



CONTRACT TO CHARTER A PUBLIC SCHOOL ACADEMY  
AND RELATED DOCUMENTS

ISSUED TO

THE DEARBORN ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

BY THE

CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

JULY 1, 2023

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**REAUTHORIZING RESOLUTION**

## REAUTHORIZATION OF PUBLIC SCHOOL ACADEMY

### The Dearborn Academy

Recitals:

1. At its April 19, 2018, meeting this board authorized the issuance of a contract to charter as a public school academy to The Dearborn Academy. On July 1, 2018, the contract was effective.
2. The contract of this academy expires June 30, 2023.
3. The Governor John Engler Center for Charter Schools has completed its evaluation and assessment of the operation and performance of The Dearborn Academy.
4. The university president or designee has recommended the reissuance of a contract to charter as a public school academy to The Dearborn Academy. The term of the contract is recommended for a term not to exceed five (5) years.

BE IT RESOLVED, That this board approves and authorizes the execution of a contract to charter as a public school academy to The Dearborn Academy for a term not to exceed five (5) years and authorizes the chair of the board to execute a contract to charter as a public school academy and related documents between The Dearborn 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 The Dearborn Academy is able to comply with all terms and conditions of the contract.

CMU BDT APPROVED

Date: 12/8/22

Signature: Mary Jane Flanagan





BOARD OF TRUSTEES

PROPOSAL FOR BOARD ACTION: CONSENT AGENDA

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

**Project Description:**

After reviewing the exigent appointment process, the Center for Charter Schools believes that this process cannot adequately protect the University Board from a situation where an academy governing board and the educational service provider simultaneously resign. The challenges in recruiting, interviewing and appointing a new board (or at least three members who could meet as a quorum), and have the new board contract with a new educational service provider, is time consuming and cannot be accomplished quickly. Accordingly, the Center recommends that the University Board charter contracts include a revision to a provision regarding the appointment of a conservator/manager on a temporary basis to address situations such as the en masse resignation of an academy governing board.

The conservator/manager would have all the powers and duties of the academy's governing board and would function in the board's place upon appointment. The conservator/manager would be designated by the University President or his or her designee upon consultation with the University Board Chair. The current conservator/manager provision required the action of the full University Board to appoint a conservator/manager. In order for this change to occur, the University Board's Method of Selection, Appointment and Removal Policy must be amended.

**Proposed by:** Provost Gealt

PROPOSED RESOLUTION: CONSENT AGENDA

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

BE IT RESOLVED, That the policy titled Public School Academy Board of Directors: Method of Selection, Appointment, and Removal as amended and dated February 15, 2018, is adopted and replaces the Public School Academy Board of Directors: Method of Selection, Appointment and Removal approved and dated December 7, 2006, July 12, 2007 and July 14, 2011; and Be it further

RESOLVED, That these provisions shall be implemented with new charter contracts and shall be phased in as existing charter contracts are reissued. This applies to new and existing charter contracts issued under Part 6A, Part 6E or MCL 380.1311b to MCL 380.1311m of the Revised School Code. The charter schools office is authorized to negotiate changes in the terms and conditions of charter contracts to fully implement these provisions.

CMU BDT APPROVED

Date: 2/15/18  
Signature: My Hangan

## **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 Hanagar

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 OF CONTRACT**

**TERMS AND CONDITIONS  
OF CONTRACT**

**DATED: JULY 1, 2023**

**ISSUED BY**

**CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES**

**CONFIRMING THE STATUS OF**

**THE DEARBORN 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 has considered and has approved the issuance of a contract to The Dearborn Academy;

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

## **ARTICLE I DEFINITIONS**

Section 1.1. Certain Definitions. For purposes of this Charter 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 The Dearborn Academy which is established as a public school academy pursuant to this Charter 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, including all rules, regulations, and orders promulgated thereunder.
- (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 President of Central Michigan University in accordance with Section 10.8 of these Terms and Conditions of Contract.

- (h) "Contract" means, in addition to the definition set forth in the Code, these Terms and Conditions of Contract, the Reauthorizing Resolution, the Method of Selection, Appointment, and Removal Resolution, the Charter Contract Schedules 1-8, as defined below, the Educational Service Provider Policies, the Master Calendar of Reporting Requirements and the Application.
- (i) "Department" means the Michigan Department of Education.
- (j) "Director" means a person who is a member of the Academy Board.
- (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, and which agreement has been submitted to the Center for review, has not been disapproved by the director of The Governor John Engler Center for Charter Schools, is consistent with the Educational Service Provider Policies, as they may be amended from time to time, and with 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 an agreement that has been entered into between an ESP and the Academy Board. 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 of Contract.
- (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 and that has been submitted to The Governor John Engler Center for Charter Schools for review and has not been disapproved by the director of The Governor John Engler Center for Charter Schools.
- (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 Central Michigan University Board of Trustees on December 8, 2022, approving the issuance of a Contract to the Academy.
- (r) "Schedules" means the following Contract documents: 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 a 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, 2023, Issued by the Central Michigan University Board of Trustees Confirming the Status of The Dearborn Academy as a Public School Academy."
- (x) "The Governor John Engler Center for Charter Schools" or "the Center" means the office designated by the Central Michigan University Board of Trustees as the initial point of contact for public school academy applicants and public school academies authorized by the Central Michigan University Board of Trustees. The Center is also responsible for administering the Central Michigan University Board of Trustees' 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 Central Michigan 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 masculine, feminine, or neuter pronouns in this Contract shall be interpreted without regard to gender, 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 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 a Management 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 Method of Selection, Appointment and Removal 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 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 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 also shall assess pupil performance using all applicable testing that the Code or the Contract require. 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, 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 timeline 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 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 timeline 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 adopt 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; and
  - (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; and
  - (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 388.1766b. 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, as applicable.

## **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 for Finance and Administrative Services Central Michigan University Mt. Pleasant, MI 48859
If to the Academy:	Academy Board President The Dearborn Academy 19310 Ford Rd. Dearborn, MI 48128

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 five (5) academic years and shall terminate on June 30, 2028, 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, subject to Section 12.22, 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, subject to Section 12.22.

- (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) Subject to Section 12.22, 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; and
  - (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. Confidential Address Restrictions.

- (a) The Academy shall not disclose the confidential address of a student if the student or the student's parent or legal guardian has obtained a participation card issued by the department of the attorney general under the address confidentiality program act and the parent or legal guardian provides notice of the issuance of the participation card, in a form and manner prescribed by the Michigan Department of Education.
- (b) The term "confidential address" shall have the meaning as defined in MCL 380.1136.

Section 12.23. 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 first set forth above.

CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES

By: \_\_\_\_\_  
Isaiah M. Oliver, 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.

THE DEARBORN ACADEMY

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

Date: 6/7/2023

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

CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES

By: Isaiah M. Oliver  
Isaiah M. Oliver, Chair

Date: 05/23/2023

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.

THE DEARBORN ACADEMY

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

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

## **CONTRACT SCHEDULES**

### **Schedules**

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**CONTRACT SCHEDULE 1**

**RESTATED ARTICLES OF INCORPORATION**



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MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU			
Date Received	Pd 210 Chk 5553 Trans: 22355273		
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Name Zeina Hamdan			
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Dearborn	MI	48128	

800831886

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

**OF**

**THE DEARBORN 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: The Dearborn Academy.

The corporation identification number ("CID") assigned by the Bureau is: 747746.

The corporation has used no other names.

The date of filing the original Articles of Incorporation was: April 15, 1997.

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: The Dearborn Academy.

*AW*

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 Zeina Hamdan.

The address of its registered office in Michigan is: 19310 Ford Road, Dearborn, MI 48128.

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. 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

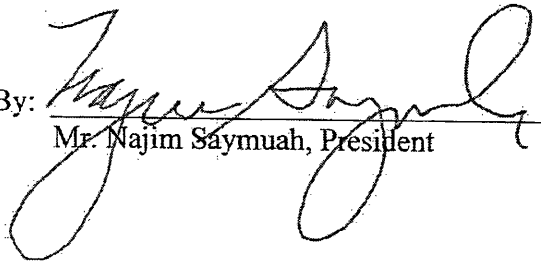
The definitions set forth in the Terms and Conditions incorporated as part of the Contract shall have the same meaning in these Restated Articles of Incorporation.

**ADOPTION OF ARTICLES**

These Restated Articles of Incorporation were duly adopted on the 24th 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 24th day of August, 2017.

By:

  
Mr. Najim Saymuah, President

**CONTRACT SCHEDULE 2**

**AMENDED BYLAWS**

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**AMENDED BYLAWS**  
**OF**  
**THE DEARBORN ACADEMY**

**ARTICLE I**  
**NAME**

This organization shall be called The Dearborn 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 Amended 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. 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 by resolution, except as prescribed by subparagraph d. The Center Director shall recommend qualified individuals to the University Board.

- b. The Academy Board, by resolution and majority vote, shall nominate its subsequent members, except as provided otherwise. The Academy Board 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 University President, the Center Director may appoint a qualified individual to the Academy Board. 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. A Director of the Academy Board shall serve at the pleasure of the University Board. Terms of the initial positions of the Academy Board 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 the Academy Board, 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 the service in office of a Director of the Academy Board is no longer necessary, then the University Board may remove

the Academy Board member with or without cause and shall specify the date when the Academy Board member's service ends. The 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 the service of a Director of the Academy Board 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 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 Board shall serve as a volunteer Director. By resolution of the Academy 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, or 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:

<u># of Academy Board Positions</u>	<u># Required for Quorum</u>
Five (5)	Three (3)
Seven (7)	Four (4)
Nine (9)	Five (5)

A Director of the Academy Board who is absent from a meeting of the Academy Board due to military duty may participate in the meeting virtually, and that member’s virtual presence will count towards quorum and allow the absent member to participate in and vote on business before the Academy Board.

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 Academy Board 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 Amended Bylaws; or (iii) any action the Academy Board cannot lawfully delegate under the Articles, Amended 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 Board 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 Board 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 Board 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 Academy Board as may be prescribed by the Academy Board from time to time.

Section 6. Vice-President. The Vice-President of the Academy Board 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 Board 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 Amended 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 Board 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 Academy 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 Academy 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 Board shall be an employee of the Academy for all purposes and not an employee of the University for any purpose. With respect to Academy Board 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 Board 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 domestic partner:

- (a) Is employed by the Academy Board;
- (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 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 corporation may amend its Amended 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 Amended 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 7<sup>th</sup> day of June, 2023.

  
\_\_\_\_\_  
Academy Board Secretary

**CONTRACT SCHEDULE 3**

**FISCAL AGENT AGREEMENT**

### **SCHEDULE 3**

#### **FISCAL AGENT AGREEMENT**

This Fiscal Agent 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 The Dearborn 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 of Contract and in the Oversight, Compliance and Reporting 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 Academy Account designated by a resolution of the Academy Board 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 manner 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 manner 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, the 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 Academy 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 Academy Account. 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.

**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 The Dearborn Academy.

BY: Alyson Hayden  
Alyson Hayden, Director  
Bureau of State and Authority Finance  
Michigan Department of Treasury  
Date: February 14, 2023

**CONTRACT SCHEDULE 4**

**OVERSIGHT, COMPLIANCE**  
**AND REPORTING AGREEMENT**



## **SCHEDULE 4**

### **OVERSIGHT, COMPLIANCE AND REPORTING AGREEMENT**

This Oversight, Compliance, and Reporting 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 The Dearborn 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 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 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 conduct systematic investigations, including research development, testing and evaluation studies, designed to develop and contribute to generalizable knowledge 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 MDE, in the form and manner prescribed by the MDE, 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, CEPI, OEAA and the MDE. Pursuant to this authorization, the Center shall abide by regulations that govern the use of student data within the 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 MDE, the Superintendent of Public Instruction, the State Board of Education, CEPI, 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**

- One position is employed directly by the Academy Board; and
- Applicable positions that are employed by American Institutional Management Services, Inc., 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.



## **Educational Service Provider Agreement**

This Educational Service Provider Agreement (this “Agreement”) is effective as of the 1<sup>st</sup> day of July, 2023 by and between American Institutional Management Services, Inc., a Michigan corporation (the “Educational Service Provider” or “ESP”), and The Dearborn Academy, a Michigan nonprofit corporation and public school academy (the “Academy”).

The following is a recital of facts underlying this Agreement:

The Academy is organized as a public school academy under the Revised School Code (the “Code”). The Academy anticipates receiving a contract (the “Contract”) from the Central Michigan University Board of Trustees (the “University Board”) to continue to operate a public school academy, with the University Board as the authorizing body.

The Educational Service Provider serves as a catalyst for school reform in the state of Michigan. The Educational Service Provider works to improve education through reform affecting public schools, both through direct involvement within the traditional system and alternatives such as public school academies. It is the specific mission of the Educational Service Provider to empower educators to build quality based learning communities where everyone achieves and leaders emerge.

The Academy and the Educational Service Provider desire to create an enduring educational partnership, whereby the Academy and the Educational Service Provider will work together to bring educational excellence and innovation to the Academy, based upon the Educational Service Provider’s school design and capacity to implement and manage a comprehensive educational program. It is through the dedication and commitment of both

parties that the Academy shall continue to strive to offer an educational program that exceeds the requirements of the Contract.

In order to facilitate the commencement of school for the 2023-2024 school year and the continuation of school thereafter and, to maintain an innovative and quality-based educational program at the school, the parties agree to establish this arrangement for the management and operation of the Academy.

Therefore, it is mutually agreed as follows:

## **ARTICLE I**

### **CONTRACTING RELATIONSHIP**

- A. Authority. The Academy represents that it is authorized by law to contract with a private entity and for that entity to provide educational management services. The Academy further represents that it anticipates receiving a new Contract from the University Board to reauthorize its operation of a public school academy. Upon receipt of the Contract, the Academy will be reauthorized by the University Board to supervise and control such public school academy and will be invested with all powers necessary or desirable for carrying out the educational programs contemplated by this Agreement.
- B. Contract. Acting under and in the exercise of its authority, the Academy Board hereby contracts with the Educational Service Provider, to the extent permitted by law, to undertake and perform all functions relating to the provision of educational services and the administration and operation of the Academy in accordance with the enrollment, age and grade level specifications set forth in the Contract.

- C. Status of the Parties. The Educational Service Provider is not a division or part of the Academy. The Academy is a body corporate and upon execution of a new Contract will continue to be a governmental entity authorized by the Code and is not a division or part of the Educational Service Provider. The relationship between the Educational Service Provider and the Academy is based solely on the terms of this Agreement and the terms of any other agreements between the Educational Service Provider and the Academy in effect from time to time.
- D. Designation as School Officials. 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 redisclosure of personally identifiable information from education records. The Academy’s board of directors (the “Academy Board”) hereby designates the Educational Service Provider 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 educational records under FERPA. The Educational Service Provider and

its employees and subcontractors agree to comply with FERPA and corresponding regulations applicable to school officials.

- E. Independent Contractor Status. The parties to this Agreement intend that the relationship between them created by this Agreement is that of an independent contractor and not employer-employee

## ARTICLE II

### CONDITION PRECEDENT

- A. The parties acknowledge and agree that this Agreement is contingent upon the occurrence of the condition precedent set forth below. Should the condition precedent not occur, this Agreement shall not become effective and shall be null and void and the parties shall be released from and have no further obligations hereunder.

Condition Precedent to Agreement. This Agreement is not binding upon either party unless and until the University Board issues a new Contract with the Academy and further, unless or until the University Board notifies the Academy that this Agreement has not been disapproved by the University Board.

- B. Occurrence of Condition Precedent. After the condition precedent has, in the sole judgment of the Academy Board, been satisfied, all terms and conditions of this Agreement shall become immediately effective. Any termination of this Agreement shall thereafter be governed by Article IX hereof, including upon any termination or revocation of the Contract.

### **ARTICLE III**

#### **TERM**

- A. Term. This Agreement shall become effective July 1, 2023 for five (5) academic years expiring June 30, 2028, subject to the provisions of Article IX hereof, as well as continued charter approval from the University Board and continued state per capita funding in an amount reasonably required to maintain operation of the Academy. In the event the University Board reconstitutes the Academy by requiring that this Agreement be terminated, materially altered or by revoking the ability of the Academy to contract with an educational service provider, then this Agreement shall become null and void as of the date of such reconstitution.
- B. Payments Due. All payments due to Educational Service Provider for any academic year shall be paid in full to Educational Service Provider notwithstanding the end of the term for any such academic year.

### **ARTICLE IV**

#### **FUNCTIONS AND OBLIGATIONS OF THE EDUCATIONAL SERVICE**

##### **PROVIDER**

- A. Responsibility. The Educational Service Provider shall be responsible and accountable to the Academy Board for the administration, operation and performance of the Academy in accordance with the Contract and this Agreement. The Educational Service Provider shall provide the Academy with reports on student performance, upon request, but not less frequently than required by the Contract or this Agreement. The Educational Service

Provider will also provide the Academy with a draft copy of the annual educational report which shall be approved by the Academy Board.

B. Reporting. Notwithstanding anything to the contrary in paragraph A above, the Educational Service Provider must provide the Academy with the following reports, all containing reasonable specificity and particulars and, where applicable, in accordance with generally-accepted accounting principles:

1. Prior to the beginning of any school year, the Educational Service Provider must provide the Academy with specific goals and objectives, consistent with the Contract goals, with regard to the education and performance of all students for each such year, along with specific goals and objectives with regard to the education and performance of all students by the end of the anticipated term of this Agreement. The specifications of goals and objectives shall be in general as to all students in each academic year but not for each individual student. Separate goals may be set for the performance of students with special needs based on each such student's prior year academic achievement and shall be set so as to advance student achievement in compliance with the No Child Left Behind Act and the Contract, respectively. Changes in enrollment that may affect the goals shall be reported to the Academy Board and the goals may be revised accordingly consistent with the Contract. Annual goals of the Academy shall include goals

pertaining to the leadership of the Academy as well as its staffing and professional development.

2. On a quarterly basis, the Educational Service Provider must provide the Academy with a report as to what was undertaken during the previous quarter to accomplish the specific educational goals and objectives with regard to the education and performance of all students and as to what is going to be undertaken in the coming quarter to correct any past deficiencies and/or to move forward to accomplishing the aforesaid specific goals and objectives.
3. The Educational Service Provider must provide to the Academy on an annual basis prior to the start of each academic year a report on the needs of the Academy to achieve the stated goals and objectives, specifying the projected costs of those identified needs.
4. The Educational Service Provider must provide to the Academy on a quarterly basis a report of the activities conducted under the National School Lunch Program, as requirements may change from time to time, to include, at a minimum, the following data: Number of meals prepared, number of students qualified for free Lunch, number of students qualified for Reduced Lunch, number of students who are ineligible for either Free or Reduced Lunch, the amount of commodities received, the amount of commodities used, the amount of commodities in inventory, the dollar amount received for paid meals and the expenditures made, relative to the National School Lunch program.

5. On a quarterly basis, the Educational Service Provider must provide to the Academy Board a report on the participation of all staff, including leadership and teachers, in any professional development activities.
6. On a quarterly basis, and at the close of the specific grant program, including the consolidated application, the Educational Service Provider must provide to the Academy Board a report on all expenditures made under any and all grant program funding to include a report on the achievement of specific goals relative to the grant program activities.
7. The Educational Service Provider must provide to the Academy Board monthly financial reports including a balance sheet, cash flow statement and revenues, expenditures and changes in fund balance prepared on a fund basis with object level detail in comparison to the annual budget with an explanation of variances. This report is due seven (7) days prior to the scheduled monthly regular board meeting.
8. On an annual basis, the Educational Service Provider agrees to provide the Board the same information that a school district is required to disclose under section 18(2) of the State School Aid Act of 1979, MCL 388.1618, 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 School's website homepage, in a form and manner prescribed by the Michigan Department of Education. The defined terms in section 503c



and 553c of the Code, MCL 380.503c and MCL 380.553c, as applicable, shall have the same meaning in this Agreement.

9. The Educational Service Provider shall provide the Board on a timely basis all information concerning the operation and management of the School that is required by MCL 380.503(6)(m) or 380.553(5)(l), either as may be applicable

C. Educational Programs. The Educational Service Provider agrees to implement the educational goals and programs and curriculum set forth in the Contract. Should the Educational Service Provider determine that it is necessary to modify the educational goals or programs, it will not modify any such educational goals or program without first receiving written consent from the Academy Board and the University Board.

D. Specific Functions. The Educational Service Provider shall be responsible for the operation, administration and implementation of the educational programs at the Academy as set forth in this Agreement. Such functions include, but are not limited to:

1. Implementation and administration of the educational program, including the acquisition of instructional materials and supplies and the administration of any and all extra- and co-curricular activities and programs approved by the Academy Board;
2. Management of all personnel employed by the Educational Service Provider, including professional development for the School

Administrator (as defined herein) and all instructional personnel and the personnel functions outlined in Article VII;

3. Operation of the school building, premises and related facilities, including utilities, snow removal, grass cutting, landscape maintenance, janitorial services and other routine maintenance and repairs less than \$500 per occurrence not covered by the lessor under any lease covering the said building, premises or facilities;
4. All aspects of the business administration, including but not limited to payroll, accounts payable, accounts receivable, financial reporting and budgeting, of the Academy; except for corporate functions reserved by the board (including board minutes and corporate records).
5. Provision of food service for the Academy;
6. Any other function necessary or expedient for the administration of the Academy if requested in advance by the Academy Board.

E. Acquisitions. The purchase of assets and capital outlays shall be the responsibility of the Academy Board. All acquisitions made by the Educational Service Provider for or on behalf of the Academy including, but not limited to, instructional materials, equipment, supplies and technology shall be owned by and remain the property of the Academy. The Educational Service Provider will comply with the Code including, but not limited to, sections 1267 and 1274 of the Code, MCL 380.1267 and MCL 380.1274, as if the Academy were making such purchases directly from a

third party supplier or vendor. Moreover, if the Educational Service Provider procures services, equipment, materials and supplies at the request or on behalf of the Academy, the Educational Service Provider will not include any added fees or charges with the cost of equipment, materials and supplies purchased from third parties.

- F. Pupil Performance Standards and Evaluation. The Educational Service Provider shall implement pupil performance evaluations which permit evaluation of the educational progress of each Academy student. The Educational Service Provider shall be accountable to the Academy Board for the performance of students who attend the Academy. At a minimum, the Educational Service Provider will utilize assessment strategies required by the Contract. The Academy Board and the Educational Service Provider will cooperate in good faith to identify other measures and goals for student performance including, but not limited to, parent satisfaction.
- G. Subcontracts. The Educational Service Provider reserves the right to subcontract any and all aspects of the services it agrees to provide to the Academy hereunder, including but not limited to, student transportation and/or food service, if provided. All subcontracts and subcontractors must meet the minimum standards or requirements mandated by this Agreement, the Contract, applicable state or local laws or as established by the Academy Board or the University Board, from time to time, and are subject to Academy Board approval. Notwithstanding any other provision of the agreement to the contrary, the Educational Service Provider shall not

subcontract the management, oversight or operation of the teaching and instruction program, without prior approval of the Academy Board. The Educational Service Provider shall not make a profit on subcontracts, nor shall the Educational Service Provider charge an administrative fee for any subcontracted services. The Educational Service Provider shall not charge an added fee for expenses paid on behalf of the Academy. In no event will any services that are to be provided by the Educational Service Provider pursuant to this Agreement but are performed by a subcontractor be charged to, reimbursed by, or passed through as an additional cost to the Academy.

- H. Student and Financial Records. All financial and educational records, including student records, pertaining to the Academy are Academy property and shall be maintained on-site and available for authorized inspection upon reasonable request, in conformity with all applicable laws and subject to the provisions of the Michigan Freedom of Information Act and other applicable privacy laws. All records shall be kept in accordance with applicable state and federal requirements.
- I. Place of Performance. The Educational Service Provider reserves the right to perform functions other than instruction and records maintenance, such as purchasing, professional development and administrative functions off-site at other Educational Service Provider locations, unless prohibited by the Contract or applicable law.
- J. Student Recruitment. The Educational Service Provider and the Academy Board shall be jointly responsible for the recruitment of students subject to

the Academy's general recruitment and admission policies. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable laws. Marketing and development costs paid by or charged to the Academy shall be limited to those costs specific to Academy programs and shall not include any costs for the marketing and development of the Educational Service Provider.

K. Due Process Hearings. The Educational Service Provider shall provide students due process hearings in conformity with Academy Board policy and consistent with the requirements of state and federal law regarding discipline, special education, confidentiality and access to records, to the extent consistent with the Academy's own obligations. In addition, the Academy Board shall retain the right (i) to conduct its own due process hearings as required by law or otherwise, (ii) to participate in any due process hearing conducted by the Educational Service Provider affecting or in connection with the Academy, and (iii) to require the Educational Service Provider to participate in any due process hearing conducted by or on behalf of the Academy Board.

L. Services to Disabled Students and Special Education. The Educational Service Provider shall provide special educational services to students who attend the Academy in conformity with the requirements of Academy Board policy consistent with applicable law. The Educational Service Provider may subcontract as necessary and appropriate for the provision of services to students whose special needs cannot be met within the Academy's

program, subject to approval by the Academy Board. Such services shall be provided in a manner that complies with applicable laws and regulations and Academy Board policies consistent therewith.

- M. Legal Requirements. The Educational Service Provider shall provide the educational programs set forth in the Contract. Any changes to the educational programs approved by the Academy Board and the University Board must meet applicable law, and the requirements imposed under the Contract, unless such requirements are or have been waived by in writing by all authorizing parties.
- N. Rules and Procedures. The Educational Service Provider may recommend to the Academy Board reasonable rules, regulations and procedures applicable to the Academy. The Academy Board shall adopt rules, regulations or procedures that it deems necessary or advisable and shall authorize and direct the Educational Service Provider to enforce such rules, regulations and procedures. The Educational Service Provider shall develop and publish an annual Student Handbook which shall be presented to the Academy Board for approval.
- O. School Year and School Day. The school year and the school day shall be as approved annually by the Academy Board consistent with the Contract.
- P. Authority. The Educational Service Provider shall have the authority and power necessary to undertake its responsibilities described in this Agreement except wherein such power may not be delegated by the Academy Board to the ESP.

- Q. Financial Information Available to Academy Board. Financial information of the Educational Service Provider related to the Academy will be provided to the Academy Board as reasonably requested. This shall not authorize the Academy Board to audit the Educational Service Provider's financial records.
- R. Contract Between the Academy and Central Michigan University. The Educational Service Provider will not act or fail to act in any manner which would cause the Academy to be in breach of the Contract. The Educational Service Provider agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Contract. The provisions of the Contract shall supersede any competing or conflicting provisions contained in this Agreement.
- S. Transparency Reporting. On an annual basis, the ESP shall provide the Academy Board all of the same information that a school district is required to disclose under section 18(2) of the State School Aid Act, MCL 388.1618(2), for the most recent school fiscal year in which the information is available. Within thirty (30) days of receiving the information under section 18(2), the Academy Board shall make this information publicly available on its website, in a form and manner prescribed by the Michigan Department of Education

## ARTICLE V

### **OBLIGATIONS OF THE ACADEMY BOARD**

- A. Good Faith Obligation. The Academy Board shall be responsible for its fiscal and academic policies. The Academy Board shall exercise good faith in considering the recommendations of the Educational Service Provider including, but not limited to, the Educational Service Provider's recommendations concerning policies, rules, regulations, procedures, curriculum and budgets, subject to constraints of law, requirements of the Contract and its fiduciary obligations to do what is in the best interest of the Academy. The Academy Board shall notify the Educational Service Provider of and allow the Educational Service Provider representatives to attend all of its regular board meetings, to the extent reasonable and where permitted by law. No provision of this Agreement shall prevent the Academy Board from operating as an independent, self-governing body.
- B. Retained Authority. The Academy Board shall retain the authority to make reasonable policies and regulations relative to the establishment, maintenance, management and carrying on of the Academy, including policies and regulations relative to the conduct of pupils while in attendance at the Academy or enroute to and from the Academy if the Academy provides such transportation. The Board shall further retain the obligation, as provided in Section 1274 of the Code, to adopt written policies governing the procurement of supplies, materials, and equipment. No provision of this Agreement shall restrict the Academy Board from waiving its governmental immunity or require the Academy Board to waive, not waive or assert same.



- C. Provision of Office Space. The Academy will provide to the Educational Service Provider adequate office space at the school facility for the Educational Service Provider to efficiently conduct the operation and management of the Academy.
- D. Control of Funds. The Academy Board's treasurer shall have the sole authority to direct that funds received by the Academy be placed in the Academy's depository account as required by law. The signatories on the Academy Board accounts shall solely be Academy Board members or properly designated Academy Board employee(s). Interest income earned on Academy accounts shall accrue to the Academy. Within four (4) days of receipt and deposit of State School Aid funds, the Academy shall advance to the Educational Service Provider a sum equal to seventy-seven (77%) percent of applicable funds pursuant to Article VI A below.
- E. Payment of Costs. It is the Academy's obligation to pay for all costs identified on Exhibit A attached hereto and incorporated herein by reference. After receiving funds from The State of Michigan the Academy will advance funds to the Educational Service Provider on a monthly basis, as provided in this Agreement, to cover the fees and expenses associated with the Academy's operation the payment of which are the responsibility of the Academy and the Educational Service Provider will provide documentation for the fees and expenses at the next regularly scheduled Academy Board meeting for ratification.

- F. Building Facility. It is the Academy Board's obligation to secure a building, or buildings if deemed necessary, that complies with all of the requirements of the Contract and applicable law and permits the proper operation of the educational program. The Academy may either purchase or lease a facility and shall be responsible for lease or purchase payments, and all related capital outlay expenditures as identified in Exhibit A.
- G. Board Liaison Officer and Staff. The Academy Board shall pay for a Board Liaison Officer to act as a liaison between the Academy, the Educational Service Provider and Central Michigan University to facilitate a smooth relationship between the entities. Such individual may be employed full or part-time or hired as an independent contractor as the Academy Board may determine and shall assist the Academy Board and the School Administrator in carrying out the mission of the Academy. The Academy Board may also, at its expense, employ such clerical staff as it deems necessary and provide them with office space at the Academy.
- H. Educational Consultant. The Academy Board or the University Board, respectively, may select and retain, at its own expense, an educational consultant to review the operations of the Academy and the performance of the Educational Service Provider under this Agreement. The Educational Service Provider shall cooperate with such consultant in any evaluations, assessments or other activities conducted by or on behalf of such consultant in the performance of his or her responsibilities. The Educational Service

Provider shall have no authority to select, evaluate, assign, supervise or control any such consultant.

## **ARTICLE VI**

### **FINANCIAL ARRANGEMENT**

- A. Compensation for Service. The Academy shall pay the Educational Service Provider an annual amount equal to seventy-seven (77%) percent of the funding the Academy Board receives from the school state aid funds for students enrolled in the Academy. The payments shall be made within four (4) days of the receipt by the Academy of any applicable state payment. The Academy Board shall pay to the Educational Service Provider all amounts received for the provision of special education instruction, bilingual instruction, other categorical funding, food service and student transportation, and all monies received from federal programs approved by the Academy Board, if such services are provided by the Educational Service Provider on a monthly basis. Except as otherwise provided in this Agreement, including but not limited to Article VIII hereof, these funds shall cover all Academy expenses for which the Educational Service Provider is responsible to pay under this Agreement as well as compensation to the Educational Service Provider for its services, which amount shall be identified as a line item in applicable budget statements.
- B. Other Funding. In order to supplement and enhance the state school aid payments and improve the quality of education at the Academy, the Academy may endeavor to obtain revenue from other sources, including,

but not limited to, grants and donations consistent with the mission of the Academy, fees charged to students for extra services such as summer programs and charges to non-Academy students who participate in Academy programs. At the request of the Academy Board, the Educational Service Provider shall assist the Academy Board in establishing a tax exempt foundation to raise funds to support the mission of the Academy. If the Academy Board or the tax exempt foundation generates any additional funding, such funding shall be excluded from the total revenue base upon which the Educational Service Provider's fee is calculated as long as the Academy Board does not require the Educational Service Provider to administer or manage the funds. If additional funding is generated, administered or managed by the Educational Service Provider, the Educational Service Provider and the Academy Board shall enter into a written agreement specifying the services the Educational Service Provider is to provide and the compensation the Educational Service Provider is to receive for the services it performs in connection therewith.

- C. Payment of Costs. Except as provided in Exhibit A, all costs incurred in providing the educational program at the Academy shall be paid by the Educational Service Provider. Such costs shall include, but not be limited to, salaries for all Educational Service Provider and Academy personnel, curriculum materials, textbooks, library books, software, maintenance and supplies. The cost of new computers purchased for instructional purposes shall be shared equally by the Academy Board and the Educational Service

Provider. Replacement computers, office equipment and computers used for the administration of the Academy shall be the obligation of the Educational Service Provider. Capital outlay expenditures for the acquisition of classroom or office furniture shall be the responsibility of the Academy. All assets shall remain the property of the Academy.

- D. Other Public School Academies. The Academy acknowledges that the Educational Service Provider may enter into similar Educational Service Provider agreements with other public school academies. The Educational Service Provider shall separately account for reimbursable expenses incurred on behalf of the Academy and other public school academies and shall only charge the Academy for expenses incurred on behalf of the Academy. If the Educational Service Provider incurs reimbursable expenses on behalf of the Academy and other public school academies which are incapable of precise allocation, the Educational Service Provider shall allocate such expenses among all such academies, including the Academy, on a pro rata basis based upon the number of students enrolled at each such academy, or upon such other equitable basis as may be acceptable to the parties. Corporate cost incurred by the Educational Service Provider shall not be reimbursable.

- E. Financial Reporting.

The Educational Service Provider shall provide the Academy, all in accordance with generally-accepted accounting principles, the following:

1. A projected annual budget prior to each academic school year. The Educational Service Provider shall begin the budget development process at least ninety (90) days prior to the date the Academy is required to approve the budget in each calendar year and shall include the Academy Board in the development process. The ESP nor any owner, officer, director or employee of the ESP shall be designated as the Chief Administrative Officer (“CAO”) of the Academy, but an ESP employee may assist the CAO in carrying out their duties. The projected annual budget shall be presented to the Academy Board for review or approval at least thirty (30) days prior to the date the Academy is required to submit the annual budget to the University Board;
2. Detailed monthly statements of all revenues received from whatever source, with respect to the Academy and detailed statements of all direct expenditures for services rendered to or on behalf of the Academy, whether incurred on-site or off-site. Such detailed statements shall reflect details of budget to actual revenues and expenditures, with an explanation of variances;
3. Annual audits in compliance with applicable law showing the manner in which funds advanced to the Educational Service Provider under this Agreement are spent at or for the Academy;
4. Reports on Academy finances on a monthly basis or such times as reasonably requested by the Academy Board;

5. Other information on a periodic basis to enable the Academy Board to monitor the Educational Service Provider's financial management, performance and the efficiency of its operation of the Academy; and
6. Reports required by Section IV of this Agreement.

F. Review of Operational Budget. The Educational Service Provider will present a proposed budget for each fiscal year in accordance with subsection E.1 of this Article VI. The Academy Board will be responsible for reviewing and approving the annual budget of the Academy.

The budget submitted to the Academy Board by the Educational Service Provider shall include proposed line by line expenditures of the Educational Service Provider on behalf of the Academy for the goods and services to be provided by the Educational Service Provider.

The Academy Board shall endeavor to ensure a financially stable fund equity for use in any current year budget to fund additional programs and services or purchase acquisitions deemed necessary by both parties to ensure the long term strategic planning and needs of the Academy.

The Educational Service Provider shall implement the educational program in accordance with the budget. In the event that the Educational Service Provider has reasonable grounds to deviate from the line items or significantly deviate by an increase or decrease in excess of ten (10%) percent from the expenditures outlined in the Academy's approved budget, the Educational Service Provider shall seek approval from the Academy Board before deviating from any such item in the Academy budget. From

time to time, as necessary, the Educational Service Provider may present an amended budget to the Academy Board for approval to ensure compliance with the Uniform Budget and Accounting Act, which approval shall not be unreasonably withheld.

- G. Annual Audits. The Academy Board shall select, retain and pay for the services of a professional, independent auditor to conduct the Academy's annual financial audit in accordance with the Academy's authorizing documents and the State School Aid Act. All financial and other records of the Educational Service Provider related to the Academy will be made available to the Academy, the Academy's independent auditor and the Center upon request'.

## ARTICLE VII

### PERSONNEL & TRAINING

- A. Personnel Responsibility. The Educational Service Provider shall be the employer of all personnel except the Board Liaison Officer and Academy Board clerical staff, if any. The Educational Service Provider, in consultation with the Academy Board, shall provide the Academy with qualified staff to efficiently operate the Academy's school and shall report to the Academy Board on an annual basis and thereafter as needed the levels and compensation of staffing. Subject to Academy Board policies and the Contract, the Educational Service Provider shall have the responsibility and authority to select, evaluate, assign, discipline, transfer and terminate personnel, consistent with applicable law. The Educational Service



Provider accepts full liability and is responsible for paying all salaries, employee benefits, payroll taxes, worker's compensation, unemployment compensation and liability insurance for its employees provided to the Academy or working on Academy operations irrespective of whether the ESP receives an advancement of its costs or the payment of services from the Academy. The Educational Service Provider shall indemnify, defend and hold harmless the Academy, the Academy Board and/or Academy employees from and against any and all claims, causes of action or judgments in connection with the forgoing. The Educational Service Provider will keep the Academy Board informed of the level of compensation and fringe benefits provided to employees of the Educational Service Provider assigned to the Academy.

- B. Professional Development. The Educational Service Provider shall require its employees to attend all necessary training programs for the growth and development of the employees and the Educational Service Provider in general and shall require its employees to attend on a yearly basis seminars involving topics including sexual harassment, school violence, conflict resolution, CPR, first aid and school safety, all at no further expense to the Academy.
- C. School Administrator. Because the accountability of the Educational Service Provider to the Academy is an essential foundation of this relationship created by this Agreement and, because the responsibility of the School Administrator of the Academy is critical to its success, the

Educational Service Provider will have the authority, consistent with state law, to select and supervise a “School Administrator” and to hold him or her accountable for the success of the Academy. Although the School Administrator will be a Educational Service Provider employee, the Educational Service Provider agrees to consult with the Academy Board prior to hiring the School Administrator. The employment contract with the School Administrator and the term, duties and compensation of the School Administrator shall be determined by the Educational Service Provider. The School Administrator and the Educational Service Provider, in turn, will have similar authority to select and hold accountable the teachers for the Academy. If the Academy Board is dissatisfied with the performance of the School Administrator, the Educational Service Provider will remove the School Administrator from the Academy.

- D. Teachers. Prior to the commencement of the 2018-2019 school year by the Academy, and from time to time thereafter, the Educational Service Provider shall pursuant to the budget adopted by the board recommend the number of teachers. The Educational Service Provider shall be the employer of all teaching personnel and shall provide the Academy with such teachers, qualified in the grade levels and subjects required, as are needed to carry out the educational program of the Academy. The curriculum taught by the teachers shall be the curriculum prescribed by the Contract and in conformity with applicable law. Teachers may, in the discretion of the Educational Service Provider, 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 the Educational Service Provider, provided that, under such circumstances the teacher's salary and cost of benefits shall be pro-rated in the Academy's budget based upon the actual hours worked in the Academy. Each teacher assigned to the Academy shall hold a valid teaching certificate issued by the applicable State Board of Education under the Code and shall have undergone a criminal records and history background and unprofessional conduct checks as if such teachers were employed directly by the Academy. The term and compensation of teachers at the Academy shall be determined by the Educational Service Provider. If the Academy Board is dissatisfied with the performance of a teacher, the Educational Service Provider will remove the teacher from the Academy.

- E. Support Staff. Prior to the commencement of the 2015-2016 school year by the Academy, and from time to time thereafter, the Educational Service Provider shall pursuant to the budget adopted by the board recommend the number and function of support staff required for the operation of the Academy. The Education Service Provider shall provide the Academy with such support staff, qualified in the areas required, as are required for the operation of the Academy. Such support staff may, in the discretion of the Educational Service Provider, work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, each such support staff may also work at other schools, operated by the Educational Service

Provider, provided that, under such circumstances, the employee's wages and benefits be pro-rated in the Academy's budget based upon the hours spent in the Academy. The term, duties and compensation of the support staff shall be determined by the Educational Service Provider.

- F. Training. The Educational Service Provider shall provide training in its methods, curriculum, educational programs and technology to all teaching personnel on a regular and continuous basis. Instructional personnel will receive at least the minimum number of professional development or continuing education hours as required by the Code from time to time. Non-instructional personnel shall receive such training as the Educational Service Provider determines as reasonable and necessary under the circumstances, except as set forth in paragraph B above.
- G. Prohibition of Non-Compete. The ESP has not and will not execute any contracts with its staff assigned to the Academy (including by way of example and not limitation, administrators, teachers, counselors and the like) that contain non-compete agreements of any nature.

## **ARTICLE VIII**

### **ADDITIONAL PROGRAMS**

The services provided by the Educational Service Provider to the Academy under this Agreement include the educational program during the school year and school day for the age and grade level of students as set forth in the Contract, as such school year, school day, age and grade levels may change from time to time. The Academy Board may engage the Educational Service Provider to provide additional programs, including but not limited

to summer school, transportation, food services, special education and “latch key” assistance and agrees that revenues collected from such programs shall be distributed as follows: one hundred (100%) percent to the Educational Service Provider, with the Educational Service Provider being responsible to pay all costs associated with the provision of the additional program(s). To the extent that additional programs are requested, such requests shall be reduced to writing in the form of an amendment to this Agreement with profits allocated as may be agreed by both parties.

## **ARTICLE IX**

### **TERMINATION OF THE AGREEMENT**

A. Termination by the Academy. This Agreement may be terminated by the Academy Board for cause prior to the expiration of the term set forth in Article III upon written notification to the Educational Service Provider, for the following reasons, each of which constitute “cause” hereunder:

1. The Educational Service Provider fails to fulfill its obligations as set forth in this Agreement after having been given written notification of its failure and a reasonable opportunity but in any event not more than ninety (90) days unless otherwise agreed to by the Academy Board, to correct such failure; or
2. The Educational Service Provider fails to substantially meet stated goals and objectives set forth in the Contract for student achievement in general, and not for each individual student, for each school year that this Agreement is in effect. A substantial failure is defined as a failure to meet eighty-five (85%) percent of the student goals and objectives set

forth in the Contract. The Educational Service Provider shall have one hundred eighty (180) days after notice to remedy any deficiency under this subsection A.2., with the student goals and objectives to be those in effect during the remedial period; or

3. Any action or inaction by the Educational Service Provider that is not cured within sixty (60) days of notice thereof which causes the Contract to be revoked, terminated or suspended or which causes the Contract to be put in jeopardy of revocation, termination or suspension is a material breach.

B. Termination by the Educational Service Provider. The Educational Service Provider may terminate this Agreement for cause prior to the end of the term specified in Article III in the event that the Academy should fail to remedy a material breach of this Agreement within a period reasonable under the circumstances, but not less than ninety (90) days after written notice from the Educational Service Provider if such breach can be reasonably cured within such period.

C. Change in Law. If any federal, state or local law or regulation, or any 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 a renegotiation of the terms of this Agreement. If the parties are unable or unwilling to renegotiate the terms within ninety (90) days after receipt of the notice, the party requesting the renegotiation may terminate this Agreement as

of the end of the current school year or upon thirty (30) days written notice if school is not then in session, as the case may be.

- D. Effective Date of Termination. In the event that this Agreement is terminated by either party by written notice to the other prior to the end of the term specified in Article III, absent unusual and compelling circumstances, a termination hereunder will not become effective until the end of the current school year; otherwise, the termination will be effective thirty (30) days from delivery of such notice.
- E. Academy Records. Upon expiration or termination of this Agreement, all financial records of the Academy and all educational and student records shall be returned to the sole custody of and thereafter maintained by the Academy. The Educational Service Provider acknowledges that such records may be subject to the provisions of the Michigan Freedom of Information Act and other applicable privacy legislation. All Academy records shall be physically or electronically present and available at the Academy's physical facilities.
- F. Transition. The Academy and ESP 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 and ESP agree to work cooperatively to transition management and operations of the Academy without disrupting the Academy's operations. Upon termination or expiration of this Agreement, or the ESP Agreement is terminated due to a Contract revocation, reconstitution, termination or non-renewal, the ESP 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 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.

- G. Termination or Revocation of Contract. If the Academy's Contract issued by the University Board 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. Upon a revocation or termination of the Contract, this Agreement shall



terminate without prejudice to accrued rights and obligations under this Agreement.

- H. Closure/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 ESP Agreement, the parties agree that this ESP Agreement shall be amended or terminated to implement the Academy site closure or reconstitution, with no cost or penalty to the Academy, and the ESP shall have no recourse against the Academy or the University Board for implementing such site closure or reconstitution.

Notwithstanding the foregoing, the expiration or other termination of this Agreement shall not deprive any party of its accrued rights nor relieve any party from performing its obligations, including the payment of amounts due and payable hereunder.

## **ARTICLE X**

### **DISPOSITION OF PROPERTY UPON EXPIRATION, TERMINATION OR**

### **NON-RENEWAL OF AGREEMENT**

Upon expiration, termination or non-renewal of this Agreement, all acquisitions made by the Educational Service Provider 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. In addition, the Academy owns all proprietary rights to curriculum or educational materials that (i) are both directly

developed and paid for by the Academy, or (ii) were developed by the Educational Service Provider at the direction of the Academy.

## **ARTICLE XI**

### **INDEMNIFICATION**

- A. Indemnification of the Educational Service Provider. To the extent permitted by law, the Academy shall indemnify, defend and save and hold the Educational Service Provider and its employees, officers, directors, subcontractors and agents (collectively, the “ESP Parties”) harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of any intentional breach, violation or deliberate noncompliance by the Academy with any agreements, covenants, representations, warranties or undertakings of the Academy contained in or made pursuant to this Agreement. The Academy shall not indemnify, defend or hold harmless the ESP Parties for any action, inaction or negligence by the ESP Parties that results in claims, dividends, suits, or other form of liability against the Academy. In addition, the Academy shall reimburse the Educational Service Provider for reasonable attorney fees 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 pursuant to Article XII.
- B. Indemnification of Academy. The Educational Service Provider shall indemnify, defend and save and hold the Academy and its employees, officers, directors, subcontractors and agents (collectively, the “Academy

Parties”) harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of any breach, violation or noncompliance by the Educational Service Provider with any agreements, covenants, warranties or undertakings of the Educational Service Provider contained in or made pursuant to this Agreement; any misrepresentation or breach of the representations and warranties of the Educational Service Provider contained in or made pursuant to this Agreement and any negligence by the Educational Service Provider, its trustees, directors, officers, employees, agents or representatives. The Educational Service Provider shall not indemnify, defend or hold harmless the Academy Parties for any action, inaction or negligence by the Academy Parties that results in claims, dividends, suits, or other form of liability against the ESP. In addition, the Educational Service Provider shall reimburse the Academy for reasonable attorney fees 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 pursuant to Article XII.

- C. Indemnification of the Authorizer. The Parties acknowledge and agree that Central Michigan University, its Board of Trustees, and its members, officers, employees, agents or representatives (collectively “University”) are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the Educational Service Provider 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 Charter Application, the University Board's consideration of or issuance of a Contract, the Educational Service Provider's preparation for or operation of the Academy, or which are incurred as a result of the reliance by the University upon information supplied by the Educational Service Provider, or which arise out of the Educational Service Provider's failure to comply with the Contract or applicable law. The Parties expressly acknowledge and agree that the University may commence legal action against the Educational Service Provider to enforce its rights as set forth in this section of the Agreement.

- D. Survival. Notwithstanding any other provision to the contrary, all of the indemnities contained in this Agreement shall survive the expiration or other termination of this Agreement.
- E. No Waiver to Third Parties. The foregoing provisions shall not be deemed a relinquishment or waiver of any rights or immunities of the parties as provided by state or federal law and/or at common law or in equity.

## **ARTICLE XII**

### **INSURANCE**

- A. Insurance Coverage. The Academy shall secure and maintain, in the Academy's name, such policies of insurance coverage as required by the Contract and the Michigan Universities Self-Insurance Corporation ("M.U.S.I.C.) or any lease, with Central Michigan University listed as an additional insured as required. The Educational Service Provider shall secure and maintain such policies of insurance as required by the Contract and M.U.S.I.C. and shall present evidence to the Academy Board that it maintains the requisite insurance in compliance with the provisions of this Agreement. In the event Central Michigan University or M.U.S.I.C. requests any change in coverage by educational service providers, the Educational Service Provider agrees to comply with any change in the type or amount of coverage, as requested, within thirty (30) days after notice of the insurance coverage change. The Academy Board and the Educational Service Provider shall comply with any information or reporting requirements applicable to the respective parties under the required insurance policies with their insurer(s) to the extent practicable. The Academy and Educational Service Provider shall have a provision included in all policies requiring notice to the Academy and Educational Service Provider at least thirty (30) days in advance of any termination or non-renewal of any of the aforesaid policies.
- B. Workers Compensation Insurance. Each party shall maintain workers compensation insurance coverage when and as required by law, this Agreement and the Contract, covering their respective employees.

## **ARTICLE XIII**

### **WARRANTIES AND REPRESENTATIONS**

Both the Academy and the Educational Service Provider represent (i) that each has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, (ii) that its actions have been duly and validly authorized, and (iii) that it will adopt any and all resolutions or expenditure approvals that it may deem necessary or advisable for the execution of this Agreement.

## **ARTICLE XIV**

### **ALTERNATIVE 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, shall be resolved by arbitration, and such procedure shall be the sole and exclusive remedy for such matters. Unless the parties agree upon a single arbitrator, the arbitration panel shall consist of three persons, including one person who is selected or recommended by the Academy, one person who is selected or recommended by the Educational Service Provider and, one person who is selected by the two arbitrators selected by the parties. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association in Michigan, with such variations as the parties and arbitrator unanimously accept. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction. The cost of the arbitration, not including attorney fees, shall be paid by the non-prevailing party unless otherwise agreed by the parties or ordered by the arbitration panel. It shall be in the discretion of the arbitration panel to award reasonable

attorney fees to the prevailing party, such fees, if any, to be paid by the non-prevailing party. A cause opinion (written explanation) as to the final decision shall be required. Central Michigan University shall be notified of said decision and, upon its request, the cause opinion shall be made available.

## ARTICLE XV

### MISCELLANEOUS

- A. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and the Educational Service Provider 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, attack, explosion, war or act of God.
- 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 by regular first class mail to the parties at the respective addresses set forth below, or at such other address as may be furnished by a party to the other party in writing:

If to the Educational Service Provider.	<u>5808 Schaefer Road</u> <u>Dearborn, MI 48126</u>
-----------------------------------------	--------------------------------------------------------

If to the Academy.	Academy Board President and Board Liaison Officer or Secretary <u>19310 Ford Road</u> <u>Dearborn, MI 48128</u>
--------------------	--------------------------------------------------------------------------------------------------------------------------

- 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 subject matter hereof, the services provided and the compensation for such services. Any modification of this Agreement must be made in writing, be approved by the Academy and Educational Service Provider, and be signed by a duly authorized officer of each party and must be done in a manner consistent with the Central Michigan University's Educational Service Provider Policies ("ESP Policies").
- G. 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 under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.
- H. Assignment. The Educational Service Provider may assign this Agreement only with the prior written consent of the Academy Board, in its sole and absolute discretion. However, this Agreement shall not be assignable without prior notification to Central Michigan University and must be done



in a manner consistent with the ESP Policies. Any assignable party shall be considered an educational service provider as defined by the ESP Policies. As such, any assignable party shall follow the requirements as set forth in the ESP Policies.

- I. Governing Law. This agreement shall be governed by and enforced in accordance with the laws of the state of Michigan without regard to conflicts of laws principles.
- J. Tax Exempt Financing. The parties agree that, upon the reasonable request of the Academy Board, this Agreement will be amended if and to the extent necessary to allow the Academy to comply with the safe harbor conditions of Revenue Procedure 2017-13, or any successor or supplementary guidance issued by the Internal Revenue Service, under which a management contract does not result in private business use of property financed with governmental tax-exempt bonds under § 141(b) of the Internal Revenue Code or cause the modified private business use test for property financed with qualified 501(c)(3) bonds under § 145(a)(2)(B) to be met.
- K. Delegation of Authority. Nothing in this Agreement shall be construed as delegating to the Educational Service Provider any of the powers or authority of the Academy Board which are not subject to delegation by the Academy Board under Federal or Michigan law.
- L. Compliance with Law. The parties agree to comply with the Contract and all applicable laws and regulations.

- M. Breach of Confidential Information. In the event that the Educational Service Provider or Academy become aware of any data breach of personally identifiable information from Academy education records or other information not suitable for public release it shall be handled in the manner set forth in Academy Board Operating Policy 8351 – Breach of Confidential Information as if it were a breach of personal information thereunder.
- N. Restriction on ESP Use of Student Information. Except as permitted under the Code, the ESP 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 the ESP receives information that is part of an Academy student's education records, the ESP 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

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

**THE EDUCATIONAL SERVICE PROVIDER**

By: [Signature]

Its: President

Dated: 6/14/2023

**THE DEARBORN ACADEMY**

By: [Signature]

Its: BOARD PRESIDENT

Dated: 6/28/2023

## **Exhibit “A”**

### **Expenses to be Paid by the Academy**

- ◆ Board Liaison Officer position, including salary, payroll taxes, and benefits, if any;
- ◆ Board clerical positions (if any), including salary, payroll taxes, and benefits, if any;
- ◆ Educational consultant (if any) retained by Academy, including salary, payroll taxes, and benefits, if any;
- ◆ Lease payments and security deposit for the facility or facilities, if any;
- ◆ Capital outlay expenditures to include alterations and replacements of the facility; major and extensive repairs (in excess of \$500 per occurrence), remodeling or alteration of the facilities, the replacement thereof, or the replacement and renewal of the plumbing, wiring, heating and air-conditioning systems; new structures; and all non-structural improvements to land including grading, leveling, drainage, and landscaping; as well as the construction of roadways, fences, ditches and sanitary sewers;
- ◆ Property (real and personal) insurance;
- ◆ Accountable expenses related to office equipment and supplies, postage and shipping incurred by the Board Liaison Officer or other Academy clerical staff on the Board’s behalf. All other office supplies, postage and shipping will be paid by the Educational Service Provider;
- ◆ Classroom furniture and equipment needed for additional classroom space for any expansion of the Academy approved by the Academy Board.
- ◆ CMU oversight fee;
- ◆ Dues to professional organizations for Board Liaison Officer and Academy Board members and any licenses that may be required by Academy personnel or Academy Board members;
- ◆ Legal and professional (including auditing and accounting) fees of The Academy Board;
- ◆ Workers Compensation insurance for Academy employees;
- ◆ Liability insurance for Academy employees and Academy Board members.

**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 Plans..... 6-3

Floor Plans (Main Building and Modular Unit) ..... 6-5

Lease Agreement (Main Building) ..... 6-7

Office of Fire Safety Approvals (Main Building)..... 6-34

Certificates of Use and Occupancy (Main Building)..... 6-36

Purchase Agreement (Modular Building)..... 6-38

Certificate of Use and Occupancy (Modular Building)..... 6-45

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 The Dearborn Academy (the "Academy") is as follows:

Address: 19310 Ford Rd.  
Dearborn, MI 48128

Description: This Site includes a 51,289 square foot, one-story, brick building, which is leased by the Academy, and a 6,500 square foot modular building that the Academy owns. The main building is situated on a large parcel of land on the north side of Ford Rd. The modular building is located directly north of the main building on the same parcel of land. The Academy has an ample yard for a playground and picnic tables, as well as parking immediately in front of the main building. The Academy's facilities provide approximately 23 classrooms, a computer lab, teachers' lounge, several offices, 13 restrooms, a janitor's closet, gymnasium with locker rooms, kitchen, cafeteria and several storage areas.

Configuration of Grade Levels: Kindergarten through Eighth Grade.

Term of Use: Term of Contract.

Name of School District and Intermediate School District:

Local: Dearborn Public 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.



ALL PROPOSED ELEVATIONS ARE TOP OF PAVEMENT OR GUTTER ELEVATIONS UNLESS OTHERWISE NOTED

## MODEL 1

1

**OVERALL SITE PLAN**

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PROJECT: ***THE DEARBORN ACADEMY  
GYMNASIUM & CLASSROOM ADDITION  
19310 FORD RD.  
DEARBORN, MICHIGAN***

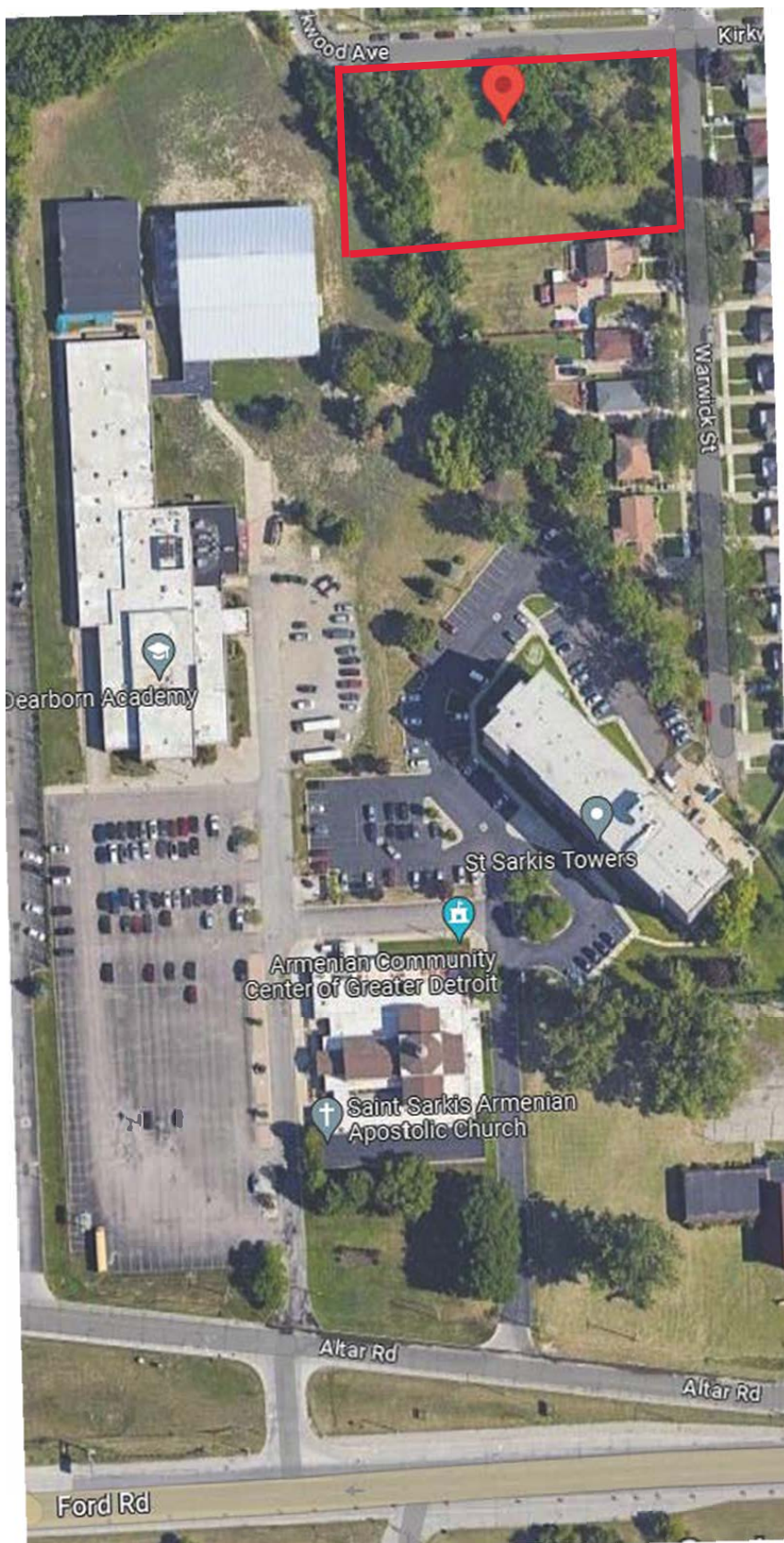
CLIENT: **ARMENIAN COMMUNITY CENTER**

<p><b>NOTE:</b> For drawing, design, concepts, ideas, and specifications, see property of LAWRENCE, INC., immediately upon request. They are not to be used for any other project or construction of that specific project on the same or other property of LAWRENCE, INC. without the written consent of LAWRENCE, INC.</p>			
DATE	ISSUE / REVISIONS	REMARKS	BIDS / PERMIT
5/1/2019			

**Landwise<sup>Inc.</sup>**  
Civil Engineers • Land Surveyors

P.O. Box 1952, Dearborn, MI 48121  
Tel: 248-257-5700, Fax: 248-257-5555  
email: [info@landwiseinc.com](mailto:info@landwiseinc.com)





Schedule 6-4

The Dearborn Academy

**QUIT CLAIM DEED**

The Detroit Land Bank Authority a Michigan public body corporate whose address is 500 Griswold, Suite 1200, Detroit, Michigan, 48226 ("DLBA"), quit claims to The Dearborn Academy, a Michigan nonprofit corporation whose address is 19310 Ford Rd, Dearborn, Michigan 48128 ("Grantee"), the following premises in the City of Detroit, Wayne County, Michigan:

W WARWICK LOT 36 FLORIAN TAUBITZ SUB L67 P69 PLATS, W C R 22/699 75 IRREG  
Parcel ID: 22086814.

Commonly known as 5815 Warwick, Detroit, Michigan

together with all and singular the tenements, hereditaments, fixtures, and appurtenances of that property, for the full consideration of Seventeen Thousand Five Hundred Dollars and No Cents (\$17,500.00). This conveyance is exempt from taxes pursuant to MSA 7.456(5)(h)(i); MCL 207.505(h)(i), MSA 7.456(26)(h)(i); MCL 207.526(h)(i).

**Notice of Deed Restriction**


This property is conveyed pursuant to a Purchase & Development Agreement between DLBA and Grantee (the "Agreement") and on the express condition that Grantee fulfill all the terms and conditions applicable to Grantee set forth in the Agreement. If Grantee fails to fulfill all the terms of the Agreement applicable to Grantee, DLBA will have the right to reconvey the property back to its ownership which will be evidenced by the recording of a deed to that effect. Upon Grantee fulfilling all the terms and conditions applicable to Grantee set forth in the Agreement, DLBA will record a release of interest (a "Release of Interest").

Until a Release of Interest is recorded, Grantee is restricted from transferring or encumbering this property without the prior written consent of DLBA. If, prior to a Release of Interest being recorded, Grantee transfers or encumbers this property without the prior written consent of DLBA, DLBA will have the right to reconvey the property back to its ownership by the recording of a reconveyance deed.

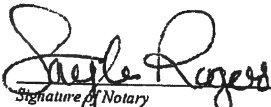
**DETROIT LAND BANK AUTHORITY**

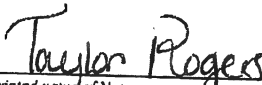
Dated: May 17, 2023

STATE OF MICHIGAN )  
COUNTY OF Wayne ) ss

  
Jeanne Hanna  
Director, Real Estate, Sales and Marketing

This document was acknowledged, subscribed and sworn before me this 17 day of May, 2023, by Jeanne Hanna, Director, Real Estate, Sales and Marketing, Detroit Land Bank Authority.

  
Signature of Notary

  
Printed name of Notary

Notary Public, State of Michigan, County of: Wayne; Acting in the County of: Wayne

My commission expires: 06/05/2025







## LEASE AGREEMENT

This LEASE AGREEMENT (this "Lease") is made this 26th day of April, 2018 (the "Execution Date") to be effective as of July 1, 2017 (the "Effective Date") between **The Armenian Community Center of Greater Detroit**, a Michigan nonprofit corporation ("Landlord"), having an address of 19300 Ford Road, Dearborn, Michigan 48128 and **The Dearborn Academy**, a Michigan nonprofit corporation and public school academy ("Tenant"), having an address of 19310 Ford Road, Dearborn, Michigan 48128.

### RECITALS:

A. Landlord is the owner of a certain parcel of land located in the City of Dearborn, Wayne County, Michigan, described on Exhibit A attached hereto (the "Land"), and the improvements ("Improvements"), including a "Building", which presently contains 35,407 rentable square feet ("RSF") of space, situated thereon and is party to that certain Reciprocal Easement Agreement recorded September 29, 1976 in the records of the Wayne County Register of Deeds at liber 19528, page 584 ("Easement") providing ingress and egress to the Land. The Land, Improvements and rights of the Landlord under the Easement are collectively referred to herein as the "Premises".

B. Landlord and Tenant are party to that certain Lease Agreement dated October 1, 2012 (the "Prior Lease") pursuant to which Tenant leased from Landlord the Premises.

C. The initial term of the Prior Lease expired on June 30, 2017 and Landlord and Tenant are entering into this Lease to set forth revised terms under which Tenant shall continue to lease the Premises from Landlord as of the Effective Date.

### AGREEMENT:

In consideration of the facts set forth in the Recitals above and the mutual promises contained herein, Landlord and Tenant agree as follows:

1. **Lease of Premises.** Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, upon the terms and conditions set forth herein.

2. **Term.**

(a) The initial term of this Lease (the "Term") shall be deemed to have commenced on the Effective Date and expire on June 30, 2024 (the "Expiration Date"), unless earlier terminated or extended as provided herein.

(b) Tenant is a party to a Charter School Contract with Central Michigan University ("CMU") for the operation of a school in the Premises (the "Charter Contract"). If for any reason whatsoever the Charter Contract is terminated (other than voluntary termination by the Tenant), or is not renewed or extended, prior to the

expiration of the Term hereof, then this Lease shall terminate simultaneously with such termination, non-renewal or non-extension, as the case may be, and neither party shall have any right or cause of action against the other by reason of such termination. Notwithstanding the foregoing, in the event of a termination of the Charter Contract for reasons other than cause or voluntary termination by the Tenant occurs at the end of the then-current school year, Tenant shall be permitted to attempt to secure another charter for a limited period of time, not to exceed the summer vacation period ending on the following August 31, which charter will permit Tenant to operate a charter school in the same manner as chartered under the Charter Contract. In the event Tenant should procure such a replacement charter timely, enabling it to continue full operations at the beginning of the following school year, this Lease shall be automatically revived and reinstituted.

(c) Provided there is no default continuing by Tenant hereunder, Tenant shall have five (5) successive options to extend the term of this Lease for an additional five (5) years each from and after the expiration of the original term or the then current extension term, as applicable. Tenant shall exercise each option by giving Landlord written notice of the intention to extend, no later than three (3) months prior to the expiration of the original term or the current extension term, as applicable. The terms and conditions of any extension term shall be the same terms and conditions of the original term of this Lease provided, however, that the Annual Base Rent (as defined below) payable for any extension term shall be 107% of the Annual Base Rent payable for expiring term.

(d) In the event that Tenant is required (i) to close an Academy site pursuant to a notice issued by the State School Reform/Redesign Officer 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 Section 10.4 of the Contract Terms and Conditions, and such closure of an Academy site or reconstitution causes an amendment to or termination of this Lease Agreement, the parties agree that this Lease Agreement shall be amended or terminated to implement the Academy site closure or reconstitution, with no cost or penalty to the Tenant, and the Landlord shall have no recourse against the Tenant or the CMU Board for implementing such site closure or reconstitution.

### **3. Rent.**

(a) **Base Rent.** During the initial Term of this Lease, Tenant agrees to pay to Landlord base rent ("Base Rent") for each year of the Term equal to \$13.75 per Rentable Square Foot; provided, however, that so long as Landlord timely completes and delivers possession of the Landlord's Addition to the Tenant in accordance with Section 25 of this Lease and except as set forth in Section 25(h), beginning on the first day of the calendar month following the Delivery Date, but in no event earlier than May 1, 2019, the Base Rent payable annually for each remaining year of the initial Term shall increase to \$14.75 per Rentable Square Foot (which amount shall be prorated for any partial year). The annual amount of Base Rent for each year of the Term of this Lease shall be payable in equal monthly installments which shall be paid in advance on the first day of each month, provided, however that any such installment due prior to the Execution Date shall

be due on the date which is three (3) business days following the Execution Date and Tenant shall be credited any amount of Base Rent already paid to Landlord under the Prior Lease for any period after the Effective Date.

(b) Additional Rent. The Base Rent shall be net to Landlord of all expenses related to the use, operation, maintenance and repair of the Premises, including doors, windows, glass and Impositions (hereafter defined) (the "Expenses") except as otherwise expressly provided for in this Lease. All other Expense payments due from Tenant to Landlord, or to third persons, under this Lease shall be deemed Additional Rent. Tenant shall pay as Additional Rent to Landlord, or at Landlord's request to the appropriate person, all Expenses, including insurance as required under this Lease. In addition, Tenant shall be liable for any and all costs and expenses incurred by the Landlord which are the result of the acts or omissions of Tenant or any of its employees, agents, or invitees.

(c) Rent. Without limiting the foregoing, the term "Rent" shall mean all amounts payable under this Lease including Base Rent and Additional Rent. Base Rent and Additional Rent payable to Landlord shall be payable by Tenant monthly, without previous demand therefor and without deduction, setoff, adjustment or abatement of any nature. If the Term ends on a date which is other than the first or last day of a calendar month, respectively, then Base Rent and Additional Rent for such partial month shall be prorated based on the number of days of such month included within the Term. All amounts due from Tenant hereunder shall be paid in lawful money of the United States to Landlord at its address set forth on the first page hereof, or to such other person or at such other place as Landlord from time to time may designate. Base Rent and all other sums due and payable by Tenant hereunder shall bear interest at an annual rate equal to seven per cent (7%) per annum from the due date while the same remain unpaid if the same are not paid within fifteen (15) days after the due date, and such interest shall be deemed Additional Rent.

#### **4. Use of the Premises.**

(a) Tenant shall have the right to use the Premises only for operation of a public school academy and associated activities customary and incidental thereto (an "Permitted Use").

(b) In the event no actual use is made of the Premises for a period of nine (9) consecutive months, other than to diligently prosecute restoration or replacement of the Improvements by reason of casualty, Landlord may terminate this Lease by written notice to Tenant.

**5. Governmental Approvals and Compliance with Law.**

(a) During the Term, Tenant at all times shall comply with conditions and requirements of permits and approvals for such occupancy and operation.

(b) Except as otherwise provided in this Lease, Tenant covenants and agrees that during the Term, Tenant shall promptly comply with all laws, ordinances, orders, rules, regulations and requirements of the federal, state, county, city and municipal governments or any of their departments, bureaus, boards, commissions and officials thereof and fire insurance regulations with respect to the Premises, or the use or occupancy thereof, whether said compliance shall be ordered or directed to or against Landlord or Tenant or both. Upon written request by Tenant, Landlord shall provide reasonable cooperation, at Tenant's cost, in Tenant's compliance with the foregoing obligations under this Section 5.

(c) Tenant shall have the right during the Term, at its sole cost and expense, after prior notice to Landlord, to contest by appropriate legal proceedings which shall be conducted diligently and in good faith in the name of Landlord or Tenant or both and without cost or expense to Landlord, the validity or applicability of any law, ordinance, order, rule or regulation of the nature herein above referred to in this Section 5, and Tenant shall have the right to delay observance thereof and compliance therewith until such contest is finally determined and is no longer subject to appeal, provided that observance and compliance therewith pending the prosecution of such proceeding may be legally delayed without subjecting Landlord to any civil or criminal liability or fine. Landlord agrees timely to execute and deliver any appropriate documents or other instruments which may be necessary or proper to permit Tenant to so contest the validity or application of any such law, ordinance, order, rule, or regulation and to cooperate reasonably with Tenant in such contest.

**6. Alterations.**

(a) Alterations by Tenant. Tenant shall make no changes, alterations, additions or improvements in or to the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, provided Tenant provides Landlord with proposed plans, specifications and construction contracts for review and approval. Notwithstanding the foregoing, Tenant will be able to undertake any nonstructural alterations, including but not limited to exterior signage and interior improvements necessary for Tenant's occupancy of the Premises, without Landlord's consent. If Tenant does not choose to remove and restore alterations at end of lease term, then Tenant must have Landlord's consent in writing. Notwithstanding anything to the contrary, Tenant shall not remove, alter or cover the monument stone set into the façade of the building and engraved with the Armenian Revolutionary Federation seal.

(b) Tenant shall, before making any changes, alterations, additions, installations or improvements, at its sole expense, obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies and (upon



completion) certificates of final approval thereof and shall deliver promptly duplicates of all such permits, approvals and certificates to Landlord upon request. Tenant hereby agrees to carry and will cause Tenant's contractors and sub-contractors to carry such workman's compensation, general liability, personal and property damage insurance as Landlord may reasonably require. Unless otherwise agreed in writing, all such changes, alterations, additions, or improvements, when made, installed in or attached to the Premises, shall belong to and become the property of Landlord and shall be surrendered with the Premises and as part thereof upon the expiration or sooner termination of this Lease.

## **7. Impositions.**

(a) Tenant shall pay all taxes and special assessments assessed against the Premises during the Term, including, but not limited to, ad valorem taxes, personal property taxes, school taxes, and special improvement district levies, and all water charges and other governmental impositions (collectively, the "Impositions") affecting or pertaining to the Premises. Impositions that may be permitted by law to be paid in installments may be paid in installments as and when such installments become due. Tenant shall pay such Impositions prior to the date upon which a penalty for non-payment or late payment of the Impositions may be assessed (the "penalty date"). In the event Tenant does not pay such Impositions when due under this Lease and provide evidence of payment prior to the penalty date, Landlord, after giving three (3) days notice to Tenant, may pay them and any interest and penalties due thereon and charge such payment to Tenant as additional rent. Notwithstanding anything to the contrary, specifically excluded from Impositions are any taxes assessed against the Premises due to a failure of Landlord to maintain its status as a "nonprofit charitable institution" for which an exemption from real property taxes is available under the provisions of the Michigan General Property Tax Act, Michigan Compiled Laws Sections 211.1 et. seq.

(b) Tenant shall have the right during the Term, at its sole cost and expense, after giving notice to Landlord prior to an applicable penalty date to contest by appropriate legal proceedings which shall be conducted diligently and in good faith in the name of Landlord or Tenant, or both, and without cost or expense to Landlord, the validity or amount of any Imposition, in which event Tenant may defer the payment thereof until such contest is finally determined and is no longer subject to appeal, provided that the delay of making such payment will not subject Landlord to any civil or criminal liability or fine. Landlord agrees timely to execute and deliver any appropriate documents or other instruments which may be necessary or proper to permit Tenant to so contest the validity or amount of such Imposition.

(c) Landlord agrees to cooperate in reasonable and lawful ways with efforts by Tenant, undertaken at Tenant's sole cost and expense, to seek and obtain exemption from ad valorem taxes upon the Premises, but no such efforts shall have or be likely to have any adverse impact on the tax exempt status of the Landlord's other property or of the Landlord's business.

## **8. Utilities and Operating Expenses.**

(a) Tenant shall pay when due all charges for electricity, gas, telecommunication, cable, landscaping, day-to-day parking lot maintenance such as sweeping and cleaning, snow removal, and other services provided to the Premises during the Term, and all operating expenses of or concerning the operation of the Premises or for carrying out the obligations of Tenant under this Lease. If Tenant fails to pay any such charges and expenses when due, Landlord may make payment of such charges and expenses, at its sole option, and charge Tenant therefor as additional rent.

(b) Tenant shall have the right to use the utility services which presently exist on the Premises. Landlord shall not be required to furnish any service to the Premises, including but not limited to heat, water, and power. The Landlord shall not be liable for any failure of water supply or electric current or any service by any utility, for injury to persons, including death, or damage to property resulting from steam, gas, electricity, water, rain or snow which may flow or leak from any part of the Premises or from any pipes, appliances or plumbing works from the street or subsurface or from any other place, or for interference with light or other easements, however caused, except if due to the affirmative negligence of the Landlord.

(c) If the existing services are required to be modified or replaced for any reason by any utility company or authorized agency, governmental or otherwise, then Tenant shall comply with the same at its own cost and shall save Landlord harmless therefrom.

(d) Except as otherwise expressly provided in this Lease, Landlord shall have no obligation to provide any services to Tenant with respect to the Premises.

#### **9. Condition of Premises; Care of Premises; Landlord**

(a) Tenant has occupied the majority of the Premises under prior lease arrangements with the Landlord since 1997 and is therefore fully familiar with the condition of the Premises. Accordingly, except as provided elsewhere in this Lease, including without limitation Landlord's obligation to complete the Landlord Improvements in accordance with Section 29, Tenant accepts the Premises in its "as is" condition and with all faults, and the Premises are deemed in good order, condition, and repair.

(b) Tenant will keep the Premises in good condition and repair, and will yield and deliver up the same at the expiration of the Term in as good a condition as when taken, reasonable use and wear thereof excepted. Tenant shall also maintain all portions of the Premises in a clean and orderly condition, free of dirt, rubbish, snow, ice, and unlawful obstructions. All repairs, alterations, changes, or improvements shall be completed and maintained in good workmanlike condition, free and clear of all liens and encumbrances arising out of such work.

(c) Tenant shall not commit any waste, damage, or injury of or to the Premises or the fixtures or any part thereof and shall take all reasonable precautions and actions to prevent others from doing so.

(d) Landlord, at its sole cost and expense, shall repair and maintain the foundation, roof, exterior load-bearing walls of Premises and the paving and marking of the parking lot serving the Premises during the Term of this Lease. Landlord, at its sole cost and expense, shall be responsible for any repair or replacement of the HVAC system or any portion thereof (i) if such repair or replacement was not made as part of the Landlord Improvements, (ii) the cost of which would exceed \$5,000 for any single item during the initial Term, or (iii) the cost of which would exceed \$15,000 for any single item during any extension Term. Notwithstanding the foregoing, Landlord shall have no duty to repair, maintain or replace any capital improvement installed by Tenant, except for replacement of HVAC equipment installed by Tenant under this Lease or any prior lease with Landlord.

(e) Landlord shall have the right to enter upon the Premises for the purpose of making any repairs thereto and performing any work thereon which are the responsibility of the Landlord or may be necessary by reason of Tenant's failure to make any such repairs or perform any such maintenance work as provided herein. Except in case of emergency, the privilege and right of entry shall be exercised at reasonable times and at reasonable hours. Tenant shall pay the cost of any such repairs and maintenance work to Landlord, upon demand therefore and upon submission of satisfactory evidence of Landlord's payment of such costs which sums shall be deemed additional rent hereunder.

#### 10. **Insurance.**

(a) Tenant will provide and keep in force during the Term the following insurance coverages:

(i) Commercial general liability insurance insuring Tenant's use and occupancy of the Premises, and covering personal and bodily injury, death, and damage to others' property of not less than One Million Dollars (\$1,000,000) for any one occurrence and Two Million Dollars (\$2,000,000) in aggregate and an excess/umbrella liability coverage in an amount not less than Two Million Dollars (\$2,000,000) or such higher amounts of coverage as may be required from time to time under the Charter Contract. Such policy or policies shall include cross liability and severability of interests clauses, and be written on an occurrence, and not claims-made, basis. Each of these policies shall name Landlord, each secured lender, and any other party reasonably designated by Landlord as an additional insured ("Additional Insured"). Commercial general liability insurance, if any, carried by Landlord or other Additional Insureds shall be non-contributing and Tenant's commercial general liability insurance shall be primary to any such insurance carried by Landlord or other Additional Insureds.

(ii) All risk insurance (including standard extended coverage endorsement perils including vandalism, leakage from fire protective devices, and other water damage) covering the full replacement cost (no co-insurance) of the Premises and all improvements that are a part of them, and Tenant's personal property. Each of these policies shall name Landlord and each Additional Insured as loss payee to the extent of their interest in the Premises. Such policy or policies shall include a provision or

endorsement in which the insurer waives its right of subrogation against Landlord and each Additional Insured.

(b) Such insurance shall be carried by an insurance company or companies licensed to do business in Michigan, have a rating of not less than A+ and a Financial Class Size of not less than VIII by A.M. Best Company, and be on terms approved by Landlord. Duplicate original copies of said policies shall be delivered to Landlord. Notwithstanding the foregoing, in no event shall the manner, forms, companies, amounts, or length of terms be less than that required by a first mortgagee according to the terms and provisions of said first mortgage.

(c) Each such policy shall include: (i) a provision that the policy shall not be changed or canceled without at least thirty (30) days' prior written notice to the Landlord and any Additional Insureds; and (ii) a provision that any forfeiture of the policy due to an act of the Tenant shall not affect the validity insofar as the Landlord is concerned.

(d) If Tenant shall refuse or fail to so insure and keep insured said buildings, structures and improvements and all other property leased hereunder and to keep such policies in Landlord's possession, Landlord may at its election procure and from time to time renew such insurance, and the amounts expended therefore shall be additional rent due from Tenant with the next installment of Rent accruing hereunder.

(e) Landlord and Tenant mutually waive their rights of subrogation and recovery against each other, their agents, employees, and contractors to the extent they are insured or required to carry insurance for such loss.

**11. Indemnification.** Subject to Section 10(e),

(a) Indemnification by Tenant. Tenant shall, to the extent permitted by law, pay, protect, indemnify and save harmless Landlord from and against all liabilities, damages, costs, expenses (including reasonable attorneys' fees and disbursements), causes of action, suits, claims, demands or judgments of any nature whatsoever which may be imposed upon or incurred by or asserted against Landlord by reason of (a) any acts or omissions by Tenant or its agents, invitees, licensees, contractors or employees arising out of Tenant's occupancy of the Premises, (b) any failure by Tenant to perform or comply with any of the terms of this Lease, or of any contracts, agreements, restrictions or applicable laws affecting the Premises or any part thereof, or (c) a breach of any representation or warranty of Tenant hereunder.

(b) Indemnification by Landlord. Landlord shall pay, protect, indemnify and save harmless Tenant from and against all liabilities, damages, costs, expenses (including reasonable attorneys' fees and disbursements), causes of action, suits, claims, demands or judgments of any nature whatsoever which may be imposed upon or incurred by or asserted against Tenant by reason of (a) any failure by Landlord to perform or comply with any of the terms of this Lease, or (b) a breach of any representation or warranty of Landlord hereunder.

(c) Survival of Indemnity. The indemnity obligations contained in this Section 11 shall survive the expiration or earlier termination of this Lease.

## **12. Restoration and Repair.**

(a) In case of any damage to or destruction of the Premises or any part thereof (a "loss"), Tenant shall give immediate written notice thereof to Landlord. Landlord and Tenant, may, by written notice to the other, terminate this Lease if: (i) the cost to repair such damage or destruction exceeds available insurance proceeds or will take more than one hundred and twenty (120) days or more to restore the Premises to habitability, or (ii) the loss occurs in the last six (6) weeks of the Term of this Lease, or (iii) the time to repair or replace such damage or destruction will take longer than the remaining balance of the then Term of this Lease, or (iv) the loss is uninsured (provided that if uninsured due to a default of Tenant, the termination of the Lease shall be solely at Landlord's option). If this Lease is not terminated as provided in the preceding sentence, then Landlord shall, to the extent proceeds of insurance for such loss are made available to Landlord, repair, restore, or rebuild the Premises or the part thereof so damaged, as nearly as possible to the value, condition and character the same was in immediately prior to such loss (such repair, restoration, rebuilding, together with any temporary repairs and property protecting pending completion of the work being herein called "restoration"), subject, to all applicable laws and approvals pertaining to the construction, restoration, use and operation of schools then pertaining to the restoration.

(b) Rent payable hereunder shall be abated for the period from the date of such damage to the date when the damage shall have been repaired.

(c) Sums to be paid under any insurance policy provided for in Section 10(a) shall be paid over to the Landlord, provided, however, that Tenant shall be entitled to receive from such sums compensation for its fixtures and personal property and any Tenant funded capital improvement to the extent covered under such insurance policy. If Landlord has not elected to terminate this Lease pursuant to Section 12(a) and there is no default by Tenant hereunder at the time of the loss, such sum shall be applied for the payment of the cost of restoration on such conditions for advance as are customary for commercial real estate construction loans unless such sums must be paid to Landlord's mortgagee, to be applied in accordance with the terms of Landlord's mortgage; but if Tenant is in default at the time of the loss, the Landlord's mortgagee may, at its option, apply such sums to the payment of the debt secured by the first mortgage.

## **13. Eminent Domain.**

(a) If all or any part of the Premises shall be taken by any governmental authority under power of eminent domain, or by private purchase in lieu thereof, all damages awarded for such taking shall belong to and be the property of the Landlord, whether such damages shall be awarded as compensation for the taking of or diminution in value to the leasehold or the fee of the Premises and Tenant hereby irrevocably assigns to Landlord any award or payment to which Tenant may become entitled as a result thereof, provided, however, that the Tenant shall be entitled to receive from such

governmental authority compensation for its fixtures and personal property and any Tenant funded capital improvement so taken.

(b) In the event that only a part of the Premises are so taken, and the part not so taken cannot be completed as an architectural unit for the use described in Section 4, either Landlord or Tenant shall have the option to terminate this Lease by giving written notice of termination to Landlord within sixty (60) days after the taking.

(c) If only a part of the Premises shall be so taken such that the part not so taken can be completed as an architectural unit for the use described in Section 4, the taking shall be considered as the occurrence of a "loss" and governed by Section 12.

#### **14. Assignment; Permitted Lease.**

(a) Tenant shall not assign, transfer, or sublet the Premises or any part thereof or any interest in this Lease without first obtaining the written consent of the Landlord, which consent shall not be unreasonably withheld; provided, however, that Tenant shall be permitted to rent portions of the Premises to other community organizations for use to hold events and such rentals shall not require the consent of Landlord so long as they are for periods of less than 24 hours and such events do not interfere with services and other activities being conducted at St. Sarkis Armenian Apostolic Church adjacent to the Premises. Landlord shall provide to Tenant, and Tenant shall provide to Landlord, a list of known scheduled events and provide updates to such lists on a regular basis.

(b) Notwithstanding the foregoing, Tenant may sublease the Premises for the Permitted Use, subject to the conditions provided in Section 4 of this Lease (a "Permitted Lease") without Landlord's consent. Any Permitted Lease shall be subject to the terms of this Lease.

#### **15. Default; Remedies.**

(a) Tenant shall be in default upon occurrence of any of the following events:

(i) Failure by Tenant to pay Rent within five (5) business days from the day it becomes due and payable; provided, however that Landlord shall not be required to provide notice to Tenant if a previous notice of failure to pay Rent has previously been issued within the preceding five (5) calendar years.

(ii) Failure by Tenant to perform or observe any other of the terms, conditions or covenants of this Lease to be observed or performed by Tenant for more than thirty (30) days after written notice of such default shall have been received by Tenant; provided, however, if the default alleged is of such a nature that it will reasonably require more than thirty (30) days to cure, then Tenant shall have that period of time reasonably necessary to cure the same.

(iii) Tenant's becoming insolvent, as that term is defined by any federal or state law or regulation (the "Insolvency Laws"); the appointment of a receiver or

custodian for all or a substantial portion of Tenant's property or assets; the institution of a foreclosure action upon all or a substantial portion of Tenant's real or personal property; the filing of a voluntary petition under the provisions of the Bankruptcy Code or Insolvency Laws; the filing of an involuntary petition against Tenant as the subject debtor under the Bankruptcy Code or Insolvency Laws, which is either not dismissed within sixty (60) days of filing, or results in the issuance of an order for relief against the debtor, whichever is later; or Tenant's making or consenting to an assignment for the benefit of creditors or a common law composition of creditors, or if the Tenant's leasehold interest herein shall be levied on execution (collectively an "Event of Bankruptcy").

(b) In the event of default, Landlord may in addition to any other remedy, re-enter into and repossess the Premises and all other property leased hereunder and remove the Tenant and every other occupant, and may relet the Premises or any part thereof for any term, either shorter, longer, or the same, at a higher, lower, or the same Rent, making such alterations as may be necessary, without working a termination of this Lease, provided, however, that Landlord at its option may in any of such events, terminate this Lease effective on the date specified in written notice from Landlord to Tenant.

(c) If the Landlord shall, on any such default by the Tenant, obtain possession of the Premises by re-entry, summary proceedings, or otherwise, the Tenant shall pay to Landlord all expenses incurred in obtaining possession of the Premises, all expenses and commissions which may be paid in and about the letting of the same, and all other damages resulting from Tenant's default.

(d) No termination of this Lease pursuant to this section or repossession of the Premises or any part thereof or of any other property leased hereunder shall relieve Tenant of its liabilities and obligations under this Lease, all of which shall survive any such termination or repossession and, if the Premises or any part thereof shall not have been relet, Tenant shall pay to Landlord as and for liquidated and agreed current damages the then present value of the Rent and other sums and charges to be paid by Tenant until what would have been the end of the Term in the absence of such termination or repossession. If the Premises shall have been relet, Tenant shall pay the Landlord, as and for liquidated and agreed current damages for Tenant's default, the present value of the equivalent of the amount of the Rent and such other sums and other charges as would be payable under this Lease by Tenant if this Lease were still in effect, less the present value of the net proceeds, if any, of the reletting effected pursuant to the provisions hereof, after deducting all of Landlord's expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage and management commissions, operating expenses, legal expenses, reasonable attorneys' fees, alteration costs and expenses of preparation of such reletting. Exercise of any remedy hereunder by Landlord shall not exclude the right to exercise any other remedy hereunder.

(e) Remedies Not Exclusive; Waiver

(i) Each and every of the rights, remedies and benefits provided by this Lease are cumulative, and are not exclusive of any other of said rights, remedies and benefits, or of any other rights, remedies and benefits allowed by law.

(ii) One or more waivers of any covenant or condition by Landlord will not be construed as a waiver of a further or subsequent breach of the same covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval will not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by Tenant.

16. **Inspection.** Landlord shall have the right to enter upon the Premises after no less 24-hour notice during normal business hours of Tenant to inspect for compliance with the terms of this Lease. Tenant shall have the right to have an agent present while Landlord's representative is in the Improvements and Landlord's inspection activities shall be conducted in a manner that does not unreasonably interfere with Tenant's operation of the school.

17. **Environmental Matters.**

(a) Tenant shall not use or store any Hazardous Materials (as defined in Section 17(c)) on the Premises, except in compliance with Environmental Laws (as defined in Section 17(c)).

(b) Landlord represents that, as of the date of this Lease, its only knowledge with respect to the presence of Hazardous Materials on the Premises is based upon and limited to information contained in (i) that certain AHERA Asbestos Three-Year Re-Inspection dated June 7, 2011, and (ii) that certain AHERA Six-Month Periodic Surveillance dated December 9, 2011, each prepared by TEK Environmental & Consulting Services, Inc., copies of which have been provided to Tenant (the "Environmental Reports"). Landlord makes no warranties or representations of any nature whatsoever regarding the accuracy or applicability of the Environmental Reports themselves or any work, services, and testing or analysis described in the Environmental Reports.

(c) For purposes of this Lease, Environmental Laws shall mean all federal, state and local health, safety and environmental laws, including, but not limited to, Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) ("Clean Water Act"), the Resource Conservation & Recovery Act (42 U.S.C. §§ 6901 et seq.) ("RCRA"), Safe Drinking Water Act (42 U.S.C. §§ 300f-j-26), Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) ("CERCLA"), the Emergency Planning and Community Right to Know Act (42 U.S.C. §§ 11001 et seq.) ("EPCRA"), the Occupational Health and Safety Act of 1970 (42 U.S.C. §§ 651 et seq.) ("OSHA"), the Michigan Natural Resources and Environmental Protection Act (MCL § 324.101 et seq.), the Michigan Occupational Health and Safety Act ("MIOSHA") (MCL § 408.1001 et seq.), the administrative rules and regulations



promulgated under such statutes, or any other similar federal, state or local law or administrative rule or regulation of similar effect.

(d) For purposes of this Lease, “Hazardous Materials” shall mean (i) any hazardous or regulated substance as defined by Environmental Laws (ii) any other pollutant, contaminant, hazardous substance, solid waste, hazardous material, radioactive substance, toxic substance, noxious substance, hazardous waste, particulate matter, airborne or otherwise, chemical waste, medical waste, crude oil or any fraction thereof, radioactive waste, petroleum or petroleum-derived substance or waste, asbestos, PCBs, radon gas, all forms of natural gas, or any hazardous or toxic constituent of any of the foregoing, whether such substance is in liquid, solid or gaseous form, or (iii) any such substance the release, discharge or spill of which requires activity to achieve compliance with Environmental Laws.

(e) To the extent related to the conduct of Tenant, Tenant’s use of the Premises, or the operation of its business thereon, Tenant shall, to the extent permitted by law, defend, indemnify and hold harmless Landlord, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (1) the presence, disposal or release of any Hazardous Materials on, over, under, from or affecting the Premises or the soil, water, vegetation, buildings, personal property, persons or animals on the Premises; (2) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials existing on the Premises; (3) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials existing on the Premises; and/or (4) any violation of laws, orders, regulations, requirements or demands of government authorities which are based upon or in any way related to such Hazardous Materials existing on the Premises including, without limitation, reasonable attorney’s and consultant’s fees, investigation and laboratory fees, court costs and litigation expenses.

(f) Tenant shall promptly notify Landlord as soon as it knows of or suspects that any Hazardous Material has been released or that there is a threatened release on the Premises and it shall take such action at its sole expense and with due diligence, as is necessary to insure timely compliance with all Environmental Laws.

(g) The provisions of this Section 17 shall be in addition to any and all obligations and liabilities of Tenant and Landlord may have to each other at common law, and shall survive the expiration and termination of the Lease for any reason.

18. **Liens.** Tenant will not create nor permit to be created, or to remain and will promptly discharge, at its sole cost and expense, any lien, encumbrance or charge upon the Premises or any part thereof, except such as are created by Landlord, its contractor, or any mortgagee of Landlord, or their respective employees, officers, agents or subcontractors.

19. **Estoppel Certificate.** Landlord and Tenant shall execute and deliver to each other, within twenty (20) days of such time or times as either Landlord or Tenant may request, a certificate evidencing:

- (i) whether or not this Lease is in full force and effect;
- (ii) whether or not this Lease has been amended or modified in any respect, and submitting copies of such amendments or modifications, if any;
- (iii) whether or not there are any existing defaults hereunder to the knowledge of the party executing the certificate, and specifying the nature of such default, if any; and
- (iv) such other matters as may be reasonably requested by the other party.

Unless such estoppel certificates are required by third persons having a bona fide interest in the information to be furnished, such as the holder of a mortgage, insurers, bonding companies, accountants and auditors of the parties, and governmental authorities, a request for an estoppel certificate shall be made no more often than twice annually.

20. **Subordination.** Tenant agrees that Landlord may choose to make this Lease and any Lease subordinate or paramount to any mortgages, trust deeds and ground or underlying leases now or hereafter affecting the Premises and to any and all advances to be made thereunder or to be secured thereby, and to the interest and charges thereon, and all renewals, replacements and extensions thereof, provided the mortgagee, Landlord or trustee named in any such mortgages, trust deeds or leases agrees to recognize the Lease of Tenant in the event of foreclosure if Tenant is not in default. Tenant will execute promptly any instrument or certificate that Landlord may request to confirm such subordination, and hereby irrevocably appoints Landlord as Tenant's attorney-in-fact to execute such instrument or certificate on its behalf. Notwithstanding the foregoing, Tenant's right to possession of the Premises under this Lease shall not be disturbed by the mortgagee or other party unless Tenant breaches any of the provisions of this Lease and Tenant's right to possession is lawfully terminated.

21. **Notices.** All notices and communications required under this Lease shall be served personally or by registered or certified mail or by prepaid courier service or express mail service as long as in each case there is written evidence of the person to whom delivery was made and the date of delivery signed by the person delivering the notice, on the Landlord and on Tenant at the address indicated on page 1 hereof, or at such other address as may be designated in writing to the other party hereto by notice in accordance with this Section.

22. **Quiet Enjoyment.** Landlord covenants and agrees that Tenant may peaceably and quietly enjoy the use and occupancy of the Premises, subject, however, to

Tenant's fulfillment of the covenants and agreements contained in this Lease and to the rights of anyone claiming by or through Tenant.

**23. End of Term; Holding Over.**

(a) Upon the termination of this Lease, Tenant shall quit and surrender the Premises and all property leased hereunder, broom clean, to Landlord without delay and in good order, condition and repair, ordinary wear and tear excepted, free and clear of all lettings and occupancies, (except those previously approved by Landlord), and free and clear of all liens and encumbrances, except that part of the Premises which have been taken through eminent domain, if any, after the delivery hereof, without any payment therefor by Landlord. Any personal property owned by Tenant or other occupant of the property (except that of subtenants previously approved by Landlord), which shall remain on the Premises after the termination of this Lease, and the removal of Tenant or such other occupant from the Premises, may at the option of Landlord, be deemed to have been abandoned and may be disposed of without accountability, as Landlord may see fit, without prejudice to the rights of any such other occupant as against the Tenant.

(b) If Tenant remains in possession of the Premises after the expiration of this Lease, Tenant will be deemed to be occupying the Premises as a Tenant at will, subject to all the provisions of this Lease, including payment of Additional Rent, to the extent that they can be applicable to a tenancy at will. The Base Rent for each month or fraction thereof that Tenant remains in possession will be equal to one hundred fifty (150%) percent of the Base Rent otherwise payable hereunder in the immediately preceding Term.

**24. Waiver of right to trial by jury.** The parties hereto hereby agree to waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use of or occupancy of the Premises.

**25. Landlord's Addition.**

- (a) Landlord shall, at its sole cost and expense, procure the design for and construct an addition to the Building, the basic requirements of which are described in Exhibit B attached hereto (the "Preliminary Plans), to the extent not superseded by the Final Plans and Specifications described below, and the Final Plans and Specifications (the "Landlord's Addition").
- (b) Landlord and Tenant will work collaboratively to direct Landlord's architect to produce design drawings, working drawings and specifications with respect to the Landlord Addition ("Plans and Specifications") that reflect the improvements described in Exhibit B, as soon as reasonably possible after the Execution Date. Landlord will submit the Plans and Specifications to Tenant for its written approval. If Tenant does not approve the Plans and Specifications, Tenant shall provide to Landlord in writing reasonably detailed reasons for

refusing to approve to the Plans and Specifications. Landlord will cause its architect to make such changes to the Plans and Specifications reasonably requested by Tenant and submit those revised Plans and Specifications to Tenant for Tenant's approval. This approval process shall continue no more than three (3) times, provided the reasonably requested changes from Tenant have been addressed in the Plans and Specifications. Upon: (i) Tenant's approval of the Plans and Specifications; or, (ii) after three rounds of modifications to the Plans and Specifications following the above procedure, the Tenant approved Plans and Specifications or third set of modified Plans and Specifications, as the case may be, will constitute the "**Final Plans and Specifications.**" The parties will attach a list identifying the Final Plans and Specifications to each execution counterpart of this Agreement as **Exhibit C.**

- (c) Whenever Landlord requests that Tenant approve any item under this Section 25, including plans or other material prepared by Landlord, Tenant shall be deemed to have approved the applicable request unless Tenant delivers specific written objections to Landlord no later than 5:00 p.m. Eastern Time on the fifth (5<sup>th</sup>) business day after Tenant's receipt of Landlord's request.
- (d) Landlord shall engage a general contractor to perform the work to construct the Landlord's Addition together with necessary alterations to the existing Premises or equipment located therein or thereon, including any outdoor equipment currently in place at the Premises and use commercially reasonable efforts to Substantially Complete the Landlord's Addition no later than July 1, 2019 (the "Target Date of Substantial Completion") and in accordance with the Final Plans and Specifications, subject to extensions caused by Tenant Delays.
  - (i) Landlord shall, before beginning construction on the Landlord's Addition, obtain all permits, approvals and certificates required by any governing authority; provided, however, Tenant shall be solely responsible for obtaining any approvals necessary for the Landlord's Addition required from CMU. Upon Substantial Completion, Landlord will deliver copies of all such permits, approvals and certificates to Tenant.
  - (ii) Landlord agrees it will cause Landlord's general contractor and its sub-contractors to carry such workmen's compensation, general liability, personal and property damage insurance in commercially reasonable amounts naming Tenant as an Additional Insured and shall deliver copies of certificates of all such insurance to Landlord prior to commencing any work within the Premises.
  - (iii) Landlord agrees to conduct and will cause Landlord's contractors and sub-contractors to conduct the construction and associated work necessary for completion of the Landlord's Addition in a manner that does not unreasonably interfere with the ongoing operation of Tenant of its business at the Premises during construction and to take such precautions and steps as

may be necessary to maintain the Premises during such period in a manner which is safe for Tenant's students.

- (iv) Tenant agrees that neither it, nor its employees, agents or contactors, will unreasonably interfere with the Landlord's construction activities at the Premises and Tenant will take such precautions and steps as may be reasonably necessary to cordon-off those areas of the Premises upon which construction activities are taking place so as to prevent unauthorized access to such areas by Tenant's students, staff, employees and invitees.
- (e) Except as provided in (g), below with regard to changes required by municipal authorities, no material deviation from the Final Plans and Specifications shall be made by Landlord without Tenant's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed, although Tenant acknowledges and agrees that any requested changes by Tenant in accordance with (f) below will constitute a Tenant Delay.
- (f) Tenant may order changes in the Final Plans and Specifications consisting of additions, deletions or other revisions. Any revisions, deletions or additions to the Final Plans and Specifications requested by Tenant shall be at Tenant's sole cost and expense. In addition, Landlord shall notify Tenant of any changes to the Final Plans and Specifications required by any local governmental authority in order to obtain necessary approvals therefrom and/or the issuance of a building permit for the Landlord Addition, which are deemed permissible changes provided such changes do not materially alter the overall design concept of the Landlord Addition. Tenant requested additions, deletions or revisions shall be changed by Change Order (as defined below). The parties will authorize all Tenant requested changes by signing change orders (each a "Change Order") in the form of the American Institute of Architects Change Order Form and, upon the signing of a Change Order, Landlord shall prosecute the changes in accordance with the requirements of that Change Order. For the purposes of this Agreement, the term "Change Order Cost" means the net amount by which the estimated aggregate cost Landlord will incur in connection with the construction of the Landlord Addition will increase by reason of the implementation of a Change Order.
- (g) Before implementing any change to the design and construction of the Landlord Addition, whether requested by Tenant, Landlord or that a governmental authority requires to issue a permit, after approval of the Final Plans and Specifications, Landlord must submit to Tenant in the form of a proposed Change Order a statement of the Change Order Cost that will occur by virtue of that change and/or a statement of the terms and conditions under which Landlord will undertake to implement Tenant's requested change, including, without limitation, the effect that implementation of the change will have on the Target Date of Substantial Completion. Until Tenant signs proposed Change Order with respect to Tenant- requested changes, Landlord has no obligation to

proceed to implement the requested change. Each Change Order will become part of the Final Plans and Specifications. When a time delay is noted in a Change Order for a Tenant requested change, the Target Date for Substantial Completion shall be extended by the period of the delay.

- (h) The date upon which Landlord delivers possession of the Landlord Addition Substantially Complete to Tenant shall be hereinafter referred to as the “Delivery Date”; provided, however, if the Delivery Date has not occurred by August 1, 2019 then, notwithstanding anything to the contrary, so long as the Delivery Date has occurred prior to August 1, 2020, increased rent will commence July 1, 2020. As used herein, “Substantially Completed” or “Substantially Complete” or “Substantial Completion” shall be at such time as the following have occurred (with the actual date on which Substantial Completion occurs herein called the “Date of Substantial Completion”): (i) except for completion of punch list items as described below, Landlord shall have substantially completed construction of the Landlord Addition in accordance with the Final Plans and Specifications, and (ii) Landlord shall have delivered possession of the Landlord’s Addition to Tenant together with any necessary approvals and certificates required by any governing authority for Tenant’s occupancy of the Landlord’s Addition for the Permitted Use; provided, however, Tenant shall be solely responsible for obtaining any approvals necessary for the Landlord’s Addition required from CMU or the Michigan Department of Education.
- (i) Within five (5) business days after the date on which Landlord notifies Tenant in writing that Substantial Completion has occurred, the parties will conduct a joint “walk-through” of the Premises. Based on that walk-through and standard construction practices, Landlord will prepare a “punch list” setting forth the remaining construction deficiencies which shall be submitted to Tenant for Tenant’s approval. Tenant shall either approve such punch list, or submit proposed modifications for Landlord’s approval, and such punch list as finally modified by Tenant and Landlord shall constitute the “Punch List” for purposes of this Section 25. Landlord promptly shall commence the rectification of the deficiencies noted on the Punch List and shall diligently complete the work noted on the Punch List. Certain Punch List items may not be capable of completion due to conditions beyond Landlord’s control (such as landscaping in winter weather). Landlord shall rectify those remaining punch list items promptly after conditions permit rectification. Neither agreement upon nor completion of the Punch List shall be a prerequisite to the occurrence of Substantial Completion.
- (j) Notwithstanding anything to the contrary, in the event that, subject to any adjustment due to a Tenant Delay, Landlord does not (a) commence construction of the Landlord Addition prior to August 1, 2019, or (b) the Delivery Date has not occurred prior to August 1, 2020, then Tenant may, at its option, terminate this Lease at any time during the remaining initial term by

delivering written notice to Landlord not less than nine (9) months prior to the effective date of such termination.

- (k) As used herein, "Tenant Delay" shall mean a delay or delays in the Substantial Completion of Landlord's Addition or in the occurrence of any of the other conditions precedent to the Delivery Date, as a direct, indirect, partial or total result of Tenant's acts or omissions, as follows, which are not necessitated by any fault or neglect of Landlord or any of Landlord's employees, agents or contractors:
  - (i) Tenant's failure to comply with time deadlines;
  - (ii) Tenant's failure to timely approve any matter requiring Tenant's approval;
  - (iii) Any other act of Tenant or its agents, employees or contractors that interferes with Landlord's timely completion of the Landlord's Addition;
  - (iv) A breach by Tenant of any of the terms of this Lease;
  - (v) Tenant's requests for changes to the Final Plans and Specifications; or
  - (vi) Tenant's requests for materials, components, finishes or improvements which are different from, or not included, in the Final Plans and Specifications, including, but not limited to, long-lead items requested by Tenant.
- (l) During any Tenant Delay caused by Tenant's default of the terms and conditions of this Lease, the Landlord may suspend construction.

26. **Right of First Refusal.** Provided there is not then an event of default by Tenant under the terms and conditions of this Lease, in the event that, at any time during the term hereof (as may be extended), Landlord shall decide to sell the Premises, Landlord shall first offer the Premises to Tenant at the same price and on such other terms and conditions as Landlord will offer on the open market or to any other buyer (the "Offer"). Landlord shall notify Tenant of its intention to sell the Premises and of the purchase price and other terms and conditions of sale by written notice. Tenant shall have a period of fifteen (15) days from the date of delivery of the Offer to Tenant to accept the Offer, time being of the essence. If Tenant rejects the Offer, or does not reply in writing by notice within said fifteen (15) day period, Landlord may then offer the Premises for sale on the open market or to any willing buyer at the same or a higher price and under the same terms and conditions as were offered to Tenant without further obligation to Tenant. If Landlord shall decide to sell at a lower price or on materially different terms and conditions, Landlord shall give Tenant written notice of its intention to do so setting forth the price and the revised terms and conditions (the "Revised Offer"). Tenant shall have seven (7) business days from the delivery of said Revised Offer to accept the Revised Offer, time being of the essence. If Tenant does not accept

the Revised Offer within the said seven (7) business day period, Landlord shall then have the right to sell to another buyer upon the terms set forth in the Revised Offer without further obligation to Tenant. If the Premises is taken off the market and re-offered for sale at a later date, but during the term hereof (as may be extended), all the above procedures shall be followed at the time of said reoffering for sale.

26. **No Broker.** Landlord and Tenant hereby represent and warrant that they have not dealt with any consultants, brokers, agents, finders or similar parties in connection with this transaction. To the extent permitted by law, Landlord and Tenant shall defend, indemnify, and hold one another and their respective affiliates harmless from and against any costs, claims, liabilities, or expenses, including reasonable attorneys' fees and costs, arising out of any breach of the foregoing representation and warranty. The representations and indemnification obligations under this Section 26 will survive the termination of this Lease.

27. **Tenant's Right to Perform.** In the event that Landlord fails to perform any of its duties under the Lease following thirty (30) days written notice of such failure, Tenant shall have the option of performing such duties and receiving a credit against the next succeeding installment(s) of Rent for any costs and expenses reasonably incurred by Tenant for such performance.

28. **Landlord Use.** The Landlord shall have the right, at its sole cost and expense, to fly the American and Armenian flags on the flagpoles located at the front of the premises during the term of this Lease.

The Tenant shall make available to the Landlord for the Landlord's use the gymnasium that is to be a part of the Landlord's addition upon the reasonable prior written request of the Landlord and provided the gymnasium is not being used by the Tenant, and provided, however, that such use by Landlord shall not unreasonably interfere with Tenant's business operations at the Premises. Landlord shall indemnify, hold harmless and defend Tenant against any and all claims, expenses or costs arising out of Landlord's use of the gymnasium. At the conclusion of each such use of the gymnasium, Landlord shall, at its sole expense, return the gymnasium to the condition it was in immediately prior to such use.

29. **Landlord Repairs.**

(a) As soon as reasonably practical following the Execution Date, Landlord shall at its sole cost and expense, commence to perform the following work (collectively, the Landlord's Improvements"):

(i) make necessary repairs or replacements to the existing HVAC system and potable water heating units servicing the Premises as may be required to provide the equivalent functionality and efficiency of a nearly new HVAC system.



(ii) promptly following the Date of Substantial Completion of the Landlord's Addition, resurface and restripe the parking lot serving the Premises (which may not include complete replacement of the parking surface down to the aggregate base); provided, however, prior to Substantial Completion of the Landlord's Addition, Landlord shall, as soon as reasonably practical following Landlord's becoming aware of the existence thereof, repair any potholes in the parking lot as weather conditions reasonably permit.

(b) Landlord shall, before beginning construction on the Landlord Improvements, at its expense, obtain all permits, approvals and certificates required by any governing authority and, upon completion, certificates of final approval thereof; provided, however, Tenant shall be solely responsible for obtaining any approvals necessary for the Landlord Improvements required from CMU or the Michigan Department of Education. Landlord will deliver copies of all such permits, approvals and certificates to Tenant. Landlord agrees to carry and will cause Landlord's contractors and sub-contractors to carry such workmen's compensation, general liability, personal and property damage insurance in commercially reasonable amounts naming Tenant as an Additional Insured and shall deliver copies of certificates of all such insurance to Landlord prior to commencing any work within the Premises. Landlord further agrees to conduct and will cause Landlord's contractors and sub-contractors to conduct the construction and associated work necessary for completion of the Landlord's Improvements in a manner that does not unreasonably interfere with the ongoing operation of Tenant of its business at the Premises during construction and to take such precautions and steps as may be necessary to maintain the Premises during such period in a manner which is safe for Tenant's students.

### **30. Miscellaneous.**

(a) References in this Lease to persons, entities, and items have been generalized for ease of reading. Therefore, references to a single person, entity, or item will also mean more than one person, entity, or thing whenever such usage is appropriate (for example, "Tenant" may include, if appropriate, a group of persons acting as a single entity, or as Tenants-in-common). Similarly, pronouns of any gender should be considered inter-changeable with pronouns of other genders.

(b) Any waiver or waivers by Landlord of any of the provisions of this Lease will not constitute a waiver of any later breach of that provision, and any consent or approval given by Landlord with respect to any act, neglect or default by Tenant will not waive or make unnecessary Landlord's consent or approval with respect to any later similar act, neglect or default by Tenant.

(c) Topical headings appearing in this Lease are for convenience only. They do not define, limit, or construe the contents of any paragraphs or clauses.

(d) With respect to the subject matter hereof, this Lease (i) contains the entire agreement and understanding of the parties hereto, and (ii) supersedes all prior and contemporaneous agreements, negotiations, discussion, and understandings, written or

oral, between the parties pertaining to the leasing of the Premises. This Lease may not be modified, amended, or terminated except in a writing signed by the party against whom enforcement is sought.

(e) All provisions of this Lease are and will be binding on the heirs, executors, administrators, personal representatives, successors and assigns of Landlord and Tenant.

(f) This agreement shall be governed and construed in accordance with the laws of the State of Michigan. Any dispute hereunder shall be reviewed in the Circuit Court for the County of Wayne.

(g) If any term or provision of this Lease shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

(h) Time is of the essence in all respects under this Lease.

(i) This Lease may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed to be one Lease.

(j) Tenant is a body corporate and governmental entity authorized by the Revised School Code. Tenant is organized and operates as a public school academy and a nonprofit corporation. Tenant is not part of CMU. The relationship between Tenant and the CMU Board of Trustees is based solely on the applicable provisions of the Revised School Code and the terms of the Charter Contract and other agreements between the CMU Board of Trustees and Tenant. Tenant has no authority whatsoever to enter into any contract or other agreement that would financially obligate the State of Michigan, the CMU Board of Trustees, or CMU, nor does the Tenant have any authority whatsoever to make any representations to lenders or third parties that the State of Michigan, the CMU Board of Trustees or CMU 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 Tenant.

(k) The Lease agreement is subject to the terms and conditions of the Charter Contract between Tenant and its authorizing body only when there is a conflict between the terms of this Lease and such Charter Contract. A copy of this Charter Contract has been provided to Landlord.

(l) Landlord shall cooperate with Tenant as necessary to satisfy Tenant's obligation to provide reasonable access to Tenant's authorizing body in the authorizing body's performance of its oversight function under the Charter Contract.

(m) Neither Landlord nor any member or officer of Landlord shall be personally liable to Tenant for the performance of Landlord's obligations under this

Agreement. Tenant's remedies in the event of a Landlord default are limited to Landlord's equity in the Premises.

(n) Tenant represents and warrants to the Landlord that as of the Execution Date:

i) Tenant has not been determined to be a public school academy among the lowest achieving 5% of all public schools in this state for the immediately preceding 3 school years, as determined under MCL 380.1280c for any of the last 3 academic years.

ii) The Michigan state school reform/redesign officer has not notified the CMU that Tenant is among the lowest achieving 5% of all public schools in this state for the immediately preceding 3 academic years, as determined under section MCL 380.1280c.

iii) Tenant is not currently under the jurisdiction of the Michigan state school reform/redesign officer.


iii. CMU has not declared a default under any agreement with the Tenant, including but not limited to, the Charter Contract, nor has CMU initiated any efforts to reconstitute or revoke the Charter Contract.

**[The remainder of this page is intentionally left blank]**

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

**LANDLORD:**

**The Armenian Community Center of Greater Detroit,**  
a Michigan nonprofit corporation

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

**TENANT:**

**The Dearborn Academy,** a Michigan nonprofit  
corporation and public school academy

By: \_\_\_\_\_  
Najim Saymuah, Board President

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

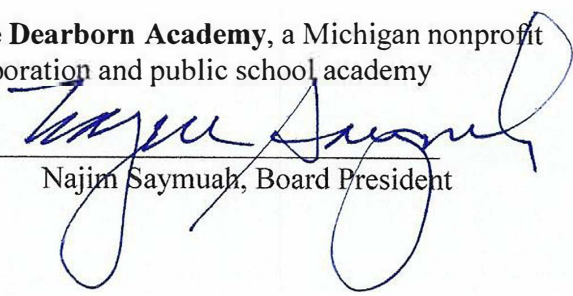
**LANDLORD:**

**The Armenian Community Center of Greater Detroit,**  
a Michigan nonprofit corporation

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

**TENANT:**

**The Dearborn Academy,** a Michigan nonprofit  
corporation and public school academy

By:   
Najim Saymuah, Board President

**EXHIBIT A**  
**LEGAL DESCRIPTION**

A parcel of land situated lying and being in part of Private Claims 317 and 318, City of Dearborn, Wayne County, Michigan, and being more particularly described as follows: Beginning at the Northeast corner of Private Claims 317 and 318 and proceeding thence South 28 degrees 29 minutes 55 seconds East 55.79 feet; thence South 03 degrees 58 minutes 20 seconds East 308.31 feet; thence South 88 degrees 38 minutes 25 seconds West 52.99 feet; thence South 01 degrees 21 minutes 35 seconds East 249.53 feet; thence South 88 degrees 38 minutes 25 seconds West 20.00 feet; thence South 01 degrees 21 minutes 35 seconds East 250.00 feet; thence South 88 degrees 38 minutes 25 seconds West 191.00 feet; thence North 01 degrees 21 minutes 35 seconds West 769.81 feet; thence North 67 degrees 22 minutes 45 seconds East 240.89 feet to the point of beginning.

## **EXHIBIT B**

### **Description of Basic Building Addition Requirements**

A gymnasium and classroom addition, which will provide a net increase of 4 classrooms to the existing Building, together with the associated work to existing portions of the Building necessitated by such addition (including installation of HVAC, plumbing and electrical systems servicing the addition and alterations to such systems in the existing Building as may be necessitated by the addition). The addition shall be located in substantially similar location as set forth in facility schematic previously prepared at the expense of the Tenant which have been delivered to Landlord, prepared by Resendes Design Group, dated March 3, 2016 and attached hereto. The addition and associated work shall be designed in such a manner and shall specify the use such materials as is customary for use in construction of K-8 school facilities in the State of Michigan. In connection with the development of the Final Plans and Specifications for the addition the Landlord shall include such underground work as shall be necessary to resolve the ongoing drainage issues for that portion of the Premises. The gymnasium portion of the Landlord Addition shall be divisible into two courts and have bleachers on at least one side and shall include lockers.



State of Michigan  
John Engler, Governor

Department of Consumer & Industry Services  
Kathleen M. Wilbur, Director

Page 1 of 1  
OFS-40  
Office of Fire Safety  
General Office Building  
7150 Harris Drive  
Lansing, MI 48909-7504

NAME Dearborn Academy	DATE 12-22-98	COUNTY Wayne	PROJECT 1103-97
ADDRESS 19310 Ford Rd	FACILITY TYPE School	RULES/CODES 89 School Rules	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE Dearborn MI 48128	FACILITY REPRESENTATIVE Mr Sam Sackllah	INSPECTION TYPE Final	

AREAS REQUIRING COMPLIANCE:

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.

Mr Sam Sackllah  
Dearborn Academy  
19310 Ford Rd  
Dearborn MI 48128

Dearborn Fire Dept.  
3750 Greenfield Rd.  
Dearborn, MI 48120

☐  
☐

FIRE SAFETY CERTIFICATION		PROJECT STATUS	REVIEWED BY
A- ved		Closed	
LOCATION	INSPECTOR	ADDRESS	
City File	Patrick Tutak	24155 Drake Rd	
Q	SIGNATURE OF OFFICIAL	Farmington, MI 48335	
		TELEPHONE	248.888.8766 FAX 248-888-8760



State of Michigan  
John Engler, Governor

Department of Consumer & Industry Services  
Kathleen M. Wilbur, Director

## Inspection Report

OFS-40  
Office of Fire Safety  
General Office Building  
7150 Harris Drive  
Lansing, MI 48909-7504  
Web Site [www.cis.state.mi.us/fire](http://www.cis.state.mi.us/fire)

FACILITY NAME Dearborn Academy	DATE 4/8/02	COUNTY Wayne	PROJECT 1103-97
ADDRESS 19310 Ford Rd	FACILITY TYPE Charter School	RULES/CODES School	JOB/UC/FAC. NO.
CITY, STATE ZIP CODE Dearborn MI 48128	FACILITY REPRESENTATIVE Harun Rashid, Principal	INSPECTION TYPE Other	

RE: Revisit of school.

On 4-8-02 I revisited the Dearborn Academy at the request of Central Office, responding to a question raised by Central Michigan University concerning a wall.

The school is in compliance with the Michigan School Rules at this time.

# **CERTIFICATE OF USE AND OCCUPANCY**

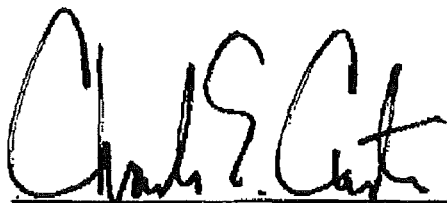
## **PERMANENT**

**Michigan Department of Licensing and Regulatory Affairs  
Bureau of Construction Codes/Building Division  
P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317**

**Building Permit No. B042241  
Detroit Property Improvement  
19310 Ford Road  
Dearborn, Michigan  
Wayne County**

**The above named building of Use Group E and Construction Type 2B is approved for use and occupancy.**

**THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 111.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.**



**Charles E. Curtis, Assistant Chief  
Building Division**

**September 2, 2015**

# CERTIFICATE OF USE AND OCCUPANCY

## PERMANENT

### **Michigan Department of Licensing and Regulatory Affairs**

Bureau of Construction Codes/Building Division

P.O. Box 30254

Lansing, MI 48909

Authority: 1972 PA 230

(517) 241-9317

**Building Permit No:** BLDG19-00799

19310 FORD RD

DEARBORN, MI 48128

COUNTY: WAYNE

The above named building of Use Group E, Education and Construction Type 2B is approved for use and occupancy.

THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 111.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.

Print Date: 08/12/2020



**INNOVATIVE  
MODULAR  
SOLUTIONS INC.**

Sale Agreement Number: 30205  
Customer Name: The Dearborn Academy  
Sale Date: July 11, 2003

Innovative Modular Solutions, Inc. - 1555 Naperville/Wheaton Road, Suite 206 - Naperville, Illinois 60563  
Telephone: 630-305-0300 - Fax: 630-305-3695

### Proposal and Agreement of Sale

Innovative Modular Solutions, Inc., an Illinois corporation (IMS) hereinafter referred to as "Seller", hereby submits for acceptance by:

Customer Billing Address:  
The Dearborn Academy  
19310 Ford Road  
Dearborn, MI 48128  
Customer Contact: Lorilyn Coggins  
Telephone: (313) 982-1300  
Fax: (313) 982-9087  
Mobile: (810) 813-8973

The Equipment will be located at:  
The Dearborn Academy  
19310 Ford Road  
Dearborn, MI 48128  
Customer Contact: Lorilyn Coggins  
Telephone: (313) 982-1300  
Fax: (313) 982-9087  
Mobile: (810) 813-8973

Hereinafter referred to as "Buyer", the following proposal to furnish the services and equipment described below for the prices indicated:

Schedule of Values				
I. One-Time Charges.				
Description	Qty	Unit	Unit Rate	Extension
Building Delivery	1	Lump Sum	\$7,120.00	\$7,120.00
All Installation and Site Work	1	Lump Sum	\$204,200.00	\$204,200.00
Total One-Time Charges:				\$211,320.00
II. Modular Building Charges (Per bid specification and floor plan)				
Unit	Qty	Unit	Unit Rate	
96'0" x 68' Modular Building (6-Plex + RR Module)	1	Each	\$280,940.00	\$280,940.00
Total Modular Building:				\$280,940.00
<b>TOTAL PURCHASE PRICE</b>				<b>\$492,260.00</b>
Limited One Year Warranty provided by the Modular Building Manufacturer.				

Payment Terms: 25% of the total purchase price when Purchase Agreement is signed. Additional progress payments will include 50% of remaining balance upon building delivery, 20% of remaining balance upon building occupancy and 5% at completion of the building punch list.

This proposal by IMS must be accepted in its entirety by Buyer within seven (7) days from the date hereof, and acceptance shall be defined for the purposes of this Sale Agreement as receipt by IMS duly executed original hereof at its offices in Naperville, Illinois, or personal delivery thereof to a duly authorized agent or representative of IMS. Buyer's acceptance of this proposal subsequent to seven (7) days from the date hereof shall be deemed to be a counterproposal, which shall be subject to renegotiation.

IMS agrees to sell and the Buyer agrees to buy the above described equipment for the price and on the terms herein set forth, including the Terms and Conditions set forth specified later in this Proposal and Agreement, which Terms and Conditions are incorporated herein by reference.

Other documents attached and incorporated by reference into this sale agreement:

- X General Terms and Conditions of Sale Agreement (Modified 7/11/03)
- X IMS Bid Submitted on 6/12/03
- X Pricing Summary Dated 6/30/03
- X Clarifications (Modified 7/11/03)
- X Building Specifications
- X Delineation of Responsibilities

IN WITNESS WHEREOF, the parties hereto have caused this Proposal to be accepted at the prices and upon the Terms and Conditions named herein and to be executed by a duly authorized agent.

SELLER  
Innovative Modular Solutions, Inc.

By: [Signature]  
Print Name: PATRICK T. CAGGINS  
Title: PRESIDENT  
Date: 7/11/03

BUYER  
The Dearborn Academy

By: [Signature]  
Print Name: SID BERKOWITZ  
Title: Treasurer  
Date: 7-17-03



## General Terms and Conditions of Sale Agreement

- 1 Acceptance of this proposal shall constitute an agreement by Buyer to all the terms and conditions herein.
- 2 In consideration of Seller furnishing the equipment described herein, Buyer shall pay to Seller the sum stipulated herein, subject to such additions or deductions relative to changes which may hereinafter be agreed upon between the parties in writing. Payment shall be made to Seller its offices at 1555 Naperville/Wheaton Road, Suite 206, Naperville, IL 60563. Buyer shall pay Seller the Invoice amount based upon a negotiated payment schedule as stipulated on the front page hereof.
- 3 Unless otherwise specifically set forth in this agreement, it is specifically agreed and understood between the parties that the pricing provided herein does not include any state or local taxes or other governmental charge. Buyer shall be responsible for the payment of state or local taxes or other governmental charges which may be applicable to the sale covered by this agreement.
- 4 The delivery of equipment described herein is subject to delays in manufacture or delivery due to fire, flood, windstorm, riot, civil disobedience, strike, failure to secure materials from the usual source of supply, Act of God, or any other circumstances beyond the Seller's control which shall prevent the manufacture of equipment or the making of deliveries in the normal course of business. Buyer will not hold Seller responsible for liquidated damages or any other damages for delay which may be imposed upon Buyer from any other contract which Buyer may have entered into with respect to this project to which Seller is not a party.
- 5 Buyer is solely responsible for any and all additional materials, labor, site preparation and all other items on the project other than those specifically set forth herein.
- 6 Buyer shall be solely responsible for payment of state and local taxes which may be applicable to the sale covered by this Agreement, unless Buyer is exempt from State Sales and Use Taxes and presents an exemption certificate to Seller.
- 7 Buyer agrees to indemnify and save harmless Seller against all losses, costs or damages incurred or paid by Buyer on account of any claim under Workmen's Compensation Acts or other employee benefit acts, any claim for damages because of bodily injury, including death, to Buyer's employees and all others and any claims for damages to property caused by, resulting from, or arising out of the performance of this Agreement. Buyer shall pay all attorney's fees and expenses incurred or paid by Seller on account of such claims; and Buyer, if requested by Seller shall assume and defend at its own expense any suit, action or other legal proceeding arising therefrom. This indemnity provision shall not apply when the cause and/or causes of loss or liability are through the proven negligence of the Seller.
- 8 Buyer agrees not to assign or transfer this Agreement or any part hereof or any amount payable hereunder, except with the prior written consent of the Seller.
- 9 NOT USED
- 10 Unless otherwise specified, additional expense caused by obstructions, either overhead or underground, demolition work, grading to bring site to level, or extra depth or width of concrete footings, foundations, or excavations caused by earth fill, or abnormal soil conditions which may require foundations different from the standard plans are to be paid for by the Buyer.
- 11 Buyer warrants that he owns, or has the right to construct buildings on, the property upon which the equipment as described herein is to be delivered, constructed or other work performed. Seller shall not be responsible for encroachments of any type. Buyer will assist in the selecting the locations of the modular buildings on each site and will approve such locations prior to the execution of any site work by Seller. Buyer warrants that the said construction will not violate zoning restrictions or other laws, and Buyer agrees to indemnify and hold Seller harmless from all loss or damage or liability which may result by reason of the construction of the said building or other work done, from any lack or defect of title, or by reason of said construction violating any zoning restrictions or other laws.
- 12 Buyer agrees not to interfere with the progress of the work, and not to occupy any portion of the building until all terms and conditions herein are fulfilled by both parties. Buyer further agrees to notify IMS in advance prior to any workmen other than those of Seller commencing work at or in the immediate vicinity of the building. Should any workmen or contractors or sub-contractors of Buyer perform any such work, Buyer will furnish to Seller in writing their names before such work is commenced. Buyer agrees to pay Seller for any damage that may be caused by anyone other than workmen or subcontractors of Seller to any construction work in process whatsoever.
- 13 No charge for labor or material furnished by the Buyer shall be allowed as a credit under this agreement unless authorized in writing by the Seller.
- 14 The Buyer shall obtain insurance naming Seller as sole insured on all Seller's property located on the building site, against loss by fire, lightning, wind, storm, riot, civil disobedience, earthquake, Act of God and against other perils ordinarily included under the extended coverage endorsement as well as any other insurance which the Buyer deems necessary upon the work covered by the proposal for the full insurable value thereof. The minimum coverage of said insurance shall be the fair market value of such property as established by the contract price contained herein. Such insurance shall also cover the following items whether they be in or adjacent to the structure insured, materials in place or used to be as part of permanent construction including surplus materials, temporary structures, scaffolding and stagings, protective fence, bridging, forms and miscellaneous materials and supplies. Insurance need not cover tools or equipment owned by or rented by the Seller. Buyer shall furnish to the Seller certificates of insurance on demand by Seller.
- 15 Expressly incorporated herein by reference are the plans and specifications relating to the equipment specified in this Proposal and Agreement of Sale.



## General Terms and Conditions of Sale Agreement

16 In the event any act or thing required of Buyer hereunder shall not be done and performed in the manner and at the time or times required by this Agreement, Buyer shall thereby be held in default and all amounts due under the terms and conditions of this Agreement shall be payable immediately by Buyer to Seller, without demand by Seller. In addition Buyer will reimburse Seller for any reasonable legal fees and costs that become due as a direct result of Buyer's default of this Agreement and Buyer will pay to Seller interest at the rate of 12% per annum, calculated on a 360 days equals one (1) year basis, on the full sale price stipulated on the front page hereof. Interest will be calculated from the date said default takes place, through and including the date of Settlement.

17 The equipment as described herein is warranted for a period of one year against structural failure due to defective material or workmanship in the equipment manufactured, unless otherwise stated by warranties of Seller's supplier of purchased components. Such warranties will be conveyed to Buyer and Buyer will deal directly with the Supplier if a claim arises.

Seller's liability is limited to replacing defective parts on an exchange basis, F.O.B. the project site. The warranty is limited to "Normal" usage and exposure. The following are excluded by the definition of "Normal" and therefore from this warranty if such conditions exist.

A. Improper Maintenance.

B. Installation in an area subject to heavy fall out or corrosive chemicals, ash or fumes from chemical plants, foundries, plating works, kilns, fertilizing manufacturers, paper plants and the like.

C. Acts of God, vandalism, falling objects, external forces, explosion, fire, riots, acts of wars and radiation.

In the event that any defect is discovered by the Buyer, notice of the defect shall be given to the Seller in writing and such notice must be sent within the warranty period. The warranty is tendered for the sole benefit of the Buyer, the original Buyer, and is not transferable or assignable and further is void in the event that the product is removed from its original location of installation. THERE ARE NO OTHER WARRANTIES EXPRESSED OR IMPLIED (INCLUDING WARRANTIES RELATING TO MERCHANTABILITY) EXCEPT THOSE STATED HEREIN.

18 The warranty as outlined in Paragraph 17 is hereby specifically EXCLUDED as to materials and equipment currently owned and in possession of the Seller. Said material and equipment is sold in an "as is" condition with NO WARRANTIES EXPRESSED OR IMPLIED.

19 The failure by Seller to enforce at any time, or for any period of time, any one or more of the terms of this agreement shall not be a waiver of such terms and conditions or of Seller's right thereafter to enforce each and every term and condition contained herein.

20 Upon acceptance of this Agreement, together with all specifications, scope of work, and terms and conditions, this document shall constitute the entire agreement between Seller and Buyer. All prior and collateral representations, promises and conditions in connection with this project, and any representation, promise or condition not incorporated herein shall not be binding on either party.

21 Manufacturer's certificate of origin or title (if applicable) to the equipment described herein will be conveyed to Buyer within 30 days of payment in full to Seller.

22 Definitions:

A. Delivery - Date that the structures arrive at the site address.

B. Substantial Completion - Date of written notice given by Seller to Buyer that structures are complete and available for Buyer occupancy.

C. Ready for Shipment Date - Date of written notice by Seller to Buyer that structures are complete and available for shipment from the manufacturer.

D. Equipment - The term equipment as used herein shall refer to the item or items provided by Seller as described in the Work Scope Agreement Letter.

23 Stenographic and clerical errors are subject to correction.

24 With respect to any equipment that has been used previously, Seller hereby assigns its rights but not its obligations, including but not limited to its obligation to deliver titles to the equipment to Buyer.

25 This Agreement and Terms and Conditions of Sale shall be construed in accordance by the laws of the State of Illinois.



Innovative Modular Solutions, Inc.  
359 Silvervale Drive  
Rochester Hills, MI 48309  
Phone: 248-373-3940  
Fax: 248-373-3943

PRICING FOR MODULAR BUILDING(S)

CUSTOMER: The Dearborn Academy  
PROJECT: Value Series 6-Classroom Building with Restrooms  
LOCATION: Dearborn, MI  
DATE: 30-Jun-03  
QUOTE NUMBER: Lorilyn Coggins-1

Value Series 6-Classroom Building with Restrooms

Building includes perimeter frame, suspended ceiling, electric heat pumps, a/c, 26 oz. carpet.  
Each classrooms includes (1) 4' wide storage/wardrobe closet, (2) or (4) vinyl windows, (2) tack boards, (1) marker board, and coat shelves.

ITEM	DESCRIPTION	PRICE (Per Building)
Purchase Building	(1) 7-unit modular	\$ 280,940 Lump Sum
II. One-Time Charges (In addition to the monthly lease payments).		
Delivery	Deliver building to the project site	\$ 7,120 Lump Sum
Installation	Block, level, seam, seal, anchor, and skirt the building.	\$ 23,510 Lump Sum
Decks, Steps and Ramps	Install (2) 6' x 6' decks with steps to grade and (1) 5' x 36' ramp to grade including (1) 5' x 5' flat, metal handrail and anti-skid tape. Built with pressure-treated lumber.	\$ 6,390 Lump Sum
Foundation	Install (32) 24" x 42", (10) 30" x 42", (10) 36" x 42", (6) 42" x 42" and (6) 48" x 42" concrete foundation piers without re-bar. Includes 12' sonolube and removal of spoils from the job site.	\$ 11,140 Lump Sum
Total IMS One-Time Work		\$ 48,160
I. Unit Pricing		
24" x 42" pier		\$ 120 Each
30" x 42" pier		\$ 160 Each
36" x 42" pier		\$ 210 Each
42" x 42" pier		\$ 250 Each
48" x 42" pier		\$ 350 Each
anchor		\$ 55 Each
		\$ 329,100 TOTAL
		\$ 49.38 Per Square Foot
IV. Other Work Required		
Engineering / Architecture	Submit to MI Office of Fire Safety. Develop plans.	\$ 10,240 Lump Sum
Bid Bonds	Bid, Performance and Payment Bonds	\$ 4,720 Lump Sum
Site Plumbing	See Phillips Scope of Work	\$ 45,770 Lump Sum
Site Electrical	See Phillips Scope of Work. Includes fire alarm.	\$ 51,678 Lump Sum
Concrete Flat Work	See Phillips Scope of Work	\$ 7,942 Lump Sum
Landscaping Allowance	Allowance on the bid form	\$ 1,500 Lump Sum
Project Management	(5) 40 hour weeks	\$ 12,420 Lump Sum
General Conditions	Includes demo, etc.	\$ 28,990 Lump Sum
		\$ 163,160 Total Other Work
		\$ 492,260 TOTAL CONTRACT
		\$ 73.87 Per Square Foot

Notes:

\*This information is proprietary to Innovative Modular Solutions, Inc. (IMS) and may not be shared with any third party without the express written consent of IMS.

**PROPOSAL CLARIFICATIONS - THE DEARBORN ACADEMY - REVISED 7/11/03**

**BUILDING**

- A Unless otherwise noted, color selection(s) are dealer's standard, stock colors.
- B Exterior doors will be keyed alike. Interior classroom and closet doors will be keyed in pairs. Janitor's closet will be keyed independently. IMS will provide a master key capable of opening all doors. No provision is made to match the owner's master keying system.

**DRAWINGS/PERMITS**

- A IMS will provide manufacturer's shop drawings for the building only. Any other drawings and/or tests required are to be supplied by the customer.
- B IMS will provide certification from the State of Michigan for the manufacture of the modular buildings. Additional costs that result from the requirements of local codes will be considered changes to the contract, if applicable.
- C The customer is responsible for State of Michigan permit fees and zoning variances.

**FOUNDATION / EXCAVATION:**

- A All underground obstructions, if any, within the proposed building envelope/work area to be located and marked above grade, by others. IMS will not assume any responsibility to remove or relocate any site utilities that may interfere with the installation of the modular units. If such work is required, it will be a modification to the contract.
- B IMS shall not be responsible for any and all environmental and/or subsurface conditions.
- C Foundation excavation includes classified soil fill only. Excavation of excessive obstructions such as rocks, boulders, bricks, debris, etc. will be considered a modification to the contract.
- D IMS will provide a manufacturer's recommended foundation blocking plan with estimated point loads.
- E The design of the below grade foundations will be by IMS. If quantity and size of piers changes, it will be a change order to the contract.
- F Pricing provided for foundation piers does not include a provision for extending the sonotube beyond 12" below finished grade. If additional sonotube material is required, it will be considered a change order to the contract.
- G Standard modular building foundation includes above-grade blocking of concrete masonry units, 3-course high, single stacked without mortar and wood plates and shims, as necessary, to level the modular building.

**FREIGHT:**

- A Freight of modular unit(s) is from point of manufacture to site.
- B Customer to provide a suitable staging area located adjacent to the work site.
- C Customer to provide suitable and acceptable access to the site for the module size(s) to be provided. Work by IMS does not include the removal of any fences, etc. to allow buildings to access the project sites.
- D Wheels and axles may remain on module(s). Hitchers are detachable and they will be removed and stored under module(s).

**INSTALLATION:**

- A Placement of module(s) to be accomplished by the use of truck. If additional materials or equipment is required to move the modular units over the foundation system or foundation piers, this will be considered a change to the contract.
- B Installation of the modular units includes the delivery of the units to the project site; setting the units on a subgrade foundation constructed by IMS; blocking (with un-mortared block) and leveling the modular units; seaming and sealing the modular units; anchoring the modular units to the ground or foundation, and installing a vented foundation enclosure.
- C Foundation enclosure (skirting) is priced at 3' coverage (assuming 36" finished floor height above grade) and may vary depending on the site conditions.

**SITE PREPARATION / SITE WORK:**

- A Level grade (+/-12") is required within the proposed building envelope.
- B Grading and any other site development is not included in this proposal.
- C Dewatering of subsurface water by others, if required.
- D Storm water management, erosion control, and sedimentation control by others.
- E Dumpsters for construction debris are to be provided by IMS.
- F Soils from excavations to be removed from site by IMS.

**UTILITIES:**

- A Potable water, sanitary sewer and electrical main service by IMS.
- B Multiple water/sanitary drops through floor (maximum of one per fixture)-- manifolding, extension, and utility connections to these drops to be finished and installed by IMS.
- C Installation of plumbing waste vent riser extensions and exhaust fan hoods on roof only by IMS.
- D Multiple electrical drops through floor (one per modular unit)-- manifolding, extension, and utility connections to these drops to be finished and installed by IMS.
- E Heat tracing-insulation of exposed potable water/sanitary sewer piping by IMS.
- F Exit lights and Exterior lights will be shipped loose for installation by IMS.
- G Building proposed includes roof drains which terminate below the floor in each module, (2) per module. The connection of roof drains to grade through the foundation enclosure is by IMS.

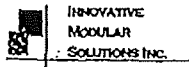
**FIRE PROTECTION:**

- A Proposed building does not include any fire-rated assemblies. If fire-rated assemblies are required, due to the location of the module(s) to existing building and/or property lines, IMS can provide at an additional cost.
- B Classroom buildings include rough-in boxes for pull stations, horn strobes, and smoke detectors, system devices are by IMS.

**PROPOSAL CLARIFICATIONS:**

- A The prices quoted herein exclude any and all taxes, property taxes, fees, etc. IMS has assumed that the owner is a tax exempt organization.
- B In the event of early occupancy prior to substantial completion, Customer shall be responsible for all property damage, injury, and deaths that may result from said occupancy, and indemnify IMS for same.
- C IMS is a dealer of mobile and modular buildings and as such subcontracts all phases of work.
- D Proposal is based on the customer signing a standard Innovative Modular Solutions Agreement of Sale.
- E Site restoration and landscaping is by IMS and includes an allowance of \$1,500 only. If additional costs are incurred, they will be billed on a cost + 15% basis.





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PROPOSAL CLARIFICATIONS - THE DEARBORN ACADEMY - REVISED 7/11/03

- F Site security is by the owner. The Dearborn will insure the modular buildings immediately upon their delivery to the job site.
- H Owner subject to credit approval. Credit review and approval to be complete by 5 PM on Friday, June 20, 2003 or IMS the completion date of the project is subject to change. IMS will submit a Notice of Delay if this occurs.
- I Final cleaning is by IMS.



**Innovative  
Modular  
Solutions**

**Innovative Modular Solutions, Inc.**  
359 Silverdale Drive  
Rochester Hills, MI 48309  
Phone: 248-373-3940  
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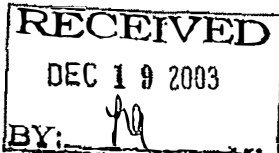
**VALUE SERIES MULTI-CLASSROOM BUILDINGS  
6-CLASSROOM BUILDING WITH RESTROOMS**

COMPONENT	DESCRIPTION
Exterior Dimensions	14'x68' Modules (952 SF-nominal) with 8'-wide corridor.
Classroom Size	28' x 30' (840 SF-nominal)
Overall Dimensions	98' x 68' (6,664 SF- nominal)
State Approvals	IL, IN, MI, OH.
Manufacturer	Whitley Manufacturing
Occupancy Class	E - Education.
Frame Type	Perimeter. 2' x 6" floor joists. R-19 Insulation in floor. Vapor barrier.
Floor Covering	26 oz. commercial olefin carpet in classrooms. 1/8" vinyl tile in corridor. Armstrong "Corlon Connection" commercial roll goods in wet areas.
Cove Base	4" vinyl base in classrooms and corridor. 6" vinyl cove base in wet areas.
Interior Finish	Vinyl covered gypsum, Group II ballenless. R-11 sound insulation.
Exterior Finish	HardiPanel Sierra 8. 2" x 4" exterior walls with R-11 Kraft Insulation.
Foundation Enclosure	(28) sheets of 4' x 9' HardiPanel Sierra 8 Skirting
Corridor	1-Hour rated corridor walls.
Roof	.045 mil EPDM Rubber. R-30 Insulation.
Mansard	False mansard.
Roof Drainage	5" seamless aluminum commercial gutters with (6) downspouts.
Ceiling	Fixed, textured gypsum. Ceiling height is 8'0" above finished floor.
Windows	(20) 48"x48" vinyl frame windows with double insulated glass and screens.
Window Accessories	(20) 1" metal mini-blinds.
Exterior Doors	(2) 72" x 80" 18-gauge Insulated steel doors with 16-gauge steel frame, removable center mullion and vertical vision panels.
Interior Doors (Corridors)	(10) Solid core wood with steel frame, 20-minute rated.
Interior Doors (Closets)	(6) Hollow core wood with pre-hung wood frame.
Door Hardware	'Grade 2' throughout. Panic hardware at exterior doors.
Electrical Panel	(4) 120/240 VAC main panels (located at same end of building).
Electrical Raceway	14-gauge copper Romex.
Interior Lighting	2-tube surface-mounted fixtures.
Perimeter Exterior Lighting	(4) 75-watt fixtures switched from interior corridor.
Emergency / Exit Lighting	As required for state approvals.
Fire Alarm System	Rough-ins only for pull stations, horn-strobes, and smoke detectors.
Restroom Module	Includes Boys, Girls and Staff RR and Janitors Closet as shown on drawings.
Plumbing Fixtures	(7) wall-mount china lavatories, (10) china water closets and (3) urinals. Painted steel modestly partitions.
Drinking Fountains	(2) Stainless steel wall-mount
Janitor's Closet	(1) Floor-mounted mop sink and floor access hatch to below structure.
Water Heater	30-gallon electric water heater.
Additional Rough-Ins	(4) spare junction boxes per classroom for voice, data, CATV, intercom, etc..
HVAC	(7) Bard central heating/cooling systems with plenum wall. All units installed on one side of building.
AC Rating	(7) 3.5-ton compressors
Heat	(7) Energy efficient electric heat pump with secondary 15 kw electric heat strips.
Teacher's Closet	(6) Locking coat / storage closet with high pressure laminate shelf and rod and (4) 4' x 18" high pressure laminate shelves.
Bookshelves	None
Coat Hooks	(6) 10' metal shelving unit with (30) coat hooks.
Markerboards	(6) 4'x12' whiteboards.
Corkboards	(12) 4'x4'.
Fire Extinguishers	(2) UL 2A-10BC with bracket.

\*Note: Specifications and floor plans may vary.

*This information is proprietary to Innovative Modular Solutions, Inc. (IMS) and may not be shared with any third party without the express written consent of IMS.*

# CERTIFICATE OF USE AND OCCUPANCY



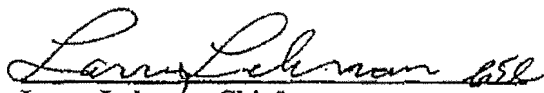
## PERMANENT

Michigan Department of Consumer and Industry Services  
Bureau of Construction Codes & Fire Safety/Building Division  
P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317

Permit No. LB018173  
Dearborn Academy  
19310 Ford Road  
Dearborn, Michigan  
Wayne County

The above named building of Use Group E and Construction Type 5B is approved for use and occupancy.

THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.

  
Larry Lehman, Chief  
Building Division

December 12, 2003

**CONTRACT SCHEDULE 7**

**REQUIRED INFORMATION FOR  
A PUBLIC SCHOOL 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 Academy's criteria for the application and enrollment of students 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**

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. 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. 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. 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: Amended 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 the Terms and Conditions 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:

<b>Sub Indicator</b>	<b>Measure</b>	<b>Metric</b>	<b>Target</b>
<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): Exceeds $\geq 70.0\%$ Meets $\geq 50.0\%$ Approaching $\geq 30.0\%$ 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 $+x$ ): Exceeds $\geq 6.0\%$ Meets $\geq 3.0\%$ Approaching $\geq 1.0\%$ 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 $+x$ ): Exceeds $\geq 10.0\%$ Meets $\geq 5.0\%$ Approaching $\geq 0.0\%$ 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 the norms 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:

<b>Sub Indicator</b>	<b>Measure</b>	<b>Metric</b>	<b>Target</b>
<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: Exceeds $\geq 65^{\text{th}}$ Meets $\geq 50^{\text{th}}$ Approaching $\geq 45^{\text{th}}$ Does not meet $< 45^{\text{th}}$	Reading: 50 Math: 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 $+x$ ): Exceeds $\geq 6.0\%$ Meets $\geq 3.0\%$ Approaching $\geq 1.0\%$ 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 $+x$ ): Exceeds $\geq 10.0\%$ Meets $\geq 5.0\%$ Approaching $\geq 0.0\%$ 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.

### **Overview**

The Dearborn Academy (“Academy”) is designed as a pre-kindergarten through eighth grade public Academy serving the Dearborn, Michigan community. Authorization was received from Central Michigan University (“CMU”) in 1997. The Academy was established with the specific purpose of serving the diverse needs of the Dearborn community and the surrounding areas, which host a population of approximately 90,000 residents. This population is comprised of individuals and families from various ethnic backgrounds and cultures. Dearborn has one of the largest concentrated populations of Arabic speaking residents in the United States.

The Academy serves students in pre-kindergarten through grade eight from thirteen surrounding districts in the metropolitan Detroit area. A large percentage of students who attend the Academy are of Middle Eastern descent with an increasing Hispanic population. Many of the students who enroll at the Academy are new or recent immigrants. Frequently, the parents do not speak English. As a result, the Academy strives to communicate with the home in the student’s native language.

### **The Academy’s Why**

Redefining Urban Education

### **Mission**

The Academy is a unique charter school serving a multicultural community through individualized, focused instruction allowing each student to achieve academic excellence and exhibit social responsibility.

### **Vision**

We are an Academy dedicated to academic excellence for our young learners. We are innovative, empowering, and absolutely committed to the continuous social development and academic growth of all students. We establish a school learning environment in which our academic goals are articulated with laser sharp clarity and are regularly monitored.

We provide an academic environment where quality learning is fun and enjoyable. We create an atmosphere of trust and support for all learners where diversity is celebrated and honored. We develop actively involved learners who are self-confident and are engaged in the global community.

### **Educational Belief Statements**

- We believe all children can learn and accept the responsibility for ensuring quality learning occurs.
- We believe in academic, social and personal success for each of our students.
- We believe clear, focused and measurable educational goals are necessary to guarantee student achievement.

- We believe education is a collaborative process between staff, students and families.
- We believe parental involvement is an integral part of student success.
- We believe Professional Learning Communities (“PLC”) unify all members of the Academy staff to develop a positive and productive culture of learning.
- We believe teachers must have adequate resources, strong parental support and consideration of ideas from the administration and the Academy board.
- We believe the study of language and cultural development will engage students to become well-rounded citizens in the global community.
- We believe integrating technology in all disciplines will facilitate learner engagement, motivation and enthusiasm.
- We believe in celebrating multi-cultural backgrounds and embracing diversity.
- We believe in ensuring that students will be active participants in the community.

### **Commitment Statements**

- We commit to a safe and secure environment for all.
- We commit to creating a sense of belonging and a trusting environment for all learners.
- We commit to addressing the needs of the whole child.
- We commit to planning together and sharing a vision of success for all learners.
- We commit to communicating, engaging, and involving the entire community in the learning process.

### **Philosophies**

#### ***From Realistic and Reasonable to High Expectations***

Although the Academy community may face challenges resulting from multiple racial backgrounds, language barriers, Students with Interrupted Formal Education (“SIFE”), lack of prior schooling, assimilation and acculturation issues, and learning and/or emotional disabilities, the Academy staff and administration believe every student can perform. To ensure academic achievement, the Academy provides highly qualified educators who engage students through increasingly varied learning strategies. Within a developmental education approach, the Academy plans instruction with reasonable, realistic and gradually heightened expectations for each student.

#### ***Intellectual Approach to Learning***

As an emerging PLC, the Academy takes a proactive role in the education of all students. Periodic cross-disciplinary, Project-Based Learning (“PBL”) experiences are carefully designed so that students must use and build conceptual understanding of academic content and social development. Students are encouraged to use higher level thinking skills and to apply problem-solving skills in daily learning experiences. When students do not learn, timely systematic interventions via the Multi-Tier System of Supports (“MTSS”) process are applied to prevent failure. All students are required to be active participants in the learning process. Similarly, all teachers are required to be proactive in continually assessing student learning and responding with interventions when necessary.

#### ***Strong Partnership between the Academy and Home***

A strong partnership between the Academy and home is critical to the individual success of each student. The Academy has established programs and practices to enhance parent involvement and reflect the specific needs of students and families. The programs established by the Academy

include an evolving parent organization, the Parent Involvement Committee (“PIC”), translation services to ensure effective communication between the Academy and home, and English as a Second Language (“ESL”) classes to help parents and students learn the English language. In addition, the Academy distributes a student-parent handbook and provides automated school outreach communications as well as organizes annual events and activities (Ice Cream Social/Open House, parent nights, clothing/food drive, elementary and middle school assemblies and dances, March is Reading Month, Spring Fling) to further develop school-home relationships. Parent nights, parent night satisfaction surveys, parent field trips, and increasing parental involvement in the school improvement planning process are other methods the Academy uses to strengthen relationships.

### ***Preparing the 21<sup>st</sup> Century Learner***

The Academy has a role in the creation of a college bound culture that ensures secondary, post-secondary or world-to-work readiness. Middle school students create Educational Development Plans (“EDPs”). Students are able to apply the skills developed at the Academy to the requirements of high school, university and work. The 21<sup>st</sup> century learner has to become skilled at facing the challenges of the 21<sup>st</sup> century as “the job of today’s young people, or the ‘Transition Generation,’ will be to get humanity through the coming period of chaos, peril, and opportunity” (Martin, 2007).

### **Academy Operations**

The Academy operates within a framework involving all stakeholders in decisions impacting the education of Academy students. The Academy Board serves to set and enforce policy. Each member of the Academy Board is appointed by CMU. The Academy Board includes members from the community, the education community at large and the business community. In addition to board members, Academy parents are routinely surveyed to provide insight on decisions. Parents are welcome to join the PIC and attend the monthly meetings. During the meetings, the PIC explores opportunities to support student learning such as fundraising ideas and facilitating special activities for students and families. Other groups that assist in the decision-making process are School Improvement Planning (“SIP”) Crisis, Lighthouse, and Positive Behavior Intervention Support (“PBIS”) teams. Team representation is comprised of support staff, teachers, students and administration. Important issues and decisions facing the Academy are reviewed and deliberated collaboratively between these stakeholders. Discussion, research and recommendations guide the decision-making process for all school improvement processes.

### **Curriculum**

The Academy utilizes the Michigan Academic Standards (“MAS”) as a guide for the development and revision of the written curriculum in English language arts (“ELA”), mathematics, science and social studies. Furthermore, these standards provide a platform for state assessments, which are used to measure how well schools are providing opportunities for all students to learn.

The key foundational elements the Academy has put into practice include a daily schedule, scope and sequencing documents, positive teacher-student interaction, assessments and active learning ingredients. A daily schedule with consistent routines (e.g., morning announcements, calendar time) assists in establishing expectations and boundaries. In the classroom, the daily routine comprises of posted learning objectives, whole and small group instruction, student-initiated activities and learning centers serving to reinforce concepts.

Core and non-core area content is guided by year-long scope and sequencing documents. The year-long documents are used by staff for instructional planning. To ensure consistency amongst grade levels, unit plans, lesson plans and resources are found in the scope and sequencing materials. A variety of pedagogical strategies, such as Sheltered Instruction Observation Protocol (“SIOP”), guided mathematics and reading, differentiated instruction and formative assessment practices are used to deliver the content. To engage students in learning, the Academy promotes positive teacher-student interactions by working together to create a safe and orderly learning environment. Teachers support and extend students’ learning by engaging students in instructional dialogue. Students are also supported through the PBIS and Leader-in-Me frameworks. These proactive, team-based frameworks for creating and sustaining safe and effective schools helps prevent problem behavior, develop pro-social and leadership skills, and use data-based problem solving for addressing existing behavior concerns.

Criterion- and norm-referenced tests are used to assess student achievement. In addition, teachers use formative assessment practices to monitor student progress during daily lessons and throughout units of instruction. These include activities such as student observations, anecdotal records and strategic use of questioning. The analysis of assessment results assists teachers in planning lessons and adjusting the curriculum.

Active learning ingredients include appealing materials (i.e., manipulatives, hands-on learning, demonstrations, realia and ELMO) and opportunities for adult support (i.e., reading/mathematics specialists, Tier II Interventionists, 31A specialist and English as a Second Language (“ESL”) teachers). In addition, teachers differentiate instruction based on the individual student’s needs. The SIOP framework is also used to bridge gaps between teachers and English Learners (“ELs”). SIOP supports instruction using evidenced-based teaching methods to incorporate reading, writing, speaking and listening.

### **Instructional Design**

The Academy’s kindergarten through eighth grade core curriculum is designed to include learning experiences in reading, writing, spelling, phonics, speaking, listening, handwriting, mathematics, social studies, science, technology, media, foreign language (Arabic and Spanish), art and physical education. Activities that promote character development, health education and career awareness are also integrated into the core content curriculum areas.

### **Research-based Instructional Practices**

To deliver instruction, the Academy utilizes several research-based instructional practices including, but not limited to, differentiated instruction, Bloom’s Taxonomy, Frayer Model, Marzano’s 6 Step Method, SIOP and PBL.

Differentiated Instruction (Tomlinson, 2001) encompasses strategies that are differentiated based on content of instruction, the process and the product. The differentiating of instruction is integrated through lessons and activities that are enriched through the cognitive levels of Bloom’s Taxonomy (1956). Teachers use Bloom’s to create activities that promote learning, appeal to different learning styles and help students feel engaged with the content. In addition to differentiated instruction and Bloom’s Taxonomy, Marzano (2004) offers six instructional

strategies that have the highest probability of enhancing student achievement. The strategies are as follows:

1. Explain—Provide a student-friendly description, explanation or example of the new term.
2. Restate—Ask students to restate the description, explanation or example in their own words.
3. Show—Ask students to construct a picture, symbol or graphic representation of the term.
4. Discuss—Engage students periodically in structured vocabulary discussions that help them add to their knowledge of the terms in their vocabulary notebooks.
5. Refine and reflect—Periodically ask students to return to their notebooks to discuss and refine entries.
6. Apply in Learning Games—Involve students periodically in games that allow them to play with terms.

The Academy also uses SIOP as an instructional method to engage students. Research (Echevarria, Vogt & Short, 2008) indicates SIOP provides for interaction, practice and application, lesson delivery review and assessment. Teachers use explicit instructional strategies, such as questioning techniques or graphic organizers, to support higher level thinking entailing predicting, summarizing, problem-solving, organizing, evaluating and self-monitoring.

### **Curriculum Flexibility**

The Academy's curriculum is flexible to meet the needs of all learners (e.g., advanced, below grade level, special education and EL). Teachers provide accommodations, adapt instructional methods and make conscious modifications to lesson plans to meet individual needs. The curriculum provides students with access to content material combined with engaging instruction and thoughtful assignments. The flexibility within the curriculum allows teachers to implement best practice instructional strategies as well as to approach higher level thinking skills.

As a Title I building, the Academy provides supplementary assistance when needed to ensure each student's success. Additionally, the curriculum covers comprehension, phonics, basic fact understanding and skills. The Academy also tries to stretch student's intellectual growth by working with the student's existing knowledge base to modify, combine and extend or deepen understanding.

### ***MTSS Team***

The Academy's MTSS team addresses the academic and behavioral needs of all students through a variety of services containing the following key elements: (a) high-quality instruction and research-based tiered interventions aligned to individual student need; (b) frequent monitoring of student progress to make results-based academic and/or behavioral decisions; (c) application of student response data to important educational decisions.

### ***Reading and Math Interventions***

The Academy is dedicated to providing students with solid basic instruction. The mathematics and reading specialists provide a pull-out program to students who require additional instruction in core mathematics and literacy study as well as opportunities for appropriate pacing. Through pacing, the specialists guide students at either a more rapid pace when understanding comes



quickly or at a slower, more appropriate pace to allow for a depth or breadth of investigation. The Academy uses Fountas and Pinnell's Leveled Literacy Intervention ("LLI") for literacy intervention and Curriculum Associates' i-Ready® mini-lessons for math intervention.

LLI provides effective small-group instruction for students who find reading and writing difficult. With engaging leveled books, fast-paced systematically designed lessons, and a high level of built-in professional development, LLI empowers both teachers and students as together they work toward attaining reading and writing proficiency.

Curriculum Associates' i-Ready offers comprehensive teacher support and high-quality individualized instruction to help students develop the skills needed to compute with accuracy and efficiency, the number sense needed to reason and the ability to apply skills and reasoning to solve problems.

### ***Tutoring Programs***

Highly qualified classroom teachers offer specialized instruction to students in order to facilitate mastery. Instructional staff extend the content of the regular curriculum by providing tutoring opportunities for students via in-person and/or online. An after-school grant, Start the Afternoon Right ("STAR"), has been adopted by the Academy and incorporated for student enrichment and tutoring. STAR provides homework support, arts and crafts activities and sports activities. As budget has allowed, the Academy has also adopted after school and summer initiatives to promote learning. Further, the Academy offers an ESL after school program for EL students and parents as well as summer ESL classes for EL students and parents.

### ***Advanced Learners***

Students with above grade level reading skills are encouraged in ELA classes to read differentially at an individual, advanced level and challenged through rigorous reader response assignments. In mathematics, students with above grade level skills are, at times, grouped into special small classes conducted by interventionists. In middle school social studies, students with strong skills are challenged with more complex text material. In all core academic areas, teachers often create lessons with tiered options to serve the needs of learners at advanced levels.

### ***ELs***

To meet the needs of ELs, the Academy uses SIOP. SIOP is the integration of language instruction with content to provide more challenging and engaging instructional environments. The protocol is composed of thirty items grouped into three sections: preparation, instruction and review/evaluation. The SIOP model offers teachers a structure to teach what students need to learn in terms of both the language skills of listening, speaking, reading and writing in English as well as the specific content students need to learn with grade-level English-speaking peers. The goal of the program is to offer each student the English skills (i.e., reading, writing, listening and speaking) necessary to function successfully in an academic setting. At the Academy, ELs are further assisted through the ESL program. The ESL program is supported by ESL teachers and para-pros and offers both push-in and pull-out services to the Academy's EL students, as designated by the World-Class Instructional Design and Assessment ("WIDA™").

The Academy will follow all laws pertaining to ELs: Under Title I of the Elementary and Secondary Education Act (“ESEA”), states must include Limited English Proficient (“LEP”) students in their assessments of academic achievement in reading/language arts and mathematics, and must provide LEP students with appropriate accommodations including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what LEP students know and can do in the academic content areas until these students have achieved English language proficiency.

### ***Special Education***

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.

### **Transition**

The Academy has a transition program for Academy students to be successful in transitioning from middle school to high school. The transition practices implemented include (a) providing information on schools that may serve as feeder schools; (b) offering a parent night for parents to participate in a conference, with the child and the high school counselors, to discuss the student’s potential high school selection.

In addition, eighth grade students are provided the skills necessary in preparation for academic success in high school. As such, the following are endorsed in all subject areas (a) time

management; (b) basic study habits (e.g., prepared for class and completing and submitting assignments); (c) note taking skills; (4) setting and meeting reasonable performance goals; (d) staying organized; (e) making a commitment to learning; (f) staying on target with college aspirations.

### **EDP**

All seventh grade students are required to complete an EDP. The EDP assists students in identifying both career goals and a plan of action to achieve the goals. In this manner, students are provided with an ongoing record of career planning to assist and guide in the selection of careers that align with personal aptitude, interests and strengths.

### **Assessments**

The state assessment is used to measure proficiency, at designated grade levels, in mathematics, ELA, science and social studies. As a criterion-referenced test, it measures academic achievement. State assessment results are used to determine if students are improving over time, if improvement programs and policies are having the desired effect and if the results help to target academic assistance. In addition to the state assessment, the Academy administers the Northwest Evaluation Association™ (NWEA™) Measures of Academic Progress® (MAP®) Growth™ and Curriculum Associates' i-Ready to obtain specific student learning objectives. Daily formative assessments are also used. In essence, this "...is a planned process in which assessment-elicited evidence of students' status is used by teachers to adjust their ongoing instructional procedures or by students to adjust their current learning tactics" (Popham, 2007).

### **Pre-School**

The Academy operates an early childhood education program (Pre-Kindergarten and Great Start Readiness Program). 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.

### **Program Evaluation**

The Academy utilizes several strategies to determine the effectiveness of the implementation, delivery and support of the Educational Program. Academy leadership conducts formal staff observations, using the teacher evaluation tool, to monitor the delivery of the curriculum and observe effective instruction. In addition to formal observations, leadership conducts several weekly walkthroughs (i.e., informal observations). The formal and informal observations provide opportunities for teachers to receive feedback from leadership that serves to improve instructional delivery.

Another mechanism used to gather information is surveys. The Academy administers surveys to staff, parents and students to collect perceptual data. Perceptual data may be used to inform

curricular decisions instituting changes or modifications to courses that serve to improve the academic needs of all students. Furthermore, the Academy's SIP, Data Drop, PBIS teams and Monthly Grade Level Meeting minutes are used to evaluate the Educational Program and, when necessary, assist in designing programmatic revisions.

Lastly, the Academy examines assessment data (e.g., Data Drop three times a year) as a tool to determine academic interventions and curricular changes.

**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.

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The Academy has adopted Academy written English language arts curriculum, based on Fountas & Pinnell Classroom™, and Academy written curriculum based on Ready® Classroom Mathematics for grades kindergarten through five, as well as Academy written curriculum for all subjects and grades. The curriculum for all core subjects has been received, reviewed and approved by the Center.

### **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
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 of this Contract 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 550 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.

**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, if applicable, 1284a and 1284b, 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.

### **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 of Contract.

AMENDMENT NO. 1

to the  
July 1, 2023 Contract to Charter  
A Public School Academy and Related Documents

Issued To

THE DEARBORN ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)


CONTRACT AMENDMENT NO. 1

THE DEARBORN ACADEMY

In accordance with Article IX of the Terms and Conditions of the Contract (the "Contract"), dated July 1, 2023, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the "University Board") to THE DEARBORN ACADEMY (the "Academy"), the parties agree to amend the Contract as follows:

- 1.) Amend the Terms and Conditions of Contract by replacing the language contained within Article X, Section 10.4. Grounds and Procedures for Academy Termination of Contract and Section 10.5. Grounds and Procedures for University Termination of Contract, with the corresponding language attached as Tab 1.
- 2.) Amend Schedule 2: Amended Bylaws, by replacing the language contained within Article XIII, Section 6. Contracts Between Corporation and Related Persons, with the language attached as Tab 2.

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, 2024.

  
\_\_\_\_\_

Dated: 05/28/2024

By: Corey R. Northrop, Executive Director  
The Governor John Engler Center for Charter Schools  
Designee of the University Board

  
\_\_\_\_\_

Dated: 5/22/2024

By: Board President  
The Dearborn Academy  
Designee of the Academy Board

The Dearborn Academy  
Contract Amendment No. 1

# Tab 1

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. After receipt of the Academy Board's request for termination, the University Board shall consider the Academy's request no later than its next regularly scheduled meeting. The University Board shall make a final determination and vote on the proposed termination request within 90 days of receipt of the request from the Academy. 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; (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; or (iii) if exigent circumstances exist that the University Board determines, in its sole discretion, that termination of this Contract is required to protect the health, safety, or welfare of the Academy students, property, or funds that cannot be cured in a reasonable period as determined solely by the University Board, 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.

The Dearborn Academy  
Contract Amendment No. 1

# Tab 2

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 Board shall be an employee of the Academy for all purposes and not an employee of the University for any purpose. With respect to Academy Board 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 Board 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 domestic partner:

- (a) Is employed by the Academy Board;
- (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.
- (e) Is a current Academy Board member.

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 domestic partner.

AMENDMENT NO. 2

to the  
July 1, 2023 Contract to Charter  
A Public School Academy and Related Documents

Issued To

THE DEARBORN ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

CONTRACT AMENDMENT NO. 2

THE DEARBORN ACADEMY

In accordance with Article IX of the Terms and Conditions of the Contract (the "Contract"), dated July 1, 2023, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the "University Board") to THE DEARBORN ACADEMY (the "Academy"), as amended, the parties agree to further amend the Contract as follows:

- 1.) Amend Schedule 6: Physical Plant Description, by inserting at the end of this Schedule the Settlement and Release Agreement, attached as Tab 1.

The changes identified in Section 1 shall have an effective date of February 22, 2023.

- 2.) Further amend Schedule 6: Physical Plant Description, by inserting at the end of this Schedule the lease extension documentation and the Second Amendment to Lease Agreement, attached as Tab 2.
- 3.) Amend Schedule 7, Section d: Curriculum, by replacing the materials contained therein with the materials attached as Tab 3.

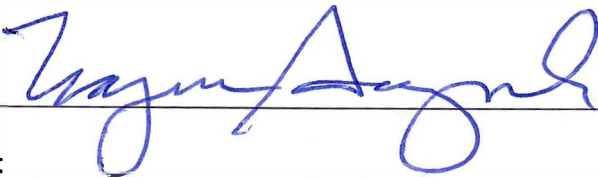
The changes identified in Sections 2 and 3 shall have an effective date of July 1, 2024.

This entire amendment is hereby approved by the University Board and the Academy Board through their authorized designees.



Dated: 09/30/2024

By: Corey R. Northrop, Executive Director  
The Governor John Engler Center for Charter Schools  
Designee of the University Board



Dated: 9/25/2024

By: \_\_\_\_\_  
The Dearborn Academy  
Designee of the Academy Board

The Dearborn Academy  
Contract Amendment No. 2

# Tab 1

## SETTLEMENT AND RELEASE AGREEMENT

### I. RECITALS

A. This Settlement and Release Agreement ("Agreement") is entered effective February 22, 2023 ("Effective Date"), by and between the Armenian Community Center of Greater Detroit, a Michigan nonprofit corporation ("Landlord"), located at 19300 Ford Road, Dearborn, Michigan 48128, and The Dearborn Academy, a Michigan nonprofit corporation ("Tenant"), located at 19310 Ford Road, Dearborn, Michigan 48128. Collectively, Landlord and Tenant constitute the "Parties" to this Agreement.

B. Landlord and Tenant entered a lease ("Lease") on April 26, 2018, effective July 1, 2017, of real property ("Leased Property") located at 19310 Ford Road, Dearborn, Michigan 48128 ("Lease").

C. The Lease required Landlord to make certain improvements to the subject property, including an addition to the existing school building adding four (4) new classrooms, a gymnasium, and locker rooms, as well as repair or replacement of the HVAC systems in the existing school building ("Improvements"). The addition is fully completed.

D. The Parties have disputed the Base Rent and the Additional Rent due under the Lease from Tenant to Landlord and the timing of completion of the Improvements to the property, as generally described in Recital C *supra*, as well as other issues that developed during construction of those Improvements. Tenant has not paid Additional Rent, in full, from July 2021 until August 31, 2022 ("Back Rent") as a result of the

dispute. Landlord alleges unpaid Back Rent totaling approximately \$603,199. Due to alleged set-offs, Tenant has disputed the amount of Back Rent it owes, if any.

E. On December 17, 2021, Landlord filed suit in the Wayne County Circuit Court, Case Number 21-017329-CB, seeking damages and other relief for an alleged breach of the Lease by Tenant (“Circuit Court Action”).

F. Landlord filed actions in the 19<sup>th</sup> District Court, State of Michigan, Landlord-Tenant Division, for the Back Rent (Case No. 22-8604-LT), and for possession of the Leased Property (Case No. 22-8786-LT) on July 17, 2022 and October 7, 2022, respectively (“District Court Actions”).

G. Tenant disputed Landlord’s claims in the Circuit Court Action and District Court Actions (collectively, the “Litigation”) and filed counterclaims in the Litigation.

H. The Parties now wish to dismiss the Litigation, settle all outstanding disputes between Landlord and Tenant through the Effective Date of this Agreement, and therefore enter the following Agreement.

## **II. AGREEMENT**

1. Upon the signing of this Agreement, the Parties will immediately sign the Consent Order for Conditional Dismissal pursuant to MCR 2.602(C) in the form attached as Exhibit A to this Agreement.

2. Upon the signing of this Agreement, the Parties will promptly dismiss the District Court Actions with prejudice in accordance with Exhibits D and E to this Agreement.



3. Except to the extent that it is expressly modified by the terms of this Agreement, the Lease is hereby reaffirmed and shall remain in full force and effect.

4. In full settlement of the Back Rent, and all other claims and counterclaims made by the Parties in the Litigation, Tenant shall pay to Landlord, *in addition to its monthly rent due under the Lease*, the total sum of Three Hundred Forty Thousand Dollars (\$340,000) (“Settlement Amount”) as follows:

Fifty Thousand Dollars (\$50,000) per month, beginning by February 22, 2023 and continuing in equal amounts thereafter by the 22<sup>nd</sup> day of each month, until the Settlement Amount has been paid in full.

Payment made by Tenant to Landlord shall be made in the same manner as Tenant’s monthly rent payments to Landlord under the Lease.

5. Upon payment of the full Settlement Amount as specified in ¶ 4 above, the conditional dismissal shall be deemed a final dismissal with prejudice without further action of the Parties.

6. In the event the Academy fails to make any scheduled payment to ACC by the agreed-upon date, the ACC shall notify the Academy of its failure by serving a notice upon the Academy via email delivery to Academy Board Liaison Officer Zeina Hamdan at [zhamdan@tda.k12.mi.us](mailto:zhamdan@tda.k12.mi.us) (the “Notice”). In the event the Academy fails to remit the payment owing within ten (10) days following service of the Notice (the “Cure Period”), the Academy shall be in default (“Default”), and the full settlement amount shall be increased to \$450,000 (“New Settlement Amount”). The Parties acknowledge and stipulate that the New Settlement Amount has been established as a reasonable settlement

amount for actual damages that the Landlord has incurred in the event of an uncured default by Tenant, and is not imposed as a penalty.

7. By August 31, 2023, Landlord will complete: (a) the resurfacing and restriping of the parking lot owned by Landlord that services the Leased Property ("Parking Lot") as required under section 29(a)(ii) of the Lease; (b) repair, levelling, and/or replacement of the sidewalk blocks adjacent to the Parking Lot; and (c) repair of the wheelchair ramp from the parking lot surface to the sidewalk.

8. By April 1, 2024, Landlord shall cause the current gravel lot immediately east of the Leased Property to be paved.

9. Within 45 days of the effective date of this agreement, Tenant will enter into an annual contract for 2023 with a qualified HVAC contractor for the full inspection and maintenance of the HVAC systems in Landlord's Addition, as defined in the Lease, and the pre-existing school building. The contract shall be promptly renewed or replaced annually for each year the Lease and any extensions thereof remain in effect. Tenant shall provide a copy of each full inspection and maintenance contract to Landlord within seven (7) days after it is signed.

10. By March 1, 2023, Landlord shall provide to Tenant written confirmation by Johnson Controls, Inc. ("JCI") that the replacement or repair work contracted for between JCI and ACC has been completed.

11. By March 1, 2023, Landlord shall provide written confirmation that the HVAC system at the Leased Property is fully functional.



12. Except as expressly set forth in this Agreement, the Parties and their respective directors, officers, managers, partners, trustees, employees, members, agents, representatives, successors and assigns each agree to release all claims arising out of or related to the Lease that have been, or could have been, brought in the Litigation or any other proceeding from the beginning of time through the date of execution of this Agreement. "Claims", as used in this Agreement, includes all assertions of rights or liabilities in any action, whether legal, equitable or administrative, in any forum whatsoever.

13. **Entire Agreement.** It is understood and acknowledged by the Parties that the terms of this Agreement are contractual, and that there are no binding agreements, understandings, statements, or representations made by Landlord or Tenant or their agents, officers, directors, shareholders, partners, family members, employees, attorneys, representatives, related companies, subsidiaries and/or affiliates, except as expressly stated in this Agreement. The Parties waive reliance on any representation not set forth in this Agreement.

14. **Counterparts.** This Agreement may be executed in any number of counterparts, and each such counterpart will be deemed to be an original, but all such counterparts together shall constitute one and the same agreement, binding upon all the Parties hereto.


15. **Authority to Sign Agreement.** Each of the Parties warrants and represents that each person signing this Agreement on its behalf, either individually or in a

representative capacity, has the authority to enter into this Agreement, to execute same, and to be legally bound hereby.

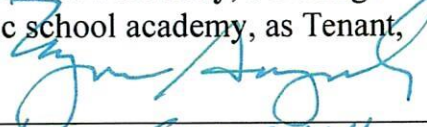
16. **Applicable Law.** This Agreement shall be governed by the laws of the State of Michigan and, if this Agreement becomes the subject of litigation between the Parties, the Parties hereby consent to exclusive jurisdiction in the Circuit Court for the County of Wayne or in the United States District Court for the Eastern District of Michigan.

17. Landlord and Tenant each acknowledge and agree to enter this Agreement, by the signatures that follow:

**The Armenian Community Center of Greater Detroit,**  
a Michigan nonprofit corporation, as Landlord,

By:   
Name: Raffi Durlan  
Title: President  
Dated: 2/27/2023

**The Dearborn Academy,** a Michigan nonprofit corporation  
and public school academy, as Tenant,

By:   
Name: NAJIM SAYMRAAH  
Title: BOARD PRESIDENT  
Dated: Feb. 27, 2023

The Dearborn Academy  
Contract Amendment No. 2

# Tab 2



**A Charter School**

19310 Ford Road | Dearborn, MI 48128 -1473

Tel. (313) 982 -1300 | Fax (313) 982- 9087

March 20, 2024

The Armenian Community Center of Greater Detroit  
19300 Ford Road  
Dearborn, Michigan 48128

**Re: Lease Agreement between The Armenian Community Center of Greater Detroit and  
The Dearborn Academy, dated April 26, 2018**

Dear Board of Directors:

Pursuant to Section 2(c) of the above referenced Lease Agreement this letter shall serve as written notice of The Dearborn Academy's intent to extend the current Lease Term for a term of five (5) years. This extension of the Lease Term is subject to the approval and execution by the Academy of an amendment to or restatement of the Lease Agreement and the approval of its authorizing body, Central Michigan University.

If you have any questions, please feel free to contact me at your convenience.

**The Dearborn Academy**

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

Its: President



## **SECOND AMENDMENT TO LEASE AGREEMENT**

This Second Amendment to Lease Agreement ("Second Amendment") entered into as of the 26<sup>th</sup> day of June, 2024, by and between **THE ARMENIAN COMMUNITY CENTER OF GREATER DETROIT**, a Michigan non-profit corporation, whose address is 19300 Ford Road, Dearborn, Michigan 48128 (the "Landlord") and **THE DEARBORN ACADEMY**, a Michigan non-profit corporation and public school academy, whose address is 19310 Ford Road, Dearborn, Michigan 48128 (the "Tenant"). Landlord and Tenant may be referred to herein collectively as the "Parties" and individually as a "Party".

By Lease Agreement between Landlord and Tenant dated April 26, 2018 but effective as of July 1, 2017 (the "Original Lease"), Landlord agreed to lease to Tenant certain property consisting of 51,289 rentable square feet (including Landlord's Addition) commonly known as 19310 Ford Road, Dearborn, Michigan. The initial term of the Lease is seven (7) years ("Initial Term"). The Initial Term expires on June 30, 2024.

Pursuant to Section 2(c) of the Original Lease, Landlord granted Tenant the right to extend the term of the Lease (hereafter defined) for five (5) additional successive five (5) year terms, at Tenant's option, provided that Tenant gives written notice to Landlord of Tenant's intention to exercise the option to extend the Lease not less than three (3) months prior to the expiration of the Initial Term. Tenant exercised its first option to extend the Term for an additional five (5) years pursuant to an executed Letter of Intent dated March 20, 2024, delivered to Landlord. Under Section 2(c) of the Lease, base rent during any extended term is to increase by 107% of the Annual Base Rent payable for the then-expiring term.

The Parties resolved several various disputes ("Disputes") between them regarding their respective obligations under the Original Lease pursuant to the terms of a Settlement and Release Agreement dated February 27, 2023 (the "First Amendment"). The First Agreement amended the terms of the Lease and required Tenant to enter into an annual contract with a qualified HVAC contractor for the inspection and maintenance of the HVAC system serving the Premises, which contract was to be renewed or replaced annually during the term of the Lease. Tenant is also to provide a copy of each inspection and maintenance contract within seven (7) days of execution.

Landlord desires that Johnson Controls, Inc. ("JCI") serve as the HVAC contractor and is willing to provide the Tenant with an accommodation on the Base Annual Rent during periods JCI serves Tenant's HVAC contractor pursuant to a valid and enforceable agreement between Tenant and JCI that has been delivered to Landlord.

Landlord and Tenant now wish to memorialize their agreements pursuant to this Second Amendment. The Original Lease, as amended by the First Amendment and this Second Amendment is hereafter referred to as the "Lease."

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises set forth below, Landlord and Tenant agree that the Lease is amended as follows:




1. Capitalized Terms. The forgoing recitals of fact are true and accurate and are incorporated into this Second Amendment. Capitalized terms not otherwise defined in this Second Amendment shall have the same meaning ascribed to them in the Lease.
2. Base Rent Accommodation. Notwithstanding anything to the contrary contained in the Lease or any exhibit thereto, so long as JCI is the HVAC contractor for the HVAC system serving the Premises pursuant to a valid and enforceable maintenance contract with Tenant that has been timely delivered to the Landlord as required to the Lease, then Tenant shall be entitled to a discount of two and 65/100 percent (2.65%) off the Annual Base Rent (payable in monthly installments) otherwise due and payable pursuant to the Lease. During any period when JCI is not serving as the HVAC maintenance contractor, or there is a default by Tenant under its contract with JCI, or the JCI maintenance contract is otherwise terminated, suspended or unenforceable, Tenant's obligation to pay the full Annual Base Rent shall resume and failure to pay the full Annual Base Rent (or monthly installments thereof) shall be a default under the Lease.
  - a. By way of example, Annual Base Rent during the first extended Term of the Lease is \$809,340.42 (or \$67,445.04 per month); provided however, so long as JCI serves as the HVAC maintenance contractor Tenant shall only be required to pay Annual Base Rent in the amount of \$789,337.71 (or \$65,778.14 per month).
  - b. Anytime JCI is not serving as HVAC maintenance contractor Tenant shall be obligated to resume paying the full Annual Base Rent of \$809,340.42 (or \$67,445.04 per month).
  - c. For purposes of calculating future increases in Annual Base Rent should Tenant exercise its other remaining options to extend the Lease Term, such increase shall be calculated based on the full Annual Base Rent then in effect, without regard to the discount available to Tenant for contracting with JCI as HVAC contractor as herein provided.
3. Monthly Payment of Monthly Base Rent and Additional Rent. Notwithstanding anything in the Lease to the contrary, Tenant's monthly payment of Monthly Base Rent shall be paid not later than the twentieth (22<sup>nd</sup>) day of the calendar month in which such Monthly Base Rent is due. If any Additional Rent is due in any one calendar month, such Additional Rent shall also be paid not later than the twentieth (22<sup>nd</sup>) day of the month.
4. Conflict. In the event of any conflict between the Lease and this Second Amendment, the terms and provisions of this Second Amendment shall govern.
5. Effect of Amendment. Nothing contained in this Second Amendment shall operate or be construed as a satisfaction or waiver of any of Landlord's or Tenant's rights, obligations or conditions thereunder. Except as modified by this Second Amendment, the terms and conditions of the Lease shall remain in full force and effect.
6. Binding Obligations on Successors and Assigns. All of the rights and obligations set

forth herein shall inure to the benefit of and be a binding obligation on any and all successors and assigns of Landlord and Tenant.

7. No Broker. Each of Landlord and Tenant represent and warrant to the other that no broker has been engaged in connection with this Second Amendment, and no broker commission is owed to any broker. Each of Landlord and Tenant agrees to indemnify and hold harmless the other against and from all liabilities and expenses (including, without limitation, counsel fees and disbursements in defending against such liabilities), which may accrue by reason of, on account of, or growing out of or resulting from breach by it of such warranty and representation.
8. Counterpart. This Second Amendment may be executed in any one of several counterparts, which when fully assembled, shall constitute one and the same document. Facsimile or scanned signatures shall be deemed as effective as an original.

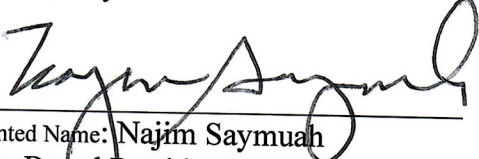
The undersigned have executed this Second Amendment to Lease Agreement as of the day and year first above written.

**THE ARMENIAN COMMUNITY  
CENTER OF GREATER DETROIT**, a  
Michigan nonprofit corporation

By   
Printed Name: Raffi Ourlian  
Its: President

“Landlord”

**THE DEARBORN ACADEMY**, a  
Michigan nonprofit corporation and public  
school academy

By:   
Printed Name: Najim Saymuah  
Its: Board President

“Tenant”

The Dearborn Academy  
Contract Amendment No. 2

# Tab 3



## 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.

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The Academy has adopted Academy written English language arts curriculum, based on Magnetic Reading™ Foundations and Magnetic Reading for grades kindergarten through five, and Academy written curriculum based on Ready® Classroom Mathematics for grades kindergarten through five, as well as Academy written curriculum for all subjects and grades. The curriculum for all core subjects has been received, reviewed and approved by the Center.

### **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
Physical Education	X	X	X	X	X	X	X	X	X

AMENDMENT NO. 3

to the  
July 1, 2023 Contract to Charter  
A Public School Academy and Related Documents

Issued To

THE DEARBORN ACADEMY  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

CONTRACT AMENDMENT NO. 3

THE DEARBORN ACADEMY

In accordance with Article IX of the Terms and Conditions of the Contract (the "Contract"), dated July 1, 2023, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the "University Board") to THE DEARBORN ACADEMY (the "Academy"), as amended, the parties agree to further amend the Contract as follows:

- 1.) Amend the Terms and Conditions of Contract by replacing the language contained within Article IV, Section 4.5. Prohibition of Identified Family Relationships, subsection (b), with the language attached as Tab 1.
- 2.) Further amend the Terms and Conditions of Contract by inserting at the end of Article XII: General Terms, the language attached as Tab 2.
- 3.) Amend Schedule 2: Amended Bylaws, by replacing the language contained within Article XIII, Section 6. Contracts Between Corporation and Related Persons and Article IX: Indemnification, with the corresponding language attached as Tab 3.
- 4.) Amend Schedule 4: Oversight, Compliance and Reporting Agreement, by inserting at the end of Article II, Section 2.2. Compliance and Reporting Duties, the language attached as Tab 4.

This entire amendment is hereby approved by the University Board and the Academy Board through their authorized designees, and shall become effective upon execution by the Designee of the University Board.



Dated: 04/24/2025

By: Corey R. Northrop, Executive Director  
The Governor John Engler Center for Charter Schools  
Designee of the University Board

  
BOARD PRESIDENT

Dated: 4/23/2025

By: \_\_\_\_\_  
The Dearborn Academy  
Designee of the Academy Board

The Dearborn Academy  
Contract Amendment No. 3

# Tab 1

**Terms and Conditions: Article IV, Section 4.5(b)**

- (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. If an Academy Board member discloses any prohibited familial relationships in the annual disclosure, or if the University finds that an Academy Board member has failed to disclose a prohibited familial relationship, that Academy Board member shall be removed from office, in accordance with the removal provisions found in the Resolution or Schedule 2: Amended Bylaws. 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 domestic partner.

The Dearborn Academy  
Contract Amendment No. 3

# Tab 2

## **Terms and Conditions: Article XII, Section 12.24**

Section 12.24. Required Statutory Disclosures. The Academy shall ensure that the names of Central Michigan University Board of Trustees and the primary educational management organization, if applicable, must appear and be verbally provided, as applicable, on all of the following:

- (a) Unless prohibited by a local ordinance or local zoning authority, signage that is on the Academy's property and is erected, repaired, or installed on or after April 2, 2025;
- (b) Promotional material that is created, modified, or distributed on or after April 2, 2025;
- (c) The footer of the Academy's website pages; and
- (d) The student application that is required to be enrolled in the Academy.

For purposes of this section, "primary educational management organization" shall have the same meaning as defined in MCL 380.503.

The Dearborn Academy  
Contract Amendment No. 3

# Tab 3



## **Amended Bylaws: Article VIII, Section 6**

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 Board shall be an employee of the Academy for all purposes and not an employee of the University for any purpose. With respect to Academy Board 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 Board 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 domestic partner:

- (a) Is employed by the Academy Board;
- (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.
- (e) Is a current Academy Board member.

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. If an Academy Board member discloses any prohibited familial relationships in the annual disclosure, or if the University finds that an Academy Board member has failed to disclose a prohibited familial relationship, that Academy Board member shall be removed from office, in accordance with the removal provisions found in the Resolution or these Amended Bylaws. 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 domestic partner.

## **Amended Bylaws: Article IX**

### **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. The indemnification shall not include any circumstances in which a 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 is grossly negligent or criminally liable for the indemnified act.

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**Oversight, Compliance and Reporting Agreement: Section 2.2(m)**

- m. The Academy shall ensure that the names of Central Michigan University Board of Trustees and the primary educational management organization, if applicable, must appear and be verbally provided, as applicable, on all of the following:
  - i. Unless prohibited by a local ordinance or local zoning authority, signage that is on the Academy's property and is erected, repaired, or installed on or after April 2, 2025;
  - ii. Promotional material that is created, modified, or distributed on or after April 2, 2025;
  - iii. The footer of the Academy's website pages; and
  - iv. The school application that a student must submit to enroll in the Academy.

For purposes of this section, "primary educational management organization" shall have the same meaning as defined in MCL 380.503.