

## SUPERINTENDENT'S EMPLOYMENT CONTRACT

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

THIS CONTRACT ("Contract") is made and entered into effective the 12<sup>th</sup> day of January, 2017, by and between the Board of Trustees (the "Board") of the Cedars International Academy (the "Academy") and Dr. Mark Diaz ("Superintendent").

### WITNESSETH:

NOW, THEREFORE, the Board and the Superintendent, for and in consideration of the terms hereinafter established and pursuant to Section 11.201 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 Academy, does hereby employ the Superintendent, and the Superintendent does hereby accept employment as Superintendent of Schools for the Academy for a term of three (3) years (220 days a year) commencing in August 2017 and ending in July 2020. The Academy, by the action of the Board, and with the consent and approval of the Superintendent, may extend the term of this Contract as permitted by state law.

1.2 **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 Academy and shall faithfully perform the duties of the Superintendent of Schools for the Academy as prescribed in the job description and as may be assigned by the Board, and shall comply with all Board directives, state and federal law, Academy 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 Academy 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 Academy consistent with Board policies and federal and state law. It shall be the further duty of the Superintendent to organize, re-organize, and arrange the staff of the Academy, and to develop and establish administrative regulations, rules, and procedures which the Superintendent deems necessary for the efficient and effective operation of the Academy 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 Academy consistent with

the Board's policies, except the Superintendent's resignation, which must be accepted by the Board. The superintendent shall perform the duties of the Superintendent of Schools for the Academy with reasonable care, diligence, skill and expertise.

**2.2 Professional Certification.** As a condition of this contract, the Superintendent shall at all times during the term of this Contract, and any renewal or extension thereof, hold and maintain a valid certificate required of a superintendent by the State of Texas and issued by the Texas Education Agency and all other certificates required by law. The Superintendent shall immediately inform the Board if and when he fails to comply with this requirement.

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

**2.4 Board Meetings.** The Superintendent or the Superintendent's designee 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 salary and benefits as set forth in this Contract or Superintendent's evaluation or any other matter designated by the Board President, and provided, further, that the Board may designate closed meetings at which only board members and other designated individuals necessary to Board deliberations may attend.

**2.5 Criticisms, Complaints, and Suggestions.** The Board, individually, and collectively, shall refer all substantive criticisms, complaints, and suggestions called to the Board's attention to the Superintendent for study and appropriate action, and the Superintendent shall investigate such matters and inform the Board of the results of such efforts, except those matters involving the Superintendent's conduct or performance of duties if in the Board's determination, such confidentiality is required.

**2.6 Indemnity.** 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 Academy 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 Academy, 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 Academy, acting within the course and scope of Superintendent's employment with the Academy; 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 Academy or by Superintendent. The selection of Superintendent's legal counsel shall be with the mutual agreement of Superintendent and the Academy if such legal counsel is not also Academy'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 2.6 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 2.6 shall survive the termination of this contract.

### **III. Compensation**

3.1 **Salary.** (a) The Academy shall provide the Superintendent with an annual salary in the sum of ONE HUNDRED FORTY THREE THOUSAND FOUR HUNDRED AND 49/100 DOLLARS (\$143,400.49) The cash component of the annual salary rate shall be paid to the Superintendent in 12 equal installments consistent with the Board's policies.

(b) The Academy shall pay a retention incentive at the Board's discretion at any time during the term of this Contract

3.2 **Salary Adjustments.** (a) At any time during the term of this Contract, the Board, may, at its discretion, review and adjust the salary of the Superintendent, subject to state law requirements regarding such pay adjustments, but in no event shall the Superintendent be paid less than the salary set forth pursuant to Section 3.1 of this Contract except by mutual agreement of the two parties. Such adjustments, if any shall be in the form of a new contract.

(b) The Academy shall pay the TRS surcharge and other related payroll related costs.

3.3 **Annuity.** The Academy shall make 10% contributions of the Superintendent's annual salary, to a qualified retirement plan (annuity or other benefits) of the Superintendent's choice, for the benefit of the Superintendent

3.4 **Insurance.** (a) The Academy shall pay for hospitalization, major medical, and dental insurance coverage for the Superintendent pursuant to the group health care plan by giving the superintendent the monthly cash equivalent of what the Academy would pay.

(b) The Academy shall make, in lieu of a term policy of life insurance, contributions to the above qualified retirement plan (annuity or other benefits) of the Superintendent's choice, for the benefit of the Superintendent.

(c) The Academy shall make, in lieu of a disability insurance policy, contributions to the above qualified retirement plan (annuity or other benefits) of the Superintendent's choice, for the benefit of the Superintendent.

**3.5 Cellular Telephone, Laptop Computer, Blackberry.** The Academy shall NOT provide the Superintendent with a mobile telephone allowance.

**3.6 Spouse Expenses.** The Academy shall NOT reimburse the Superintendent for travel, lodging, meals, and other related expenses incurred incident to the Superintendent's spouse accompanying the Superintendent to educational related meetings.

**3.7 Expenses.** The Academy shall provide the Superintendent a school Academy credit card for all out-of-Academy travel and accommodations as it relates to school related business, subject to school budget limits.

**3.8 Professional Growth.** The Superintendent shall devote the Superintendent's time, attention, and energy to the direction, administration, and supervision of the Academy. 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 informal 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 Academy. 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 Board deem appropriate, to attend such seminars, courses, or meetings. The Academy shall pay the Superintendent's membership dues to two (2) professional association, plus more subject to Board approval, of the Superintendent's choice, as well as other memberships necessary to maintain and improve the Superintendent's professional skills, subject to school Academy budget limits. The Academy shall also pay for civic club fees for the Superintendent not to exceed \$500 per year, plus more subject to board approval. The Academy shall also pay the Superintendent's expenses to attend the following planning committee meetings and conferences: the Learning Forward Conferences; the Texas Association of School Board annual conference, the Texas Association of School Administrator Conference, and others as approved by the Board, but not to exceed the amount provided for in the school budget approved by the Board

**3.9 Outside Consultant Activities.** In addition to any other leave to which the Superintendent is entitled under the terms of this Contract or applicable law, the Superintendent may serve as a consultant, engage in writing activities and speaking engagements on educational matters outside the Academy, provided however, that these activities do not interfere with the performance of the Superintendent's duties and provided the Superintendent gives prior notice to the Board.

3.10 **Vacation, Holiday, and Personal Leave.** The superintendent will be allowed to accumulate 5 personal days a year with a maximum of no more than 45 days of Personal Leave. The 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. The Superintendent shall observe the same legal holidays as provided by the Board approved School calendar. Upon termination from the Academy the superintendent will be reimbursed in any unused personal days at the superintendent's daily rate at time of termination.

#### **IV. Annual Performance Goals**

4.1 **Development of Goals.** The Superintendent shall submit to the Board each year, for the Board's consideration and adoption, a preliminary list of goals for the Academy. The goals approved by the Board shall be reduced to writing and shall be among the criteria on which the Superintendent's performance is reviewed and evaluated.

#### **V. Review of Performance**

5.1 **Time and Basis of Evaluation.** The Board shall evaluate and assess in writing the performance of the Superintendent once each year. The Superintendent shall participate in this meeting and the meeting shall include a review and appraisal of the roles of the Superintendent and the Board and their relationship, and the confidential written evaluation of the Superintendent's performance shall be maintained in the Superintendent's personnel file. The evaluation and assessment shall be reasonably related to the duties of the Superintendent as outlined in the Superintendent's job description.

5.2 **Confidentiality.** The evaluation of the Superintendent shall at times conducted in executive session and shall be considered confidential to the extent permitted by law. Nothing herein shall be prohibited or the Superintendent from sharing the content of the Superintendent's evaluation with either party's 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 the Board deems that the evaluation instrument, format and/or procedure is to be modified by the Board, such modification must be adopted at least one (1) year prior to its implementation.

#### **VI. Renewal or Nonrenewal of Employment Contract**

6.1 **Renewal/Nonrenewal.** Renewal or nonrenewal shall be in accordance with the terms of this Contract, Board policy and applicable law.

6.2 **Notice of Nonrenewal and Extension.** The Superintendent is entitled to written notice from the Academy delivered at least three (3) months prior to the end of the contract term provided herein concerning any proposal of nonrenewal of this Contract. In the event the Superintendent does not receive said written notice timely as

provided herein, the term of this Contract shall be automatically extended by one (1) full year without the necessity of further action by either party.

## **VII. Termination of Employment Contract**

**7.1 Mutual Agreement.** This Contract shall 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.

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

**7.3 Dismissal for Good Cause.** The Board may dismiss the Superintendent during the term of this 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. (The terms and conditions of this paragraph shall not justify good cause unless the Board has provided the Superintendent reasonable opportunity to remediate any incompetence or inefficiency.);
- (c) Insubordination or failure to comply with lawful written Board directives;
- (d) Failure to comply with the Board's policies or the Academy'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 Substance Act;
- (h) Conviction of a felony or crime involving moral turpitude;
- (i) Failure to meet the Academy's standards of professional conduct;
- (j) Failure to comply with reasonable Academy 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 Academy. Immorality is not confined to sexual matters, but includes conduct inconsistent with rectitude or indicative of corruption, indecency, or depravity;
- (m) Knowingly falsifying records or documents related to the Academy's activities;
- (n) Conscious misrepresentation of facts to the Board or other Academy officials in conduct of the Academy's business;
- (o) Failure to fulfill requirements for superintendent certification;
- (p) Any other reason constituting "good cause" under Texas law.

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

7.5 **Resignation.** The Superintendent shall be entitled to resign his employment with the Academy as provided by the Texas Education Code §21.212(e) and other applicable laws.

### **Article VIII. Miscellaneous**

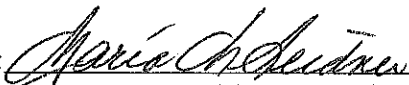
8.1 **Controlling Law.** This Contract shall be governed by the laws of the State of Texas and shall be performable in Travis County, Texas unless otherwise provided by law.

8.2 **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.

8.3 **Conflicts.** In the event of any conflict between the terms, conditions and provisions of this Employment 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 his Contract shall take precedence over the contrary provisions of the Board's policies or any such permissive law during the term of the Contract.

8.4 **Savings Clause.** In the event any one or more of the provisions contained in this Contract, shall for any reason, to 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.

CEDARS INTERNATIONAL ACADEMY

By:   
Dr. Maria Seidner President  
Board of Trustees

EXECUTED this 19 day of January, 2017

ATTEST:

By:   
Mr. Joe Crowley Treasurer  
Board of Trustees

By:   
Dr. Mark Diaz  
Superintendent of Schools

EXECUTED this 17 day of January, 2017