

**AGREEMENT FOR THE PROVISION OF CHILD CARE SERVICES
AT POUFRE SCHOOL DISTRICT ELEMENTARY SCHOOLS
BETWEEN ALPHABEST EDUCATION, INC. AND POUFRE SCHOOL DISTRICT R-1**

This Agreement is entered into and effective as of this _____ day of _____ 2020, by and between Poudre School District R-1 (the “District”) and AlphaBEST Education, Inc. (the “Contractor”). District and the Contractor are collectively referenced herein as the “parties.” In consideration of the mutual covenants and promises contained in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Purpose of Agreement.** As authorized under C.R.S. § 22-32-122, the purpose of this Agreement is to specify the terms and conditions pursuant to which the Contractor will provide a program of child-care services at District schools and locations during the 2020-2021 school year. The parties understand and agree that this Agreement shall expire at the end of the 2020-2021 school year and shall have no applicability at any time during the summer of 2021.

2. **Term and Termination of Agreement.**

2.1. **Term.** This Agreement shall commence on May 29, 2020 and shall continue through and including May 27, 2021, unless earlier terminated as provided herein. The Agreement, at the option of the District, may be extended for up to four (4) additional one-year terms, upon a written mutually agreed upon and signed addendum to the Contract for each one-year term.

2.2. **Termination for Cause.** Notwithstanding the provisions of section 2.1 above, if either party is in breach of an obligation or covenant under this Agreement the non-breaching party may give written notice to the breaching party describing the breach and demanding that it be cured. If the breach is not cured within seven (7) days after the breaching party’s receipt of said notice, the non-breaching party may immediately terminate the Agreement and avail itself of any and all remedies available at law or in equity.

2.3. **Termination Without Cause.** Notwithstanding the provisions of section 2.1 and section 2.2 above, either party may terminate this Agreement at any time in that party’s sole discretion for any reason, with or without cause, by providing the other party with ninety (90) days’ advance written notice.

2.3.1. If the Contractor terminates the Agreement or ceases operations for any reason, without notice the Contractor shall be required to pay the District ninety (90) days’ worth of fees based on current estimated revenue the Contractor would have otherwise received from parents/guardians of students enrolled in its program to carry out the Contractor’s duties hereunder.

2.3.2. In lieu of such advance written notice, the District may in its sole discretion immediately terminate this Agreement without notice and pay to Contractor the fees Contractor would have otherwise received from the parents/guardians of students enrolled in its program during the ensuing ninety (90) day period.

3. **Obligations of Contractor.**

3.1. **Services.** The Contractor's responsibility under this Agreement is to provide a quality before and after school child-care program that supports students' academic pursuits ("Program") for the District's elementary school students, who are enrolled in the Contractor's Program, at District schools and locations ("District Location") identified in the attached Exhibit A, in accordance with the terms and conditions of this Agreement (the "Services"). Except as provided below, the parties agree to the following, as specified in:

3.1.1. Request for Proposal ("RFP") #20-100-001, which is part of this agreement and attached hereto as Exhibit B.

3.1.2. Contractor's Response to RFP #20-100-001, which is part of this agreement and attached hereto as Exhibit C.

3.1.3. Follow Questions to RFP #20-100-001 presentation, which is part of this agreement and attached hereto as Exhibit D.

3.1.4. Final Fee Schedule to RFP #20-100-001, which is part of this agreement and attached hereto as Exhibit E.

3.1.5. All documents which are made a part of this Agreement (hereinafter the "Services") and incorporated herein by reference.

4. **Days and Times of Services.** Unless otherwise specified by the Building Principal and the District's Executive Director of Operations or designee, the Services shall be provided each day during the period this Agreement is in effect excluding weekends and weekdays on which the District's 2020-2021 school calendar indicates the District's Support Services Center is closed, attached as Exhibit F.

4.1.1. Unless otherwise specified by the Building Principal and the District's Executive Director of Operations or designee, on each school day shown in Exhibit F, excluding the designated school calendar early release days, the Services shall be provided before and after school based the established times per District Location listed in Exhibit A.

4.1.2. Services on the last school day shall be provided during the morning hours only.

4.1.3. Unless otherwise specified by the Building Principal and the District's Executive Director of Operations or designee, on each day other than a school day when Services are provided under this Agreement, the Services shall be provided no earlier than 6:30 a.m. and no later than 6:00 p.m.

4.1.4. In the event that The Contractor fails to vacate the premises at the end of any given day by the time specified in this section 4.1.3., the Contractor shall be obligated to pay the District for such additional time at the custodial rate of thirty (30) dollars per hour.

4.1.5. The District may allow use of District Locations to provide Services for District students, on days when schools are not in session, as outlined in section 4.1. Use of facilities must be requested by the Contractor to the District's Executive Director of Operations or designee, no later than 7 days prior to the start of the 2020-21 School year.

4.1.6. Approved facilities for Services outlined in section 4.1.5. above will be limited to those identified by the Facilities Director and are subject to current Tier 2 Facility Use Fees, as identified in section 6.3.1 below.

5. **Deliverables and Requirements.** The Contractor shall identify a point of contact (“Contractor Representative”) who will manage all issues and communication regarding student needs, services, invoicing and other identified needs.

5.1. The District’s Director of Facilities or designee (“Facilities Director”) shall be the point of contact for the Contractor for all issues, facility use, and other identified needs.

5.2. The Building Principal or designee (“Building Principal”) shall be the point of contact for issues on site and concerns regarding students or staff.

5.3. The Contractor shall provide quality enrichment opportunities to all District students enrolled in its program.

5.4. The Contractor shall ensure supports are provided for all students in an equitable manner, as outlined on pages 37-38 of Exhibit C. The Contractor shall work with the Building Principal, student’s family or guardian, and any identified support staff to determine the most appropriate accommodations for a student.

5.5. The Contractor shall ensure they have a process in place to support student’s behavior needs and interventions when a concern arises.

5.6. No student should be removed or refused Services, if the Contractor is determines they are unable to provide Services to a student, the Contractor will meet with the Building Principal, District support staff and Assistant Superintendent of Elementary Schools before ending Services for students.

5.7. The Contractor shall have policy handbooks and guidance available for parents and staff.

5.8. The Contractor shall be responsible and maintain its own equipment and furnishings.

5.9. The Contractor shall be solely responsible for all day to day business operations of a before and after school child-care program.

5.9.1. The Contractor shall ensure maintenance of accurate records related to the Contractor’s business, including but not limited to accounting, student’s attendance and records, staff files, documentation required by the state, local and federal agencies.

5.10. The Contractor’s staff shall maintain daily communication with each District Location.

5.10.1. The Contractor shall meet on a regular basis with Building Principal to maintain individual District Location academic pursuits, but no less than every three (3) months.

5.11. **Revenue Share.** The Contractor shall use thirteen (13) percent of its revenue from gross funds earned through District Services to provide scholarships to students, additional staff discounts or other supports as determination by the District's Assistant Superintendent of Elementary Schools or designee and a District identified team, in collaboration with the Contractor.

5.11.1. Within thirty (30) days from the start of a new calendar year, the Contractor and District shall meet to reassess and discuss the revenue share in section 5.11.

5.11.2. The Contractor shall work with the District's Assistant Superintendent of Elementary Schools or designee and a District team to develop a process and policy relating to how students will receive scholarships.

5.12. **Legal Compliance and Child Care Licensing.** Within five (5) business days from the execution of this Agreement, the Contractor shall file for a Colorado Child Care license at each District Location where Services shall be provided in Exhibit A.

5.12.1. A Colorado Child Care license must be in place no later than July 31, 2020.

5.12.2. The Contractor shall furnish the District's Executive Director of Operations with a copy of such license once received from Colorado Department of Early Childhood. The Contractor shall also furnish the District's Executive Director of Operations with a copy of any new Colorado child care license for District Locations prior to expiration of the license originally provided before the District's signing of this Agreement, if such original license expires during the term of this Agreement.

5.12.3. The Contractor shall comply at all times while providing Services at District Locations with all applicable federal, state and local laws, including but not limited to the Colorado Child Care Licensing Act C.R.S. § 26-6-106 to 26-6-119 ("Childcare Regulations"), and regulations adopted thereunder.

5.12.4. Without in any way limiting the foregoing, The Contractor's obligations shall include the requirement that each of its employees possess the proper education, training and experience for any Services they are involved in providing under this Agreement.

5.12.5. The Contractor shall ensure every student participating in its program is properly supervised by adhering to ratios as required under the Colorado Child Care Licensing Act Section 7.712.43.

5.12.6. The Contractor understands that while performing Services under this Agreement, it may have access to information protected from disclosure to third parties under the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400 et seq.), the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and the Colorado Open Records Act (C.R.S. §§ 24-72-201 et seq.). Accordingly, Contractor hereby agrees that it shall keep confidential and shall not disclose any information, including but not limited to information regarding any District student, student family, student health/medical condition, student disability, student IEP and/or student accommodation, to which it gains access in connection with its provision of the Services. At the termination of this Agreement or earlier, if requested by the District, Contractor shall

promptly return all such information, and/or shall at the request of the District destroy or delete any and all copies or duplicates of said information, whether the information is in hard copy or electronic form. If Contractor violates the terms of this section 5.12.6, Contractor agrees to indemnify, defend and hold harmless the District, and/or its employees and agents, from any and all claims, liabilities, or causes of action, including attorney fees and costs, asserted against the District and/or its employees or agents as a result of the violation. Contractor also agrees to indemnify the District, and/or its employees and agents, from the costs of complying with and/or resolving any regulatory investigation caused by the violation, including costs and attorney fees

5.12.7. The Contractor will cooperate with the District in the production of documents and the giving of testimony in legal proceedings if a parent or guardian files a complaint with the District or with a federal or state agency, or invokes an administrative hearing, review, and/or court proceedings.

5.13. **Staffing.**

5.13.1. The Contractor shall maintain and follow a process of hiring and retaining qualified staff.

5.13.2. The Contractor shall ensure staff are monitored on a regular basis and receive regular evaluations.

5.13.3. The Contractor shall ensure it maintains policies and guideline, which shall be available to staff and parents. Policies shall include at a minimum the following:

5.13.3.1. Minimum experience and desired job qualifications for child-care staff and other staff positions.

5.13.3.2. Grievances procedures process for staff and families.

5.13.3.3. Probation policies for staff.

5.13.3.4. Guidelines for treatment of children, including age appropriate methods for guidance and discipline.

5.13.3.5. Health guidelines.

5.13.3.6. Safety guidelines.

5.13.3.7. Communication guidelines to parents and staff.

5.13.3.8. Training requirements of staff.

5.13.3.9. Emergency procedures.

5.14. **Student Safety.**

5.14.1. The Contractor shall maintain a policy for transition times to ensure safety and accountability for attending students, which shall include at a minimum, the transfer of

students between the District Location and Contractor's Program, transfer to buses and transfer to approved individual picking student up from Contractor's program.

5.14.2. The Contractor shall maintain a secure parent portal system, which accurately tracks students attending and their time of attendance.

5.14.3. Communication to families shall be both through the parent portal system and through hard copy documents when needed by families.

5.14.4. The Contractor shall ensure all visitors or volunteers are screened, verified, documented and identified at each District Location to ensure the safety and security of students.

5.14.5. Visitors and volunteers must be clearly identified and shall never be permitted to be one on one with students or be in any authority role to students, staff or families.

5.15. **Fees for Services.** The Contractor's fees for the provision of the Services shall be charged to the parents/guardians of students enrolled in the Contractor's program in accordance with the Fee Schedule attached hereto as Appendix I.

5.15.1. Contractor's fee schedule shall maintain a comparable lower or average cost for child-care in Larimer County.

5.15.2. Contractor's fee schedule shall include tuition assistance, sliding scale eligibility and discount to District employees.

5.16. **Use of Facilities.** Unless otherwise specified by the Building Principal and Facilities Director, the Contractor shall only provide Services in the locations identified as ("Program Room") in Exhibit A, approved kitchen facilities as outlined in section 5.19 below, and on the playground per District Location.

5.16.1. The District shall allow the Contractor wireless network access to the internet at each of the identified schools for the Contractor's accounting and recordkeeping purposes. The District shall not provide internet access or service for the Contractor beyond what is currently installed and in existence at each location.

5.16.2. In the event that any damage to the building, grounds, or any fixtures, equipment or materials at District Location occurs in connection with the Contractor's provision of Services and/or conduct of operations in any way related to this Agreement, the Contractor shall reimburse the District for all costs required to repair or replace same.

5.16.3. In the event that custodial services significantly in excess of the District's routine custodial services are required at District Locations as a result of the Contractor's provision of Services and/or conduct of operations in any way related to this Agreement, the Contractor shall reimburse the District for all costs as specified within section 4.14.

5.17. **Storage of Items.** The Contractor shall be provided and maintain an area for storage of the Contractor materials and supplies ("Storage Area") specified in Exhibit A at each District Location.

5.17.1. The Storage Area shall not exceed 30 square feet and items must be secured and neatly stored.

5.17.2. In accordance with fire code, items shall not be stored within 18” of the ceiling.

5.17.3. All items are required to be returned to storage at the end of each service time, items not returned to storage at the end of the Service time will be considered failing to vacate as specified within section 4.14.

5.18. **Food Services.** The Contractor shall provide a snack program that meets the minimum nutritional levels as recommended by the United States Department of Agriculture.

5.18.1. Contractor shall not charge for the snack program; any costs shall be included in the Contractor’s fees.

5.18.2. The snack program must be maintained by the Contractor with limited use of the District Location kitchens, where available.

5.18.3. All snack programs should include methods for accommodation of children's food allergies and allows for families to bring food from home for their student.

5.19. **District School Kitchen Facility.** District custodial services will provide access to District Location’s kitchen facilities (“Kitchen Facilities”), no earlier than within fifteen (15) minutes following District Location’s final bell, not to exceed one (1) hour during PM hours listed in Exhibit A.

5.19.1. The Contractor will adhere to the Colorado Department of Public Health and Environment Rules and Regulations Governing the Health and Sanitation of Child Care Facilities in the State of Colorado.

5.19.2. The Contractor shall furnish the District’s Customer Support Center with a list of employees requesting access to Kitchen Facilities, including the District Location.

5.19.3. District’s child nutrition area supervisors and kitchen managers will approve use of each Kitchen Facilities prior to any Contractor employees obtaining access.

5.19.4. District’s child nutrition area supervisors or kitchen managers shall certify the Contractor employees complete:

5.19.4.1. Initial walk-through of each requested District Location Kitchen Facilities.

5.19.4.2. Completes checklist sheet identifying the hand washing sink, produce washing sink and food preparation for each Kitchen Facility requested.

5.19.4.3. Sanitation training approved by District’s Child Nutrition Services Director.

5.19.5. Contractor will provide official documentation to District's child nutrition area supervisors of completion of a sanitation training for employees requesting access.

5.19.6. Access to the kitchen by students or non-Contractor employees is prohibited.

5.19.7. The Contractor is responsible for ensuring all employees complete all training prior to using Kitchen Facilities.

5.19.8. The Contractor is responsible for providing documentation to the District's Customer Support Center regarding updates of changes in employee staffing at District Locations.

5.20. **Food Preparation.** The Contractor shall provide all items for the offering of any snack program; including but not limited to utensils, disposables, pans and food products.

5.20.1. The Contractor shall not use any District utensils, disposables, chemicals, pans, or food products.

5.20.2. The Contractor shall not operate any District kitchen equipment.

5.20.3. Only foods and non-food products preapproved by District's Child Nutrition Department shall be allowed in Kitchen Facilities.

5.20.4. No raw meat products, potentially hazardous foods or products shall be brought into any Kitchen Facility.

5.20.5. The Contractor shall not at any time, have access to any storage, including freezers, coolers, shelves, counters, floors or dry storage areas, and shall not store any food, utensils or products of any kind inside the Kitchen Facilities.

5.21. **Kitchen Sanitation and Clean Up.** At the conclusion of the snack program as outlined in section 5.18, The Contractor shall, within the Kitchen Facilities, sanitize the designated food preparation area daily.

5.21.1. All applicable District, Health Department and Colorado Department of Education guidelines shall be followed at all times.

5.21.2. The Contractor will use only products supplied by District's Custodial Department to sanitize Kitchen Facilities.

5.21.3. Trash and waste shall be disposed of properly in the appropriate receptacles provided within the Kitchen Facilities.

5.21.4. District child nutrition staff will wash the utensils and serving ware daily and return all items to Storage Area.

5.21.5. District agrees to provide space of no more than one dishwasher tray for the Contractor utensils or serving ware used.

5.21.6. The Contractor shall place utensils and serving ware in designated dishwasher tray; items shall not exceed one dishwasher tray.

5.22. **Notice of Actual or Alleged Misconduct.** The Contractor shall notify both the District's Director of Records and Risk Management and the District's Assistant Superintendent of Elementary Schools of any and all information, as soon as possible after the Contractor learns of it, regarding actual or alleged misconduct involving any of the Contractor's employees who are providing or may provide Services under this Agreement that: (a) concerns a current or former student enrolled in the Contractor's program; (b) concerns any child under 18 years of age; or (c) reasonably indicates that it may be inappropriate for the employee to work with children.

5.23. **Nondiscrimination.** In providing the Services and conducting its operations at District Locations, the Contractor and its employees shall comply with all applicable federal, state and local laws prohibiting discrimination, including harassment, on the basis of race, creed, color, national origin, age, sex, sexual orientation, religion, ancestry and disability.

5.24. **Press Contacts/News Releases.** The Contractor shall not initiate any press, media, or social media, contact nor respond to press, media or social media requests regarding this Contract and/or any related matters concerning the District without the prior written approval of the District.

5.25. **Independent Contractor.** The Contractor shall provide the Services under this Agreement as an independent contractor of the District. As such, The Contractor shall have the right to determine how and by whom the Services will be provided and the right to provide the Services free from the direction and control of the District, subject to and consistent with the terms and conditions of this Agreement.

5.25.1. The Contractor shall be exclusively responsible for: (a) all compensation, employment tax withholdings and payments, and all fringe benefits for its employees in full compliance with all applicable federal, state and local laws; (b) all insurance coverage and benefits for its employees in full compliance with all applicable federal, state and local laws, including but not limited to pension or retirement benefits, workers' compensation, unemployment compensation, and Social Security benefits; and (c) all payments to its contractors and subcontractors for goods and/or services directly or indirectly related to this Agreement.

5.25.2. Nothing in this Agreement shall be construed as creating a single enterprise, partnership, joint venture or employer-employee relationship between the Contractor and the District. The Contractor is not a partner, agent or representative of the District and shall not represent itself to be a partner, agent or representative of the District. The District is not a partner, agent or representative of the Contractor and shall not represent itself to be a partner, agent or representative of the Contractor.

5.25.3. The Contractor shall not attempt or purport to extend the faith and credit of the District to any third party, person or entity. The Contractor acknowledges and agrees that

it has no authority to enter into any contract with a third party that would bind or in any way obligate the District.

5.26. **Certification Regarding Illegal Aliens.** The Contractor certifies, represents, warrants and agrees that it will not knowingly employ or contract with an illegal alien to provide services under this Agreement, and will not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to provide services under this Agreement. The Contractor also certifies, represents, warrants and agrees that it will confirm the employment eligibility of all its employees who are newly hired for employment to provide services under this Agreement through The Contractor's participation in either: (a) the E-Verify Program created under federal law and jointly administered by the Department of Homeland Security and the Social Security Administration; or (b) the Colorado Department of Labor and Employment Program ("Department Program") established pursuant to C.R.S. § 8-17.5-102(5)(c).

5.26.1. The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake preemployment screening of job applicants while this Agreement is being performed. If the Contractor obtains actual knowledge that a subcontractor providing services under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall notify the subcontractor and the District within three (3) days that the Contractor has such actual knowledge, and terminate the subcontract within three (3) days of providing the notice if the subcontractor has not stopped employing or contracting with the illegal alien. The Contractor shall comply with any reasonable request made by the Department of Labor and Employment in the course of an investigation undertaken pursuant to the authority of C.R.S. § 8-17.5-102(5). If the Contractor participates in the Department Program, it shall: (a) notify the District and the Department of Labor and Employment of such participation as required by law; and (b) within twenty (20) days after hiring an employee to provide services under this Agreement, provide to the District a written notarized copy of an affirmation that it has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. § 1324a, and not altered or falsified the identification documents for such employee.

5.27. **Insurance.** Contractor shall procure and maintain the required insurance specified below for the duration of this Agreement, which insurance shall be written for not less than the amounts specified or greater if required by law. Specified coverage and amounts may be provided by a combination of a primary policy plus an umbrella or following form excess policy. If not otherwise required by law, lower amounts may be acceptable upon review and written approval by the District's Director of Records and Risk Management. All insurance shall be with a carrier licensed in the state of Colorado and shall have a minimum A.M. Best rating of A- VII. Contractor shall furnish the District's Director of Records and Risk Management with certificates of the required insurance prior to the District's approval and signing of this Agreement, and with renewal certificates prior to the expiration of any required insurance that expires during the term of this Agreement. Certificates of Insurance and all communication regarding insurance shall be sent to:

Poudre School District
Attention: Risk Management
Email: risk@psdschools.org

2407 Laporte Ave
Ft. Collins, CO 80521

Any insurance and/or self-insurance carried by the District is excess of the coverage extended to the District by Contractor. Contractor shall provide at least thirty (30) days' advance written notice to the District prior to cancellation or change of coverage. The insurance requirements specified in this section 5.27 shall not reduce the indemnification liability that the Contractor has assumed below.

Commercial General Liability

- a. Each Occurrence Bodily Injury & Property Damage \$1,000,000
- b. Each Event Personal Injury \$1,000,000
- c. General Aggregate \$2,000,000
- a. Coverage must be written on an "occurrence" basis
- b. Poudre School District and its elected officials and employees shall be named as additional insureds; copy of policy endorsement must be attached to the Certificate of Insurance
- f. Volunteers shall be included as insureds
- g. Coverage shall not exclude claims for sexual abuse/molestation
- h. Coverage shall not exclude claims for corporal punishment

Workers' Compensation

- a. State of Colorado Statutory
- b. Employer's Liability \$500,000 Each Accident
\$500,000 Disease – Policy Limit
\$500,000 Disease – Each Employee
- c. Waiver of subrogation in favor of Poudre School District R-1; copy of policy endorsement must be attached to the Certificate of Insurance.
- d. This requirement shall not apply if Contractor is exempt under the Colorado Workers' Compensation Act and if Contractor has a current Workers' Compensation Coverage Rejection on file with the Colorado Department of Labor and Employment, Division of Worker's Compensation.

Commercial Automobile Liability Providing Coverage for Owned, Non-Owned, and Leased or Hired Vehicles

- a. Bodily Injury & Property Damage Combined Single Limit \$1,000,000
- b. Medical Payment Coverage \$5,000
- c. Poudre Contractor shall procure and maintain the required insurance specified below for the duration of this Agreement, which insurance shall be written for not less than the amounts specified or greater if required by law.

5.28. **Indemnification.** The Contractor shall indemnify and hold harmless the District and the District's Board, employees, representatives and agents from and against any and

all liability arising from any suit, action, grievance, charge or proceeding brought in connection with or related to the Contractor's operations, provision of Services and/or conduct of any of its employees, volunteers, agents or representatives. The indemnification and hold harmless obligation hereunder shall include all attorney fees, costs and expenses incurred by the District and/or the District's Board, employees, representatives and/or agents in defense of said suits, actions, grievances, charges and/or proceedings. Nothing in this section 5.28 or otherwise in this Agreement shall be construed in any way or applied in any manner as a compromise or waiver of the District's rights and protections under the Colorado Constitution or the Colorado Governmental Immunity Act.

6. **Obligations of District.**

6.1. **Facilities.** The District shall make available the facilities described in sections 3.1 and 4 above, for the Contractor's use under this Agreement, subject to the terms and conditions in section 4 and otherwise in this Agreement.

6.2. Notwithstanding any provision of this Agreement to the contrary, if the child care licensing authority or other federal, state or local governmental entity with authority to do so requires that a participating District Location or any of the facilities at a participating District Location require to be remodeled, retrofitted or repaired, the District shall have the option in its sole discretion to either: (a) effect such remodel, retrofit or repair at its expense; or (b) terminate this Agreement without providing the notice or time for cure required under sections 2.2 or 2.3 above.

6.3. **Fees.** Except for the fees described in sections 4.14 and 6.3.1 below, the District shall not charge the Contractor for the use of its facilities at District Locations under this Agreement.

6.3.1. For programming provided on days when elementary schools are not in session, inclusive of summer, winter, and spring breaks, as outline in section 4. The Contractor shall be charged a Tier 2 Facility Use Rental Fee, as outline on the attached Appendix I.

7. **Notices.** All notices required or allowed under this Agreement shall be in writing and shall be either: (a) hand-delivered; or (b) sent via certified mail, return receipt requested and postage prepaid, to the addresses of the other party set forth below.

7.1. **Notices to District.** All notices and communications required or permitted under this Agreement shall be in writing and shall be: (a) sent via certified mail, return receipt requested and postage prepaid, to the address of the other party set forth below; or (b) sent via e-mail to the other party via the e-mail addresses set forth below:

Poudre School District R-1
Attn: Contract Administrator
2407 LaPorte Avenue
Fort Collins, CO 80521
Email: tstibitz@psdschools.org

The Assistant Superintendent of Elementary Schools and the Executive Director of Operations or Director's designee must receive copies of all notices, in accordance with the following contact information:

Poudre School District R-1
Attn: Assistant Superintendent of Elementary Schools
2407 LaPorte Avenue
Fort Collins, CO 80521
Email: tlambert@psdschools.org

Poudre School District R-1
Attn: Executive Director of Operations
2407 LaPorte Avenue
Fort Collins, CO 80521
Email: mattb@psdschools.org

Notices to the Director of Records and Risk Management shall be made in accordance with the following contact information:

Poudre School District R-1
Attn: Director of Records and Risk Management
2407 LaPorte Avenue
Fort Collins, CO 80521
Fax: (970) 490-3529

7.2. **Notices to Contractor.** Notices to the Contractor shall be made in accordance with the following contact information:

Contractor
Attn: Dawn Hosni
5980 Kinney Road
Lewisville, NC 27023
Email: dhosni@alphabest.org

8. **Miscellaneous.**

8.1. **No Assignment.** The Contractor shall not assign this Agreement or any of its rights, interests or obligations under this Agreement without the prior written consent of the District, which consent may be withheld for any reason or no reason as determined by the District in its sole discretion.

8.2. **No Waiver.** The parties agree that no assent or waiver, express or implied, to any breach of any one or more of the covenants of this Agreement shall be construed as or deemed to be an assent to or a waiver of any subsequent breach.

8.3. **Amendment or Modification.** No amendment or modification of this Agreement shall be valid unless set forth in writing and executed by the parties in the same manner and with the same formality as was done for this Agreement.

8.4. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

8.5. **No Third-Party Beneficiary.** Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the District and the Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any third person other than the District or the Contractor. It is the express intent of the parties that any person receiving services or benefits pursuant to this Agreement shall be deemed an incidental beneficiary only.

8.6. **Attorney Fees and Costs.** In the event it becomes necessary for either party to institute litigation or mutually agreed-upon arbitration proceedings to enforce any provision of this Agreement, the substantially prevailing party in such litigation or arbitration shall receive, as part of any judgment or award entered, its reasonable attorney fees and costs, including expert witness fees.

8.7. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and permitted assigns.

8.8. **Headings.** The headings used in this Agreement are for convenience only and shall have no effect upon the construction or interpretation of this Agreement.

8.9. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties regarding the subject matter addressed herein and supersedes all prior agreements, whether oral or written, pertaining to said subject matter.

8.10. **Warranty of Authority.** The individuals signing below represent and warrant that they have the authority to execute this Agreement on behalf of their respective organizations and bind their respective organizations to the terms of this Agreement.


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IN WITNESS WHEREOF, the District and the Contractor have signed this Agreement with the intent that it be effective as of the date first set forth above.

ALPHABEST EDUCATION, INC.

POUDRE SCHOOL DISTRICT R-1

By: _____
Melissa Moreano
Chief Financial Officer

By:  _____
Sandra Smyser, Ph.D
Superintendent of Schools

By:  _____
By: Matt Bryant (Apr 6, 2020)
Matt Bryant
Executive Director of Operations

POUDRE SCHOOL DISTRICT R-1 BOARD OF EDUCATION

By: _____
Christophe Febvre
President

Attest: _____
Tessa Oppenheimer
Secretary

Exhibit A

Site	Address	Program Room	Storage Location	AM Hours	PM Hours
Bacon Elementary School	5844 S Timberline Road, Fort Collins, CO 80528	Flex Room 155 and Gym 154	Room 156; use of 1/3 of the space	6:30-7:45	2:23-6:00
Bauder Elementary School	2345 W Prospect Road, Fort Collins, CO 80526	Flex Room 400	Flex Room 400A, northeast side	6:30-8:50	3:28-6:00
Beattie Elementary School	3000 Meadowlark Avenue, Fort Collins, CO 80526	Longs Peak Classroom LP1	Classroom in Red Pod	6:30-8:50	3:28-6:00
Bennett Elementary School	1125 Bennett Road, Fort Collins, CO 80521	Flex Room 7	Flex Room 7, 4 storage cabinets in back	6:30-8:50	3:28-6:00
Bethke Elementary School	5100 School House Drive, Timnath, CO 80547	Flex Room 155	Flex Room 155	6:30-8:50	3:28-6:00
Cache La Poudre Elementary School	3511 W County Road 54G, LaPorte, CO 80535	Flex Room 168	Flex Room 168	6:30-8:10	2:55-6:00
Dunn Elementary School	501 S Washington Avenue, Fort Collins, CO 80521	Gym/Flex Room 20 and Stage 25	On Stage 25	6:30-8:50	3:28-6:00
Eyestone Elementary School	4000 Wilson Avenue, Wellington, CO 80549	Gym 158	Flex room in northeast corner	6:00-8:12	2:55-6:00
Harris Bilingual Elementary School	501 E Elizabeth Street, Fort Collins, CO 80524	Gym/Flex Room 114 and Art 213	Gym Storage Closet 114C	6:45-7:55	2:38-6:00
Irish Elementary School	515 Irish Drive, Fort Collins, CO 80521	Art Room 3	Art Room 2 in northwest corner	6:30-8:50	3:30-6:00
Johnson Elementary School	4101 Seneca Street, Fort Collins, CO 80526	Flex Room 401	Room 42 in the Flex Room	6:30-8:50	3:28-6:00
Kruse Elementary School	4400 McMurray Avenue, Fort Collins, CO 80525	Flex Room 401	Flex Room in storage behind cafeteria wall	6:30-8:50	3:28-6:00
Laurel Elementary School	1000 E Locust Court, Fort Collins, CO 80524	Flex Room 401 and Gym 400	Flex Room 401	6:30-7:45	2:23-6:00
Linton Elementary School	4100 Caribou Drive, Fort Collins, CO 80525	Flex Room 401	Flex Room 401 closet	6:30-8:50	3:28-6:00
Lopez Elementary School	637 Wabash Street, Fort Collins, CO 80526	Flex Room 27	Flex Room 27B	6:30-8:50	3:28-6:00
McGraw Elementary School	4800 Hinsdale Drive, Fort Collins, CO 80526	Flex Room 401 and Gym 400	Flex Room 401; small storage area on west wall	6:30-7:45	2:23-6:00
O'Dea Elementary School	312 Princeton Road, Fort Collins, CO 80525	Flex Room 137	Room 128 on east side	6:30-9:00	3:38-6:00
Olander Elementary School	3401 Auntie Stone Street, Fort Collins, CO 80526	Flex Room 401 and Gym 400	Flex Room 401; 3 cabinets	6:30-7:45	2:23-6:00
Polaris Expeditionary Learning School (M, T, Th, F)	1905 Orchard Place, Fort Collins, CO 80521	Flex Room 200	Flex Room #200 in southwest corner	N/A	3:00-6:00
Polaris Expeditionary Learning School (W)	1905 Orchard Place, Fort Collins, CO 80521	Flex Room 200	Flex Room #200 in southwest corner	N/A	12:45-6:00
Putnam Elementary School	1400 Maple Street, Fort Collins, CO 80521	Flex Room 42	Flex Room corner	6:30-8:55	3:38-6:00
Red Feather Elementary School	505 N County Road 73C, Red Feather, CO 80545	Classroom 101	None	7:45-11:00	N/A
Rice Elementary School	7000 Third Street, Wellington, CO 80549	Flex Room 155	Closet 155H in Flex Room	6:00-8:55	3:40-6:00
Riffenburgh Elementary School	1320 E Stuart Street, Fort Collins, CO 80525	Flex Room 300	Room 300A in Flex Room	6:30-8:05	2:48-6:00
Shepardson Elementary School	1501 Springwood Drive, Fort Collins, CO 80525	Flex Room 200	Flex Room 200 in northwest corner	6:30-8:45	3:23-6:00
Stove Prairie Elementary School	3891 Stove Prairie Road, Bellvue, CO 80512	Classroom 007	Northern-most shed on east side of the school	8:40-11:00	N/A
Tavelli Elementary School	1118 Miramont Drive, Fort Collins, CO 80524	Flex Room 400	Gym 130 on west wall	6:30-8:50	3:33-6:00
Timnath Elementary School	3909 Main Street, Timnath, CO 80549	Flex Room 70 and Gym 107	Flex Room #72	6:30-7:45	2:23-6:00
Traut Elementary School	2515 Timberwood Drive, Fort Collins, CO 80528	Flex Room 407	Flex Room #207 on east wall	6:30-8:25	3:05-6:00
Werner Elementary School	5400 Mail Creek Lane, Fort Collins, CO 80525	Flex Room 401	Closet 42 in the Flex Room	6:30-8:50	3:28-6:00
Zach Elementary School	3715 Kechter Road, Fort Collins, CO 80528	Flex Room 155	Room 155D	6:30-8:50	3:28-6:00