of the Master Lease.

8. Condition of Subleased Premises. Subtenant agrees to accept the Subleased Premises in "AS IS" and "WHERE IS" condition as of the Lease Date, with no express or implied warranties of Sublandlord other than those specifically set forth herein.

9. Surrender of Subleased Premises; Holding Over. Upon expiration or termination of this Sublease, Subtenant will remove all of its personalty, including trade fixtures, and surrender the Subleased Premises to Sublandlord in a broom-clean condition, with the Subleased Premises to be in at least as good condition as existed at the Lease Date, reasonable wear and tear and repairs and maintenance that are not the responsibility of Subtenant under this Sublease excepted. Upon expiration or termination of this Sublease, Subtenant will remove all alterations, additions, and improvements that Subtenant installs or constructs in the Subleased Premises if such removal is required by Sublandlord. Subtenant will repair all damage caused by its removal of its trade fixtures, personal property, alterations, additions, and improvements. The terms of this Section will survive the expiration or earlier termination of this Sublease. The terms and conditions of Article XXVII of the Master Lease concerning holding over shall apply to this Sublease as if Sublandlord were



“Landlord” and Subtenant were “Tenant” thereunder, provided that (i) the rent during any period of holding over without Subtenant’s and Landlord’s consent shall be equal to the daily rate equivalent of twice the Rent otherwise due hereunder, and (ii) any necessary consent of Subtenant shall also include the necessity of consent by Landlord.

10. Signage. Subtenant shall not place any signage on the Subleased Premises, except for directional signage immediately adjacent to the improvements on the Subleased Premises and with respect to up to 10 parking spaces in the parking areas nearest such improvements, which Subtenant may reserve for its (and its invitees’) exclusive use. The costs of such signage shall be borne by Subtenant.

11. 11Indemnity.

11.1 From and after the Sublease Commencement Date, Subtenant hereby indemnifies and agrees to hold Sublandlord and Landlord harmless from any and all claims of liability for any injury or damage to any person or property whatsoever occurring in, on, or about the Subleased Premises or any part thereof, except to the extent such injury or damage is caused in whole or in part by the negligence or intentional misconduct of Subtenant, Landlord or their respective agents, contractors, or employees. Such indemnity shall include by way of example, but not limitation, all costs, reasonable attorneys’ fees, expenses, and liabilities incurred in or about any such claim, action or proceeding.

11.2 The provisions of this Section shall survive the expiration or termination of this Sublease.

12. Certificates. Each party hereto shall at any time and from time to time as reasonably requested by the other party upon not less than ten (10) days prior written notice, execute, acknowledge, and deliver to the other party, a statement in writing certifying (a) that this Sublease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications, if any), (b) the dates to which Rent has been paid, and (c) whether or not, to the knowledge of the person signing the certificate, the other party is in default beyond any applicable grace period provided herein in performance of any of its obligations under this Sublease, and if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the party requesting such certificate may be dealing.

13. Assignment or Subletting; Mortgage. Subtenant shall not assign this Sublease or sublet any portion of the Subleased Premises without the prior written consent of Sublandlord and Landlord, which consent may be withheld in the sole discretion of Sublandlord or Landlord. Subtenant shall not create or permit to exist any mortgage or other encumbrance or pledge of any kind upon its subleasehold estate. No power or authority whatsoever is given or implied hereunder to Subtenant with respect to creating any mortgage or other encumbrance or pledge of any kind in any estate in the Facility superior to the subleasehold estate created hereunder.

14. Default.

14.1 Each of the following shall constitute an event of default by Subtenant under this Sublease:

(a) Subtenant fails to pay when due the Rent or any other payment required to be paid by Subtenant under this Sublease and such failure is not cured within five (5) business days after receipt of written notice of non-payment from Sublandlord;

(b) Subtenant fails to perform or comply with any other obligation, covenant or condition required to be performed or complied with by Subtenant under this Sublease and such failure is not cured within thirty (30) days after receipt of written notice of non-performance or non-compliance from Sublandlord, provided that if the failure is of such a nature that it cannot reasonably be cured by the end of such 30-day period, the 30-day period shall be extended for the number of days reasonably required to cure said failure if Subtenant has commenced to cure the default during the 30-day period and diligently pursues a cure to its completion;

(c) Subtenant is adjudged bankrupt or insolvent or makes an assignment for the benefit of creditors;

(d) a receiver or trustee is appointed for all or substantially all of Subtenant's property and such appointment is not discharged within sixty (60) days.

Upon the occurrence of an event of default by Subtenant under this Sublease, Sublandlord shall have all of the rights and remedies of Landlord for an Event of Default by tenant under the Master Lease.

14.2 Each of the following shall constitute an event of default by Sublandlord under this Sublease:

(a) (i) Except to the extent the same are the responsibility of Subtenant under this Sublease, Sublandlord fails to pay any sum due under the Master Lease or fails to perform any other obligation as tenant under the Master Lease, as and when required under the Master Lease, and (ii) such failure is not cured within the applicable cure period, if any, provided in the Master Lease; or

(b) Sublandlord fails to perform or comply with any obligation, covenant or condition required to be performed or complied with by Sublandlord under this Sublease and such failure is not cured within thirty (30) days after receipt of written notice of non-performance or non-compliance from Subtenant, provided that if the failure is of such a nature that it cannot reasonably be cured by the end of such 30-day period, the 30-day period shall be extended for the number of days reasonably required to cure said failure if Sublandlord has commenced to cure the default during the 30-day period and diligently pursues a cure to its completion.

Upon the occurrence of an event of default by Sublandlord under this Sublease, Subtenant shall have all rights and remedies available at law or in equity. In addition, Subtenant may elect to cure such event of default and all sums expended by Subtenant in curing such event of default shall be reimbursed by Sublandlord within ten (10) days of receipt of the invoice therefor. If Sublandlord does not reimburse Subtenant for any cost for which Subtenant is entitled to reimbursement within ten (10) days of receipt of the invoice therefor, Subtenant shall have the right to deduct the amount due, as an offset against the Rent due under this Sublease.

15. Damage and Destruction.

15.1 If the Subleased Premises should be damaged or destroyed by fire, flood, or other casualty or cause, Subtenant shall immediately give written notice thereof to Sublandlord.

15.2 If the Subleased Premises should be so damaged by fire, flood, or other casualty or cause such that (a) the Subleased Premises is not reasonably usable (with reasonable ingress and egress) by Subtenant for Subtenant's intended purposes, and (b) either (i) Sublandlord elects not to repair, restore and rebuild the Subleased Premises or is not permitted to do so under the Master Lease or (ii) the estimated period to complete such repair, restoration and rebuilding (the "Probable Restoration Period") exceeds 180 days from the date of the occurrence of damage, then Subtenant shall have the right to terminate this Sublease by giving written notice to Sublandlord within thirty (30) days of receipt of written notice of Sublandlord's advice as to whether it will or will not (cannot) repair, restore and rebuild the Subleased Premises, in which event this Sublease shall terminate and Rent shall be abated for the unexpired Term of this Sublease, effective as of the date of the occurrence of damage. Sublandlord shall deliver to Subtenant written notice of Sublandlord's election and Sublandlord's informed estimate of the Probable Restoration Period within sixty (60) days of the occurrence of damage. If Sublandlord and Subtenant shall disagree as to the Probable Restoration Period, then such cost and/or period shall be determined by an independent general contractor reasonably acceptable to both parties.

15.3 Commencing with the date of any damage to the Subleased Premises there shall be an abatement or reduction of Rent in the same proportion that the square footage of the Subleased Premises is so damaged and under restoration (or is not reasonably usable with reasonable ingress and egress for Subtenant's intended purposes) bears to total square footage of the Subleased Premises.

16. Severability. If any term or provision of this Sublease or the application thereof to any person or circumstances shall, to any extent, be invalid and unenforceable, the remainder of this Sublease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term or provision of this Sublease shall be valid and be enforced to the fullest extent permitted by law.

17. Entire Agreement; Waiver. This Sublease contains the entire agreement between the parties hereto and shall be binding upon and inure to the benefit of their respective heirs, representatives, successors and permitted assigns. Any agreement hereafter made shall be ineffective to change, modify, waive, release, discharge, terminate or effect an abandonment hereof, in whole or in part, unless such agreement is in writing and signed by the parties hereto.

18. Captions. Captions to the Sections in this Sublease are included for convenience only and are not intended and shall not be deemed to modify or explain any of the terms of this Sublease.

19. Further Assurances. The parties hereto agree that each of them, upon the request of the other party, shall execute and deliver, in recordable form if necessary, such further documents, instruments or agreements and shall take such further action that may be reasonably necessary or appropriate to effectuate the purposes of this Sublease.

20. Governing Law. This Sublease shall be governed by and in all respects construed in accordance with the laws of Texas.

21. Determination of Charges. Sublandlord and Subtenant agree that each provision of the I Sublease for determining charges and amounts payable by Subtenant is commercially reasonable and, as to each such charge or amount, constitutes a statement of the amount of the charge or a method by which the charge is to be computed for purposes of Section 93.012 of the Texas Property Code.

22. Subtenant's Insurance.

22.1 Subtenant shall, during the Term of this Sublease and any other period of occupancy, at its sole cost and expense, keep in full force the following insurance:

(a) Commercial General Liability ("CGL") insurance covering claims arising from personal injury, death, and property damage occurring in or about the Subleased Premises and the Building with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate. The CGL policy will include contractual liability coverage.

(b) Auto liability insurance with a limit of not less than \$1,000,000.00 per occurrence.

(c) Workers' Compensation insurance covering all employees of Subtenant, as required by the laws of Texas.

22.2 All policies to be procured by Subtenant shall be maintained with an insurance company licensed to do business in Texas with a rating of at least A-VII, as set forth in the most current issue of Best's Insurance Guide. Within ten (10) days after the execution of this Sublease and before occupying the Subleased Premises, Subtenant shall deliver to Sublandlord and Landlord certificates evidencing the existence of the amounts and forms of coverage satisfactory to Sublandlord and Landlord and naming Sublandlord and Landlord as additional insureds. Each such policy shall contain an obligation of the insurer to endeavor to provide thirty (30) days prior written notice to Sublandlord of the cancellation of such policy, and waivers of subrogation against the Sublandlord and the Landlord. Subtenant shall, at least ten (10) days before the expiration of such policies, furnish Sublandlord and Landlord with renewals or "binders" thereof, or Sublandlord may order such insurance and charge the cost thereof to Subtenant as additional rent. If Sublandlord obtains any insurance that is the responsibility of Subtenant under this Section, then Sublandlord shall deliver to Subtenant a written statement setting forth the cost of any such insurance and showing in reasonable detail the manner in which it has been computed.

22.3 Notwithstanding anything contained in this Sublease to the contrary, Sublandlord and Subtenant each waive for themselves and their respective insurers any and all rights of recovery, claims, actions, or causes of action against the other, its agents, officers, and employees, for any loss or damage that may occur to the Subleased Premises, or any improvements thereto, or any personal property, by reason of fire, the elements, or any other cause which could be insured against under the terms of a special form (all risk) coverage insurance policy, regardless of cause or origin, including, without limitation, negligence of either

Sublandlord or Subtenant or their respective agents, officers, employees, or contractors. Each party shall cause its respective insurer(s) to endorse all applicable policies waiving the insurer's rights of recovery under subrogation or otherwise in accordance with the provisions of this paragraph.

23. Time Is of the Essence. Time is of the essence for each and every provision of this Sublease.

24. Attorney's Fees. If either party hereto commences an action against the other to enforce any obligation hereunder, upon the conclusion of such action the prevailing party will be entitled to recover from the non-prevailing party the prevailing party's costs for such action including, but not limited to, reasonable attorneys' fees and court costs.

25. US Patriot Act. Subtenant represents and warrants to Sublandlord that (i) Subtenant is not, nor is it owned or controlled directly or indirectly by, any person, group, entity or nation named on any list issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("OFAC") pursuant to Executive Order 13224 or any similar list or any law, order, rule or regulation or any Executive Order of the President of the United States as a terrorist, "Specially Designated National and Blocked Person" or other banned or blocked person (any such person, group, entity or nation being hereinafter referred to as a "Prohibited Person"); (ii) Subtenant is not (nor is it owned or controlled, directly or indirectly, by any person, group, entity or nation which is) acting directly or indirectly for or on behalf of any Prohibited Person; and (iii) neither Subtenant (nor any person, group, entity or nation which owns or controls Subtenant, directly or indirectly) has conducted or will conduct business or has engaged or will engage in any transaction or dealing with any Prohibited Person, including without limitation any assignment of this Sublease or any subletting of all or any portion of the Subleased Premises or the making or receiving of any contribution of funds, goods or services to or for the benefit of a Prohibited Person.

26. Multiple Counterparts. This Sublease may be executed in two or more counterparts, and each such counterpart shall be deemed to be an original instrument. All such counterparts shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Sublease to be executed as of the day and year first above written.

Witnesses as to Sublandlord:

\_\_\_\_\_

Print: \_\_\_\_\_

\_\_\_\_\_

Print: \_\_\_\_\_

Witnesses as to Subtenant:

\_\_\_\_\_

Print: \_\_\_\_\_

\_\_\_\_\_

Print: \_\_\_\_\_

Somerset, Inc., d.b.a. Brooks Academy of Science and Engineering, a Florida not-for-profit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Academica Management SW, LLC, a Texas limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

Consent of Landlord:

TA Vance Property L.P., a Delaware limited partnership, as "Landlord" under that certain Lease Agreement dated as of November 1, 2016, between TA Vance Property L.P. and Somerset Academy, Inc. concerning a charter school facility located at 4802 Vance Jackson Road, San Antonio, Texas (the "Master Lease" referred in the above Sublease), does hereby consent to the above Sublease and to the terms and conditions thereof.

TA VANCE PROPERTY L.P., a Delaware limited partnership

By: TA Vance GP, LLC, a Delaware limited liability company

Its: General Partner

By: \_\_\_\_\_  
Bari Cooper Sherman, its Vice President

Exhibit A

Demised Premises

{ see indicted building shown on attached map of Facility }

## **IT Support and Service Agreement**

This IT Support and Service Agreement (the “Agreement”) is made by and between Academica Management South West, 4802 Vance Jackson Rd, San Antonio, TX 78230 (“Academica”), and Somerset Academy, Inc. d/b/a Brooks Academy of Science and Engineering, a Texas open-enrollment public charter school (the “Provider”). Collectively, Academica and Provider are referred to as the “Parties.”

### **I. PURPOSE OF AGREEMENT**

WHEREAS, Academica desires to contract with Provider for the provision of network support services, security, and networking solutions; and

WHEREAS, Academica desires to engage and contract with Provider to provide the services described in this Agreement, and Provider desires to enter into this Agreement as an independent contractor and consultant to render the services described in this Agreement, and is willing to do so on the terms and conditions set forth below;

**NOW, THEREFORE**, Academica engages the services of Provider and in consideration of the mutual promises and covenants in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### **II. GENERAL TERMS**

1. **Term**: This Agreement shall begin upon execution by the Parties and shall conclude on August 31, 2022 (the “Term”), unless terminated earlier pursuant to Part II or Part III herein. The Term may be extended by written agreement of the Parties.
2. **Services**: Provider shall perform the services described and set forth in the Scope of Work attached as Exhibit 1 to this Agreement and incorporated herein by reference (the “Services”). The Parties may, by mutual agreement, amend the Services to be provided pursuant to this Agreement, and any amended and executed Scope of Work shall become a part of this Agreement. The Services shall be performed in compliance with applicable federal, state, and local law.

Provider and Provider’s personnel, if any, shall perform the Services consistent with the highest degree of care, and shall comply with all professional and ethical requirements imposed by the Texas Education Agency, or any other applicable licensing or practice standards promulgated by any other applicable regulatory agency.

3. **Schedule of Services**: Provider and Provider’s personnel shall devote as much time, energy, and attention as necessary to complete the Services, and shall be available to provide the Services to Academica as required to meet the needs of Academica. Notwithstanding the foregoing, Provider shall not be required to follow or establish a regular or daily work schedule, except as mutually agreed upon and set forth by the Parties.



However, Provider shall generally provide Services to Academica during business days and hours, unless otherwise agreed to by Academica and Provider.

Provider shall liaise with Academica, but shall exercise independent discretion and judgment in the performance of the Services, including but not limited to the type, nature, and result of any Services undertaken by Provider.

4. **Conditions of Service:** Provider shall not be responsible to Academica for loss of use of the network or for any other liabilities arising from alterations, additions, adjustments or repairs which have been made to the network other than by authorized representatives of Provider.

It is the responsibility of Academica to promptly notify Provider of any events/incidents that could impact the services defined within this Agreement and/or any supplemental service needs.

5. **Client Responsibilities:**  
Academica shall designate a staff member to be key contact to schedule all appointments for items that need to be performed on-site and list persons who can authorize charges.

Academica shall maintain all proper licensing of all software products.

Academica agrees to provide necessary cooperation in providing remote support before on-site services are delivered.

6. **Service Limitations:**
- Cost of consumables, replacement parts, hardware, software, network upgrades, and associated services are outside the scope of this Agreement.
  - All server, network device, and software upgrades are outside the scope of this Agreement.
  - Manufacturer warranty parts and labor/services are outside the scope of this Agreement.
  - Restoration of lost data caused by systems/hardware failure is outside the scope of this Agreement.

7. **Furnishing of Equipment:** Unless otherwise agreed upon by Academica, Provider shall supply all necessary and desirable equipment, materials, and supplies required to perform the Services pursuant to this Agreement.

8. **Fees:** Academica shall pay Provider for Services rendered under this Agreement at a rate of \$700.00/per month. Provider shall maintain accurate written records for all Services provided. Provider shall bill Academica for the Services provided on a monthly basis, by submission of invoices detailing the provision of Services for the previous month. Such invoiced amounts shall be due and payable to Provider within thirty (30) calendar days of Academica's receipt of each invoice. A one-percent (1%) late charge may be added to any past due invoices.

9. **Termination**: This Agreement may be terminated at any time for any reason by either party by giving thirty (30) days' written notice to the other party. In the event of termination by Academica or Provider prior to the expiration of this Agreement, Provider shall only be entitled to receive just and equitable compensation for any Services rendered up to and through the termination date. Upon termination of this Agreement, or whenever requested by the Parties, each party shall immediately deliver to the other party all property in its possession or under its care and control belonging to the other party.
10. **Record Keeping**: It is the responsibility of Academica to maintain such records as are required by law, Provider, or as are prescribed by the professional and generally accepted standards of the Texas Education Agency.
11. **Independent Contractor**: This Agreement does not constitute a hiring by either party, nor does it constitute or create an employer-employee relationship.

Provider shall retain sole discretion in the manner and means of carrying out the Services and responsibilities under this Agreement. This Agreement shall not be considered or construed to be a partnership, and Academica shall not be liable for any obligations incurred by Provider unless specifically authorized in writing by Academica. Provider shall not act as an agent of Academica, ostensibly or otherwise, nor bind Academica in any manner, unless specifically authorized to do so in writing by Academica.

12. **Warranties and Disclaimers**: Provider makes, and Academica receives, no warranty, express or implied, and all warranties of merchantability and fitness for a particular purpose are expressly excluded. In no event shall Provider or any of its Directors, employees, or other representatives be liable for consequential damages of any kind, including those resulting from loss of data, income, profit, and arising out of or in connection with the Services or use thereof. Academica shall assume full responsibility for the overall effectiveness and efficiency of the operating environment in which the network is to function.
13. **Compliance with Applicable Law**: Provider shall fully comply with all provisions of applicable federal and state law, including but not limited to the Texas Education Code and the Texas Administrative Code. Provider must also fully comply with any and all federal, state, and local laws or regulations regarding any necessary business permit(s) and/or license(s) that are required to perform the Services described in this Agreement.
14. **Intellectual Property**: Provider acknowledges that, in connection with this Agreement, it may have access to or create (alone or with others) confidential and/or proprietary information that is valuable to Academica. For purposes of this Agreement, "Confidential Information" shall include but not be limited to:
  - a) Information relating to Academica's financial, regulatory, personnel, or operational matters.

- b) Information relating to the Academica's clients, customers, beneficiaries, suppliers, donors, employees, volunteers, sponsors, or business associates and partners.
- c) Trade secrets, know-how, inventions, discoveries, techniques, processes, methods, formulae, ideas, technical data and specifications, testing, methods, research, and development activities, and computer programs and designs.
- d) Contracts, product plans, sales and marketing plans, and business plans.
- e) All information not generally known outside of Academica's business, regardless of whether such information is in written, oral, electronic, digital, or other form, and regardless of whether the information originates from Academica's or its agents.
- f) The term "Confidential Information" does not include the following:
  - i. Information available to the public through no wrongful act of the receiving party.
  - ii. Information that has been published.
  - iii. Information required in response to subpoena, court order, court ruling, or by law.

Provider agrees that it will not, at any time during or after termination of this Agreement, use or disclose any confidential information or trade secrets of Academica to any person or entity for any purpose whatsoever without the prior written consent of Academica, unless and except as otherwise required by applicable federal or state law, including but not limited to the Texas Public Information Act.

Provider agrees to release to Academica all records and supporting documentation related to the Services provided under this Agreement upon completion of the Term hereof.

Academica acknowledges that all information and services, consulting techniques, proposals, and documents disclosed by Provider during the course of this Agreement and provided under this Agreement constitute valuable assets of, and are confidential and/or proprietary to Provider.

### **III. MISCELLANEOUS TERMS**

1. **Scope of Agreement:** This Agreement constitutes the final, complete and entire agreement between the Parties and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the Parties, whether written or oral. There are no representations or other agreements included. Any alteration or modification of this Agreement shall be effective only if it is in writing, signed, and dated by the Parties.
2. **Law of State to Govern:** The validity, enforceability and interpretation of any provision of this Agreement will be determined and governed by the substantive and procedural laws of the State of Texas. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Bexar County, Texas.
3. **Severability:** In the event that any provision of this Agreement is found to be invalid,

illegal, or unenforceable in any jurisdiction, then in lieu of such invalid, illegal, or unenforceable provision there shall be added automatically as a part of this Agreement a valid, legal, and enforceable substitute provision that most nearly reflects the original intent of the Parties, and all provisions hereof shall remain in full force and effect and shall be liberally construed in order to carry out the intentions of the Parties hereto as nearly as may be possible. Such invalidity, illegality, or unenforceability shall not affect any other provisions contained in this Agreement.

4. **Limitations:** THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF PROVIDER (A PUBLIC SCHOOL) TO ENTER INTO CERTAIN TERMS AND CONDITIONS OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THOSE TERMS AND CONDITIONS RELATING TO LIENS ON PROVIDER'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE "LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON PROVIDER EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

5. **Service of Notices:** The notices required by this Agreement shall be effective when mailed, postage prepaid, certified with return receipt requested to the addresses shown below:

If to Provider:	Somerset Academy, Inc. d/b/a Brooks Academy of Science and Engineering Attn: Lisa Freeman Schutz 4802 Vance Jackson Rd San Antonio, TX 78230
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If to Academica:	Academica Management South West Attn: Rosa Malmcrons 4802 Vance Jackson Rd San Antonio, TX 78230
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6. **Assignment:** This Agreement may not be assigned by either party without the prior written consent of both Parties.
7. **Waiver:** The waiver by any party of any breach of any term, covenant or condition contained herein shall not be deemed a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition contained herein.
8. **Amendments:** This Agreement may be amended at any time by mutual agreement of the Parties. However, before any amendment will be operative or valid, it must be reduced to writing and signed by both Academica and Provider.

9. **Execution:** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

THE PARTIES, having full authority and having taken all legal prerequisites to execution of this Agreement, by and through their respective authorized representatives, hereby execute this Agreement on the date(s) referenced below:

**Academica Management South West  
Somerset Academy, Inc. d/b/a Brooks Academy of Science and Engineering**

By: \_\_\_\_\_  
**Lisa Freeman Schutz**  
**Superintendent of Schools**  
**Brooks Academy**  
\_\_\_\_\_ **Date**

**Academica Management South West**

By: \_\_\_\_\_  
**Rosa Malmcrona**  
**General Manager**  
**Academica Southwest**  
\_\_\_\_\_ **Date**

### **Exhibit 1 – Scope of Work**

Academica agrees to engage Provider, and Provider agrees to perform, the following Service(s):

1. Network support services, security, and networking solutions.

# CHARTER SCHOOL EDUCATIONAL SERVICES AND SUPPORT AGREEMENT

## BETWEEN

**Somerset Inc dba Brooks**

**Academy of Science and**

**Engineering AND**

**ACADEMICA SW LLC**

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## **CHARTER SCHOOL EDUCATIONAL SERVICES AND SUPPORT AGREEMENT**

This Charter School Educational Services and Support Agreement (the “Agreement”) is entered into this 13th day November 2017, by and between SOMERSET INC. (the “Organization”) d/b/a Brooks Academy of Science and Engineering (the “Schools”) and ACADEMICA SW LLC (the “Service Provider”).

### **I. PURPOSE OF AGREEMENT**

**WHEREAS**, the Organization has a contract (the “Charter”) with the Texas Education Agency (“TEA”) to operate the Schools identified on Exhibit A; and

**WHEREAS**, the Schools are governed by the Board of Directors of the Organization (the “Board”); and

**WHEREAS**, the Board has complete control over the Schools, its academic programs, staffing needs, and curricula; and

**WHEREAS**, the Organization and the Service Provider acknowledge that the Organization’s Board, as the governing body of the Schools, has the primary responsibility and ultimate authority for implementing the public school program authorized by the Charter, is the governing authority of the Schools, and may carry out any act it deems necessary and ensure the performance of any function that is in compliance with the Charter, any policy statements and guidance issued by the TEA; the Texas Constitution; the Texas Education Code (“TEC”), including, without limitation, Chapter 12, Subchapter D; the Texas Administrative Code; the Texas Government Code; the Texas Local Government Code; the Texas Business Schools Code; the Elementary and Secondary Education Act (“ESEA”); the Every Student Succeeds Act (“ESSA”); the Individuals with Disabilities in Education Act; the Family Educational Rights and Privacy Act (“FERPA”); other applicable federal, state or local statutes, ordinances, and regulations; any amendments to or recodification of the aforementioned laws; implementing regulations of such laws; executive orders; common law; and other guidelines, policy statements, and rulings applicable to Texas public charter schools, and other applicable laws; and

**WHEREAS**, the Organization desires academic support and related services to ensure that the Schools is operated in accordance with the requirements of the Charter, all State and Federal laws, as well as all applicable local, municipal and/or county ordinances; and

**WHEREAS**, Service Provider is an educational service provider established to provide professional services and related support to public charter schools; and

**WHEREAS**, it is Service Provider’s mission to ensure that the vision of the Board is faithfully and effectively implemented and to ensure the autonomy and governing authority of the Board; and

**WHEREAS**, Service Provider’s officials are familiar with governmental agencies and requirements needed to establish and operate public charter schools including the Schools, as well as the requirements of the Charter, of all State and Federal authorities, and of the local municipal and/or county government(s) which may be applicable to the operation of the Schools; and

**WHEREAS**, Service Provider's officials are familiar with the various local, state and/or federal funding sources for charter school's programs and have successfully obtained grants and other forms of revenue and financing for various charter school programs; and

**WHEREAS**, Service Provider works with networks of charter schools and has found there are benefits to establishing charter school cooperatives and sharing best-practices and resources, including methods of reporting, record-keeping and accountability systems; and

**WHEREAS**, the Organization and Service Provider enter into this Agreement for the purpose of having Service Provider provide the academic support services and related administrative services identified in this Agreement to the School;

**NOW THEREFORE**, the parties to this Agreement agree as follows:

## **II. GENERAL TERMS**

### **1. Recitals**

The foregoing recitals are true, correct and incorporated herein.

### **2. Engagement**

Organization engages Service Provider to provide the support and administrative services set forth herein. Service Provider accepts such engagement pursuant to the terms of this Agreement. The Organization's entire network is identified on Exhibit A. The parties may add or remove schools from the list of schools receiving Service Provider's services by amending Exhibit A.

### **3. Standard of Performance: Services not Management Services**

Professional services provided by Service Provider shall not constitute, and are not intended to constitute, "management services," as such term is defined pursuant to Section 100.1011(13) of Title 19 of the Texas Administrative Code. The Organization's Board retains all authority and discretion to determine the implementation of the professional services for the Schools.

### **4. Duties of Service Provider**

As authorized by the Board, Service Provider will coordinate the educational and administrative services required to support the Schools. Service Provider will report to the Board and advise it of the systems established for administrative duties, including those related to initial setup and the ongoing operational budget. Service Provider will comply with all Board and Schools policies and procedures, the Charter, and with all applicable state and federal rules and regulations. Service Provider's services will include: identification of potential schools-sites; assistance with staff recruitment; assistance with human resource coordination; regulatory compliance; legal and corporate upkeep; and assistance with the maintenance of the books and records of the Schools and the Organization as well as bookkeeping, budgeting and financial forecasting. The Board will review all recommendations made by Service Provider and act upon them in the manner the Board decides.

### **5. Board of Directors Meetings**

Service Provider will assist in the coordination of and attend the meetings of the Board. Unless otherwise instructed by the Board, Service Provider shall maintain the minutes and records of those meetings and ensure that the Schools complies with the requirements of Applicable Law regarding such meetings and record keeping.

## **6. Record Keeping**

Service Provider will maintain the records of the Schools at the location designated by the Board, and in compliance with the Applicable Law related to record keeping. All public records of the Organization shall be subject to the Organization's final authority to direct the disposition and safekeeping of all public records under 19 TAC §100.1033(d), and subject to the Organization's superior right of immediate access to, control over, and possession of such records. In addition, Service Provider will ensure that designated on-site Schools staff receive proper training by TEA's appropriate departments for student/schools record keeping through its designated Management Information Services (MIS) programs and proper training regarding public records.

## **7. Bookkeeping**

The Service Provider will work with and serve as liaison to any accounting firm selected by the Board to ensure the accuracy and timeliness of the financial reporting, record keeping, and audits required by Applicable Law.

## **8. Staff Administration**

The Organization's Board (and/or its delegate pursuant to Schools policies or in accordance with Applicable law) will make all hiring decisions for the Schools in accordance with Applicable Law. Service Provider shall not be considered a delegate of the Organization or Board for this purpose. Service Provider will assist the Board in the identification, solicitation, and/or recruitment of qualified principals, teachers, paraprofessionals, administrators and other staff members and education professionals to be employed at or by Schools. School employees shall not be employees of Service Provider. School employees shall only be removed, dismissed, or transferred with approval of the Board or its delegate. The Board shall decide whether to use a professional employee management company and the method of human resource management, if any.

The teachers employed by the Schools will be certified as required by Chapter 12, Subchapter D of the TEC. Skilled selected non-certified personnel may also be employed by or at the Schools to assist instructional staff members as teachers' aides in the same manner as defined in Chapter 12, Subchapter D of the TEC, and Applicable Law. At the request of the Board, Service Provider will assist in the preparation of employment agreements for review and approval by the Board or its delegate. Upon Board request, Service Provider will propose a professional employer organization to the Board which can perform the human resource outsourcing services for the Schools. If the Board, in its discretion, approves a professional employer organization and/or human resource outsourcing provider, Service Provider will assist in the coordination of these services. Service Provider will act as the liaison for the Schools vis-à-vis the professional employer organization. All School-based employees will be employees of the Organization, and shall be assigned to the School, and may only be removed, dismissed, or transferred with approval of the Organization, the Board and/or its delegate.

## **9. Financial Projections and Financial Statements**

Service Provider will prepare and present to the Board in a timely manner for review and approval annual budgets and financial forecasts for the Schools. The Schools will use the standard state codification of accounts as contained in the Financial and Program Cost Accounting and Reporting for Texas Schools, or shall utilize GAAP Accounting, and/or other applicable guidelines as a means of codifying all transactions pertaining to financial operations as required by Applicable Law. The Board shall annually adopt and maintain an operating budget. The Board, based on

recommendations made by a certified public accounting firm, will adopt accounting policies and procedures. Service Provider will timely prepare, for the review and approval of the Board, any required regular unaudited financial statements including a statement of revenues and expenditures and changes in fund balances, in accordance with generally accepted accounting principles to be delivered to TEA. These financial statements will be provided in advance of the deadline for submission of such reports to TEA. The Organization will provide TEA with annual audited financial reports as required by the Charter. These reports will be prepared by a qualified independent, certified public accounting firm. Service Provider will provide the regular unaudited financial statements, books and records to the auditor for review in connection with the preparation of the annual audited financial reports. The reports shall include a complete set of financial statements and notes prepared in accordance with the Charter and generally accepted accounting principles, for inclusion in the School's annual financial statements, and formatted by revenue source and expenditures, and detailed by function and object.

#### **10. Designated Contact Person**

The designated contact person of Service Provider shall be Rosa Malmcrona. An alternate contact person shall be Danny Diaz.

#### **11. Grant Solicitation**

In consultation with the Board, and with Board approval, Service Provider will solicit grants available for the funding of the Schools from the various government, private and institutional sources which may be available. Such grants may include, but are not limited to federal grants programs and various continuation grants for charter schools.

#### **12. Financing Solicitation and Coordination**

If authorized by the Board, Service Provider will coordinate obtaining financing from private and public sources for loans desired by the Board.

#### **13. Other Funding Sources**

If authorized by the Board, Service Provider will coordinate the solicitation of Capital Outlay Funds, if available, from the appropriate state and/or local agencies. Similarly, as authorized by the Board, Service Provider will coordinate the solicitation of other available state, federal, or local government funds earmarked for schools and/or facilities development, improvement, or acquisition, as well as other sources of funding that may become available to charter schools from time to time.

#### **14. Annual Reporting**

Service Provider will coordinate the preparation of any Annual Report(s) required by Applicable Law. The Report will be submitted to the Board for approval, and Service Provider will coordinate the delivery and review process established by TEA and Applicable Law for the Annual Report.

#### **15. Student Assessment**

Upon the approval of the Board, Service Provider will coordinate a student assessment methodology, independent from State and/or TEA required assessments, and retain on behalf of the Organization professionals to administer and evaluate results. Service Provider will provide the Board with proposals from professionals offering to provide assessment and student evaluation services for Board approval.

**16. School Board Representation**

Service Provider will serve as a liaison with TEA and its officials on behalf of the Schools. Service Provider's representatives will attend required meetings and public hearings; will facilitate communications between the Schools and TEA; and, will present or advocate positions reviewed and approved by the Board.

**17. Governmental Compliance**

Service Provider will advise the Organization and the Schools regarding compliance with state regulations and reporting requirements of the Schools. In addition, Service Provider will advise the Organization and the Schools regarding compliance with the requirements of TEA regarding Disclosure, Verification and Affirmation of Fulfillment of Board Requirements. Service Provider will also advise the Organization and the Schools regarding the Schools's compliance with its Charter, the terms of which are incorporated by reference.

**18. Charter Renewal Coordination**

Service Provider will advise the Organization regarding the renewal of the Charter, coordinate the renewal with TEA, and assist the Board and the Schools to complete the renewal process on a timely basis. Service Provider will negotiate the terms of the renewal Charter with TEA, inform the Board of the progress of those negotiations, notify the Board of any renewal provisions which modify or alter the terms of the existing Charter, and obtain Board approval of any negotiating strategy and of the terms of the renewal Charter.

**19. Curriculum Development**

As authorized by the Board, Service Provider shall identify and or develop curricula in connection with the operations of the Schools and the vision of the Board in a manner that complies with applicable federal, state and local laws and regulations. All curricula shall be approved by the Board prior to use.

**20. School-Site Identification**

Service Provider shall coordinate with the Board for the purpose of identifying the Organization's school-site and facilities needs from year-to-year. Service Provider shall assist the Board in identifying potential new school sites and potential expansion of existing sites and facilities. Service Provider may identify and solicit investors (in accordance with Applicable Law) to acquire and/or develop school sites and facilities for lease or use by the Organization. Where such investors are related to Service Provider or its principals, such relationship will be disclosed to the Board. At the Board's request, Service Provider shall recommend qualified professionals, who the Board may retain, in the fields of school design, architecture, and engineering, as well as professionals in the areas of development and construction, for the expansion, design, development, and/or construction of new and/or existing school sites.

**21. Systems Development**

Service Provider will identify and develop a school information system to be used in connection with the administration and reporting system for the School. This includes, but is not limited to, accounting documentation filing systems, student records systems, computer systems, and telecommunications services. All such systems must be reviewed and approved by the Board prior to their use.

### **III. TERM OF AGREEMENT**

#### **22. Initial Term**

Unless otherwise terminated as provided herein, the term of this Agreement shall be five (5) years, commencing July 1, 2017 (the “Commencement Date”) through June 30, 2022 (the “Initial Term”), except as otherwise set forth for any school listed on Exhibit A.

#### **23. Renewal.**

Unless otherwise terminated as provided herein, at the expiration of the Initial Term, Organization shall have the option to renew this Agreement with Service Provider for an additional term of five (5) years (the “Renewal Term”) on the then-current terms and conditions, unless there has been an uncured material breach hereunder by Organization, after 60 days’ written notice of such breach and demand for cure.

#### **24. Termination**

- A. **Termination for Cause.** Either party may terminate this Agreement for cause by providing sixty (60) days’ written notice to the other party. “Cause” is defined to include, but not be limited to: a material breach of the terms of this Agreement by Organization or the Service Provider; Service Provider’s failure to provide educational support professional services that enables the School to comply with the standards of TEA; any debarment against the Service Provider by any governmental entity; any action or conduct by the Service Provider or its principals that may bring disrepute to the School or the Board (e.g., any arrest or conviction by a principal of Service Provider for a crime of moral turpitude or any felony) or that may endanger or materially lessen the health, safety, welfare of students; or any action or conduct by Organization, its Board, or its principals that may bring disrepute to the Service Provider (e.g., any arrest or conviction by a principal of Organization for a crime of moral turpitude or any felony) or that may endanger or materially lessen the health, safety, welfare of students.
- B. **Termination for Loss of Charter.** If TEA terminates or materially changes the Organization’s Charter for the operation of the School, in whole or in part, either party may, upon sixty (60) days’ written notice, terminate this Agreement, or any corresponding section thereof, without penalty or liability of any kind to either party.
- C. **Termination by Mutual Written Consent.** This Agreement may be terminated by mutual consent by both parties without penalty to either the Service Provider or the Organization, such termination to be effective at such time, and upon such other terms, as set forth in such written consent.
- D. **Effect of Termination.** Except as otherwise agreed by the parties in writing, termination does not relieve the Organization of any obligations for payments outstanding to the Service Provider as of the date of termination or other obligations of either party that specifically continue and survive termination as provided in this Agreement. In the event of termination of this Agreement, in whole or in part, for any reason, the compensation to be paid by Organization to Service Provider under this Agreement shall be pro-rated as of the date of termination.

- E. **Termination Rights.** Termination rights established herein shall apply equally to each school listed on Exhibit A. Either party may terminate this Agreement, in its entirety, for any individual school, or for any number of Schools listed on Exhibit A at any time and for any reason, and without cause, upon providing the other party 90 days' written notice of termination.

#### IV. **COMPENSATION**

##### **25. Service Fee**

During the first year of the Initial Term and each subsequent year of the Term, including any Renewal Term thereafter, the Organization shall pay Service Provider a fee of six hundred fifty dollars (\$650) per student Full Time Equivalent ("FTE") per annum (the "Service Fee"), based on a minimum student enrollment of 66 students, for a minimum annual Service Fee of \$42,900, (the "Minimum Fee").

The Service Fee shall be payable in equal monthly installments, provided that Organization shall have no obligation to pay such Service Fee before receiving its FTE funding from TEA or the State of Texas, in which event the monthly installments shall accrue until funding is received.

##### **26. Service Fee Adjustment**

The Service Fee may be adjusted annually at each anniversary of this Agreement based on the change in the prior year's Consumer Price Index or on the basis of the year to year percentage change in the per student Full Time Equivalent (FTE) funding provided to the schools under the law, whichever is less, but in no event shall any adjustment reduce the Service Fee below the initial level of six hundred fifty dollars (\$650) per student FTE per annum as stated above. In furtherance of the aforementioned, any proposed adjustment to the Service Fee pursuant to this Section 26, shall be subject to Board review and approval. Service Provider, in its discretion, may waive any annual adjustment and, upon request, will provide such documentation as may be reasonably requested by Organization to support any waiver of an annual adjustment.

##### **27. Additional Services**

Service Provider may provide additional services not covered under this Agreement as requested and approved by the Board in writing. This may include services that are not within the regular course and scope of operating the School, including but not limited to special projects, litigation coordination, and land use coordination. In addition, this may include programs which are not encompassed by the Charter such as Pre-School, After-Care, and/or Early Drop-Off. These may be offered as services ancillary to, but separate from the operations of the Schools. Such projects and/or "Additional Services" as set forth herein may include the engagement, upon written approval and at the expense of the Organization, of other professionals or consultants who may be independent from Service Provider or part of Service Provider's network of consulting professionals. The Organization and Service Provider agree that certain modifications to services provided under this Agreement which modifications would significantly add, remove or alter services under this Agreement may require a delegation amendment of the Charter approved by the Commissioner of Education under 19 TAC §100.133(d). In such event, the parties shall seek a delegation amendment to the Charter and shall implement those services in accordance with Applicable Law and the approved Charter Amendment.

## **28. Reimbursement of Costs**

Service Provider may be reimbursed for actual costs incurred in connection with services provided pursuant to this Agreement and with travel, lodging, and food costs incurred by attending required conferences and other events on behalf of the Schools, provided that the Board shall give prior written approval for such costs.

## **29. Incurred Expenses**

Pursuant to the agreement of the Board and Service Provider, Service Provider, in its discretion, may defer some or all of the Service Fees and/or costs for additional services and/or reimbursements due hereunder from one fiscal year to the next, which will be duly noted in the School's financial records.

## **V. INSURANCE AND INDEMNIFICATION**

### **30. Insurance**

At all times during the Term hereof, Service Provider, at its sole expense, shall keep in full force and effect commercial general or professional liability insurance to a combined limit of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. With respect to the coverage described in this Agreement, the policies shall include a provision waiving any right of subrogation against the Organization which otherwise might exist in or accrue. Service Provider agrees to provide, upon request of the Board, certificates evidencing such insurance and naming Organization, and its Board as additional insured.

At all times during the Term hereof, the Organization, at its sole expense, shall keep in full force and effect commercial general or professional liability insurance to a combined limit of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. With respect to the coverage described in this Agreement, the policies shall include a provision waiving any right of subrogation against Service Provider which otherwise might exist in or accrue. Schools agrees to provide, upon request of the Service Provider, certificates evidencing such insurance and naming Service Provider as additional insured.

### **31. Indemnification**

To the extent permitted by law, Service Provider shall indemnify the Schools for acts or omissions of Service Provider, its officers, directors, employees, agents, or assigns. In the event the Organization and/or Schools shall, without fault on its part, be made a party to any litigation commenced by or against Service Provider, whether founded in tort, contract, or otherwise, then Service Provider shall protect and hold the Organization and/or Schools, as applicable, harmless and shall pay all costs, expenses, and attorney's fees incurred by Schools in connection with such litigation including any appeals.

To the extent permitted by law, Organization shall indemnify the Service Provider for acts or omissions of the Organization, its officers, directors, employees, agents, or assigns. In the event Service Provider shall, without fault on its part, be made a party to any litigation commenced by or against the Organization or Schools, whether founded in tort, contract, or otherwise, then the Organization shall protect and hold Service Provider harmless and shall pay all costs, expenses, and attorney's fees incurred by Service Provider in connection with such litigation including any appeals.



Notwithstanding the above, nothing in this provision shall operate to release either the Service Provider or the Schools from its own affirmative duties with respect to this Agreement, and neither party is obligated to indemnify the other party for the other party's wrongful or tortious conduct.

### **32. Immunity**

NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO WAIVE ANY IMMUNITY TO WHICH THE ORGANIZATION OR THE SCHOOLS OR ANY EMPLOYEE OF THE ORGANIZATION OR THE SCHOOLS IS ENTITLED UNDER APPLICABLE LAW.

## **VI. MISCELLANEOUS TERMS**

### **33. Conflicts of Interest**

No officer, shareholder, employee or director of Service Provider may serve on the Board. Service Provider will comply with the Conflicts of Interest rules set out in the Charter. In addition, if there exists some relationship between Service Provider, its officers, directors or principals and any other person or entity providing goods or services to the Schools, Service Provider shall disclose the relationship to the Board, in writing.

### **34. Status of the Parties**

Service Provider is not a division or any part of the Board or the Schools. The Board, the Organization, and the Schools are not a division or a part of Service Provider. 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 as may be amended from time to time. Service Provider will operate as an independent contractor to the Organization and will be responsible for delivering the services required by this Agreement. Nothing herein will be construed to create a partnership or joint venture by or among the Organization on the one hand, and Service Provider on the other. This Agreement is not intended to create any rights of a third party beneficiary. Neither party will be the agent of another except to the extent otherwise specifically provided by this Agreement where Service Provider is authorized to take action on behalf of the Board and the Schools and upon the request of and as authorized by Organization. Neither Service Provider nor the Organization has the express or implied authority or will in any case represent to third parties, and will whenever needed disclaim to such parties, any ability to bind the Board or the Schools to any duty imposed by contract, other than this Agreement, unless the Board has specifically authorized such action at a meeting of the School's Board held in accordance with the Texas Open Meeting Act (appearing in minutes of such meeting) and as agreed in writing by the Board. The Organization will in no case represent to third parties, and will whenever needed disclaim to such parties, any ability to bind Service Provider to any duty imposed by contract, other than this Agreement or as otherwise agreed in writing by Service Provider.

### **35. Impossibility of Performance**

Neither party shall be considered in default of this Agreement if the performance of any part or all of this Agreement is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, hurricane, riot, fire, explosion, war, act of God, sabotage, accident or any other casualty or cause beyond either party's control, and which cannot be overcome by reasonable diligence and without unusual expense.

### **36. Entire Agreement**

This Agreement shall constitute the full, entire and complete agreement between the parties hereto. All prior representations, understandings and agreements are superseded and replaced by this Agreement. This Agreement may be altered, changed, added to, deleted from or modified only through the voluntary, mutual consent of the parties **in writing, and said written modification(s) shall be executed by both parties.** Any amendment to this Agreement shall require approval of the Board.

### **37. Non-Assignment**

Neither party shall assign this Agreement without the written consent of the other party.

### **38. Waiver**

No waiver of any provision of or default under this Agreement shall be deemed or shall constitute a waiver of any other provision or default unless expressly stated in writing.

### **39. Continuation**

If any provision or any part of this Agreement is determined to be unlawful, void or invalid, that determination shall not affect any other provision or any part of any other provision of this Agreement and all such provisions shall remain in full force and effect.

### **40. Venue and Jurisdiction**

This Agreement is made and entered into in the State of Texas and shall be interpreted according to and governed by the laws of that state, without regard to its conflicts of laws rules. Any action arising from this Agreement, shall be brought in the district courts in and for Colling County, Texas.

### **41. Attorney's Fees**

In the event of a dispute arising from this Agreement, the prevailing party shall be awarded reasonable attorneys' fees and costs.

### **42. Notice**

Every notice, approval, consent or other communication authorized or required by this Agreement shall not be effective unless same shall be in writing and sent postage prepaid by United States mail, directed to the other party at its address hereinafter provided or such other address as either party may designate by notice from time to time in accordance herewith:

If to Service Provider:  
Academica SW LLC  
4802 Vance Jackson Rd.  
San Antonio, TX 78230  
ATTN:

If to Organization:  
Somerset Inc.  
d.b.a. Brooks Academy of Science and  
Engineering  
4802 Vance Jackson Road  
San Antonio, Texas 78230  
ATTN:

### **43. Headings**

The headings in the Agreement are for convenience and reference only and in no way define, limit or describe the scope of the Agreement and shall not be considered in the interpretation of the Agreement or any provision hereof.

#### **44. Authority**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one Agreement. Each of the persons executing this Agreement warrants that such person has the full power and authority to execute the Agreement on behalf of the party for whom he or she signs.

THIS AGREEMENT was approved at a meeting of the Board of Directors of Somerset Inc. held on 13<sup>th</sup> day of November\_2017. At that meeting, the undersigned Director was authorized by the Organization to execute this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

#### **SOMERSET INC.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

#### **ACADEMICA SW LLC**

By: \_\_\_\_\_  
Danny Diaz, Manager

Date: \_\_\_\_\_

# Exhibit A

School Name	Location Code	Term Length	Commencement Date	Expiration Date
Somerset Inc. d.b.a. Brooks Academy of Science and Engineering	TBA	5 years	July 1, 2017	June 30, 2022



## **PURCHASING POLICY**

### **PURCHASING APPROVAL**

A purchase for goods or services cannot be made using School funds without prior approval from the Superintendent or their designee in the form of an approved purchase order form. The Principal or Business Office must approve any exceptions to this practice prior to committing any School funds.

The following guidelines are to be followed:

- Purchase requisitions should not be prepared unless the purchase is necessary to the instructional program or the operation of the School.
- The release of a requisition by the Superintendent verifies the concurrence to the necessity and propriety of the purchase.
- The user department is responsible for checking the accuracy and completeness of the information on the purchase requisition and ensuring that the request is in conformance with established purchasing policies and procedures.

### **CONTRACTS AND AGREEMENTS**

Only the Board President, Superintendent, Principal or agent designated by the Board may sign contracts or agreements requiring payment from any School funds.

### **PERSONAL RESPONSIBILITY**

A School employee who purchases or orders any goods or services in the name of the School or who obligates the credit of the School without following the purchasing policies and procedures shall be held personally responsible for payments to the vendors or return of the items.

### **EMERGENCY PURCHASES**

Emergency purchases, where school equipment is destroyed or severely damaged, may be authorized by the Superintendent and subsequently reported to the Board of Trustees.

## **COMPETITIVE PURCHASING REQUIREMENTS**



Purchase levels	Requirements	Required Approvals
Purchases under \$25,000	Quotes from any approved vendor on Master Vendor List. Other sources may be used with Business Office approval. (Aggregation may require other documentation or competitive pricing.)	<ul style="list-style-type: none"> <li>• User Department approval and</li> <li>• Principal or Business Office</li> </ul>
\$25,000 - \$49,999	Competitive Quotations from at least three (3) vendors on the Master Vendor List must be requested unless the vendor has a state approved contract/pricing (Written documentation is required).	<ul style="list-style-type: none"> <li>• User Department approval</li> <li>• Principal or Business Office</li> <li>• Superintendent</li> </ul>
\$50,000 or more	<ul style="list-style-type: none"> <li>• Competitive Bid</li> <li>• Competitive Sealed Proposal</li> <li>• Request for Proposal for services other than construction services</li> <li>• CISV Catalogue purchase as provided by Texas law</li> <li>• BuyBoard (Texas Local Government Statewide Purchasing Cooperative)</li> <li>• DIR (Dept. of Information Resources)</li> <li>• HGAC (Houston-Galveston Area Council of Governments)</li> <li>• Region One ESC</li> <li>• TBPC (Texas Building and Procurement Commission)</li> <li>• TCI (Texas Correctional Industries)</li> <li>• TCPN (The Cooperative Purchasing Network)</li> <li>• TIBH (Texas Institute for the Blind and Handicapped)</li> <li>• TIPS (Texas Interlocal Purchasing System)</li> <li>• Professional Services as provided by Texas law</li> <li>• Sole Source</li> <li>• Any other method approved by applicable law</li> </ul>	<ul style="list-style-type: none"> <li>• User Department approval and</li> <li>• Principal or Business Office and</li> <li>• Superintendent</li> <li>• Board of Trustees</li> </ul>

NOTE: Exceptions to the above under exceptional circumstances may only be made by the Superintendent or Business Office. Quotations and bids (or proposals) are required for aggregates in excess of \$50,000, respectively, over a 12-month period if one of the above competitive purchasing methods is not used.

### **PURCHASES OF GOODS AND SERVICES VALUED UNDER \$25,000**

The informal quote process may be utilized for the purchase of goods and services with a value under \$25,000. Staff may use this process to compare pricing and ensure that the best value is obtained.



It is recommended that written quotes from at least three vendors be obtained. For documentation purposes, telephone quotes can be confirmed in writing by e-mail, fax or U.S. Postal Services mail. These purchases shall be made from the lowest responsible bidder that provides the best value.

To request that the Business Office obtain informal quotes, the School may submit a Quote Request Form. The Business Office will process an informal quote for the requested goods or services and provide the School with the recommended award.

### **PURCHASES OF GOODS VALUED BETWEEN \$25,000 AND \$49,999**

The formal quote process must be utilized for the purchase of goods and services with a value of at least \$25,000 but less than \$50,000, in the aggregate, for a 12-month period. Written quotes from at least three vendors must be obtained, unless the vendor selected has state approved contract/pricing. In lieu of this requirement, written justification with documented evidence to support reasons for not obtaining three quotes must be submitted to the Business Office. Telephone quotes must be confirmed in writing by e-mail, fax or U.S. Postal Services mail. These purchases shall be made from the lowest responsible bidder that provides the best value.

To request that the Business Office obtain formal quotes, the School may submit a Quote Request Form. The Business Office will process a formal quote for the requested goods or services and provide the School with the recommended award.

School staff may also utilize the **School Quotation Form** in obtaining three or more quotes. The completed form must be submitted to the Principal prior to obtaining an approved purchase order.

### **PURCHASES OF GOODS OR SERVICES VALUED AT \$50,000 OR MORE**

Purchase of goods or services valued at \$50,000 or more in the aggregate for a 12 month period shall be made by one of the following methods, that provides the best value for the School:

#### ***Competitive Bidding Methods***

- Competitive Sealed Bids
- Competitive Sealed Proposal
- Request for Proposals, for services other than construction services

#### ***Other Methods***

- CISV (Catalog Information Systems Vendors) purchase as provided by Texas law
- BuyBoard (Texas Local Government Statewide Purchasing Cooperative)



- DIR (Dept. of Information Resources)
- HGAC (Houston-Galveston Area Council)
- Region One ESC
- TBPC (Texas Building Procurement Commission)
- TCI (Texas Correctional Industries)
- TCPN (The Cooperative Purchasing Network)
- TIBH (Texas Institute for the Blind and Handicapped)
- TIPS (Texas Interlocal Purchasing System)
- Professional Services as provided by Texas law
- Sole Source
- Any other method approved by applicable law

Note: The Board of Trustees must approve any single contract or purchase valued at \$50,000 or more. Such contracts or purchases may be ratified by the Board of Trustees if prior approval for the purchase has been reviewed and approved by the Principal and the Business Office.

All contracts over 25.000 will be limited to 1 school Year.

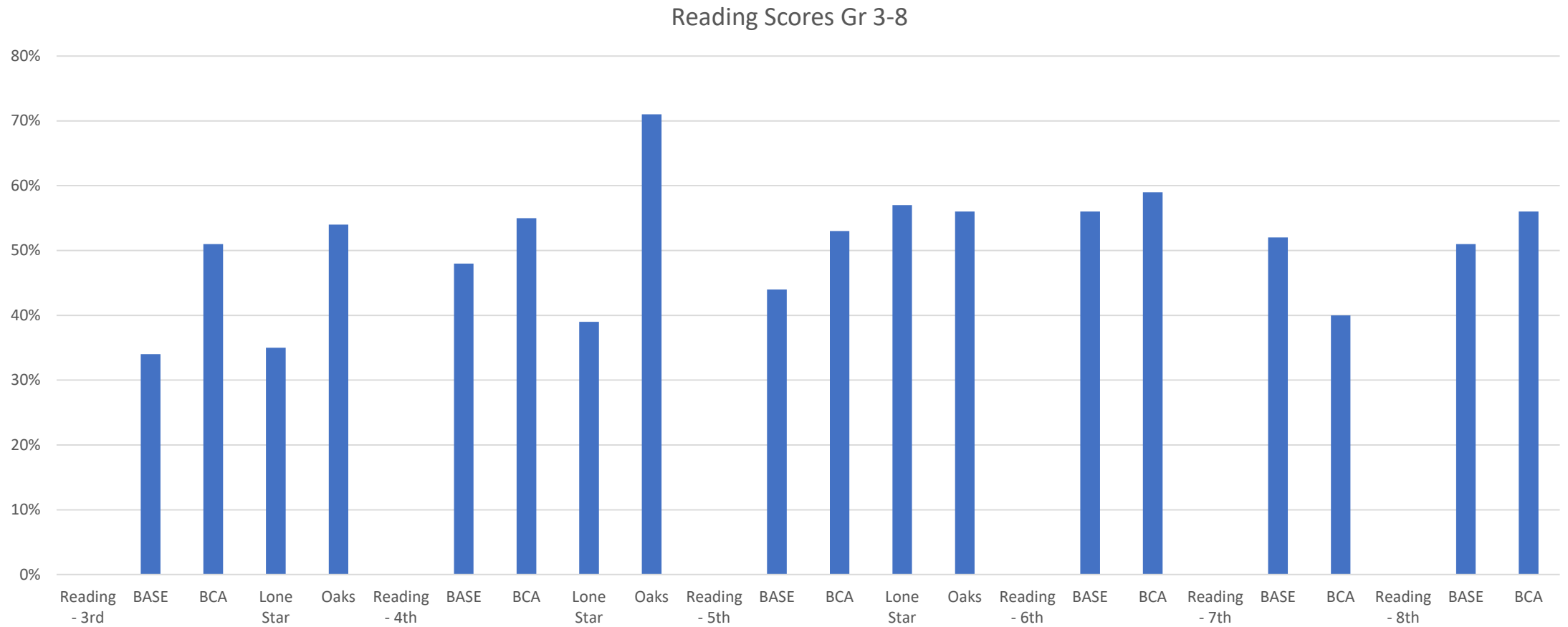
Date Adopted: Nov13th, 2017



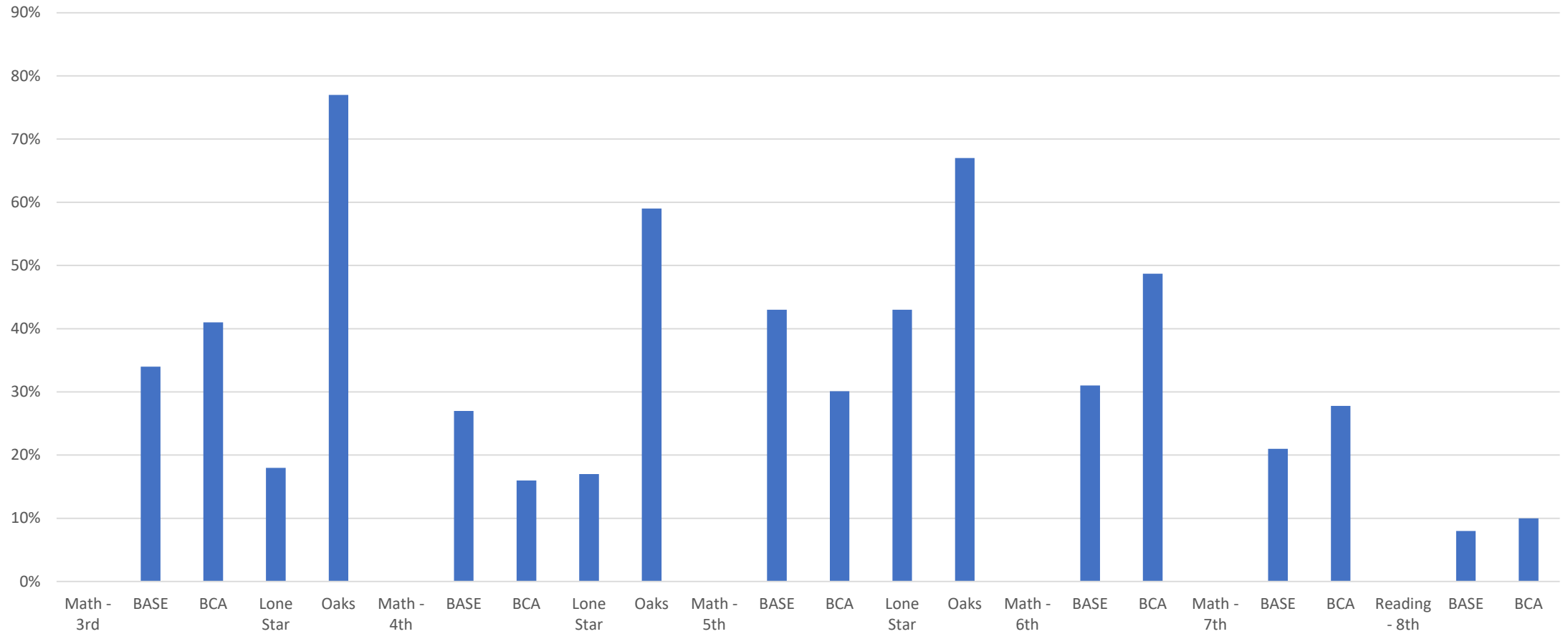
# BROOKS

Academic Update – Fall, 2017

# October Benchmarks - Reading



# October Benchmarks - Math



# October Benchmarks – High School

