

ASSIGNMENT AND AMENDMENT AND CONSENT TO ASSIGNMENT OF CHARTER SCHOOL AGREEMENT

**THIS ASSIGNMENT AND AMENDMENT AND CONSENT TO ASSIGNMENT
OF CHARTER SCHOOL AGREEMENT** (“Agreement”) is made, entered into, and effective
as of this ____ day of ____, 2019, the (“Agreement Effective Date”), by and between

THE SCHOOL BOARD OF MONROE COUNTY, FLORIDA

as the contracting agent for

THE SCHOOL DISTRICT OF MONROE COUNTY

(hereinafter referred to as “Sponsor”),

a body corporate and political subdivision of the State of Florida,

whose principal place of business is

241 Trumbo Road,

Key West, Florida 33040

and

KEY WEST INDEPENDENT EDUCATION, INC.,

(hereinafter referred to as “Assignor”),

a Florida nonprofit corporation,

whose principal place of business is

5901 College Road,

Key West, Florida 33040

and

SOMERSET ACADEMY, INC.

(hereinafter referred to as “Assignee”),

a Florida nonprofit corporation,

whose principal place of business is

20801 Johnson Street,

Pembroke Pines, FL 33029

WHEREAS, Sponsor and Assignor entered into a Charter School Agreement dated
as of the 1st day of July, 2011 (the “Assigned Contract”); and

WHEREAS, Assignor desires to transfer and assign its rights, duties and obligations
under the Assigned Contract to the Assignee effective as of July 1, 2019 (the “Assignment
Effective Date”), and Assignee desires to assume and accept Assignor’s rights, duties and
obligations under the Assigned Contract effective as of the Assignment Effective Date, which
assignment requires the prior written consent of Sponsor; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants
contained herein and other good and valuable consideration, the receipt and sufficiency of which
is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 – RECITALS

1.1 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.1 **Assignment of Assigned Contract.** Assignor does hereby assign, transfer, convey and set over unto Assignee and its successors and assigns, all of its rights, title and interest in the Assigned Contract effective as of the Assignment Effective Date, subject to all terms, conditions, covenants, and provisions contained in the Assigned Contract.

2.2 **Acceptance and Assumption.** Assignee does hereby accept assignment of the Assigned Contract and does hereby assume all of Assignor's rights, title and interest in the Assigned Contract and agrees to perform the obligations of the charter holder under the Assigned Contract arising therefrom on and after the Assignment Effective Date.

2.3 **Consent by Sponsor.** Sponsor does hereby grant its unconditional consent to the assignment of the Assigned Contract from Assignor to Assignee, as of the Agreement Effective Date, and on the terms and conditions set forth herein. Sponsor and Assignor each acknowledge and, agree that Assignor's duties under the Assigned Contract arising prior to the Assignment Effective Date: (1) are not extinguished by this assignment or Sponsor's consent to this assignment; (2) are not transferred to Assignee by this Agreement; and (3) are not, and do not become, the obligations or responsibilities of Assignee. Without limiting the generality of the foregoing, Assignor remains subject to the Assigned Contract's provisions for auditing of records for duties, responsibilities and obligations of Assignor under the Assigned Contract prior to the Assignment Effective Date.

2.4 **Representations and Warranties of Assignor.** Assignor hereby represents and warrants as follows: (1) the Assignor has fulfilled, and covenants that it will fulfill when due, all obligations of the charter holder and/or School, under the Assigned Contract that were to have been observed or performed from the first day of the Assigned Contract's Term through the Assignment Effective Date; (2) to the best of Assignor's knowledge and belief, as of the Agreement Effective Date, there is no fact, event or condition existing, now or through the Assignment Effective Date, which, with notice or lapse of time or both, would constitute a termination, or good cause for a termination, or any breach or default thereunder; (3) to the best of Assignor's knowledge and belief, that the Assigned Contract is valid, binding and enforceable against Assignor and Sponsor in accordance with its terms; (4) to the best of Assignor's knowledge and belief, that the Assigned Contract is assignable by the Assignor to the Assignee without the consent of any third party other than Sponsor, whose consent is given above; and (5) that no monetary consideration under the Assigned Contract has been prepaid by Sponsor to Assignor.

2.5 **Representations and Warranties of Sponsor.** Sponsor, for itself, its successors and assigns, hereby represents and warrants as follows: (1) that all obligations of Assignor under the Assigned Contract that were to have been observed or performed from the first day of the Assigned Contract's Term through the Assignment Effective Date have in fact been observed,

performed or otherwise excused, such that Assignor is not in default under, or in breach of, the Assigned Contract; (2) as of the Agreement Effective Date, there is no fact, event or condition existing, now or through the Assignment Effective Date, which, with notice or lapse of time or both, would constitute a termination, or good cause for a termination, or any breach or default thereunder; (3) that the Assigned Contract is valid, binding and enforceable against Sponsor and Assignor in accordance with its terms; (4) that the Assigned Contract is Assignable by the Assignor to the Assignee without the consent of any third party or governmental authority other than Sponsor, whose consent is given above; and (5) that no monetary consideration under the Assigned Contract has been prepaid by Sponsor to Assignor.

2.6 **Contract in Good Standing.** Assignor, to the best of Assignor's knowledge and belief, and Sponsor, agree, acknowledge and reaffirm that (1) the Assigned Contract is in good standing; (2) neither the Assignor nor the Sponsor is in default of its obligations under the Assigned Contract; and (3) all covenants and obligations of the Assigned Contract have been met and/or satisfied. Assignor and Sponsor agree that, except as expressly set forth herein, the Assigned Contract is ratified and confirmed as written. The Parties hereto acknowledge and agree that this Agreement shall supersede and control any conflicting terms in the Assigned Contract. All other terms and conditions of the Assigned Contract, except as modified herein, shall remain in full force and effect.

2.7 **Marketing Materials and Enrollment.** The Parties hereto acknowledge and agree that Assignee is authorized to distribute and display marketing, enrollment and other promotional materials prior to the Agreement Effective Date utilizing the name(s) Somerset Academy Inc. and/or Somerset Academy St. Lucie.

ARTICLE 3-AMENDMENT TO ASSIGNED CONTRACT

3.1 **Notices.** The Notices provision of Section 2.1 of the Assigned Contract shall be revised to replace the notice addresses for the School with the following single address: Somerset Academy, Inc., 20801 Johnson Street, Pembroke Pines, FL 33029.

3.2 **School Name and References to School.** As of the Assignment Effective Date, the charter school authorized by the Assigned Contract shall be known as Somerset Island Preparatory, and all references to the "School" in the Assigned Contract shall mean and refer to Somerset Academy, Inc. d/b/a Somerset Island Preparatory.

3.3 **Enrollment/Grade Levels Served.** As of the Assignment Effective Date, Assignee shall be authorized to register, enroll, and serve students entering grades 9 through 12 for up to 150 students. The Assignee may give enrollment preference to those student populations specified in Section 1002.33(10)(d), Florida Statutes. In addition, Assignee is authorized to limit enrollment to target specific student populations pursuant to Section 1002.33(10)(e), Florida Statutes.

3.4 **Facilities.** As of the Assignment Effective Date, Assignee shall be authorized to relocate the school's principal place of operation. Assignee shall have as its principal place of operation the premises located at 1908 Flagler Avenue, Key West, Florida 33040.

3.5 **Savings Clause**. The Assigned Contract, as amended hereby, shall continue in full force and effect.

ARTICLE 4-MISCELLANEOUS PROVISIONS

4.1 **Captions**. The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

4.2 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

4.3 **Counterparts**. The Agreement may be executed in several counterparts, each of which shall be deemed an original, all such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Assignment and Amendment and Consent to Assignment of Charter School Agreement as of the Agreement Effective Date.

[SIGNATURES ON FOLLOWING PAGES]

FOR SPONSOR

AGREED TO AND APPROVED by the School Board of Monroe County, Florida, on the _____ day of _____ 2010, at a public meeting duly held in Key West, Monroe County, Florida, according to law, and after public hearing.

MONROE COUNTY SCHOOL BOARD

By:

John Dick, MCSB Chair

ATTEST:

Dr. Jesus Jara, Superintendent

(Seal)

Recorded in Book #____, at Page # ____
Monroe County School District Records

APPROVED AS TO FORM:

Attorney for School Board

FOR ASSIGNOR

(Corporate Seal)

KEY WEST INDEPENDENT
EDUCATION, INC.

ATTEST:

Ana Diaz, Director

By _____
Todd German, President

-or-

Witness

Witness

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the Assignor Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of
_____, 20__ by Todd German of Key West Independent Education, Inc. on
behalf of the corporation. He/She is personally known to me or produced _____
as identification and did/did not first take an oath.

My Commission Expires:

(SEAL)

Signature – Notary Public

Printed Name of Notary

Notary's Commission No.

FOR ASSIGNEE

(Corporate Seal)

SOMERSET ACADEMY, INC.

ATTEST:

By _____
Todd German, President

Ana Diaz, Secretary

-or-

Witness

Witness

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the Assignee Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Todd German of Somerset Academy, Inc. on behalf of the corporation. He/She is personally known to me or produced _____ as identification and did/did not first take an oath.

My Commission Expires:

Signature – Notary Public

(SEAL)

Printed Name of Notary

Notary's Commission No.