

MIDLAND ACADEMY CHARTER SCHOOL, INC.
SUPERINTENDENT'S EMPLOYMENT CONTRACT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND §

THIS SUPERINTENDENT'S EMPLOYMENT CONTRACT ("Contract") is made and entered into effective the 20st day of May, 2021, by and between the Board of Trustees (the "Board") of the Midland Academy Charter School, Inc. (the "School") and Kent Coker(the "Superintendent").

WITNESSETH:

NOW, THEREFORE, the Board and the Superintendent, for and in consideration of the terms hereinafter established and pursuant to the authority given to the Board pursuant to Chapter 12, Subchapter D of the Texas Education Code, have agreed, and do hereby agree, as follows:

I. Term

1.1 **Term.** The Board, by and on behalf of the School, does hereby employ the Superintendent, and the Superintendent does hereby accept employment as Superintendent of the School for a term of three (3) years, commencing on May 24, 2021 and ending August 31, 2024. The School may, by action of the Board, and with the consent and approval of the Superintendent, extend the term of this Contract as permitted by state law.

1.2 **No Tenure.** The Board has not adopted any policy, rule, regulation, law, or practice providing for tenure. No right of tenure is created by this Contract. No property interest, express or implied, is created in continued employment beyond the Contract term.

II. Employment

2.1 **Duties.** The Superintendent is the chief executive of the School and shall faithfully perform the duties of the Superintendent of Schools for the School as prescribed in the job description and as may be lawfully assigned by the Board, and shall comply with all lawful Board directives, state and federal law, School policy, rules, and regulations as they exist or may hereafter be amended. Specifically, it shall be the duty of the Superintendent to recommend for employment all professional employees of the School subject to the Board's approval. It shall be the further duty of the Superintendent to employ all other personnel consistent with the Board's policies. It shall be the further duty of the Superintendent to direct, assign, reassign, and evaluate all of the employees of the School consistent with Board policies and federal and state law. It shall be the further

duty of the Superintendent to organize, reorganize, and arrange the staff of the School, and to develop and establish administrative regulations, rules, and procedures which the Superintendent deems necessary for the efficient and effective operation of the School consistent with the Board's lawful directives, the Board's policies, and state and federal law. It shall be the further duty of the Superintendent to accept all resignations of employees of the School consistent with the Board's policies, except the Superintendent's resignation, which may only be accepted by the Board. The Superintendent shall draft and prepare a proposed annual budget for the School and shall submit said budget to the Board in a timely manner prior to the beginning of each school year and in accordance with Board policy or legal directive of the Board. The Superintendent shall monitor and ensure that all expenditures made by the School through the School's purchase order process are in accordance with the annual budget adopted by the Board. The Superintendent shall perform the duties of the Superintendent of Schools for the School with reasonable care, diligence, skill, and expertise. All duties assigned to the Superintendent by the Board shall be appropriate to and consistent with the professional role and responsibility of the Superintendent.

2.2 **Reassignment.** The Superintendent cannot be reassigned from the position of Superintendent to another position without the Superintendent's express written consent.

2.3 **Board Meetings.** The Superintendent shall attend all meetings of the Board, both public and closed, with the exception of those closed meetings devoted to the consideration of any action or lack of action on the Superintendent's Contract, or the Superintendent's evaluation, or for purposes of resolving conflicts between individual Board members, or when the Board is acting in its capacity as a tribunal. In the event of illness or Board-approved absence, the Superintendent's designee shall attend such meetings.

2.4 **Criticisms, Complaints, and Suggestions.** The Board, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints, and suggestions called to the Board's attention either: (a) to the Superintendent for study and/or appropriate action, and the Superintendent shall refer such matter(s) to the appropriate School employee or shall investigate such matter(s) and shall within a reasonable time inform the Board of the results of such efforts; or, (b) to the appropriate complaint resolution procedure as established by Board policies.

2.5 **Indemnification.** To the extent it may be permitted to do by applicable law, including, but not limited to Texas Civil Practice & Remedies Code Chapter 102, the School does hereby agree to defend, hold harmless, and indemnify Superintendent from any and all demands, claims, suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings brought against Superintendent in the Superintendent's individual or official capacity as an employee and as Superintendent of the School, providing the incident(s), which is (are) the basis of any such demand, claim, suits, actions, judgments, expenses and attorneys' fees, arose or does arise in the future from an act or omission of Superintendent as an employee of the School, acting within the course and scope of Superintendent's employment with the School; excluding, however, any

such demand, claim, suits, actions, judgments, expenses and attorneys' fees for those claims or any causes of action where it is determined that Superintendent committed official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith; and excluding any costs, fees, expenses or damages that would be recoverable or payable under an insurance contract, held either by the School or by Superintendent. The selection of Superintendent's legal counsel shall be with the mutual agreement of Superintendent and the School if such legal counsel is not also School's legal counsel. A legal defense may be provided through insurance coverage, in which case Superintendent's right to agree to legal counsel provided for him will depend on the terms of the applicable insurance contract. To the extent this Section 2.5 exceeds the authority provided and limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102, it shall be construed and modified accordingly. The provisions of this Section 2.5 shall survive the termination of this contract.

III. Compensation

3.1 **Salary.** The School shall provide the Superintendent with an annual salary in the sum of One hundred seventeen thousand, five hundred dollars (\$117,500). This annual salary rate shall be paid to the Superintendent in equal installments consistent with the Board's policies.

3.2 **Salary Adjustments.** The Board agrees to include an annual increase of 1.5% beginning September 1, 2022. At any time during the term of this Contract, the Board may, in its discretion, review and adjust the salary of the Superintendent, but in no event shall the Superintendent be paid less than the salary set forth in Section 3.1 of this Contract except by mutual agreement of the two parties. Such adjustments, if any, shall be made pursuant to a lawful Board resolution. In such event, the parties agree to provide their best efforts and reasonable cooperation to execute a new contract incorporating the adjusted salary.

3.3 **Vacation, Holiday and Personal Leave.** The Superintendent may take, at the Superintendent's choice, ten (10) days of vacation, the days to be in a single period or at different times. The vacation days taken by the Superintendent will be taken at such time or times as will least interfere with the performance of the Superintendent's duties as set forth in this Contract. Accrued but unused vacation days, up to a maximum of ten (10) days annually, shall accumulate and carry forward from year to year during the term of this Contract. At the sole option of the Superintendent, either at the end of each year of the term of this Contract, at retirement, or when the Contract is terminated, either voluntarily or involuntarily, the School shall pay in a lump sum to the Superintendent any accrued but unused vacation days at the Superintendent's daily rate of pay as of the payment date. The Superintendent shall observe the same legal holidays as provided by Board policies for administrative employees on twelve-month contracts. The Superintendent is hereby granted the same personal leave benefits as authorized by Board policies for administrative employees on twelve-month contracts.

3.4 **Insurance.** The School shall pay the same premiums for hospitalization and major medical insurance coverage for the Superintendent pursuant to the group health care plan provided by the School for its administrative employees.

3.5 **Professional Growth.** The Superintendent shall devote the Superintendent's time, attention, and energy to the direction, administration, and supervision of the School. The Board, however, encourages the continued professional growth of the Superintendent through the Superintendent's active attendance at and participation in appropriate professional meetings at the local, regional, state and national levels. The Board shall encourage the use of data and information sources, and shall encourage the participation of the Superintendent in pertinent education seminars and courses offered by public or private institutions or by educational associations, as well as the participation in informational meetings with those individuals whose particular skills, expertise, or backgrounds would serve to improve the capacity of the Superintendent to perform the Superintendent's professional responsibilities for the School. In its encouragement of the Superintendent to grow professionally, the Board shall permit a reasonable amount of release time for the Superintendent as the Superintendent and the Board deem appropriate, to attend such seminars, courses or meetings. The School shall pay the Superintendent's membership dues to the American Association of School Administrators and the Texas Association of School Administrators, as well as other memberships necessary to maintain and improve the Superintendent's professional skills. The School shall bear the reasonable cost and expense for registration, travel, meals, lodging, and other related expenses for such attendance and membership.

3.6 **Civic Activities.** The Board encourages the Superintendent to become a member of and participate in community and civic affairs, including the chamber of commerce, civic clubs, governmental committees, and educational organizations. The Board concludes that such participation will serve a legitimate purpose related to the educational mission of the School. The Superintendent may hold offices or accept responsibilities in these professional organizations, provided that such responsibilities do not interfere with the performance of his duties as Superintendent. Prior to engaging in these activities, the Superintendent will notify the Board in writing of the activity. The Board will notify the Superintendent if the activity presents a conflict or interferes with the performance of his duties as Superintendent. The School shall reimburse the Superintendent for the cost of membership in all local civic organizations in which the Superintendent participates and related travel outside of the School, subject to advance Board approval.

3.7 **Outside Consultant Activities.** The Superintendent may serve as a consultant or undertake speaking engagements, writing, teaching or other professional duties and obligations outside the School (referred to collectively herein as "Consulting Services") that do not conflict or interfere with the Superintendent's professional responsibilities to the School. The Superintendent may accept a reimbursement of expenses for such Consulting Services at no expense to the School. Consulting Services provided by the Superintendent under the terms and conditions of this paragraph must be consistent with state and federal law.

3.8 **Expenses.** The School shall pay or reimburse the Superintendent for reasonable expenses incurred by the Superintendent in the continuing performance of the Superintendent's duties under this Contract. The School agrees to pay the actual and incidental costs incurred by the Superintendent for travel. Such actual or incidental costs may include, but are not limited to, gasoline, hotels and accommodations, meals, rental car, and other expenses incurred in the performance of the business of the School. The Superintendent shall comply with all procedures and documentation requirements in accordance with Board policies.

IV. Annual Performance Goals

4.1 **Development of Goals.** The Superintendent shall submit to the Board a preliminary list of goals for the School each year for the Board's consideration and adoption. The Superintendent and the Board shall then meet, and the Board shall approve or revise the list of goals. The Superintendent shall submit to the Board for its approval a plan to implement the goals. The Superintendent and the Board shall meet biannually to assess the goals and may adjust or revise the goals either by action of the Board or upon recommendation of the Superintendent and approval of the Board. The goals approved by the Board shall at all times be reduced to writing ("School Goals") and shall be among the criteria on which the Superintendent's performance is reviewed and evaluated. The Board agrees to work with and support the Superintendent in achieving the School Goals.

V. Review of Performance

5.1 **Time and Basis of Evaluation.** The Board shall evaluate and assess in writing the performance of the Superintendent at least once each year during the term of this Contract. The Board's evaluation and assessment of the Superintendent shall be reasonably related to the duties of the Superintendent as outlined in the Superintendent's job description and shall be based on the School's progress towards accomplishing the School Goals.

5.2 **Confidentiality.** Unless the Superintendent expressly requests otherwise in writing, the evaluation of the Superintendent shall at all times be conducted in executive session and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Board or the Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel.

5.3 **Evaluation Format and Procedures.** The evaluation format and procedure shall be in accordance with the Board's policies and state and federal law. In the event that the Board determines that the performance of the Superintendent is unsatisfactory in any respect, it shall describe in writing, in reasonable detail, specific instances of unsatisfactory performance. The evaluation shall include recommendations as to areas of improvement in all instances where the Board deems performance to be unsatisfactory. A copy of the written evaluation shall be delivered to the Superintendent. The Superintendent shall have the right to make a written response to the evaluation within thirty (30) days of receipt of the written evaluation from the board. That response shall

become a permanent attachment to the evaluation in the Superintendent's personnel file. In the event the Board deems that the evaluation instrument, format, and/or procedure is to be modified by the Board and such modifications would require new or different performance expectations, the Superintendent shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

VI. Termination of Employment Contract

6.1 **Mutual Agreement.** This Contract may be terminated by the mutual agreement of the Superintendent and the Board in writing upon such terms and conditions as may be mutually agreed upon.

6.2 **Retirement or Death.** This Contract shall be terminated upon the retirement or death of the Superintendent.

6.3 **Dismissal for Good Cause.** The Board may dismiss the Superintendent during the term of the Contract for good cause. The term "good cause" is defined as follows:

- (a) Failure to fulfill duties or responsibilities as set forth under the terms and conditions of this Contract;
- (b) Incompetence or inefficiency in the performance of required or assigned duties as documented by evaluations, supplemental memoranda, or other written communication from the Board; provided, however, the terms and conditions of this paragraph shall not justify good cause unless the Board has provided the Superintendent a reasonable opportunity to remediate any incompetency or inefficiency;
- (c) Insubordination or failure to comply with lawful written Board directives;
- (d) Failure to comply with the Board's policies or the School's administrative regulations;
- (e) Neglect of duties;
- (f) Drunkenness or excessive use of alcoholic beverages;
- (g) Illegal use of drugs, hallucinogens, or other substances regulated by the Texas Controlled Substances Act;
- (h) Conviction of a felony or crime involving moral turpitude;
- (i) Failure to meet the School's standards of professional conduct;
- (j) Failure to comply with reasonable School professional development requirements regarding advanced course work or professional development;
- (k) Disability, not otherwise protected by law, that impairs performance of the required duties of the Superintendent;
- (l) Immorality, which is conduct the Board determines is not in conformity with the accepted moral standards of the community encompassed by the School. Immorality is not confined to sexual matters, but includes conduct inconsistent with rectitude or indicative of corruption, indecency, or depravity;
- (m) Assault on an employee or student;

- (n) Knowingly falsifying records or documents related to the School's activities;
- (o) Conscious misrepresentation of facts to the Board or other School officials in the conduct of the School's business;
- (p) Failure to fulfill the requirements of a deficiency plan for the School as may be required by the Texas Education Agency;
- (q) Failure to fulfill requirements for superintendent certification; or,
- (r) Any other reason constituting "good cause" under Texas law.

6.4 **Termination Procedure.** In the event that the Board terminates this Contract for "good cause," the Superintendent shall be afforded all the rights as set forth in the Board's policies and state and federal law.

6.5 **Resignation of Superintendent.** The Superintendent may leave the employment of the School at the end of a school year without penalty by filing a written resignation with the Board. The resignation must be addressed to the Board and filed not later than the 45th day before the first day of instruction of the following year. The Superintendent may resign with the consent of the Board at any other time.

VII. Miscellaneous

7.1 **Controlling Law.** This Contract shall be governed by the laws of the State of Texas and shall be performable in Midland County, Texas, unless otherwise provided by law.

7.2 **Complete Agreement.** This Contract embodies the entire agreement between the parties hereto and cannot be varied except by written agreement of the undersigned parties, except as expressly provided herein.

7.3 **Conflicts.** In the event of any conflict between the terms, conditions, and provisions of this Contract and the provisions of the Board's policies, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Contract shall take precedence over the contrary provisions of the Board's policies or any such permissive law during the term of the Contract.

7.4 **Savings Clause.** In the event any one or more of the provisions contained in this Contract shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. All existing agreements and contracts, both verbal and written, between the parties hereto regarding the employment of the Superintendent have been superseded by this Contract, and this Contract constitutes the entire agreement between the parties unless amended pursuant to the terms of this Contract.

MIDLAND ACADEMY CHARTER SCHOOL, INC.

By: Bobby L Smith
President, Board of Trustees

ATTEST:

By: Beverly Drummond
Secretary, Board of Trustees

Executed this 20 day of May, 2021.

SUPERINTENDENT

By: [Signature]

Executed this 5 day of May, 2021.