

# Management Agreement

A charter school that intends to contract with a management company to provide all (or a substantial proportion) of the educational services must provide a copy of that agreement or contract to the Institute. This document contains some essential components and best practice elements of a strong agreement between a school and its management company.

## Checklist of Considerations

Did you...	Yes?
1. Explicitly reinforce compliance with all state and federal laws as required by the Institute.	<input type="checkbox"/>
2. Include a description of the specific services that the management company will provide and the responsibilities of the board of directors with those services. Be sure to address responsibilities explicitly required by law, such as the development of the Annual Report (Section 59-40-140).	<input type="checkbox"/>
3. Describe the relationship between the service provider and the board. This must clarify how the parties will engage in employee hiring, evaluation, dismissal, and grievances.	<input type="checkbox"/>
4. Prohibit the service provider from executing contracts containing no-compete agreements with its staff assigned to the school.	<input type="checkbox"/>
5. Ensure no provision of the agreement restricts the Board from waiving its governmental immunity or require the Board to assert, waive, or not waive its governmental immunity.	<input type="checkbox"/>
6. Prohibit the service provider from serving as the single point of contact with the Sponsor or the South Carolina Department of Education.	<input type="checkbox"/>
7. Clarify that the board does not abdicate its legal or fiduciary responsibilities as the entity holding the charter. This should include a specific provision that the board will procure the financial auditor and oversee the independent financial audit. Additionally, if the service provider will contribute to budget development, back office support, or any other financial services, the agreement should ensure the board has the ultimate responsibility for establishing and approving the budget.	<input type="checkbox"/>
8. Include a direct reference to the accountability channels that will exist between the board, the service provider, and the administration. This should include a commitment by the service provider to achieve explicit measurable goals stated in both the agreement and the charter, as well as a description of when and how the board will evaluate the provider's progress towards achievement of those goals.	<input type="checkbox"/>
9. Describe the process and measurable objectives used in the annual evaluation of the service provider by the Board. At a minimum these must align to the expectations and standards established by the State and Institute through the Student Success Profile and the South Carolina State Report Card.	<input type="checkbox"/>
10. Indicate the deposit of all funds into the School's depository account, with signatories on said account solely comprised of Board members or properly designated Board employees.	<input type="checkbox"/>
11. Specify one of the following methods for paying fees or expenses: (i) pay or reimbursement of the service provider for approved fees or expenses upon receipt of documentation and approval by the board; or (ii) advancement of funds to the service provider for fees or expenses provided that documentation for said fees and expenses are provided for Board ratification at its next regularly scheduled meeting.	<input type="checkbox"/>

## Choosing Management

- 1. Comprehensive v. Custom.** Identify needed services and supports prior to selection and negotiation. Often, some needs may be met at no cost by your sponsor or other charter support organizations, such as the Alliance.
- 2. Measurable Objectives.** Develop goals and objectives prior to selection and negotiation. Ensure prospective management companies can commit to the time bound, measurable goals that you identify.
- 3. Shop Around.** Write an RFP if possible and be sure to conduct comprehensive due diligence. Compare services *and* costs. Most importantly, do your own research beyond what is provided by the prospective companies; ensure alignment with your target population.
- 4. Understand Your Trade-Off.** Larger companies may have more financial resources, centralized expertise, and offer economies of scale for services throughout its portfolio. Smaller companies may provide more attention and customized support.



## Checklist of Considerations

12. Ensure marketing and development costs paid by or charged to the school are limited to costs specific to the school.	<input type="checkbox"/>
13. Include a clear method for determining the service provider's compensation. Methods of compensation should indicate all contract payments, lease payments, management fees, administrative fees, licensing fees, expenses, and any other amounts payable to the service provider and under what conditions these amounts are payable.	<input type="checkbox"/>
14. Indicate which sources of revenue any fee is based, especially if it is dependent upon a percentage of the school's revenues. This should specify categorical funding where relevant.	<input type="checkbox"/>
15. Require that the service provider furnish the school with all information deemed necessary by the school for the proper completion of budgets, audits, program plans, and other required state or sponsor reporting. This should include an assurance that all financial reports prepared by the service provider will adhere to generally accepted accounting principles (GAAP).	<input type="checkbox"/>
16. Ensure that budgets prepared by the charter school include all revenue anticipated and all actual expenses, as well as anticipated expenses and incidentals, associated with the operation and management of the charter school. This arrangement should require that the service provider submit invoices and supporting documentation to justify expenses.	<input type="checkbox"/>
17. Ensure that all loans to, or investments in, the school by the service provider are evidenced by appropriate documentation. Such documentation should explain how the investment will be treated on the books of the charter school and clearly state the service provider's expected return on equity.	<input type="checkbox"/>
18. Include provisions for dealing with ownership of physical and intellectual property purchased or developed by the service provider or the school's employees.	<input type="checkbox"/>
19. Ensure that financial, educational, and student records pertaining to the school belong to the school. All such records, local and federal, must be accessible, physically or virtually maintained at the school, and must be subject to the provisions of state and federal privacy and records request requirements.	<input type="checkbox"/>
20. Specify that all finance and other records of service provider related to the School is available to the School, the School's independent auditor, and the Institute upon request, and prohibits the service provided from selecting and retaining the School's independent auditor.	<input type="checkbox"/>
21. Include insurance and indemnification provisions outlining coverage the management company will obtain, which must be separate from and in addition to the insurance purchased by the school (Section 59-40-190).	<input type="checkbox"/>
22. Specify that the board of trustees will exercise due diligence in assessing the suitability of candidates for board membership with respect to potential conflicts of interest between entities and areas of skill and expertise that will be of value to the board of trustees, with such due diligence occurring prior to a vote.	<input type="checkbox"/>
23. Ensure that the term of the contract with the service provider does not exceed the term of the school's charter or contain an automatic contract renewal provision.	<input type="checkbox"/>
24. Ensure that provisions are included that address termination of the contract by the board and termination of the contract by the service provider. The contract or agreement should protect the board from unwarranted termination by the service provider and give the board an opportunity to terminate the contract if the provider fails to meet the mutually agreed upon goals or standards.	<input type="checkbox"/>
25. Specify any terms of dissolution that include handling of assets, equipment, services, proprietary components of services, and should outline responsibilities during transition.	<input type="checkbox"/>

## Choosing Management

5. **Legal Support.** Specialized legal help is beneficial to drafting a solid, thoughtful contract tailored to needs and individual state laws. Such counsel should serve the board and be completely independent from the management company.
6. **Confirm Alignment.** Review the Institute's Management Organization and Required Agreement Provision's Policy, ensuring your agreement with your chosen service provider is aligned to the policy.

