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SAMPLE: BOSTON SUMMER ENRICHMENT MASTER AGREEMENT

For more information on the importance of partnership agreements and tips for developing effective MOUs, review Boston Summer Enrichment MOU Guidance.

Administered by Boston After School and Beyond, the Boston Summer Enrichment MOU is comprised of two parts: the Enrichment Provider Master Agreement and Statement of Work. The Master Agreement articulates the mutual commitments of the partners, including data sharing, publication, and intellectual property.

MASTER AGREEMENT

THIS MASTER AGREEMENT (“the Agreement”), dated as of XX/XX/XXXX (the “Agreement Effective Date”), is by and between Boston After School & Beyond, Inc., with offices at 89 South Street, Suite 601, Boston, MA 02111 (“BASB”) and the Provider identified on the signature page of this Agreement (“ORG”).

The Agreement sets forth the mutual commitments of BASB and the Provider (each a “Party” and collectively, the “Parties”) in furtherance of projects that the Parties may hereinafter undertake, and which will be memorialized in one or more Statements of Work (as defined below) to be incorporated as addendums to this agreement.

In consideration of the promises and the mutual covenants hereinafter set forth, the Parties, on the basis of, and in reliance upon, the representations, warranties, covenants, obligations, and agreements set forth in this Agreement, and upon the terms and subject to the conditions contained herein, hereby agree as follows:

I. STATEMENTS OF WORK

Subject to the terms and conditions of this Agreement, BASB and the Provider may enter into one or more statements of work (each a “Statement of Work” and collectively, “Statements of Work”) that describe the project or projects that the Parties desire to undertake. The Parties shall prepare the Statements of Work, which shall describe, to the extent applicable: (i) the scope of the project to be undertaken; (ii) the obligations of each Party; (iii) the schedule for commencing and performing those obligations; (iv) the amount of and conditions for any funding; and (v) any other information deemed necessary by the Parties. No Statement of Work shall be effective until signed by authorized representatives from BASB and the Provider. Each executed Statement of Work will be attached hereto, will constitute a part of this Agreement, and will be deemed incorporated herein by this reference even if not attached hereto.

II. DATA SHARING AND PUBLICATION

To the extent that the Parties agree to publish, share, or publish and share data pursuant to the Statement of Work, the Provider acknowledges that BASB may:

(i) share data concerning students (“Participating Students”) participating in any program that is the subject of any Statement of Work, including the identity of individual Participating Students (together, “Participating Student Data”), with any party specifically identified in the Statement of Work (“Data Sharing Party”), if any, and subject to the terms and conditions set forth in the Statement of Work, if any;

(ii) make publicly available and/or available to certain third parties aggregate level data derived from Participating Student Data, not including the identity of individual Participating Students; and

(iii) make publicly available and/or available to certain third parties program-level data, not including the identity of individual Participating Students.

III. DATA PROTECTION & SECURITY

The Parties shall comply with any applicable data protection, privacy, or similar law that may apply in relation to any personal information as defined by the Code of Massachusetts Regulations at 201 CMR 17 (“Personal Information”) collected and/or processed under this Agreement or any Statement of Work. The Parties may further address the protection and security of Personal Information in any Statement of Work, which would apply to the limited scope of work set forth in such a Statement of Work, or in an addendum to this Agreement.

To protect all Personal Information collected and/or processed by the Parties, the Parties will at all times have in place, maintain, and use reasonable technical, organizational, and physical security measures (such as policies, standards, and practices) commensurate with the industry standards for information security, the sensitivity of the Personal Information collected, handled, stored, and otherwise processed, and the nature of the Provider’s activities, to protect, keep secure, and prevent the unauthorized or unlawful processing, loss of, or damage to, any Personal Information in the Parties’ possession.

IV. INTELLECTUAL PROPERTY

“Intellectual Property” shall mean patents, patent applications, and know-how. Intellectual Property relating to inventions conceived and reduced to practice solely by the Provider in performance of this Agreement or any Statement of Work shall remain the sole property of the Provider. Intellectual property relating to inventions conceived and reduced to practice solely by BASB in performance of this Agreement or any Statement of Work shall remain the sole property of BASB. Intellectual Property relating to inventions conceived and reduced to practice jointly by BASB and any third party, not including the Provider, in connection with this Agreement or any Statement of Work shall remain the sole property of BASB. Except as prohibited by any other law, regulation, or agreement between the Parties, all data collected pursuant to this Agreement or any Statement of Work shall be jointly owned by BASB and the Provider; provided, however, that the Provider shall have no ownership interest in any data collected pursuant to this Agreement or any Statement of Work to the extent such ownership interest is not permitted pursuant to any agreement between BASB, on the one hand, and Wellesley College, the National Institute on Out-Of-School Time (“NIOST”), The McLean Hospital Corporation (“McLean”), the Program in Education, Afterschool and Resiliency (“PEAR”), or Boston Public Schools (“BPS”), on the other hand. Except as expressly stated herein, and except as prohibited by any other law, regulation, or agreement between the

Parties, each Party is authorized to use data collected pursuant to this Agreement or any Statement of Work without any limitations or restrictions, and each party may authorize others to use such data; provided, however, that the Provider shall not use or authorize authors to use data collected pursuant to this Agreement or any Statement of Work to the extent such use or authorization is not permitted pursuant to any agreement between BASB, on the one hand, and Wellesley College, NIOST, McLean, PEAR, or BPS, on the other hand.

V. INDEMNIFICATION; LIMITED LIABILITY; INDEPENDENT JUDGMENT OF THE PARTIES

1. The Provider shall indemnify, defend, and hold harmless BASB for any and all claims relating to Provider's failure to obtain properly executed consent forms as described in a Statement of Work ("Consent Forms"), if such Consent Forms are required by the Statement of Work. The Provider shall remit to BASB or retain said Consent Forms, or both, as required by the Statement of Work.
2. Each Party acknowledges and agrees that the other Party's officers, directors, members, employees, and agents shall have no personal liability under this Agreement for any reason whatsoever, or any liability in their capacity as officers, directors, members, employees, and agents of either Party.
3. The Parties acknowledge and agree that in connection with their decision to enter into this Agreement, and the negotiation and execution of this Agreement and any Statement of Work: (i) neither Party, nor any of the Parties' officers, directors, members, employees, agents or affiliates have acted as a fiduciary, advisor, agent, or other representative of either Party; (ii) the Parties have, to the extent they have deemed necessary, consulted with their own legal counsel and/or other appropriate advisor in determining the suitability and appropriateness of this Agreement and in evaluating the specific terms of this Agreement, and has not relied upon any advice from any of their officers, directors, members, employees, agents or affiliates; (iii) the Parties understand the terms and conditions of this Agreement and any Statement of Work and are capable of satisfying such terms and conditions; and (iv) the terms and conditions of this Agreement and any Statement of Work are the result of arms-length negotiations between BASB and the Provider.

VI. REPRESENTATIONS AND WARRANTIES

Each of the Parties hereby represents and warrants that:

1. It is duly organized and validly existing under the laws of its jurisdiction, incorporation, or establishment.
2. It has the power to enter into and perform its obligations under this Agreement and any Statement(s) of Work, and possesses, as of the Agreement Effective Date, all of the necessary authorizations, licenses, permits, exemptions, consents, actions or approvals

by, and all filings with or notices to, any governmental or other authority that are required to be obtained or made with respect to this Agreement and/or any Statement of Work under any applicable federal, state, or local law, ordinance, or regulation.

3. This Agreement has been duly authorized, executed, and delivered by it, and, assuming the due authorization, execution, and delivery hereof by the other Party, constitutes a legal, valid, and binding obligation of it, its respective successors, and permitted assigns, and is enforceable against it in accordance with the terms hereof.
4. Its authorization, execution, and delivery of this Agreement, and the performance of its obligations hereunder, does not and will not constitute or result in a default under, or a breach or violation of, its charter, bylaws (or equivalent organizational documents), or any other agreement, instrument, law, ordinance, regulation, judgment, injunction, or order applicable to it or any of its property.
5. There is no proceeding pending or threatened against it at law or in equity, or before any governmental instrumentality or in any arbitration, which would materially impair its ability to perform its obligations under this Agreement, and there is no such proceeding pending against it which purports or is likely to affect the legality, validity, or enforceability of this Agreement.

VII. MISCELLANEOUS

1. Nothing contained in this Agreement will be construed as creating a partnership, joint venture, agency, trust, or other association of any kind between and among the Parties.
2. Nothing expressed or implied herein is intended or shall be construed to confer upon any person or entity other than the Parties, any right, remedy, or claim by reason of this Agreement or any provision hereof, and all provisions contained herein shall be for the exclusive benefit of the Parties, and their respective successors and permitted assigns.
3. This Agreement, and its Statement(s) of Work, if any, constitute the entire agreement and understanding of the Parties with respect to its subject matter, and supersedes all oral communications and prior writings with respect to its subject matter.
4. This Agreement may be executed in one or more counterparts and when each Party has executed at least one counterpart, this Agreement shall become binding on all Parties and such counterparts shall be deemed to be one and the same document.
5. If one or more provisions of this Agreement or the applicability of any such provisions to any set of circumstances shall be determined to be invalid, unenforceable, or ineffective for any reason, such determination shall not affect the validity and enforceability of the remaining provisions or the applicability of the same provisions or any of the remaining provisions to other circumstances.

6. BASB's failure or delay in enforcing any provision or obligation of this Agreement, or in exercising any right or remedy hereunder, does not constitute a waiver of that provision, obligation, right, or remedy.
7. An agreement shall exist when this document has been signed by duly authorized representatives of both parties. No other terms and conditions shall be binding upon the parties unless they mutually agree to an amendment. This Agreement may be amended or any of its terms modified only by a written document authorized, executed, and delivered by each of the Parties.
8. This Agreement shall commence as of the Agreement Effective Date and remain in effect until terminated ("Term"). Each Statement of Work shall have its own term. The expiration or termination of a Statement of Work will not impact the Term of this Agreement; however, the termination of this Agreement shall terminate any and all Statements of Work. Either Party shall, at its discretion, have the right to terminate this Agreement or any Statement of Work, or both this Agreement and any Statement of Work, upon thirty (30) days written notice to the other Party.
9. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to conflict of laws principles.
10. Any dispute or disagreement among the Parties as to the interpretation of any provision of or the performance of any obligation under this Agreement shall be commenced and prosecuted in its entirety exclusively in any state or federal court located within the City of Boston, Massachusetts, and each Party consents to the personal and subject matter jurisdiction of and proper venue in such courts.

[Signature page(s) follows]

IN WITNESS WHEREOF, BASB and the Provider have executed this Agreement or caused this Agreement to be executed as of the Agreement Effective Date.

BOSTON AFTER SCHOOL & BEYOND, INC.

By: Christopher J. Smith, Executive Director

Signature

Date: _____

ORG

By:

Signature

Date: _____

Address:

SAMPLE