



CONTRACT TO CHARTER A PUBLIC SCHOOL ACADEMY  
AND RELATED DOCUMENTS

ISSUED TO

SUMMIT ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

BY THE

CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

JULY 1, 2020

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**REAUTHORIZING RESOLUTION**

## REAUTHORIZATION OF PUBLIC SCHOOL ACADEMY

### Summit Academy

#### Recitals:

1. At its April 29, 2016, meeting this board authorized the issuance of a contract to charter as a public school academy to Summit Academy. On July 1, 2016, the contract was effective.
2. The contract of this academy expires June 30, 2020.
3. The Governor John Engler Center for Charter Schools has completed its evaluation and assessment of the operation and performance of Summit Academy.
4. The university president or designee has recommended the reissuance of a contract to charter as a public school academy to Summit Academy. The term of the contract is recommended for a term not to exceed three (3) years.

BE IT RESOLVED, That this board approves and authorizes the execution of a contract to charter as a public school academy to Summit Academy for a term not to exceed three (3) years and authorizes the chair of the board to execute a contract to charter as a public school academy and related documents between Summit Academy and the Central Michigan University Board of Trustees, provided that, before execution of the contract, the university president or designee affirms that all terms of the contract have been agreed upon and Summit Academy is able to comply with all terms and conditions of the contract.

CMU BDT APPROVED

Date: April 16, 2020  
 Signature: Mary Jane Haragan

## **Public School Academy Board of Directors: Method of Selection, Appointment and Removal**

The Central Michigan University Board of Trustees declares that the method of selection, length of term, and number of board members shall be as follows.

### **Method of Selection and Appointment**

The Central Michigan University Board of Trustees ("University Board") shall prescribe the method of appointment for members of an academy's board of directors. The director of the charter schools office is authorized to develop and administer an academy board selection and appointment process that includes an *Application for Public School Academy Board Appointment* and is in accord with these policies:

- a. The University Board shall appoint the initial and subsequent academy board of directors by resolution, except as prescribed by subparagraphs d and e. The director of the charter schools office shall recommend qualified individuals to the University Board, and ensure that the board of directors includes representation from the local community where the academy is located.
- b. The academy board of directors, by resolution and majority vote, shall nominate its subsequent members, except as provided otherwise. The academy board of directors shall recommend to the director of the charter schools office at least one nominee for each vacancy. Nominees shall submit the *Application for Public School Academy Board Appointment* for review by the charter schools office. The director of the charter schools office may or may not recommend the appointment of a nominee submitted by the academy board. If the director of the charter schools office does not recommend the appointment of a nominee submitted by the academy board, he/she may select and recommend another nominee or may request the academy board submit a new nominee for consideration.
- c. An individual appointed to fill a vacancy created other than by the expiration of a term shall be appointed for the unexpired term of that vacant position.
- d. Under exigent conditions, and with the approval of the University Board's chair and the president, the director of the charter schools office may appoint a qualified individual to an academy's board of directors. All appointments made under this provision must be presented to the University Board for final determination at its next regularly scheduled meeting. The University Board reserves the right to review, rescind, modify, ratify, or approve any appointments made under this provision.
- e. In the event that the health, safety and welfare of an academy's students, property or funds are at risk, the president, after consulting with the University Board's chair, may appoint a person to serve as a conservator for the academy. Upon appointment, the conservator shall have all the powers of the academy's board of directors and shall act in the place and stead of the academy's board of directors. After the President appoints a conservator, the full Board of Trustees shall receive notice of the appointment as soon as possible. The president shall appoint the conservator for a definite term which may be extended in writing. During the conservator's appointment, the academy's board of directors, and all powers of the academy's board of directors, are suspended. The charter contract shall set forth any additional powers granted to the conservator during their appointment. All appointments made under this

Date: 2/15/18

Signature: My Hangan

provision must be presented to the University Board for final determination at its next regularly scheduled meeting.

### **Length of Term**

The director of an academy board shall serve at the pleasure of the University Board. Terms of the initial positions of the academy board of directors shall be staggered in accordance with *The Academy Board of Directors Table of Staggered Terms and Appointments* established and administered by the director of the charter schools office. Subsequent appointments shall be for a term of office not to exceed four (4) years, except as prescribed by *The Academy Board of Directors Table of Staggered Terms and Appointments*.

### **Removal and Suspension**

If the University Board determines that an academy board member's service in office is no longer necessary, then the University Board may remove an academy board member with or without cause and shall specify the date when the academy board member's service ends. An academy board member may also be removed as part of a reconstitution under the charter contract or from office by a two-thirds (2/3) vote of the academy's board of directors for cause.

With the approval of the University Board's chair and the president, the director of the charter schools office may suspend an academy board member's service, if in his/her judgment the person's continued presence would constitute a risk to persons or property, or would seriously impair the operation of the academy. Any suspension made under this provision must be presented to the University Board for final determination at its next regularly scheduled meeting. The University Board reserves the right to review, rescind, modify, ratify, or approve any suspensions made under this provision.

### **Number of Directors**

The number of members of the academy board of directors shall not be less than five (5) nor more than nine (9). If the academy board of directors fails to maintain its full membership by making appropriate and timely nominations, the University Board or its designee may deem that failure an exigent condition.

### **Qualifications of Academy Board Members**

To be qualified to serve on an academy's board of directors, a person shall, among other things: (a) be a citizen of the United States; (b) be a resident of the State of Michigan; (c) submit all materials requested by the charter schools office including, but not limited to, the *Application for Public School Academy Board Appointment* which must include authorization to process a criminal background check; and (d) annually submit a conflict of interest disclosure as prescribed by the charter schools office.

The members of an academy board of directors shall not include: (a) employees of the academy; (b) any director, officer, or employee of an educational management organization or educational management corporation that contracts with the academy; (c) a Central Michigan University official or employee, as a representative of Central Michigan University.

CMU BDT APPROVED

Date: 2/15/18

Signature: M J Flanagan

**Oath of Public Office**

All members of the academy board of directors must take the constitutional oath of office and sign the *Oath of Public Office* before beginning their service. No appointment shall be effective prior to the filing of the *Oath of Public Office* with the charter schools office.

Note: These provisions shall be implemented with new charter contracts and shall be phased in as existing charter contracts are reissued or amended. The charter schools office is authorized to negotiate changes in the terms and conditions of charter contracts to fully implement these provisions.

Amended by Board of Trustees: 18-0215

Adopted by Board of Trustees: 98-0918, 06-1207, 07-0712 and 11-0714

CMU BDT APPROVED

Date: 2/15/18

Signature: my Haneja



**TERMS AND CONDITIONS**

**TERMS AND CONDITIONS  
OF CONTRACT**

**DATED: JULY 1, 2020**

**ISSUED BY**

**CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES**

**CONFIRMING THE STATUS OF**

**SUMMIT ACADEMY**

**AS A**

**PUBLIC SCHOOL ACADEMY**

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WHEREAS, the People of Michigan through their Constitution have provided that schools and the means of education shall forever be encouraged and have authorized the Legislature to maintain and support a system of free public elementary and secondary schools; and

WHEREAS, all public schools are subject to the leadership and general supervision of the State Board of Education; and

WHEREAS, the Legislature has authorized an alternative form of public school designated a "public school academy" to be created to serve the educational needs of pupils and has provided that pupils attending these schools shall be eligible for support from the State School Aid Fund; and

WHEREAS, the Legislature has delegated to the governing boards of state public universities, community college boards, intermediate school district boards and local school district boards, the responsibility for authorizing the establishment of public school academies; and

WHEREAS, the Central Michigan University Board of Trustees ("University Board") has considered and has approved the issuance of a contract to Summit Academy ("the Academy");

NOW, THEREFORE, pursuant to the Revised School Code, the University Board issues a contract conferring certain rights, franchises, privileges, and obligations and confirms the Academy's status as a public school academy. In addition, the parties agree that the issuance of this Contract is subject to the following terms and conditions:

## **ARTICLE I DEFINITIONS**

Section 1.1. Certain Definitions. For purposes of this Contract, and in addition to the terms defined throughout this Contract, each of the following words or expressions, whenever initially capitalized, shall have the meaning set forth in this section:

- (a) "Academy" means the Michigan nonprofit corporation named Summit Academy which is established as a public school academy pursuant to this Contract.
- (b) "Academy Board" means the Board of Directors of the Academy.
- (c) "Applicable Law" means all state and federal law applicable to public school academies.
- (d) "Application" means the public school academy application and supporting documentation submitted to the University for the establishment of the Academy.
- (e) "Code" means the Revised School Code, Act No. 451 of the Public Acts of 1976, as amended, being Sections 380.1 to 380.1852 of the Michigan Compiled Laws.
- (f) "Community District" means a community school district created under part 5B of the Code, MCL 380.381 et seq.
- (g) "Conservator" means an individual appointed by the University President in accordance with Section 10.8 of these Terms and Conditions.
- (h) "Contract" means, in addition to the definition set forth in the Code, these Terms and Conditions, the Reauthorizing Resolution, the Method of Selection, Appointment, and Removal Resolution, the Schedules, the Educational Service Provider Policies, the Master Calendar and the Application.

- (i) "Department" means the Michigan Department of Education.
- (j) "Director" means a person who is a member of the Academy Board of Directors.
- (k) "Educational Service Provider" or "ESP" means an educational management organization, or employee leasing company, as defined under section 503c of the Code, MCL 380.503c, that has entered into a contract or agreement with the Academy Board for operation or management of the Academy, which contract has been submitted to the Center for review and has not been disapproved by the Center Director, and is consistent with the Educational Service Provider Policies, as they may be amended from time to time, and Applicable Law.
- (l) "Educational Service Provider Policies" or "ESP Policies" means the Educational Service Provider Policies, adopted by The Governor John Engler Center for Charter Schools at Central Michigan University that apply to a Management Agreement. The Educational Service Provider Policies may be amended from time to time. Upon amendment, changes to the ESP Policies shall automatically be incorporated into this Contract and shall be exempt from the amendment procedures under Article IX of these Terms and Conditions.
- (m) "Fund Balance Deficit" means the Academy has more liabilities than assets at the end of any given school fiscal year, and includes any fiscal year where the Academy would have had a budget deficit but for a financial borrowing by the Academy or a monetary contribution by an Educational Service Provider or other person or entity to the Academy. If the Academy receives a gift or grant of money or financial support from an Educational Service Provider or other person or entity that does not require repayment by the Academy, and is not conditioned upon the action or inactions of the Academy or the Academy Board, then such gift or grant shall not constitute a borrowing or contribution for purposes of determining a Fund Balance Deficit.
- (n) "Management Agreement" or "ESP Agreement" means an agreement as defined under section 503c of the Code, MCL 380.503c, that has been entered into between an ESP and the Academy Board for the operation and/or management of the Academy which has been submitted to the Center for review and has not been disapproved by the Center Director.
- (o) "Master Calendar" means the Master Calendar of Reporting Requirements as annually issued by The Governor John Engler Center for Charter Schools setting forth reporting and document submission requirements for the Academy.
- (p) "Method of Selection, Appointment, and Removal Resolution" means the policy adopted by resolution of the University Board on September 18, 1998, and amended on February 15, 2018, establishing the standard method of selection and appointment, length of term, removal and suspension, number of directors and qualifications of academy board members for public school academies issued a Contract by the University Board.
- (q) "Reauthorizing Resolution" means the resolution adopted by the University Board on April 16, 2020, approving the issuance of a Contract to the Academy.
- (r) "Schedules" means the following Contract documents of the Academy: Schedule 1: Restated Articles of Incorporation, Schedule 2: Amended Bylaws, Schedule 3: Fiscal Agent Agreement, Schedule 4: Oversight, Compliance and Reporting Agreement, Schedule 5: Description of Staff Responsibilities, Schedule 6: Physical Plant Description, Schedule 7: Required Information for Public School Academy, and Schedule 8: Information Available to the Public and the Center.

- (s) "State Board" means the State Board of Education, established pursuant to Article 8, Section 3 of the 1963 Michigan Constitution and MCL 388.1001 et seq.
- (t) "State School Aid Fund" means the State School Aid Fund established pursuant to Article IX, Section 11 of the Michigan Constitution of 1963, as amended.
- (u) "State School Reform/Redesign Office" means the office created within the Michigan Department of Technology Management and Budget by Executive Reorganization Order 2015-02 codified at MCL 18.445, and transferred from the Michigan Department of Technology Management and Budget to the Michigan Department of Education by Executive Reorganization Order 2017-02, codified at MCL 388.1282.
- (v) "Superintendent" means the Michigan Superintendent of Public Instruction.
- (w) "Terms and Conditions" means this document entitled "Terms and Conditions of Contract, Dated July 1, 2020, Issued by the Central Michigan University Board of Trustees Confirming the Status of Summit Academy as a Public School Academy."
- (x) "The Governor John Engler Center for Charter Schools" or "The Center" means the office designated by the University Board as the initial point of contact for public school academy applicants and public school academies authorized by the University Board. The Center is also responsible for administering the University Board's responsibilities with respect to the Contract.
- (y) "The Governor John Engler Center for Charter Schools Director" or "The Center Director" means the person designated at the University to administer the operations of the Center.
- (z) "University" means Central Michigan University, established pursuant to Article 8, sections 4 and 6 of the 1963 Michigan Constitution and MCL 390.551 et seq.
- (aa) "University Board" means the Central Michigan University Board of Trustees.
- (bb) "University Charter Schools Hearing Panel" or "Hearing Panel" means such persons as designated by the University President.
- (cc) "University President" means the President of Central Michigan University or his or her designee. In section 1.1(bb) above, "University President" means the President of Central Michigan University.

Section 1.2. Captions. The captions and headings used in this Contract are for convenience only and shall not be used in construing the provisions of this Contract.

Section 1.3. Gender and Number. The use of any gender in this Contract shall be deemed to be or include the other genders, including neuter, and the use of the singular shall be deemed to include the plural (and vice versa) wherever applicable.

Section 1.4. Statutory Definitions. Statutory terms defined in the Code shall have the same meaning in this Contract.

Section 1.5. Schedules. All Schedules to this Contract are incorporated into, and made part of, this Contract.

Section 1.6. Application. The Application submitted to the University Board for the establishment of the Academy is incorporated into, and made part of, this Contract. To the extent there is a difference between the Contract and the Application, the Contract shall control.

Section 1.7. Conflicting Contract Provisions. In the event that there is a conflict between language contained in the provisions of this Contract, the Contract shall be interpreted as follows: (i) The Method of Selection, Appointment, and Removal Resolution shall control over any other conflicting language in the Contract; (ii) the Reauthorizing Resolution shall control over any other conflicting language in the Contract with the exception of language in The Method of Selection, Appointment, and Removal Resolution; (iii) the Terms and Conditions shall control over any other conflicting language in the Contract with the exception of language in The Method of Selection, Appointment, and Removal Resolution and the Reauthorizing Resolution; and (iv) the Restated Articles of Incorporation shall control over any other conflicting language in the Contract with the exception of language in the Method of Selection, Appointment, and Removal Resolution, Reauthorizing Resolution and these Terms and Conditions.

## **ARTICLE II**

### **RELATIONSHIP BETWEEN THE ACADEMY AND THE UNIVERSITY BOARD**

Section 2.1. Constitutional Status of Central Michigan University. Central Michigan University is a constitutionally established body corporate operating as a state public university. The University Board is an authorizing body as defined by the Code. In approving this Contract, the University Board voluntarily exercises additional powers given to the University under the Code. Nothing in this Contract shall be deemed to be any waiver of Central Michigan University's powers or independent status and the Academy shall not be deemed to be a part of Central Michigan University. If applicable, the University Board has provided to the Department the accreditation notice required under the Code.

Section 2.2. Independent Status of the Academy. The Academy is a body corporate and governmental entity authorized by the Code. It is organized and shall operate as a public school academy and a nonprofit corporation. It is not a division or part of Central Michigan University. The relationship between the Academy and the University Board is based solely on the applicable provisions of the Code and the terms of this Contract or other agreements between the University Board and the Academy.

Section 2.3. Financial Obligations of the Academy Are Separate From the State of Michigan, University Board and the University. Any contract, mortgage, loan or other instrument of indebtedness entered into by the Academy and a third party shall not in any way constitute an obligation, either general, special, or moral, of the State of Michigan, the University Board, or the University. Neither the full faith and credit nor the taxing power of the State of Michigan or any agency of the State, nor the full faith and credit of the University Board or the University shall ever be pledged for the payment of any Academy contract, mortgage, loan or other instrument of indebtedness.

Section 2.4. Academy Has No Power To Obligate or Bind the State of Michigan, the University Board or the University. The Academy has no authority whatsoever to enter into any contract or other agreement that would financially obligate the State of Michigan, the University Board or the University, nor does the Academy have any authority whatsoever to make any representations to lenders or third parties, that the State of Michigan, the University Board or the University in any way guarantee, are financially obligated, or are in any way responsible for any contract, mortgage, loan or other instrument of indebtedness entered into by the Academy.

Section 2.5. New Public School Academies Located Within the Boundaries of a Community District. If the circumstances listed below in (a) or (b) apply to the Academy's site, the Academy represents to the University Board, intending that the University Board rely on such representation as a precondition



to issuing a contract for a new public school academy, that the Academy will have a substantially different governance, leadership and curriculum than the public school previously operating at the site:

- (a) The Academy's proposed site is the same location as a public school that (i) is currently on the list under Section 1280c(1), MCL 380.1280c(1) or Section 1280g(3), MCL 380.1280g(3) of the Code, as applicable; or (ii) has been on the list under Section 1280c(1) or 1280g(3) of the Code, as applicable, during the immediately preceding 3 school years.
- (b) The Academy's proposed site is the same location of another public school academy, urban high school academy, school of excellence or strict discipline academy whose contract was revoked or terminated by an authorizing body.

### **ARTICLE III ROLE OF THE UNIVERSITY BOARD AS AUTHORIZING BODY**

Section 3.1. University Board Resolutions. The University Board has adopted a resolution, hereinafter The Method of Selection, Appointment, and Removal Resolution, providing for the method of selection and appointment, length of term, removal and suspension, number of Directors and the qualifications of Directors. The University Board has adopted a Reauthorization Resolution which approves the issuance of this Contract. The Reauthorization Resolution and the Method of Selection, Appointment, and Removal Resolution are hereby incorporated into this Contract. The University Board may, from time to time, amend the Method of Selection, Appointment, and Removal Resolution changing the method of selection, length of term, number of Directors and the qualifications of Directors. Any subsequent resolution of the University Board changing the Method of Selection, Appointment, and Removal Resolution shall automatically be incorporated into this Contract without the need for an amendment under Article IX of the Terms and Conditions.

Section 3.2. University Board as Fiscal Agent for the Academy. The University Board is the fiscal agent for the Academy. As fiscal agent, the University Board assumes no responsibility for the financial condition of the Academy. The University Board is not liable for any debt or liability incurred by or on behalf of the Academy Board, or for any expenditure approved by or on behalf of the Academy Board. Except as provided in the Oversight, Compliance and Reporting Agreement and Article X of these Terms and Conditions, the University Board shall promptly, within ten (10) business days of receipt, forward to the Academy all state school aid funds or other public or private funds received by the University Board for the benefit of the Academy. The responsibilities of the University Board, the State of Michigan, and the Academy are set forth in the Fiscal Agent Agreement incorporated herein as Schedule 3.

Section 3.3. Oversight Responsibilities of the University Board. The University Board has the responsibility to oversee the Academy's compliance with the Contract and all Applicable Law. The responsibilities of the Academy and the University Board are set forth in the Oversight, Compliance and Reporting Agreement and incorporated herein as Schedule 4.

Section 3.4. University Board Administrative Fee. The Academy shall pay the University Board an administrative fee to compensate the University Board for overseeing the Academy's compliance with the Contract and all Applicable Law.

Section 3.5. University Board Approval of Condemnation. In the event that the Academy desires to acquire property pursuant to the Uniform Condemnation Procedures Act or other applicable statutes, it shall obtain express written permission for such acquisition from the University Board. The Academy shall submit a written request to the Center describing the proposed acquisition and the purpose for which the Academy desires to acquire the property. Provided the Academy Board submits the written request to the

Center at least sixty (60) days before the University Board's next regular meeting, the University Board may vote on whether to give express written permission for the acquisition at its next regular meeting.

Section 3.6. Authorization to Employ or Contract. The University Board authorizes the Academy Board to employ or contract for personnel according to the position information outlined in Schedule 5. The Academy Board shall prohibit any individual from being employed by the Academy or an Educational Service Provider, in more than one (1) full-time position and simultaneously being compensated at a full-time rate for each of these positions. An employee hired by the Academy shall be an employee of the Academy for all purposes and not an employee of the University for any purpose. With respect to Academy employees, the Academy shall have the power and responsibility to (i) recruit, select and engage employees; (ii) pay their wages, benefits, and applicable taxes; (iii) evaluate performance; (iv) discipline and dismiss employees; and control the employees' conduct, including the method by which the employee carries out his or her work. The Academy Board shall be responsible for carrying workers' compensation insurance and unemployment insurance for its employees.

The Academy Board may contract with an Educational Service Provider to provide comprehensive educational, administrative, management, or instructional services or staff to the Academy. Before entering into a Management Agreement with an Educational Service Provider, the Academy Board shall first comply with the Educational Service Provider Policies issued by the Center. Any Management Agreement entered into by the Academy shall also comply with Section 11.2 and 12.10 of these Terms and Conditions. A copy of the Management Agreement between the Academy Board and the Educational Service Provider shall be incorporated into this Contract under Schedule 5. Any changes to the Management Agreement shall be incorporated into this Contract by amendment in accordance with Article IX, as applicable.

Section 3.7. Teacher Certification. Except as otherwise provided by law, the Academy shall use certificated teachers according to State Board rule.

Section 3.8. Administrator and Teacher Evaluation Systems. The Academy Board shall adopt, implement and maintain a rigorous, transparent, and fair performance evaluation system for its teachers and school administrators that complies with Applicable Law. If the Academy enters into an agreement with an Educational Service Provider, the Academy Board shall ensure that the Educational Service Provider complies with this section.

Section 3.9. Reimbursement of University Board Services. The University Board shall be reimbursed for the actual cost of University services associated with responding to third party subpoenas and freedom of information act (FOIA) requests under the following circumstances:

If the University receives a subpoena or FOIA request from a third party (including the Academy, its counsel, the Academy's ESP or its counsel) demanding the production of Academy documents related to pending litigation or proceedings involving the Academy, the Academy's ESP (or any subcontractor of the ESP or other contractors of the Academy) or a third party, the University may charge the Academy for the actual cost of the services associated with the University's response to the subpoena or FOIA request(s) (including actual attorney's fees in fulfilling the request). The parties agree that the Academy may reduce or avoid the obligation to pay for services by the University Board associated with such responses by directly producing Academy documents to the requesting party.

#### **ARTICLE IV**

#### **REQUIREMENT THAT THE ACADEMY ACT SOLELY AS GOVERNMENTAL ENTITY**

Section 4.1. Limitation on Actions in Performance of Governmental Functions. The Academy shall act exclusively as a governmental entity and shall not undertake any action inconsistent with its status as a governmental

entity authorized to receive state school aid funds pursuant to Section 11 of Article IX of the State Constitution of 1963.

Section 4.2. Other Permitted Activities.

- (a) Nothing in this Contract shall prohibit the Academy from engaging in other lawful activities that are not in derogation of the Academy's status as a public school or that would not jeopardize the eligibility of the Academy for state school aid funds. Except as provided for the agreements identified below in Section 4.2(b), the Academy may enter into agreements with other public schools, governmental units, businesses, community and nonprofit organizations where such agreements contribute to the effectiveness of the Academy or advance education in this state.
- (b) The Academy shall submit to the Center for prior review the following agreements:
  - (i) In accordance with the Educational Service Provider Policies, a draft copy of any ESP Agreement and any subsequent amendments;
  - (ii) In accordance with the Master Calendar, a draft copy of any Academy deed or lease, amendments to existing leases or any new leasing agreements for any Academy facility; and
  - (iii) In accordance with the Master Calendar, draft long-term or short-term financing closing documents and intercept requests.

Section 4.3. Academy Board Members Serve In Their Individual Capacity. All Directors of the Academy Board shall serve in their individual capacity, and not as a representative or designee of any other person or entity. A person who does not serve in their individual capacity, or who serves as a representative or designee of another person or entity, shall be deemed ineligible to continue to serve as a Director of the Academy Board. A Director who violates this section shall be removed from office, in accordance with the removal provisions found in the Method of Selection, Appointment and Removal Resolution and Contract Schedule 2: Amended Bylaws. As set forth in the Resolution, a Director serves at the pleasure of the University Board, and may be removed with or without cause at any time.

Section 4.4. Incompatible Public Offices and Conflicts of Interest Statutes. The Academy shall comply with the Incompatible Public Offices statute, being MCL 15.181 et seq. of the Michigan Compiled Laws, and the Contracts of Public Servants with Public Entities statute, being MCL 15.321 et seq. of the Michigan Compiled Laws. The Academy Board shall ensure compliance with Applicable Law relating to conflicts of interest. Notwithstanding any other provision of this Contract, the following shall be deemed prohibited conflicts of interest for purposes of this Contract:

- (a) An individual simultaneously serving as an Academy Board member and an owner, officer, director, employee or consultant of an Educational Service Provider or an employee leasing company, or a subcontractor to an Educational Service Provider or an employee leasing company that has an ESP Agreement with the Academy;
- (b) An individual simultaneously serving as an Academy Board member and an Academy employee;
- (c) An individual simultaneously serving as an Academy Board member and an independent contractor to the Academy;
- (d) An individual simultaneously serving as an Academy Board member and a member of the governing board of another public school;
- (e) An individual simultaneously serving as an Academy Board member and a University official, employee, or paid consultant, as a representative of the University; and

- (f) An individual simultaneously serving as an Academy Board member and having an ownership or financial interest in any real or personal property leased or subleased to the Academy.

Section 4.5. Prohibition of Identified Family Relationships. The Academy Board shall prohibit specifically identified family relationships pursuant to applicable law and the Terms and Conditions of this Contract. Language in this Section controls over section 1203 of the Code. Notwithstanding any other provision of this Contract, the following shall be deemed prohibited familial relationships for the purposes of this Contract:

- (a) No person shall be appointed or reappointed to serve as an Academy Board member if the person's mother, mother-in-law, father, father-in-law, son, son-in-law, daughter, daughter-in-law, sister, sister-in-law, brother, brother-in-law, spouse or same-sex domestic partner:
  - (i) Is employed by the Academy;
  - (ii) Works at or is assigned to work at the Academy;
  - (iii) Has an ownership, officer, policymaking, managerial, administrative non-clerical, or other significant role with the Academy's Educational Service Provider or employee leasing company;
  - (iv) Has an ownership or financial interest in any school building lease or sublease agreement with the Academy; or
  - (v) Is a current Academy Board member.
- (b) The Academy Board shall require each individual who works at the Academy to annually disclose any familial relationship with any other individual who works at, or provides services to, the Academy. For purposes of this subsection, familial relationship means a person's mother, mother-in-law, father, father-in-law, son, son-in-law, daughter, daughter-in-law, sister, sister-in-law, brother, brother-in-law, spouse or same-sex domestic partner.

Section 4.6. Oath of Public Office. Before entering upon the duties of a public school board member, each Academy Board member shall take the constitutional oath of office as required by the Code and as set forth in the Method of Selection, Appointment and Removal Resolution.

Section 4.7. Academy Counsel. The Academy Board shall select, retain and pay legal counsel to represent the Academy. The Academy shall not retain any attorney to represent the Academy if the attorney or the attorney's law firm also represents the Academy's Educational Service Provider or any person or entity leasing real property to the Academy, if any.

## **ARTICLE V CORPORATE STRUCTURE OF THE ACADEMY**

Section 5.1. Nonprofit Corporation. The Academy shall be organized and operate as a public school academy corporation organized under the Michigan Nonprofit Corporation Act, as amended, Act No. 162 of the Public Acts of 1982, being Sections 450.2101 to 450.3192 of the Michigan Compiled Laws. Notwithstanding any provision of the Michigan Nonprofit Corporation Act, as amended, the Academy shall not take any action inconsistent with the provisions of Part 6A of the Code or other Applicable Law.

Section 5.2. Articles of Incorporation. The Restated Articles of Incorporation of the Academy, as set forth in Schedule 1, shall be the Articles of Incorporation of the Academy.

Section 5.3. Bylaws. The Amended Bylaws of the Academy, as set forth in Schedule 2, shall be the Bylaws of the Academy.

## **ARTICLE VI OPERATING REQUIREMENTS**

Section 6.1. Governance Structure. The Academy shall be organized and administered under the direction of the Academy Board and pursuant to the Governance Structure as set forth in Schedule 7a. The Academy shall have four officers: President, Vice-President, Secretary and Treasurer. The officer positions shall be filled by persons who are members of the Academy Board. A description of their duties is included in Schedule 2.

Section 6.2. Educational Goal and Related Measures. The Academy shall achieve or demonstrate measurable progress for all groups of pupils toward the achievement of the educational goal and related measures identified in Schedule 7b and the results of the academic assessments identified in Schedule 7e. Upon request, the Academy shall provide the Center with a written report, along with supporting data, assessing the Academy's progress toward achieving this goal.

Section 6.3. Educational Programs. The Academy shall implement, deliver and support the educational programs identified in Schedule 7c.

Section 6.4. Curriculum. The Academy shall implement, deliver and support the curriculum identified in Schedule 7d.

Section 6.5. Methods of Pupil Assessment. The Academy shall properly administer the academic assessments identified in Schedule 7e and in accordance with the requirements detailed in the Master Calendar. The Academy shall provide the Center direct access to the results of these assessments, along with any other measures of academic achievement reasonably requested by the Center.

Section 6.6. Application and Enrollment of Students. The Academy shall comply with the application and enrollment requirements identified in Schedule 7f.

Section 6.7. School Calendar and School Day Schedule. The Academy shall comply with the school calendar and school day schedule requirements as set forth in Schedule 7g.

Section 6.8. Age or Grade Range of Pupils. The Academy shall comply with the age or grade ranges as stated in Schedule 7h.

Section 6.9. Collective Bargaining Agreements. Collective bargaining agreements, if any, with employees of the Academy shall be the responsibility of the Academy.

Section 6.10. Accounting Standards. The Academy shall at all times comply with generally accepted public sector accounting principles, and accounting system requirements that comply with the State School Aid Act of 1979, as amended, the Uniform Budgeting and Accounting Act, MCL 141.421, et seq., and applicable State Board and Michigan Department of Education rules.

Section 6.11. Annual Financial Statement Audit. The Academy shall conduct an annual financial statement audit prepared and reviewed by an independent certified public accountant. The Academy Board shall select, retain and pay the Academy's independent auditor. The Academy Board shall not approve the retention of any independent auditor if that independent auditor or auditor's firm is also performing accounting and/or auditing services for the Academy's Educational Service Provider, if applicable. The Academy shall submit the annual financial statement audit and auditor's management letter to the Center in accordance with the Master Calendar. The Academy Board shall provide to the Center a copy of any responses to the auditor's management letter in accordance with the Master Calendar.

Section 6.12. Address and Description of Physical Plant. The address and description of the physical plant for the Academy is set forth in Schedule 6. With the approval of the University Board, the Academy Board may operate the same configuration of age or grade levels at more than one (1) site if each configuration of age or grade levels and each site identified in Schedule 6 are under the direction and control of the Academy Board. University Board consideration regarding requests to add additional site(s) shall include, but not be limited to, the Academy Board's demonstration that it meets all statutory requirements under the Code.

Section 6.13. Contributions and Fund Raising. The Academy may solicit and receive contributions and donations as permitted by law. No solicitation shall indicate that a contribution to the Academy is for the benefit of Central Michigan University.

Section 6.14. Disqualified Organizational or Contractual Affiliations. The Academy shall comply with all state and federal law applicable to public schools concerning church-state issues. To the extent disqualified under the state or federal constitutions, the Academy shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization. Nothing in this Section shall be deemed to diminish or enlarge the civil and political rights, privileges and capacities of any person on account of his or her religious belief.

Section 6.15. Method for Monitoring Academy's Compliance with Applicable Law and its Targeted Educational Outcomes. The Academy shall perform the compliance certification duties required by the University Board as outlined in the Oversight, Compliance and Reporting Agreement set forth as Schedule 4. In addition to the University Board's oversight responsibilities and other Academy compliance and reporting requirements set forth in this Contract, the Academy's compliance with the annual Master Calendar shall serve as one means by which the University will monitor the Academy's compliance with Applicable Law.

Section 6.16. Matriculation Agreements. Before the Academy Board approves a matriculation agreement with another public school, the Academy shall provide a draft copy of the agreement to the Center for review. Any matriculation agreement entered into by the Academy shall be added to Schedule 7f through a contract amendment approved in accordance with the Contract.

Section 6.17. Postings of Accreditation Status. The Academy shall post notices to the Academy's homepage of its website disclosing the accreditation status of each school as required by the Code.

## **ARTICLE VII TUITION PROHIBITED**

Section 7.1. Tuition Prohibited; Fees and Expenses. The Academy shall not charge tuition. The Academy may impose fees and require payment of expenses for activities of the Academy where such fees and payments are not prohibited by Applicable Law.

## **ARTICLE VIII COMPLIANCE WITH APPLICABLE LAWS**

Section 8.1. Compliance with Applicable Law. The Academy shall comply with all applicable state and federal laws. Nothing in this Contract shall be deemed to apply any other state or federal law to the Academy.

## **ARTICLE IX AMENDMENT**

Section 9.1. Amendments. The University Board and the Academy acknowledge that the operation and administration of a public school academy and the improvement of educational outcomes over time will require appropriate amendment of this Contract. In order to assure a proper balance between the need for independent development of the Academy and the statutory responsibilities of the University Board as an authorizing body, the parties have established a flexible process for amending this Contract.

Section 9.2. Process for Amendment Initiated by the Academy. The Academy, by a majority vote of its Board of Directors, may, at any time, propose specific changes in this Contract or may propose a meeting to discuss potential revision of this Contract. The proposal will be made to the University Board through its designee. The University Board delegates to the Center Director the review and approval of changes or amendments to this Contract. In the event that a proposed change is not accepted by the Center Director, the University Board may consider and vote upon a change proposed by the Academy following an opportunity for a presentation to the University Board by the Academy.

Section 9.3. Process for Amendment Initiated by the University Board. The University Board, or an authorized designee, may, at any time, propose specific changes in this Contract or may propose a meeting to discuss potential revision of this Contract. The University Board delegates to the Center Director the review and approval of changes or amendments to this Contract. The Academy Board may delegate to a Director of the Academy the review and negotiation of changes or amendments to this Contract. The Contract shall be amended as requested by the University Board upon a majority vote of the Academy Board.

Section 9.4. Final Approval of Amendments. Amendments to this Contract take effect only after they have been approved by the Academy Board and by the University Board or the Center Director. If the proposed amendment conflicts with any of the University Board's general policies on public school academies, the proposed amendment shall take effect only after approval by the Academy Board and the University Board.

Section 9.5. Change in Existing Law. If, after the effective date of this Contract, there is a change in Applicable Law which alters or amends the responsibilities and obligations of either the Academy or the University Board, this Contract shall be altered or amended to reflect the change in existing law as of the effective date of such change. To the extent possible, the responsibilities and obligations of the Academy and the University Board shall conform to and be carried out in accordance with the change in Applicable Law.

Section 9.6. Emergency Action on Behalf of University Board. Notwithstanding any other provision of this Contract to the contrary, the contents of this Section shall govern in the event of an emergency situation that arises between meetings of the University Board. An emergency situation shall be deemed to occur if the University President, in his or her sole discretion, determines that the facts and circumstances warrant that emergency action take place before the next meeting of the University Board. Upon the determination that an emergency situation exists, the University President may temporarily take action on behalf of the University Board with regard to the Academy or the Contract, so long as such action is in the best interest of the University Board and the University President consults with the University Board Chairperson prior to taking the intended actions. When acting during an emergency situation, the University President shall have the authority to act in place of the University Board, and such emergency action shall only be effective in the interim before the earlier of (a) rejection of the emergency action by the Chairperson of the University Board; or (b) the next meeting of the University Board. The University President shall immediately report such action to the University Board for confirmation at the next meeting so that the emergency action continues or, upon confirmation by the University Board, becomes permanent.

**ARTICLE X**  
**CONTRACT REVOCATION, TERMINATION, AND SUSPENSION**

Section 10.1. Statutory Grounds for Revocation. In addition to the other grounds for revocation in Section 10.2 and the automatic revocation in Section 10.3 of these Terms and Conditions, the University Board may revoke this Contract, pursuant to the procedures set forth in Section 10.6, upon a determination that one or more of the following has occurred:

- (a) Failure of the Academy to demonstrate improved pupil academic achievement for all groups of pupils or abide by and meet the educational goal and related measures set forth in this Contract;
- (b) Failure of the Academy to comply with all Applicable Law;
- (c) Failure of the Academy to meet generally accepted public sector accounting principles and to demonstrate sound fiscal stewardship; or
- (d) The existence of one or more other grounds for revocation as specified in this Contract.

Section 10.2. Other Grounds for Revocation. In addition to the statutory grounds for revocation set forth in Section 10.1 and the grounds for an automatic revocation set forth in Section 10.3, the University Board may revoke this Contract, pursuant to the procedures set forth in Section 10.6, upon a determination that one or more of the following has occurred:

- (a) The Academy fails to achieve or demonstrate measurable progress toward achieving the educational goal and related measures identified in this Contract;
- (b) The Academy fails to properly implement, consistently deliver, and support the educational programs or curriculum identified in this Contract;
- (c) The Academy is insolvent, has been adjudged bankrupt, or has operated for two or more school fiscal years with a Fund Balance Deficit;
- (d) The Academy has insufficient enrollment to successfully operate a public school academy, or the Academy has lost more than fifty percent (50%) of its student enrollment from the previous school year;
- (e) The Academy fails to fulfill the compliance and reporting requirements or defaults in any of the terms, conditions, promises or representations contained in or incorporated into this Contract or, during the term of this Contract, it is discovered by the Center that the Academy failed to fulfill the compliance and reporting requirements or there was a violation of a prior Contract issued by the University Board;
- (f) The Academy files amendments to its Articles of Incorporation with the Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services without first obtaining the Center's approval;
- (g) The Center Director discovers grossly negligent, fraudulent or criminal conduct by the Academy's applicant(s), directors, officers, employees or agents in relation to their performance under this Contract; or



- (h) The Academy's applicant(s), directors, officers, employees or agents have provided false or misleading information or documentation to the Center in connection with the University Board's approval of the Application, the issuance of this Contract, or the Academy's reporting requirements under this Contract or Applicable Law.

Section 10.3. Automatic Amendment Of Contract; Automatic Termination of Contract If All Academy Sites Closed; Economic Hardship Termination. Except as otherwise provided in this Section 10.3, if the University Board is notified by the Department that an Academy site is subject to closure under section 507 of the Code, MCL 380.507 ("State's Automatic Closure Notice"), then this Contract shall automatically be amended to eliminate the Academy's authority to operate certain age and grade levels at the site or sites identified in the State's Automatic Closure Notice. If the State's Automatic Closure Notice includes all of the Academy's existing sites, then this Contract shall automatically be terminated at the end of the current school year in which either the State's Automatic Closure Notice is received without any further action of the University Board or the Academy.

Following receipt of the State's Automatic Closure Notice, the Center Director shall forward a copy of the notice to the Academy Board and request a meeting with the Academy Board representatives to discuss the Academy's plans and procedures for the elimination of certain age or grade levels at the identified site or sites, or if all of the Academy's existing sites are included in that notice, then wind-up and dissolution of the Academy corporation at the end of the current school year. All Academy inquiries and requests for reconsideration of the State's Automatic Closure Notice, including the granting of any hardship exemption by the Department rescinding the State's Automatic Closure Notice ("Pupil Hardship Exemption"), shall be directed to the Department, in a form and manner determined by the Department. If the Department rescinds the State's Automatic Closure Notice for an Academy site or sites by granting a Pupil Hardship Exemption, the Academy is not required to close the identified site(s), but shall present to the Center a proposed Contract amendment incorporating the Department's school improvement plan, if applicable, for the identified site(s).

If the Department elects not to issue a Pupil Hardship Exemption and the Center Director determines, in his or her discretion, that the closure of one or more sites as directed by the Department creates a significant economic hardship for the Academy as a going concern or the possibility of a mid-year school closure, then the Center Director may recommend to the University Board that the Contract be terminated at the end of the current school year (hereinafter "Economic Hardship Termination"). If the University Board approves the Economic Hardship Termination recommendation, then this Contract shall terminate at the end of the current school year without any further action of the parties.

The University Board's revocation procedures set forth in Section 10.6 do not apply to an automatic termination initiated by the State's Automatic Closure Notice or an Economic Hardship Termination under this Section 10.3.

Section 10.4. Grounds and Procedures for Academy Termination of Contract. The Academy Board, by majority vote of its Directors, may, at any time and for any reason, request termination of this Contract. The Academy Board's request for termination shall be made to the Center Director not less than six (6) calendar months in advance of the Academy's proposed effective date of termination. Upon receipt of an Academy request for termination, the Center Director shall present the Academy Board's request for termination to the University Board. A copy of the Academy Board's resolution approving of the Contract termination, including a summary of the reasons for terminating the Contract, shall be included with the Academy Board's request for termination. Upon receipt of the Academy Board's request for termination, the University Board shall consider and vote on the proposed termination request. The University Board may, in its sole discretion, waive the six (6) month advance notice requirement for terminating this Contract.

Section 10.5. Grounds and Procedures for University Termination of Contract. The University Board, in its sole discretion, reserves the right to terminate the Contract (i) for any reason or for no reason provided that such termination shall not take place less than six (6) months from the date of the University Board's action; or (ii) if there is a change in Applicable Law that the University Board, in its sole discretion, determines impairs its rights and obligations under the Contract or requires the University Board to make changes in the Contract that are not in the best interest of the University Board or the University, then such termination shall take effect at the end of the current Academy fiscal year. Following University Board approval, the Center Director shall provide notice of the termination to the Academy. If during the period between the University Board action to terminate and the effective date of termination, the Academy has violated the Contract or Applicable Law, the Contract may be revoked or suspended sooner pursuant to this Article X. If this Contract is terminated pursuant to this Section 10.5, the revocation procedures in Section 10.6 shall not apply.

Section 10.6. University Board Procedures for Revoking Contract. Except for the automatic revocation and procedures initiated by the State of Michigan set forth in Section 10.3, the University Board's process for revoking the Contract is as follows:

- (a) Notice of Intent to Revoke. The Center Director, upon reasonable belief that grounds for revocation of the Contract exist, shall notify the Academy Board of such grounds by issuing the Academy Board a Notice of Intent to Revoke for non-compliance with the Contract or Applicable Law. The Notice of Intent to Revoke shall be in writing and shall set forth in sufficient detail the alleged grounds for revocation.
- (b) Academy Board's Response. Within thirty (30) days of receipt of the Notice of Intent to Revoke, the Academy Board shall respond in writing to the alleged grounds for revocation. The Academy Board's response shall be addressed to the Center Director, and shall either admit or deny the allegations of non-compliance. If the Academy's response includes admissions of non-compliance with the Contract or Applicable Law, the Academy Board's response must also contain a description of the Academy Board's plan and time line for correcting the non-compliance with the Contract or Applicable Law. If the Academy's response includes a denial of non-compliance with the Contract or Applicable Law, the Academy's response shall include sufficient documentation or other evidence to support a denial of non-compliance with the Contract or Applicable Law. A response not in compliance with this Section shall be deemed to be non-responsive. As part of its response, the Academy Board may request that a meeting be scheduled with the Center Director prior to a review of the Academy Board's response.
- (c) Plan of Correction. Within fifteen (15) days of receipt of the Academy Board's response or after a meeting with Academy Board representatives, the Center Director shall review the Academy Board's response and determine whether a reasonable plan for correcting the deficiencies can be formulated. If the Center Director determines that a reasonable plan for correcting the deficiencies set forth in the Notice of Intent to Revoke can be formulated, the Center Director shall develop a plan for correcting the non-compliance ("Plan of Correction") which may include Reconstitution pursuant to 10.6(d) of these Terms and Conditions. In developing a Plan of Correction, the Center Director is permitted to adopt, modify or reject some or all of the Academy Board's response for correcting the deficiencies outlined in the Notice of Intent to Revoke. The Notice of Intent to Revoke shall be closed if the Center Director determines any of the following: (i) the Academy Board's denial of non-compliance is persuasive; (ii) the non-compliance set forth in the Notice of Intent to Revoke has been corrected by the Academy Board; or (iii) the Academy Board has successfully completed the Plan of Correction.
- (d) University Board's Contract Reconstitution Provision. The Center Director may reconstitute the Academy in an effort to improve student educational performance or to avoid interruption of the educational process. Reconstitution may include, but is not limited to, one of the following actions:

(i) removal of 1 or more members of the Academy Board; (ii) termination of at-will board appointments of 1 or more Academy Board members in accordance with The Method of Selection, Appointment and Removal Resolution; (iii) withdrawing approval of a contract under Section 506 of the Code; or (iv) the appointment of a new Academy Board of Directors or a Conservator to take over operations of the Academy.

Except as otherwise provided in this subsection, reconstitution of the Academy does not prohibit the Department from issuing an order under section 507 of the Code, MCL 380.507, directing the automatic closure of the Academy's site(s).

(e) Request for Revocation Hearing. The Center Director may initiate a revocation hearing before the University Charter Schools Hearing Panel if the Center Director determines that any of the following has occurred:

- (i) the Academy Board has failed to respond to the Notice of Intent to Revoke as set forth in Section 10.6(b);
- (ii) the Academy Board's response to the Notice of Intent to Revoke is non-responsive;
- (iii) the Academy Board's response admits violations of the Contract or Applicable Law which the Center Director deems cannot be remedied or cannot be remedied in an appropriate period of time, or for which the Center Director determines that a Plan of Correction cannot be formulated;
- (iv) the Academy Board's response contains denials that are not supported by sufficient documentation or other evidence showing compliance with the Contract or Applicable Law;
- (v) the Academy Board has not complied with part or all of a Plan of Correction established in Section 10.6(c);
- (vi) the Academy Board has engaged in actions that jeopardize the financial or educational integrity of the Academy; or
- (vii) the Academy Board has been issued multiple or repeated Notices of Intent to Revoke.

The Center Director shall send a copy of the request for revocation hearing to the Academy Board at the same time the request is sent to the Hearing Panel. The request for revocation shall identify the reasons for revoking the Contract.

(f) Hearing before the University Charter Schools Hearing Panel. Within thirty (30) days of receipt of a request for revocation hearing, the Hearing Panel shall convene a revocation hearing. The Hearing Panel shall provide a copy of the notice of hearing to the Center and the Academy Board at least ten (10) days before the hearing. The purpose of the Hearing Panel is to gather facts surrounding the Center Director's request for Contract revocation, and to make a recommendation to the University Board on whether the Contract should be revoked. The revocation hearing shall be held at a location, date and time as determined by the Center Director and shall not last more than three hours. The hearing shall be transcribed and the cost shall be divided equally between the University and the Academy. The Center Director or his or her designee, and the Academy Board or its designee, shall each have equal time to make their presentation to the Hearing Panel. Although each party is permitted to submit affidavits and exhibits in support of their positions, the Hearing Panel will not hear testimony from any witnesses for either side. The Hearing Panel may, however, question the Center Director and the Academy Board. Within thirty (30) days of the revocation hearing, the Hearing Panel shall make a recommendation to the University Board concerning the revocation of the Contract. For good cause, the Hearing Panel may extend any time deadline set forth in this subsection. A copy of the Hearing Panel's recommendation shall be provided to the Center and the Academy Board at the same time that the recommendation is sent to the University Board.

- (g) University Board Decision. If the Hearing Panel's recommendation is submitted to the University Board at least fourteen (14) days before the University Board's next regular meeting, the University Board shall consider the Hearing Panel's recommendation at its next regular meeting and vote on whether to revoke the Contract. The University Board reserves the right to modify, reject or approve all or any part of the Hearing Panel's recommendation. The University Board shall have available to it copies of the Hearing Panel's recommendation and the transcript from the hearing. The University Board may waive the fourteen (14) day submission requirement or hold a special board meeting to consider the Hearing Panel's recommendation. A copy of the University Board's decision shall be provided to the Center, the Academy Board and the Department.
- (h) Effective Date of Revocation. If the University Board votes to revoke the Contract, the revocation shall be effective on the date of the University Board's act of revocation, or at a later date as determined by the University Board.
- (i) Disposition of State School Aid Funds. Notwithstanding any other provision of the Contract, any state school aid funds received by the University Board after a recommendation is made by the Hearing Panel to revoke the Contract, or a decision by the University Board to revoke the Contract, may be withheld by the University Board or returned to the Michigan Department of Treasury upon request. The University Board may also direct that a portion of the Academy's state school aid funds be directed to fund the Academy's Dissolution account established under Section 10.9 of these Terms and Conditions.

Section 10.7. Contract Suspension. The University Board's process for suspending the Contract is as follows:

- (a) The Center Director Action. If the Center Director determines, in his or her sole discretion, that certain conditions or circumstances exist such that the Academy Board:
  - (i) has placed staff or students at risk;
  - (ii) is not properly exercising its fiduciary obligations to protect and preserve the Academy's public funds and property;
  - (iii) has lost its right to occupancy of the physical facilities described in Schedule 6, and cannot find another suitable physical facility for the Academy prior to the expiration or termination of its right to occupy its existing physical facilities;
  - (iv) has failed to secure or has lost the necessary fire, health, and safety approvals as required by Schedule 6;
  - (v) has willfully or intentionally violated this Contract or Applicable Law; or
  - (vi) has violated Section 10.2(g) or (h), then the Center Director may immediately suspend the Contract, pending completion of the procedures set forth in Section 10.6. A copy of the suspension notice, setting forth the grounds for suspension, shall be sent to the Academy Board and to the Hearing Panel. If this subsection is implemented, the notice and hearing procedures set forth in Section 10.6 shall be expedited as much as possible.
- (b) Disposition of State School Aid Funds. Notwithstanding any other provision of the Contract, any state school aid funds received by the University Board after a decision by the Center Director to suspend the Contract, shall be retained by the University Board for the Academy until the Contract is reinstated, or shall be returned to the Michigan Department of Treasury upon the State's request.
- (c) Immediate Revocation Proceeding. If the Academy Board, after receiving a notice of Contract suspension from the Center Director, continues to engage in conduct or activities that are covered by the suspension notice, the Hearing Panel may immediately convene a revocation hearing in accordance with the procedures set forth in section 10.6(e) of this Contract. The Hearing Panel

has the authority to accelerate the time line for revoking the Contract, provided that notice of the revocation hearing shall be provided to the Center and the Academy Board at least five (5) days before the hearing. If the Hearing Panel determines that the Academy Board has continued to engage in conduct or activities that are covered by the suspension notice, the Hearing Panel may recommend revocation of the Contract. The University Board shall proceed to consider the Hearing Panel's recommendation in accordance with sections 10.6(f) through (h).

Section 10.8. Conservator; Appointment By University President. Notwithstanding any other provision of the Contract, in the event that the University President, in his or her sole discretion, determines that the health, safety and welfare of Academy students, property or funds are at risk, the University President, after consulting with the University Board Chairperson, may appoint a person to serve as the Conservator of the Academy. Upon appointment, the Conservator shall have all the powers and authority of the Academy Board under this Contract and Applicable Law and shall act in the place and stead of the Academy Board. The University President shall appoint the Conservator for a definite term which may be extended in writing at his or her sole discretion. During the appointment, the Academy Board members and their terms in office are suspended and all powers of the Academy Board are suspended. All appointments made under this provision must be presented to the University Board for final determination at its next regularly scheduled meeting. During their appointment, the Conservator shall have the following powers:

- (a) take into his or her possession all Academy property and records, including financial, board, employment and student records;
- (b) institute and defend actions by or on behalf of the Academy;
- (c) continue the business of the Academy including entering into contracts, borrowing money, and pledging, mortgaging, or otherwise encumbering the property of the Academy as security for the repayment of loans. However, the power shall be subject to any provisions and restrictions in any existing credit documents;
- (d) hire, fire, evaluate and discipline employees of the Academy;
- (e) settle or compromise with any debtor or creditor of the Academy, including any governmental or taxing authority;
- (f) review all outstanding agreements to which the Academy is a party and to take those actions which the Academy Board may have exercised to pay, extend, rescind, renegotiate or settle such agreements as needed; and
- (g) perform all acts necessary and appropriate to fulfill the Academy's purposes as set forth under this Contract or Applicable Law.

Section 10.9. Academy Dissolution Account. If the University Board terminates, revokes or fails to issue a new Contract to the Academy, the Center Director shall notify the Academy that, beginning thirty (30) days after notification of the University Board's decision, the University Board may direct up to \$10,000 from each subsequent State School Aid Fund payment, not to exceed a combined total of \$30,000, to a separate Academy account ("Academy Dissolution Account") to be used exclusively to pay the costs associated with the wind-up and dissolution responsibilities of the Academy. Within five (5) business days of the Center Director's notice, the Academy Board Treasurer shall provide the Center Director, in a form and manner determined by the Center, with account detail information and authorization to direct such funds to the Academy Dissolution Account. The Academy Dissolution Account shall be under the sole care, custody and control of the Academy Board, and such funds shall not be used by the Academy to pay any other Academy debt or obligation until such time as all the wind-up

and dissolution expenses have been satisfied. An intercept agreement entered into by the Academy and a third-party lender or trustee shall include language that the third party lender or trustee acknowledges and consents to the funding of the Academy's dissolution account in accordance with this Contract. Any unspent funds remaining in the Academy's dissolution account after payment of all wind-up and dissolution expenses shall be returned to the Academy.

## **ARTICLE XI PROVISIONS RELATING TO PUBLIC SCHOOL ACADEMIES**

Section 11.1. The Academy Budget; Transmittal of Budgetary Assumptions; Budget Deficit; Enhanced Deficit Elimination Plan. The Academy agrees to comply with all of the following:

- (a) The Academy Board is responsible for establishing, approving, and amending an annual budget in accordance with the Uniform Budgeting and Accounting Act, MCL 141.421, et seq. The Academy Board shall submit to the Center a copy of its annual budget for the upcoming fiscal year in accordance with the Master Calendar. The budget must detail budgeted expenditures at the object level as described in the Department's Michigan School Accounting Manual. In addition, the Academy Board is responsible for approving all revisions and amendments to the annual budget. In accordance with the Master Calendar, revisions or amendments to the Academy's budget shall be submitted to the Center following Academy Board approval.
- (b) Unless exempted from transmitting under section 1219 of the Code, MCL 380.1219, the Academy, on or before July 7th of each school fiscal year, shall transmit to the Center for Educational Performance and Information ("CEPI") the budgetary assumptions used when adopting its annual budget pursuant to the Uniform Budgeting and Accounting Act, MCL 141.421 et seq.
- (c) The Academy shall not adopt or operate under a deficit budget, or incur an operating deficit in a fund during any fiscal year. At any time during the term of this Contract, the Academy shall not have an existing deficit fund balance, incur a deficit fund balance, or adopts a current year budget that projects a deficit fund balance. If the Academy has an existing deficit fund balance, incurs a deficit fund balance in the most recently completed school fiscal year, or adopts a current year budget that projects a deficit fund balance, all of the following apply:
  - (i) The Academy shall notify the Superintendent and the State Treasurer immediately upon the occurrence of the circumstance, and provide a copy of the notice to the Center.
  - (ii) Within 30 days after making notification under subdivision (i), the Academy shall submit to the Superintendent in the form and manner prescribed by the Department an amended budget for the current school fiscal year and a deficit elimination plan approved by the Academy Board, with a copy to the State Treasurer. The Academy shall transmit a copy of the amended budget and the deficit elimination plan to the Center.
  - (iii) After the Superintendent approves Academy's deficit elimination plan, the Academy shall post the deficit elimination plan on the Academy's website.
- (d) If the Academy is required by the State Treasurer to submit an enhanced deficit elimination plan under section 1220 of the Code, MCL 380.1220, the Academy shall do all of the following:
  - (i) The enhanced deficit elimination plan shall be approved by the Academy Board before submission.
  - (ii) After the State Treasurer approves an enhanced deficit elimination plan for the Academy, the Academy shall post the enhanced deficit elimination plan on the Academy's website.

- (iii) As required, submit to the Superintendent and State Treasurer an enhanced monthly monitoring reports in a form and manner prescribed by the State Treasurer and post such monthly reports on the Academy's website.

Section 11.2. Insurance. The Academy Board shall secure and maintain in its own name, as the "first named insured," insurance coverage as required by the University's insurance carrier.

The insurance must be obtained from a licensed mutual, stock, or other responsible company licensed to do business in the State of Michigan. The Academy may join with other public school academies to obtain insurance if the Academy Board finds that such an association provides economic advantages to the Academy, provided that each Academy maintains its identity as first named insured. The Academy shall list the University on the insurance policies as an additional insured as required by the University's insurance carrier. The coverage provided to the University as an additional covered person or organization will be primary and non-contributory with the University's insurance carrier. The Academy shall have a provision included in all policies requiring notice to the University, at least thirty (30) days in advance, upon termination or non-renewal of the policy for any reason other than nonpayment which would require a ten (10) day advance notice to the University. In addition, the Academy shall provide the Center copies of all insurance policies required by this Contract.

When changing insurance programs or carriers, the Academy must provide copies of the proposed policies to the Center at least thirty (30) days prior to the proposed change. The Academy shall not cancel or change its existing carrier without the prior review of the Center.

The University's insurance carrier periodically reviews the types and amounts of insurance coverage that the Academy must secure in order for the University to maintain insurance coverage for the authorization and oversight of the Academy. In the event that the University's insurance carrier requests additional changes in coverage identified in this Section 11.2, the Academy agrees to comply with any additional changes in the types and amounts of coverage requested by the University's insurance carrier within thirty (30) days after notice of the insurance coverage change.

The Academy may expend funds for payment of the cost of participation in an accident or medical insurance program to insure protection for pupils while attending school or participating in a school program or activity. Other insurance policies and higher minimums may be required depending upon academic offerings and program requirements.

Pursuant to Section 3.6 of these Terms and Conditions, the University requires that any Educational Service Provider or employee leasing company that enters into a contract with the Academy must obtain insurance coverage similar to the insurance coverage that is currently required for the Academy. Accordingly, any agreement between the Academy and an Educational Service Provider or employee leasing company shall contain a provision requiring the Educational Service Provider or employee leasing company to comply with the coverage requirements recommended by the University's insurance carrier. Furthermore, the agreement between the Educational Service Provider or employee leasing company and the Academy shall contain a provision stating that "in the event that the University's insurance carrier recommends any change in coverage by the Educational Service Provider or employee leasing company, the Educational Service Provider or employee leasing company agrees to comply with any changes in the type and amount of coverage as requested by the University or the University's insurance carrier within thirty (30) days after notice of the insurance coverage change."

Section 11.3. Legal Liabilities and Covenant Against Suit. The Academy acknowledges and agrees that it has no authority to extend the faith and credit of the University or to enter into a contract that would bind the University. The Academy also is limited in its authority to contract by the amount of funds obtained from the state school aid fund, as provided hereunder, or from other independent sources. The Academy hereby covenants not to sue the University Board, the University or any of its Trustees, officers,

employees, agents or representatives for any matters that arise under this Contract. The University does not assume any obligation with respect to any director, employee, agent, parent, guardian, student, or independent contractor of the Academy, and no such person shall have the right or standing to bring suit against the University Board, the University or any of its Trustees, employees, agents, or independent contractors as a result of the issuance, non-issuance, oversight, revocation, termination or suspension of this Contract.

Section 11.4. Lease or Deed for Proposed Site. The Academy shall provide to the Center copies of its proposed lease or deed for the premises in which the Academy shall operate. Following the Center's review, a copy of the Academy's lease or deed shall be incorporated into this Contract under Schedule 6 and in accordance with Article IX, as applicable.

Section 11.5. Certificate(s) of Use and Occupancy. The Academy Board shall: (i) ensure that the Academy's physical facilities comply with all fire, health and safety standards applicable to schools; and (ii) possess the necessary occupancy certificates for the Academy's physical facilities. The Academy Board shall not occupy or use any facility until approved for occupancy by the Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes. Copies of these Certificate(s) of Use and Occupancy shall be incorporated into this Contract under Schedule 6 and in accordance with Article IX, as applicable.

Section 11.6. New Building Construction or Renovations. The Academy shall not commence construction on a new school building or the major renovation of an existing school building unless the Academy consults on the plans of the construction or major renovation regarding school safety issues with the law enforcement agency that is or will be the first responder for that school building. School building includes either a building intended to be used to provide pupil instruction or a recreational or athletic structure or field used by pupils.

Section 11.7. Criminal Background and History Checks; Disclosure of Unprofessional Conduct. The Academy shall comply with section 1230 and 1230a of the Code concerning criminal background and criminal history checks for its teachers, school administrator(s), and for any other position requiring State Board approval. In addition, the Academy shall comply with section 1230b of the Code concerning the disclosure of unprofessional conduct by persons applying for Academy employment. This Section 11.7 shall apply to such persons irrespective of whether they are employed by the Academy or employed by another entity contracting with the Academy.

Section 11.8. Special Education. Pursuant to Section 1701a of the Code, the Academy shall comply with Article III, Part 29 of the Code, MCL 380.1701 et seq., concerning the provision of special education programs and services at the Academy as referenced in Contract Schedule 7c. Upon receipt, the Academy shall notify the Center of any due process or state complaint filed against the Academy or notice of state audit.

Section 11.9. Information Available to the Public and the Center.

- (a) Information to be provided by the Academy. In accordance with Applicable Law, the Academy shall make information concerning its operation and management, including without limitation information in Schedule 8, available to the public and the Center.
- (b) Information to be provided by Educational Service Provider. The agreement between the Academy and the Educational Service Provider shall contain a provision requiring the Educational Service Provider to make information concerning the operation and management of the Academy, including the information in Schedule 8, available to the Academy as deemed necessary by the Academy Board in order to enable the Academy to fully satisfy its obligations under paragraph 11.9 (a) above.



Section 11.10. Deposit of Public Funds by the Academy. The Academy Board agrees to comply with Section 1221 of the Revised School Code, being MCL 380.1221, regarding the deposit of all public or private funds received by the Academy. Such deposit shall be made within three (3) days after receipt of the funds by the Academy. Only Academy Board members or designated Academy Board employees may be a signatory on any Academy bank account.

Section 11.11. Nonessential Elective Course. If the Academy Board elects to provide nonessential elective courses to part-time pupils at a nonpublic school building, the Academy shall comply with Section 166b of the State School Aid Act of 1979, as amended, MCL 388.166b. Prior to providing instruction, the Academy Board shall ensure that the Academy has sufficient documentation to qualify for part-time pupil funding under the State School Aid Act. The provision of nonessential elective courses by the Academy shall be incorporated into Schedule 7c of this Contract by amendment pursuant to Article IX of these Terms and Conditions.

## **ARTICLE XII GENERAL TERMS**

Section 12.1. Notices. Any and all notices permitted or required to be given hereunder shall be deemed duly given: (i) upon actual delivery, if delivery is by hand; or (ii) upon receipt by the transmitting party of confirmation or answer back if delivery is by facsimile or electronic mail; or (iii) upon delivery into United States mail if delivery is by postage paid first class mail. Each such notice shall be sent to the respective party at the address indicated below or to any other address or person as the respective party may designate by notice delivered pursuant hereto:

If to the University Board:      The Governor John Engler Center for Charter Schools  
Attn: Executive Director  
Central Michigan University  
EHS 200  
Mt. Pleasant, MI 48859

General Counsel:                      General Counsel  
Central Michigan University  
Mt. Pleasant, MI 48859

Chief Financial Officer:              Vice President Finance & Admin. Services  
Central Michigan University  
Mt. Pleasant, MI 48859

If to the Academy:                      Academy Board President  
Summit Academy  
30100 Olmstead Road  
Flat Rock, MI 48134

Section 12.2. Severability. If any provision in this Contract is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Contract. If any provision of this Contract shall be or become in violation of any local, state or federal law, such provision shall be considered null and void, and all other provisions shall remain in full force and effect.

Section 12.3. Successors and Assigns. The terms and provisions of this Contract are binding on and shall inure to the benefit of the parties and their respective successors and permitted assigns.

Section 12.4. Entire Contract. Except as specifically provided in this Contract, this Contract sets forth the entire agreement between the University Board and the Academy with respect to the subject matter of this Contract. All prior contracts, representations, statements, negotiations, understandings, and undertakings are superseded by this Contract.

Section 12.5. Assignment. This Contract is not assignable by the Academy.

Section 12.6. Non-Waiver. Except as provided herein, no term or provision of this Contract shall be deemed waived and no breach or default shall be deemed excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to, or waiver of, a breach or default by the other, whether expressed or implied, shall constitute consent to, waiver of, or excuse for any different or subsequent breach or default.

Section 12.7. Governing Law. This Contract shall be governed and controlled by the laws of the State of Michigan as to interpretation, enforcement, validity, construction, and effect, and in all other respects.

Section 12.8. Counterparts. This Contract may be executed in any number of counterparts. Each counterpart so executed shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

Section 12.9. Term of Contract. This Contract is for a fixed term and shall terminate at the end of the Contract term without any further action of either the University Board or the Academy. This Contract shall commence on the date first set forth above and shall remain in full force and effect for a period of three (3) academic years and shall terminate on June 30, 2023, unless sooner revoked, terminated, or suspended pursuant to Article X of these Terms and Conditions. Pursuant to University Board policy, the standards by which the Academy may be considered for the issuance of a new contract will be guided by the following core questions:

Is the Academy's academic program successful?

Is the Academy's organization viable?

Is the Academy demonstrating good faith in following the terms of its charter and applicable law?

The Center shall establish the process and timeline for the issuance of a new contract. The standards for the issuance of a new contract shall include increases in academic achievement for all groups of pupils as measured by assessments and other objective criteria established by the University Board as the most important factor of whether to issue or not issue a new contract. Consistent with the Code, the University Board in its sole discretion may elect to issue or not issue a new contract to the Academy.

Section 12.10. Indemnification of University. As a condition to receiving a grant of authority from the University Board to operate a public school pursuant to the Terms and Conditions of this Contract, the Academy agrees to indemnify, defend and hold harmless the University Board, the University and its officers, employees, agents or representatives from and against all demands, claims, actions, suits, causes of action, losses, judgments, liabilities, damages, fines, penalties, forfeitures, or any other liabilities or losses of any kind whatsoever, including costs and expenses (not limited to reasonable attorney fees, expert and other professional fees) settlement and prosecution imposed upon or incurred by the University, and not caused by the sole negligence of the University, which arise out of or are in any manner connected with the University Board's approval of the public school academy application, the University Board's consideration of or issuance of a Contract, the Academy's preparation for or operation of a public school, or which are incurred as a result of the reliance by the University Board, the University and its officers, employees, agents or representatives upon information supplied by the Academy, or which arise out of the Academy's failure to comply with this Contract or Applicable Law. The foregoing provision shall not be

deemed a relinquishment or waiver of any kind of Section 7 of the Governmental Liability for Negligence Act, being Act No. 170, Public Acts of Michigan, 1964.

Section 12.11. Construction. This Contract shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Contract.

Section 12.12. Force Majeure. If any circumstances occur which are beyond the control of the parties, which delay or render impossible the obligations of one or both of the parties, the parties' obligations to perform such services shall be postponed for an equivalent period of time or shall be canceled, if such performance has been rendered impossible by such circumstances.

Section 12.13. No Third Party Rights. This Contract is made for the sole benefit of the Academy and the University Board. Except as otherwise expressly provided, nothing in this Contract shall create or be deemed to create a relationship between the parties hereto, or either of them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.

Section 12.14. Non-agency. It is understood that the Academy is not the agent of the University.

Section 12.15. University Board or the Center's General Policies on Public School Academies Shall Apply. Notwithstanding any provision of this Contract to the contrary, and with the exception of existing University Board or the Center policies regarding public school academies which shall apply immediately, University Board or the Center general policies clarifying procedure and requirements applicable to public school academies under this Contract, as from time to time adopted or amended, will automatically apply to the Academy, provided they are not inconsistent with provisions of this Contract. Before issuing general policies under this section, the University Board or the Center shall provide a draft of the proposed policies to the Academy Board. The Academy Board shall have at least thirty (30) days to provide comment to the Center on the proposed policies before such policies shall become effective.

Section 12.16. Survival of Provisions. The terms, provisions, and representations contained in Section 11.2, Section 11.3, Section 11.9, Section 12.10, Section 12.13 and any other provisions of this Contract that by their sense and context are intended to survive termination of this Contract shall survive.

Section 12.17. Termination of Responsibilities. Upon termination or revocation of the Contract, the University Board or its designee shall have no further obligations or responsibilities under this Contract to the Academy or any other person or persons in connection with this Contract. Upon termination or revocation of the Contract, the Academy may amend its articles of incorporation or bylaws as necessary to allow the Academy Board to: (a) take action to appoint Academy Board members in order to have a quorum necessary to take Academy Board action; or (b) effectuate a dissolution, provided that the Academy Board may not amend the articles of incorporation with regard to the disposition of assets upon dissolution.

Section 12.18. Disposition of Academy Assets Upon Termination or Revocation of Contract. Following termination or revocation of the Contract, the Academy shall follow the applicable wind-up and dissolution provisions set forth in the Academy's articles of incorporation, the Code, and Applicable Law.

Section 12.19. Student Privacy. In order to protect the privacy of students enrolled at the Academy, the Academy Board shall not:

- (a) Sell or otherwise provide to a for-profit business entity any personally identifiable information that is part of a pupil's education records. This subsection does not apply to any of the following situations:

- (i) for students enrolled in the Academy, providing such information to an ESP that has a contract with the Academy and whose contract has not been disapproved by the University;
  - (ii) providing the information as necessary for standardized testing that measures a student's academic progress and achievement; or
  - (iii) providing the information as necessary to a person that is providing educational or educational support services to the student under a contract with either the Academy or an educational management organization that has a contract with the Academy and whose contract has not been disapproved by the University.
- (b) The terms "education records" and "personally identifiable information" shall have the same meaning as defined in MCL 380.1136.

Section 12.20. Disclosure of Information to Parents and Legal Guardians.

- (a) Within thirty (30) days after receiving a written request from a student's parent or legal guardian, the Academy shall disclose without charge to the student's parent or legal guardian any personally identifiable information concerning the student that is collected or created by the Academy as part of the student's education records.
- (b) Except as otherwise provided in this subsection (b) and within thirty (30) days after receiving a written request from a student's parent or legal guardian, the Academy shall disclose to a student's parent or legal guardian without charge any personally identifiable information provided to any person, agency or organization. The Academy's disclosure shall include the specific information that was disclosed, the name and contact information of each person, agency, or organization to which the information has been disclosed; and the legitimate reason that the person, agency, or organization had in obtaining the information. The parental disclosure requirement does not apply to information that is provided:
  - (i) to the Department or CEPI;
  - (ii) to the student's parent or legal guardian;
  - (iii) by the Academy to the University Board, University, Center or to the ESP with which the Academy has a Management Agreement that has not been disapproved by the Center Director;
  - (iv) by the Academy to the Academy's intermediate school district or another intermediate school district providing services to Academy or the Academy's students pursuant to a written agreement;
  - (v) to the Academy by the Academy's intermediate school district or another immediate school district providing services to pupils enrolled in the Academy pursuant to a written agreement;
  - (vi) to the Academy by the University Board, University, Center;
  - (vii) to a person, agency, or organization with written consent from the student's parent or legal guardian, or from the student if the student is 18 years of age;
  - (viii) to a person, agency, or organization seeking or receiving records in accordance with an order, subpoena, or ex parte order issued by a court of competent jurisdiction;
  - (ix) to a person, agency, or organization as necessary for standardized testing that measures a student's academic progress and achievement; or
  - (x) in the absence of, or in compliance with, a properly executed opt-out form, as adopted by the Academy in compliance with section 1136(6) of the Code, pertaining to uses for which the Academy commonly would disclose a pupil's "directory information."
- (c) If the Academy considers it necessary to make redacted copies of all or part of a student's education records in order to protect personally identifiable information of another student, the Academy shall not charge the parent or legal guardian for the cost of those redacted copies.

- (d) The terms “education records,” “personally identifiable information,” and “directory information” shall have the same meaning as defined in MCL 380.1136.

Section 12.21. List of Uses for Student Directory Information; Opt Out Form; Notice to Student’s Parent or Legal Guardian.

- (a) The Academy shall do all of the following:
- (i) Develop a list of uses (the “Uses”) for which the Academy commonly would disclose a student’s directory information.
  - (ii) Develop an opt-out form that lists all of the Uses and allows a student’s parent or guardian to elect not to have the student’s directory information disclosed for one (1) or more Uses.
  - (iii) Present the opt-out form to each student’s parents or guardian within the first thirty (30) days of the school year and at other times upon request.
  - (iv) If an opt-out form is signed and submitted to the Academy by a student’s parent or guardian, then the Academy shall not include the student’s directory information in any of the Uses that have been opted out of in the opt-out form.
- (b) The term “directory information” shall have the same meaning as defined in MCL 380.1136.

Section 12.22. Partnership Agreement. If the Department and State School Reform/Redesign Office impose a partnership agreement on the Academy, the Academy shall work collaboratively with the Department, the State School Reform/Redesign Office and other partners to implement the partnership agreement. In the event that a provision in the partnership agreement is inconsistent with a provision in this Contract, this Contract shall control.

As the designated representative of the Central Michigan University Board of Trustees, I hereby issue this Contract to the Academy on the date set forth above.

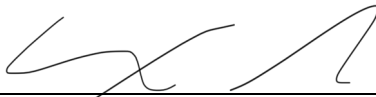
CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES

By: \_\_\_\_\_  
Tricia A. Keith, Chair

Date: \_\_\_\_\_

As the authorized representative of the Academy, I hereby certify that the Academy is able to comply with the Contract and all Applicable Law, and that the Academy, through its governing board, has approved and agreed to comply with and be bound by the terms and conditions of this Contract and All Applicable Law.

SUMMIT ACADEMY

By:  \_\_\_\_\_  
Board President

Date: 6/24/2020 \_\_\_\_\_

As the designated representative of the Central Michigan University Board of Trustees, I hereby issue this Contract to the Academy on the date set forth above.

CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES

By: Tricia A. Keith  
Tricia A. Keith, Chair

Date: May 28, 2020

As the authorized representative of the Academy, I hereby certify that the Academy is able to comply with the Contract and all Applicable Law, and that the Academy, through its governing board, has approved and agreed to comply with and be bound by the terms and conditions of this Contract and All Applicable Law.

SUMMIT ACADEMY

By: \_\_\_\_\_  
Board President

Date: \_\_\_\_\_

**CONTRACT SCHEDULES**

|   | <u>Schedules</u> |
|---|------------------|
| Restated Articles of Incorporation .....                | 1                |
| Amended Bylaws .....                                    | 2                |
| Fiscal Agent Agreement .....                            | 3                |
| Oversight, Compliance and Reporting Agreement .....     | 4                |
| Description of Staff Responsibilities .....             | 5                |
| Physical Plant Description .....                        | 6                |
| Required Information for a Public School Academy.....   | 7                |
| Information Available to the Public and The Center..... | 8                |



**CONTRACT SCHEDULE 1**

**RESTATED ARTICLES OF INCORPORATION**

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**FILING ENDORSEMENT**

**This is to Certify that the RESTATED ARTICLES OF INCORPORATION - NONPROFIT**

**for**

**SUMMIT ACADEMY**

**ID NUMBER: 742355**

**received by facsimile transmission on August 21, 2017 is hereby endorsed.**

**Filed on August 21, 2017 by the Administrator.**

**This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.**



*Sent by Facsimile Transmission*

**In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 21st day of August, 2017.**

*Julia Dale*

**Julia Dale, Director  
Corporations, Securities & Commercial Licensing Bureau**

| MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS<br>CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU |  |       |
|---|--|-------|
| Date Received   |  |       |
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| Name  | EFFECTIVE DATE:<br><br>742355  |       |
| Timothy A. Stoepker, Esq.   |  |       |
| Address   |  |       |
| 200 Ottawa Ave. N.W., Suite 1000  |  |       |
| City  | State  | Zip   |
| Grand Rapids  | MI   | 49503 |

**RESTATED ARTICLES OF INCORPORATION  
For Use by Domestic Nonprofit Corporations**

OF

**SUMMIT ACADEMY**

Pursuant to the provisions of the Michigan Nonprofit Corporation Act (Act 162) of 1982, as amended (the "Act"), being MCL 450.2101 et seq. and Revised School Code (the "Code") as amended, being Sections 380.501 to 380.507 of the Michigan Compiled Laws, the undersigned corporation executes the following Restated Articles:

The present name of the corporation is: Summit Academy.

The corporation identification number ("CID") assigned by the Bureau is: 742355.

The corporation has used no other names.

The date of filing the original Articles of Incorporation was: May 21, 1996.

The following Restated Articles of Incorporation supersede the Articles of Incorporation and shall be the Articles of Incorporation for the corporation:

**ARTICLE I**

The name of the corporation is: Summit Academy.

The authorizing body for the corporation is: Central Michigan University Board of Trustees.

## ARTICLE II

The purpose or purposes for which the corporation is organized are:

1. The corporation is organized for the purpose of operating as a public school academy in the State of Michigan pursuant to the Code.

2. The corporation, including all activities incident to its purposes, shall at all times be conducted so as to be a governmental entity pursuant to Section 115 of the United States Internal Revenue Code ("IRC") or any successor law. Notwithstanding any other provision of these Restated Articles, the corporation shall not carry on any other activity not permitted to be carried on by a governmental instrumentality exempt from federal income tax under Section 115 of the IRC or by a nonprofit corporation organized under the laws of the State of Michigan and subject to a Contract authorized under the Code.

## ARTICLE III

The corporation is organized on a non-stock basis.

Description:

The corporation is to be financed under the following general plan:

- a. State school aid payments received pursuant to the State School Aid Act of 1979 or any successor law.
- b. Federal funds.
- c. Donations.
- d. Fees and charges permitted to be charged by public school academies.
- e. Other funds lawfully received.

The corporation is organized on a directorship basis.

## ARTICLE IV

The name of the resident agent at the registered office is Timothy A. Stoepker, Esq.

The address of its registered office in Michigan is: 200 Ottawa Ave. N.W., Suite 1000, Grand Rapids, MI 49503.

The mailing address of the registered office in Michigan is the same.

#### ARTICLE V

The corporation is a governmental entity.

#### ARTICLE VI

The corporation and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of Act No. 170 of the Public Acts of 1964, being section 691.1407 of the Michigan Compiled Laws.

#### ARTICLE VII

Before execution of a Contract to charter a public school academy between the corporation and Central Michigan University Board of Trustees (the "University Board"), the method of selection, length of term, and the number of members of the Board of Directors of the corporation shall be approved by a resolution of the University Board as required by the Code.

#### ARTICLE VIII

The Board of Directors shall have all the powers and duties permitted by law to manage the business, property and affairs of the corporation.

#### ARTICLE IX

The officers of the corporation shall be a President, Vice-President, Secretary and a Treasurer, each of whom shall be a member of the Board of Directors and shall be selected by the Board of Directors. The Board of Directors may select one or more assistants to the Secretary or Treasurer, and may also appoint such other agents as it may deem necessary for the transaction of the business of the corporation.

#### ARTICLE X

No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its board, directors, officers or other private persons, or organization organized and operated for a profit (except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in the furtherance of the purposes set forth in Article II hereof). Notwithstanding any other provision of these Restated Articles, the corporation shall not carry on any other activities not permitted to be carried on by a governmental entity exempt from federal income tax under section 115 of the IRC, or comparable provisions of any successor law.

To the extent permitted by law, upon the dissolution of the corporation, the board shall after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation to the University Board for forwarding to the state school aid fund established under article IX, section 11 of the Constitution of the State of Michigan of 1963, as amended.

## ARTICLE XI

These Restated Articles of Incorporation shall not be amended except by the process provided in Article IX of the Terms and Conditions incorporated as part of the Contract. This process is as follows:

The corporation, by a majority vote of its Board of Directors, may, at any time, propose specific changes to these Restated Articles of Incorporation or may propose a meeting to discuss potential revision to these Restated Articles of Incorporation. The proposal will be made to the University Board through its designee. The University Board delegates to The Governor John Engler Center for Charter Schools' ("The Center") Executive Director the review and approval of changes or amendments to these Restated Articles of Incorporation. In the event that a proposed change is not accepted by The Center's Executive Director, the University Board shall consider and vote upon a change proposed by the corporation following an opportunity for a written and oral presentation to the University Board by the corporation.

At any time and for any reason, the University Board or an authorized designee may propose specific changes to these Restated Articles of Incorporation or may propose a meeting to discuss potential revision. The corporation's Board of Directors may delegate to an officer of the corporation the review and negotiation of changes or amendments to these Restated Articles of Incorporation. The Restated Articles of Incorporation shall be amended as requested by the University Board or an authorized designee upon a majority vote of the corporation's Board of Directors.

Amendments to these Restated Articles of Incorporation take effect only after they have been approved by the corporation's Board of Directors and by the University Board or The Center's Executive Director, and the amendments are filed with the Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services. In addition, the corporation shall file with the amendment a copy of the University Board's or The Center's Executive Director's approval of the amendment.

Upon termination or revocation of the Contract, the Academy may amend its articles of incorporation as necessary to allow the Academy Board to: (a) take action to appoint Academy Board members in order to have a quorum necessary to take Academy Board action; or (b) effectuate a dissolution, provided that the Academy Board may not amend the articles of incorporation with regard to the disposition of assets upon dissolution.


## ARTICLE XII

The definitions set forth in the Terms and Conditions incorporated as part of the Contract shall have the same meaning in these Restated Articles of Incorporation.

**ADOPTION OF ARTICLES**

These Restated Articles of Incorporation were duly adopted on the 14 day of August 2017, in accordance with the provisions of Section 641 of the Act. These Restated Articles of Incorporation restate, integrate and do further amend the provisions of the Articles of Incorporation and were duly adopted by the directors. The necessary number of votes were cast in favor of these Restated Articles of Incorporation.

Signed this 14<sup>th</sup> day of August, 2017.

By:   
Ms. Deborah Dwyck, President

**CONTRACT SCHEDULE 2**

**AMENDED BYLAWS**



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**AMENDED BYLAWS  
OF  
SUMMIT ACADEMY**

**ARTICLE I  
NAME**

This organization shall be called Summit Academy (the "Academy" or the "corporation").

**ARTICLE II  
FORM OF ACADEMY**

The Academy is organized as a non-profit, non-stock, directorship corporation.

**ARTICLE III  
OFFICES**

Section 1. Principal Office. The principal office of the Academy shall be located in the State of Michigan.

Section 2. Registered Office. The registered office of the Academy may be the same as the principal office of the Academy, but in any event must be located in the State of Michigan, and be the business office of the resident agent, as required by the Michigan Non-Profit Corporation Act. Changes in the resident agent and registered address of the Academy must be reported to the Michigan Department of Licensing and Regulatory Affairs and to The Governor John Engler Center for Charter Schools ("the Center.")

**ARTICLE IV  
BOARD OF DIRECTORS**

Section 1. General Powers. The business, property and affairs of the Academy shall be managed by the Academy Board of Directors ("Academy Board"). The Academy Board may exercise any and all of the powers granted to it under the Michigan Non-Profit Corporation Act or pursuant to Part 6A of the Revised School Code ("Code"). The Academy Board may delegate such powers to the officers and committees of the Academy Board as it deems necessary, so long as such delegation is consistent with the Articles, these Bylaws, the Contract and Applicable Law.

Section 2. Method of Selection and Appointment. The Central Michigan University Board of Trustees ("University Board") shall prescribe the method of appointment for members of an Academy's Board of Directors. The Center Director is authorized to develop and administer an academy board selection and appointment process that includes an *Application for Public School Academy Board Appointment* and is in accord with these policies:

- a. The University Board shall appoint the initial and subsequent Academy Board of Directors by resolution, except as prescribed by subparagraph d. The Center Director shall recommend qualified individuals to the University Board.
- b. The Academy Board of Directors, by resolution and majority vote, shall nominate its subsequent members, except as provided otherwise. The Academy Board of Directors shall recommend to the Center Director at least one nominee for each vacancy. Nominees shall

submit the *Application for Public School Academy Board Appointment* for review by the Center. The Center Director may or may not recommend the appointment of a nominee submitted by the Academy board. If the Center Director does not recommend the appointment of a nominee submitted by the Academy Board, he/she may select and recommend another nominee or may request the Academy Board submit a new nominee for consideration.

- c. An individual appointed to fill a vacancy created other than by the expiration of a term shall be appointed for the unexpired term of that vacant position.
- d. Under exigent conditions, and with the approval of the University Board's chair and the president, the Center Director may appoint a qualified individual to an Academy's board of directors. All appointments made under this provision must be presented to the University Board for final determination at its next regularly scheduled meeting. The University Board reserves the right to review, rescind, modify, ratify, or approve any appointments made under this provision.

Section 3. Length of Term. The Director of an Academy Board shall serve at the pleasure of the University Board. Terms of the initial positions of the Academy Board of Directors shall be staggered in accordance with *The Academy Board of Directors Table of Staggered Terms and Appointments* established and administered by the Center Director. Subsequent appointments shall be for a term of office not to exceed four (4) years, except as prescribed by *The Academy Board of Directors Table of Staggered Terms and Appointments*.

Section 4. Number of Director Positions. The number of director positions on the Academy Board shall not be less than five (5) nor more than nine (9) as determined by the University Board. If the Academy Board fails to maintain its full membership by making appropriate and timely nominations, the Center Director may deem that failure an exigent condition.

Section 5. Qualifications of Academy Board Members. To be qualified to serve on an Academy's Board of Directors, a person shall, among other things: (a) be a citizen of the United States; (b) be a resident of the State of Michigan; (c) submit all materials requested by the Center including, but not limited to, the *Application for Public School Academy Board Appointment* which must include authorization to process a criminal background check; and (d) annually submit a conflict of interest disclosure as prescribed by the Center.

The members of the Academy Board shall not include (a) employees of the Academy; (b) any director, officer, or employee of a service provider that contracts with the Academy; (c) a Central Michigan University official or employee, as a representative of Central Michigan University.

Section 6. Oath of Public Office. All members of the Academy Board must take the constitutional oath of office and sign the *Oath of Public Office* before beginning their service. The *Oath of Public Office* shall be filed with the Center.

Section 7. Tenure. Each Director shall hold office until the Director's replacement, death, resignation, removal or until the expiration of the term, whichever occurs first.

Section 8. Removal and Suspension. If the University Board determines that an Academy Board member's service in office is no longer necessary, then the University Board may remove an Academy Board member with or without cause and shall specify the date when the Academy Board member's service ends. An Academy Board member may also be removed from office for cause by a two-thirds (2/3) vote of the Academy's Board.

With the approval of the University Board's chair and the University President, the Center Director may suspend an Academy Board member's service, if in his/her judgment the person's continued presence would constitute a risk to persons or property, or would seriously impair the operation of the Academy. Any suspension made under this provision must be presented to the University Board for final determination at its next regularly scheduled meeting. The University Board reserves the right to review, rescind, modify, ratify, or approve any suspensions made under this provision.

Section 9. Resignation. Any Director may resign at any time by providing written notice to the corporation or by communicating such intention (orally or in writing) to the Center. Notice of resignation will be effective upon receipt or at a subsequent time if designated in a written notice. A successor shall be appointed as provided in Section 2 of this Article.

Section 10. Board Vacancies. A Board of Director vacancy shall occur because of death, resignation, removal, failure to maintain residency in the State of Michigan, disqualification or as otherwise specified in the Code. Any vacancy shall be filled as provided in Section 2 of this Article.

Section 11. Compensation. A Director of the Academy shall serve as a volunteer Director. By resolution of the Board, the Directors may be reimbursed for their reasonable expenses incident to their duties.

## **ARTICLE V MEETINGS**

Section 1. Annual and Regular Meetings. The Academy Board shall hold an annual meeting each year. The Academy Board must provide, by resolution, the time and place, within the State of Michigan, for the holding of regular monthly meetings. The Academy Board shall provide notice of the annual and all regular meetings as required by the Open Meetings Act.

Section 2. Special Meetings. Special meetings of the Academy Board may be called by or at the request of any Director. The person or persons authorized to call special meetings of the Academy Board may fix the place within the State of Michigan for holding any special meeting of the Academy Board called by them, and, if no other place is fixed, the place of meeting shall be the principal business office of the corporation in the state of Michigan. The corporation shall provide notice of all special meetings as required by the Open Meetings Act.

Section 3. Notice; Waiver. The Academy Board must comply with the notice provisions of the Open Meetings Act. In addition, notice of any meeting shall be given to each Director stating the time and place of the meeting, delivered personally, mailed, sent by facsimile or electronic mail to the Director's business address. Any Director may waive notice of any meeting by written statement, facsimile or electronic mail sent by the Director, signed before or after the holding of the meeting. The attendance of a Director at a meeting constitutes a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 4. Quorum. In order to legally transact business, the Academy Board shall have a quorum physically present at a duly called meeting of the Academy Board. A "quorum" shall be defined as follows:

# of Academy Board Positions

Five (5)  
Seven (7)  
Nine (9)

# Required for Quorum

Three (3)  
Four (4)  
Five (5)

Section 5. Manner of Acting. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Academy Board. No member of the Board of Directors may vote by proxy, by way of a telephone conference or any other electronic means of communication.

Section 6. Open Meetings Act. All meetings of the Academy Board, shall at all times be in compliance with the Open Meetings Act.

Section 7. Presumption of Assent. A Director of the Academy Board who is present at a meeting of the Academy Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless that Director's dissent shall be entered in the minutes of the meeting or unless that Director shall file a written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the corporation immediately after the adjournment of the meeting. This right to dissent shall not apply to a Director who voted in favor of such action.

**ARTICLE VI  
COMMITTEES**

Section 1. Committees. The Academy Board, by resolution, may designate one or more committees. Each committee is to consist of one or more Directors selected by the Academy Board. As provided in the resolution as initially adopted, and as thereafter supplemented or amended by further resolution, the committees shall have such powers as delegated by the Academy Board, except (i) filling of vacancies in the officers of the Academy Board or committees created pursuant to this Section; (ii) amending the Articles of Incorporation or Bylaws; or (iii) any action the Academy Board cannot lawfully delegate under the Articles, Bylaws or Applicable Law. All committee meetings shall at all times be in compliance with the Open Meetings Act. Each committee shall fix its own rules governing the conduct of its activities and shall make such reports to the Academy Board of its activities as the Academy Board may request.

**ARTICLE VII  
OFFICERS OF THE BOARD**

Section 1. Number. The officers of the Academy shall be a President, Vice-President, Secretary, Treasurer, and such assistant Treasurers and assistant Secretaries as may be selected by the Academy Board.

Section 2. Election and Term of Office. The Academy Board shall elect the initial officers at its first duly noticed meeting. Thereafter, the officers of the Academy shall be elected annually by the Academy Board. If the election of officers is not held at the annual meeting, the election shall be held as soon thereafter as may be convenient. Each officer shall hold office while qualified or until the officer resigns or is removed in the manner provided in Section 3.

Section 3. Removal. Any officer or agent elected or appointed by the Academy Board may be removed by the Academy Board whenever in its judgment the best interests of the corporation would be served thereby.

Section 4. Vacancies. A vacancy in any office shall be filled by appointment by the Academy Board for the unexpired portion of the term.

Section 5. President. The President of the Academy shall be a member of the Academy Board. The President of the corporation shall preside at all meetings of the Academy Board. If there is not a President, or if the President is absent, then the Vice-President shall preside. If the Vice-President is absent, then a temporary chair, chosen by the members of the Academy Board attending the meeting shall preside. The President shall, in general, perform all duties incident to the office of President of the Board as may be prescribed by the Academy Board from time to time.

Section 6. Vice-President. The Vice-President of the Academy shall be a member of the Academy Board. In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice-President shall perform the duties of President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties as from time to time may be assigned to the Vice-President by the President or by the Academy Board.

Section 7. Secretary. The Secretary of the Academy shall be a member of the Academy Board. The Secretary shall: (a) keep the minutes of the Academy Board meetings in one or more books provided for that purpose; (b) see that all notices, including those notices required under the Open Meetings Act, are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all authorized documents; (d) keep a register of the post office address of each Director; and (e) perform all duties incident to the office of Secretary and other duties assigned by the President or the Academy Board.

Section 8. Treasurer. The Treasurer of the Academy shall be a member of the Academy Board. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the corporation; (b) keep accurate books and records of corporate receipts and disbursements; (c) deposit all moneys and securities received by the corporation in such banks, trust companies or other depositories as shall be selected by the Board; (d) complete all required corporate filings; (e) assure that the responsibilities of the fiscal agent to the corporation are properly carried out; and (f) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Academy Board.

Section 9. Assistants and Acting Officers. The Assistants to the officers, if any, selected by the Academy Board, shall perform such duties and have such authority as shall from time to time be delegated or assigned to them by the Secretary or Treasurer or by the Academy Board. The Academy Board shall have the power to appoint any member of the Academy Board to perform the duties of an officer whenever, for any reason, it is impractical for such officer to act personally. Such acting officer so appointed shall have the powers of and be subject to all the restrictions upon the officer to whose office the acting officer is so appointed except as the Academy Board may by resolution otherwise determine.

Section 10. Salaries. Officers of the Board, as Directors of the corporation, may not be compensated for their services. By resolution of the Academy Board, officers may be reimbursed for reasonable expenses incident to their duties.

Section 11. Filling More Than One Office. Subject to the statute concerning the Incompatible Public Offices, Act No. 566 of the Public Acts of 1978, being Sections 15.181 to 15.185 of the Michigan Compiled Laws, any two offices of the corporation except those of President and Vice-President may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one capacity.

**ARTICLE VIII  
CONTRACTS, LOANS, CHECKS AND DEPOSITS;  
SPECIAL CORPORATE ACTS**

Section 1. Contracts. The Academy Board may authorize any officer or officers, agent or agents, to enter into any contract, to execute and deliver any instrument, or to acknowledge any instrument required by law to be acknowledged in the name of and on behalf of the corporation. Such authority may be general or confined to specific instances, but the appointment of any person other than an officer to acknowledge an instrument required by law to be acknowledged should be made by instrument in writing. When the Academy Board authorizes the execution of a contract or of any other instrument in the name of and on behalf of the corporation, without specifying the executing officers, the President or Vice-President, and the Secretary or Treasurer may execute the same and may affix the corporate seal thereto. No contract entered into, by or on behalf of the Academy Board, shall in any way bind Central Michigan University or impose any liability on Central Michigan University, its trustees, officers, employees or agents.

Section 2. Loans. No loans shall be contracted on behalf of the Academy and no evidences of indebtedness shall be issued in its name unless authorized by a prior resolution of the Academy Board. Such authority shall be confined to specific instances. No loan, advance, overdraft or withdrawal by an officer or Director of the corporation, shall be made or permitted unless approved by the Academy Board. No loan entered into, by or on behalf of the Academy Board, shall in any way be considered a debt or obligation of Central Michigan University or impose any liability on Central Michigan University, its trustees, officers, employees or agents.

Section 3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Academy, shall be signed by Academy Board members or Academy Board employees, which shall not include employees of the Academy Board's Educational Service Provider, and in such manner as shall from time to time be determined by resolution of the Academy Board.

Section 4. Deposits. All funds of the Academy shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Academy Board may select, provided that such financial institution is eligible to be a depository of surplus funds under Section 1221 of the Revised School Code, being Section 380.1221 of the Michigan Compiled Laws.

Section 5. Voting of Gifted, Bequested or Transferred Securities Owned by this Corporation. Subject always to the specific directions of the Academy Board, any shares or other securities issued by any other corporation and owned or controlled by this corporation may be voted at any meeting of security holders of such other corporation by the President of this corporation or by proxy appointed by the President, or in the absence of the President and the President's proxy, by the Secretary or Treasurer of this corporation or by proxy appointed by the Secretary or Treasurer. Such proxy or consent in respect to any shares or other securities issued by any other corporation and owned by this corporation shall be executed in the name of this corporation by the President, the Secretary or the Treasurer of this corporation without necessity of any authorization by the Academy Board, affixation of corporate seal or countersignature or attestation by another officer. Any person or persons designated in the manner above stated as the proxy or proxies of this corporation shall have full right, power and authority to vote the shares or other securities



issued by such other corporation and owned by this corporation the same as such shares or other securities might be voted by this corporation. This section shall in no way be interpreted to permit the corporation to invest any of its surplus funds in any shares or other securities issued by any other corporation. This section is intended to apply, however, to all gifts, bequests or other transfers of shares or other securities issued by any other corporation which are received by the corporation.

Section 6. Contracts Between Corporation and Related Persons. As required by Applicable Law, any Director, officer or employee of the Academy, who enters into a contract with the Academy, that meets the definition of contract under the statute on Contracts of Public Servants with Public Entities, Act No. 317 of the Public Acts of 1968, being sections 15.321 to 15.330 of the Michigan Compiled Laws, shall comply with the public disclosure requirements set forth in Section 3 of the statute.

The University Board authorizes the Academy Board to employ or contract for personnel according to the position information outlined in Schedule 5. However, the Academy Board shall prohibit any individual from being employed by the Academy, an educational service provider or an employee leasing company involved in the operation of the Academy, in more than one (1) full-time position and simultaneously being compensated at a full-time rate for each of these positions. An employee hired by the Academy shall be an employee of the Academy for all purposes and not an employee of the University for any purpose. With respect to Academy employees, the Academy shall have the power and responsibility to (i) select and engage employees; (ii) pay their wages, benefits, and applicable taxes; (iii) dismiss employees; and (iv) control the employees' conduct, including the method by which the employee carries out his or her work. The Academy Board shall be responsible for carrying workers' compensation insurance and unemployment insurance for its employees. The Academy Board may contract with an educational service provider or an employee leasing company to provide services or to provide personnel to perform services or work at the Academy. Before entering into an agreement with an educational service provider or an employee leasing company to perform services or to provide personnel to perform services or work at the Academy, the Academy Board must first comply with the Educational Service Provider Policies issued by the Center. A copy of the agreement between the Academy Board and the educational service provider or employee leasing company shall be included as part of Schedule 5.

The Academy shall comply with the Incompatible Public Offices statute, Act No. 566 of the Public Acts of 1978, of the Michigan Compiled Laws, and the Contracts of Public Servants With Public Entities statute, Act No. 371 of the Public Acts of 1968, of the Michigan Compiled Laws. The Academy Board shall ensure compliance with Applicable Law relating to conflicts of interest. Language in this Section controls over section 1203 of the Code. The following shall be deemed prohibited conflicts of interest:

- (a) An individual simultaneously serving as an Academy Board member and an owner, officer, director, employee or consultant of an educational service provider or an employee leasing company, or a subcontractor to an Educational Service Provider or an employee leasing company that has an ESP Agreement with the Academy;
- (b) An individual simultaneously serving as an Academy Board member and an Academy employee;
- (c) An individual simultaneously serving as an Academy Board member and an independent contractor to the Academy;
- (d) An individual simultaneously serving as an Academy Board member and a member of the governing board of another public school;

- (e) An individual simultaneously serving as an Academy Board member and a University official, employee, or paid consultant, as a representative of the University; and
- (f) An individual simultaneously serving as an Academy Board member and having an ownership or financial interest in any real or personal property leased or subleased to the Academy.

No person shall be appointed or reappointed to serve as an Academy Board member if the person's mother, mother-in-law, father, father-in-law, son, son-in-law, daughter, daughter-in-law, sister, sister-in-law, brother, brother-in-law, spouse or same-sex domestic partner:

- (a) Is employed by the Academy;
- (b) Works at or is assigned to work at the Academy;
- (c) Has an ownership, officer, policymaking, managerial, administrative non-clerical or other significant role with the Academy's educational service provider or employee leasing company; and
- (d) Has an ownership or financial interest in any school building lease or sublease agreement with the Academy.

The Academy Board shall require each individual who works at the Academy to annually disclose any familial relationship with any other individual who works at, or provides services to, the Academy. For purposes of this sub-section, familial relationship means a person's mother, mother-in-law, father, father-in-law, son, son-in-law, daughter, daughter-in-law, sister, sister-in-law, brother, brother-in-law, spouse or same-sex domestic partner.

## **ARTICLE IX INDEMNIFICATION**

To the extent permitted by Applicable Law, each person who is or was a Director, officer or member of a committee of the Academy and each person who serves or has served at the request of the Academy as a trustee, director, officer, partner, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise, may be indemnified by the Academy. The corporation may purchase and maintain insurance on behalf of any such person against any liability asserted against and incurred by such person in any such capacity or arising out of his status as such, whether or not the corporation would have power to indemnify such person against such liability under the preceding sentence. The corporation may, to the extent authorized from time to time by the Academy Board, grant rights to indemnification to any employee or agent of the corporation.

## **ARTICLE X FISCAL YEAR**

The fiscal year of the corporation shall begin on the first day of July in each year.

**ARTICLE XI  
AMENDMENTS**

These Amended Bylaws may be altered, amended or repealed and new Amended Bylaws may be adopted by obtaining (a) the affirmative vote of a majority of the Academy Board at any regular or special meeting of the Academy Board, if a notice setting forth the terms of the proposal has been given in accordance with the notice requirements of these Amended Bylaws and applicable law, and (b) the written approval of the changes or amendments by the Center Director. In the event that a proposed change is not accepted by the Center Director, the University Board may consider and vote upon a change proposed by the corporation following an opportunity for a written presentation to the University Board by the Academy Board. These Amended Bylaws and any amendments to them take effect only after they have been approved by both the Academy Board and by the Center Director.


Upon termination or revocation of the Contract, the Academy may amend its Bylaws as necessary to allow the Academy Board to: (a) take action to appoint Academy Board members in order to have a quorum necessary to take Academy Board action; or (b) effectuate a dissolution, provided that the Academy Board may not amend the Bylaws with regard to the disposition of assets upon dissolution.

**ARTICLE XII  
TERMS AND CONDITIONS DEFINITIONS**

The definitions set forth in the Terms and Conditions incorporated as part of the Contract shall have the same meaning in these Amended Bylaws.

**CERTIFICATION**

The Board certifies that these Amended Bylaws were adopted as and for the Bylaws of a Michigan corporation in an open and public meeting, by the Academy Board on the 22 day of June, 2020.

  
Secretary David R. Edwards

**CONTRACT SCHEDULE 3**  
**FISCAL AGENT AGREEMENT**

**SCHEDULE 3**

**FISCAL AGENT AGREEMENT**

This Agreement is part of the Contract issued by the Central Michigan University Board of Trustees ("University Board"), an authorizing body as defined by the Revised School Code, as amended (the "Code"), to Summit Academy ("Academy"), a public school academy.

**Preliminary Recitals**

WHEREAS, pursuant to the Code and the Contract, the University Board, as authorizing body, is the fiscal agent for the Academy, and

WHEREAS, the University Board is required by law to forward any State School Aid Payments received from the State of Michigan ("State") on behalf of the Academy to the Academy,

NOW, THEREFORE, in consideration of the premises set forth below, the parties agree to the following:

**ARTICLE I**  
**DEFINITIONS AND INTERPRETATIONS**

Section 1.1. Definitions. Unless otherwise provided, or unless the context requires otherwise, the following terms shall have the following definitions:

"Academy Account" means an account established by the Academy Board for the receipt of State School Aid Payments at a bank, savings and loan association, or credit union which has not been deemed ineligible to be a depository of surplus funds under Section 6 Act No. 105 of the Public Acts of 1855, being Section 21.146 of the Michigan Compiled Laws.

"Agreement" means this Fiscal Agent Agreement.

"Fiscal Agent" means the University Board or an officer or employee of Central Michigan University as designated by the University Board.

"Other Funds" means any other public or private funds which the Academy receives and for which the University Board voluntarily agrees to receive and transfer to the Academy.

"State School Aid Payment" means any payment of money the Academy receives from the State School Aid Fund established pursuant to Article IX, Section 11 of the Michigan Constitution of 1963 or under the State School Aid Act of 1979, as amended.

"State" means the State of Michigan.

"State Treasurer" means the office responsible for issuing funds to public school academies for State School Aid Payments pursuant to the State School Aid Act of 1979, as amended.

**ARTICLE II**  
**FISCAL AGENT DUTIES**

Section 2.1. Receipt of State School Aid Payments and Other Funds. The University Board is the Fiscal Agent for the Academy for the limited purpose of receiving State School Aid Payments. By separate agreement, the University Board and the Academy may also agree that the University will receive Other Funds for transfer to the Academy. The Fiscal Agent will receive State School Aid Payments from the State, as provided in Section 3.2.

Section 2.2. Transfer to Academy. Except as provided in Article X of the Terms and Conditions and in the Oversight Agreement, the Fiscal Agent shall transfer all State School Aid Payments and all Other Funds received on behalf of the Academy to the Academy within ten (10) business days of receipt or as otherwise required by the provisions of the State School Aid Act of 1979 or applicable State Board rules. The State School Aid Payments and all Other Funds shall be transferred into the Account designated by a resolution of the Board of Directors of the Academy and by a method of transfer acceptable to the Fiscal Agent.

Section 2.3. Limitation of Duties. The Fiscal Agent has no responsibilities or duties to verify the Academy's pupil membership count, as defined in the State School Aid Act of 1979, as amended, or to authorize, to approve or to determine the accuracy of the State Aid School Payments received on behalf of the Academy from the State Treasurer. The duties of the Fiscal Agent are limited to the receipt and transfer to the Academy of State School Aid Payments and Other Funds received by the Academy. The Fiscal Agent shall have no duty to monitor, account for or approve expenditures made by the Academy Board.

Section 2.4. Academy Board Requests for Direct Intercept of State School Aid Payments. If the Academy Board (i) authorizes a direct intercept of a portion of its State School Aid Payments from the State to a third party account for the payment of Academy debts and liabilities; or (ii) assigns or directs that a portion of its State School Aid Payments be forwarded by the Fiscal Agent to a third party account for the payment of Academy debts and liabilities, then Academy shall submit to The Governor John Engler Center for Charter Schools at Central Michigan University for review and consideration: (i) a copy of the Academy Board's resolution authorizing the direct intercept or the assignment or direction of State School Aid Payments; (ii) a State School Aid Payment Agreement and Direction document that is in a form and content acceptable to the Fiscal Agent; and (iii) other documents as required. The Center reserves the right to not acknowledge in writing any State School Aid Payment Agreement and Direction that is not in a form and content acceptable to the Fiscal Agent. The State School Aid Payment and Direction document shall include language that the third party lender or trustee acknowledges and consents to the transfer of State School Aid Payments into the Academy's dissolution account, as set forth in Article X of the Terms and Conditions. Any unspent funds remaining in the Academy dissolution account after payment of all wind-up and dissolution expenses shall be returned to the Academy.

**ARTICLE III**  
**STATE DUTIES**

Section 3.1 Eligibility for State School Aid Payments. The State, through its Department of Education, has sole responsibility for determining the eligibility of the Academy to receive State School Aid Payments. The State, through its Department of Education, has sole responsibility for determining the amount of State School Aid Payments, if any, the Academy shall be entitled to receive.

Section 3.2. State School Aid Payment Overpayments and Penalties. The State, through its Department of Education, has sole responsibility for determining State School Aid Payment overpayments to the Academy and the method and time period for repayment by the Academy. The State, through its Department of Education, has sole responsibility for assessing State School Aid penalties against the Academy for noncompliance with the Code and the State School Aid Act of 1979, as amended.

Section 3.3. Method of Payment. Each State School Aid Payment for the Academy will be made to the Fiscal Agent by the State Treasurer by issuing a warrant and delivering the warrant to the Fiscal Agent by electronic funds transfer into an account specified by the Fiscal Agent, or by such other means deemed acceptable to the Fiscal Agent. The State shall make State School Aid Payments at the times specified in the State School Aid Act of 1979, as amended.

#### **ARTICLE IV** **ACADEMY DUTIES**

Section 4.1. Compliance with State School Aid Act. In order to assure that funds are available for the education of pupils, an Academy shall comply with all applicable provisions of the State School Aid Act of 1979, as amended.

Section 4.2. Academy Account. The Academy is authorized to establish an Account in the name of the Academy. Signatories to the Account shall be current Academy Board members and/or Academy Board employees, which shall not include employees of the Academy Board's Educational Service Provider, as shall from time to time be determined by resolution of the Academy Board. The Academy Board is authorized to approve withdrawals and transfers from any Account established in the name of the Academy. Any authorization approved by the Academy Board for automatic withdrawals or transfers from an Academy Account may only be terminated or amended by the Academy Board.

Section 4.3. Expenditure of Funds. The Academy may expend funds that it receives from the State School Aid Fund for any purpose permitted by the State School Aid Act of 1979 and may enter into contracts and agreements determined by the Academy as consistent with the purposes for which the funds were appropriated.

Section 4.4. Mid-Year Transfers. Funding for students transferring into or out of the Academy during the school year shall be in accordance with the State School Aid Act of 1979 or applicable State Board rules.

Section 4.5. Repayment of Overpayment. The Academy shall be directly responsible for reimbursing the State for any overpayment of State School Aid Payments or any State School Aid penalties. At its option, the State may reduce subsequent State School Aid Payments by the amount of the overpayment or penalty or seek collection of the overpayment or penalty from the Academy.



**ARTICLE V**  
**RECORDS AND REPORTS**

Section 5.1. Records. The Fiscal Agent shall keep books of record and account of all transactions relating to the receipts, disbursements, allocations and application of the State School Aid Payments and Other Funds received, deposited or transferred for the benefit of the Academy, and these books shall be available for inspection at reasonable hours and under reasonable conditions by the Academy and the State.

Section 5.2. Reports. Annually, the Fiscal Agent shall prepare and send to the Academy within thirty (30) days of September 1, a written report dated as of August 31. This report shall summarize all receipts, deposits and transfers made on behalf or for the benefit of the Academy during the period beginning on the latter of the date hereof or the date of the last such written report and ending on the date of the report, including without limitation, State School Aid Payments received on behalf of the Academy from the State Treasurer and any Other Funds which the University Board receives under this Agreement.

**ARTICLE VI**  
**CONCERNING THE FISCAL AGENT**

Section 6.1. Representations. The Fiscal Agent represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it in this Agreement and that it will carry out all of its obligations under this Agreement.

Section 6.2. Limitation on Liability. The liability of the Fiscal Agent to transfer funds to the Academy shall be limited to the amount of State School Aid Payments as are from time to time delivered by the State and the amount of Other Funds as delivered by the source of those funds.

The Fiscal Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Fiscal Agent be responsible for the consequences of any error of judgment; and the Fiscal Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its gross negligence or willful default.

The Fiscal Agent shall not be liable for any deficiency in the State School Aid Payments received from the State Treasurer to which the Academy was properly entitled. The Fiscal Agent shall not be liable for any State School Aid overpayments made by the State Treasurer to the Academy for which the State subsequently seeks reimbursement.

The Fiscal Agent shall not be liable for any deficiency in the State School Aid Payments received from the State Treasurer to which the Academy was properly entitled. The Fiscal Agent shall not be liable for any State School Aid overpayments made by the State Treasurer to the Academy for which the State subsequently seeks reimbursement.

Acknowledgment of Receipt

The undersigned, on behalf of the State of Michigan, Department of Treasury, acknowledges receipt of the foregoing Fiscal Agent Agreement that is part of the Contract issued by the Central Michigan University Board of Trustees to Summit Academy.

BY: Deborah M. Roberts  
Deborah M. Roberts, Director  
Bureau of State and Authority Finance  
Michigan Department of Treasury

Date: January 7, 2020

**CONTRACT SCHEDULE 4**

**OVERSIGHT, COMPLIANCE  
AND REPORTING AGREEMENT**

## SCHEDULE 4

### OVERSIGHT, COMPLIANCE AND REPORTING AGREEMENT

This Agreement is part of the Contract issued by the Central Michigan University Board of Trustees ("University Board"), an authorizing body as defined by the Revised School Code, as amended (the "Code"), to Summit Academy ("Academy"), a public school academy.

#### Preliminary Recitals

WHEREAS, the University Board, subject to the leadership and general supervision of the State Board of Education over all public education, is responsible for overseeing the Academy's compliance with the Contract and all Applicable Law.

NOW, THEREFORE, in consideration of the premises set forth below, the parties agree to the following:

#### ARTICLE I DEFINITIONS AND INTERPRETATIONS

Section 1.1. Definitions. Unless otherwise provided, or unless the context requires otherwise, the following terms shall have the following definitions:

"Agreement" means this Oversight, Compliance and Reporting Agreement.

"Oversight Responsibilities" means the University Board's oversight responsibilities set forth in Section 2.1 of this Agreement.

"Compliance and Reporting Duties" means the Academy's duties set forth in Section 2.2 of this Agreement.

"State School Aid Payment" means any payment of money the Academy receives from the state school aid fund established pursuant to Article IX, Section 11 of the Michigan Constitution of 1963 or under the State School Aid Act of 1979, as amended.

#### ARTICLE II OVERSIGHT, COMPLIANCE AND REPORTING RESPONSIBILITIES

Section 2.1. Oversight Responsibilities. The Governor John Engler Center for Charter Schools ("The Center") at Central Michigan University, as it deems necessary to fulfill the University Board's Oversight Responsibilities, may undertake the following:

- a. Monitor and evaluate if the Academy Board is properly governing the Academy and following the Amended Bylaws set forth in the Contract.
- b. Monitor and evaluate the Academy's academic performance and progress toward achieving the educational goal and related measures set forth in Contract Schedule 7b.
- c. Monitor and evaluate the Academy's implementation, delivery, and support of the educational program and curriculum as set forth in Contract Schedules 7c and 7d, respectively.

- d. Monitor and evaluate the Academy's application and enrollment procedures as set forth in Contract Schedule 7f.
- e. Monitor and evaluate the Academy's organizational and financial viability.
- f. Monitor and evaluate the Academy's fiscal stewardship and use of public resources.
- g. Monitor and evaluate the records, internal controls or operations of the Academy.
- h. Monitor and evaluate if the Academy is staffed with qualified personnel and that appropriate background checks have been conducted.
- i. Monitor and evaluate if the Academy is providing a safe learning environment.
- j. Request evidence that the Academy has obtained the necessary permits and certificates to operate as a public school from the applicable governmental agencies, including, without limitation, the Michigan Department of Licensing and Regulatory Affairs' Bureau of Construction Codes and local health departments.
- k. Conduct comprehensive on-site reviews to assess and/or evaluate the Academy's performance.
- l. Monitor and evaluate if the Academy is demonstrating good faith in complying with the Contract, the Revised School Code, and all other Applicable Law.
- m. Request periodic reports from the Academy regarding any aspect of its operation, including, but not limited to, information identified in Schedule 8 of the Contract.
- n. Initiate action pursuant to the Terms and Conditions of the Contract to amend, revoke, reconstitute, terminate or suspend the Contract.
- o. Provide information and support to the Academy.

Section 2.2. Compliance and Reporting Duties. The Academy agrees to fulfill the following Compliance and Reporting Duties:

- a. Adopt and properly maintain governing board policies in accordance with Applicable Law.
- b. Comply with the reporting and document submission requirements set forth in the Master Calendar of Reporting Requirements issued annually by the Center.
- c. Comply with any Academy specific reporting and document submission requirements established by the Center.
- d. Comply with the insurance requirements set forth in Article XI, Section 11.2 of the Terms and Conditions of the Contract.
- e. Comply with the Center's Educational Service Provider Policies, as may be amended.

- f. Report any litigation or formal proceedings to the Center, including, but not limited to, litigation initiated by or against the Academy alleging violation of any Applicable Law. If the University is a named party, notify the general counsel for the University Board as set forth in Article XII, Section 12.1 of the Terms and Conditions.
- g. The Academy shall not occupy or use any school facility set forth in Schedule 6 of the Contract until such facility has received all fire, health and safety approvals required by Applicable Law and has been approved for occupancy by the Michigan Department of Licensing and Regulatory Affairs' Bureau of Construction Codes.
- h. Permit the Center to inspect the records, internal controls, operations or premises of the Academy at any reasonable time.
- i. Authorize the Center to perform audit and evaluation studies using Academy data including, but not limited to, personally identifiable information about the Academy's students and staff submitted by the Academy to agencies including, but not limited to, Center for Educational Performance and Information ("CEPI"), Office of Educational Assessment and Accountability ("OEAA") and the Michigan Department of Education ("MDE"). Pursuant to this authorization, the Center shall abide by the regulations that govern the use of student data within the Family Educational Rights and Privacy Act (FERPA - 34 CFR Part 99), the Michigan Identity Theft Protection Act of 2004, and the Privacy Act of 1974.
- j. Upon request, the Academy Board shall provide the Center with a written report, along with supporting data, assessing the Academy's progress toward achieving the educational goal and related measures outlined in Contract Schedule 7b.
- k. Upon request, provide the Center with copies or view access to data, documents or information submitted to MDE, the Superintendent of Public Instruction, the State Board of Education, CEPI or any other state or federal agency.
- l. If the Academy operates an online or other distance learning program, it shall submit a monthly report to the Michigan Department of Education, in the form and manner prescribed by the Michigan Department of Education, that reports the number of pupils enrolled in the online or other distance learning program, during the immediately preceding month.

Section 2.3. Waiver of Compliance and Reporting Duties. The University Board, or the Center Director as its authorized designee, may modify or waive any of the Academy's Compliance and Reporting Duties.

### **ARTICLE III** **RECORDS AND REPORTS**

Section 3.1. Records. The Academy will keep complete and accurate records and reports of its governance and operations. These records and reports shall be available for inspection by the Center at reasonable hours and under reasonable conditions.

**ARTICLE IV**  
**MISCELLANEOUS**

Section 4.1. Administrative Fee. The Academy agrees to pay to the University Board an administrative fee of 3% of the Academy's State School Aid Payments. This fee shall be retained by the University Board from each State School Aid Payment received for forwarding to the Academy. This fee shall compensate the University Board for overseeing the Academy's compliance with the Contract and all Applicable Law and other related activities for which compensation is permissible. By agreement between the Center and the Academy, the University may charge additional fees beyond the administrative fees for services rendered.

Section 4.2. Time of the Essence. Time shall be of the essence in the performance of obligations from time to time imposed upon the Academy and the University Board by this Agreement.

Section 4.3. Audit and Evaluation. The Academy:

- a. Hereby authorizes the Center to perform audit and evaluation studies using Academy data including, but not limited to, personally identifiable information about the Academy's students and staff submitted by the Academy to agencies including, but not limited to, Center for Educational Performance and Information ("CEPI"), Office of Educational Assessment and Accountability ("OEAA") and the Michigan Department of Education ("MDE"). Pursuant to this authorization, the Center shall abide by regulations that govern the use of student data within the Family Educational Rights and Privacy Act ("FERPA"), the Michigan Identity Theft Protection Act of 2004 and the Privacy Act of 1974.
- b. Shall upon request, provide the Center with copies or view access to data, documents or information submitted to the Michigan Department of Education, the Superintendent of Public Instruction, the State Board of Education, the Center for Educational Performance and Information, the Michigan DataHub or any other state or federal agency.

Section 4.4. Fiscal Stress Notification from State Treasurer. If the State Treasurer notifies the Academy that the State Treasurer has declared the potential for Academy financial stress exists, the Academy shall provide a copy of the notice to the Center. Within fifteen (15) days of receipt of the notification from the Academy, the Center Director shall notify the Academy whether the Center is interested in entering into a contract to perform an administrative review for the Academy. The parties shall consult with the Department of Treasury on the development of the contract and the contract for administrative review shall comply with the Code. If the Center is not interested in performing an administrative review or if the parties are unable to reach agreement on an administrative review, the Academy shall consider entering into a contract for an administrative review with an intermediate school district. Nothing in this Section 4.4 shall prohibit the Academy for electing to enter into a contract for an administrative review with an intermediate school district. Nothing in this Section 4.4 shall require the Academy to elect to enter or not enter into a contract for an administrative review with the Center or an intermediate school district.

**CONTRACT SCHEDULE 5**

**DESCRIPTION OF STAFF RESPONSIBILITIES**



## DESCRIPTION OF STAFF RESPONSIBILITIES

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article III, Section 3.6., the Academy is authorized to employ or contract for personnel according to the position information outlined in this schedule. Before entering into an agreement with an Educational Service Provider, as defined in the Terms and Conditions of this Contract, to provide comprehensive educational, administrative, management or instructional services or staff to the Academy, the Academy Board must first comply with the Educational Service Provider Policies adopted by the Center.

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**Qualifications.** The Academy shall comply with all applicable law regarding requirements affecting personnel employed by or assigned to the Academy including (but not limited to): qualifications, evaluation systems, criminal background checks and unprofessional conduct disclosures. All administrators or other person whose primary responsibility is administering instructional programs or as a chief business official shall meet the certification and continuing education requirements as described in MCL 380.1246. Except as otherwise provided by law, the Academy shall use certificated teachers according to state board rule.

**Administrator and Teacher Evaluation Systems.** The Academy Board shall adopt and implement for all teachers and school administrators a rigorous, transparent, and fair performance evaluation system that complies with the Code. If the Academy enters into an agreement with an Educational Service Provider, then the Academy Board shall ensure that the Educational Service Provider adopts a performance evaluation system that complies with MCL 380.1249.

**Performance Evaluation System.** During the term of this Contract, the Academy shall not assign a pupil to be taught in the same subject area for 2 consecutive years by a teacher who has been rated as ineffective on his or her 2 most recent annual year-end evaluations per the Code. If the Academy is unable to comply with this provision of the Code and plans to assign a pupil to be taught in the same subject area for 2 consecutive years by a teacher who has been rated as ineffective on his or her 2 most recent annual year-end evaluations per the Code, the Academy Board shall notify the pupil's parent or legal guardian that the pupil has been assigned to be taught in the same subject area for a second consecutive year by a teacher who has been rated as ineffective on his or her 2 most recent annual year-end evaluations. The notification shall be in writing, shall be delivered to the parent or legal guardian not later than July 15<sup>th</sup> immediately preceding the beginning of the school year for which the pupil is assigned to the teacher, and shall include an explanation of why the pupil is assigned to the teacher. MCL 380.1249a.

**Teacher and Administrator Job Performance Criteria.** The Academy Board shall implement and maintain a method of compensation for its teachers and school administrators that includes job performance and job accomplishments as a significant factor in determining compensation and additional compensation. The assessment of job performance shall incorporate a rigorous, transparent, and fair evaluation system that evaluates a teacher's or school administrator's performance at least in part based upon data on student growth as measured by assessments and other objective criteria. If the Academy enters into an agreement with an Educational Service Provider, then the Academy Board shall ensure that the Educational Service Provider complies with this section. MCL 380.1250.

### **Reporting Structure**

All positions are employed by Distinctive Schools, Inc. ("Distinctive Schools") and are outlined in the Educational Service Provider Agreement included in this Schedule.

### **Position Responsibilities**

Following are the categories into which Academy staff fall. Descriptions for all positions employed by or assigned to the Academy are available at the Academy.

#### **School Administrator(s)**

As stated above, all administrators or other person whose primary responsibility is administering instructional programs or as a chief business official shall meet the certification and continuing education requirements as described in MCL 380.1246. In addition to the position titles identified in MCL 380.1246, the Michigan Department of Education ("MDE") will deem an administrator working

at a district or school level to be “administering instructional programs” if the person’s position description or day-to-day duties include any or all of the following elements \*:

1. Responsibility for curriculum. This includes final or executive decisions which directly impact what should be taught to students and how it should be delivered, as well as what learning outcomes are expected, often following a philosophy of research, best practices, and continuous improvement providing equitable access to all students.
2. Responsibility for overseeing district or school improvement plan design or implementation. This includes a vision and a method for execution of plans regarding incorporating student assessment, using student performance and school safety data to drive decision-making, the use of information technology to support improvement, professional development, and overall student achievement.
3. Oversight of instructional policies. This includes the creation, modification, and recommendation of final policy regarding any aspect of how teachers implement, deliver, and support curriculum. Whether or not making specific financial decisions in support of these policies is part of the oversight role, this person still has final decision-making responsibility for instruction.
4. Executive-level reporting on academic progress to a governing authority. This includes providing updates, documentation, data, or presentations in an official or executive capacity to a governing body regarding progress on student learning goals—whether or not these reports are tied to expenditures related to the successful delivery of the instruction.
5. Supervision and evaluation of direct reports responsible for instruction. This includes providing executive leadership for employees who report to the individual, and providing direction to establish work priorities and decision-making. This involves evaluation of educator efficacy as well as general work performance of staff.

(\*This statement and numbered items that follow it were taken directly from the February 23, 2017, Memorandum issued by the MDE.)

### **Instructional Staff**

As stated above, except as otherwise provided by law, the Academy shall use certificated teachers according to state board rule. Individuals that are considered instructional staff are responsible for implementing the Academy’s curriculum, developing assessments and monitoring student progress. Instructional staff whose main responsibility is working with students with disabilities must modify instructional techniques in order to enhance learning for all students.

### **Non-Instructional Staff**

The staff that fall into this category are not required to hold an administrator certificate or a teaching certificate. The individuals in this category support the Academy’s pursuit of its mission, vision, and educational goals.

## MANAGEMENT SERVICES AGREEMENT

This Management Services Agreement (the "Agreement") is made and entered into as of the 24<sup>th</sup> day of June, 2020 by and between DISTINCTIVE SCHOOLS, INC. ("Distinctive Schools"), an Illinois nonprofit educational organization at 910 W Van Buren, Suite 315, Chicago, IL 60607, and SUMMIT ACADEMY ("Summit" or the "Academy"), a body corporate and Michigan Public School Academy organized under the Revised School Code (the "Code") at 30100 Olmstead, Flat Rock, MI 48134.

**WHEREAS,** The Academy operates pursuant to a charter contract (the "Contract") issued by the Central Michigan University Board of Trustees ("CMU"); and

**WHEREAS,** The Academy operates a public school academy under the direction of the Summit Academy Board (the "Board"); and

**WHEREAS,** Distinctive Schools is a limited liability company providing educational and managerial services to public school academies that has the ability to implement a comprehensive educational program and management methodologies for the Academy; and

**WHEREAS,** The Academy desires to engage Distinctive Schools to perform certain services related to the Academy's educational program and operations.

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

### ARTICLE I

#### CONTRACTUAL RELATIONSHIP

**A. Authority.** The Academy has been granted the Contract by CMU to organize and operate a public school academy, together with the powers necessary or desirable for carrying out the educational program set forth in the Contract. The Academy is authorized by law to contract with a private entity to provide educational management services, provided that no provision of such a contract shall be effective if it would prohibit the Board from acting as an independent, self-governing public body, allow public decisions to be made other than in compliance with the Open Meetings Act, or interfere with the Board's constitutional duty to exercise its statutory, contractual and fiduciary obligations governing the operation of the Academy.

**B. Delegated Authority.** Acting under and in the exercise of such authority, the Academy hereby delegates to Distinctive Schools, to the extent permitted by law, specified functions relating to the provision of educational services and the management and operation of the Academy as set forth in this Agreement, as defined in MCL 380.503c(2)(c); provided, however, that this Agreement is subject to all of the terms and conditions of the Contract. The Contract shall be deemed incorporated herein by reference. In the event of any inconsistency between the provisions of this Agreement and the provisions of the Contract, the provisions of the Contract shall prevail.

**C. Status of the Parties.** Distinctive Schools is an Illinois nonprofit educational organization authorized to operate in Michigan, and is not a division or part of the Academy. The Academy is a body corporate and governmental entity authorized by the Code, and is not a division or part of Distinctive Schools. The relationship between Distinctive Schools and the Academy is based solely on the terms of this Agreement and the Technical Services Agreement executed in April

2020. The parties to this Agreement acknowledge that the relationship between them created by this Agreement is that of an independent contractor, and that no employee of Distinctive Schools shall be deemed to be an employee of the Academy. This independent contractor relationship shall extend to the officers, directors, employees, and representatives of Distinctive Schools. Distinctive Schools will be solely responsible for its acts and the acts of its agents, employees, and subcontractors.

**D. No Related Parties or Common Control.** The parties agree that none of the voting power of the governing body of the Academy or the Board will be vested in Distinctive Schools or its directors, members, managers, officers, shareholders, or employees. Further, the Academy and Distinctive Schools are not, and shall not become: (a) members of the same controlled group, as that term is defined in the Internal Revenue Code of 1986, as amended (the "IRS Code"); or (b) related persons, as that term is defined in the IRS Code.

**E. Academy Has No Power To Obligate or Bind the State of Michigan, the University Board or the University.** The Academy has no authority whatsoever to enter into any contract or other agreement that would financially obligate the State of Michigan, the University Board or the University, nor does the Academy have any authority whatsoever to make any representations to lenders or third parties, that the State of Michigan, the University Board or the University in any way guarantee, are financially obligated, or are in any way responsible for any contract, mortgage, loan or other instrument of indebtedness entered into by the Academy.

**F. Designation of Agents.** No agent or employee of the Academy shall be determined to be an agent or employee of Distinctive Schools for any reason or purpose. No agent or employee of Distinctive Schools shall be determined to be an agent of the Academy, except as follows:

1. The Academy agrees to define "school official" in the Academy's annual notification of rights under 20 U.S.C. § 1232g, 34 C.F.R. § 99, the Family Educational Rights and Privacy Act ("FERPA") to include a contractor who performs an institutional service or function for which the Academy would otherwise use its own employees, who is under the direct control of the Academy with respect to the use and maintenance of personally-identifiable information from education records, and who is subject to the requirements of 34 C.F.R. § 99.33(a) governing the use and re-disclosure of personally identifiable information from education records. The Board designates Distinctive Schools and certain of its employees and subcontractors as school officials of the Academy having a legitimate educational interest such that they are entitled to access to educational records under FERPA. Distinctive Schools and its employees and subcontractors agree to comply with FERPA and corresponding regulations applicable to school officials.
2. During the term of this Agreement, the Academy may disclose confidential data and information to Distinctive Schools, and its respective officers, directors, employees and designated agents to the extent permitted by applicable law, including without limitation, the Individuals with Disabilities Education Act ("IDEA"), 20 USC §1401 *et seq.*, 34 CFR 300.610 -300.626; Section 504 of the Rehabilitation Act of 1973, 29 USC §794a, 34 CFR 104.36; the Michigan Mandatory Special Education Act, MCL 380.1701 *et seq.*; the Americans with Disabilities Act, 42 USC §12101 *et seq.*; the Health Insurance Portability and Accountability Act ("HIPAA"), 42 USC 1320d - 13200d-8; 45 CFR 160, 162 and 164; and social security numbers, as

protected by the federal Privacy Act of 1974, 5 USC §552a; and the Michigan Social Security Number Privacy Act, MCL 445.84.

3. Except as permitted under the Code, Distinctive Schools shall not sell or otherwise provide to a for-profit business entity any personally identifiable information that is part of an Academy student's education records. If Distinctive Schools receives information that is part of an Academy student's education records, Distinctive Schools shall not sell or otherwise provide the information to any other person except as permitted under the Code. For purposes of this section, the terms "education records" and "personally identifiable information" shall have the same meaning as those terms in section 1136 of the Code, MCL 380.1136.
4. As otherwise expressly designated by written agreement of the parties with consent from anyone whose consent is required by law or contract.

## ARTICLE II

### TERM

**A. Term.** This Agreement shall become effective July 1, 2020, and shall cover three (3) academic years commencing on July 1, 2020 and ending on June 30, 2023, subject to a continued Contract from CMU and continued state per capita funding. In no event will the term exceed the term Contract from CMU. The Contract from CMU is effective through June 30, 2023 and the parties recognize that during the reauthorization process CMU may condition an extension or reauthorization of the Contract upon modifications to this Agreement or submission of a new agreement.

## ARTICLE III

### FUNCTIONS OF DISTINCTIVE SCHOOLS

**A. Responsibility.** Under the policy direction of the Board, Distinctive Schools shall be responsible for all of the management, operation, administration, and education at the Academy. Such functions include, but are not limited to:

1. Implementation and administration of the Educational Program contained in the Contract;
2. Curriculum improvement services;
3. Student environment management and community outreach/ marketing services;
4. Computer services;
5. Budget preparation and financial management services, such as accounting and bookkeeping services, financial and operational reports;
6. Risk management, such as the administration of any insurance claims involving personal injury or property loss, relating to the security of the facilities and confidential information and files;

7. Accounts payable;
8. Acquisition of instructional and non- instructional material, equipment and supplies as requested by the Board;
9. Selection, employment and supervision of all teachers and staff and the personnel management services (recordkeeping, wage and benefits administration, training and technical assistance) necessary to support those employees;
10. Food service management;
11. Transportation management;
12. Facilities maintenance;
13. Preparation of required CMU, local, state and federal reports with prior review by the Board;
14. Information and technology system development and management;
15. Preparation of applications for grants and special programs;
16. Securing funding sources for special programs and facility improvements as requested by the Board;
17. Operation of the school building and the installation of technology integral to school design;
18. Administration of extra-curricular and co-curricular activities and programs approved by the Board;
19. Preparation of regulations governing operations of the Academy as approved by the Board;
20. Provide special education services to students who attend the Academy in conformity with the requirements of state and federal laws and applicable regulations and policies;
21. Preparation of strategic plans for the continuing educational and financial benefit of the Academy;
22. Implementation of an ongoing public relations strategy, developed for the Board, for the development of beneficial and harmonious relationships with other organizations and the community;
23. Preparation and enforcement of student codes of conduct; and
24. Any other function necessary or expedient for the administration of the Academy with prior approval from the Board.

**B. Educational Goals and Program.** Distinctive Schools shall implement the educational goals and programs set forth in the Contract, including but not limited to methods of pupil assessment, admission policy and criteria, school calendar and school day schedule, age and grade classifications or pupils to be enrolled, and methods to be used to monitor performance towards targeted educational outcomes. In the event that Distinctive Schools determines that it is advisable to modify the educational goals and program set forth in the Contract, Distinctive Schools will provide written notification to the Board specifying the changes it recommends and the reasons for the proposed changes. No changes in the educational goals and programs shall be implemented without the prior written approval of the Board and CMU. Distinctive Schools shall provide the Board with periodic written reports specifying the level of achievement of each of the Academy's educational goals set forth in the Contract and detailing its plan for meeting any educational goals that are not being attained. These reports will be submitted to the Board immediately prior to the Board's regular meeting in January and July each year, and at such other times as specified in Board policy as the time may be changed from time to time.

**C. Subcontracts.** It is anticipated that Distinctive Schools will utilize subcontracts to provide some of the services it is required to provide to the Academy, including but not limited to transportation and/or food service. Distinctive Schools shall not subcontract the management, oversight, or operation of the teaching and instructional program, without the prior written approval of the Board. Board approval of other subcontracts is not required unless the cost for the subcontracted services exceeds the funds appropriated for that purpose in the Academy's approved budget. Distinctive Schools will receive no additional fee as a result of subcontracting of any services. Distinctive Schools remains responsible to the Academy for the services provided through subcontracting agreements.

**D. Place of Performance.** Instructional services other than field trips will normally be performed at the Academy facilities. Distinctive Schools may perform functions other than instruction, such as purchasing, professional development, and administrative functions at off-site locations, unless prohibited by applicable law. The Academy shall provide Distinctive Schools with the necessary office space at the Academy site to perform all services for the Academy described in this Agreement.

**E. Acquisitions.** All acquisitions made by Distinctive Schools for the Academy, including, but not limited to, instructional materials, equipment, supplies, furniture, computers and other technology, shall be owned by and remain the property of the Academy. Distinctive Schools and its subcontractors will comply with all federal laws, rules, and regulations in addition to such policies as the Board may, from time to time adopt, as well as the Code including, but not limited to, Sections 1267 and 1274 as if the Academy were making these purchases directly from a third party supplier. Distinctive Schools will not include any fees or charges to the cost of the equipment, materials, and supplies purchased from third parties when it seeks reimbursement for the cost of those acquisitions.

**F. Pupil Performance Standards and Evaluation.** Distinctive Schools is responsible for and accountable to the Board for the performance of students who attend the Academy. Distinctive Schools shall implement pupil performance evaluations which permit evaluation of the educational progress of each Academy student, using measures of student and school performance required by the Contract or applicable laws and such additional measures as shall be mutually agreed between the Board and Distinctive Schools including but not limited to parent satisfaction surveys.

**G. Student Enrollment.** Distinctive Schools shall be responsible for assisting collaboratively in the enrollment and recruitment of students subject to the provisions of the Contract



or applicable laws and the policies adopted by the Board. Students shall be enrolled in accordance with the procedures set forth in the Contract and in compliance with applicable law and Academy policies. Distinctive Schools shall follow all applicable procedures regarding student recruitment, enrollment, and lottery management, and shall be responsible for publication of appropriate public notices and scheduling open houses.

**H. Student Due Process Hearings.** Distinctive Schools shall provide students with procedural and substantive due process in conformity with the requirements of applicable law regarding discipline, special education, confidentiality, and access to records, to an extent consistent with the Academy's own obligations. The Board shall retain the right to provide due process as required by law and to determine whether any student will be expelled.

**I. Legal Requirements.** Distinctive Schools shall provide educational programs that meet the requirements imposed under the Contract and applicable law, unless such requirements are or have been waived. Distinctive Schools shall administer and provide the Educational Program in a manner which shall meet federal, state, and local requirements, the requirements imposed under the Code and the Authorizing Contract, and all lease provisions entered into by the Academy.

**J. Rules and Procedures.** The Board shall adopt and/or communicate its rules, regulations, and procedures applicable to the Academy and Distinctive Schools is directed to enforce the rules, regulations, and procedures adopted by the Board. Throughout the duration of this Agreement and any extensions, Distinctive Schools shall assist the Board in its policy making function by recommending the adoption of reasonable rules, regulations and procedures applicable to the Academy.

**K. School Year and School Day.** The school year and the school day shall be as provided in the Contract and as defined annually by the Board.

**L. Authority.** The Academy represents that: (a) it is authorized by law to contract with an educational management organization for the provision of management and operational services to the Academy; and (b) the Academy has been issued the Authorizing Contract from the Authorizer to organize and operate the Academy. To the extent permitted by law and without waiving any privilege or immunity, the Academy authorizes and grants to Distinctive Schools the necessary authority and power to perform under this Agreement.

**M. Compliance with Academy's Contract.** Distinctive Schools agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Academy's Contract issued by the Central Michigan University Board of Trustees. The provisions of the Academy's Contract shall supersede any competing or conflicting provisions contained in this Agreement. Distinctive Schools agrees to assist the Academy in complying with all of the Academy's reporting, recordkeeping, and other obligations under the Academy's Contract. Distinctive Schools shall not act in a manner, which will cause the Academy to be in breach of its Contract. Any action or inaction by Distinctive Schools that causes the Contract to be in jeopardy of termination is a material breach of the Agreement. In addition, a failure of Distinctive Schools to perform reasonably the functions set forth in Article III may be considered a material breach of this Agreement.

**N. Additional Programs.** The services provided by Distinctive Schools to the Academy under this Agreement consist of the Educational Program as set forth in the Contract, as the same

may change from time to time. The Board may decide to provide additional programs, including but not limited to summer school. Any revenues collected from such programs will go directly to the Academy. The Academy may also purchase additional services from Distinctive Schools at mutually agreeable cost which shall be documented an amendment to this Agreement.

**O. Annual Budget Preparation.** Distinctive Schools will provide the Board with a proposed annual budget that shall conform to the State accounting manual and the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.* and in a form satisfactory to the Board and to CMU. The budget shall contain object level detail and comply with the public accounting standards applicable to public schools and applicable law. The budget shall include anticipated revenues and projected expenses and costs reasonably associated with operating the Academy and the Educational Program including, but not limited to, the projected cost of all services and educational programs provided to the Academy, rent and lease payments, debt service, maintenance and repairs to Academy facilities, supplies and furnishings necessary to operate the Academy, taxes, insurance premiums, utilities, professional fees, and other costs and expenses connected to the operation of the Academy. The proposed budget shall be submitted to the Board for approval no later than 30 days prior to the date when the approved budget is required to be submitted to CMU. Distinctive Schools may not make deviations from the approved budget without the prior written approval of the Board.

**P. Financial Reporting.** On not less than a monthly basis, Distinctive Schools shall provide the Board with a balance sheet and statement of revenue, expenditures, and changes in fund balance, detailing the status of the budget to actual revenues and a detailed schedule of expenditures at an object level for review and approval by the Board. A written report shall explain any variances from the approved budget, shall contain recommendations for necessary budget corrections, and shall be prepared at least seven (7) calendar days in advance of the Board meeting to be available for Board packets sent to Board Members in preparation for Board meetings. Distinctive Schools shall provide special reports as necessary to keep the Board informed of changing conditions.

**Q. Operational Reporting.** At least four (4) times per year Distinctive Schools will provide the Board with comprehensive written reports on detailing Academy operations, finances, and student performance. In order to enable the Board to monitor Distinctive Schools' educational performance and the efficiency of its operation of the Academy, upon the request of the Board, Distinctive Schools will provide written reports to the Board on any topic of Academy activity or operations and which are consistent with this Agreement. These special repayments will be provided in a timely fashion, but not less than one (1) week after the request for the repayment is received by Distinctive Schools unless the Board and Distinctive Schools mutually agree upon an extended timetable.

**R. Compliance with Section 503c.** On an annual basis, Distinctive Schools agrees to provide the Board with the same information that a school district is required to disclose under section 503c of the Code, MCL 380.503c and under section 18(2) of the State Aid Act of 1979, MCL 388.1618(2), for the most recent school fiscal year for which the information is available. Within thirty (30) days of receipt of this information, the Board shall make the information available on the Academy's website home page, in a form and manner prescribed by the Michigan Department of Education. The defined terms in section 503c of the Code shall have the same meaning in this Agreement.

**S. Suspension and Debarments List.** Federal agencies are required to award contracts only to presently responsible sources and cannot award funds to entities that have been suspended or debarred from doing business with the federal government. The Academy is a recipient of federal funding and Distinctive Schools is required to refrain from any action that will result in being suspended or debarred. Distinctive Schools certifies and affirms that it is not included on the federal Suspension and

Debarments list of Excluded Parties List; nor is Distinctive Schools affiliated with any party that is included on the federal Suspension and Debarments list of Excluded Parties List.

T. **Privacy.** Except as permitted under the Code, Distinctive Schools shall not sell or otherwise provide to a for-profit business entity any personally identifiable information that is part of the Academy student's education records. If Distinctive Schools receives information that is part of an Academy student's education records, Distinctive Schools shall not sell or otherwise provide the information to any other person except as permitted under the Code. For purposes of this section, the terms "education records" and "personally identifiable information" shall have the same meaning as those terms in section 1136 of the Code, MCL 380.1136.

U. **Data Breach.** Distinctive Schools shall monitor its data safeguards from time to time and shall adjust its data safeguards from time to time in light of relevant circumstances or the results of any relevant testing or monitoring. If Distinctive Schools or the Board suspects or becomes aware of any unauthorized access to any personally identifiable information or confidential data by any unauthorized person or third party, or becomes aware of any other security breach relating to any personally identifiable information or confidential data held or stored by Distinctive Schools or the Board under this Agreement ("Data Breach"), Distinctive Schools or the Board shall immediately notify the other party in writing and shall fully cooperate to prevent or stop such Data Breach. In the event of such Data Breach, both parties shall fully and immediately comply with applicable laws, and shall take the appropriate steps to remedy such Data Breach.

#### ARTICLE IV

#### OBLIGATIONS OF THE BOARD

A. **Board Policy Authority.** The Board is responsible for determining the fiscal and academic policies that will govern the operation of the Academy, including but not limited to, policies relative to the conduct of students while in attendance at the Academy or en route to and from the Academy and regulations governing the procurement of supplies, materials, and equipment. The Board shall exercise good faith in considering the recommendations of Distinctive Schools on issues including, but not limited to, policies, rules, regulations, procedures, curriculum, and budgets subject to the constraints of law and the requirements of the Contract. Failure of Distinctive Schools and the Board to agree on educational policies is grounds for termination of the Agreement by either party.

B. **Building Facility.** The Board is responsible for the acquisition by either purchase or lease of a building facility that complies with all of the requirements of the Contract and applicable law.

C. **Academy Employees.** The Board may employ a Liaison Officer to review the operations of the Academy and the performance of Distinctive Schools under this Agreement, and to ensure smooth relationships among the Academy, Distinctive Schools, and CMU. The Board Liaison Officer may be employed full or part-time and will perform the functions established by the Board. The Board may also employ such clerical staff as it deems necessary. Distinctive Schools shall cooperate with the Board Liaison Officer and will provide that individual with prompt access to records, facilities, and information as if such requests came from the full Board. Distinctive Schools shall have no authority to select, evaluate, assign, supervise or control the Board Liaison Officer and agrees that it will not bring or threaten to bring any legal action against the Liaison Officer for the performance of the duties and functions established for that position by the Board and which are consistent with this Agreement. The cost to employ a Liaison Officer and necessary clerical employees shall be paid by the Board.

D. **Educational Consultants.** The Board may retain an educational consultant or consultants to review the operations of the Academy and the performance of Distinctive Schools under this Agreement. Distinctive Schools shall cooperate with the educational consultant or consultants and will provide those individuals with prompt access to records, facilities, and information as if such requests came from the full Board. Distinctive Schools shall have no authority to select, evaluate, assign, supervise or control any educational consultant employed by the Board, and agrees that it will not bring or threaten to bring any legal action against any educational consultant for the performance of the functions requested to be performed by the Board and which are consistent with this Agreement. The cost to employ an educational consultant shall be paid by the Board.

E. **Legal Counsel.** The Board shall select and retain legal counsel to advise the Academy regarding its rights and responsibilities under the Contract, this Agreement and applicable law. The Board has the sole authority to hire independent legal counsel.

F. **Audit Services.** The Board shall select and retain the independent auditor to perform the annual financial audit in accordance with the Contract and applicable state law. The Board has the sole authority to hire independent auditors.

G. **Budget.** The Board will have the sole authority to approve any budget. The Board is responsible for adopting a budget in accordance with the provisions of the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.*, that has adequate resources to fulfill its obligations under the Contract, including but not limited to its oversight of Distinctive Schools, the organization of the Academy, negotiation of the Contract and any amendments, payment of employee costs, insurance required under the Contract and this Agreement, the annual financial audit and retention of the Board's legal counsel and consultants. In addition, the Board is responsible for determining the budget reserve amount included as part of the Academy's annual budget, for implementing fiscal policies that will assist the Academy in attaining the stated budget reserve amount and for approving necessary amendments to the budget to reflect necessary deviations from the adopted budget. The budget may be amended from time to time as deemed necessary by the Board.

H. **Academy Funds.** The Board shall determine the depository of all funds received by the Academy. All funds received by the Academy shall be deposited in the Academy's depository account. Signatories on the Academy Board accounts shall solely be current Board members properly designated annually by Board resolution. All interest or investment earnings on Academy accounts shall accrue to the Academy. The Board shall provide Academy funding on a consistent and timely basis to Distinctive Schools to fulfill its obligations under this Agreement.

I. **Governmental Immunity.** The Board shall determine when to assert, waive or not waive its governmental immunity.

J. **Contract with CMU.** The Board will not act in a manner, which will cause the Academy to be in breach of its Contract with CMU.

K. **Evaluation of Distinctive Schools.** The Board will evaluate the performance of Distinctive Schools each year to provide Distinctive Schools with an understanding of the Board's view of its performance under this Agreement. A preliminary evaluation will normally occur in December of each year followed by a yearend evaluation in June. The Board will determine the format to conduct this evaluation. Special evaluations may occur at any time.

L. **Chief Administrative Officer.** Pursuant to the Uniform Budget and Accounting Act, MCL 141.422b, the Board is responsible for designating a Chief Administrative Officer of the Academy. If the Academy employs a superintendent or a person having general administrative control, then the Board may designate that employee as the Chief Administrative Officer of the Academy. If the Academy does not employ a superintendent or a person having general administrative control, then the Board shall designate a Board member as the Chief Administrative Officer of the Academy. The Chief Administrative Officer of the Academy cannot be an owner, officer, director or employee of Distinctive Schools.

## ARTICLE V

### FINANCIAL ARRANGEMENT

A. **Primary Source of Funding.** As a Michigan public school, the primary source of funding for the Academy is state aid payments based upon the number of students enrolled in the Academy combined with such other payments as may be available from state and federal sources for specific programs and services.

B. **Other Revenue Sources.** In order to supplement and enhance the state school aid payments and improve the quality of education at the Academy, the Board and Distinctive Schools, with prior Board approval, shall endeavor to obtain revenue from other sources. In this regard:

1. The Academy and/or Distinctive Schools shall solicit and receive donations consistent with the mission of the Academy.
2. The Academy and/or Distinctive Schools may apply for and receive grant money, in the name of the Academy. Distinctive Schools shall provide advance notification to the Board of any grant applications it intends to make and receive the approval of the Board for the application prior to accepting any grant.
3. To the extent permitted under the Code, the Board authorizes Distinctive Schools to charge fees to students for extra services such as summer programs, after school programs and athletics and charge non-Academy students who participate in such programs.

All funds received by Distinctive Schools or the Academy from such other revenue sources shall inure to and be deemed the property of the Academy, except as otherwise agreed by the parties in writing.

C. **Compensation for Services.** For the term of this Agreement, the Academy shall pay Distinctive Schools an annual fee. This annual fee shall be calculated as follows:

1. For all School Years, the annual fee to be paid between July 1 through June 30 shall be the higher of:
  - (a) the sum of \$375,000 or
  - (b) Twelve percent (12.00%) of all payments that the Academy receives directly or indirectly under Paragraph A above and upon which such a fee can legally be based, less the following:
    - i. Monies authorized to be retained by CMU, and
    - ii. All grants received by the Academy under Paragraph B that are to be expended during that school year (except for donations that are made to Academy).

Distinctive Schools' annual fee shall be paid in twelve (12) equal monthly installments beginning in July of each school year. The exact day of the month that each monthly installment is to be paid will coincide with the timing of any state aid payment from the State of Michigan to be received in that month. In months where no state aid payments are to be received, the day of the month when that monthly installment will be due will be mutually agreed upon by the parties after taking into consideration available year-end funds and the timing of funds to be made available from state aid anticipation notes or other sources. All installments of the annual fee for the 2022- 2023 school year shall be paid by June 30, 2023 if this Agreement is not extended beyond the scheduled termination date. The amount of the annual fee is subject to reduction in a mutually agreeable amount in any school year if extenuating circumstances make payment of the entire annual fee inappropriate.

**D. Reasonable Compensation.** The parties wish to satisfy the requirements of Rev. Proc. 97-13 as amended by Rev. Proc. 2017-13 (and as may be further amended from time to time), so that the provision of Distinctive Schools' services under this Agreement does not cause the Academy's facilities to be treated as used in a private business use under Section 141(b) of the Internal Revenue Code of 1986, as amended. Distinctive Schools' compensation under this Agreement is reasonable compensation for services rendered. Distinctive Schools' compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the operation of the Academy.

**E. Payment of Educational Program Costs.** In addition to the Academy's obligation to reimburse Distinctive Schools for the compensation of certain Distinctive Schools employees under Article VI, all costs reasonably incurred in providing the Educational Program at the Academy shall be paid by the Academy. Such costs shall include, but shall not be limited to, curriculum materials, professional development, textbooks, library books, computer and other equipment, software, supplies utilized at the Academy for educational purposes, services provided pursuant to subcontract, building payments, maintenance, utilities, capital improvements, and marketing and development costs. No corporate costs of Distinctive Schools shall be paid for by the Academy. Marketing and development costs paid by or charged to the Academy shall be limited to those costs specific to the Academy program, and shall not include any costs for the marketing and development of Distinctive Schools. The Board shall reimburse Distinctive Schools monthly for approved fees and expenses upon properly presented documentation and approval by the Board, but reimbursements for the cost of compensation of Distinctive Schools employees under Article VI shall be made no later than three (3) business days before that compensation is due to the employees. At its option, the Board may advance funds to Distinctive Schools for the fees and expenses associated with the Academy's operation provided that documentation for the fees and expenses are provided for Board ratification at its next regularly scheduled meeting. In paying costs on behalf of the Academy, Distinctive Schools shall not charge an added fee. Any costs reimbursed to Distinctive Schools that are determined by the independent audit not to be reasonably incurred on behalf of the Educational Program of the Academy shall be promptly returned to the Academy by Distinctive Schools. Any services to be provided by Distinctive Schools that are included in the management fee but are performed by a subcontractor shall not be charged to, reimbursed by, or passed through as an additional cost to the Academy.

**F. Distinctive Schools Costs.** The annual management fee to be paid to Distinctive Schools set forth in Article V, Section C is intended to compensate Distinctive Schools for all expenses it incurs for administrative and financial services Distinctive Schools is required to provide under this Agreement, including but not limited to, expenses associated with individuals providing professional and curriculum development services, accounting services, clerical services, management and budgeting services, and administrative services. Distinctive Schools' overhead costs attributable to its performance hereunder are to be covered by the fee and not passed on to the Academy or paid by the Academy. Distinctive Schools will provide sufficient professional and non-

professional staff in these areas, which shall be compensated by Distinctive Schools. In addition, the annual management fee is intended to compensate Distinctive Schools for all costs incurred by Distinctive Schools to provide these services. The annual management fee does not include payments for Distinctive Schools' personnel provided pursuant to Article VI (B), (C), and (D), the cost of which will be reimbursed in accordance with Article VI (A).

**G. Distinctive Schools Legal Services.** The annual management fee set forth in Article V, Section C is intended to compensate Distinctive Schools for routine legal fees it incurs to receive advice regarding the scope of its obligations under state and federal law to provide the administrative and financial services Distinctive Schools is required to provide under this Agreement. The annual management fee does not cover non-routine legal services, including but not limited to the legal fees and costs associated with the appointment of special education hearing officers and the engagement of counsel to represent the Academy in legal or administrative proceedings, which are the responsibility of the Academy. The Academy Board shall at all times retain the sole authority and discretion to engage independent legal counsel.

**H. Other Public School Academies.** The Academy acknowledges that Distinctive Schools has entered, or will enter into management agreements with other public school academies. Distinctive Schools shall separately account and provide written detail for reimbursable expenses incurred on behalf of the Academy and other public school academies, and only charge the Academy for expenses incurred on behalf of the Academy.

**I. Audit Report Information.** Distinctive Schools will make all of its financial and other records related to the Academy available to the Academy, the Academy's independent auditor selected by the Board and CMU upon request. Any such audit and publicly disclosed, non-proprietary Distinctive Schools audit materials shall be the property of the Academy.

**J. Other Financial Relationships.** Any lease, promissory notes or other negotiable instruments, lease-purchase agreements or other financing agreements between the Academy and Distinctive Schools shall be contained in a document separate from this Agreement and shall comply with CMU's Educational Service Provider Policies and applicable law.

**K. Access to Records.** Distinctive Schools shall keep accurate financial records pertaining to its operation of the Academy, together with all Academy financial, educational and student records prepared by or in the possession of Distinctive Schools, and retain all of these records for a period of seven years (or longer if required by Bulletin 1022 of Michigan's record retention Schedule) from the close of the fiscal year to which such books, accounts and records relate. All records shall be kept in accordance with applicable state and federal requirements. Financial, educational, operational and student records that are now or may in the future come into the possession of Distinctive Schools remain Academy records and are required to be returned by Distinctive Schools to the Academy upon demand, provided that Distinctive Schools may retain copies of records necessary to document the services provided to the Academy and its actions under the Agreement. Distinctive Schools and the Academy shall maintain the proper confidentiality of personnel, student, and other records as required by law. All Academy records shall be physically or electronically available, upon request, at the Academy's physical facilities. The financial, educational, operational and student records pertaining to the Academy are public documents subject to disclosure in accordance with the provisions of the Michigan Freedom of Information Act. This Agreement shall not be construed to restrict CMU's or the public's access to these records under that Act or the Contract.

**ARTICLE VI**  
**PERSONNEL AND TRAINING**

A. **Personnel Responsibility.** Distinctive Schools is responsible for providing the Academy with qualified administrative, teaching, food service, secretarial, maintenance and transportation staff to operate the Academy within the staffing levels approved by the Board in its annual budget. Distinctive Schools shall have the authority to select, evaluate, assign, discipline, transfer and terminate the employment of all individuals working at or for the Academy with the exception of the Board Liaison officer and Board clerical staff, if any, consistent with applicable law and the provisions of this Agreement. With the exception of the Board Liaison Officer and Board clerical staff, if any, Distinctive Schools shall be the sole employer of all individuals working at or for the Academy and accepts full liability and is responsible for the payment of all costs attributable to these employees, including wages, salaries, fringe benefits, payroll taxes, unemployment costs, workers compensation costs, and liability insurance costs irrespective of whether Distinctive Schools receives an advancement of its costs or the payment of services from the Academy. This full liability applies even if the Academy temporarily lacks the resources to provide Distinctive Schools an advancement of its costs or the payment of services from the Academy. Unless required by applicable statute, court or administrative decision, or Attorney General's opinion, Distinctive Schools shall not make payments to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees. Distinctive Schools will provide the Board with a detailed listing of the anticipated compensation and fringe benefit costs for all employees of Distinctive Schools who will be assigned to provide services at the Academy. The Board will reimburse Distinctive Schools for the cost of the salaries, fringe benefits, and social security withholdings of employees assigned to the Academy, provided that these costs are no higher than anticipated and approved in the annual budget. At its option, the Board may advance funds to Distinctive Schools for the cost of the salaries, fringe benefits, and social security of employees assigned to the Academy provided that documentation for the fees and expenses are provided for Board review and the costs are consistent with budget allocations. At the request of the Board, Distinctive Schools will provide payroll services for employees of the Board.

B. **Criminal Background Checks.** Distinctive Schools will not assign any employee to work at the Academy who would not otherwise be eligible to be directly employed by the Academy and who has not successfully completed a pre-employment background check (including criminal history, criminal background and unprofessional conduct checks) and credential verification, and, if appropriate, a pre-employment physical. In accordance with state law and the Michigan State Police regulations, the Academy and/or the School Principal shall conduct the appropriate criminal background checks in the manner required by applicable law, regulation, and policy, including as it relates to the obtaining, storage, and dissemination of Criminal History Record Information ("CHRI") and the registering and use of the Criminal History Records Internet Subscription Service ("CHRISS"). Distinctive Schools and the Academy shall use CHRI and CHRISS only as permitted by law to confirm that the individual does not have a criminal history and to evaluate the qualifications of the individual for his/her assignment.

C. **No Restrictive Employment Provisions.** Distinctive Schools will not place in the employment contracts with any of its employees assigned to work at the Academy any restrictions that would prevent the Academy from employing those individuals at the Academy or would prevent those individuals from working for the Academy or for any other entity providing



educational services to the Academy. Distinctive Schools agrees that any provision of an employment agreement with any of its employees that would be in violation of this provision is void and shall not be enforceable in any forum. Distinctive Schools agrees that employment agreements with all Academy staff including, but not limited to, administrators, teachers, counselors and support staff shall not contain non-compete provisions of any nature.

D. **Personnel Evaluations.** Distinctive Schools will comply with the requirements of applicable law and Academy policy, including but not limited to section 1249 of the Code, MCL 380.1249, regarding the evaluation of its employees based in part upon data on student growth and the establishment of employee compensation levels that include job performance and job accomplishments as a significant factor.

E. **School Principal.** As part of the annual budgeting process, Distinctive Schools shall make a recommendation to the Board regarding the number of Principals required for the operation of the Academy pursuant to the Contract but the Board shall decide the number of Principals that will be utilized. Distinctive Schools shall provide the Academy with such Principals as are required by the Academy. The Principals shall hold all required certifications as required by the Code. Distinctive Schools will have the authority, consistent with applicable law, to select and supervise the Principal or Principals and to hold those individuals accountable for the success of the Academy. At the request of the Board, Distinctive Schools will review the performance of a Principal with the Board. The Principal or Principals will be Distinctive Schools' employees, but Distinctive Schools agrees to consult with the Board prior to hiring a Principal and will consult with the Board prior to taking any action that would alter the employment status of a Principal. Upon receipt of written notification indicating that the Board is not satisfied with the performance of a Principal, Distinctive Schools will provide a replacement Principal if the performance problems are not resolved. If Distinctive Schools disagrees with the removal, then the Board will reimburse Distinctive Schools for reasonable costs associated with the termination of a Principal at the Board's request, provided that the amount of costs to be reimbursed shall not exceed three (3) months of the Principal's compensation. The terms of the employment agreement with a Principal, and the duties and compensation of a Principal shall be determined by Distinctive Schools, but each Principal must be assigned on a full time basis to the Academy and may not be providing services to any other school or Academy without the prior approval of the Board. If Distinctive Schools chooses to execute an employment agreement with a Principal that has a term longer than one year, the Board reserves the right to have that Principal placed elsewhere by Distinctive Schools if the Board is dissatisfied with that individual's performance at the end of any school year.

F. **Teachers.** As part of the annual budgeting process, Distinctive Schools shall make a recommendation to the Board regarding the number of teachers required for the operation of the Academy pursuant to the Contract. The Board, however, shall ultimately decide the number of teachers and curriculum. Distinctive Schools shall provide the Academy with such teachers, qualified in the grade levels and subjects as are required by the Academy all of whom shall be certified in accordance with applicable law and Michigan certification requirements. The curriculum taught by such teachers shall be the curriculum, applicable grade levels and subjects taught at the Academy as prescribed in the Contract, and shall conform to the state endorsed requirements, including those for a high school diploma. Such teachers may, at the discretion of Distinctive Schools, work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such teachers may also work at other schools operated by Distinctive Schools. Each teacher assigned to or retained by the Academy shall be a highly qualified teacher with a valid teaching certificate or temporary special permit issued by the State Board of Education under the Code, to the extent required under the Code and the Every Student Succeeds Act of 2015, as amended. If Distinctive Schools chooses to execute employment agreements with teaching staff that have a term

of longer than one year, the Board reserves the right to have teachers placed elsewhere by Distinctive Schools if the Board is dissatisfied with their performance at the end of any school year. Teachers employed by Distinctive Schools shall not be considered teachers for purposes of continuing tenure under MCL Section 38.71 *et seq.*

G. **Support Staff.** As part of the annual budgeting process, Distinctive Schools shall make a recommendation to the Board regarding the number of support staff required for the operation of the Academy pursuant to the Contract. The Board, however, shall ultimately decide the number of support staff at the Academy. Distinctive Schools shall provide the Academy with such support staff, qualified in the areas required, as are required by the Academy. Such support staff may, in the discretion of Distinctive Schools, work at the Academy on a full or part-time basis. If assigned to the Academy on a part time basis, such support staff may also work at other schools operated by Distinctive Schools. Each support staff employee assigned to or retained by the Academy shall have received the training and hold the certificates, degrees, or licenses legally required for the position to which they are assigned under the Code and the Every Student Succeeds Act of 2015, as amended. If Distinctive Schools chooses to execute contracts with support staff that have a term of longer than one year, the Board reserves the right to have support staff placed elsewhere by Distinctive Schools if the Board is dissatisfied with their performance at the end of any school year.

H. **Training.** Distinctive Schools shall provide training in its methods, curriculum, program, and technology to all instructional personnel on a regular and continuing basis and shall insure that they receive all training required by law. Non-instructional personnel shall receive such other training as Distinctive Schools determines as reasonable and necessary under the circumstances.

## ARTICLE VII

### TERMINATION OF AGREEMENT

A. **Termination by the Academy for Cause.** This Agreement may be terminated by the Academy for cause prior to the end of the term specified in Article II in the event that Distinctive Schools should fail to remedy a material breach within a period reasonable under the circumstances, which shall not be longer than sixty (60) days after notice from the Academy. Material breach may include, but is not limited to, a failure to carry out its responsibilities under this Agreement such as a failure to make required reports to the Board, failure to account for its expenditures or to pay operating costs (provided funds are available to do so); or a violation of the Contract or of applicable law. In order to terminate this Agreement for cause, the Board is required to provide Distinctive Schools with written notification of the facts it considers to constitute material breach and the period of time within which Distinctive Schools has to remedy this breach. After the period to remedy the material breach has expired, the Board may terminate this Agreement by providing Distinctive Schools with written notification of termination. Any action or inaction by Distinctive Schools that is not cured within 60 days of notice thereof which causes the Contract to be revoked, terminated, suspended or which causes the Contract to be in jeopardy of revocation, termination or suspension by Central Michigan University is a material breach.

B. **Termination by Distinctive Schools for Cause.** This Agreement may be terminated by Distinctive Schools for cause prior to the end of the term specified in Article II in the event the Academy fails to remedy a material breach within a period reasonable under the circumstances, which shall not be longer than sixty (60) days after notice from Distinctive Schools. Material breach may include, but is not limited to, a failure by the Academy to carry out its

responsibilities under this Agreement such as a failure to make payments to Distinctive Schools as required by this Agreement or a failure to give consideration to the recommendations of Distinctive Schools regarding the operation of the Academy; a violation of the Contract or of applicable law. In order to terminate this Agreement for cause, Distinctive Schools is required to provide the Board with written notification of the facts it considers to constitute material breach and the period of time within which the Academy has to remedy this breach. After the period to remedy the material breach has expired, Distinctive Schools may terminate this Agreement by providing the Board with written notification of termination.

**C. Revocation or Termination of Contract.** If the Academy's Contract issued by the Central Michigan University Board of Trustees is revoked, terminated or a new charter contract is not issued to the Academy after expiration of the Academy's Contract, this Agreement shall automatically terminate on the same date as the Academy's Contract is revoked, terminated, or expires without further action of the parties.

**D. Termination by Either Party without Cause.**

This Agreement is terminable without cause if Distinctive Schools and the Board are unable to agree on educational programs, curriculum or other educational policies that affect the Academy in a significant way, or if the parties are unable to agree upon the reduction of that annual fee in any school year if extenuating circumstances make payment of the entire annual fee inappropriate, either party may elect to terminate this Agreement at the end of a school year, provided that the terminating party gives the other party written notification of termination at least ninety (90) calendar days prior to the termination date and provides the other party with an opportunity within that period to negotiate an agreement on the educational policies at issue or to negotiate over the amount of the reduction of that year's annual fee.

**E. Change in Law.** If any federal, state or local law or regulation, or court decision has a material adverse impact on the ability of either party to carry out its obligations under this Agreement, then either party, upon written notice, may request renegotiation of the Agreement; and if the parties are unable or unwilling to renegotiate the terms within 60 days after the notice, the party requiring the renegotiation may terminate this Agreement on 30 days further written notice.

**F. Notice of Intention for New Agreement.** On or before January 1, 2023, the Academy shall review the performance of Distinctive Schools and provide notice of intention to approve a new agreement for an additional year or years, subject to the negotiation of the terms for the new agreement and the extension or reauthorization of the Contract. In the event that the Academy does not provide timely notice of intention to continue the contractual relationship with a new agreement, Distinctive Schools will take appropriate actions to provide for an orderly transition of the management functions performed under this Agreement upon its termination on June 30, 2023.

**G. Effective Date of Termination.** In the event this Agreement is terminated by either party prior to the end of the term specified in Article II, paragraph A, absent unusual and compelling circumstances, the termination will not become effective until the end of that school year. Any termination must be made in a manner that is least disruptive to students. Termination of this

Agreement mid-year is strongly discouraged. The Academy Board and Distinctive Schools agree to make all efforts necessary to remedy a breach of this Agreement in order to continue school operations until completion of the then-current school fiscal year. If a breach cannot be remedied, the Academy Board and Distinctive Schools agree to work cooperatively to transition management and operations of the Academy without disrupting the school's operations. Distinctive Schools agrees to perform this transition in a similar manner as described in Article VII, Section I based upon completion of the then-current school period. Upon any termination or the expiration of this Agreement, the parties shall remain obligated for all financial or other obligations due at the time of the termination or expiration.

**H. Rights to Property upon Termination.** Upon termination of this Agreement all property (real or personal), equipment, materials and supplies whether purchased by the Academy or by Distinctive Schools with state school aid funds or other funds secured by the Academy, shall remain the exclusive property of the Academy. Distinctive Schools shall have the right upon proof of ownership to reclaim any usable property or equipment (e.g., including, but not limited to, desks, computers, copying machines, fax machines, telephones) that were purchased by Distinctive Schools with funds other than those paid to Distinctive Schools under Article V(C). Fixtures and building alterations shall become the property of the Academy.

**I. Transition.** In the event of termination of this Agreement for any reason by either party prior to the end of the Agreement's term, Distinctive Schools shall provide the Academy reasonable assistance for up to 90 days after the effective date of the termination to allow a transition back to a regular school program or to another education service provider. Upon termination or expiration of this Agreement, Distinctive Schools shall, without additional charge, (i) close the financial records on the then-current school fiscal year which includes, but is not limited to, the completion and submission of the annual financial audit, state and federal grant reporting and all other associated reporting within required timelines established by the appropriate local, state or federal authority; (ii) organize and prepare student records for transition to the new ESP, self-management or in the case of a school closure, transfer to a student's new school as designated by the student's parent / legal guardian or to a person or entity authorized to hold such records; (iii) provide for the orderly transition of employee compensation and benefits to the new ESP or self-management without disruption to staffing, or in the case of school closure, final payment of all employee compensation, benefit and tax obligations related to services provided by the ESP to the Academy; (iv) organize and prepare the Academy's records, both electronic and hard-copy, for transition to the new ESP, self-management or dissolution; and (v) provide for the orderly transition to the new ESP, self-management or dissolution of all Academy-owned assets including, but not limited to, furniture, fixtures, equipment and real estate. This includes any keys, log-in information and passwords related to any Academy asset.

**J. Amendment Caused By Academy Site Closure or Reconstitution.** In the event that the Academy is required (i) to close an Academy site pursuant to a notice issued by the Michigan Department of Education under Section 507 of the Code, MCL 380.507; or (ii) to undergo a reconstitution pursuant to Section 507 of the Code, MCL 380.507, and the Contract, and such closure of an Academy site or reconstitution causes an amendment to or termination of this Agreement, the parties agree that this Agreement shall be amended or terminated to implement the Academy site closure or reconstitution, with no cost or penalty to the Academy, and Distinctive Schools shall have no recourse against the Academy or CMU for implementing such site closure or reconstitution.

## ARTICLE VIII

### PROPRIETARY INFORMATION

**A. Proprietary Information.** The Academy shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and

any other materials developed by Distinctive Schools, its employees, agents or subcontractors, or by any individual working for or supervised by Distinctive Schools, which were developed during working hours or during time for which the individual is being paid by Distinctive Schools which (i) were directly developed and paid for by the Academy; or (ii) were developed by Distinctive Schools at the direction of the Board with Academy funds.

**B. Required Disclosure.** The Academy shall be permitted to report any new teaching techniques or methods of significant revisions to known teaching techniques or methods to CMU and to the State Board of Education, which teaching techniques or methods may thereafter be made available to the public, as provided in Sections 505(3) of the Code. Except for Distinctive Schools' intellectual property consisting of confidential, proprietary and/or trade secret information, Distinctive Schools' educational materials and teaching techniques are subject to disclosure under the Code and the Michigan Freedom of Information Act. Notwithstanding the foregoing, the disclosure of Distinctive Schools' intellectual property as required to be disclosed by law, rule or regulation or by reason of subpoena, court order or government action shall not constitute a breach of this Agreement.

## ARTICLE IX INDEMNIFICATION

**A. Indemnification of Distinctive Schools.** To the extent permitted by law and without waiving any governmental immunities, the Academy shall indemnify and hold Distinctive Schools (which term for purposes of this Paragraph A, includes Distinctive Schools' officers, directors, agents and employees) harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any noncompliance by the Academy with any agreements, covenants, warranties, or undertakings of the Academy contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of the Board contained in or made pursuant to this Agreement. In addition, the Academy shall reimburse Distinctive Schools for any and all legal expenses and costs associated with the defense of any such claim, demand, or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to Distinctive Schools.

**B. Limitations of Liabilities.** The Academy may assert all immunities and statutory limitations of liability in connection with any claims arising under this Agreement.

**C. Indemnification of the Academy.** To the extent permitted by law, Distinctive Schools shall indemnify and hold the Academy (which term for purposes of this Paragraph C, includes the Academy's officers, directors, agents and employees) harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any noncompliance by Distinctive Schools with any agreements, covenants, warranties, or undertakings of Distinctive Schools contained in or made pursuant to this Agreement including any and all employment related claims, demands or suits by Distinctive Schools employees, former Distinctive Schools employees or applicants; and any misrepresentation or breach of the representations and warranties of Distinctive Schools contained in or made pursuant to this Agreement. In addition, Distinctive Schools shall reimburse the Academy for any and all legal expenses and costs associated with the defense of any such claim, demand, or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to the Academy.

**D. Indemnification for Negligence.** To the extent permitted by law and without waiving any governmental immunities, the Academy shall indemnify and hold harmless Distinctive

Schools, and Distinctive Schools' Board of Directors, partners, officers, employees, agents and representatives, from any and all claims and liabilities which Distinctive Schools may incur and which arise out of the negligence of the Academy's directors, officers, employees, agents or -representatives. To the extent permitted by law, Distinctive Schools shall indemnify and hold harmless the Academy, and the Academy' s Board of Directors, officers, employees, agents or representatives, from any and all claims and liabilities which the Academy may incur and which arise out of the negligence of Distinctive Schools' directors, officers, employees, agents or representatives.

E. **Indemnification of Central Michigan University.** The parties acknowledge and agree that Central Michigan University, its Board of Trustees, and its members, officers, employees, agents or representatives (collectively the "University") are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, Distinctive Schools hereby promises to indemnify, defend and hold harmless the University from and against all demands, claims, actions, suits, causes of action, losses, judgments, liabilities, damages, fines penalties, demands, forfeitures, or any other liabilities or losses of any kind whatsoever, including costs and expenses (not limited to reasonable attorney fees, expert and other professional fees), of settlement and prosecution imposed upon or incurred by the University, and not caused by the sole negligence of the University, which arise out of or are in any manner connected with the University Board's approval of the Academy's application, the University Board's consideration of or issuance of a Contract, Distinctive Schools' preparation for or operation of the Academy, or which are incurred as a result of the reliance by the University upon information supplied by Distinctive Schools, or which arise out of Distinctive Schools' failure to comply with the Contract or applicable law. The parties expressly acknowledge and agree that the University may commence legal action against Distinctive Schools to enforce its rights as set forth in this section of the Agreement.

## ARTICLE X INSURANCE

A. **Insurance of the Academy.** The Academy shall purchase its own insurance policy and shall secure and maintain such policies of insurance as required by the Contract and the Michigan Universities Self Insurance Corporation ("M.U.S.I.C."). This coverage shall include the building and related capital facilities if they are the property of the Academy. The Academy shall maintain such insurance in an amount and on such terms as required by the provisions of the Contract, including the indemnification of Distinctive Schools required by this Agreement. The Academy shall, upon request, present evidence to Distinctive Schools that it maintains the requisite insurance in compliance with the provisions of this paragraph. Distinctive Schools shall comply with any information or reporting requirements applicable to the Academy under the Academy's policy with its insurer(s), to the extent practicable.

B. **Insurance of Distinctive Schools.** Distinctive Schools shall secure and maintain such policies of insurance as required by the Contract and the Michigan Universities Self-Insurance Corporation ("M.U.S.I.C."). In the event the University or M.U.S.I.C. requests any change in coverage by Distinctive Schools, Distinctive Schools agrees to comply with the change in the type or amount, as requested, within thirty (30) days after notice of the insurance coverage change. Distinctive Schools' insurance is separate from and in addition to the insurance the Academy Board is required to obtain under the Contract. Distinctive Schools shall, upon request, present evidence to the Academy and CMU that it maintains the requisite insurance in compliance with the provisions of this paragraph. The Academy shall comply with any information or reporting requirements applicable to Distinctive Schools under Distinctive Schools' policy with its insurer(s), to the extent practicable.

C. **Workers' Compensation Insurance.** Each party shall maintain workers' compensation insurance when and as required by law, covering their respective employees, if any.

**ARTICLE XI**  
**MISCELLANEOUS**

A. **Sole Agreement.** This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and Distinctive Schools on the subject matter hereof.

B. **Force Majeure.** Neither party shall be liable if the performance of any part or all of this Agreement is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, or local, national, or global pandemic, explosion, war, act of God, sabotage, accident, or any other casualty, or cause beyond either party's control, and which cannot be overcome by reasonable diligence and without unusual expense.

C. **Notices.** All notices, demands, requests, and consents under this Agreement shall be in writing, shall be delivered to each party, and shall be effective when received by the parties or mailed to the parties at their respective addresses set forth below, or at such other address as may be furnished by a party to the other party:

|                            |   |
|----------------------------|---|
| If to Distinctive Schools: | 910 West Van Buren<br>Suite 315<br>Chicago, IL 60607<br><br>Attn: David Sundstrom<br>(dms@distinctiveschools.org) |
|----------------------------|---|

|                    |   |
|--------------------|---|
| If to the Academy: | Summit Academy<br>Attention: Board President<br>30100 Olmstead Rd.<br>Flat Rock, MI 48134 |
|--------------------|---|

D. **Severability.** The invalidity of any of the covenants, phrases, or clauses in this Agreement shall not affect the remaining portions of this Agreement, and this Agreement shall be construed as if such invalid covenant, phrase, or clause had not been contained in this Agreement.

E. **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

F. **Entire Agreement.** This Agreement is the entire agreement between the parties relating to the services provided, and the compensation for such services, by the parties. Any modification to this Agreement must be made in writing, approved by the Board and Distinctive Schools, and signed by a duly authorized officer. In addition, any modification of this Agreement must comply and be done in a manner consistent with CMU's Educational Service Provider Policies ("CMU's ESP Policies") before it can be executed.

**G. Survival of Termination.** All representations, warranties, indemnities, and proprietary/confidentiality obligations, and transition provisions made in this Agreement shall survive any termination or expiration of this Agreement without limitation.

**H. Non-Waiver.** No failure of a party in exercising any right, power or privilege under this Agreement shall affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies, which any of them may otherwise have.

**I. Assignment.** Distinctive Schools may not assign this Agreement without the prior written approval of the Board and without prior notification to CMU and must be done in a manner consistent with CMU's ESP Policies. Any assignment to another Educational Service Provider ("ESP") will be considered an ESP as defined by CMU's ESP Policies and any assignable ESP party shall follow the requirements set forth in the CMU ESP Policies.

**J. No Third Party Rights.** This Agreement is made for the sole benefit of the Academy and Distinctive Schools. Except as otherwise expressly provided, nothing in this Agreement shall create or be deemed to create a relationship between the parties, or either of them individually with any third person, third party beneficiary, fiduciary, or the Authorizer.

**I. Governing Law.** This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.

**J. Delegation of Authority.** Nothing in this Agreement shall be construed as delegating to Distinctive Schools any of the powers or authority of the Board that are not subject to delegation by the Board under applicable law or the Contract.

**K. Compliance with Law.** The parties agree to comply with all applicable laws and regulations.

**L. Warranties and Representations.** Both the Academy and Distinctive Schools represent that each has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.

**M. Dispute Resolution Procedure.** Any and all disputes between the parties concerning any alleged breach of this Agreement or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement that are unable to be resolved through discussion and negotiation shall be resolved by arbitration, and such an arbitration procedure shall be the sole and exclusive remedy for such matters. The arbitrator shall be selected from a panel provided by and in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association ("AAA"), with such variations as the parties and the arbitrator unanimously accept. Further, the Parties agree that the Expedited Procedures of the AAA shall be used, regardless of amount in controversy or number of parties named. Any arbitration hearing shall be conducted in Grand Rapids, Michigan. The arbitrator shall be required to issue a cause opinion with a written explanation as to the final decision. CMU shall be notified of the arbitrator's decision and a copy of the arbitrator's opinion shall be made available to CMU upon request. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction. The cost of



arbitration, not including attorney fees, shall be paid by the losing party. It shall be in the discretion of the arbitration panel to award reasonable attorney fees to the prevailing party, to be paid if awarded by the losing party.

N. **Modification to Conform to Changed CMU Policies.** The parties intend that this Agreement shall comply with CMU's Educational Service Provider Policies, as the same may be changed from time to time. In the event that changes in CMU's Educational Service Provider Policies implemented after the date of execution of this Agreement cause any provision of this Agreement to be in conflict with the revised Policies, the parties agree to amend this Agreement to eliminate the conflict within thirty (30) days after being advised by CMU of the changes to its policies.

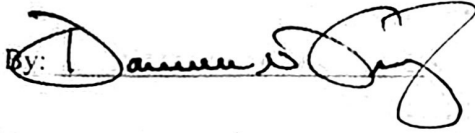
O. **CMU Review.** This Agreement is subject to review and non-disapproval by CMU and shall not become effective until the Academy Board is notified in writing that CMU does not disapprove of this Agreement.

**[SIGNATURE PAGE IMMEDIATELY FOLLOWS THIS PAGE]**

The parties have executed this Agreement as of the day and year first above written.

**Summit Academy**

**Distinctive Schools, Inc.**

By: 

By: 

Danielle A Vining  
(Print Name)

Scott Fraenkel  
(Print Name)

Its: DIRECTOR

Its: CEO

4823-7529-1325 v1 [39276-1]

**CONTRACT SCHEDULE 6**

**PHYSICAL PLANT DESCRIPTION**

## **PHYSICAL PLANT DESCRIPTION**

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article XI, Section 11.5, the Academy is authorized to operate at the physical facility or facilities outlined in this schedule. The Academy shall not occupy or use any facility until approved for occupancy by the Michigan Department of Licensing and Regulatory Affairs' Bureau of Construction Codes.

|                                      |      |
|--------------------------------------|------|
| Physical Plant Description .....     | 6-1  |
| Site Plan .....                      | 6-3  |
| Floor Plan.....                      | 6-4  |
| Mortgage.....                        | 6-5  |
| Bond Purchase Agreement.....         | 6-37 |
| Office of Fire Safety Approvals..... | 6-54 |

1. Applicable Law requires that a public school academy application and contract must contain a description of and the address for the proposed physical plant in which the public school academy will be located. See MCL 380.502(3)(i) and 380.503(6)(f);

2. The address and a description of the site and physical plant (the "Site") of Summit Academy (the "Academy") is as follows:

Address: 30100 Olmstead Rd.  
Flat Rock, MI 48134

Description: The Site consists of a one-story wood and block facility that contains approximately 36,630 square feet. The facility includes 23 classrooms, 30 restrooms, an art/STEAM room, resource room, literacy room, music room, gymnasium, computer lab, conference room, lunch preparation room, several offices, mechanical rooms, a teacher's lounge and storage rooms. There are two playground areas on the Site, as well as ample parking.

Configuration of Grade Levels: Kindergarten through Eighth Grade.

Term of Use: Term of Contract.

Name of School District and Intermediate School District:

Local: Flat Rock Community Schools  
ISD: Wayne RESA

3. It is acknowledged and agreed that the following information about this Site is provided on the following pages, or must be provided to the satisfaction of the University Board or its designee, before the Academy may operate as a public school in this state.

- A. Narrative description of physical facility
- B. Size of building
- C. Scaled floor plan
- D. Copy of executed lease or purchase agreement

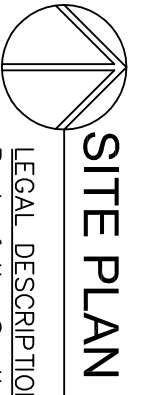
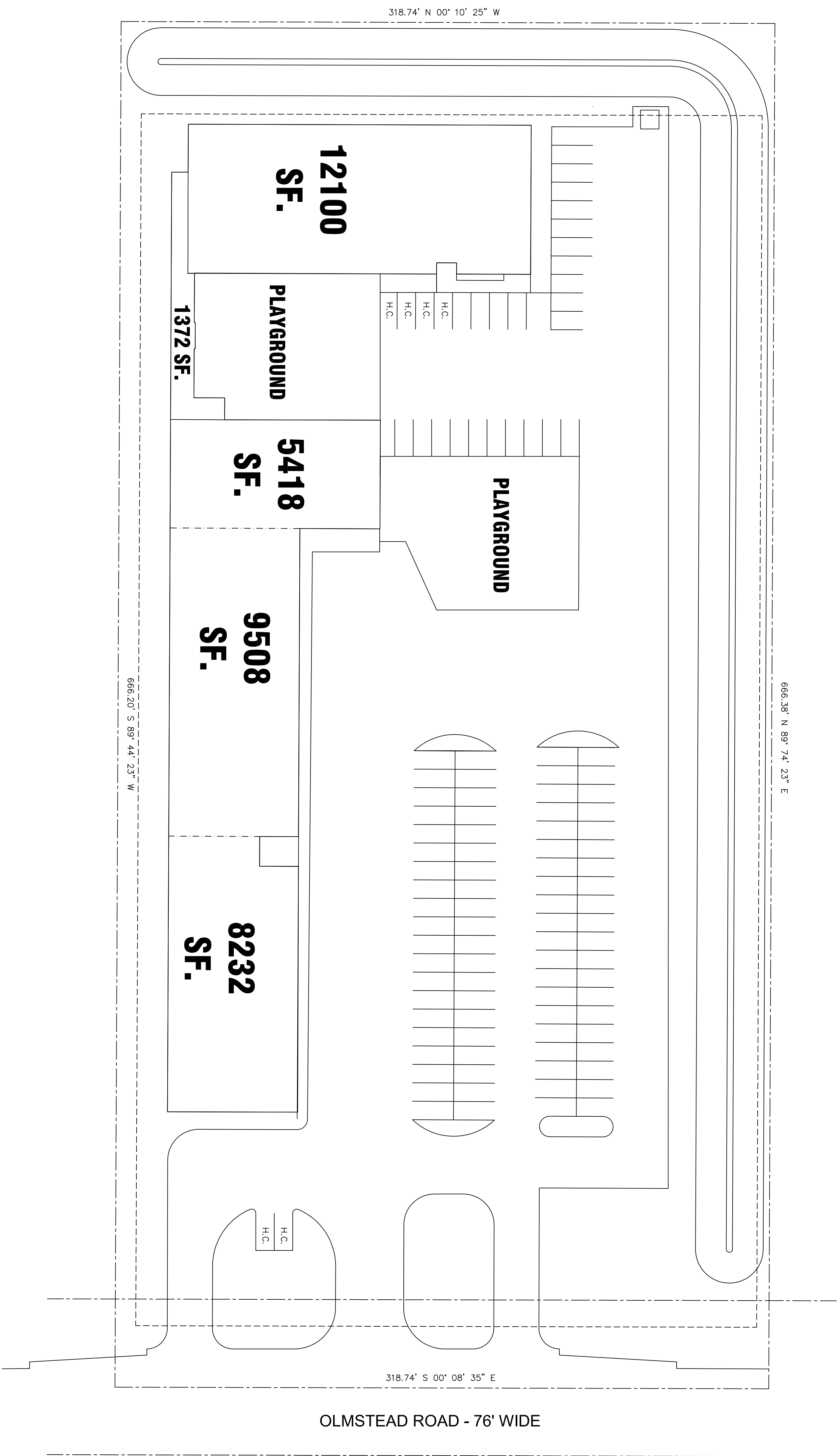
4. In addition, the Academy and the University Board hereby acknowledge and agree that this Contract is being issued to the Academy with the understanding that the Academy cannot conduct classes as a public school academy in this state until it has obtained the necessary fire, health and safety approvals for the above-described physical facility. These approvals must be provided and be acceptable to the University Board or its designee prior to the Academy operating as a public school. In cases of disagreement, the Academy may not begin operations without the consent of the University Board or its designee.

5. If the Site described above is not used as the physical facilities for the Academy, then Schedule 6 of this Contract between the Academy and the University Board must be amended pursuant to Article IX of the Terms and Conditions of Contract, to designate, describe, and agree

upon the Academy's physical facilities. The Academy must submit to the University Board or its designee complete information about the new site to be actually used. This information includes that described in paragraphs 2, 3 and 4 of this Schedule 6. It is acknowledged and agreed that the public school academy cannot conduct classes as a public school in this state until it has submitted all the information described above, to the satisfaction of the University Board or its designee, and the amendment regarding the new site has been executed.

6. Any change in the configuration of grade levels at the Site requires an amendment to this Schedule 6 pursuant to Article IX of the Terms and Conditions of Contract set forth above.

# SUMMIT FLAT ROCK - 30100 OLMSTEAD 36630 SF



**SITE PLAN**

**LEGAL DESCRIPTION:**  
Part of the Southwest 1/4 of Section 4, T. 3 S., R. 10 E., City of Flat Rock, Michigan, beginning at the intersection of the North and South 1/4 line; thence S. 89° 44' 23" W. 666.20 feet; thence N. 0° 10' 25" W. 318.74 feet; thence N. 89° 44' 23" E. 666.38 feet to the point of beginning.

SCALE: 1"=30'

| # | DATE/REMARK |
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AS-BUILT PLANS FOR:  
**SUMMIT ACADEMY FLAT ROCK**  
30100 OLMSTEAD ROAD, FLAT ROCK, MI

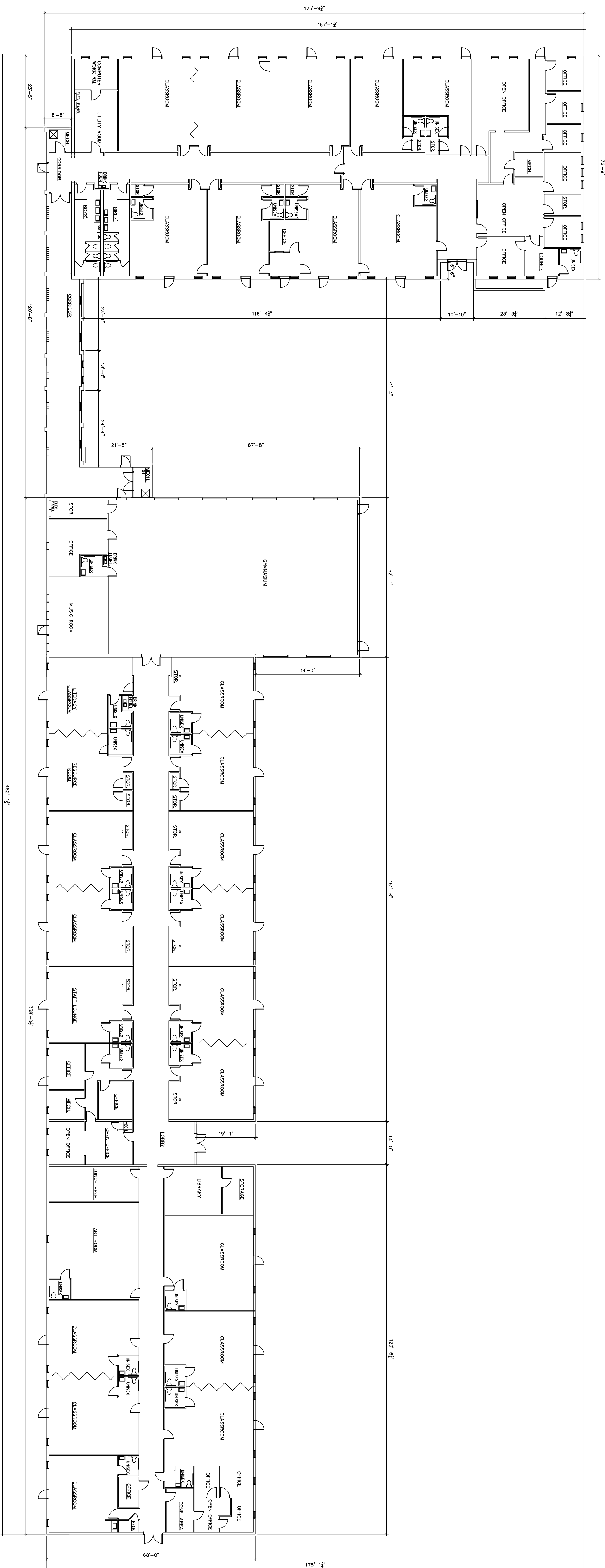
**RDP DEZIGN, INC.**  
ARCHITECTURAL SERVICES  
1203 SUPERIOR BLVD., WYANDOTTE, MICHIGAN 48183  
(734) 341-3129 E-MAIL: RDPDEZIGN@YAHOO.COM

SITE PLAN

SA1110

11/24/10

SD-1



# FLOOR PLAN

SCALE: 1/8" = 1'-0"

| # | DATE/REMARK |
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|   |             |
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AS-BUILT PLANS FOR:  
**SUMMIT ACADEMY FLAT ROCK**  
 30100 OLMSTEAD ROAD, FLAT ROCK, MI

AS-BUILT

**RDP DEZIGN, INC.**  
 ARCHITECTURAL SERVICES  
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**MORTGAGE**

**SUMMIT ACADEMY,**  
as Mortgagor

to

**U. S. BANK NATIONAL ASSOCIATION,**  
as Mortgagee

\$6,855,000  
Summit Academy  
Public School Academy Revenue and Refunding Bonds, Series 2005

Dated as of December 20, 2005

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**AMENDED AND RESTATED MORTGAGE**

**THIS AMENDED AND RESTATED MORTGAGE** ("Mortgage") is made as of December 20, 2005, by and between **SUMMIT ACADEMY**, as Mortgagor ("Mortgagor") and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association duly organized and existing under the laws of the United States of America, in its capacity as bond trustee for the Bonds (defined below), as Mortgagee ("Mortgagee").

**PRELIMINARY STATEMENTS**

A. Pursuant to the Trust Indenture dated as of December 20, 2005 (the "Trust Indenture") between Mortgagor and Mortgagee, Mortgagor is issuing its Public School Academy Revenue and Refunding Bonds, Series 2005 in the aggregate principal amount of \$6,855,000 (the "Bonds") for the purposes set forth in the Trust Indenture.

B. Pursuant to the Trust Indenture, certain state school aid payments have been pledged and assigned by Mortgagor to Mortgagee for the payment of the principal of and interest on the Bonds.

C. The Bonds are secured by the Trust Estate (as defined in the Trust Indenture), including a lien on and security interest in the Mortgaged Estate (defined below) pursuant to this Mortgage, granted by Mortgagor.

**GRANTING CLAUSES**

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Mortgagor hereby irrevocably grants a security interest in, mortgages, warrants, grants, bargains, sells, transfers, conveys and assigns to Trustee and to its assigns forever, IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY, for the benefit and security of Mortgagee, under and subject to the terms and conditions hereinafter set forth, all of Mortgagor's estate, right, title and interests in, to and under any and all of the following property now owned, together with all cash and noncash proceeds thereof, which may be referred to herein as the "Mortgaged Estate:"

**LAND**

The real property located in the County of Wayne, State of Michigan, described in Exhibit A attached hereto and by this reference incorporated herein (the "Land");

**IMPROVEMENTS**

Any and all buildings, structures, fixtures and improvements now on the Land, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery, and other articles attached to such buildings and improvements (collectively, the "Improvements" and, together with the Land, the "Real Property");

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## **RENTS, REVENUES AND DERIVATIVE INTERESTS**

All rents, issues, profits and royalties derived from the Real Property and the operation thereof (collectively the "Revenues"); all estate, right, title and interest of Mortgagor in and to all leases or subleases covering the Real Property or any portion thereof now or hereafter existing or entered into, including, without limitation, all cash or security deposits, advance rentals and deposits or payments of similar nature; all right, title and interest of Mortgagor in and to all options to purchase or lease the Real Property or any portion thereof or interest therein, and any greater estate therein now owned; all interests, estate or other claims, both in law and in equity, which Mortgagor now has in the Real Property or any portion thereof or interest therein; all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, all right, title and interest of Mortgagor, now owned, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Real Property and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Real Property (all of the foregoing in this paragraph being, collectively, the "Derivative Interests" and, together with the Real Property, the "Project");

## **INTANGIBLES**

All of Mortgagor's interest in all existing and future accounts, contract rights, general intangibles, files, books of account, plans, specifications, agreements, permits, licenses and certificates necessary or desirable in connection with the acquisition, ownership, leasing, construction, operation, servicing or management of the Project, whether now existing or entered into or obtained after the date hereof, all existing and future names under or by which the Project or any portion thereof may at any time be operated or known (the "Intangibles");

## **CLAIMS AND AWARDS**

All the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Mortgagor now has or may hereafter acquire in the Project or Intangibles and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Project or Intangibles including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages; and

## **PROCEEDS**

All of the rents, revenues, issues, profits, products and proceeds of any and all of the foregoing.

A security interest is granted by this Mortgage in that portion of the Mortgaged Estate which constitutes personalty pursuant to and as set forth in Article IV hereof.

TO HAVE AND TO HOLD the Mortgaged Estate hereby granted or mortgaged or intended to be granted or mortgaged, unto Trustee, and its successors in trust, heirs and assigns, upon the terms, provisions and conditions set forth herein in fee simple forever.

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PROVIDED, HOWEVER, that these presents are upon the condition that, if the Secured Obligations (as hereinafter defined) hereby shall be paid when due, and if Mortgagor shall keep, perform and observe all and singular the obligations, covenants, agreements and provisions in this Mortgage expressed to be kept, performed by and observed by or on the part of Mortgagor, then this Mortgage and the estate and rights hereby granted shall cease, determine and be void, but otherwise shall be and remain in full force and effect.

THIS MORTGAGE SHALL SECURE THE FOLLOWING INDEBTEDNESS AND OBLIGATIONS:

(i) Payment of indebtedness evidenced by the Bonds and all replacements, renewals, amendments, extensions, substitutions and modifications thereof bearing interest and being payable as provided therein;

(ii) Payment of all indebtedness and performance of all obligations and covenants of Mortgagor under the Trust Indenture and each agreement of Mortgagor incorporated by reference therein or herein, or contained therein or herein;

(iii) Payment of all of the principal of and interest on any future advances under the Trust Indenture, this Mortgage, and any other instrument or other document given to evidence or further secure the payment and performance of any of the obligations thereunder; and

(iv) Payment of all other indebtedness and performance of all other obligations and covenants of Mortgagor contained in any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby or thereby;

The indebtedness and the obligations secured by this Mortgage which are described in (i) through (iv) above may be referred to herein as the "Secured Obligations."

It is the intention of the parties hereto that the Mortgaged Estate shall secure all of the Secured Obligations presently or hereafter owed, and that the priority of the security interest created by this Mortgage for all such Secured Obligations shall be controlled by the time of proper recording of this Mortgage. In addition, this Mortgage shall also secure unpaid balances of advances made with respect to the Mortgaged Estate for the payment of taxes, assessments, insurance premiums, costs or any other advances incurred for the protection of the Mortgaged Estate, together with interest thereon until paid, all as contemplated in this Mortgage, all of which shall constitute a part of the Secured Obligations. This paragraph shall serve as notice to all persons who may seek or obtain a lien on the Mortgaged Estate subsequent to the date of recording of this Mortgage, that until this Mortgage is released, any debt owed by Mortgagor under the Trust Indenture, including advances made subsequent to the recording of this Mortgage, shall be secured with the priority afforded this Mortgage as recorded.

IT IS HEREBY COVENANTED, DECLARED AND AGREED that the Mortgaged Estate is to be held and disposed of by Trustee, upon and subject to the provisions of this Mortgage.

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All capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Trust Indenture.

## ARTICLE I

### REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS OF MORTGAGOR

Mortgagor hereby represents, warrants, covenants and agrees:

**Section 1.01. Payment of Secured Obligations.** Mortgagor hereby grants this Mortgage to secure the payment and performance when due of the Secured Obligations. The consideration received by Mortgagor to execute and deliver this Mortgage and the liens and security interests created herein are sufficient and will provide a direct economic benefit to Mortgagor.

**Section 1.02. Title of Mortgagor.** Mortgagor has, subject to the matters set forth as exceptions in the loan policy of title insurance to be provided to Mortgagee in connection with this Mortgage as well as those exceptions provided in the attached Exhibit B (the "Permitted Encumbrances"), in its own right, good, marketable and indefeasible title in fee simple to the Mortgaged Estate, which is free from encumbrance superior to the encumbrance of this Mortgage, and has full right, power and authority to execute and deliver this Mortgage and to make the conveyances and grant the interests and security contemplated hereby. This Mortgage constitutes a valid first lien upon and security interest in the Mortgaged Estate, subject only to the Permitted Encumbrances.

**Section 1.03. [Reserved]**

**Section 1.04. Maintenance; Repair; Alterations.** Mortgagor shall: (i) keep the Mortgaged Estate in good condition and repair, subject to reasonable and ordinary wear and tear; not remove, demolish or substantially alter (except such alterations as may be required by applicable laws, ordinances or regulations or as permitted under the Trust Indenture) any of the Improvements; (ii) complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the Project and promptly restore in like manner any Improvement which may be damaged or destroyed thereon, subject to the provisions of Section 1.07 hereof, and pay when due all claims for labor performed and materials furnished therefor; (iii) comply with all applicable laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Mortgaged Estate or any part thereof or requiring any alterations or improvements; (iv) not commit or permit any waste or deterioration of the Mortgaged Estate; (v) keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; (vi) comply with the provisions of any lease, if this Mortgage is on a leasehold; (vii) use the Mortgaged Estate and continue to cause the Mortgaged Estate to be used as permitted under applicable law; and (viii) not commit, suffer or permit any act to be done in or upon the Mortgaged Estate in violation of any applicable law, ordinance or regulation.

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**Section 1.05. Required Insurance.** Mortgagor shall provide, maintain and keep at all times in force those policies of insurance required in the Trust Indenture.

**Section 1.06. Delivery of Insurance Policies; Payment of Premiums.**

(a) All policies of insurance shall be issued by companies and in amounts as required by the provisions of the Trust Indenture.

(b) In the event Mortgagor fails to provide, maintain, keep in force or deliver and furnish to Mortgagee evidence of the policies of insurance required by the Trust Indenture, Mortgagee may procure such insurance or single-interest insurance for such risks covering Mortgagee's interest, and Mortgagor will pay all premiums thereon promptly upon demand by Mortgagee, and until such payment is made by Mortgagor the amount of all such premiums, together with interest thereon, shall be secured by this Mortgage.

(c) Upon occurrence of an Event of Default, Mortgagee shall apply any sums or amounts received pursuant hereto, or as Revenues or income of the Mortgaged Estate or otherwise, as required under the Trust Indenture. The receipt, use or application of any such sums by Mortgagee hereunder shall not be construed to affect the maturity of any Secured Obligation or any of the rights or powers of Mortgagee under the terms of the Trust Indenture or any of the obligations of Mortgagor under the Trust Indenture.

**Section 1.07. Insurance Proceeds.** After the occurrence of any casualty to the Mortgaged Estate or any part thereof, Mortgagor shall give prompt written notice thereof to Mortgagee and each insurer and promptly submit a claim to such insurer(s) for payment of insurance proceeds. Proceeds of all insurance awards ("Insurance Proceeds") shall be held and disbursed as provided in the Trust Indenture. Notwithstanding the application of Insurance Proceeds to the payment of a portion of the Secured Obligations, any unpaid portion of the Secured Obligations shall remain in full force and effect, and Mortgagor shall not be excused in the payment thereof.

Except as provided below, nothing contained in this Mortgage shall be deemed to excuse Mortgagor from repairing or maintaining the Mortgaged Estate as provided in Section 1.04 hereof. The application or release by Mortgagee of any Insurance Proceeds shall not cure or waive any Event of Default or notice of default under this Mortgage or invalidate any act done pursuant to such notice.

**Section 1.08. Assignment of Policies Upon Foreclosure.** In the event of the foreclosure of this Mortgage, or other transfer of title to the Mortgaged Estate, or any part thereof, by nonjudicial foreclosure sale or deed in lieu of foreclosure, the purchaser of the Mortgaged Estate, or such part thereof, shall succeed to all of Mortgagor's rights, including any rights to unexpired insurance and unearned or returnable premiums, in and to all insurance policies required by Section 1.05 hereof, subject to limitations on assignment of blanket policies, and limited to such rights as relate to the Mortgaged Estate or such part thereof. If Mortgagee acquires title to the Mortgaged Estate, or any part thereof, in any manner, it shall thereupon (as between Mortgagor and Mortgagee) become the sole and absolute owner of the insurance

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policies, and all proceeds payable thereunder with respect to the Mortgaged Estate, or such part thereof, required by Section 1.05 hereof, with the sole right to collect and retain all unearned or returnable premiums thereon with respect to the Mortgaged Estate, or such part thereof, if any.

**Section 1.09. Expenses; Indemnification; Waiver of Offset.**

(a) Mortgagor shall pay or reimburse Mortgagee for all reasonable expenses incurred by Mortgagee before and after the date of this Mortgage with respect to any and all transactions contemplated by this Mortgage including without limitation, the preparation of any document reasonably required hereunder or any amendment, modification, restatement or supplement to this Mortgage, the delivery of any consent, non-disturbance agreement or similar document in connection with this Mortgage or the enforcement of any of Mortgagee's rights. Such expenses shall include, without limitation, all reasonable title and conveyancing charges, recording and filing fees and taxes, mortgage taxes, intangible personal property taxes, escrow fees, revenue and tax stamp expenses, privilege taxes, use taxes, insurance premiums (including title insurance premiums), title search and title rundown charges, brokerage commissions, finders' fees, placement fees, court costs, surveyors', photographers', appraisers', architects', engineers', consulting professionals', accountants', and attorneys' fees and disbursements.

(b) If (i) any sale (or prerequisite to a sale), action or proceeding shall be commenced by Mortgagee (including but not limited to any sale of the Mortgaged Estate, or any action to foreclose this Mortgage or to collect the Secured Obligations), or any action or proceeding is commenced to which Mortgagee is made a party, or in which it becomes necessary to defend or uphold the rights granted by this Mortgage (including, without limitation, any proceeding or other action relating to the bankruptcy, insolvency or reorganization of Mortgagor or any other person or entity obligated hereunder), or in which Mortgagee is served with any legal process, discovery notice or subpoena, and (ii) in each of the foregoing instances such action or proceeding in any manner relates to or arises out of this Mortgage or issuance of the Bonds or acceptance of a guaranty from a guarantor of the Secured Obligations or any of the transactions contemplated by this Mortgage and such action or proceeding does not relate to or arise out of the negligence, breach of trust or willful misconduct of Mortgagee as applicable, then Mortgagor will immediately reimburse or pay to Mortgagee all of the expenses which have been or may be incurred by Mortgagee with respect to the foregoing (including reasonable counsel fees and disbursements), together with interest thereon, and any such sum and the interest thereon shall be included in the Secured Obligations and have the full benefit of this Mortgage, prior to any right, or title to, interest in or claim upon the Mortgaged Estate attaching or accruing to this Mortgage, and shall be deemed to be secured by this Mortgage. In any action or proceeding to sell the Mortgaged Estate, to foreclose this Mortgage, or to recover or collect the Secured Obligations, the provisions of law respecting the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

(c) To the extent permitted by law, Mortgagor shall indemnify and hold harmless Mortgagee and affiliates, and directors, officers, agents and employees and affiliates for,

from and against all claims, damages, losses and liabilities (including, without limitation, reasonable attorneys' fees and expenses) arising out of or based upon any matter related to this Mortgage, the Mortgaged Estate or the occupancy, ownership, maintenance or management of the Mortgaged Estate by Mortgagor, including, without limitation, any claims based on the alleged acts or omissions of any employee or agent of Mortgagor except for such damages incurred due to the negligence, breach of trust or willful misconduct of Mortgagee or its affiliates, directors, officers, agents or employees. This indemnification shall be in addition to any other liability which Mortgagor may otherwise have to Mortgagee.

(d) Mortgagor waives any and all right to claim or recover against Mortgagee, its officers, employees, agents and representatives, for loss of or damage to Mortgagor, the Mortgaged Estate, Mortgagor's property or the property of others under Mortgagor's control from any cause insured against or required to be insured against by the provisions of this Mortgage except for such damages incurred due to the negligence, breach of trust or willful misconduct of Mortgagee.

(e) All sums payable by Mortgagor under this Mortgage shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the Secured Obligations of Mortgagor hereunder shall in no way be released, discharged or otherwise affected by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Mortgaged Estate or any part thereof; (ii) any restriction or prevention of or interference with any use of the Mortgaged Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Mortgaged Estate or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Mortgagor, or any action taken with respect to this Mortgage by any trustee or receiver of Mortgagor, or by any court, in any such proceeding; or (v) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Mortgagor shall have notice or knowledge of any of the foregoing. To the extent permitted by law, Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any Secured Obligation. Notwithstanding the above, Mortgagor may maintain a separate suit regarding such matters.

#### **Section 1.10. Taxes and Impositions.**

(a) In accordance with the terms of the Trust Indenture, Mortgagor agrees to pay, prior to delinquency, all real and personal property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, which are assessed or imposed upon the Mortgaged Estate or any part thereof, or become due and payable, and which create, may create or appear to create a lien upon the Mortgaged Estate, or any part thereof, or upon any personal property, equipment or other facility used in the operation or maintenance thereof (all of which taxes, assessments and other governmental and nongovernmental charges of like nature are hereinafter referred to as "Impositions").

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(b) Subject to the applicable state law provisions, Mortgagor shall have the right before any delinquency occurs to contest or object to the amount or validity of any Imposition by appropriate legal proceedings in accordance with the terms of the Trust Indenture.

(c) Mortgagor covenants and agrees not to suffer, permit or initiate the joint assessment of the real and personal property, or any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the Mortgaged Estate as a single lien.

**Section 1.11. Utilities.** Mortgagor shall pay when due all utility charges which are incurred for the benefit of the Mortgaged Estate or any part thereof or which may become a charge or lien against the Mortgaged Estate for gas, electricity, water or sewer services furnished to the Mortgaged Estate and all other taxes, assessments or charges of a similar nature, whether public or private, affecting the Mortgaged Estate or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

**Section 1.12. Actions Affecting Mortgaged Estate.** Mortgagor shall appear in and contest any action or proceeding purporting to affect the title of Mortgagor in the Mortgaged Estate or any part thereof or security hereof or the rights or powers of Mortgagee; and Mortgagor shall pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees, in any such action or proceeding in which Mortgagee may appear.

**Section 1.13. Actions by Mortgagee To Preserve Mortgaged Estate.** Should Mortgagor fail to make any payment or to do any act as and in the manner provided in this Mortgage, Mortgagee, in its sole discretion, and without notice to, or demand upon, Mortgagor and without releasing Mortgagor from any Secured Obligation, may make or do the same in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. In connection therewith (without limiting its general powers), Mortgagee shall have, and is hereby given the right, but not the obligation: (i) to enter upon and take possession of the Mortgaged Estate; (ii) to make additions, alterations, repairs and improvements to the Mortgaged Estate which it may consider necessary or proper to keep the Mortgaged Estate in good condition and repair; (iii) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Mortgagee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of Mortgagee may affect or appears to affect the security of this Mortgage or be prior or superior hereto; and (v) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Any such costs and expenses incurred by Mortgagee and any such amounts paid by Mortgagee shall be secured hereby with the same priority afforded this Mortgage as recorded. Mortgagor shall immediately upon demand therefor by Mortgagee pay all of the foregoing costs and expenses incurred by Mortgagee in connection with the exercise by Mortgagee of the foregoing rights, including without limitation costs of evidence of title, court costs, appraisals, surveys and reasonable attorneys' fees provided, however, that Mortgagor shall not be liable to pay for any such costs or expenses incurred by Mortgagee due to the gross negligence, willful misconduct or breach of trust of Mortgagee or its affiliates, directors, officers, agents or employees.

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**Section 1.14. Survival of Warranties.** Mortgagor shall fully and faithfully satisfy and perform the Secured Obligations. All representations, warranties and covenants of Mortgagor contained herein shall remain continuing obligations, warranties and representations of Mortgagor during any time when any portion of the obligations secured by this Mortgage remain outstanding.

**Section 1.15. Eminent Domain.** Should the Mortgaged Estate, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner ("Condemnation"), or should Mortgagor receive any notice or other information regarding such proceeding, Mortgagor shall give prompt written notice thereof to Mortgagee. Mortgagee may participate in any such Condemnation proceedings, and Mortgagor shall from time to time deliver to Mortgagee all instruments requested by Mortgagee to permit such participation. Mortgagor shall, at its sole cost and expense, diligently prosecute any such proceedings and shall consult with Mortgagee and its attorneys and experts, and cooperate with it in the carrying on or defense of any such proceedings. All proceeds of Condemnation awards or proceeds of sale in lieu of Condemnation with respect to the Mortgaged Estate and all judgments, decrees and awards for injury or damage to the Mortgaged Estate or any part thereof or interest therein shall be paid to Mortgagor or Mortgagee as provided in Section 7.02 of the Trust Indenture, and if to Mortgagee, shall be applied first to all reasonable costs and expenses incurred by Mortgagee in obtaining the proceeds. The balance of proceeds (referred to in the Trust Indenture as "net proceeds"), if any, shall be applied as directed by Mortgagor in accordance with the provisions of the Trust Indenture.

Mortgagor hereby assigns and transfers to Mortgagee, and agrees to execute such further assignments of, all such proceeds, judgments, decrees and awards as Mortgagee may request. Mortgagee is hereby authorized, in the name of Mortgagor, to execute and deliver valid acquittances for, and to appeal from, any such judgment, decree or award. Mortgagor hereby authorizes, directs and empowers Mortgagee, at its option and with notice to Mortgagor, on Mortgagor's behalf, or on behalf of the successors or assigns of Mortgagor, to adjust, compromise, claim, collect and receive such proceeds and to give proper receipts and acquittances therefor. Mortgagee shall not be, in any event or circumstance, liable or responsible for failure to collect or exercise diligence in the collection of any proceeds, judgments, decrees or awards unless such failure is due to Mortgagee's negligence, willful misconduct or breach of trust.

**Section 1.16. Additional Security.** In the event Mortgagee at any time holds additional security for any of the Secured Obligations, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before, concurrently with or after any sale is made hereunder.

**Section 1.17. Additional Indebtedness.** Except as provided in the Trust Indenture and except for the Permitted Encumbrances, Mortgagor shall not further encumber the Mortgaged Estate or any portion thereof (including, without limitation, secured transactions under the Uniform Commercial Code in effect in the State, the "UCC").

**Section 1.18. Successors and Assigns.** This Mortgage applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors,

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successors and assigns. The covenants and agreements of Mortgagor contained herein shall apply to and be binding upon any successor owner of the Mortgaged Estate or any part thereof.

**Section 1.19. Inspections.** Mortgagee, or its agents, representatives or workmen, are authorized to enter upon notice of two Business Days to Mortgagor at any reasonable time upon or in any part of the Mortgaged Estate for the purpose of inspecting the same and all books, records and documents relating thereto, and for the purpose of performing any of the acts it is authorized to perform under the terms of the Trust Indenture.

**Section 1.20. Liens.** Mortgagor shall pay and promptly discharge, at Mortgagor's sole cost and expense, all liens, encumbrances and charges upon the Mortgaged Estate, or any part thereof or interest therein other than the Permitted Encumbrances. Mortgagor shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided Mortgagor shall thereafter diligently and in good faith proceed to cause such lien, encumbrance or charge to be removed and discharged. If Mortgagor shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of Mortgagee, Mortgagee may, but shall not be obligated to, discharge the same, either, by paying the amount claimed to be due, or by procuring the discharge of such lien, either, by depositing in court a bond in the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law. Any cost incurred by Mortgagee in connection with any such payment or discharge shall be secured hereby and shall be immediately due and payable without notice or demand.

**Section 1.21. Restrictions Affecting Title.** Mortgagor shall perform when due all obligations required to be performed by Mortgagor by the provisions of any agreement affecting title to the Mortgaged Estate or any part thereof.

**Section 1.22. Further Assurances.** Mortgagor shall, upon the execution and delivery hereof and thereafter from time to time, take such actions as Mortgagee may request to cause this Mortgage, each supplement and amendment to such instrument and financing statements with respect thereto and each instrument of further assurance (collectively, the "Recordable Documents") to be filed, registered and recorded as may be required by law and maintain the first lien or security interest, as applicable, hereof upon the Trust Estate and protect the validity of the Recordable Documents. Mortgagor shall take all action and do all things which it is authorized by law to take and do, and cooperate with Mortgagee as Mortgagee deems necessary or desirable, to insure the release of all encumbrances against the Mortgaged Estate, except the Permitted Encumbrances, existing prior to the date hereof.

So long as any Secured Obligations shall remain unpaid, Mortgagor shall execute, acknowledge, where appropriate, and deliver from time to time promptly at the request of Mortgagee all such instruments and documents as in the opinion of Mortgagee are necessary or desirable to preserve the first priority lien created by this Mortgage. If Mortgagor shall fail or refuse to execute, acknowledge, where appropriate, and deliver such instruments and documents to preserve the first priority lien created by this Mortgage within 10 Business Days following a written request by Mortgagee, Mortgagor irrevocably constitutes and appoints Mortgagee as its attorney-in-fact to execute and deliver such instruments, it being stipulated that such power of attorney is coupled with an interest and is irrevocable and binding.

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**Section 1.23. Performance of Covenants; Incorporation of Representations and Warranties.** Mortgagor shall faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in the Trust Indenture and in all of its proceedings pertaining to this Mortgage. The covenants, representations and warranties of Mortgagor set forth in the Trust Indenture are incorporated by reference into this Mortgage as if stated in full in this Mortgage and such representations and warranties as incorporated herein shall be deemed to have been made as of the date of this Mortgage and shall survive the execution and delivery of this Mortgage.

**Section 1.24. Notification of Event of Default Under Mortgage.** Mortgagor agrees to notify Mortgagee immediately in writing of any default by Mortgagor in the performance or observance of any covenant, agreement, representation, warranty or obligation of Mortgagor set forth in this Mortgage. Mortgagor shall also notify Mortgagee in writing of any event or condition which with the lapse of time or the giving of notice would constitute an Event of Default.

**Section 1.25. [Reserved].**

**Section 1.26. Organization; Due Authorization.** Mortgagor is a public school academy duly organized, validly existing and in good standing under the laws of the State of Michigan and has the requisite power, authority and legal right to carry on the business conducted by it and to engage in the transactions contemplated by the Trust Indenture. The execution and delivery of the Trust Indenture and the performance and observance of the provisions thereof have all been authorized by all necessary actions of Mortgagor.

**Section 1.27. Liabilities; Compliance With Other Instruments.** Mortgagor has no liabilities regarding the Mortgaged Estate except those hereunder and those otherwise contemplated or permitted by this Mortgage and the Trust Indenture, none of which are delinquent. Mortgagor is not in default (i) in the payment of any taxes levied or assessed against it or its assets, (ii) under any applicable statute, rule, order or regulation of any governmental authority, (iii) under this Mortgage or the Trust Indenture, or (iv) under any other agreement to which it is a party or by which it or any of its properties are bound.

Neither the execution and delivery of this Mortgage or the Trust Indenture, nor the consummation of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof, conflicts with or results or will result in a breach of any of the terms, conditions or provisions of the articles of incorporation of Mortgagor, any law, order, rule, regulation, writ, injunction or decree of any court or governmental authority, or any agreement or instrument to which Mortgagor is a party or by which it or any of its properties are bound, or constitutes or will constitute a default thereunder, or result or will result in the creation or imposition of any lien of any nature whatsoever upon any of its property or assets pursuant to the terms of any such agreement or instrument except the liens created or permitted by the Trust Indenture.

**Section 1.28. Enforceability.** This Mortgage and the Trust Indenture have been duly executed and delivered by Mortgagor and constitute valid and binding obligations of Mortgagor enforceable in accordance with their respective terms, except as the enforceability (but not the

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validity thereof) may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally.

**Section 1.29. Pending Litigation.** There are no proceedings pending or, to the knowledge of Mortgagor, threatened, against or affecting Mortgagor or any part of the Mortgaged Estate in any court or before any governmental authority or arbitration board or tribunal which if adversely determined would materially and adversely affect the properties, business, prospects, profits or condition (financial or otherwise) of Mortgagor or the right or ability of Mortgagor to enter into the Trust Indenture, and if any such proceedings are subsequently initiated or threatened then Mortgagor will promptly provide written notice to Mortgagee. Mortgagor is not in default with respect to any order of any court or governmental authority or arbitration board or tribunal.

**Section 1.30. Compliance With Law.** Mortgagor is in substantial compliance with all laws, ordinances, governmental rules or regulations to which it is subject, including, without limitation, the Occupational Safety and Health Act of 1970, the Employee Retirement Income Security Act of 1974 and all laws, ordinances, governmental rules or regulations relating to environmental protection the violation of which would materially and adversely affect the properties, business, prospects, profits or condition (financial or otherwise) of Mortgagor.

**Section 1.31. After-Acquired Property.** Except as expressly provided in this Mortgage, the Mortgage Estate shall not include the right, title and interest of Mortgagor in and to all improvements, additions and appurtenances to, the Mortgaged Estate, hereafter acquired by or released to Mortgagor. As required, however, Mortgagor shall execute and deliver to Mortgagee any further assurances, mortgages, grants, conveyances or assignments as Mortgagee may reasonably require to subject such property to the lien of this Mortgage.

**Section 1.32. Transfer of Interests in Mortgagor or Mortgaged Estate.** Except in accordance with the terms and restrictions of the Trust Indenture, and except for the Permitted Encumbrances, Mortgagor shall not, by operation of law or otherwise, sell, convey, alienate, transfer, grant, bargain, mortgage, encumber or assign ownership or control of all or any interest in Mortgagor or any part of the Mortgaged Estate or any interest therein, without the prior written consent of Mortgagee.

**Section 1.33. Lease Provisions.** Any lease of all or any part of the Mortgaged Estate by Mortgagor permitted under this Mortgage and the Trust Indenture shall contain a provision obligating such lessee to enter into a subordination, attornment and nondisturbance agreement with Mortgagee, in form and substance satisfactory to Mortgagee.

**Section 1.34. Defeasance Terminates Lien.** Upon defeasance of all Outstanding Bonds in accordance with the Trust Indenture, the lien of this Mortgage upon the Mortgaged Estate shall cease, and Mortgagee and Trustee shall execute and deliver to Mortgagor at Mortgagor's sole cost and expense all documents necessary to effect such a release.

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## ARTICLE II

### ENVIRONMENTAL MATTERS

**Section 2.01. Environmental Matters.** Mortgagor hereby incorporates and reaffirms those covenants and representations contained in Sections 7.06, 7.07 and 7.08 of the Trust Indenture (including its covenant to provide certain environmental indemnifications) as an integral part of this Mortgage; provided, however, it is the intent of the parties that the environmental indemnifications contained herein are separate and independent obligations of Mortgagor which shall survive any release, foreclosure or other satisfaction of this Mortgage, and such indemnifications shall not be subject to any anti-deficiency defense.

## ARTICLE III

### ASSIGNMENT OF RENTS AND LEASES

**Section 3.01. Assignment of Revenues.** Mortgagor hereby absolutely assigns and transfers to Mortgagee all the Revenues of the Mortgaged Estate and hereby gives to and confers upon Mortgagee the right, power and authority to collect such Revenues. Mortgagor irrevocably appoints Mortgagee its true and lawful attorney-in-fact, at the option of Mortgagee, at any time and from time to time, to take possession and control of the Mortgaged Estate and to demand, receive and enforce payment, to give receipts, releases and satisfaction, and to sue, in the name of Mortgagor or Mortgagee, for all such Revenues and apply the same to the Secured Obligations; provided, however, that Mortgagor shall have a license to possess and control the Mortgaged Estate and to collect such Revenues (but not more than one month in advance) which is revocable at any time upon an Event of Default by Mortgagor under any of the Trust Indenture. The assignment of the Revenues of the Mortgaged Estate in this Article III is intended to be an absolute assignment from Mortgagor to Mortgagee and not merely the passing of a security interest.

While the assignment made in this Mortgage is present, direct and continuing, the execution and delivery hereof shall not in any way impair or diminish the obligations of Mortgagor under the provisions of any lease nor shall any of the obligations contained in any lease be imposed upon Mortgagee.

**Section 3.02. Collection Upon Default.** Upon any Event of Default under this Mortgage or the Trust Indenture, Mortgagee may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Secured Obligations (i) enter upon and take possession of the Mortgaged Estate, or any part thereof, and in its own name sue for or otherwise collect such Revenues, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any Secured Obligations, and in such order as Mortgagee may determine, and (ii) prepare and submit any applications or other documentation as necessary in order to permit Mortgagee to collect the Revenues of the Mortgaged Estate. The collection of such Revenues, or the entering upon and taking possession of the Mortgaged Estate shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

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Mortgagee shall not be liable to Mortgagor, anyone claiming under or through Mortgagor or anyone having an interest in the Mortgaged Estate by reason of anything done or left undone by Mortgagee hereunder, except to the extent of Mortgagee's negligence or willful misconduct.

#### ARTICLE IV

#### SECURITY AGREEMENT

**Section 4.01. Creation of Security Interest.** With respect to any portion of the Mortgaged Estate which now constitute fixtures governed by the UCC, this Mortgage shall constitute a security agreement between Mortgagor as the debtor and Mortgagee as the secured party, and Mortgagor hereby grants to Mortgagee a security interest in such portion of the Mortgaged Estate (such portion being the "Fixtures"). Cumulative of all other rights of Mortgagee hereunder, Mortgagee shall have all of the rights conferred upon secured parties by the UCC. Mortgagor will execute and deliver to Mortgagee all financing statements that may from time to time be required by Mortgagee to establish and maintain the validity and priority of the security interest of Mortgagee, or any modification thereof, and all costs and expenses of any searches required by Mortgagee. Mortgagee may exercise any or all of the remedies of a secured party available to it under the UCC with respect to such property, and it is expressly agreed that if upon an Event of Default Mortgagee should proceed to dispose of such property in accordance with the provisions of the UCC, 10 days' notice by Mortgagee to Mortgagor shall be deemed to be reasonable notice under any provision of the UCC requiring such notice; provided, however, that Mortgagee may at its option dispose of such property in accordance with Mortgagee's rights and remedies with respect to the real property pursuant to the provisions of this Mortgage, in lieu of proceeding under the UCC.

Mortgagor shall give advance notice in writing to Mortgagee of any proposed change in Mortgagor's name, identity, or business form or structure and will execute and deliver to Mortgagee, prior to or concurrently with the occurrence of any such change, all additional financing statements that Mortgagee may reasonably require to establish and maintain the validity and priority of Mortgagee's security interest with respect to any of the Mortgaged Estate described or referred to herein.

Some of the items of the Mortgaged Estate described herein are goods that are or are to become fixtures related to the Real Property, and it is intended that as to those goods, this Mortgage shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Mortgaged Estate is situated. Information concerning the security interest created by this instrument may be obtained from Mortgagee, as secured party, at the address of Mortgagee stated in Section 6.05 of this Mortgage. The mailing address of Mortgagor, as debtor, is as stated in Section 6.05 of this Mortgage.

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**Section 4.02. Warranties; Representations and Covenants of Mortgagor.** Mortgagor hereby warrants, represents and covenants, with respect to the Fixtures, as follows:

(a) except for the security interest granted hereby, Mortgagor is, and as to any of the Fixtures to be acquired after the date hereof will be, the sole owner of the Fixtures, free from any adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever except for purchase money liens and Permitted Encumbrances. Mortgagor will notify Mortgagee of, and will defend the Fixtures against, all prohibited claims and demands of all persons at any time claiming the same or any interest therein;

(b) Mortgagor will not lease, sell, convey or in any manner transfer the Fixtures (except Fixtures transferred in the ordinary course of business and replaced by Fixtures of a similar nature and having at least the same value as the Fixtures replaced, and except for Permitted Encumbrances as defined in the Trust Indenture) without the prior written consent of Mortgagee;

(c) the Fixtures is not used or bought for personal, family or household purposes;

(d) the Fixtures will be kept on or at the Project and Mortgagor will not remove the Fixtures from the Project without the prior written consent of Mortgagee, except such portions or items of personal property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Mortgagor with new items of equal or greater quality; and

(e) all covenants and obligations of Mortgagor contained herein relating to the Mortgaged Estate shall be deemed to apply to the Fixtures whether or not expressly referred to herein.

## ARTICLE V

### EVENTS OF DEFAULT AND REMEDIES UPON DEFAULT

**Section 5.01. Events of Default.** Any one or more of the following events shall be deemed an event of default hereunder (each, an "Event of Default"):

(a) the occurrence of a default or an Event of Default by Mortgagor under the Trust Indenture (other than this Mortgage) subject to any applicable notice or cure periods provided therein;

(b) failure by Mortgagor to punctually perform or observe any covenant or agreement contained in this Mortgage (other than the monetary obligations described in paragraph (a) above) and such failure shall not have been cured within 30 days (or such longer period as permitted under the Trust Indenture) after written notice from Mortgagee of such failure;

(c) if Mortgagor shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent within the meaning of the United States Bankruptcy

Code, 11 U.S.C. §§ 101 *et seq.*, as amended (the "Bankruptcy Code"), or shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Mortgagor of all or any part of the Mortgaged Estate, or of any or all of the royalties, rents, issues or profits thereof, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due;

(d) if a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Mortgagor seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of 60 days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator of Mortgagor or of all or any part of the Mortgaged Estate, or of any or all of the royalties, rents, issues or profits thereof, shall be appointed without the consent or acquiescence of Mortgagor and such appointment shall remain unvacated and unstayed for an aggregate of 60 days (whether or not consecutive);

(e) if a writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the Mortgaged Estate, or any judgment involving monetary damages shall be entered against Mortgagor which shall become a lien on the Mortgaged Estate or any portion thereof or interest therein and such execution, attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within 60 days after its entry or levy;

(f) if, during the term of the Bonds secured by this Mortgage, Mortgagor shall without the prior written approval of Mortgagee (unless permitted as provided herein) sell, convey, alienate, mortgage or encumber the Mortgaged Estate or any part thereof or any interest therein, or shall be divested of its title or any interest therein, in any manner, whether voluntarily or involuntarily, or if there is any merger, consolidation or dissolution affecting Mortgagor, or if there is a transfer of a majority interest in Mortgagor in a series of transactions or as a single transaction, unless any of the foregoing are permitted by the Trust Indenture;

(g) any assignment by Mortgagor of the whole or any part of the Revenues, issues or profits arising from the Mortgaged Estate (including, without limitation, the Revenues) to any person without the consent of Mortgagee (unless permitted as provided herein) or if, without such consent, Mortgagor shall otherwise further encumber the Mortgaged Estate or any portion thereof (including, without limitation, secured transactions under the UCC) unless permitted by the Trust Indenture; or

(h) if at any time any representation, warranty or statement made by Mortgagor in the Trust Indenture or any certificate delivered by Mortgagor shall be incorrect or

misleading in any material respect, or any material misrepresentation shall at any time be made to Mortgagee by Mortgagor.

**Section 5.02. Acceleration Upon Default; Additional Remedies.** Subject to the cure provisions of this Section 5.02, upon the occurrence of an Event of Default (which default is not cured within any applicable cure period) Mortgagee may, at Mortgagee's sole option exercised in Mortgagee's sole discretion, pursue any one or more of the following remedies:

(a) Declare all or any portion of the Secured Obligations to be due and payable, and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind except as otherwise provided herein;

(b) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Estate or any part thereof and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Mortgaged Estate, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Mortgaged Estate, take any action described in Article II, III or IV hereof, sue for or otherwise collect the Revenues thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorneys' fees, upon any Secured Obligations, all in such order as Mortgagee may determine. The entering upon and taking possession of the Mortgaged Estate, the taking of any action described in Article II, III or IV hereof, the collection of such Revenues and the application thereof as aforesaid, shall not cure or waive any default or notice of default or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Mortgaged Estate or the collection, receipt and application of Revenues, issues or profits, Mortgagee shall be entitled to exercise every right provided for the Trust Indenture or by law upon occurrence of any Event of Default, including the right to exercise the power of sale herein conferred;

(c) Commence an action to foreclose this Mortgage (either judicially or non-judicially), appoint a receiver, specifically enforce any of the covenants hereof, or sell the Mortgaged Estate pursuant to the power of sale herein conferred and in a manner provided under Michigan law;

(d) Exercise any or all of the remedies available to a secured party under the UCC, including, but not limited to:

(i) Either personally or by means of a court appointed receiver, commissioner or other officer, take possession of all or any of the Fixtures and exclude therefrom Mortgagor and all others claiming under Mortgagor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Mortgagor in respect of the Fixtures or any part thereof. In the event Mortgagee demands or attempts to take possession of the Fixtures in the

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exercise of any rights under the Trust Indenture, Mortgagor promises and agrees to promptly turn over and deliver complete possession thereof to Mortgagee;

(ii) Without notice to or demand upon Mortgagor, make such payments and do such acts as Mortgagee may deem necessary to protect its security interest in the Fixtures, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder and, in exercising any such powers or authority, to pay all expenses incurred in connection therewith;

(iii) Require Mortgagor to assemble the Fixtures or any portion thereof, at a place designated by Mortgagee and reasonably convenient to both parties, and promptly to deliver such Fixtures to Mortgagee, or an agent or representative designated by it. Mortgagee, and its agents and representatives, shall have the right to enter upon any or all of Mortgagor's premises and property to exercise Mortgagee's rights hereunder;

(iv) Sell, lease or otherwise dispose of the Fixtures at public sale, with or without having the Fixtures at the place of sale, and upon such terms and in such manner as Mortgagee may determine. Mortgagee may be a purchaser at any such sale; and

(v) Unless the Fixtures is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Mortgagee shall give Mortgagor at least 10 days' prior written notice of the time and place of any public sale of the Fixtures or other intended disposition thereof. Such notice may be mailed to Mortgagor at the address set forth at the beginning of this Mortgage and shall be deemed to be given on the date of mailing thereof; and

(vi) Any sale made pursuant to the provisions of this subsection shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with the sale of all or a portion of the remainder of the Mortgaged Estate under power of sale as provided herein upon giving the same notice with respect to the sale of the Personal Property hereunder as is required for such sale of the remainder of the Mortgaged Estate under power of sale, and such sale shall be deemed to be pursuant to a security agreement covering both real and personal property under the UCC.

(e) Exercise any other rights or remedies which may now or hereafter be available to Mortgagee under this Mortgage or the Trust Indenture or pursuant to applicable law or in equity; or

(f) If held by Mortgagee, surrender the insurance policies maintained pursuant to Section 1.05, collect the unearned insurance premiums and apply such sums as a credit on the Secured Obligations in such priority and proportion as Mortgagee in its sole discretion shall deem proper, and in connection therewith, Mortgagor hereby appoints

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Mortgagee as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Mortgagee to collect such insurance premiums.

THIS MORTGAGE CONTAINS A POWER OF SALE AND UPON THE OCCURRENCE OF AN EVENT OF DEFAULT MAY BE FORECLOSED BY ADVERTISEMENT. IN FORECLOSURE BY ADVERTISEMENT AND THE SALE OF THE MORTGAGED ESTATE IN CONNECTION THEREWITH, NO HEARING IS REQUIRED AND THE ONLY NOTICE REQUIRED IS THE PUBLICATION OF NOTICE IN A LOCAL NEWSPAPER AND THE POSTING OF A COPY OF THE NOTICE ON THE PREMISES. THE MORTGAGOR HERBY WAIVES ALL RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNTIED STATES AND THE STATE OF MICHIGAN TO A HEARING PRIOR TO SALE IN CONNECTION WITH FORECLOSURE OF THIS MORTGAGE BY ADVERTISEMENT AND ALL NOTICE REQUIREMENTS EXCEPT AS SET FORTH IN THE MICHIGAN STATUTE PROVIDING FOR FORECLOSURE BY ADVERTISEMENT.

**Section 5.03. [Reserved].**

**Section 5.04. Appointment of Receiver.** If an Event of Default (which is not cured within any applicable cure period) shall have occurred, Mortgagee, as a matter of right and without notice to Mortgagor or anyone claiming under Mortgagor, and without regard to the value of the Mortgaged Estate or the interest of Mortgagor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Mortgaged Estate and Mortgagor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases in accordance with Michigan law and all the powers and duties of Mortgagee in case of entry as provided in Section 5.02(b) and shall continue as such and exercise all such powers until the date of confirmation of sale of the Mortgaged Estate unless such receivership is sooner terminated. Mortgagee shall, in addition to and not in limitation of any of the foregoing or any other remedies provided in this Mortgage or otherwise available under applicable law, have all of the rights provided under the laws of the State of Michigan.

**Section 5.05. Remedies Not Exclusive.** Mortgagee shall be entitled to enforce payment and performance of any Secured Obligation hereby and to exercise all rights and powers under this Mortgage or under the Trust Indenture or other agreement or any laws now or hereafter in force. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by the Trust Indenture to Mortgagee, or to which Mortgagee may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Mortgagee. Mortgagee may pursue inconsistent remedies.

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The acceptance by Mortgagee of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured or to declare a default as herein provided. The acceptance by Mortgagee of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Mortgagor to pay the entire sum then due, and failure of Mortgagor to pay such entire sum then due shall be and continue to be an Event of Default notwithstanding such acceptance of such amount on account, as aforesaid. Mortgagee or Trustee shall be, at all times thereafter and until the entire sum then due shall have been paid, and notwithstanding the acceptance by Mortgagee thereafter of further sums on account, or otherwise, entitled to exercise all rights in this instrument conferred upon it, and the right to proceed with a sale under any notice of default, or an election to sell, or the right to exercise any other rights or remedies hereunder, shall in no way be impaired, whether any of such amounts are received prior or subsequent to such proceeding, election or exercise. Consent by Mortgagee to any action or inaction of Mortgagor which is subject to consent or approval of Mortgagee hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions or inactions.

**Section 5.06. Possession of Mortgaged Estate.** In the event of a trustee's sale or foreclosure sale hereunder and after the time of such sale, and Mortgagor occupies the portion of the Mortgaged Estate so sold, or any part thereof, Mortgagor shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of either tenant or landlord, at a reasonable rental per day based upon the value of the portion of the Mortgaged Estate so occupied, such rental to be due and payable daily to the purchaser. An action of unlawful detainer shall lie if the tenant holds over after a demand in writing for possession of such Mortgaged Estate and premises; and this agreement and a trustee's deed shall constitute a lease and agreement under which the tenant's possession arose and continued. Nothing contained in this Mortgage shall be construed to constitute Mortgagee as a "mortgagee in possession" in the absence of its taking actual possession of the Mortgaged Estate pursuant to the powers granted herein.

**Section 5.07. Relief from Stay.** In the event that Mortgagor commences a case under the Bankruptcy Code or is the subject of an involuntary case that results in an order for relief under the Bankruptcy Code, subject to court approval, Mortgagee shall thereupon be entitled and Mortgagor irrevocably consents to relief from any stay imposed by Section 362 of the Bankruptcy Code on or against the exercise of the rights and remedies otherwise available to Mortgagee as provided in the Trust Indenture and Mortgagor hereby irrevocably waives its rights to object to such relief. In the event Mortgagor shall commence a case under the Bankruptcy Code or is the subject of an involuntary case that results in an order for relief under the Bankruptcy Code, Mortgagor hereby agrees that no injunctive relief against Mortgagee shall be sought under Section 105 or other provisions of the Bankruptcy Code by Mortgagor or other person or entity claiming through Mortgagor, nor shall any extension be sought of the stay provided by Section 362 of the Bankruptcy Code.

**Section 5.08. Cash Collateral.** To the fullest extent allowed by applicable law, Mortgagor hereby acknowledges and agrees that in the event that Mortgagor commences a case under the Bankruptcy Code or is the subject of an involuntary case that results in an order for relief under the Bankruptcy Code: (i) that all of the Revenues are, and shall for purposes be



deemed to be, "proceeds, product, offspring, rents, or profits" of the Project covered by the lien of the Mortgage, as such quoted terms are used in Section 552(b) of the Bankruptcy Code; (ii) that in no event shall Mortgagor assert, claim or contend that any portion of the Revenues are, or should be deemed to be, "accounts" or "accounts receivable" within the meaning of the Bankruptcy Code and/or applicable state law; (iii) that the Revenues are and shall be deemed to be in any such bankruptcy proceeding "cash collateral" of Mortgagee as that term is defined in Section 363 of the Bankruptcy Code; and (iv) that Mortgagee has valid, effective, perfected, enforceable and "choate" rights in and to the Revenues without any further action required on the part of Mortgagee to enforce or perfect its rights in and to such cash collateral, including, without limitation, providing notice to Mortgagor under Section 546(b) of the Bankruptcy Code.

## ARTICLE VI

### MISCELLANEOUS

**Section 6.01. Governing Law.** This Mortgage shall be governed by the internal laws of the State without giving effect to its conflicts of law principles. In the event that any provision or clause of this Mortgage conflicts with applicable laws, such conflicts shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought. If any conflict shall arise between the terms of this Mortgage and the Trust Indenture, the terms of the Trust Indenture shall govern.

**Section 6.02. Waiver of Rights.** To the extent permitted by law, Mortgagor waives the benefit of all laws now existing or that hereafter may be enacted (i) providing for any appraisalment before sale of any portion of the Mortgaged Estate, or (ii) in any way extending the time for the enforcement of the collection of the Secured Obligations or creating or extending a period of redemption from any sale made in collecting the Secured Obligations. To the full extent Mortgagor may do so under the laws of the State, Mortgagor agrees that Mortgagor will not at any time insist upon, plea, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisalment, valuation, stay, extension, redemption or homestead exemption, and Mortgagor, for Mortgagor, Mortgagor's representatives, successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Estate, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisalment, stay of execution, homestead exemption, notice of election to mature or declare due the whole of the Secured Obligations and marshaling in the event of foreclosure of the liens hereby created. If any law referred to in this Section and now in force, of which Mortgagor, Mortgagor's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section. Mortgagor expressly waives and relinquishes any and all rights, remedies and defenses that Mortgagor may have or be able to assert by reason of the laws of the State of Michigan pertaining to the rights, remedies and defenses of sureties. The waivers and agreements contained in this section and elsewhere in this Mortgage are given by Mortgagor knowingly and voluntarily and upon advice of counsel.

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**Section 6.03. Limitation of Interest.** All agreements between Mortgagor and Mortgagee, whether now existing or hereafter arising and whether written or oral, are expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to Mortgagee for the use, forbearance, or detention of the money to be held pursuant to the Trust Indenture or otherwise, or for the performance or payment of any covenant or obligation contained herein, exceed the maximum amount permissible under applicable law. If from any circumstance whatsoever fulfillment of any provision hereof at the time performance of such provision shall be due shall involve transcending the limit of validity prescribed by law, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance Mortgagee or holders of the Bonds shall ever receive as interest under the Bonds or this Mortgage or otherwise anything of value which would exceed interest at the highest lawful rate, such amount that would be excessive interest shall be applied to the reduction of the principal amount owing under the Bonds or on account of other Secured Obligations and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal of the Bonds and such other Secured Obligations, such excess shall be refunded to Mortgagor. All sums paid or agreed to be paid to Mortgagee for the use, forbearance, or detention of the Secured Obligations shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such obligations until payment in full so that the rate of interest on account of Secured Obligations is uniform throughout the term thereof. The terms and provisions of this paragraph shall control all agreements between Mortgagor and Mortgagee.

**Section 6.04. [Reserved]**

**Section 6.05. Notices.** Unless otherwise required by law, whenever Mortgagee or Mortgagor shall desire to give or serve any notice, demand, request or other communication with respect to this Mortgage, each such notice, demand, request or other communication shall be in writing and shall be deemed to have been given if sent by hand delivery, one day after deposit with overnight courier or two days after deposit in the case of certified mail, postage prepaid, addressed to the following mailing addresses:

|                  |  |
|------------------|--|
| If to Mortgagor: | Summit Academy<br>30100 Olmstead<br>Flat Rock, MI 48134<br>Attention: Program Director<br>Telephone: (734) 379-9766<br>Facsimile: (734) 379-9786   |
| If to Mortgagee: | US Bank Corporate Trust Services<br>60 Livingston Avenue<br>St. Paul, Minnesota 55107<br>Attention: Corporate Trust Department<br>Telephone: (651) 495-3910<br>Facsimile: (651) 495-8096 |

Any party may at any time change its address for such notices by delivering to the other parties hereto, as aforesaid, a notice of such change.

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**Section 6.06. Captions.** The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Mortgage.

**Section 6.07. Invalidity of Certain Provisions; Conflicting Provisions.** If the lien of this Mortgage is invalid or unenforceable as to any part of the Secured Obligations, or if the lien is invalid or unenforceable as to any part of the Mortgaged Estate, the unsecured or partially secured portion of the Secured Obligations shall be completely paid prior to the payment of the remaining and secured portion of the Secured Obligations, and all payments made on such obligations, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the Secured Obligations which is not secured or fully secured by the lien of this Mortgage.

**Section 6.08. Subrogation.** To the extent that proceeds of the Bonds or advances under this Mortgage are used to pay any outstanding lien, charge or prior encumbrance against the Mortgaged Estate, such proceeds or advances have been or will be advanced by Mortgagee at Mortgagor's request, and Mortgagee shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released of record.

**Section 6.09. Change in Ownership.** If the ownership of the Mortgaged Estate or any part thereof or interest therein becomes vested in a person other than Mortgagor owning the same on the date hereof, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest with reference to this Mortgage and the Secured Obligations in the same manner as with Mortgagor without in any way vitiating or discharging Mortgagor's liability hereunder or upon the Secured Obligations. No sale of the Mortgaged Estate, and no forbearance on the part of Mortgagee, and no extension of the time for the payment of the Secured Obligations, given by Mortgagee, shall operate to release, discharge, modify, change or affect the original liability, if any, of Mortgagor or the liability of any guarantors or sureties of Mortgagor, either in whole or in part; provided that Mortgagor may be released from its original liability under this Mortgage upon transfer of the entire Mortgaged Estate with the written consent of Mortgagee and as permitted under the Trust Indenture.

**Section 6.10. Assignment of Mortgagee's Interest.** It is expressly agreed that any and all terms of this Mortgage, the Trust Indenture and all other agreements made or executed by Mortgagor or others in favor of Mortgagee, and all rights, powers, privileges, options and remedies conferred upon Mortgagee herein and therein, shall inure to and be for the benefit of, and may be exercised by, Mortgagee and its successors and assigns, and the words "Mortgagee" shall also mean and include the successor or successors and the assign or assigns of Mortgagee and its successors and assigns. Mortgagor hereby specifically grants unto Mortgagee the right and privilege, at Mortgagee's option, to transfer and assign to any third person all or any part of Mortgagee's rights to receive funds or payments hereunder.

**Section 6.11. Time Is of the Essence.** Time is of the essence under this Mortgage and the Trust Indenture.

**Section 6.12. Obligations of Mortgagor.** The obligations of Mortgagor to make payments hereunder and under the Trust Indenture and to perform and observe all agreements on

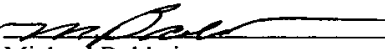
its part contained herein and therein shall be absolute and unconditional. Until this Mortgage is terminated or payment in full of all Bonds is made or is provided for in accordance with the Trust Indenture, Mortgagor (i) will not suspend or discontinue any payments under the Trust Indenture or neglect to perform any of its duties required thereunder or hereunder; (ii) will perform and observe all of its obligations set forth in the Trust Indenture, this Mortgage and the Bonds; and (iii) except as provided herein will not terminate the Trust Indenture or this Mortgage for any cause.

**Section 6.13. Immunity of Individuals.** No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Bonds or for any claim based thereon or under the Trust Indenture, this Mortgage or the Bonds or upon any obligation, covenant or agreement herein against any past, present or future officer, director, trustee, member, employee or agent of Mortgagor, whether directly or indirectly and all such liability of any such individual as such is hereby expressly waived and released as a condition of and in consideration for the execution hereof and the issuance of the Bonds.

**Section 6.14. Supplements; Amendments.** This Mortgage may be supplemented or amended by written agreement between Mortgagor and Mortgagee in accordance with the applicable provisions of the Trust Indenture.

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly executed on the day and year set forth in the acknowledgment attached hereto and effective on the date first written above.

**SUMMIT ACADEMY**


By:   
Michael Baldwin

Its: Secretary

5188587

STATE OF MICHIGAN )  
 ) ss:  
COUNTY OF Oakland )

Personally came before me this 20<sup>th</sup> day of December, 2005, the above named Michael Baldwin, Secretary of the Board of Directors of Summit Academy, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of said Summit Academy.

  
\_\_\_\_\_  
Name:  
Notary Public, State of Michigan  
My commission expires: \_\_\_\_\_  
Acting in County of: \_\_\_\_\_

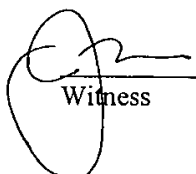
ALAN SZUMA  
Notary Public, State of Michigan, County of Wayne  
My commission expires, July 16, 2007  
Acting in the County of Oakland

H 0000000000

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**POWER OF ATTORNEY**

Mortgagee may act as attorney-in-fact or otherwise on behalf of Mortgagor pursuant to Sections 1.22, 3.01 and 5.02(f) of this Mortgage. This power of attorney is coupled with an interest, is durable and is not affected by subsequent disability or incapacity of the principal or lapse of time.

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Mortgagor

XXXXXXXXXXXX

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**EXHIBIT A**

**LEGAL DESCRIPTION**

Land situated in the County of Wayne, City of Flat Rock, State of Michigan, is described as follows:

**Parcel A:**

Part of the Southwest 1/4 of Section 4, Towns 5 South, Range 10 East, City of Flat Rock, Wayne County, Michigan, described as beginning at the center 1/4 corner of Section 4; thence South 00 degrees 08 minutes 35 seconds East 159.37 feet along the North and South 1/4 line; thence South 89 degrees 44 minutes 23 seconds West 666.29 feet; thence North 00 degrees 10 minutes 25 seconds West 159.37 feet; thence North 89 degrees 44 minutes 23 seconds East 666.38 feet to the point of beginning.

Tax Item No. 58-132-99-0002-701

**Parcel B:**

Part of the Southwest 1/4 of Section 4, Towns 5 South, Range 10 East, City of Flat Rock, Wayne County, Michigan described as beginning at a point on the North and South 1/4 line distant South 00 degrees 08 minutes 35 seconds East 159.37 feet from the center 1/4 corner of Section 4; thence South 00 degrees 08 minutes 35 seconds East 159.37 feet along said 1/4 line; thence South 89 degrees 44 minutes 23 seconds West 666.20 feet; thence North 00 degrees 10 minutes 25 seconds West 159.37 feet; thence North 89 degrees 44 minutes 23 seconds East 666.29 feet to the point of beginning.

Tax Item No. 58-132-99-0002-702

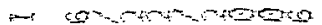
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**EXHIBIT B**

PERMITTED EXCEPTIONS  
AS DISCLOSED IN TITLE INSURANCE POLICY

5188587v.2 25670/102954





[Execution Copy]

\$6,855,000  
SUMMIT ACADEMY  
PUBLIC SCHOOL ACADEMY REVENUE AND REFUNDING BONDS,  
SERIES 2005

**BOND PURCHASE AGREEMENT**

December 12, 2005

Ladies and Gentlemen:

The undersigned, A.G. Edwards & Sons, Inc. (the "Underwriter") hereby offers to enter into this Bond Purchase Agreement (this "Bond Purchase Agreement") with Summit Academy (the "Academy"), a public school academy operating as a Michigan non-profit corporation and a governmental agency of the State of Michigan. This Bond Purchase Agreement, upon the execution hereof by the Academy, will become a binding agreement between the Academy and the Underwriter. This offer may be accepted by the Academy by its execution hereof on or before 6:00 p.m., Michigan time, on the date hereof. This offer may be accepted by the Academy by the execution of this Bond Purchase Agreement by its Secretary, Program Director or other authorized officer in accordance with that certain approving Resolution adopted by the Board of Directors of the Academy on October 3, 2005 as amended on October 17, 2005.

1. **Purchase and Sale of the Bonds.** On the basis of the representations, warranties, covenants and agreements herein contained, but subject to the terms and conditions herein set forth, the Underwriter agrees to purchase from the Academy, and the Academy agrees to sell to the Underwriter all, but not less than all, \$6,855,000 aggregate principal amount of the Academy's Public School Academy Revenue and Refunding Bonds, Series 2005 (the "Bonds") at a purchase price of \$6,643,680.90 (representing the par amount of the Bonds, less an underwriting discount of \$119,962.50 and less an original issue discount of \$91,356.60). The interest rates, maturity dates and mandatory sinking fund redemption amounts for the Bonds shall be as set forth in Exhibit A hereto. The Bonds maturing in the year 2025 and thereafter are subject to redemption at the option of the Academy in whole or in part on any Business Day commencing November 1, 2015, at a redemption price of 100% of the principal amount to be redeemed, together with accrued interest to the date fixed for redemption.

2. **Background.** The Bonds shall be dated their date of delivery and shall bear interest, shall mature, shall be redeemable and shall otherwise be as described in the Trust Indenture, dated as of December 20, 2005 (the "Indenture"), by and between the Academy and U.S. Bank National Association, as trustee (the "Trustee"). The Bonds will be full faith and credit obligations of the Academy, secured by the revenues, funds, rights and interests held by the Trustee pursuant to the Indenture and a Mortgage, dated as of September 1, 1998, as amended December 20, 2005, in favor of the Trustee (the "Mortgage"). The proceeds of the Bonds will be used for the following purposes: (i) to refund certain outstanding obligations of the Academy; (ii) to improve the Academy's existing school facilities (the "Facilities") and acquire capital equipment including computer hardware; (iii) to fund a debt service reserve fund; and (iv) to pay certain costs associated with the issuance of the Bonds (collectively, the "Project"). Capitalized terms not otherwise defined herein shall have the meanings as set forth in the Indenture.

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3. **Delivery of Official Statement.** The Academy shall deliver or cause to be delivered to the Underwriter, promptly after the acceptance hereof, copies of the Official Statement, dated as of its final date (the "Official Statement"). The use and distribution of such Official Statement and the Preliminary Official Statement, dated November 21, 2005 (the "Preliminary Official Statement"), was approved by resolution of the Academy, and said Preliminary Official Statement is hereby deemed final as of its date for purposes of Rule 15c2-12 of the Securities and Exchange Commission, as amended ("Rule 15c2-12"). As set forth further below, the Academy acknowledges that the Preliminary Official Statement and Official Statement contain information concerning it and its operations, which information has been provided or reviewed by it or its counsel, and authorizes the distribution by the Underwriter of the Preliminary Official Statement and of the Official Statement in offering the Bonds for sale to prospective purchasers of the Bonds. The Academy shall deliver, or cause to be delivered to the Underwriter on or before the Closing Date (as hereinafter defined) copies of the Official Statement in such number as the Underwriter may reasonably request in order to permit the Underwriter to comply with the provisions of Rule 15c2-12, and the applicable rules of the Municipal Securities Rulemaking Board with respect to distribution to each customer, upon request, of a copy of the Official Statement, and the Underwriter agrees to distribute such Official Statements in compliance with Rule 15c2-12.

4. **Delivery of Payment.** The Underwriter will accept delivery of the Bonds (which may be through its account with The Depository Trust Company via the FAST delivery system) and will pay the purchase price thereof as set forth in Section 1 hereof by Federal Reserve System wire transfer in immediately available federal funds or by any other form of immediately available federal funds on the Closing Date.

5. **Representations of the Academy.** In order to induce the Underwriter to enter into this Bond Purchase Agreement and to make the offering and sale of the Bonds, the Academy represents to the Underwriter that:

(a) The Academy shall provide such information, access to appropriate records and other cooperation, as may be reasonably requested in connection with the preparation, amendment and supplementation of the Official Statement until the Closing and for 120 days after the Closing as, in the opinion of the Underwriter, may be required in connection with the offering of the Bonds and the preparation of the Official Statement.

(b) The Academy is a public school academy operating as a Michigan non-profit corporation and a governmental agency of the State of Michigan (the "State"), organized pursuant to Part 6A of Chapter 380 of the Michigan Revised School Code, Michigan Compiled Laws ("M.C.L.") § 380.501 *et. seq.* and the Michigan Nonprofit Corporation Act, Act No. 162 of the Public Acts of 1982, M.C.L. § 450.2101 *et. seq.*

(c) The Academy has all power and authority to consummate the transactions contemplated by this Bond Purchase Agreement and the Official Statement, including, as applicable, the execution, delivery and/or approval of this Bond Purchase Agreement, the Indenture, the Mortgage, the Tax Certificate, the Official Statement, the Escrow Agreement, the Continuing Disclosure Agreement and each of the other agreements, certificates, contracts or instruments to be executed by the Academy in connection with the issuance of the Bonds (collectively, the "Documents"). The Academy has not received any notice of any alleged

violation and, to the best of its knowledge, the Academy is not in violation of any zoning, land use or other similar law or regulation applicable to any of its property, the Facilities, or to the Project which could adversely affect the Academy's operations at the Facilities or the financial condition of the Academy.

(d) The execution and delivery of the Documents and compliance by the Academy with the provisions of the Documents, does not and will not conflict with or result in the breach in any material respect of any of the terms, conditions or provisions of, or constitute a default under, any existing law, court or administrative regulation, decree or order, agreement, indenture, mortgage, lease or instrument to which the Academy is a party or by which the Academy or any of its property is or may be bound.

(e) The Academy has duly authorized all necessary action to be taken by it for the execution, delivery and receipt of the Documents, including the authorization of the use of the Preliminary Official Statement and Official Statement, and the execution, delivery and receipt of any and all such certificates and documents as may be required at the present time to be executed, delivered and received by the Academy in order to carry out, effectuate and consummate the transactions contemplated hereby and by the Official Statement, including but not limited to such certifications as may be necessary to establish and preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(f) There is no litigation or proceeding pending or, to the knowledge of the Academy, overtly threatened against or affecting the Academy that challenges the validity of any of the Documents or the validity of the transactions contemplated by this Bond Purchase Agreement and the Preliminary Official Statement and Official Statement.

(g) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court or administrative body pending or, to the knowledge of the Academy, overtly threatened against or affecting the Academy, or to the knowledge of the Academy, any meritorious basis therefor, wherein an unfavorable decision, ruling or finding would have a material adverse effect on the financial condition of the Academy, the operation of its properties or the Academy's operations at the Facilities, or the transactions contemplated by this Bond Purchase Agreement and the Preliminary Official Statement and Official Statement, or would have an adverse effect on the validity or enforceability of the Documents or any material agreement or instrument by which the Academy is or may be bound, or which would in any way adversely affect the existence or power of the Academy, or which would in any way adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(h) The Academy has received and there remains currently in full force and effect, or will receive prior to the delivery of the Bonds, all governmental consents and approvals that would constitute a condition precedent to the performance by the Academy of its obligations under the Documents or the consummation of the transactions contemplated by this Bond Purchase Agreement and the Preliminary Official Statement and Official Statement.

(i) The Academy is not in breach of or in default under any existing law, court or administrative regulation, decree or order, material agreement, indenture, mortgage, lease, sublease or other instrument to which the Academy is a party or by which the Academy or its property is bound or, under the existing provisions of which, the Academy or its property may be bound, and no event has occurred or is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default thereunder, in either case in any manner or to any extent which could have a material adverse effect on the financial condition of the Academy, the operation of the Academy or the transactions contemplated by this Bond Purchase Agreement and the Official Statement, or have an adverse effect on the validity or enforceability in accordance with their respective terms of the Bonds or the Documents or in any way adversely affect the existence or powers of the Academy or in any way adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(j) The audited financial statements of the Academy as of June 30, 2005 are a fair representation of its financial position as of the date indicated and the results of its operations and changes in its fund balances for the periods specified, and such financial statements have been prepared in conformity with generally accepted accounting principles of governmental entities in Michigan consistently applied throughout the periods presented, except as otherwise noted therein. Except as described in the Preliminary Official Statement, since June 30, 2005, there has been no material adverse change in the condition, financial or otherwise, of the Academy from that set forth in the financial statements as of and for the period ending that date; and the Academy has not, since June 30, 2005, incurred any material liabilities, directly or indirectly, except in the ordinary course of its operations.

(k) The Academy acknowledges the delivery of the Preliminary Official Statement and Official Statement in connection with the offering of the Bonds and that the Preliminary Official Statement and Official Statement contain information concerning the Academy and its operations, which information has been provided by or reviewed by the Academy and its counsel. In connection with its execution and delivery of this Bond Purchase Agreement, the Academy hereby authorizes the use of the Official Statement, including all amendments and supplements thereto, by the Underwriter in connection with the public offering and sale of the Bonds and consents to the use by the Underwriter prior to the date hereof of the Preliminary Official Statement in connection with the public offering and sale of the Bonds.

(l) The information contained in the Preliminary Official Statement and Official Statement relating to (i) the Academy, (ii) the application of the proceeds of sale of the Bonds and (iii) the participation by the Academy in the transactions contemplated by this Bond Purchase Agreement and the Preliminary Official Statement and Official Statement was, as of its date, and will be, as of the date of Closing, true and correct in all material respects. The Preliminary Official Statement does not, as of its date and as of the date hereof, and the Official Statement will not, as of its date and as of the date of the Closing, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(m) If during the period from the date of this Bond Purchase Agreement to and including the date which is 30 days following the End of the Underwriting Period for the Bonds (as determined in accordance with Section 11 hereof) the Academy becomes aware of any fact or event which might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, it shall notify the Underwriter, and if in the reasonable opinion of the Underwriter such fact or event requires the preparation and publication of a supplement or amendment to the Official Statement, the Academy will, at its expense, supplement or amend the Official Statement in a form and in a manner approved by the Underwriter and furnish to the Underwriter (i) a reasonable number of copies of the supplement or amendment, and (ii) if such notification shall be subsequent to the Closing Date, such legal opinions, certificates, instruments, and other documents as the Underwriter may deem necessary to evidence the truth and accuracy of such supplement or amendment.

(n) The Academy will not take or omit to take any action which will in any way cause the proceeds from the sale of the Bonds to be applied or result in such proceeds being applied in a manner other than as provided in the Indenture and the Tax Certificate.

(o) The Academy agrees that, so long as it owns and operates the Facilities, it will not carry on or permit to be carried on at the Facilities or permit the Facilities to be used in or for any trade or business if such activity would adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

(p) The Academy agrees to reasonably cooperate with the Underwriter in any endeavor to qualify the Bonds for offering and sale under the securities or "blue sky" laws of such jurisdictions of the United States as the Underwriter may request; provided that the Academy shall not be required with respect to the offer or sale of the Bonds to file written consent to suit or to file written consent to service of process in any jurisdiction in which such consent may be required by law or regulation so that the Bonds may be offered or sold. The Academy consents to the use of the Official Statement by the Underwriter in obtaining any such qualification.

(q) Each representation, warranty or agreement stated in any certificate signed by any officer of the Academy and delivered to the Underwriter at or before the Closing shall constitute a representation, warranty or agreement by the Academy upon which the Underwriter shall be entitled to rely.

(r) The Academy covenants and agrees that it will enter into a written agreement or contract (the "Continuing Disclosure Agreement"), constituting an undertaking to provide ongoing disclosure about the Academy, for the benefit of the registered and beneficial owners of the Bonds on or before the date of delivery of the Bonds as required by Section (b)(5)(i) of Rule 15c2-12, which undertaking shall be for the benefit of the registered and beneficial owners of the Bonds pursuant to the Indenture and in the form as summarized in the Official Statement, with such changes as may be agreed to in writing by the Underwriter.

6. **Delivery of the Bonds.** At the offices of Clark Hill PLC, 255 S. Old Woodward Avenue, Third Floor, Birmingham, Michigan, 10:00 a.m. Michigan time, on December 20, 2005, or at such other time or location or on such earlier or later date as mutually agreed upon (the "Closing" or the "Closing Date"), the Academy will deliver or cause to be delivered to the Underwriter the Bonds, together with the other documents heretofore or hereinafter mentioned; and the Underwriter will accept such delivery and pay the purchase price thereof in immediately available funds, subject to the terms and conditions set forth herein. The Bonds so to be delivered will be in fully registered form in such denominations and registered in such names as the Underwriter may specify.

7. **Official Statement.** During the initial public offering of the Bonds (a period concluding 30 days following the End of the Underwriting Period for the Bonds), the Academy will: (a) not consent to the distribution of any amendment of or supplement to the Official Statement to which, after having been furnished with a copy, the Underwriter shall object in writing or which shall be disapproved by counsel for the Underwriter and (b) if any event shall occur as a result of which it is necessary, in the opinion of the Underwriter, amend or supplement the Official Statement in order to make the Official Statement not misleading in light of the circumstances existing at the time it is delivered to a purchaser, consent to the distribution of an amendment of or supplement to the Official Statement, prepared without expense to the Academy (in form and substance satisfactory to the Underwriter) in a reasonable number of copies which will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time the Official Statement is delivered to a purchaser, not misleading.

8. **Conditions to the Obligations of the Underwriter; Other Conditions.** The obligation of the Underwriter to purchase and pay for the Bonds will be subject to the accuracy of the representations on the part of the Academy herein; to the accuracy of the statements of officers of the Academy made pursuant to the provisions hereof; to the performance by the Academy of its obligations hereunder; to the accuracy and completeness of the representations and certifications of the Academy in the Documents and to the following additional conditions:

(a) The Documents shall have been duly authorized, executed and delivered by the respective parties thereto and shall be in full force and effect with only such changes therein as may be approved by the Underwriter.

(b) Subsequent to the date of this Bond Purchase Agreement and prior to the Closing Date:

(i) there shall not have occurred any material change, or any development involving a prospective material change in, or affecting the business or properties of the Academy which, in the judgment of the Underwriter, materially and adversely affects the investment quality of the Bonds; and

(ii) the market price of the Bonds, or the general market price of general credit or revenue obligations issued by states or political subdivisions thereof, or the market price of revenue obligations of the character of the Bonds shall (in the reasonable judgment of the Underwriter) not have been materially and adversely affected by reason of the fact that:

(A) legislation shall have been enacted by either house of the Congress of the United States, or favorably reported for passage to either house of the Congress of the United States by any committee of such house to which such legislation has been referred for consideration, or (2) a decision shall have been rendered by a court established under Article III of the Constitution of the United States, or the United States Tax Court, or (3) an order, ruling or regulation shall have been made by the Treasury Department of the United States or the Internal Revenue Service, in each such case with the purpose or effect, directly or indirectly, of causing the interest on the Bonds to become included in the gross income of the holders thereof for federal income tax purposes, or

(B) a stop order, ruling, regulation or official statement by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering or sale of the Bonds or obligations of the general character of the Bonds, including all the underlying obligations, as contemplated hereby or by the Official Statement is in violation or would be in violation of any provisions of the federal securities laws, including the Securities Act of 1933, as amended and as then in effect, or the registration provisions of the Securities Exchange Act of 1934, as amended and as then in effect, or the qualification provisions of the Trust Indenture Act of 1939, as amended and as then in effect, or

(C) legislation shall be enacted by the Congress of the United States of America, or a decision by a court of the United States of America shall be rendered, to the effect that the Bonds or obligations of the general character of the Bonds, including all the underlying obligations, are not exempt from registration under or from other requirements of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or that the Indenture is not exempt from qualification under or other requirements of the Trust Indenture Act of 1939, as amended and as then in effect, or

(D) there shall have occurred (1) the closing of the New York Stock Exchange, or (2) the general suspension of trading on the New York Stock Exchange, or (3) the establishing of a general banking moratorium by federal, Michigan or New York State authorities, or

(E) any event occurs or state of facts exists which makes untrue or incorrect in any material respect, as of the date of such event or state of facts, any statement or information contained in the Preliminary Official Statement or Official Statement, or which requires the addition of any information in the Preliminary Official Statement or Official Statement in order to make the statements and information contained therein not misleading in any material respect as of the Closing Date.

(c) Subsequent to the date hereof and prior to the Closing Date, no order, decree or injunction of any court of competent jurisdiction, and no order, ruling, regulation or administrative proceeding by any governmental body or board, shall have been issued or commenced, no litigation with respect to the statutory authority pursuant to which the Bonds are to be issued has been commenced, and no legislation shall have been enacted, with the purpose or effect of prohibiting the issuance, offering or sale of the Bonds as contemplated hereby or by the Official Statement or the execution of or performance of the Documents in accordance with their terms.

(d) The Underwriter shall have received the following documents:

(i) the approving opinion of Clark Hill PLC, dated the date of Closing, in form and substance satisfactory to the Underwriter;

(ii) the supplemental opinion of Clark Hill PLC, dated the date of Closing, in form and substance satisfactory to the Underwriter;

(iii) the opinion of Quarles & Brady LLP, dated the date of the Closing and addressed to the Underwriter, in form and substance satisfactory to the Underwriter;

(iv) the opinion of Allen, James & Foley, P.C., counsel to the Academy, dated the date of Closing and addressed to the Underwriter, in form and substance satisfactory to the Underwriter;

(v) certificates of the Academy satisfactory to the Underwriter and Bond Counsel as to the accuracy of all representations and warranties contained herein as of the date hereof and as of the Closing Date and as to the performance by the Academy of all of its obligations hereunder and under the Documents to be performed at or prior to the Closing Date;

(vi) a copy of each of the Documents duly executed by the parties thereto;

(vii) a duly executed copy of the Resolution of the Academy approving and authorizing the execution and delivery of the Documents, and approving the transactions contemplated by the this Bond Purchase Agreement and the Preliminary Official Statement and Official Statement;

(viii) a certificate of the Bureau of Commercial Services of the Michigan Department of Labor and Economic Growth, which certificate shall not be dated more than 45 days prior to the Closing Date, as to the good standing of the Academy under the laws of the State;



(ix) a copy of the final escrow verification report prepared by Causey, Demgen & Moore Inc.;

(x) a copy of completed IRS Form 8038-G to be filed by or on behalf of the Academy pursuant to Section 149(e) of the Internal Revenue Code of 1986, as amended, and evidence of the filing thereof;

(xi) evidence satisfactory to the Underwriter that the Bonds have been rated "BB+" by Standard and Poor's Ratings Service;

(xii) such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or its counsel may reasonably request.

(e) Subsequent to the date hereof and prior to the Closing Date, no war involving the United States shall have been declared, nor any existing conflict involving the armed forces of the United States shall have escalated, nor any other national emergency relating to the effective operation of government or the financial community shall have occurred, which in the Underwriter's reasonable opinion, materially adversely affects the marketability of the Bonds.

If the Academy shall be unable to satisfy the conditions to the Underwriter's obligations in this Bond Purchase Agreement (unless such provisions are otherwise waived by the Underwriter) or if the Underwriter's obligations shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriter nor the Academy shall have any further obligations hereunder except as provided in Section 9 (Expenses), 10 (Indemnification) and 12 (Survival of Certain Representations) hereof.

9. **Expenses.** All expenses and costs incident to the performance of its obligations in connection with the authorization, issuance and sale of the Bonds to the Underwriter, including, without limitation, any application fees, advertising costs, the costs of preparing, printing, duplicating and mailing the Preliminary Official Statement, the Official Statement, the fees of consultants and rating agencies, the initial fees of the Trustee in connection with the issuance of the Bonds and the reasonable fees and expenses of Bond Counsel, counsel for the Academy and counsel to the Underwriter shall be paid by the Academy. All out-of-pocket expenses of the Academy, including travel and other expenses, and the fees and expenses of any counsel employed by it shall be paid by the Academy. If the Underwriter terminates this Bond Purchase Agreement for a reason other than a reason permitted hereunder, and if at the time of such termination the Academy has satisfied the conditions to the Underwriter's obligations contained herein, the Underwriter agrees to pay all out-of-pocket expenses incurred by the Academy, including reasonable attorneys' fees and disbursements, which relate to the financing, such payment by the Underwriter shall constitute full liquidated damages for such termination and for any and all defaults on the part of the Underwriter and shall constitute a full release and discharge of all claims and damages for such termination and for any and all such defaults.

10. **Indemnification by the Academy; Contribution.**

The Academy agrees to indemnify and hold harmless the Underwriter, any current, former or future member, director, officer, agent or employee of the Underwriter and each person, if any, who has the power, directly or indirectly, to direct or cause the direction of the

management and policies of the Underwriter through the ownership of voting securities, by contract or otherwise, or who controls the Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended, and each and all and any of them from and against any and all losses, claims, damages, liabilities or actions to the extent that such losses, claims, damages, liabilities, actions or expenses (including any reasonable legal or other expenses incurred by them in connection with investigating any claims against them and defending any actions) whatsoever caused by or based upon any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in the Preliminary Official Statement or Official Statement or caused by any omission or alleged omission from the Preliminary Official Statement or Official Statement of any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, except for any liability arising as a result of information contained under the captions "DEBT SERVICE REQUIREMENTS" and "UNDERWRITING" or with respect to the maturities, interest rates, redemption and prices of the Bonds listed on the inside front cover page of the Official Statement or contained under the caption "DESCRIPTION OF THE BONDS," and to reimburse such indemnified parties for any legal or other expenses reasonably incurred by them in defending any such action, including but not limited to any reasonable attorneys' fees.

Within a reasonable time after the commencement of any action against any party indemnified hereunder in respect of which indemnity is to be sought against the Academy, such indemnified party will notify the Academy in writing of such action and the Academy may assume the defense thereof, including the employment of counsel and the payment of all expenses, but the failure so to notify the Academy will not relieve the Academy from any liability which it may have to any indemnified party otherwise than hereunder. If the Academy shall assume the defense of any such action, it shall not be liable to the indemnified party for any legal expenses incurred by such indemnified party in such action subsequent to the assumption of the defense thereof by the Academy; except, however, an indemnified party may retain its own counsel and still be indemnified for the costs and expenses of such counsel despite an assumption of the defense by the Academy, if the indemnified party believes in good faith that there are defenses available to it which are not available to the Academy and cannot be effectively asserted by common counsel. The Academy shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of the Academy or if there is a final judgment for the plaintiff in any such action, the Academy will, jointly and severally, indemnify and hold harmless any indemnified person from and against any loss or liability by reason of such settlement or judgment. The indemnification contained in this Section 10 shall survive delivery of the Bonds and shall survive any investigation made by or on behalf of an indemnified party.

If the indemnification provided for in this Section 10 is unenforceable (as determined by final judgment of a court of competent jurisdiction) or otherwise unavailable to an indemnified party in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to herein, the Academy shall, in lieu of indemnifying the indemnified party, jointly and severally, contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Academy on the one hand and the indemnified party on the other from the offering of the Bonds. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the

indemnified party failed to give the notice required herein, then the Academy shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Academy on the one hand and the indemnified party on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Academy on the one hand and the Underwriter on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Academy bear to the total underwriting fees and commissions received by the Underwriter in connection with this transaction. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Academy or the Underwriter and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Academy and the Underwriter agree that it would not be just and equitable if contribution pursuant to this Section were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section. The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this Section shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this paragraph, the Underwriter shall not be required to contribute any amount in excess of the amount by which the total underwriting fees and commissions received by the Underwriter with respect to the Bonds exceeds the amount of any damages which the Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act of 1933, as amended) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

**11. Determination of End of Underwriting Period.** For purposes of this Bond Purchase Agreement, the "End of the Underwriting Period" for the Bonds shall mean the later of (a) the Closing Date, unless the Academy has been notified in writing to the contrary by the Underwriter on or prior to the Closing Date, or (b) the date on which the End of the Underwriting Period for the Bonds has occurred under Rule 15c2-12; provided, however, that the Academy shall be entitled to treat as the End of the Underwriting Period for the Bonds the date specified in the notice from the Underwriter stating the date which is the End of the Underwriting Period. Unless otherwise notified in writing by the Underwriter by the Closing Date, the Academy may assume that the "End of the Underwriting Period" for purposes of Rule 15c2-12 shall be the Closing Date.

The Academy may request from the Underwriter from time to time, and the Underwriter shall provide to the Academy upon such request, such information as may be reasonably required in order to determine whether the End of the Underwriting Period for the Bonds has occurred under Rule 15c2-12 with respect to the unsold balances of Bonds that were originally sold to the Underwriter for resale to the public and which are held by the Underwriter for resale to the public.

If in the opinion of the Underwriter, for purposes of Rule 15c2-12, the Underwriter does not retain for sale to the public any unsold balance of Bonds originally sold to the Underwriter pursuant to this Bond Purchase Agreement, then the Underwriter shall promptly notify the Academy in writing that, in its opinion, the End of the Underwriting Period for the Bonds under Rule 15c2-12 has occurred on a date which shall be set forth in such notification.

12. **Survival of Certain Representations and Obligations.** The respective agreements, representations and other statements of the Academy, of its respective officials or officers and of the Underwriter set forth in or made pursuant to this Bond Purchase Agreement, including the indemnification provisions provided herein, will remain in full force and effect, regardless of any investigation, or statements as to the results thereof, made by or on behalf of the Underwriter and the Academy, and will survive delivery of and payment for the Bonds. If for any reason the purchase of the Bonds by the Underwriter is not consummated, the Academy remains responsible for the expenses to be paid or reimbursed by it pursuant to the terms of this Bond Purchase Agreement (provided, however, that if the Underwriter has failed to consummate such purchase for a reason not permitted hereunder, the Underwriter shall remain responsible).

13. **Notices.** All communications hereunder will be in writing, and, if sent to the Underwriter, will be mailed, delivered or telecopied and confirmed to it at 1675 Broadway, Suite 2700, Denver, Colorado, 80202 or, if sent to the Academy, will be mailed, delivered or telecopied and confirmed to it at the address of its principal office.

14. **Successors.** This Bond Purchase Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors, and no other person will have any right or obligation hereunder.

15. **Counterparts.** This Bond Purchase Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

16. **Governing Law.** This Bond Purchase Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State, except as such laws may be preempted by any applicable federal rules, regulations, and laws.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have set their hands as of the date set forth above.

**A.G. EDWARDS & SONS, INC.**

By: \_\_\_\_\_

  
Brian Colon  
Managing Director

**SUMMIT ACADEMY**

By: \_\_\_\_\_

Authorized Officer

**[SIGNATURE PAGE TO BOND PURCHASE AGREEMENT]**

QBMKE\5818666.2

IN WITNESS WHEREOF, the undersigned have set their hands as of the date set forth above.

**A.G. EDWARDS & SONS, INC.**

By: \_\_\_\_\_  
Brian Colon  
Managing Director

**SUMMIT ACADEMY**

By:   
Authorized Officer

**[SIGNATURE PAGE TO BOND PURCHASE AGREEMENT]**

QBMKE5818666.2

**EXHIBIT A**

**INTEREST RATES, MATURITY DATES AND MANDATORY SINKING FUND  
REDEMPTION AMOUNTS FOR THE BONDS**

\$6,855,000

SUMMIT ACADEMY

PUBLIC SCHOOL ACADEMY REVENUE AND REFUNDING BONDS  
SERIES 2005

\$1,000,000 Term Bond due November 1, 2015; Rate 6.00%; Yield 6.00%; Price 100.00%  
\$2,060,000 Term Bond due November 1, 2025; Rate 6.25%; Yield 6.31%; Price 99.316%  
\$3,795,000 Term Bond due November 1, 2035; Rate 6.375%; Yield 6.53%; Price 97.964%

**MANDATORY SINKING FUND REDEMPTION**

The Bonds maturing November 1, 2015 are subject to mandatory sinking fund redemption on November 1, 2007, and on each November 1 thereafter, at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date from amounts on deposit in the Bond Principal Fund as follows:

**Term Bond Maturing  
November 1, 2015**

| <b>Date</b>       | <b>Principal Amount</b> |
|-------------------|-------------------------|
| November 1, 2007  | \$ 25,000               |
| November 1, 2008  | 95,000                  |
| November 1, 2009  | 100,000                 |
| November 1, 2010  | 110,000                 |
| November 1, 2011  | 115,000                 |
| November 1, 2012  | 125,000                 |
| November 1, 2013  | 135,000                 |
| November 1, 2014  | 145,000                 |
| November 1, 2015* | 150,000                 |

\* Maturity Date

The Bonds maturing November 1, 2025 are subject to mandatory sinking fund redemption on November 1, 2016, and on each November 1 thereafter, at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date from amounts on deposit in the Bond Principal Fund as follows:

**Term Bond Maturing  
November 1, 2025**

| <b>Date</b>       | <b>Principal Amount</b> |
|-------------------|-------------------------|
| November 1, 2016  | \$150,000               |
| November 1, 2017  | 160,000                 |
| November 1, 2018  | 180,000                 |
| November 1, 2019  | 190,000                 |
| November 1, 2020  | 195,000                 |
| November 1, 2021  | 205,000                 |
| November 1, 2022  | 225,000                 |
| November 1, 2023  | 235,000                 |
| November 1, 2024  | 250,000                 |
| November 1, 2025* | 270,000                 |

\* Maturity Date



The Bonds maturing November 1, 2035 are subject to mandatory sinking fund redemption on November 1, 2026, and on each November 1 thereafter, at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date from amounts on deposit in the Bond Principal Fund as follows:

**Term Bond Maturing  
November 1, 2035**

| <b>Date</b>       | <b>Principal Amount</b> |
|-------------------|-------------------------|
| November 1, 2026  | \$285,000               |
| November 1, 2027  | 295,000                 |
| November 1, 2028  | 325,000                 |
| November 1, 2029  | 340,000                 |
| November 1, 2030  | 365,000                 |
| November 1, 2031  | 385,000                 |
| November 1, 2032  | 410,000                 |
| November 1, 2033  | 435,000                 |
| November 1, 2034  | 465,000                 |
| November 1, 2035* | 490,000                 |

\* Maturity Date

**FINAL**

FIRE SAFETY INSPECTION/CERTIFICATION REPORT

|                                 |              |              |                         |                         |                                |
|---------------------------------|--------------|--------------|-------------------------|-------------------------|--------------------------------|
| FACILITY NAME<br>SUMMIT ACADEMY |              |              | DATE<br>5-8-98          | COUNTY<br>WAYNE         | PROJECT NUMBER<br>4-00-0023-96 |
| ADDRESS<br>30100 OLMSTEAD ROAD  |              |              | FACILITY TYPE<br>SCHOOL | RULES/CODES<br>89 RULES | JOB/LIC/FAC. NO.               |
| CITY<br>FLAT ROCK               | STATE<br>MI. | ZIP<br>48134 | FACILITY REP.           |                         | INSP. TYPE<br>RECHECK          |

DESCRIPTION OF

NON-COMPLIANCE

PROJECT: NEW BUILDING.

A final fire safety inspection of the above captioned project was completed this date. Deficiencies noted in our prior inspection reports have been satisfactorily corrected. This report may be considered as final approval of this project.

OFS-12A FIRE ALARM/DETECTION "SYSTEMS DOCUMENTATION AND FEE" RECEIVED FROM VANGUARD.

FILE CLOSED.

SUMMIT ACADEMY  
 ATTN; DINO CANCELLIARI  
 30100 OLMSTEAD ROAD  
 FLAT ROCK, MI. 48134

|   |   |                             |                                   |
|---|---|-----------------------------|-----------------------------------|
| FIRE SAFETY CERTIFICATION<br>FULL APPROVAL THIS PROJECT |   | PROJECT STATUS<br>CLOSED    | REVIEWED BY<br><i>[Signature]</i> |
| DISTRIBUTION  | INSPECTING OFFICIAL<br>DAVID L. HARTMAN 6-8 | ADDRESS<br>24155 DRAKE ROAD |                                   |
| SIGNATURE OF OFFICIAL                                   |   | CITY                        | ZIP CODE TELEPHONE                |

79-40 (REV 10-97)  
 MICHIGAN DEPT OF CONSUMER & INDUSTRY SERVICES  
 OFFICE OF FIRE SAFETY

RECEIVED  
 MAY 14 1998  
 BY: *[Signature]*

FIRE SAFETY INSPECTION/CERTIFICATION REPORT

|                                 |              |              |                         |                         |                                |
|---------------------------------|--------------|--------------|-------------------------|-------------------------|--------------------------------|
| FACILITY NAME<br>SUMMIT ACADEMY |              |              | DATE<br>5-8-98          | COUNTY<br>WAYNE         | PROJECT NUMBER<br>4-00-0475-97 |
| ADDRESS<br>30100 OLMSTEAD ROAD  |              |              | FACILITY TYPE<br>SCHOOL | RULES/CODES<br>89 RULES | JOB/LIC/VAC. NO.               |
| CITY<br>FLAT ROCK               | STATE<br>MI. | ZIP<br>48134 | FACILITY REF.           |                         | INSP. TYPE<br>RECHECK          |

DESCRIPTION OF

NON-COMPLIANCE

PROJECT: ADDITION.

A final fire safety inspection of the above captioned project was completed this date. Deficiencies noted in our prior inspection reports have been satisfactorily corrected. This report may be considered as final approval of this project.

OFS-12A FIRE ALARM/DETECTION & SPRINKLER "SYSTEMS DOCUMENTATION AND FEE" RECEIVED FROM VANGUARD SYSTEMS.

FILE CLOSED.

SUMMIT ACADEMY  
 ATTN: DINO CANCELLIARI  
 30100 OLMSTEAD ROAD  
 FLAT ROCK, MI. 48134

JOHN S. GONIER, AIA  
 3191 LONGMEADOW DR.  
 TRENTON, MI. 48183

|   |   |                    |                             |                                   |
|---|---|--------------------|-----------------------------|-----------------------------------|
| FIRE SAFETY CERTIFICATION<br>FULL APPROVAL THIS PROJECT |   |                    | PROJECT STATUS<br>CLOSED    | REVIEWED BY<br><i>[Signature]</i> |
| DISTRIBUTION  | INSPECTING OFFICIAL<br>DAVID L. HARTMAN     |                    | ADDRESS<br>24155 DRAKE ROAD |                                   |
|   | SIGNATURE OF OFFICIAL<br><i>[Signature]</i> | CITY<br>FARMINGTON | ZIP CODE<br>48335           | TELEPHONE<br>(248) 988-9753       |

State of Michigan  
 John Engler, Governor  
 Department of Consumer & Industry Services  
 Kathleen M. Wilbur, Director

Page  
 Office of Fire :  
 General Office Bt  
 7150 Harris  
 Lansing, MI 48909

|  |   |                                   |                    |
|--|---|-----------------------------------|--------------------|
| FACILITY NAME<br>Summit Academy              | DATE<br>4-26-99                             | COUNTY<br>Wayne                   | PROJECT<br>0441-98 |
| ADDRESS<br>30100 Olmstead Road               | FACILITY TYPE<br>School                     | RULESCODES<br>89 School           | JOB/LIC/FAC NO     |
| CITY, STATE ZIP CODE<br>Flat Rock, Mi. 48134 | FACILITY REPRESENTATIVE<br>Dino Cancilliari | INSPECTION TYPE<br>Re-Check Final |                    |

AREAS REQUIRING COMPLIANCE:

Re: New charter school

REC 18 2000  
 79

A final fire safety inspection of the above captioned project was completed this date. Deficiencies noted in our prior inspection reports have been satisfactorily corrected. This report may be considered as final approval of this project.

Health Dept approval and final electrical inspection approval has been received.  
 Note that sprinkler coverage was carried under file 1414-98.

Summit Academy  
 Attn: Dino Cancilliari  
 30100 Olmstead Road  
 Flat Rock, Mi. 48134

John S. Goniea, AIA  
 3191 Longmeadow Dr.  
 Trenton, Mi. 48183

|                                       |                                      |   |                 |
|---------------------------------------|--------------------------------------|---|-----------------|
| FIRE SAFETY CERTIFICATION<br>Approved |                                      | PROJECT STATUS<br>Closed                            | REVIEWED BY<br> |
| DISTRIBUTION<br>Facility File         | INSPECTING OFFICIAL<br>David Hartman | ADDRESS<br>24155 Drake Road<br>Farmington, MI 48335 |                 |
| CIS/HQ<br>Education                   | SIGNATURE OF OFFICIAL<br>            | TELEPHONE<br>248-888-8763                           | FAX 248-888-876 |

**CONTRACT SCHEDULE 7**

**REQUIRED INFORMATION FOR  
A PUBLIC SCHOOL OF ACADEMY**

## SCHEDULE 7

### REQUIRED INFORMATION FOR A PUBLIC SCHOOL ACADEMY

Required Information for a Public School Academy. This Schedule contains information required by the Code and the Contract. The required information for the Academy is contained in this Schedule 7.

- Section a. Governance Structure. The governance structure of the Academy is set forth in Section a of this Schedule.
- Section b. Educational Goal and Related Measures. The educational goal and related measures of the Academy are set forth in Section b of this Schedule.
- Section c. Educational Programs. The educational programs of the Academy are set forth in Section c of this Schedule.
- Section d. Curriculum. The curriculum of the Academy is set forth in Section d of this Schedule.
- Section e. Methods of Pupil Assessment. The methods of pupil assessment of the Academy are set forth in Section e of this Schedule.
- Section f. Application and Enrollment of Students. The application and enrollment of students criteria of the Academy is set forth in Section f of this Schedule.
- Section g. School Calendar and School Day Schedule. The school calendar and school day schedule procedures are set forth in Section g of this Schedule.
- Section h. Age or Grade Range of Pupils. The age or grade range of pupils to be enrolled by the Academy is set forth in Section h of this Schedule.

**SECTION A**

**GOVERNANCE STRUCTURE**

## GOVERNANCE STRUCTURE

WHEREAS, the People of Michigan through their Constitution have provided that schools and the means of education shall forever be encouraged and have authorized the Legislature to maintain and support a system of free public elementary and secondary schools; and all public schools are subject to the leadership and general supervision of the State Board of Education; and the Legislature has authorized an alternative form of public school designated a "public school academy" to be created to serve the educational needs of pupils and has provided that pupils attending these schools shall be eligible for support from the State School Aid Fund; and the Legislature has delegated to the governing boards of state public universities, community college boards, intermediate school district boards and local school district boards, the responsibility for authorizing the establishment of public school academies; and the University Board has approved the issuance of a contract conferring certain rights, franchises, privileges, and obligations of a public school academy to the Academy Board.

The Academy is incorporated as a Michigan nonprofit corporation, organized on a non-stock, directorship basis for the purpose of operating as a Michigan public school academy. The Academy shall conduct its affairs as a governmental entity exempt from federal income taxes under Section 115 of the United States Internal Revenue Code or any successor law. The Academy is a body corporate and is not a division or part of Central Michigan University. The relationship between the Academy and the University Board is based solely on the applicable provisions of the Code and the terms of this Contract.

The Academy Board shall have at least five (5), but no more than nine (9) members, as determined by the University Board. Academy Board members shall be appointed according to the terms of the Method of Selection, Appointment and Removal Resolution adopted by the University Board. The Academy Board has all the powers and duties permitted by law to manage the business, property and affairs of the Academy and for adopting policies by which the Academy shall be governed. The Academy Board is responsible for assuring that the Academy operates according to the Terms and Conditions of this Contract and Applicable Law. Contract Schedule 2: Bylaws, set forth a further description of the Academy Board's governance structure.

Academy Board members shall serve in their individual capacity, and not as a representative or designee of any other person or entity. The Academy Board shall ensure compliance with Applicable Law relating to conflicts of interest and prohibited familial relationships, including Article IV, Sections 4.4 and 4.5 of this Contract.

Pursuant to applicable law and the Terms and Conditions of this Contract, including Article III, Section 3.6, the Academy Board may employ or contract for personnel according to the position information outlined in Schedule 5. Before entering into an agreement with an educational service provider or an employee leasing company to provide services or to provide personnel to perform services or work at the Academy, the Academy Board must first comply with the Educational Service Provider Policies issued by the Center.



**SECTION B**

**EDUCATIONAL GOAL AND RELATED MEASURES**

## EDUCATIONAL GOAL AND RELATED MEASURES

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.2, the Academy shall achieve or demonstrate measurable progress for all groups of pupils toward the achievement of the educational goal identified in this schedule. Although an increase in academic achievement for all groups of pupils as measured by assessments and other objective criteria is the most important factor in determining the Academy’s progress toward the achievement of the educational goal, the Center also considers other factors. Upon request, the Academy shall provide the Center with a written report, along with supporting data, assessing the Academy’s progress toward achieving this goal. In addition, the University expects the Academy will meet the State of Michigan’s accreditation standards pursuant to state and federal law.

### **Educational Goal to be Achieved**

Prepare students academically for success in college, work and life.

### **Measures to Assist In Determining Measurable Progress Toward Goal Achievement**

To assist in determining whether the Academy is achieving measurable progress toward the achievement of this goal, the Center will annually assess the Academy’s performance using the following measures.

#### **Measure 1: Student Achievement**

The academic achievement of **all students who have been at the academy for one or more years<sup>1</sup>** in grades 3-8 will be assessed using the following measures and targets:

| Sub Indicator  | Measure  | Metric   | Target |
|--|--|--|--------|
| <b>Against a Standard:</b>   | The percentage of students meeting or surpassing grade-level national norms on the NWEA MAP reading and math tests administered in the spring.                               | Distribution (which will be in the form of percentages):<br>Exceeds $\geq 70.0\%$<br>Meets $\geq 50.0\%$<br>Approaching $\geq 30.0\%$<br>Does not meet $< 30.0\%$          | 50%    |
| In the event that performance against the standard falls below these required expectations, “measurable progress towards the achievement of this goal” will be defined using the following measures and targets: |  |  |        |
| <b>Over Time:</b>  | The percentage of students meeting or surpassing grade-level national norms over time (CY-AVG(PY1+PY2+PY3)).   | Trend score (which will be in the form of $-x$ to $+x$ ):<br>Exceeds $\geq 6.0\%$<br>Meets $\geq 3.0\%$<br>Approaching $\geq 1.0\%$<br>Does not meet $< 1.0\%$             | 3.0%   |
| <b>Comparison Measure:</b>   | The percentage of students categorized as proficient or advanced on the most recent state assessment will surpass the school’s Composite Resident District (CRD) percentage. | Portfolio Distribution (which will be in the form of $-x$ to $+x$ ):<br>Exceeds $\geq 10.0\%$<br>Meets $\geq 5.0\%$<br>Approaching $\geq 0.0\%$<br>Does not meet $< 0.0\%$ | 5.0%   |

<sup>1</sup> One or more years students (also called 1+ students) are students who are enrolled in the academy on or before count day and are still enrolled at the end of a given academic year.

| Grade | MAP National Norms |       |
|-------|--------------------|-------|
|       | Reading            | Math  |
| 3     | 198.6              | 203.4 |
| 4     | 205.9              | 213.5 |
| 5     | 211.8              | 221.4 |
| 6     | 215.8              | 225.3 |
| 7     | 218.2              | 228.6 |
| 8     | 220.1              | 230.9 |

### **Measure 2: Student Growth**

The academic growth of all students in grades 3-8 at the Academy will be assessed using the following measures and targets:

| Sub Indicator  | Measure  | Metric   | Target                        |
|--|--|--|-------------------------------|
| <b>Against a Standard:</b>   | The median of student growth percentiles (MGP) reflecting fall-to-spring scaled score growth on the reading and math NWEA MAP tests. | MGP:<br>Exceeds $\geq 65$ th<br>Meets $\geq 50$ th<br>Approaching $\geq 45$ th<br>Does not meet $< 45$ th  | Reading:<br>50<br>Math:<br>50 |
| In the event that performance against the standard falls below these required expectations, “measurable progress towards the achievement of this goal” will be defined using the following measures and targets: |  |  |                               |
| <b>Over Time:</b>  | The percentage of students making at least one year’s growth over time (CY-AVG(PY1+PY2+PY3)).  | Trend score (which will be in the form of $-x$ to $+x$ ):<br>Exceeds $\geq 6.0\%$<br>Meets $\geq 3.0\%$<br>Approaching $\geq 1.0\%$<br>Does not meet $< 1.0\%$             | 3.0%                          |
| <b>Comparison Measure:</b>   | The MGP reflecting growth on the two most recent state assessments will surpass the school’s Composite Resident District.            | Portfolio Distribution (which will be in the form of $-x$ to $+x$ ):<br>Exceeds $\geq 10.0\%$<br>Meets $\geq 5.0\%$<br>Approaching $\geq 0.0\%$<br>Does not meet $< 0.0\%$ | 5.0%                          |

**SECTION C**

**EDUCATIONAL PROGRAMS**

## EDUCATIONAL PROGRAMS

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.3, the Academy shall implement, deliver and support the educational programs identified in this schedule.

### MISSION & VISION

Summit Academy Flat Rock (“Academy”), a campus of Distinctive Schools (“DS”), is committed to social justice and the elevation of access and achievement in historically marginalized communities. The Academy mission is to support each child in becoming an engaged and curious learner, a confident self-advocate, and a creative problem-solver by setting high expectations and nurturing a positive culture that honors diversity, collaboration, and optimism.

The vision of DS and the Academy is to innovate, trailblaze and collaboratively lead a public education transformation that positively impacts the greater education community and ensures that each DS student thrives in college, career and life.

Core values of Distinctive Schools and the Academy are:

**Culture:** We value and protect our positive, high-energy culture built on optimism, meaningful relationships, transparency, and mutual accountability as we collaboratively serve our school communities.

**Innovation:** We imagine and incubate new ideas and actively encourage risk-taking, inquiry, entrepreneurial thinking and learner-agency. We reflect and refine practices based on new learning to ensure continuous growth as individuals and as a collective.

**Wellness:** We nurture and strengthen the social, emotional, and physical well-being of each member of our school community and intentionally develop habits of success.

**Equity:** We prioritize equity in all aspects of our teaching, learning, and work where everyone's voice matters and has access to the same opportunities. Individual identities are visible, celebrated, valued and leveraged.

### COMMITMENTS

- We recruit, retain and support a diverse talent pool that is representative of our school community.
- We foster safe, joyful learning places for professional and academic risk-taking.
- We build strong home-school-community connections to support our children.
- We honor and actively seek voice and input from all stakeholders in our DS community.
- We provide a coherent continuum of support responsive to the needs of all learners.
- We ensure alignment between and among network and campus initiatives and efforts.
- We communicate intentionally about our efforts and ensure transparency in our work.
- We inform policy decisions at the local, state and federal levels.
- We share our collective learning with others to ensure improved education for all.
- We support initiatives and changes with high-quality professional development.

## ASSURANCES

- We provide safe, supportive learning and working environments.
- The scope of our programming attends to the whole child (social, emotional, physical, academic).
- We use a variety of measures to consistently assess our progress toward the achievement of our strategic objectives.
- No program, service or resource will be retained unless it makes optimal contribution to our mission and the benefits continue to justify costs.
- We practice fiscal responsibility.
- School plans align with the Distinctive Schools Strategic Plan.
- We set personalized rigorous Fall-to-Spring Northwest Evaluation Association™ (“NWEA™”) Measures of Academic Progress® (“MAP®”) targets based on projected college success as articulated in ACT® & SAT® linking studies.

## OBJECTIVES

Every child will be equipped to thrive in college, career and life and will be able to adapt and succeed in new and unknown contexts.

The Academy community will cultivate, practice and celebrate our values through teamwork and interpersonal relationships to build the kind of enriching community it wants to benefit from and support.



## **PROGRAM ALIGNMENT TO MISSION, VISION & VALUES**

The Academy learning model, which aims to prepare capable, high-achieving, future-ready students, is intentionally delivered through three core lenses: Student-Centered Learning; Social Emotional Learning; and Diverse Learning (Special Education & Language Learning). Because the Academy believes that education is most effective when it incorporates the needs of the whole child, the Academy's pedagogical mindset values the integration and intertwining of social, emotional and academic learning. To ensure all students find success in the Distinctive Schools ("DS") Learning Model, the Academy incorporates a Multi-Tiered System of Supports ("MTSS"), a prevention-based framework for improving learning outcomes for all students through a layered (tiered) continuum of evidence-based supports. These supports integrate the academic and social emotional needs of students to foster lifelong success.

The DS Learning Model has successfully shifted from one with a traditional focus on teaching to one with a focus on deep learning. Using a strengths-based approach, coupled with real-time feedback generated from short-cycle assessment data, Academy educators coach students in the development of strong and positive student identity and agency. In turn, students become confident, well-rounded, resilient members of the learning community and are well-positioned for success in college, career and life.

## **STUDENT CENTERED, PERSONALIZED LEARNING PRACTICES**

The Academy's model of personalized learning places a clear and steadfast emphasis on the process of learning and that learning experiences are designed around students' individual or collective strengths, interests and goal areas. Teachers plan lessons to support students in mastering grade level standards while simultaneously addressing targeted skills and close any academic gaps.

In a personalized learning environment, teachers vary the resources, activities, modalities and teaching techniques to effectively engage students and provide multiple entry points and paths to master standards. Whole class, small group and individual learning opportunities are strategically used to provide the appropriate instruction in order to achieve mastery. Students are encouraged and nurtured to have a voice in the learning process. The pace of learning is calibrated to fall within the student's proximal zone of development such that success remains within reach but is challenging enough to require significant effort. Student learning capacity is seen as malleable through the development of a growth mindset learning practice, persistence and effective use of available resources.

DS and the Academy have adopted the LEAP Learning Framework™ ("LLF"), created by LEAP Innovations, to guide the personalized learning work. The LLF is grounded in three fundamental principles: Every learner can succeed with support that's customized to the child's interests and needs; Every learner brings strengths and talents to the classroom; Learner agency is essential.

LEAP Innovations identified four key components of personalized learning in the LLF: Learner Focused ("LF"), Learner Led ("LL"), Learner Demonstrated ("LD"), and Learner Connected ("LC").

**Learner Focused** ("LF"): Learners are empowered to holistically understand their needs, strengths, and interests. Learners:

LF.1 Deepen their understanding of themselves holistically, including:

- LF.1.1 academic needs, strengths, and interests
- LF.1.2 physical and mental health
- LF.1.3 social and emotional learning
- LF.1.4 cognitive skills (i.e. focus, working memory)
- LF.1.5 identity and culture
- LF.1.6 social and community context
- LF.2 Experience learning that is relevant, challenging, contextualized and designed for their individual needs, strengths and interests

**Learner Led (“LL”):** Learners are entrusted to take ownership of their learning. Learners:

- LL.1 Articulate their needs, strengths, and interests
- LL.2 Partner in setting their learning goals
- LL.3 Partner in shaping their learning pathways and experiences
- LL.4 Assess, monitor, and reflect on their progress
- LL.5 Advocate for needed support from teachers, peers, technology and other sources

**Learner Demonstrated (“LD”):** Learners can progress at their own pace based on demonstrated mastery.

- LD.1 Begin at a challenging level appropriate to their prior knowledge and learning needs
- LD.2 Receive feedback on effort, process and mastery throughout every learning experience
- LD.3 Advance or go deeper upon demonstration of mastery
- LD.4 Demonstrate learning in multiple ways
- LD.5 Receive recognition based on demonstrated mastery, not time

**Learner Connected (“LC”):** Learning transcends location in relevant and valued ways, connected to learners’ families, educators, communities, and networks.

- LC.1 Collaborate with peers, family, educators, and others
- LC.2 Cultivate meaningful relationships
- LC.3 Advance opportunities through connections
- LC.4 Engage in real-world experiences to develop:
  - LC.4.1 Academic skills & knowledge
  - LC.4.2 Community and civic engagement
  - LC.4.3 Workplace experience
- LC.5 Earn valued recognition for all learning, regardless of where and when it happens

Key components of the DS personalized learning model are flexible learning environments, learner profiles, personal learning paths and competency based progression. These components support the Academy’s emphasis on college and career readiness.

### **Flexible Learning Environments**

The needs of learners drive the design of the learning environment to ensure environments, staffing plans, space design and time allocations contribute to supporting in meeting individual goals.



**Learner Profiles (“LP”)**

The LP is a two-way communication tool and vehicle for students to convey individual learning needs and student preferences, strengths and goals. LPs capture important information about each learner beyond test scores and achievement levels; personal stories, attributes and weaknesses are conveyed, which help guide planning, instruction and learning. The LP serves as a catalyst for conversation, negotiation and creative problem-solving, which promotes meaningful, student-centered learning and a strong sense of student agency.

**Personal Learning Paths (“PLP”)**

Each student has a customized path that responds and adapts based on his/her strengths, needs, interests and goal areas. The PLP is designed to support students in achieving grade level standards and targeted skills to extend learning and/or close learning gaps. Plans are adaptable and responsive to learner needs and are strengthened when students and parents are true partners in planning.

**Competency Based Progression**

Each student follows an individual path to support progress toward mastery of all appropriate Michigan Academic Standards (MAS). Teachers design student learning opportunities based on student assessment data, needs, interests and goals. To ensure that students learn and grow toward well-defined targets and goals, students are continually assessed and monitored so learners are able to advance toward new targets and goals as soon as students are ready. The academic day includes opportunities for mastery of grade level standards and targeted skills instruction to close learning gaps.

**CURRICULUM AND INSTRUCTION**

In order to deliver an exceptional educational experience for children, one that is consistent with the Academy’s mission and strives to ensure college and career readiness, the Academy uses an array of resources and tools to deliver a standards-aligned curriculum according to the parameters defined by each state in which DS serves. Curriculum and instruction are planned to support students in college, career and life readiness. This requires intentional planning, rigorous tasks, access to grade level standards and work, and a strong belief in students’ ability to reach his/her goals.

The DS model provides a balance of grade level standards with targeted skill instruction to strategically address student goals and close any learning gaps. To this end, curriculum resources are carefully selected to provide access to rigorous, grade level standards and personalized, differentiated learning opportunities. Personalized learning mindset and practices are combined with whole class, small group and individual instruction to provide learning opportunities to meet individual and collective needs.

When possible, teachers make plans to address learning needs in Tier 1 of the Academy’s MTSS structure. Students who struggle persistently are identified and referred to the campus problem solving team. In these meetings, student support team members, instructional leaders, teachers and interventionists analyze student data across multiple measures and prescribe intervention plans as

needed. After eight to ten weeks, the cycle starts over and students who are not responding to the interventions are provided new support.

DS educators engage in rich professional learning to strengthen the use of proven instructional strategies, best-practice pedagogy and innovation to create rich learning environments in which to learn and grow. Professional educators are equipped to design highly engaging learning experiences for Academy students, and educators expertly weave standards together in complex instruction in order to meet the rigorous outcomes set forth by the curriculum. Educators collaborate regularly with the support and expertise of the campuses' instructional leaders and employ effective blended learning practices to leverage technology in support of excellent teaching and learning. DS educators bring the curriculum to life through the expert use of a variety of core tools, supports and resources.

### **Humanities K-5**

- **Benchmark Advance**<sup>®</sup> is a comprehensive English Language Arts (“ELA”) program for Grades K-5. The standards-aligned program, which explicitly provides strategies and guidance for successful workshop model implementation, is built upon essential questions which uncover the key knowledge and skills and rich enduring understandings that are key to student success. Using rich content texts (social studies, literature, & science), the program combines whole group, small group, foundational skills components and assessments to ensure deep, contextualized learning. Social studies curriculum is aligned to the MAS and is integrated with language learning and multicultural approaches to ensure deeper connection to informational text standards for grades K-5. Inquiry is integrated into the interdisciplinary lessons.
- **Lexia Core5**, a digital K-5 program, builds foundational reading skills for students through personalized pathways and teacher-led, small group instruction. The blended approach to literacy learning provides real-time data to steer instruction for teachers and give student agency. Competency-based progression allows for teacher interventions and supplemental lessons and resources K-5.
- **Foundations** is a supplemental tool to reinforce foundational skills in reading for K-2 students. This tool provides explicit instruction in phonemic awareness, phonics/word study, high-frequency word study, reading fluency, vocabulary, reading comprehension, spelling and handwriting.

### **STEM K-5**

- **EngageNY** is a standards aligned math resource that articulates modules of study through a rigorous, differentiated and targeted approach to ensure every domain of the Common Core Learning Standards for Math are addressed in a year-long scope and sequence. Mathematical Practice Standards are interwoven to enrich and deepen student learning.
- **STMath** provides a game-based instructional math methodology that is engaging, visual, and personalized. It is aligned to Common Core Learning Standards and based on applied neuroscience research. The scope and sequence of the program is aligned to EngageNY modules to support rich conceptual understanding.
- **Mystery Science**, a tool aligned to Next Generation Science Standards (“NGSS”), features multimedia science units for grades K-5. Each lesson starts by posing a question followed by a series of short videos and prompts to guide a class discussion and is followed by an experiment that can be done as a class.

- Physical Education and Health are aligned to MAS and are integrated with language learning and multicultural approaches to ensure deeper connection to informational text standards for grades K-8.

### Middle School (6th-8th) English, Social Studies, Math & Science

- Summit Learning** provides a comprehensive curriculum across all content areas. This personalized approach provides opportunities for project-based learning. These projects are designed to help students develop the skills, habits, and knowledge that they need to be successful in the real world. Students apply and expand on the content and background knowledge that they learn in self-paced focus areas. Students learn and are assessed on the cognitive skills, which are aligned to Common Core State Standards and were chosen to help students compete in the 21st century job market. The curriculum is supported by self-directed learning (“SDL”), a dedicated time for goal setting, planning and reflection, which is embedded into a student's weekly schedule. Each student is partnered with a staff mentor for weekly mentoring sessions. This provides time for personalized support and builds strong student-adult relationships.

### MULTI-DISCIPLINARY TOOLS K-8

- Thinking Maps are the Academy’s language for learning across all contexts and content areas. Thinking Maps are visual patterns connected to eight specific thought processes. In visualizing thinking, teachers and students create concrete images in maps of their abstract thoughts. These patterns and maps help students think creatively and critically.

| CURRICULUM & INSTRUCTION OVERVIEW      |   |   |   |   |
|--|---|---|---|---|
|  | TIER 1<br>CORE INSTRUCTION  | TIER 2<br>GROUP<br>INTERVENTION   | TIER 3<br>INTENSIVE<br>INTERVENTION   | ASSESSMENT &<br>DATA SOURCES  |
| ENGLISH<br>LANGUAGE<br>ARTS<br>("ELA") | <a href="#">Benchmark Advance Foundations</a><br><a href="#">Lexia Core 5</a><br><a href="#">Thinking Maps</a><br><a href="#">Summit Learning</a> | <a href="#">Benchmark Advance Intervention Foundations</a><br><a href="#">Lexia Core 5</a><br><a href="#">Lexia PowerUp</a> <ul style="list-style-type: none"> <li><a href="#">Florida Center for Reading Research</a></li> </ul> <a href="#">Leveled Literacy Intervention</a> | <a href="#">Wilson Reading Foundations</a><br><a href="#">Leveled Literacy Intervention</a> <ul style="list-style-type: none"> <li><a href="#">Florida Center for Reading Research</a></li> </ul> | MAP Growth <ul style="list-style-type: none"> <li><a href="#">MAP Reading Fluency</a></li> </ul> Benchmark Unit & Interim Assessments <ul style="list-style-type: none"> <li>Lexia diagnostic</li> <li>Summit Learning</li> </ul> |
| MATH                                   | <a href="#">Engage NY</a><br><a href="#">ST Math (Digital)</a><br><a href="#">Summit Learning</a>   | <a href="#">VMath</a><br><a href="#">IXL</a>  | <a href="#">VMath</a><br><a href="#">IXL</a>  | <ul style="list-style-type: none"> <li>ENY Exit Slips &amp; End of Module Assessments</li> <li>ST Math data</li> </ul> MAP Growth <ul style="list-style-type: none"> <li>Summit Learning</li> </ul>                               |

|  |   |  |
|--|---|--|
| <b>SCIENCE</b>                         | <ul style="list-style-type: none"> <li>• <a href="#">Mystery Science</a></li> </ul> <p><a href="#">NGSS K-2, Grade 3 Grade 4 Grade 5</a> are integrated with Benchmark Advance</p> <p><a href="#">Summit Learning</a></p> | <i>Students receive extended instruction in literacy as a support to develop Science and Social Studies mastery.</i> |
| <b>SOCIAL STUDIES</b>                  | <ul style="list-style-type: none"> <li>• <a href="#">MI K-5 SS Standards</a> aligned to Benchmark Advance</li> </ul> <p><a href="#">Summit Learning</a></p>   |  |
| <b>HEALTH &amp; PHYSICAL EDUCATION</b> | <ul style="list-style-type: none"> <li>• <a href="#">MI K-8 PE Standards</a></li> <li>• <a href="#">MI K-8 Health Standards</a></li> </ul>  |  |
| <b>Educational Development</b>         | <p><a href="#">SuccessBound (6th- 8th)</a></p>  |  |

The Academy’s instructional approach is through the lens of MTSS. All students are exposed to grade level curriculum through the Tier 1 curriculum model. Multiple assessments are used to inform if additional curricular and instructional supports are needed for some students. Through personalized instruction, the Academy leverages time, talent and technology to ensure learning is remediated and accelerated for all students. To ensure success, all programs are implemented with fidelity and data is reviewed regularly to inform instruction and adjust student groupings. Monthly dashboard protocols are implemented, which drive instructional decision making as well as strategic planning of the curriculum and instructional model. These dashboards give both implementation and user level data to inform individual learner adjustment as well as high level system and program solutions for implementation and vision. For all curricular and instructional approaches, the model is based on fixed and variable design elements to allow for individual academy design context to best meet the needs of the community.

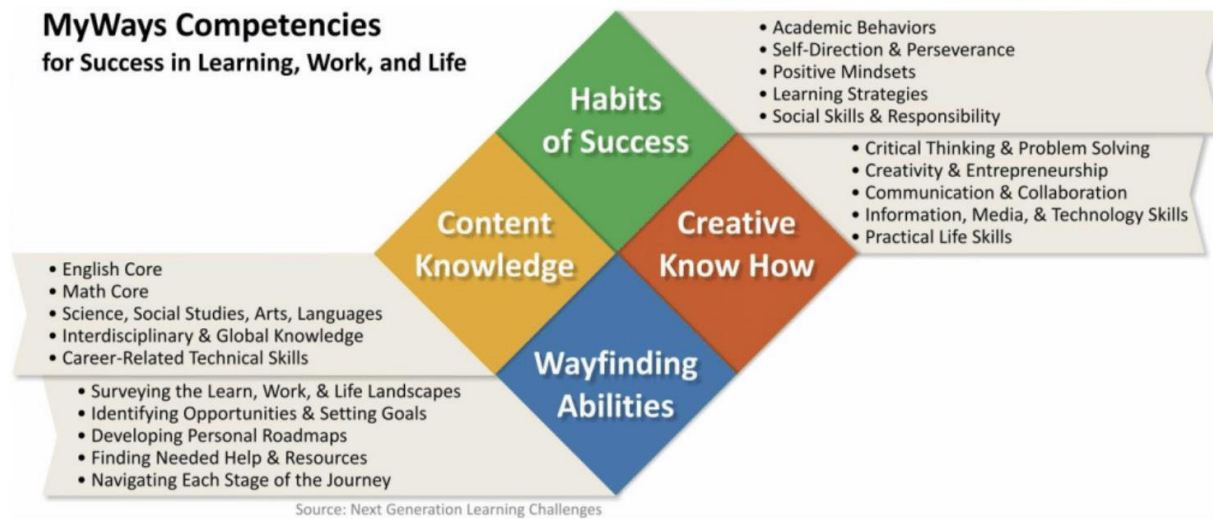
The Academy schedule includes a What I Need (“WIN”) Intervention Block for all students. This time is dedicated for reading and math Tier 2 and 3 Interventions determined by the Campus Problem Solving Team. Students who do not participate in a formal intervention use this time for targeted skill development to close learning gaps or to extend learning experiences. WIN time is led by interventionists and classroom teachers.

**SOCIAL EMOTIONAL LEARNING**

The Academy believes strong academic instruction and learning happens best when the academic, social and emotional needs of the whole child are addressed and met. To ensure students’ success, well-being and character, the Academy aims to develop self-awareness, self-regulation, collaborative relationships and responsible decision-making skills that are needed to be healthy, well-rounded and successful global citizens. DS strives to help children and adults alike to broaden views of success and have a reliable toolkit to tackle the challenges of the future.

Intended to help educators navigate the challenges of preparing students for an unknown future, with unknown and rapidly changing demands and circumstances, the Next Generation Learning

Challenges (“NGLC”) organization presented its MyWays Framework. The Framework distills research and sparks ideas for educational change that honors and nurtures the whole child.



Inclusive of the tenets of the MyWays Framework, DS developed its own Social Emotional Learning (“SEL”) Framework to guide its work alongside the LEAP LLF to support the whole child. The DS SEL Framework provides educators with a quality foundation to establish students’ overall self-awareness, self-regulation, collaborative relationships and responsible decision-making. Explicit guidance on student, classroom and school-wide supports promote the students’ development of the following core competencies (as defined by the MyWays Habits of Success): academic behaviors, self-direction and perseverance, positive mindsets, learning strategies, and social skills and responsibilities. SEL in DS is addressed through four core areas: Community; Social Justice; Mindsets; and Culture.

The Academy is committed to laying the groundwork for student success by creating an authentic and robust model for health, wellness and growth. Through the Academy’s culture and programming, staff members will develop the coping and social skills for every learner in the community. Each member of the Academy community will recognize that student SEL development is uniquely tied to teacher SEL and that an integrative SEL model that includes conducive environments, strong relationships, explicit instruction, thoughtful modeling, opportunities for practice and teachable moments leads to students becoming happy, healthy members of the Academy community.

The Academy will employ the DS Framework of Problem Solving, Responsibility, Integrity, Drive and Empathy (“PRIDE”). PRIDE is aligned with Positive Behavioral Interventions and Supports (“PBIS”) and integrates SEL competencies into the school culture in order to support broad student growth and development. The PRIDE language will be commonplace throughout the community, with each letter of PRIDE representing a characteristic of positive behavior that will be taught, practiced and reinforced.

Further, Restorative Justice and its practices will be part of the school experience for all Academy students, every day. Students build relationships with each other in their classrooms through

morning meeting and other circle times, utilize restorative practices to manage conflicts, and take an active role in building a safe and welcoming classroom and school community. The Academy community will understand that making mistakes is part of growing up, and Restorative Practices provide the opportunity for each student to learn from the conflict; that is where the community believes true skill building and SEL development can occur.

### **Early Childhood Education**

The Academy operates an early childhood education program (Pre-Kindergarten). On an annual basis, the Academy shall advise the Center on the current status of its early childhood education program. If changes occur in the Academy's early childhood education program, the Academy shall file a revised Early Childhood Education Questionnaire with the Center.

Unless permitted under Applicable Law or administrative rule, the Academy shall not use the state school aid funds to establish or operate its early childhood education program. In accordance with Applicable Law and administrative rule, the Academy shall budget and account for funds and expenses associated with its early childhood education program.

## **DIVERSE LEARNING**

### **Special Education Students**

When making educational placement decisions for students with disabilities, the Academy will ensure that parents are contributing members of the Individualized Educational Program ("IEP") team, and together the team will make decisions that are subject to requirements regarding provision of the least-restrictive environment. When determining how services will be delivered to students with disabilities, the Academy will follow all Special Education Rules as issued by the Michigan Department of Education. If a child with a current IEP enrolls in the Academy, the Academy will implement the existing IEP to the extent possible or will provide an interim IEP agreed upon by parents until a new IEP can be developed. IEPs will be developed, revised and implemented in accordance with the Individuals with Disabilities Education Improvement Act ("IDEIA") and state law and regulations.

The Academy will fully comply with federal laws and regulations governing children with disabilities as follows:

1. The Academy is responsible for providing a free, appropriate public education to children with disabilities enrolled in the Academy that have been determined through an IEP to require Special Education programs and services.
2. The Academy will ensure that children who are suspected of having disabilities are properly evaluated by a multidisciplinary team, as defined in the Michigan Special Education Rules, and that children who have already been identified are re-evaluated by the multidisciplinary team at least every three years.
3. When a multidisciplinary team determines that a special education student requires Special Education programs and services, the Academy will ensure that the IEP is fully implemented in accordance with IDEIA and reviewed on an annual basis or more frequently as determined by the IEP team.

IEPs drive all instruction for Academy students with special needs. The Academy implements a specialized curriculum based on the needs of the student and their least restrictive environment. The Academy meets IEP requirements in the personalized learning model because instruction is tailored for all students based on individual needs. Another layer of accountability for the special education students is the legal IEP in which the Academy identifies and implements all services outlined by the team.

### **English Language Learners**

The Academy serves a diverse population including English Language Learners (“ELL”). The mission of the Academy is to ensure all students, including ELL, attain the highest level of academic success and language proficiency. Academy leaders and teachers leverage ELL students’ home languages, cultural assets and prior knowledge and actively engage parents as participants, contributors and cultural liaisons to the school community. To ensure ELL students reach academic goals and growth targets, language development practices and cultural responsiveness plans are integrated into daily instruction.

The Academy follows the WIDA™ standards that align with the DS curriculum framework to provide students, educators and parents with a set of clear expectations leading to college and career readiness. The Academy focuses on preparing every teacher to teach academic language and challenging content to all students, including ELL students. ELL staffing is dependent on the language and number of students receiving services. All teachers must be skilled in how to support ELL students as students acquire content knowledge, while also progressing towards English proficiency. The core literacy curriculum was intentionally chosen and designed to align instruction in bilingual classes to ensure appropriate access in diverse education settings.

### **Advanced and Above Grade Level Learners**

The personalized learning model and blended instructional approach is designed to advance all learners, regardless of grade level. Digital adaptive programs provide personalized pathways for students that may go beyond grade level. Small group instruction and deep learning experiences provide opportunities for deeper investigation of topics. Formative assessment data is used to drive student readiness to demonstrate mastery in order to move on to the next concept within the PLP.

### **Educational Development Plan**

One element of the DS Middle School (“DSMS”) model is dedicated time for students to learn about themselves, interests, needs and strengths, both academic and social-emotional. This time is embedded into the school day and integrated into projects, tasks, LP and community-time activities. The goal is for students to understand who they are today and to identify potential interests to begin planning future high school, college and career opportunities. Staff takes time to reinforce that every student can go to college or trade school after high school and that today’s experiences are part of the personal journey. Explicit connections to future career goals or educational needs are referenced during projects and learning. Teachers will use tools, resources and curriculum from Success Bound to support students in thinking beyond high school and potential career opportunities.


### **ASSESSMENT**

DS uses a rigorous plan and related protocols for measuring learning outcomes for grade level

content and targeted skill instruction. Frequent progress monitoring and checks for understanding are intentionally planned into daily lessons. Digital content includes adaptive programs that measure learning and provide PLPs for students. Individual student growth is measured within the context of the research document, *Measuring Growth Toward College Readiness: Using MAP (Measures of Academic Progress) Scores to Predict Success on the ACT Test Benchmark Scores* (Robert A Theaker, Northwest Evaluation Association, Portland, Oregon, Clay S. Johnson, University of Arkansas), where the MAP Growth assessments were used to connect third through 11th grade student growth with college readiness. Specifically, the Academy administers the Northwest Evaluation Association™ (“NWEA™”) MAP® Growth™ (“MAP®”) assessments each fall, winter and spring to inform instruction, set growth targets mapped from the SAT addendum to the original study and gauge overall academic progress. Teachers use these data to inform instruction with concentrated flexible learning groups.

In addition to the MAP Growth assessments, the Academy also administers the EasyCBM® assessments and MAP Skills™ as formative assessments midway between the MAP assessments. These quick, 20-minute assessments of student learning are used to gauge progress and allow teachers a snapshot of progress toward MAP growth goals. Data from these assessments are used to modify groupings and skill instruction to accelerate learning. The Academy also participates in all state required assessments. Data from these assessments, in-class demonstrations of learning and digital programs are used to monitor progress and allow for flexible groupings around discrete skill instruction based on relevant needs.

There is no value to administering assessments unless the data are used in a timely manner to impact instruction. Knowing this, the Academy’s schedule allows for daily collaborative meeting time between teams of teachers. Data are ever present at these meetings and scrutinized to ensure all students are progressing toward growth targets. Dynamic groupings and skill-focused instruction are modified based on patterns revealed across platforms, which include digital programs and in class assessments. The instructional coach leads the process in which data is analyzed and instructional implications are planned with teachers. The Coach ensures teachers have access to all data through program logins and share documents charting results. All individual student assessment results are available in a student’s LP. Teachers work collaboratively to set individual growth targets for each student. Students take an active role in understanding learning goals through their PLP; this can be the most powerful influence on student achievement of all. All levels of the Academy organization are focused on monitoring and analyzing student performance data. Based on the analysis, plans are adjusted at the Academy, classroom and individual student level. Professional development is reexamined and aligned with updated plans. This level of responsiveness promotes continuous improvement in teaching and learning and in corresponding improved academic results.

| ASSESSMENT PLAN   |   |           |
|---|---|-----------|
|  DISTINCTIVE SCHOOLS | Purpose                                     | Frequency |
| M-Step  | State required summative assessments. (3-8) | Annually  |
| PSAT  | State required summative assessments. (8)   | Annually  |



|  |   |                      |
|--|---|----------------------|
| <b>MAP Growth (NWEA) Benchmark</b>                   | Growth & Attainment measures are primary accountability measures (K-6)  | Three times per year |
| <b>MAP Reading Fluency Benchmark</b>                 | Identify students reading below grade level to provide intervention support plan (K-5)  | Three times per year |
| <b>MAP Skills (NWEA)</b>                             | NWEA-aligned formative assessment between benchmarks in math (2-8)  | Ongoing              |
| <b>ACCESS</b>  | English Language Proficiency Assessment for English Learners (K-8)  | Annually             |
| <b>EngageNY End of Module Assessment</b>             | Summative assessment for skills taught within each unit (K-5)   | Ongoing              |
| <b>Benchmark Advance Unit and Interim Assessment</b> | Core curriculum assessment measures progress towards end of the year standards and text complexity. (K-5)                           | Four times per year  |
| <b>Summit Learning Assessments</b>                   | Summative assessment for skills taught in each core content area (6)  | Ongoing              |
| <b>Daily Formative Assessments</b>                   | Essential assessments provide insights on student mastery of daily objectives and are used to inform instructional decisions. (K-8) | Daily                |
| <b>EasyCBM Progress Monitoring</b>                   | Monitor progress of students in formal Tier 2 or 3 interventions. (K-8)   | Biweekly             |

The Academy believes investing in and developing teachers' professional capacity is fundamental to improving student achievement and engagement. The Academy uses the DS Teaching Framework, created with teachers, by teachers and for teachers, based on the work of Charlotte Danielson and the Teacher Advancement Program, to define and support best practices in instruction. The framework includes eight instructional indicators, each of which is defined by a

| ASSESSMENT |  |   |   |  |
|------------|--|---|---|--|
|            | Emerging (1)   | Developing (2)  | Effective (3)   | Distinctive (4)  |
| <b>A</b>   | Student work neither aligns to the objective nor requires students to interpret information and think analytically.                                  | <b>A</b> Student work aligns to the objective but rarely requires students to interpret information and think analytically.   | <b>A</b> Student work both aligns to the objective and usually requires students to interpret information and think analytically.   | <b>A</b> Student work aligns to the objective and consistently requires students to interpret information and think analytically.  |
| <b>B</b>   | Teacher does not use formative assessment results to drive instruction, identify differentiated student supports, or to determine student groupings. | <b>B</b> Teacher uses the results of at least one formative assessment tool to drive instruction, but inconsistently uses these same results to identify differentiated students supports or student groupings. | <b>B</b> Teacher consistently uses the results of multiple formative assessments (independent work, program data, etc.) to drive instruction, identify differentiated student supports, and to determine student groupings. | <b>B</b> Students use formative assessments results to take ownership of their learning process by identifying and analyzing mistakes, seeking help from the teacher or a peer, and determining the support needed to achieve mastery. |
| <b>C</b>   | Expectations and assessment criteria have not been determined in planning process and, as a result, are not clearly communicated to students.        | <b>C</b> Expectations and assessment criteria are determined in planning process, but are not clearly communicated to students.   | <b>C</b> Expectations and assessment criteria are clearly communicated for successful student performance. (i.e.- rubric, checklist, mastery)   | <b>C</b> Students self- or peer-evaluate using assessment criteria to reinforce, relearn, or extend the lessonobjective.   |
| <b>D</b>   | Lesson does not include an assessment.   | <b>D</b> Lesson includes an assessment but teacher has no system for collecting assessment data, or only uses data to determine the grade rather than to inform future instruction.                             | <b>D</b> Teacher has an efficient system for collecting and using lesson assessment data to inform future instruction (exit ticket, anecdotal notes, charts, portfolios, program data, etc.)                                | <b>D</b> Teacher implements intentional system for using lesson assessment data immediately and creates differentiated assessments based on these results.   |

concrete set of descriptors that articulate a continuum of expertise ranging from Emerging to Distinctive.

### **PROFESSIONAL LEARNING AND COACHING MODEL**

As an innovative organization, the Academy's understanding of best practices in instruction continues to evolve. In order to ensure that the framework aligns to and supports current instructional beliefs and values a cohort of various DS stakeholders, comprised of both teachers and teacher leaders serving in a wide range of roles, convenes annually to review and revise the language of the framework. The team makes content recommendations based on the most current research in the field and the team's experience in using the framework in the classroom. Upon the finalization of the framework, each campus then devotes a significant amount of professional learning time at the beginning of the year analyzing and discussing the revisions, their purpose and most importantly, what the revisions mean when applied in the classroom.

In mirroring the work done with Academy students, the Academy uses a strengths-based approach to support teachers' professional growth. The framework is a tool for both teachers and leaders; it provides a common language for all members of the DS instructional team and supports ongoing collaboration and reflection on best practice. Leaders use the framework for informal and formal observations and to guide conversations about instruction, and teachers use the framework to identify instructional strengths and needs and to identify a personalized trajectory of professional growth.

To directly support teachers in the development of best practice teaching and learning, instructional coaches at each campus lead job-embedded professional learning. Teachers and coaches collaboratively identify points of practice from the DS Teaching Framework and engage in a Collaborative Coaching cycle that is defined by co-creating a student-centered goal, identifying and implementing an instructional strategy, and monitoring progress towards the goal. Instructional coaching is an integral part of the instructional model and allows for teachers to engage in continuous improvement.

A cornerstone of the DS model is hiring and retaining top talent, with a special emphasis on building a diverse team – one that reflects the diversity of the children and families the Academy serves. Professional growth, support and regular opportunities for collaboration with colleagues are critical to teacher retention. These priorities are fulfilled by the role of Instructional Coach. DS instructional coaches utilize a *coaching from within* model and each have a full-time teaching assignment. This ensures that our best teachers are in front of students and provide real-time leadership, model classrooms, conduct observations, and lead feedback conversations with peers. Grade level and content team meetings occur multiple times per week where staff can analyze data and plan data informed responses for students. These meetings engage teachers in collaborative planning around the standards and needs of each student. DS follows the research of Joyce and Showers, which indicates coaching and collaboration on the Academy level provides greater impact on achievement than sourcing outside professional development.

### **Personalized Professional Learning**

Instructional Coaches and mentors provide job-embedded professional learning and peer-to-peer coaching and support in order to support continuous improvement through the Collaborative

Coaching Cycle. The coach strives to create a strong, trusting relationship that supports open, honest dialogue, and the exchange of constructive feedback and reflection. Once established, the coach creates conditions for learning and refining practices such as observing a classroom, modeling a lesson, or professional reading. Finally, teachers engage in practicing the skill or strategy with opportunities for observation, feedback, and support checklists. There are times that Instructional Coaches will provide directive or facilitative conversations.

DS guides instructional improvement through reflective coaching on instructional best practices as identified in the DS Teaching Framework. During the course of a school year, teachers receive multiple formal evaluations from a school director and instructional coach that require teachers to self-score according to the guidelines of the DS Teaching Framework. Self-scores are compared to the evaluator's scores along with coaching steps to identify areas of reinforcement and refinement. Follow-up steps are identified from the formal evaluations to support the teacher's implementation of refinement suggestions. Additionally, every teacher and leader creates a Professional Growth Plan ("PGP"). The PGP is a student-centered experience, meaning that the learner drives the learning. While some shared expectations are put in place to ensure continuity across the organization and to provide a solid foundation for learning, each person has a high degree of autonomy with regards to meeting these expectations. Teachers must connect their PGP to the Campus Growth Plan (CGP); similarly, leader PGPs connect to the Professional Standards for Educational Leaders. Teachers and leaders choose a question, problem or topic to investigate and reflect on the learning process throughout the year. While the PGP is a learning opportunity that provides all DS members a way to pursue a personal area of interest, the ultimate goal is to share the deep learning and "Pay-it-Forward" to colleagues so others can gain from the learning. The Academy leaders will pilot PGPs in year one and all staff will craft individual PGPs in following years.

Staff collaboration plays a significant role in improving teaching and learning. DS believes in providing on-going, job embedded professional development for all staff through delivery of the instructional model. An annual calendar is established with a corresponding weekly schedule. In this process, school teams identify areas for improvement and organize collaborative teacher teams to research and implement strategies designed to improve student learning outcomes. Individuals or teams meet to conduct action research, co-plan implementation of a strategy, view models of strategy or analyze student work to determine the effectiveness of the strategy. Schools implement two to four cycles per school year.

### **ACADEMIC REVIEW TEAM AND PROGRAM EVALUATION**

At DS, continuous improvement is prioritized, monitored and evaluated using a Campus Growth Plan. The plans consist of school-level "SMART" goals which emphasize the core components of the DS Strategic Plan. The domain of the goals is determined by the organization and supports the design anchors: Culture, Deeper Learning, Knowledge & Skills, and Equity and Access. Within the parameters, the Academy undertakes a rigorous exploration of multiple measures of relevant data to determine the current reality, equity gaps and root causes. Then, schools spend the summer in collaboration with members of the DS Academic Team to further understand the data, fine tune goals and craft action plans pursuant of the goals. Some goals require baseline data from early in the Fall, but by the end of the 1st Quarter, plans are finalized. Final goals are tested against

accountability targets to exceed the expectations from authorizers and state and local boards of education.

The Academy leaders update the action plans throughout the quarter and construct summary reflections on progress. The DS Academic team reviews the evidence across multiple measures, ranging from standardized assessments to portfolios and surveys. Additionally, the DS Academic Team leads the Academy Dashboard meeting to review core academic, school culture and formative assessment data throughout the year. These allow for Academy leaders to understand the data in a timely way and determine required mid-course corrections in the action plans.

To monitor work at an even more granular level, the Academy teams host Data and Design meetings prior to team collaborative planning. In those meetings, teachers collaborate with Instructional Coaches, grade level teams and/or teachers of the same content area to review student performance during active instructional units. Teachers review recent formative assessment data, identify standards and skills students struggled to master, and preview the impact on forthcoming units.

**SECTION D**  
**CURRICULUM**

## CURRICULUM

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.4, the Academy shall implement, deliver, and support the curriculum identified in this schedule.

The Academy has adopted Benchmark Advance® English language arts (“ELA”) and social studies, Engage NY mathematics and Mystery Science as a curriculum for kindergarten through fifth grades, and Summit Learning™ for grades six through eight. The curriculum for all core subjects has been received, reviewed and approved by the Center.

- Benchmark Universe™ <https://nsdba.benchmarkuniverse.com/>
- Engage NY <https://www.engageny.org/>
- Mystery Science <https://mysteryscience.com/>
- Summit Learning <https://www.summitlearning.org/login/interstitial2>
- Michigan Model for Health [http://www.michigan.gov/mdhhs/0,5885,7-339-73971\\_4911\\_4912\\_74286---,00.html](http://www.michigan.gov/mdhhs/0,5885,7-339-73971_4911_4912_74286---,00.html)
- EPEC <https://michiganfitness.org/activity/epec/>

### **Elementary**

The following subjects/courses are offered at the Academy.

| Course                | K | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----------------------|---|---|---|---|---|---|---|---|---|
| English Language Arts | X | X | X | X | X | X | X | X | X |
| Mathematics           | X | X | X | X | X | X | X | X | X |
| Science               | X | X | X | X | X | X | X | X | X |
| Social Studies        | X | X | X | X | X | X | X | X | X |
| Health                | X | X | X | X | X | X | X | X | X |
| Physical Education    | X | X | X | X | X | X | X | X | X |

**SECTION E**

**METHODS OF PUPIL ASSESSMENT**

## **METHODS OF PUPIL ASSESSMENT**

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.5, the Academy shall properly administer all state-mandated academic assessments identified in the Code, as applicable, and all academic assessments identified in the Public School Academy Chartering Policies adopted by the University Board, as applicable, in accordance with the requirements detailed in the Master Calendar annually issued by the Center.

The Academy shall authorize the Center to have access to the Academy's Student/School Data Applications through the Center for Educational Performance and Information and to the electronic reporting system administered by the Michigan Department of Education to access the Academy's state assessment results, as applicable. The Academy shall ensure that those involved with the administration of these assessments are properly trained and adhere to the ethical standards and testing procedures associated with these assessments.

### **Academic Assessments to Be Administered:**

Assessments as identified in Schedule 7b and all state-mandated assessments.



**SECTION F**

**APPLICATION AND ENROLLMENT OF STUDENTS**

## **APPLICATION AND ENROLLMENT OF STUDENTS**

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Sections 6.6 and 6.16, the Academy shall comply with the application and enrollment requirements identified in this Schedule.

### **Enrollment Limits**

The Academy will offer kindergarten through eighth grade. The maximum enrollment shall be 800 students. The Academy Board will annually adopt maximum enrollment figures prior to its application and enrollment period.

### **Requirements**

Section 504 of the Code provides that public school academies shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a Michigan school district. However, a public school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a Michigan school district and may give enrollment priority as provided below.

- Academy enrollment shall be open to all individuals who reside in Michigan. Except for a foreign exchange student who is not a United States citizen, a public school academy shall not enroll a pupil who is not a Michigan resident.
- Academy admissions may be limited to pupils within a particular age range/grade level or on any other basis that would be legal if used by a Michigan school district.
- The Academy shall allow any pupil who was enrolled in the Academy in the immediately preceding school year to enroll in the Academy unless the appropriate grade is not offered.
- No student may be denied participation in the application process due to lack of student records.
- If the Academy receives more applications for enrollment than there are spaces available, pupils shall be selected for enrollment through a random selection drawing.

The Academy may give enrollment priority to one (1) or more of the following:

- A sibling of a pupil enrolled in the Academy.
- A pupil who transfers to the Academy from another public school pursuant to a matriculation agreement between the Academy and other public school that provides for this enrollment priority, if all of the following requirements are met:
  1. Each public school that enters into the matriculation agreement remains a separate and independent public school.
  2. The Academy shall select at least 5% of its pupils for enrollment using a random selection process.

3. The matriculation agreement allows any pupil who was enrolled at any time during elementary school in a public school that is party to the matriculation agreement and who was not expelled from the public school to enroll in the public school academy giving enrollment priority under the matriculation agreement.
- A child, including an adopted child or legal ward, of a person who is employed by or at the Academy or who is on the Academy Board.

### **Matriculation Agreement**

- The Academy Board may enter into a matriculation agreement with another public school pursuant to section 504(4) of the Code.
- However, before the Academy Board approves a matriculation agreement, the Academy shall provide a draft copy of the agreement to the Center for review.
- Any matriculation agreement entered into by the Academy shall be added to this Schedule 7f through a contract amendment approved in accordance with Article IX in the Terms and Conditions of this Contract.

### **Application Process**

- The Academy shall make reasonable effort to advertise its enrollment openings.
- The Academy's open enrollment period shall be a minimum of two weeks (14 calendar days) in duration and shall include evening and weekend times.
- The Academy shall accept applications all year. If openings occur during the academic year, students shall be enrolled. If openings do not exist, applicants shall be placed on the official waiting list. The waiting list shall cease to exist at the beginning of the Academy's next open enrollment period.
- In the event there are openings in the class for which students have applied, students shall be admitted according to the official waiting list. The position on the waiting list shall be determined by the random selection drawing. If there is no waiting list, students shall be admitted on a first-come, first-served basis.
- The Academy may neither close the application period nor hold a random selection drawing for unauthorized grades prior to receipt of written approval from the Center.

### **Legal Notice or Advertisement**

- The Academy shall provide legal notice or advertisement of the application and enrollment process in a local newspaper of general circulation. A copy of the legal notice or advertisement shall be forwarded to the Center.
- At a minimum, the legal notice or advertisement must include:
  1. The process and/or location(s) for requesting and submitting applications.
  2. The beginning date and the ending date of the application period.

3. The date, time, and place the random selection drawing(s) will be held, if needed.
- The legal notice or advertisement of the application period shall be designed to inform individuals that are most likely to be interested in attending the Academy.
  - The Academy, being an equal opportunity educational institution, shall be committed to good-faith affirmative action efforts to seek out, create and serve a diverse student body.

### **Re-enrolling Students**

- The Academy shall notify parents or guardians of all enrolled students of the deadline for notifying the Academy that they wish to re-enroll their child.
- If the Academy Board has a sibling preference policy, the re-enrollment notice must also request that the parent or guardian indicate whether a sibling(s) seeks to enroll for the upcoming academic year.
- An enrolled student who does not re-enroll by the specified date can only apply to the Academy during the application period for new students.
- An applicant on the waiting list at the time a new application period begins must reapply as a new student.
- After collecting the parent or guardian responses, the Academy must determine the following:
  1. The number of students who have re-enrolled per grade or grouping level.
  2. The number of siblings seeking admission for the upcoming academic year per grade.
  3. If space is unavailable, the Academy must develop a waiting list for siblings of re-enrolled students.
  4. The number of spaces remaining, per grade, after enrollment of current students and siblings.

### **Random Selection Drawing**

A random selection drawing is required if the number of applications exceeds the number of available spaces. Prior to the application period, the Academy shall:

- Establish written procedures for conducting a random selection drawing.
- Establish the maximum number of spaces available per grade or age grouping level.
- Establish the date, time, place and person to conduct the random selection drawing.
- Notify the Center of both the application period and the date of the random selection drawing, if needed. The Center may have a representative on-site to monitor the random selection drawing process.

The Academy shall use a credible, impartial individual who is not employed by, under contract with, a member of the Board of, or otherwise affiliated with the Academy to conduct the random selection drawing. Further, the Academy shall:

- Conduct the random selection drawing in a manner that is open to parents, community members and members of the public who want to observe the process.
- Use numbers, letters, or another system that guarantees fairness and does not give an advantage to any applicant.

The Academy shall notify applicants not chosen in the random selection drawing that they were not selected and that their name has been placed on the Academy's official waiting list for openings that may occur during the academic year. Students shall appear on the official waiting list in the order they were selected in the random selection drawing.

## Matriculation Agreement

This Matriculation Agreement ("Agreement") is entered into as of the last of the dates set forth in the signatures lines below ("Effective Date") between Summit Academy North, a body corporate and public school academy ("Receiving School") and Summit Academy, a body corporate and public school academy ("Sending School")(both parties referred to as "Schools").

Both the Sending School and the Receiving School are separate and independent public school academies, organized as such under the Michigan Revised School Code (the "Code"). Both Schools hold separate charters from valid authorizing bodies, pursuant to their respective charter contracts. Both Schools operate independent of the other.

Because the Sending School does not offer an educational program for high school students and the Receiving School desires to provide an enrollment preference for students entering its high school program, the parties desire to establish this arrangement for the matriculation of qualifying students from the Sending School to the Receiving School.

Michigan law permits any pupil who was enrolled at any time during elementary school in the Sending School and who was not expelled from the Sending School to have an enrollment priority in the Receiving School provided the Schools have a matriculation agreement. MCL 380.504(4)(b).

Both Schools each represent and warrant to each other that this Agreement has been approved by the Boards of each School and the Authorizer of each School and that the Agreement has been incorporated into each Schools Charter Contract.

Therefore, for good and valuable consideration, the receipt of which is hereby acknowledged, it is mutually agreed as follows:

1. **Term.** This Agreement shall be effective as of the Effective Date, provided that it has been approved by each School's governing board and their respective authorizing bodies. This Agreement shall expire June 30, 2023 unless otherwise terminated earlier as provided by this Agreement.

2. **Qualifying Students.** Students who meet all of the following requirements are deemed to be "Qualifying Students" for enrollment priority under this Agreement:

- a. the student was enrolled in and attended the Sending School at any time during elementary school;
- b. the student was not expelled from the Sending School;
- c. the student has completed 8<sup>th</sup> grade from any school, including Sending School; and
- d. the student is eligible to enroll in a public school in Michigan.

3. **Application for matriculation.** Qualifying Students who desire an enrollment priority in the Receiving School must complete the Receiving School application for the applicable school year and submit it to the Receiving School during its Open Enrollment Period as set forth in the Receiving School's Admission and Enrollment Practices and Procedures which are incorporated into this Agreement by reference.

4. **Enrollment Priority.** The enrollment priority of Qualifying Students shall be determined according to the Receiving School's Admission and Enrollment Policy and the Admission and Enrollment Practices and Procedures are incorporated into this Agreement by reference.
5. **Enrollment.** Qualifying Students must attend school at the Receiving School on the first day of school in order to be enrolled. Any Qualifying Student who does not attend the first day of school and who does not obtain an excused absence from the Receiving School before the end of that school day, shall forfeit his or her priority to enroll in the Receiving School.
6. **Record Transfer.** Upon receipt of a properly completed records release form from the Receiving School and parent of the student, the Sending School shall transfer all student records of Qualifying Students to the Receiving School no later than 30 days after receipt of the request for transfer of records from the Receiving School.
6. **Termination.** This Agreement may be terminated by either the Sending School and/or the Receiving School at any time for any reason upon providing ninety (90) days' written notice ("Notice of Termination"). If Notice of Termination is given more than ninety (90) days before the end of the Open Enrollment Period, there shall be no enrollment priority for Qualifying Students for the subsequent school year. If Notice of Termination is given any time thereafter, the Qualifying Students who applied for enrollment priority at the Receiving School shall receive the priority for the subsequent school year pursuant to the terms of this Agreement. This Agreement shall be terminated automatically if the Charter Contract for either the Sending School or the Receiving School is terminated or revoked and/or in the event either the Sending School or Receiving School ceases to be an independent public school.
7. **Receiving School Open Enrollment.** During this Agreement, the Receiving School in compliance with MCL 380.504(4)(b)(ii) shall select not less than 5% of the Receiving Schools pupils for enrollment using an a random selection process.
8. **Entire Agreement.** This Agreement constitutes the entire agreement between the Schools as to matriculation, the Schools acknowledge that they are bound by this Agreement, that the Agreement is governed by Michigan law, and that the Agreement may not be amended unless agreed to in writing as duly signed and approved by each School and the respective Authorizers of each School.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date shown below.

Receiving School: Summit Academy North

By: Tony Brown Date: 7/22, 2020

Sending School: Summit Academy

By: [Signature] Date: 8/5, 2020

4850-3933-9459 v1 [39265-1]

**SECTION G**

**SCHOOL CALENDAR AND SCHOOL DAY SCHEDULE**



## **SCHOOL CALENDAR AND SCHOOL DAY SCHEDULE**

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.7, the Academy shall comply with the school calendar and school day schedule requirements identified in this schedule.

### School Calendar

The Academy's school calendar shall comply with Sections 1175, 1284 and 1284a, if applicable, of the Code. The Academy's school calendar shall also comply with the minimum requirements set forth in Section 101 of the School Aid Act of 1979 (MCL 388.1701). The Academy Board must submit a copy of the Academy's school calendar to the Center in accordance with the Master Calendar of Reporting Requirements.

### School Day Schedule

The Academy Board must structure the Academy's school day schedule to meet the required number of instructional days and hours. The Academy Board must submit the school day schedule to the Center prior to the commencement of each academic year.

**SECTION H**

**AGE OR GRADE RANGE OF PUPILS**

## **AGE OR GRADE RANGE FOR PUPILS TO BE ENROLLED**

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.8, the Academy shall comply with the age or grade ranges as stated in this schedule.

The Academy will enroll students in kindergarten through eighth grade. The Academy may add grades with the prior written approval of the authorizing body.

Students of the Academy will be children who have reached the age of 5 by the dates outlined in the Code.

**CONTRACT SCHEDULE 8**

**INFORMATION AVAILABLE TO  
THE PUBLIC AND THE CENTER**

## **INFORMATION AVAILABLE TO THE PUBLIC AND THE CENTER**

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article XI, Section 11.9, the Academy shall comply with this Schedule.

### **Information Available to the Public and The Center**

The Code provides that the board of directors of a public school academy shall make information concerning its operation and management available to the public and to the Center in the same manner as is required by state law for school districts.

The Code provides that the board of directors of a public school academy shall collect, maintain, and make available to the public and the Center, in accordance with applicable law and the Contract, at least all of the following information concerning the operation and management of the Academy:

1. A copy of the Academy's Charter Contract.
2. A list of currently serving members of the Academy Board, including name, address, and term of office.
3. Copies of policies approved by the Academy Board.
4. The Academy Board meeting agendas and minutes.
5. The budget approved by the Academy Board and of any amendments to the budget.
6. Copies of bills paid for amounts of \$10,000.00 or more, as submitted to the Academy Board.
7. Quarterly financial reports submitted to the Center.
8. A current list of teachers and administrators working at the Academy that includes individual salaries as submitted to the Registry of Educational Personnel.
9. Copies of the teaching or administrator's certificates or permits of current teaching and administrative staff.
10. Evidence of compliance with the criminal background and records checks and unprofessional conduct check required under sections 1230, 1230a, and 1230b of the Code for all teachers and administrators working at the Academy.
11. Curriculum documents and materials given to the Center.
12. Proof of insurance as required by the Contract.
13. Copies of facility leases or deeds, or both.
14. Copies of any equipment leases.
15. Copies of any management contracts or services contracts approved by the Academy Board.
16. All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.
17. Annual financial audits and any management letters issued as part of the Academy's annual financial audit, required under Article VI, Section 6.11 of the Terms and Conditions of this Contract.
18. Any other information specifically required under the Code.

**Information to be Provided by the Academy's Educational Service Provider (if any)**

Pursuant to the Terms and Conditions of this Contract, including Article III, Section 3.6, the University Board authorizes the Academy Board to employ or contract for personnel according to the position information outlined in Schedule 5. Any Educational Service Provider Management Agreement entered into by the Academy must contain a provision requiring the educational service provider to provide to the Academy Board information concerning the operation and management of the Academy (including without limitation, but not limited to, the items identified above and annually the information that a school district is required to disclose under Section 18(2) of the State School Aid Act of 1979, MCL 388.1618) available to the Academy Board in order to enable the Academy to fully satisfy its obligations under Section 11.9(a) of the Terms and Conditions.

AMENDMENT NO. 1

to the  
July 1, 2020 Contract to Charter  
A Public School Academy and Related Documents

Issued To

SUMMIT ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

## CONTRACT AMENDMENT NO. 1

### SUMMIT ACADEMY

In accordance with Article IX of the Terms and Conditions of the Contract (the “Contract”), dated July 1, 2020, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the “University Board”) to SUMMIT ACADEMY (the “Academy”), the parties agree to amend the Contract as follows:

- 1.) The Preparedness Plan, approved by the Academy Board, is incorporated into the Contract by reference.
- 2.) Any updates to the Preparedness Plan, approved by the Academy Board, shall automatically be incorporated into the Contract and shall be exempt from the amendment procedures under Article IX of the Terms and Conditions of Contract.
- 3.) This Contract amendment shall remain in effect until the earlier of (i) the end of the 2020-2021 school fiscal year or (ii) the rescission of Executive Order 2020-142, including any successor executive order authorizing a Preparedness Plan.

This Contract amendment is hereby approved by the University Board and the Academy Board through their authorized designees and shall have an effective date of August 17, 2020.





**Summit Academy | COVID-19 Preparedness and Response Plan**

Address of School District:

Summit Academy -30100 Olmstead Rd, Flat Rock, MI 48134

District Code Number:

Summit: 82916

Building Code Number(s):

Summit: 08338

District Contact Person: Cassie Williams

District Contact Person Email Address:

[cwilliams@distinctiveschools.org](mailto:cwilliams@distinctiveschools.org) Local Public Health Department:

Wayne County Health Department Local Public Health Department

Contact Person Email Address:

Mary Roman [mroman@waynecounty.com](mailto:mroman@waynecounty.com)

Nnenna Wachuku

[nwachuku@waynecounty.com](mailto:nwachuku@waynecounty.com) Lukas Ayers

[layers@waynecounty.com](mailto:layers@waynecounty.com)

Name of Intermediate School District: Wayne Regional Educational Service

Area Name of Authorizing Body: Central Michigan University

Date of Adoption by Board of Directors: July 20, 2020



August 13, 2020 [via email]

Ms. Jessica Kull  
Summit Academy  
P.O. Box 310  
30100 Olmstead  
Flat Rock, MI 48134

Re: Approval of COVID-19 Preparedness and Response Plan (“Plan”)

Dear Ms. Kull:

I am pleased to inform you that the Plan for Summit Academy (“Academy”) has been approved by The Governor John Engler Center for Charter Schools at Central Michigan University and has been transmitted by our office to the State Superintendent of Public Instruction and the State Treasurer. The Plan is effective as of the date indicated in the Plan.

To fulfill one of the required assurances, immediately add a copy of the approved Plan to the Academy’s Home Page of its website. An approved copy of the Plan is attached and can be found in Epicenter. The approved Plan constitutes a Charter Contract amendment and remains in effect as long as the Plan remains in effect.

If the Academy requires an amendment to the Plan, please contact Amy Densmore, Director of Charter Accountability, at (989) 506-0355 or via email at [avanatten@thecenterforcharters.org](mailto:avanatten@thecenterforcharters.org) to initiate that process. Thank you for all your efforts to keep student learning moving forward in these trying times. If you have any further questions or need additional support, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Corey Northrop". The signature is written in a cursive, flowing style.

Corey Northrop  
Executive Director

cc: Alexander Garnepudi, Board President  
Scott Frauenheim, Board Corresponding Agent

Attachment:  
Approved COVID-19 Preparedness and Response Plan

**RESOLUTION APPROVING THE COVID-19 PREPAREDNESS AND RESPONSE PLAN (“PREPAREDNESS PLAN”) AND APPROVAL OF CHARTER CONTRACT AMENDMENT**

Summit Academy (the “Academy”)

A regular meeting of the Academy Board of Directors was held on the 20th day of July, 2020, at 6:30 p.m.

The meeting was called to order at 6:37 p.m. by Board Member Alexander Garnepudi:

Present: Kari Pardoe, Deborah Duyck, Danielle Vining, Alexander Garnepudi

Absent: Dr. David Edwards

The following preamble and resolution were offered by Board Member Danielle Vining and supported by Board Member Deborah Duyck:

**BACKGROUND**

On June 30, 2020, in response to the novel coronavirus (COVID-19) pandemic affecting our state, Governor Gretchen Whitmer issued Executive Order 2020-142 (the “Order”) that, provides a structure to support all schools in Michigan as they plan for a return of preK-12 education in the fall. Under the order, all schools must adopt a COVID-19 Preparedness and Response Plan (“Preparedness Plan”) laying out how they will cope with the disease across the various phases of the Michigan Safe Start Plan. Under the Order and the Michigan Safe Schools: Michigan’s 2020-2021 Return to School Roadmap developed by the COVID-19 Task Force on Education Return to School Advisory Council (“Return to School Roadmap”), Schools retain flexibility to tailor their instruction to their particular needs and to the disease conditions present in their regions.

Acting under the Michigan Constitution of 1963 and Michigan law, the Order and the Return to School Roadmap state:

1. Coronavirus relief funds under the Coronavirus Aid, Relief, and Economic Security Act will be provided and may be used to aid in developing, adopting, and following a COVID-19 Preparedness Plan under section 2 of the Order.
2. Every school must develop and adopt a Preparedness Plan that is informed by the Return to School Roadmap.
3. By August 15, 2020 or seven days before the start of the school year for students, whichever comes first: the Academy Board must approve its Preparedness Plan.
4. By August 17, 2020, the Academy’s authorizing body, Central Michigan University, must collect the Preparedness Plan and transmit such plan to the Superintendent and to the State Treasurer.
5. By August 17, 2020, the Academy must prominently post its approved Preparedness Plan on the Academy’s website home page.

The Academy submitted its Preparedness Plan to Central Michigan University (“Authorizer”) for review and approval.

The Academy Board of Directors (“Academy Board”) is required to approve the Academy’s Preparedness Plan by August 15, 2020 or seven days before the start of the school year for students, whichever comes first, and is required to approve the Academy’s Preparedness Plan as a charter contract (“Contract”) amendment.

**THE ACADEMY BOARD THEREFORE RESOLVES THAT:**

1. The actions taken by Academy representatives to prepare and submit the Academy’s Preparedness Plan to Authorizer are ratified.
2. The Preparedness Plan, as approved by the Authorizer, is approved by the Academy Board as the COVID-19 Preparedness Plan and as the COVID-19 Preparedness Plan Amendment to the Contract. This Contract Amendment shall remain in effect as long as The Preparedness Plan remains in effect. The Board President is authorized to sign and submit the Contract amendment to the Authorizer for approval.
3. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.
4. The Academy will deliver from time to time such information regarding the implementation of the Academy’s Preparedness Plan as the Authorizer or Michigan Department of Education may reasonably request.
5. Any Board policies or provision of Board policies that prohibit or impede the Academy’s compliance with The Preparedness Plan or Executive Order 2020-142 are temporarily waived, suspended or altered.
6. Any actions or actions taken by authorized Academy representatives in the development, submission and implementation of The Preparedness Plan are (to the extent such actions or actions are not inconsistent with the delegation of authority provided under this resolution) ratified and confirmed in all respects.
7. This Resolution shall take immediate effect and continue through the end of the state of emergency and disaster declared in Executive Order 2020-127 and any subsequent executive order declaring a state of emergency or disaster in response to COVID-19 or the end of the 2020-2021 school year, whichever is sooner.

Ayes: \_\_\_\_\_ 4 \_\_\_\_\_

Nays: \_\_\_\_\_ 0 \_\_\_\_\_

Resolution declared adopted.



Print Name: Danielle Vining

Danielle Vining, Academy Board Secretary

AMENDMENT NO. 2

to the  
July 1, 2020 Contract to Charter  
A Public School Academy and Related Documents

Issued To

SUMMIT ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

CONTRACT AMENDMENT NO. 2

SUMMIT ACADEMY

In accordance with Article IX of the Terms and Conditions of the Contract (the "Contract"), dated July 1, 2020, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the "University Board") to SUMMIT ACADEMY (the "Academy"), as amended, the parties agree to further amend the Contract as follows:

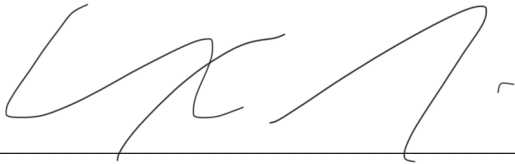
- 1.) Amend Schedule 1: Restated Articles of Incorporation, by inserting at the end of this Schedule the Certificate of Amendment to the Articles of Incorporation, attached as Tab 1.
- 2.) The entire Contract is amended by changing the name of the Academy from "Summit Academy" to "River Heights Academy."

This entire amendment is hereby approved by the University Board and the Academy Board through their authorized designees, and shall have an effective date of August 12, 2020.



Dated: 8/18/2020

By: Corey R. Northrop, Executive Director  
The Governor John Engler Center for Charter Schools  
Designee of the University Board



Dated: 8/17/20

By: Alexander Garnepudi  
Summit Academy  
Designee of the Academy Board

Summit Academy  
Contract Amendment No. 2

# Tab 1



Form Revision Date 07/2016

## CERTIFICATE OF AMENDMENT TO THE ARTICLES OF INCORPORATION

For use by DOMESTIC NONPROFIT CORPORATION

*Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Certificate:*

|  |   |
|--|---|
| The identification number assigned by the Bureau is: | <input type="text" value="800830437"/>      |
| The name of the corporation is:                      | <input type="text" value="SUMMIT ACADEMY"/> |

The Articles of Incorporation is hereby amended to read as follows:

### Article I

The name of the corporation as amended, is:

RIVER HEIGHTS ACADEMY

### Article IV

The street address of the registered office of the corporation and the name of the resident agent at the registered office (P.O. Boxes are not acceptable):

1. Agent Name: TIMOTHY A STOEPKER ESQ
2. Street Address: 200 OTTAWA AVE., N.W. SUITE 1000  
 Apt/Suite/Other:  
 City: GRAND RAPIDS  
 State: MI Zip Code: 49503

3. Registered Office Mailing Address:  
 P.O. Box or Street Address: 200 OTTAWA AVE., N.W.  
 Apt/Suite/Other: SUITE 1000  
 City: GRAND RAPIDS  
 State: MI Zip Code: 49503

2. The foregoing amendment to the Articles of Incorporation was duly adopted on: 07/27/2020 by the  
 \_\_\_\_\_  
 directors at a meeting in accordance with Section 611(3) of the Act.

This document must be signed by an authorized officer or agent:

Signed this 12th Day of August, 2020 by:

| Signature     | Title | Title if "Other" was selected      |
|---------------|-------|------------------------------------|
| Michael Rohde | Other | Administrator, Distinctive Schools |

By selecting ACCEPT, I hereby acknowledge that this electronic document is being signed in accordance with the Act. I further certify that to the best of my knowledge the information provided is true, accurate, and in compliance with the Act.

j<sub>n</sub> Decline      j<sub>n</sub> Accept



**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**

**FILING ENDORSEMENT**

***This is to Certify that the*** CERTIFICATE OF AMENDMENT TO THE ARTICLES OF  
INCORPORATION

***for***

RIVER HEIGHTS ACADEMY

***ID Number:*** 800830437

***received by electronic transmission on*** August 12, 2020 ***, is hereby endorsed.***

***Filed on*** August 12, 2020 ***, by the Administrator.***

***The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.***



***In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 12th day of August, 2020.***

*Linda Clegg*

***Linda Clegg, Interim Director***

***Corporations, Securities & Commercial Licensing Bureau***

AMENDMENT NO. 3

to the  
July 1, 2020 Contract to Charter  
A Public School Academy and Related Documents

Issued To

RIVER HEIGHTS ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

## CONTRACT AMENDMENT NO. 3

### RIVER HEIGHTS ACADEMY

In accordance with Article IX of the Terms and Conditions of the Contract (the “Contract”), dated July 1, 2020, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the “University Board”) to RIVER HEIGHTS ACADEMY (the “Academy”), as amended, the parties agree to further amend the Contract as follows:

- 1.) The Extended COVID-19 Learning Plan (“ECLP”), approved by the Academy Board, is incorporated into the Contract by reference. The parties agree to suspend the following Contract provisions for the 2020-2021 school year:

Schedule 7, Section b: Educational Goal and Related Measures

Schedule 7, Section c: Educational Programs

Schedule 7, Section d: Curriculum

Schedule 7, Section e: Methods of Pupil Assessment

- 2.) Any revisions or changes to the ECLP, approved by the Academy Board, shall automatically be incorporated into the Contract by reference and shall be exempt from the amendment procedures under Article IX of the Terms and Conditions of Contract.
- 3.) This Contract amendment shall remain in effect until the end of the 2020-2021 school fiscal year.
- 4.) In the event there is a perceived conflict between the ECLP and the Academy’s Preparedness Plan, prepared in compliance with Executive Order 2020-142, the parties agree to discuss implementation of both the ECLP and the Preparedness Plan to ensure that the Academy will meet all of its obligations under applicable law.

This Contract amendment is hereby approved by the University Board and the Academy Board through their authorized designees and shall have an effective date of the Academy’s first day of school for the 2020-2021 school year.



**River Heights Academy | Extended COVID-19 Learning Plan**

**Address of School District:**

River Heights Academy, 30100 Olmstead Rd, Flat Rock, MI 48134

**District Code Number:**

RHA: 82916

**Building Code Number(s):**

RHA: 08338

District Contact Person: Cassie Williams

District Contact Person Email Address: [cwilliams@distinctiveschools.org](mailto:cwilliams@distinctiveschools.org)

Local Public Health Department: Wayne County Health Department

Local Public Health Department Contact Person Email Address:

Mary Roman [mroman@waynecounty.com](mailto:mroman@waynecounty.com)

Nnenna Wachuku [nwachuku@waynecounty.com](mailto:nwachuku@waynecounty.com)

Lukas Ayers [layers@waynecounty.com](mailto:layers@waynecounty.com)

Name of Intermediate School District: Wayne Regional Educational Service Area

Name of Authorizing Body: Central Michigan University

Date of Adoption by Board of Directors: September 21, 2020



October 01, 2020 [via email]

Ms. Cassie Williams  
River Heights Academy

Re: Approval of Extended COVID-19 Learning Plan (“Extended Learning Plan”)

Dear Ms. Williams:

I am pleased to inform you that the Extended Learning Plan for River Heights Academy (“Academy”) has been approved by The Governor John Engler Center for Charter Schools at Central Michigan University. The Center will transmit the Extended Learning Plan to the State as soon as an appropriate mechanism to do so is made available. The Extended Learning Plan is effective as of the date indicated in the document.

To fulfill one of the required assurances, immediately add a copy of the approved Extended Learning Plan to the Academy’s Transparency Page of its website. An approved copy of the Extended Learning Plan is attached and can be found in Epicenter. The approved Extended Learning Plan constitutes a Charter Contract amendment and remains in effect as long as the Extended Learning Plan remains in effect.

Thank you for all your efforts to keep student learning moving forward in these trying times. If you have any further questions or need additional support, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Corey Northrop". The signature is written in a cursive style with a long, sweeping tail on the "p".

Corey Northrop  
Executive Director

cc: Alexander Garnepudi, Board President  
Scott Frauenheim, Board Corresponding Agent

Attachment:  
Approved Extended COVID-19 Learning Plan

**RESOLUTION APPROVING THE EXTENDED COVID-19 LEARNING PLANS  
("ECLP") AND APPROVAL OF CHARTER CONTRACT AMENDMENT**

River Heights Academy (the "Academy")

A regular meeting of the Academy Board of Directors was held on the 21st day of September, 2020, at 5:30 p.m.

The meeting was called to order at 5:37 p.m. by Board Member Alex Garnepudi :

Present: Alex Garnepudi, Kari Pardoe, Danielle Vining, Deborah Duyck

Absent: N/A

The following preamble and resolution were offered by Board Member Deborah Duyck and supported by Board Member Danielle Vining :

**BACKGROUND**

On August 20, 2020, in response to the novel coronavirus (COVID-19) pandemic affecting our state, Governor Whitmer signed into law certain amendments to the State School Aid Act of 1979, as amended, MCL 388.1601 et seq. ("Back to School Laws"). The Back to School Laws include additional requirements for all Michigan schools as they plan for a return of preK-12 education for the 2020-2021 school year. Under the Back to School Laws, a public school academy must provide for instruction under an extended COVID-19 learning plan ("ECLP") that is approved by its authorizing body ("Authorizer"). ECLPs includes many of the same subject matters addressed in a public school academy's charter contract, including measurable educational goals to be achieved by all subgroups in the school, measurement of those educational goals by one or more benchmark assessments, a description of how the educational program, including instruction, will be delivered, a description of the school's curricula and specific reporting requirements for the 2020-2021 school year. Under the Back to School Laws, schools retain the flexibility to tailor and adjust their ECLPs to meet the needs of their students and the community they serve.

The Back to School Laws require, among other things, that each public school academy do the following:

- (1) Establish educational goals required to be included in the ECLP no later than September 15, 2020.
- (2) Approve an ECLP and submit it to their respective authorizing body ("Authorizer") for approval by October 1, 2020. If approved by the Authorizer, the ECLP is transmitted by the Authorizer to the Superintendent of Public Instruction and the State Treasurer.
- (3) Make an ECLP accessible through the transparency reporting link on the school's website by October 1, 2020.
- (4) Within the first nine weeks of the 2020-2021 school year, administer 1 or more benchmark assessments from the list approved by the Michigan Department of Education (MDE)<sup>1</sup>, a benchmark assessment provided by MDE, or local benchmark assessments, or a combination of the above, to pupils in grades K-8 to measure math and reading proficiency. In addition, by the last day of the 2020-2021 school year, administer another benchmark assessment to pupils in K-8 to measure proficiency in the same subject matter. The Back to School Laws require schools to use the same benchmark assessment(s) used in the 2019-2020 school year, if applicable.
- (5) Provide each pupil's data from the benchmark assessment or benchmark assessments, as available, to the pupil's parent or legal guardian within 30 days of administering the benchmark assessment(s).

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<sup>1</sup> MDE has approved four providers of benchmark assessments and continues to assess additional providers. See [https://www.michigan.gov/documents/mde/Benchmark assessments 700077 7.pdf](https://www.michigan.gov/documents/mde/Benchmark%20assessments%20700077%207.pdf)

(6) Not later than February 1, 2021, create a report that addresses the progress made in meeting the educational goals in the ECLP that the academy expected would be achieved by the middle of the school year and make the report available on the transparency reporting link on a public school academy's website.

(7) Not later than the last day of the 2020-2021 school year, create a report concerning progress made in meeting the educational goals in the ECLP and make the report available on the transparency reporting link on a public school academy's website.

(8) No later than June 30, 2021, send the aggregate academy-level data from a benchmark assessment(s), excluding data from a local benchmark assessment or local benchmark assessments, to a regional data hub that is part of the Michigan data hub network that shall compile the data and send it to the Center for Educational Performance and Information (CEPI).

(9) Thirty days after approval of the ECLP, the Board shall meet monthly to re-confirm how pupil instruction is being delivered at the school and whether it is consistent with the ECLP and to ensure that 2 2-way interaction, as defined in the Act, is occurring between students and teachers each week of the school year for at least 75% of students enrolled in the school. At each meeting, the Board shall: (a) publicly announce its weekly interaction rates of 2 2-way interaction since its last meeting; (b) allow for public comment on the ECLP; and (c) discuss whether changes to the method of delivery for pupil instruction under the ECLP are necessary.

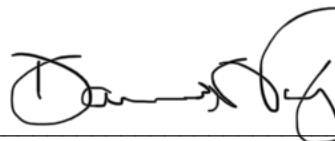
**THE ACADEMY BOARD THEREFORE RESOLVES THAT:**

1. The actions taken by Academy representatives to prepare and submit the Academy's ECLP to Authorizer are ratified.
2. The ECLP, as approved by the Authorizer, is approved by the Academy Board as the ECLP and as the ECLP Amendment to the Contract.
3. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.
4. The Academy will deliver from time to time such information regarding the implementation of the Academy's ECLP as the Authorizer or Michigan Department of Education may reasonably request.
5. Any Board policies or provision of Board policies that prohibit or impede the Academy's compliance with ECLP are temporarily waived, suspended or altered.
6. This Resolution shall take immediate effect and continue through the end of the 2020-2021 school year. If the Back to School Laws are amended, and such amendments requires additional Board action relative to the ECLP, the Board may take such action to comply with existing law.

Ayes: \_\_\_\_\_ 4

Nays: \_\_\_\_\_ 0

Resolution declared adopted.



Print Name: Danielle Vining

Secretary, Academy Board

AMENDMENT NO. 4

to the  
July 1, 2020 Contract to Charter  
A Public School Academy and Related Documents

Issued To

RIVER HEIGHTS ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)



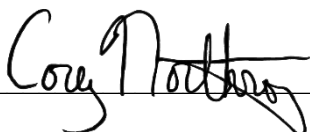
CONTRACT AMENDMENT NO. 4

RIVER HEIGHTS ACADEMY

In accordance with Article IX of the Terms and Conditions of the Contract (the "Contract"), dated July 1, 2020, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the "University Board") to RIVER HEIGHTS ACADEMY (the "Academy"), as amended, the parties agree to further amend the Contract as follows:

- 1.) Amend Schedule 7, Section b: Educational Goal and Related Measures, by replacing the materials contained therein with the materials attached as Tab 1.

This entire amendment is hereby approved by the University Board and the Academy Board through their authorized designees, and shall have an effective date of July 1, 2021.



Dated: 06/29/2021

By: Corey R. Northrop, Executive Director  
The Governor John Engler Center for Charter Schools  
Designee of the University Board



Dated: June 28, 2021

By: Alexander Garnepudi  
River Heights Academy  
Designee of the Academy Board

River Heights Academy  
Contract Amendment No. 4

# Tab 1

## EDUCATIONAL GOAL AND RELATED MEASURES

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.2, the Academy shall achieve or demonstrate measurable progress for all groups of pupils toward the achievement of the educational goal identified in this schedule. Although an increase in academic achievement for all groups of pupils as measured by assessments and other objective criteria is the most important factor in determining the Academy’s progress toward the achievement of the educational goal, the Center also considers other factors. Upon request, the Academy shall provide the Center with a written report, along with supporting data, assessing the Academy’s progress toward achieving this goal. In addition, the University expects the Academy will meet the State of Michigan’s accreditation standards pursuant to state and federal law.

### **Educational Goal to be Achieved**

Prepare students academically for success in college, work and life.

### **Measures to Assist In Determining Measurable Progress Toward Goal Achievement**

To assist in determining whether the Academy is achieving measurable progress toward the achievement of this goal, the Center will annually assess the Academy’s performance using the following measures.

#### **Measure 1: Student Achievement**

The academic achievement of **all students who have been at the academy for one or more years<sup>1</sup>** in grades 3-8 will be assessed using the following measures and targets:

| Sub Indicator  | Measure   | Metric   | Target |
|--|---|--|--------|
| <b>Against a Standard:</b>   | The percentage of students meeting or surpassing the current, spring, grade-level national norms <sup>2</sup> on the NWEA Growth reading and math tests administered in the spring. | Distribution (which will be in the form of percentages):<br>Exceeds $\geq 70.0\%$<br>Meets $\geq 50.0\%$<br>Approaching $\geq 30.0\%$<br>Does not meet $< 30.0\%$          | 50%    |
| In the event that performance against the standard falls below these required expectations, “measurable progress towards the achievement of this goal” will be defined using the following measures and targets: |   |  |        |
| <b>Over Time:</b>  | The percentage of students meeting or surpassing spring grade-level national norms over time (CY-AVG(PY1+PY2+PY3)).   | Trend score (which will be in the form of $-x$ to $+x$ ):<br>Exceeds $\geq 6.0\%$<br>Meets $\geq 3.0\%$<br>Approaching $\geq 1.0\%$<br>Does not meet $< 1.0\%$             | 3.0%   |
| <b>Comparison Measure:</b>   | The percentage of students categorized as proficient or advanced on the most recent state assessment will surpass the school’s Composite Resident District (CRD) percentage.        | Portfolio Distribution (which will be in the form of $-x$ to $+x$ ):<br>Exceeds $\geq 10.0\%$<br>Meets $\geq 5.0\%$<br>Approaching $\geq 0.0\%$<br>Does not meet $< 0.0\%$ | 5.0%   |

<sup>1</sup> One or more years students (also called 1+ students) are students who are enrolled in the academy on or before count day and are still enrolled at the end of a given academic year.

<sup>2</sup> Grade level national norms are updated periodically by NWEA following comprehensive norming studies. The Center will use the most updated national norms published by NWEA and will inform the Academy when they are updated and how the updated norms may impact analysis and performance reporting.

**Measure 2: Student Growth**

The academic growth of all students in grades 3-8 at the Academy will be assessed using the following measures and targets:

| Sub Indicator  | Measure  | Metric   | Target                        |
|--|--|--|-------------------------------|
| <b>Against a Standard:</b>   | The median of student growth percentiles (MGP) reflecting fall-to-spring scaled score growth on the reading and math NWEA Growth tests.              | MGP:<br>Exceeds $\geq$ 65th<br>Meets $\geq$ 50th<br>Approaching $\geq$ 45th<br>Does not meet $<$ 45th  | Reading:<br>50<br>Math:<br>50 |
| In the event that performance against the standard falls below these required expectations, “measurable progress towards the achievement of this goal” will be defined using the following measures and targets: |  |  |                               |
| <b>Over Time:</b>  | The percentage of students making at least one year’s growth over time (CY-AVG(PY1+PY2+PY3)).  | Trend score (which will be in the form of $-x$ to $+x$ ):<br>Exceeds $\geq$ 6.0%<br>Meets $\geq$ 3.0%<br>Approaching $\geq$ 1.0%<br>Does not meet $<$ 1.0%             | 3.0%                          |
| <b>Comparison Measure:</b>   | The mean student growth percentile reflecting growth on the two most recent state assessments will surpass the school’s Composite Resident District. | Portfolio Distribution (which will be in the form of $-x$ to $+x$ ):<br>Exceeds $\geq$ 10.0%<br>Meets $\geq$ 5.0%<br>Approaching $\geq$ 0.0%<br>Does not meet $<$ 0.0% | 5.0%                          |

AMENDMENT NO. 5

to the  
July 1, 2020 Contract to Charter  
A Public School Academy and Related Documents

Issued To

RIVER HEIGHTS ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

CONTRACT AMENDMENT NO. 5

RIVER HEIGHTS ACADEMY

In accordance with Article IX of the Terms and Conditions of the Contract (the "Contract"), dated July 1, 2020, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the "University Board") to RIVER HEIGHTS ACADEMY (the "Academy"), as amended, the parties agree to further amend the Contract as follows:

- 1.) Amend Schedule 7, Section c: Educational Programs, by incorporating into this Section a virtual component, limited to the 2021-2022 school year, that complies with Applicable Law, University Board requirements, and pupil membership requirements set forth in the Michigan Department of Education Pupil Accounting Manual.

This entire amendment is hereby approved by the University Board and the Academy Board through their authorized designees, and shall have an effective date of the Academy's first day of school for the 2021-2022 school year.



Dated: 09/15/2021

By: Corey R. Northrop, Executive Director  
The Governor John Engler Center for Charter Schools  
Designee of the University Board



Dated: September 13, 2021

By: Alexander Garnepudi, Board President  
River Heights Academy  
Designee of the Academy Board