

## MANAGEMENT SERVICES AGREEMENT

This **MANAGEMENT SERVICES AGREEMENT** (this “Agreement”) is made and entered into as of March 29 2018, by and between TeamCFA Foundation, an Oregon nonprofit corporation (“TeamCFA”), and Achievement for All Children, Inc., a North Carolina nonprofit corporation (the “School”).

### WITNESSETH:

WHEREAS, School operates Southside Ashpole Elementary School under a contract with \_\_\_\_\_ (the “ISD Contract”); and

WHEREAS, TeamCFA is in the business of providing professional educational and management services to public and charter schools; and

WHEREAS, School’s board of directors (“Board”) wishes to hire TeamCFA, and TeamCFA wishes to be hired by School, to assist with the management and operation of School upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises, and of the covenants and obligations set forth herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **ARTICLE I CONTRACTING RELATIONSHIP**

**A. Authority.** School represents that it is authorized by law to contract with TeamCFA and for TeamCFA to provide educational management services to School. The Board is required by all applicable authorities in the State of North Carolina and the ISD Contract to supervise and control the business and operations of School, and is invested with all powers necessary or desirable for carrying out the educational program contemplated in this Agreement.

**B. Agreement.** School hereby contracts with TeamCFA, to the extent requested by School, for the provision of management labor and supervision for the provision of educational services to students, and the management, operation and maintenance of School in accordance with the educational goals, curriculum, methods of pupil assessment, admissions policy and criteria, school calendar and school day schedule, age and grade range of pupils to be enrolled, educational goals, and method to be used to monitor compliance with performance of targeted educational outcomes, all as adopted by the Board and as included in the ISD Contract. TeamCFA’s obligations to School shall be only as expressly set forth in this Agreement. Duties required to be carried out for the operation of School which are not expressly set forth herein as being TeamCFA’s responsibility shall remain the Board’s sole responsibility.

**C. Designation of Agents.** The Board designates TeamCFA’s CEO, and other employees of TeamCFA as he shall use in connection with rendering services to School of TeamCFA, as agents of School solely for the purpose of having a legitimate educational interest

entitling them to have access to educational records under U.S.C. §1232g, the Family Rights and Privacy Act (“FERPA”), and other applicable laws.

**D. Status of the Parties.** TeamCFA is an Oregon nonprofit corporation, is independent from School, and is not a division, part or affiliate of School. School is a North Carolina nonprofit corporation authorized by its corporate documents to execute and deliver this Agreement and perform its obligations hereunder. School is not a division or part of TeamCFA. The parties to this Agreement intend that the relationship created by this Agreement is that of an independent contractor and not employer-employee. Except as expressly provided in Article 1(C) above, no agent or employee of TeamCFA, shall be deemed to be the agent or employee of School. TeamCFA shall be solely responsible for its acts and the acts of its agents, employees and subcontractors. The relationship between TeamCFA and School is based solely on the terms of this Agreement, and the terms of any other written agreements between TeamCFA and School.

## **ARTICLE II TERM**

The term of this Agreement shall be from June 15, 2018 to June 14, 2021 (the “initial term”), unless terminated or cancelled earlier as provided for hereinafter in **Article VII**, below. [**Tony – what term is appropriate?**]

## **ARTICLE III OBLIGATIONS OF TEAMCFA**

**A. Responsibility.** TeamCFA shall be responsible and accountable to the Board for the administration, operation and performance of School in accordance with the ISD Contract and its mission. TeamCFA shall consult with and advise the Board with respect to all aspects of School’s operations, including but not limited to finances, staffing, scheduling, curriculum/instruction, assessment, data analysis, technology, compensation and incentives, transportation, and facilities. However, it is understood and agreed that the Board shall be the final authority as to matters related to the operation of School, including but not limited to finances, staffing, scheduling, curriculum/instruction, assessment, data analysis, technology, compensation and incentives, transportation and facilities..

**B. Educational Program.** TeamCFA shall evaluate School’s current program of instruction (the “Educational Program”) and recommend to the Board an educational program to achieve superior academic performance by introducing national best practices in instruction. As TeamCFA determines that it is necessary to modify the Educational Program, TeamCFA shall inform the Board of the proposed changes and obtain Board approval and, where necessary, approval of state regulators before implementing modifications to the Educational Program. Not less than annually, and otherwise as requested by the Board, TeamCFA will provide the Board with updated reports on progress towards implementing School’s educational goals in the Educational Program.

**C. Specific Functions.** Subject to the Board being the final authority as to matters related to the operation of School, TeamCFA shall, as requested by School, be responsible for

the management, operation, administration, accounting and Educational Program at School. Such functions of TeamCFA shall include, without limitation:

1. Appointing a School Support Team (“SST”) and School Support Director (“SSD”) who will advise and support the School’s instructional coach with academics and coaching.
2. Causing the SST and SSD to support the Director of the School with academics and staff management.
3. Causing the SST and other TeamCFA personnel to conduct professional development for the School faculty.
4. Assisting School with recruiting the director of the School (the “Director”) and monitoring his or her performance.
5. Providing technical support, including with the School website.
6. Providing School with assistance with state compliance matters where applicable, including with the financial portion of Title I and the free and reduced lunch program.
7. Working with the School to identify other ways in which TeamCFA and the School may collaborate to improve the results at Southside.

**D. Purchases.** Purchases made by TeamCFA on behalf of School with School’s funds, such as non-proprietary instructional and/or curriculum materials, books and supplies, and equipment, will be the property of School. School will own all proprietary rights to curriculum or educational materials that are both directly developed and paid for by School. TeamCFA’s educational materials and teaching techniques used by or at School shall be subject to disclosure to the extent required by law. TeamCFA shall own all proprietary rights to, and School’s proprietary interests shall not include, curriculum or educational materials that are developed or copyrighted or similarly protected by TeamCFA, provided the curriculum or educational materials are developed by TeamCFA with no funds from School. This provision does not apply to any capital items leased or purchased by TeamCFA with TeamCFA’s own funds.

**E. Subcontracts.** TeamCFA shall not subcontract the services provided under this Agreement without the School’s prior approval.

**F. Place of performance.** TeamCFA reserves the right to perform functions other than instruction, such as purchasing, professional development, and administrative functions, off-site, unless prohibited by state or local law.

**G. Legal Requirements.** TeamCFA shall provide educational programs that meet federal, state, and local requirements.

**H. Performance Standards and Measurement.** TeamCFA shall perform its duties and responsibilities as set forth in this Agreement to the reasonable satisfaction of the Board.

TeamCFA shall implement performance standards and measures that permit evaluation of the education progress of each student in School, and the financial performance of School, on an annual and interim basis as agreed with the Board.

TeamCFA shall use reasonable efforts to ensure that School and the students of School (the “Enrolled Students”) meet or exceed all performance criteria set forth in this Agreement. TeamCFA will make reasonable efforts to ensure that each individual Enrolled Student’s score, and Enrolled Students’ scores in the aggregate for each grade level at School, increases from year to year in accordance with the objectives set forth in this Agreement.

TeamCFA will be accountable by cooperating in good faith with the Board to identify and monitor annual goals for and measures of student and school performance and progress as defined in TeamCFA’s annual plan for School. Specific measures of School’s success will include:

1. Value-added growth in student achievement
2. Overall achievement scores
3. Progress in student achievement
4. Customer satisfaction (parents & students)
5. Student enrollment and retention

**I. School Records/Property.** The financial, educational and student records pertaining to School are School’s property, and such records are subject to the provisions of the applicable freedom of information act(s) to the extent required by applicable law. Except as prohibited under applicable law, the public shall have access to School’s records.

#### **ARTICLE IV OBLIGATIONS OF THE BOARD**

**A. Business Judgment Obligation.** The Board shall be responsible for its fiscal and academic policy. The Board shall exercise its business judgment in considering the recommendations of TeamCFA, including but not limited to, TeamCFA’s recommendations concerning policies, rules, regulations and budgets.

**B. Assistance to TeamCFA.** The Board shall cooperate with TeamCFA in furnishing all information and submitting all forms and reports required in association with this Agreement, including timely notice of all Board meetings. The Board shall timely furnish TeamCFA all documents and records necessary for TeamCFA to properly perform its responsibilities under this Agreement.

**C. Unusual Events.** The Board agrees to timely notify TeamCFA of any anticipated or known: (i) material health or safety issues, (ii) labor, employee or funding problems, (iii) actual or threatened civil litigation, administrative agency proceedings or other legal

proceedings, or (iv) problems of any other type that could adversely affect TeamCFA in complying with its responsibilities hereunder.

**D. Retained Authority.** The Board shall retain the authority to make reasonable regulations relative to anything necessary for the proper establishment, maintenance, management, and carrying on of School, including regulations relative to the conduct of pupils while in attendance at School or in route to and from School. The Board retains the ultimate responsibility for the approval and oversight of School's budget and oversight of TeamCFA.

## **ARTICLE V FINANCIAL ARRANGEMENTS**

**A. Compensation.** Consistent with its nonprofit mission, TeamCFA shall provide the services specified under this Agreement to School at no charge.

**B. Access to Records.** TeamCFA shall keep accurate financial records pertaining to its operation of School, together with all School financial records prepared by or in possession of TeamCFA, and shall retain all of the said records for a period of time as may be required by applicable law, but in any event not less than three (3) years. TeamCFA and School shall maintain the proper confidentiality of personnel, students, and other records as required by law.

## **ARTICLE VIII INSURANCE**

**A. Insurance Coverage.** Each party shall maintain such insurance in the coverage amounts as may be required by applicable law or contract, with the other party listed as an additional insured. TeamCFA shall be responsible for payment of the premiums associated with its insurance coverage required by applicable law or contract. Revenues from School will be used to purchase required insurance and such other insurance as the Board may deem necessary or advisable, which shall include director and officer insurance for persons serving on the Board, and commercial general liability insurance naming TeamCFA as an additional insured. Each party shall, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this paragraph. Each party shall comply with any information or reporting requirements required by the other party's insurers, to the extent reasonably practicable.

**B. Workers' Compensation Insurance.** Each party shall maintain workers' compensation insurance as required by applicable laws covering their respective employees.

## **ARTICLE IX WARRANTIES AND REPRESENTATIONS**

**A. School Warranties and Representations.** School represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement. The Board warrants that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.

**B. TeamCFA Warranties and Representations.** TeamCFA warrants and represents that it is an Oregon nonprofit corporation in good standing and is authorized to conduct business in the State of North Carolina. TeamCFA will comply with all registration and licensing requirements relating to conducting business under this Agreement. School agrees to assist TeamCFA in applying for such licenses and permits and in obtaining such approvals and consents; provided, however, any cost or expenses in applying for such licenses, permits, approvals and consents shall be the sole obligation of TeamCFA.

**C. Mutual Warranties.** School and TeamCFA mutually warrant to the other that there are no pending actions, claims, suits or proceedings, to its knowledge, threatened or reasonably anticipated against or affecting it, which if adversely determined, would have a material adverse effect on its ability to perform its obligations under this Agreement.

## **ARTICLE X INDEMNITY**

**A. TeamCFA Indemnification.** TeamCFA agrees to indemnify and hold School, its affiliates, successors, assigns, officers, directors and employees (the "School Indemnitees"), harmless from and against any and all actions, demands, liabilities, expenses, losses, damages, claims, workers compensation, fines, penalties and costs (including all reasonable attorneys' fees whether incurred by any School Indemnitee or awarded against any School Indemnitee) ("Losses") that any School Indemnitee may sustain or incur as a result from any violation of law or breach of this Agreement by or on behalf of TeamCFA.

**B. School Indemnification.** School shall indemnify, save and hold TeamCFA, its affiliates, successors, assigns, officers, directors and employees (the "TeamCFA Indemnitees") harmless from and against any and all Losses that any TeamCFA Indemnitee may sustain or incur as a result of any violation of law or breach of this Agreement by or on behalf of School.

## **ARTICLE XI MISCELLANEOUS**

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

**B. Governing Law.** The rights of all parties hereto shall be subject to the jurisdiction of and be construed according to the laws of the State of North Carolina.

**C. Agreement in Entirety.** This Agreement constitutes the entire agreement of the parties and supersedes any prior agreements between the parties hereto.

**D. Official Notices.** All notices and other communications required by the terms of this Agreement shall be in writing and sent to the parties hereto at the facsimile number or address set forth below. Notice may be given by: (i) by facsimile with written evidence of confirmed receipt by the receiving party of the entire notice, (ii) certified or registered mail, postage prepaid, return receipt requested, or (iii) personal delivery. Notice shall be deemed to

have been given on the date of transmittal or personal delivery if given by facsimile or personal delivery, or upon the date of postmark if sent by certified or registered mail. Notices to School shall be sent to the current address of the then current Board President or Chairman, with a copy to the then current Board attorney. The address of the parties hereto for the purposes aforesaid, inclusive of the address of the Board Chairman and Board attorney, are as follows:

**School:**

Attention: Anthony Helton, CEO  
Achievement for All Children, Inc.  
9935D Rea Road, Suite 149  
Charlotte, NC 28277-6710

**TeamCFA:**

Attention: \_\_\_\_\_  
TeamCFA Foundation  
9935D Rea Road, Suite 167  
Charlotte, NC 28277-6710

**[Confirm what addresses we want to use for these two entities.]**

**E. Assignment.** Neither party may assign this Agreement without the written consent of the other, which consent shall not be unreasonably withheld.

**F. Amendment.** This Agreement shall not be altered, amended, modified or supplemented except in writing and approved by the Board and TeamCFA and signed by both the Chairman of the Board and the CEO of TeamCFA.

**G. Waiver.** No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver unless otherwise expressly stated.

**H. Cost and Expenses.** If any party commences an action against another party as a result of a breach or alleged breach of this Agreement, the prevailing party shall be entitled to have and recover from the losing party its reasonable costs and attorneys' fees (including those incurred at appellate levels).

**I. Delegation of Authority.** Nothing in this Agreement shall be construed as delegating to TeamCFA powers or authority of the Board, which are not subject to delegation by the Board under applicable law or under the ISD Contract.

**J. Compliance with Law.** The parties to this Agreement agree to comply with all applicable laws and regulations.

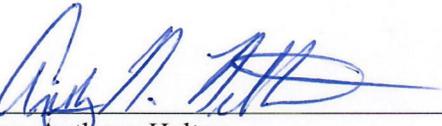
**K. Compliance with ISD Contract.** The parties to this Agreement agree to comply with the terms and conditions set forth in the ISD Contract and the terms and conditions of the ISD Contract are incorporated herein by reference.

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

**TEAMCFA FOUNDATION**

By:   
Name: Ryan Stowers  
Title: TeamCFA Board Chair

**ACHIEVEMENT FOR ALL CHILDREN, INC.**

By:   
Name: Anthony Helton  
Title: Chief Executive Officer