

**CITY OF MANASSAS EDA
PERFORMANCE AGREEMENT**

This Performance Agreement made and entered this 11th day of April, 2016, by and between the Economic Development Authority of the City of Manassas, a political subdivision of the Commonwealth, hereinafter called "AUTHORITY" and The NEW School, Inc., a Virginia corporation, hereinafter called "COMPANY."

WHEREAS the AUTHORITY has been created to promote the economic development of the City of Manassas ("the City") pursuant to enabling legislation under Section 15.2-4900 *et seq.*, Code of Virginia (1950), as amended; and

WHEREAS the AUTHORITY is willing to conditionally grant to the COMPANY the sum of ten thousand dollars (\$10,000.00) for the purpose of inducing the COMPANY to provide scholarships for children to take advantage of COMPANY's services (the "Specified Use") in the City of Manassas, provided the COMPANY meets certain criteria; and

WHEREAS the COMPANY is required to return all of the funds so received to the AUTHORITY if the performance criteria of the COMPANY are not met;

NOW THEREFORE the parties hereto, in consideration of the foregoing, and the disbursement of funds hereafter provided, agree as follows:

1. AUTHORITY will disburse \$10,000.00 ("The Funds") to the COMPANY for the Specified Use upon full execution of this Performance Agreement.
2. In return for the conditional grant, the COMPANY agrees it shall maintain its operation at 9830 Liberia Avenue, Manassas 20110 ("the Location") for five (5) years from the date of this Performance Agreement and shall report the names of those children receiving scholarships, along with the dollar value of those scholarships, every two months. As used in this Performance Agreement, "maintain its operation" means opening for business during regular, posted business hours of at least 20 hours per week.
3. COMPANY shall refund the AUTHORITY one hundred percent (100%) of The Funds if the COMPANY fails to maintain its operation at the Location for at least five years after opening. At the end of the five year period, COMPANY shall refund the AUTHORITY any portion of the \$10,000 not expended for scholarships. A sale of the COMPANY or of substantially all assets of COMPANY to a third party shall result in an obligation to immediately pay any remaining sums due hereunder unless the successor enters into an assumption of COMPANY's obligations satisfactory to the AUTHORITY. The COMPANY shall have no obligation to refund any part of the Funds if it continuously

maintains its business for five (5) years and expends all of the Funds for student scholarships.

4. COMPANY represents that it is a Virginia corporation in good standing with the Virginia State Corporation Commission, and is authorized to conduct business in Virginia, that the COMPANY has approved the transaction contemplated by this Performance Agreement, that the undersigned is authorized to sign this Performance Agreement on behalf of COMPANY, and that this Performance Agreement will be binding on COMPANY and its permitted successors and assigns. COMPANY agrees to provide proper documentation of the foregoing to the attorney for the AUTHORITY before disbursement of the Funds.
5. The AUTHORITY shall have the right, at its own expense, to review and audit the books of the COMPANY from time to time to ensure that the Funds are expended for scholarships and that the students receiving those scholarships attended the programs to which the scholarships were applied. The COMPANY will retain all its books and papers relating to the students covered by the scholarship, their enrollment and attendance, and shall make those available to the AUTHORITY at its request during normal business hours.
6. This Performance Agreement contains the full agreement of the parties as to its contents, and supersedes any prior or contemporaneous oral or written communications between the parties. This Performance Agreement can only be modified or waived by written amendment signed by duly authorized representatives of both parties. This Performance Agreement is binding on the parties' successors in interest and permitted assigns.
7. Any notices required or permitted under this Performance Agreement shall be given in writing and shall be deemed to be received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier. Refusal shall mean return of certified mail or overnight courier package not accepted by the addressee:

If to the Company, to:

Keeyana Mahoney
The NEW School, Inc.
9830 Liberia Avenue
Manassas, Virginia 20110

If to the EDA, to:

Economic Development Authority
of The City of Manassas

with a copy to:

Martin Crim, Esq.
Vanderpool, Frostick & Nishanian

c/o Patrick J. Small
Director of Economic Development
9027 Center St.
Manassas, Virginia 20110

9200 Church Street, Suite 400
Manassas, Virginia 20110

8. This Performance Agreement is made, and is intended to be performed, in the Commonwealth of Virginia and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Performance Agreement shall lie in the state courts for the City of Manassas, and such litigation shall be brought only in such a court. This Performance Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

IN WITNESS WHEREOF, the AUTHORITY and the COMPANY have caused this Performance Agreement to be executed in their respective corporate names.

**The Economic Development Authority
of The City of Manassas, Virginia**

By: Holmes Smith

Print Name: Holmes SMITH

Its: chairman

The NEW School, Inc.

By: Keeyana Mahoney

Print Name: Keeyana Mahoney

Its: KM

 Alice J. Vergler
Executive Director