

## Amended and Restated Agreement

This Amended and Restated Agreement (the "Agreement") is effective July 26, 2016

BETWEEN: Victory Charter School, Inc. (the "School"), a charter school organized and existing under the laws of the State of Idaho, with its head office located at:

9779 Kris Jensen Way  
Nampa, ID 83686

AND: BMed, Inc. ("BMed"), a corporation organized and existing under the laws of the State of Idaho, with its head office located at:

BMed, Inc.  
2422 12th Ave Road, #356  
Nampa, Idaho 83686-6300

WHEREAS the School operates a Harbor School Method™ charter school (the "Program");

WHEREAS BMed is the founder of the Harbor School Method™, an effective method for elementary and secondary education, owns the copyright and has knowledge and expertise in the area of establishing, developing, operating and managing Harbor School Method™ charter schools;

WHEREAS the School wants to continue the Harbor School Method™ and considers that BMed's expertise will enable the School to successfully operate its Program and ensure it meets all of the qualifications and requirements necessary to operate as a Harbor School Method™ charter school;

WHEREAS BMed has represented to the School that it shall, during the term of this Agreement be primarily responsible for the provision of the services to be provided hereunder;

WHEREAS the School wishes to engage BMed to provide the Harbor School Method™ to the School on the terms and conditions set out below, to assure that such method is properly and consistently implemented, and BMed is prepared to enter into the present Agreement with the School.

WHEREAS, the parties desire to clarify that the annual fees hereunder have always been intended to be fixed annual fees of \$15,000 and that said \$15,000 fixed amount has been paid each year by the School to BMed since the date of the original Agreement; and

WHEREAS, the parties further desire to clarify that the intended purpose of this Agreement is for the School to have available and to use the Harbor School Method™ and to have the assistance and review by BMed to assure that such educational method is properly implemented.

WHEREAS the School and BMed are parties to an agreement dated June 1, 2012 and amended on March 26, 2013 and desire to amend and restate the terms of that agreement in their entirety as set forth herein.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. ENGAGEMENT

The School hereby engages BMed to provide consultation, expertise and review in the operation of the School under the Harbor School Method™ as specifically set out in the Agreement and such services as may, from time to time, be requested by the School. Such services shall be provided by BMed and through such other agents and supervisors as may be named by BMed.

2. TERMS AND RENEWAL

2.1 The terms of the Agreement shall run until June 30, 2021, being not later than 5 years from the date of this agreement unless sooner terminated or subsequently continued in accordance with the terms and conditions of the Agreement.

2.2 BMed may offer to renew this Agreement in accordance with the terms and conditions hereof for further periods of five (5) years each by giving notice in writing to the School not later than two (2) months prior to the expiration of this Agreement or the renewal thereof. Such notice shall include BMed's proposal for any changes in terms or conditions of this Agreement. The School shall communicate its acceptance of such offer by giving notice in writing thereof to BMed no later than two (2) weeks after receipt of the said offer. Any proposed changes in the service fees or other terms and conditions shall be agreed upon in writing between the parties.

2.3 Failing such renewal and acceptance thereof, this Agreement shall terminate at the end of the term or of the renewal term, as the case may be, without further notice.

3. FEES AND PAYMENTS

3.1 BMed shall be paid a fee for its services for each subsequent year. An invoice for such fee shall be submitted on or before July 1 of each year to the School's Governing Board and shall be a fixed fee of \$15,000.00 per year for the balance of this Agreement which is the same annual fee that has been charged since the inception of this Agreement.

4. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF BMED

BMed's rights, duties and responsibilities towards the School shall include, but not be limited to the following services and actions to assure that the Harbor School Method™ is properly followed:

- Review all emails from the Administrator(s) to board members, staff, and parents;
- Provide input, guidance and training that is consistent with the Harbor School Method™ to School administrator(s) on personnel, parent and student issues as those issues occur;

- Review and advise on projected School budgets prior to their submission by the Administrators to the School's Governing Board for board approval;
- Review and advise on School purchases;
- Review and advise on staff evaluations, including related pay increases and/or raises prior to their submission by the School's Governing Board for board approval;
- Conduct random onsite evaluations and reviews at BMed's discretion;
- Evaluate and determine whether the School meets Harbor School Method™ criteria and whether the School will retain the Harbor School Method™ designation. A copy of the Harbor School Method™ criteria is attached to this Agreement as Exhibit A.

## 5. DEFAULT AND TERMINATION

5.1 The School shall be deemed to be in default under this Agreement upon the occurrence of any of the following events:

- (a) The School becomes insolvent and/or the School's charter is revoked;
- (b) The School fails, refuses or neglects to promptly pay any monies owing BMed when due under this Agreement.
- (c) BMed in its discretion determines that the School has failed to properly follow the Harbor School Method™

5.2 BMed shall be deemed to be in default under this Agreement at the occurrence of any of the following events:

- BMed fails, refuses or neglects to promptly perform any obligations owing to the School under this Agreement.

5.3 Upon the occurrence of any event of default outlined in Paragraph 5.1 or 5.2 above, the party not in default shall be entitled, at its option, to immediately terminate this Agreement.

5.4 Upon termination of this Agreement by either party, the School will no longer be an approved Harbor Method School™, will have no right to use the Harbor School Method™ and shall remove the Harbor School Method™ designation from all materials, including but not limited to, curriculum, web sites, advertising materials, and charter school documents.

## 6. INCAPACITY

In the event Rebecca Stallcop, President and Founder of BMed, Inc., becomes incapacitated for any reason or in the event of her death, Seth C. Stallcop will succeed her as President and this Agreement and all of the provisions will continue to be binding upon the parties.

## 7. RELATIONSHIP OF THE PARTIES AND INDEMNIFICATION

7.1 It is understood and agreed to and acknowledged by the Parties that this Agreement does not create any fiduciary relationship between them, and that nothing in this Agreement is intended to, nor shall it be construed to constitute a joint venture or any other type of

partnership.

7.2 The School agrees to hold BMed harmless from any liability under any contract entered into with any third party relating to this Agreement, and to reimburse BMed the amount of any expense that BMed may make or incur in connection with such contracts.

7.3 The School further undertakes to Indemnify and hold harmless BMed from any claim made by any person for any relief whatsoever whether or not arising out of any act or omission of BMed or any person acting under its supervision, whether or not the claim is well-founded.

#### 8. SEVERABILITY AND CONSTRUCTION

8.1 Except as expressly provided to the contrary herein, each article, term, condition and provision of this Agreement shall be considered severable, and if, for any reason whatsoever, any article, term, condition or provision herein is deemed to be invalid, illegal or incapable of being enforced as being contrary to, or in conflict with any existing or future law or regulation by any court or agency having valid jurisdiction, such shall not impair the operation or have any other effect upon such other articles, terms, conditions and provision of this Agreement, and the latter shall continue to be given full force and effect by the parties and construed as if such invalid, illegal or unenforceable article, term, condition were omitted.

8.2 All captions, titles, headings and article numbers herein have been inserted solely for the convenience of the parties, and none such shall be construed or deemed to affect the meaning or construction of any provision hereof, nor to limit the scope of the provision to which they refer.

8.3 All reference herein to the masculine gender shall include the feminine gender and all references herein to the singular shall include the plural, where applicable.

8.4 This Agreement constitutes the entire, full and complete Agreement between the School and BMed concerning the subject matter hereof, and shall supersede all other agreements, no other representations having induced the School to execute this agreement. No amendment, change or variance of the Agreement shall be binding upon either party, unless mutually agreed to by the parties and executed by them or their respective authorized employees, officer, or agents in writing.

#### 9. WAIVER

No failure, delay, waiver, forbearance or omission by either of the parties hereto of the conditions or of the breach of any term, provision, covenant or warranty contained herein, whether by conduct or otherwise, and no custom or practice of the parties not in accordance with the terms and conditions hereof, shall constitute or be deemed to be or be construed as being a further or continuing waiver of such condition or breach, or the waiver of any other condition or of the breach of any other term, provision, covenant or warranty of the Agreement. In particular, no acceptance by BMed of any payments due to it hereunder shall

be deemed to be a waiver by BMed of any preceding breach by the School of any of the terms, conditions or provision of this Agreement.

10. NOTICES

Any and all notices required or submitted under this Agreement shall be given in writing and shall be personally delivered or mailed by registered mail, postage prepaid and return receipt requested, except in the event of a postal disruption, to the following addresses unless and until a different address has been designated by notice in writing to the other party:

Victory Charter School, Inc.  
9779 Kris Jensen Way  
Nampa, ID 83686

BMED, Inc.  
2422 12th Ave Road, l#356  
Nampa, Idaho 83686-6300

11. GOVERNING LAW

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Idaho, which law shall prevail in the event of any conflict of parties.

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

---

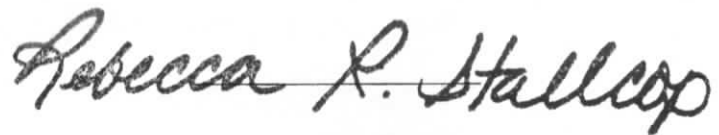
VICTORY CHARTER SCHOOL, INC.

BMED, INC.



Leslie Mauldin

Victory Charter School Governing Board



Rebecca Stallcop, President

BMed, Inc.

EXHIBIT A

Harbor School Method<sup>TM</sup> Criteria

(attached)