



CONTRACT TO CHARTER A PUBLIC SCHOOL ACADEMY  
AND RELATED DOCUMENTS

ISSUED TO

**DISTINCTIVE COLLEGE PREP**  
**(A PUBLIC SCHOOL ACADEMY)**

BY THE

**CENTRAL MICHIGAN UNIVERSITY**  
**BOARD OF TRUSTEES**  
**(AUTHORIZING BODY)**

JULY 1, 2022

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**REAUTHORIZING RESOLUTION**

## REAUTHORIZATION OF PUBLIC SCHOOL ACADEMY

### Distinctive College Prep

Recitals:

1. At its December 8, 2016, meeting this board authorized the issuance of a contract to charter as a public school academy to Distinctive College Prep. On March 30, 2017, the contract was effective.
2. According to the revised school code, an authorizing body may permit a public school academy to operate the same configuration of age or grade levels at more than one site as long as the public school academy is operating in compliance with its contract and is making measurable progress towards meeting its educational goals.
3. The contract of this academy expires June 30, 2022.
4. The Governor John Engler Center for Charter Schools has completed its evaluation and assessment of the operation and performance of Distinctive College Prep and has determined that Distinctive College Prep is making measurable progress towards its educational goals.
5. The university president or designee has recommended the reissuance of a contract to charter as a public school academy to Distinctive College Prep. 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 Distinctive College Prep 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 Distinctive College Prep 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 Distinctive College Prep is able to comply with all terms and conditions of the contract.

CMU BDT APPROVED

Date: April 21, 2022  
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: M. J. Mangano

## **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, 2022**

**ISSUED BY**

**CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES**

**CONFIRMING THE STATUS OF**

**DISTINCTIVE COLLEGE PREP**

**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 Distinctive College Prep;

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 Distinctive College Prep'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 Distinctive College Prep 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 April 21, 2022, approving the issuance of a Contract to the Academy.
- (r) "Schedules" means the following Contract documents: Schedule 1: 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, 2022, Issued by the Central Michigan University Board of Trustees Confirming the Status of Distinctive College Prep 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 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 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 Distinctive College Prep 19360 Harper Ave. Harper Woods, MI 48225

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 one (1) academic year and shall terminate on June 30, 2023, unless sooner revoked, terminated, or suspended pursuant to Article X of these Terms and Conditions. Pursuant to University Board policy, the standards by which the Academy may be considered for the issuance of a new contract will be guided by the following core questions:

Is the Academy's academic program successful?

Is the Academy's organization viable?

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

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

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

Academy's failure to comply with this Contract or Applicable Law. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of Section 7 of the Governmental Liability for Negligence Act, being Act No. 170, Public Acts of Michigan, 1964.

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

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

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

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

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

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

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

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

Section 12.19. Student Privacy. In order to protect the privacy of students enrolled at the Academy, the Academy Board, 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: \_\_\_\_\_  
Richard K. Studley, 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.

DISTINCTIVE COLLEGE PREP

By: Mark Gaines  
Board President

Date: 6-28-22

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: Richard K. Studley  
Richard K. Studley, Chair

Date: 06/17/2022

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.

DISTINCTIVE COLLEGE PREP

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

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

**CONTRACT SCHEDULES**

Schedules

Articles of Incorporation.....1  
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**CONTRACT SCHEDULE 1**

**ARTICLES OF INCORPORATION**

502

<b>MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS CORPORATIONS, SECURITIES &amp; COMMERCIAL LICENSING BUREAU</b>																				
Date Received	<b>FILED</b>  JAN 09 2017																			
DEC 29 2016	This document is effective on the date filed, unless a subsequent effective date within 90-days after received date is stated in the document																			
<table border="1" style="width: 100%;"> <tr> <td colspan="3">Name</td> </tr> <tr> <td colspan="3">Mark Sundstrom</td> </tr> <tr> <td colspan="3">Address</td> </tr> <tr> <td colspan="3">5351 Pocono Dr.</td> </tr> <tr> <td>City</td> <td>State</td> <td>Zip</td> </tr> <tr> <td>West Bloomfield</td> <td>MI</td> <td>48323</td> </tr> </table>		Name			Mark Sundstrom			Address			5351 Pocono Dr.			City	State	Zip	West Bloomfield	MI	48323	ADMINISTRATOR CORPORATIONS DIVISION  TranInfo:1 21790113-1 12/27/16 Chk#: 208 Amt: \$20.00 ID: DAVID SUNDBSTROM  EFFECTIVE DATE
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Mark Sundstrom																				
Address																				
5351 Pocono Dr.																				
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West Bloomfield	MI	48323																		

**71946J**

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

OF

**DISTINCTIVE COLLEGE PREP**

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 Articles:

**ARTICLE I**

The name of the corporation is: Distinctive College Prep.

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

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## 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 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.

The description and value of its real property assets are: none.

The description and value of its personal property assets are: none.

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 Mark Sundstrom.

The address of its registered office in Michigan is: 5351 Pocono Drive, West Bloomfield, MI 48323.

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

## **ARTICLE V**

The name and address of the incorporator is as follows:

David Sundstrom  
910 West Van Buren  
Suite 315  
Chicago, IL 60607

## **ARTICLE VI**

The corporation is a governmental entity.

## **ARTICLE VII**

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 VIII**

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 IX**

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 X**

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 XI

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 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 XII

These 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 Articles of Incorporation or may propose a meeting to discuss potential revision to these 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 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 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 Articles of Incorporation. The 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 Articles of Incorporation take effect only after they have been approved by the corporation's Board of Directors and by the University Board or The Center's Executive Director, and the amendments are filed with the Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services. In addition, the corporation shall file



with the amendment a copy of the University Board's or The Center's Executive Director's approval of the amendment.

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

### ARTICLE XIII

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

These Articles of Incorporation are hereby signed by the incorporator on this 10<sup>th</sup> day of DECEMBER, 2016. These Articles of Incorporation shall become effective upon filing. However, the corporation shall not carry out the purposes set forth in Article II unless the University Board issues to the corporation a Contract to operate as a public school academy, and the Contract is executed by both the corporation and the University Board

By: 

, Incorporator

**CONTRACT SCHEDULE 2**

**AMENDED BYLAWS**

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**AMENDED BYLAWS**  
**OF**  
**DISTINCTIVE COLLEGE PREP**

**ARTICLE I**  
**NAME**

This organization shall be called Distinctive College Prep (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 28 day of June, 2022.

  
\_\_\_\_\_  
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 Distinctive College Prep ("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 Distinctive College Prep.

BY:  \_\_\_\_\_

David Boyne  
Director, State Finance Division  
Bureau of State and Authority Finance  
Michigan Department of Treasury

Date: February 4, 2022

**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 Distinctive College Prep ("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 evaluation studies using Academy data including, but not limited to, personally identifiable information about the Academy's students and staff submitted by the Academy to agencies including, but not limited to, Center for Educational Performance and Information ("CEPI"), Office of Educational Assessment and Accountability ("OEAA") and the Michigan Department of Education ("MDE"). Pursuant to this authorization, the Center shall abide by the regulations that govern the use of student data within the Family Educational Rights and Privacy Act (FERPA - 34 CFR Part 99), the Michigan Identity Theft Protection Act of 2004, and the Privacy Act of 1974.
- j. Upon request, the Academy Board shall provide the Center with a written report, along with supporting data, assessing the Academy's progress toward achieving the educational goal and related measures outlined in Contract Schedule 7b.
- k. Upon request, provide the Center with copies or view access to data, documents or information submitted to MDE, the Superintendent of Public Instruction, the State Board of Education, CEPI or any other state or federal agency.
- l. If the Academy operates an online or other distance learning program, it shall submit a monthly report to the 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**

All positions are employed by Distinctive Schools and are outlined in the Educational Service Provider Agreement included in this Schedule.

### **Position Responsibilities**

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

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

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

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

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

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

### **Instructional Staff**

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

### **Non-Instructional Staff**

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

## MANAGEMENT SERVICES AGREEMENT

This Management Services Agreement (the "Agreement") is made and entered into effective as of July 1, 2022, by and between **Distinctive Schools**, an Illinois nonprofit corporation, and **Distinctive College Prep**, (the "Academy"), a Michigan body corporate and public school academy organized under the Revised School Code (the "Code").

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

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

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

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

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

### ARTICLE I CONTRACTUAL RELATIONSHIP

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

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

**C. Status of the Parties.** Distinctive Schools is a limited liability company of Michigan, and is not a division or part of the Academy. The Academy is a body corporate and governmental entity authorized by the Code, and is not a division or part of Distinctive Schools. The relationship between Distinctive Schools and the Academy is based solely on the terms of this Agreement. The parties to this Agreement acknowledge that the relationship between them created by this Agreement is that of an independent contractor, and that except as expressly set forth in this Agreement, no employee of Distinctive Schools shall be deemed to be an agent or employee of the Academy. Distinctive Schools will be solely responsible for its acts and the acts of its agents, employees, and subcontractors.

**D. Designation of Agents.** No agent or employee of the Academy shall be determined to

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

1. The Academy agrees to define “school official” in the Academy’s annual notification of rights under 20 U.S.C. § 1232g, 34 C.F.R. § 99, the Family Educational Rights and Privacy Act (“FERPA”) to include a contractor who performs an institutional service or function for which the Academy would otherwise use its own employees, who is under the direct control of the Academy with respect to the use and maintenance of personally-identifiable information from education records, and who is subject to the requirements of 34 C.F.R. § 99.33(a) governing the use and redisclosure of personally identifiable information from education records. The Board designates Distinctive Schools and certain of its employees and subcontractors as school officials of the Academy having a legitimate educational interest such that they are entitled to access to educational records under FERPA. Distinctive Schools and its employees and subcontractors agree to comply with FERPA and corresponding regulations applicable to school officials.
2. During the term of this Agreement, the Academy may disclose confidential data and information to Distinctive Schools, and its respective officers, directors, employees and designated agents to the extent permitted by applicable law, including without limitation, the Individuals with Disabilities Education Act (“IDEA”), 20 USC §1401 *et seq.*, 34 CFR 300.610 -300.626; Section 504 of the Rehabilitation Act of 1973, 29 USC §794a, 34 CFR 104.36; the Michigan Mandatory Special Education Act, MCL 380.1701 *et seq.*; the Americans with Disabilities Act, 42 USC §12101 *et seq.*; the Health Insurance Portability and Accountability Act (“HIPAA”), 42 USC 1320d - 13200d-8; 45 CFR 160, 162 and 164; and social security numbers, as protected by the federal Privacy Act of 1974, 5 USC §552a; and the Michigan Social Security Number Privacy Act, MCL 445.84.
3. Except as permitted under the Code, Distinctive Schools shall not sell or otherwise provide to a for-profit business entity any personally identifiable information that is part of an Academy student’s education records. If Distinctive Schools receives information that is part of an Academy student’s education records, Distinctive Schools shall not sell or otherwise provide the information to any other person except as permitted under the Code. For purposes of this section, the terms “education records” and “personally identifiable information” shall have the same meaning as those terms in section 1136 of the Code, MCL 380.1136.
4. As otherwise expressly designated by written agreement of the parties with consent from anyone whose consent is required by law or contract.

## ARTICLE II TERM

- A. **Term.** This Agreement shall become effective July 1, 2022, and shall cover one (1)

academic year commencing on July 1, 2022 and ending on June 30, 2023, subject to a continued Contract from CMU and continued state per capita funding. The Contract from CMU is effective through June 30, 2023 and may be renewed for additional terms at the discretion of the Authorizer based on the performance of the Academy for a period of up to five (5) years. The parties recognize that during the reauthorization process CMU may condition an extension or reauthorization of the Contract upon modifications to this Agreement or submission of a new agreement.

### **ARTICLE III FUNCTIONS OF DISTINCTIVE SCHOOLS**

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

1. Implementation and administration of the Educational Program contained in the Contract;
2. Curriculum improvement services;
3. Student environment management and community outreach/ marketing Services;
4. Computer services;
5. Timely budget preparation and financial management services, such as accounting and bookkeeping services, financial and operational reports;
6. Risk management, such as the administration of any insurance claims involving personal injury or property loss, relating to the security of the facilities and confidential information and files;
7. Accounts payable;
8. Acquisition of instructional and non- instructional material, equipment and supplies as requested by the Board;
9. Selection, employment and supervision of all teachers and staff and the personnel management services (recordkeeping, wage and benefits administration, training and technical assistance) necessary to support those employees;
10. Food service management;
11. Transportation management;
12. Facilities maintenance;
13. Preparation of Board meeting agenda and board meeting minutes, with prior distribution to Board seven (7) in advance of Board meeting for Board review;

14. Preparation of required CMU, local, state and federal reports with prior review by the Board;
15. Information and technology system development and management;
16. Preparation of applications for grants and special programs;
17. Securing funding sources for special programs and facility improvements as requested by the Board;
18. Operation of the school building and the installation of technology integral to school design;
19. Administration of extra-curricular and co-curricular activities and programs;
20. Preparation of regulations governing operations of the Academy as approved by the Board;
21. Provide special education services to students who attend the Academy in conformity with the requirements of state and federal laws and applicable regulations and policies;
22. Preparation of strategic plans for the continuing educational and financial benefit of the Academy;
23. Implementation of an ongoing public relations strategy, developed for the Board, for the development of beneficial and harmonious relationships with other organizations and the community;
24. Preparation and enforcement of student codes of conduct; and
25. Any other function necessary or expedient for the administration of the Academy with prior approval from the Board.

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



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

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

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

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

**G. Student Recruitment.** Distinctive Schools shall be responsible for assisting collaboratively in the recruitment of students subject to the provisions of the Contract or applicable laws and the policies adopted by the Board. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with applicable law. Distinctive Schools shall follow all applicable procedures regarding student recruitment, enrollment, and lottery management, and shall be responsible for publication of appropriate public notices and scheduling open houses.

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

**I. Legal Requirements.** Distinctive Schools shall provide educational programs that meet the requirements imposed under the Contract and applicable law, unless such requirements are

or have been waived.

**J. Rules and Procedures.** The Board shall adopt rules, regulations, and procedures applicable to the Academy and Distinctive Schools is directed to enforce the rules, regulations, and procedures adopted by the Board. Distinctive Schools shall assist the Board in its policy making function by recommending the adoption of reasonable rules, regulations and procedures applicable to the Academy.

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

**L. Authority.** Distinctive Schools shall have authority and power necessary to undertake its responsibilities described in this Agreement except in the case(s) wherein such power might not be delegated by law.

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

**N. Additional Programs.** The services provided by Distinctive Schools to the Academy under this Agreement consist of the Educational Program as set forth in the Contract, as the same may change from time to time. The Board may decide to provide additional programs, including but not limited to summer school. Any revenues collected from such programs will go directly to the Academy. The Academy may also purchase additional services from Distinctive Schools at mutually agreeable cost.

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

**P. Financial Reporting.** On not less than a monthly basis, Distinctive Schools shall provide the Board with a balance sheet and statement of revenue, expenditures, and changes in fund

balance, detailing the status of the budget to actual revenues and a detailed schedule of expenditures at an object level for review and approval by the Board. A written report shall explain any variances from the approved budget, shall contain recommendations for necessary budget corrections, and shall be prepared at least seven (7) calendar days in advance of the Board meeting to be available for Board packets sent to Board Members in preparation for Board meetings. Distinctive Schools shall provide special reports as necessary to keep the Board informed of changing conditions.

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

**R. Compliance with Section 503c.** On an annual basis, Distinctive Schools agrees to provide the Board with the same information that a school district is required to disclose under section 503c of the Code, MCL 380.503c and under section 18(2) of the State Aid Act of 1979, MCL 380.1618, 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 Academy's website home page, in a form and manner prescribed by the Michigan Department of Education. The defined terms in section 503c of the Code shall have the same meaning in this Agreement.

**S. Suspension and Debarments List.** Federal agencies are required to award contracts only to presently responsible sources and cannot award funds to entities that have been suspended or debarred from doing business with the federal government. The Academy is a recipient of federal funding and Distinctive Schools is required to refrain from any action that will result in being suspended or debarred. Distinctive Schools certifies and affirms that it is not included on the federal Suspension and Debarments list of Excluded Parties List; nor is Distinctive Schools affiliated with any party that is included on the federal Suspension and Debarments list of Excluded Parties List.

#### **ARTICLE IV OBLIGATIONS OF THE BOARD**

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

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

**C. Academy Employees.** The Board may employ a Liaison Officer to review the

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

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

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

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

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

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

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

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

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

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

## **ARTICLE V FINANCIAL ARRANGEMENT**

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

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

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

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

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

The annual fee to be paid between July 1 through June 30 shall be the greater of (a) the sum of \$375,000 or (b) twelve (12.00%) percent of all payments that the Academy receives directly or indirectly under Paragraph A above less amounts retained by CMU and all grants received by the Academy under Paragraph B (except for donations that are made to Academy) that are to be expended during that school year.

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

Pursuant to Section 380.1220 of the Michigan School Code, all public school academies shall not incur a deficit fund balance in the most recently completed school fiscal year. With regard to the first two fiscal years of a school site's existence, Distinctive Schools agrees to provide in-kind financial contributions to Distinctive College Prep for the purposes of ensuring Distinctive College Prep's compliance with MCL 380.1220. The obligations of Distinctive Schools under this paragraph shall only apply as long as any deficit fund balance of Distinctive College Prep was incurred through the normal course of business.

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

**E. Payment of Educational Program Costs.** In addition to the Academy's obligation to reimburse Distinctive Schools for the compensation of certain Distinctive Schools employees under Article VI, all costs reasonably incurred in providing the Educational Program at the Academy shall be paid by the Academy. Such costs shall include, but shall not be limited to, curriculum materials, professional development, textbooks, library books, computer and other equipment, software, supplies utilized at the Academy for educational purposes, services provided pursuant to subcontract, building payments, maintenance, utilities, capital improvements, and marketing and development costs. No corporate costs of Distinctive Schools shall be paid for by the Academy. Marketing and development costs paid by or charged to the Academy shall be limited to those costs

specific to the Academy program, and shall not include any costs for the marketing and development of Distinctive Schools. The Board shall reimburse Distinctive Schools monthly for approved fees and expenses upon properly presented documentation and approval by the Board, but reimbursements for the cost of compensation of Distinctive Schools' employees under Article VI shall be made no later than three (3) business days before that compensation is due to the employees. At its option, the Board may advance funds to Distinctive Schools for the fees and expenses associated with the Academy's operation provided that documentation for the fees and expenses are provided for Board ratification at its next regularly scheduled meeting. In paying costs on behalf of the Academy, Distinctive Schools shall not charge an added fee. Any costs reimbursed to Distinctive Schools that are determined by the independent audit not to be reasonably incurred on behalf of the Educational Program of the Academy shall be promptly returned to the Academy by Distinctive Schools. Any services to be provided by Distinctive Schools that are included in the management fee but are performed by a subcontractor shall not be charged to, reimbursed by, or passed through as an additional cost to the Academy.

**F. Distinctive Schools Costs.** The annual management fee to be paid to Distinctive Schools set forth in Article V, Section C is intended to compensate Distinctive Schools for all expenses it incurs for administrative and financial services Distinctive Schools is required to provide under this Agreement, including but not limited to, expenses associated with individuals providing professional and curriculum development services, accounting services, clerical services, management and budgeting services, and administrative services. Distinctive Schools will provide sufficient professional and non-professional staff in these areas, which shall be compensated by Distinctive Schools. In addition, the annual management fee is intended to compensate Distinctive Schools for all costs incurred by Distinctive Schools to provide these services. The annual management fee does not include payments for Distinctive Schools' personnel provided pursuant to Article VI (B), (C), and (D), the cost of which will be reimbursed in accordance with Article VI (A).

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

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

**I. Audit Report Information.** Distinctive Schools will make all of its financial and other records related to the Academy available to the Academy and the Academy's independent auditor selected by the Board, and CMU upon request.

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

CMU's Educational Service Provider Policies and applicable law.

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

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

## **ARTICLE VI PERSONNEL AND TRAINING**

**A. Personnel Responsibility.** Distinctive Schools is responsible for providing the Academy with qualified administrative, teaching, food service, secretarial, maintenance and transportation staff to operate the Academy within the staffing levels approved by the Board in its annual budget. Distinctive Schools shall have the authority to select, evaluate, assign, discipline, transfer and terminate the employment of all individuals working at or for the Academy with the exception of the Board Liaison officer and Board clerical staff, if any, consistent with applicable law and the provisions of this Agreement. With the exception of the Board Liaison Officer and Board clerical staff, if any, Distinctive Schools shall be the employer of all individuals working at or for the Academy and accepts full liability and will be responsible for the payment of all costs attributable to these employees, including wages, salaries, fringe benefits, payroll taxes, unemployment costs, workers compensation costs, and liability insurance costs irrespective of whether Distinctive Schools receives an advancement of its costs or the payment of services from the Academy. Unless required by applicable statute, court or administrative decision, or Attorney General's opinion, Distinctive



Schools shall not make payments to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees. Distinctive Schools will provide the Board with a detailed listing of the anticipated compensation and fringe benefit costs for all employees of Distinctive Schools who will be assigned to provide services at the Academy. The Board will reimburse Distinctive Schools for the cost of the salaries, fringe benefits, and social security withholdings of employees assigned to the Academy, provided that these costs are no higher than anticipated and approved in the annual budget. At its option, the Board may advance funds to Distinctive Schools for the cost of the salaries, fringe benefits, and social security of employees assigned to the Academy provided that documentation for the fees and expenses are provided for Board review and the costs are consistent with budget allocations. At the request of the Board, Distinctive Schools will provide payroll services for employees of the Board. Distinctive Schools will not assign any employee to work at the Academy who has not successfully completed a pre-employment background check (including criminal history, criminal background and unprofessional conduct checks) and credential verification, and, if appropriate, a pre-employment physical. Distinctive Schools will not place in the employment contracts with any of its employees assigned to work at the Academy any restrictions that would prevent the Academy from employing those individuals at the Academy or would prevent those individuals from working for the Academy or for any other entity providing educational services to the Academy. Distinctive Schools agrees that any provision of an employment agreement with any of its employees that would be in violation of this provision is void and shall not be enforceable in any forum. Distinctive Schools agrees that employment agreements with all Academy Staff including, but not limited to, administrators, teachers, counselors, and support staff shall not contain non-compete provisions of any nature. Distinctive Schools will comply with the requirements of applicable law, including but not limited to section 1249 of the Code, MCL 380.1249, regarding the evaluation of its employees based in part upon data on student growth and the establishment of employee compensation levels that include job performance and job accomplishments as a significant factor.

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

**C. Teachers.** As part of the annual budgeting process, Distinctive Schools shall make a recommendation to the Board regarding the number of teachers required for the operation of the Academy pursuant to the Contract. The Board, however, shall ultimately decide the number of teachers and curriculum. Distinctive Schools shall provide the Academy with such teachers, qualified in the grade levels and subjects as are required by the Academy. The curriculum taught by such teachers shall be the curriculum, applicable grade levels and subjects taught at the Academy as prescribed in the Contract, and shall conform to the state endorsed requirements, including those for a high school diploma. Such teachers may, at the discretion of Distinctive Schools, work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such teachers may also work at other schools operated by Distinctive Schools. Each teacher assigned to or retained by the Academy shall be a highly qualified teacher with a valid teaching certificate or temporary special permit issued by the State Board of Education under the Code, to the extent required under the Code and the No Child Left Behind Act of 2001, as amended. If Distinctive Schools chooses to execute employment agreements with teaching staff that have a term of longer than one year, the Board reserves the right to have teachers placed elsewhere by Distinctive Schools if the Board is dissatisfied with their performance at the end of any school year. Teachers employed by Distinctive Schools shall not be considered teachers for purposes of continuing tenure under MCL Section 38.71 *et seq.*

**D. Support Staff.** As part of the annual budgeting process, Distinctive Schools shall make a recommendation to the Board regarding the number of support staff required for the operation of the Academy pursuant to the Contract. The Board, however, shall ultimately decide the number of support staff at the Academy. Distinctive Schools shall provide the Academy with such support staff, qualified in the areas required, as are required by the Academy. Such support staff may, in the discretion of Distinctive Schools, work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such support staff may also work at other schools operated by Distinctive Schools. Each support staff employee assigned to or retained by the Academy shall have received the training and hold the certificates, degrees, or licenses legally required for the position to which they are assigned under the Code and the No Child Left Behind Act of 2001, as amended. If Distinctive Schools chooses to execute contracts with support staff that have a term of longer than one year, the Board reserves the right to have support staff placed elsewhere by Distinctive Schools if the Board is dissatisfied with their performance at the end of any school year.

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

## ARTICLE VII TERMINATION OF AGREEMENT

**A. Termination by the Academy for Cause.** This Agreement may be terminated by the Academy for cause prior to the end of the term specified in Article II in the event that Distinctive Schools should fail to remedy a material breach within a period reasonable under the circumstances, which shall not be longer than sixty (60) days after notice from the Academy. Material breach may include, but is not limited to, a failure to carry out its responsibilities under this Agreement such as a failure to make required reports to the Board, failure to account for its expenditures or to pay

operating costs (provided funds are available to do so); or a violation of the Contract or of applicable law. In order to terminate this Agreement for cause, the Board is required to provide Distinctive Schools with written notification of the facts it considers to constitute material breach and the period of time within which Distinctive Schools has to remedy this breach. After the period to remedy the material breach has expired, the Board may terminate this Agreement by providing Distinctive Schools with written notification of termination. Any action or inaction by Distinctive Schools that is not cured within 60 days of notice thereof which causes the Contract to be revoked, terminated, suspended or which causes the Contract to be in jeopardy of revocation, termination or suspension by Central Michigan University is a material breach.

**B. Termination by Distinctive Schools for Cause.** This Agreement may be terminated by Distinctive Schools for cause prior to the end of the term specified in Article II in the event the Academy fails to remedy a material breach within a period reasonable under the circumstances, which shall not be longer than sixty (60) days after notice from Distinctive Schools. Material breach may include, but is not limited to, a failure by the Academy to carry out its responsibilities under this Agreement such as a failure to make payments to Distinctive Schools as required by this Agreement or a failure to give consideration to the recommendations of Distinctive Schools regarding the operation of the Academy; a violation of the Contract or of applicable law. In order to terminate this Agreement for cause, Distinctive Schools is required to provide the Board with written notification of the facts it considers to constitute material breach and the period of time within which the Academy has to remedy this breach. After the period to remedy the material breach has expired, Distinctive Schools may terminate this Agreement by providing the Board with written notification of termination.

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

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

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

**F. Effective Date of Termination.** In the event this Agreement is terminated by either party prior to the end of the term specified in Article II, paragraph A, absent unusual and compelling circumstances, the termination will not become effective until the end of that school year. Termination of this Agreement mid-year is strongly discouraged. The Academy Board and Distinctive Schools agree to make all efforts necessary to remedy a breach of this Agreement in

order to continue school operations until completion of the then-current school fiscal year. If a breach cannot be remedied, the Academy Board and Distinctive Schools agree to work cooperatively to transition management and operations of the Academy without disrupting the school's operations. Distinctive Schools agrees to perform this transition in a similar manner as described in Article VII, Section I, based upon completion of the then-current school period.

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

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

**I. Amendment Caused By Academy Site Closure or Reconstitution.** In the event that the Academy is required (i) to close an Academy site pursuant to a notice issued by the 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 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 Distinctive Schools shall have no recourse against the Academy or the University Board for implementing such site closure or reconstitution.

## **ARTICLE VIII PROPRIETARY INFORMATION**

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

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

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

## **ARTICLE IX INDEMNIFICATION**

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

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

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

**D. Indemnification for Negligence.** To the extent permitted by law, the Academy shall indemnify and hold harmless Distinctive Schools, and Distinctive Schools' Owner, Board of

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

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

## **ARTICLE X INSURANCE**

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

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

**C. Workers' Compensation Insurance.** Each party shall maintain workers'

compensation insurance when and as required by law, covering their respective employees.

## **ARTICLE XI MISCELLANEOUS**

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

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

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

If to Distinctive Schools:            910 West Van Buren, Suite 315  
Chicago, IL 60607  
Attn: David Sundstrom ([dms@distinctiveschools.org](mailto:dms@distinctiveschools.org))

If to Distinctive College Prep: Distinctive College Prep - Harper Woods  
19360 Harper Ave  
Harper Woods, MI 48225  
Attention: Board President

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

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

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

**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 of the parties under this Agreement are cumulative and not exclusive of any rights or remedies, which any of them may otherwise have.

**H. Assignment.** Distinctive Schools may not assign this Agreement without the prior written approval of the Board and without prior notification to CMU and must be done in a manner consistent with CMU's ESP Policies. Any assignment to another Educational Service Provider (ESP)

will be considered an ESP as defined by CMU's ESP policies and any assignable ESP party shall follow the requirements set forth in the CMU policies.

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

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

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

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

**M. Dispute Resolution Procedure.** Any and all disputes between the parties concerning any alleged breach of this Agreement or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement that are unable to be resolved through discussion and negotiation shall be resolved by arbitration, and such an arbitration procedure shall be the sole and exclusive remedy for such matters. The arbitrator shall be selected from a panel provided by and in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association ("AAA"), with such variations as the parties and the arbitrator unanimously accept. Further, the Parties agree that the Expedited Procedures of the AAA shall be used, regardless of amount in controversy or number of parties named. Any arbitration hearing shall be conducted in Detroit, Michigan. The arbitrator shall be required to issue a cause opinion with a written explanation as to the final decision. CMU shall be notified of the arbitrator's decision and a copy of the arbitrator's opinion shall be made available to CMU upon request. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction. The cost of arbitration, not including attorney fees, shall be paid by the losing party. It shall be in the discretion of the arbitration panel to award reasonable attorney fees to the prevailing party, to be paid if awarded by the losing party.

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

**O. CMU Review.** This Agreement is subject to review and non-disapproval by CMU and shall not become effective until non-disapproval is provided by CMU.

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

[signature page to follow]



**Distinctive College Prep**

By: Nicole Gaines

Nicole Gaines  
(Print Name)

Its: Board of Directors-President

**Distinctive Schools, Inc.**

By: Scott Frauenheim

Scott Frauenheim  
(Print Name)

Its: Chief Executive Officer

4886-2382-2115 v7 [74500-1]

**CONTRACT SCHEDULE 6**

**PHYSICAL PLANT DESCRIPTION**

**PHYSICAL PLANT DESCRIPTION**

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

Physical Plant Description ..... 6-1

**a. Distinctive College Prep – Harper Woods**

Site Plan ..... 6-3

Floor Plan..... 6-4

Agreement of Lease with Option to Purchase ..... 6-5

Inspection Report..... 6-56

Certificate of Use and Occupancy ..... 6-57

**b. Distinctive College Prep – Redford**

Site Plan ..... 6-58

Floor Plan..... 6-59

Amendment No. 1 to Lease Agreement..... 6-60

Lease Agreement ..... 6-63

Inspection Report..... 6-88

Certificate of Use and Occupancy ..... 6-89

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 Distinctive College Prep (the "Academy") is as follows:

**a. Distinctive College Prep – Harper Woods**

Address: 19360 Harper Ave.  
Harper Woods, MI 48225

Description: The Academy's Site includes a two-story building and a courtyard area. The building is approximately 106,000 square feet of space. There are 42 classrooms, 20 restrooms, a cafetorium with a stage, kitchen, gymnasium, library, band room, offices, conference rooms, locker rooms, teacher's lounge, and storage areas. The Site also includes an outdoor play area and a parking lot.

Configuration of Grade Levels: Kindergarten through Eighth Grade.

Term of Use: Term of Contract.

Name of School District and Intermediate School District:

Local: Harper Woods School District  
ISD: Wayne RESA

**b. Distinctive College Prep – Redford**

Address: 17175 Olympia  
Redford, MI 48240

Description: The Academy leases a one-story building, which includes approximately 43,000 square feet of space, from the Archdiocese of Detroit. The building includes 21 classrooms, a multi-purpose room, six restrooms for student use, and office and storage areas. The Site also includes a large playground area and parking lot.

Configuration of Grade Levels: Kindergarten through Seventh Grade.

Term of Use: Term of Contract.

Name of School District and Intermediate School District:

Local: Redford Union Schools  
ISD: Wayne RESA

3. It is acknowledged and agreed that the information identified below, 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.

**Distinctive College Prep – Harper Woods**



212 DAINES STREET  
BIRMINGHAM  
MICHIGAN 48009

P 248 644 3410  
F 248 644 0819

info@mjdul.com

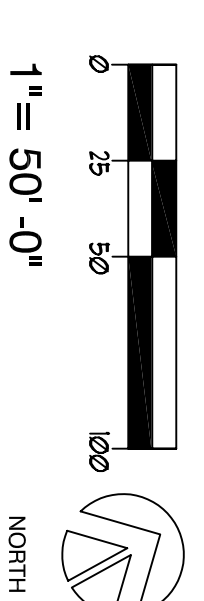
Client:  
Starr Commonwealth  
TAKTIX Solutions

Distinctive College Prep  
19360 Harper Avenue  
Harper Woods, MI 48225

**PROJECT**

Preliminary  
**Landscape Plan-Overall Site**  
Landscape Development

**SHEET TITLE**



**SCALE**

PROJECT NUMBER: 12138

DRAWN: J. Bohmy

CHECKED: M. Dul

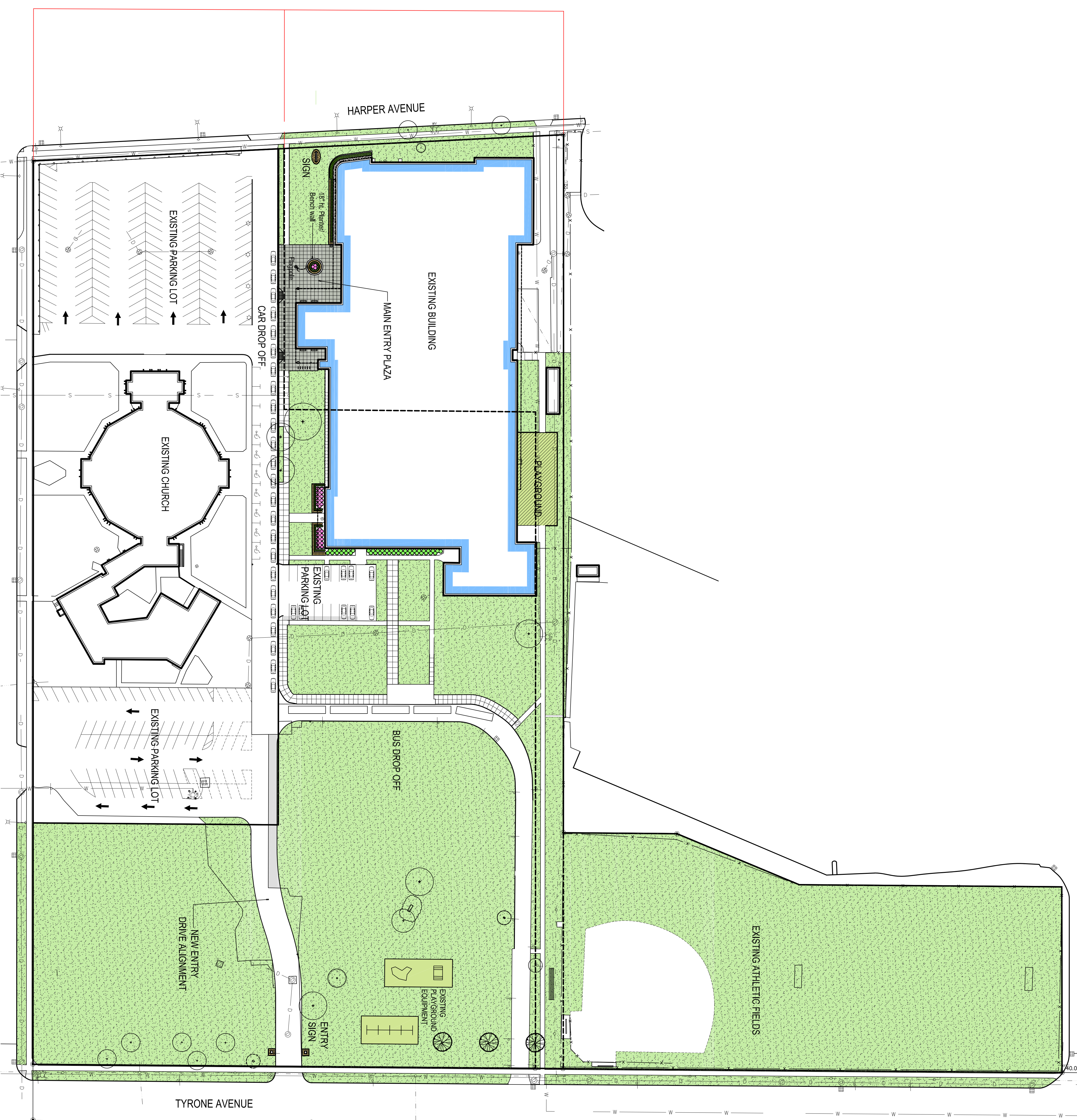
DATE: June 06, 2012 Owner Review

REVISIONS: June 13, 2012 Owner Review

June 20, 2012 Owner Review

**NOT FOR CONSTRUCTION**

**L-200**





**Sidock Architects**  
ARCHITECTS • ENGINEERS • CONSULTANTS

Main Headquarters  
4650 N. Michigan  
Novi, Michigan 48274  
Ph: (248)394-4500 • Fax: (248)394-1429

Wyandotte Office  
4242 E. Wayne  
Wayne, Michigan 48274  
Ph: (734)255-1922 • Fax: (734)255-2833

West Michigan Office  
373 W. Webster Avenue, Suite 200  
Grand Rapids, Michigan 49503  
Ph: (231)722-4900 • Fax: (231)722-4955

www.sidockarchitects.com  
Key Plan: NO SCALE

Client: STARR COMMONWEALTH TAKTIX SOLUTIONS

Project: DISTINCTIVE COLLEGE PREP

19360 HARPER AVENUE  
HARPER WOODS, MI 48225  
Seal:

Date: Issued For STATE REVIEW  
05/15/12 BCC REVIEW COMMENTS  
06/01/12

Drawn: K. GILSON  
Checked: S. PETERSON  
Approved: R. JORDAN

Sheet Title: COMPOSITE FLOOR PLANS

Project Number: 12088

Sheet Number: A-200

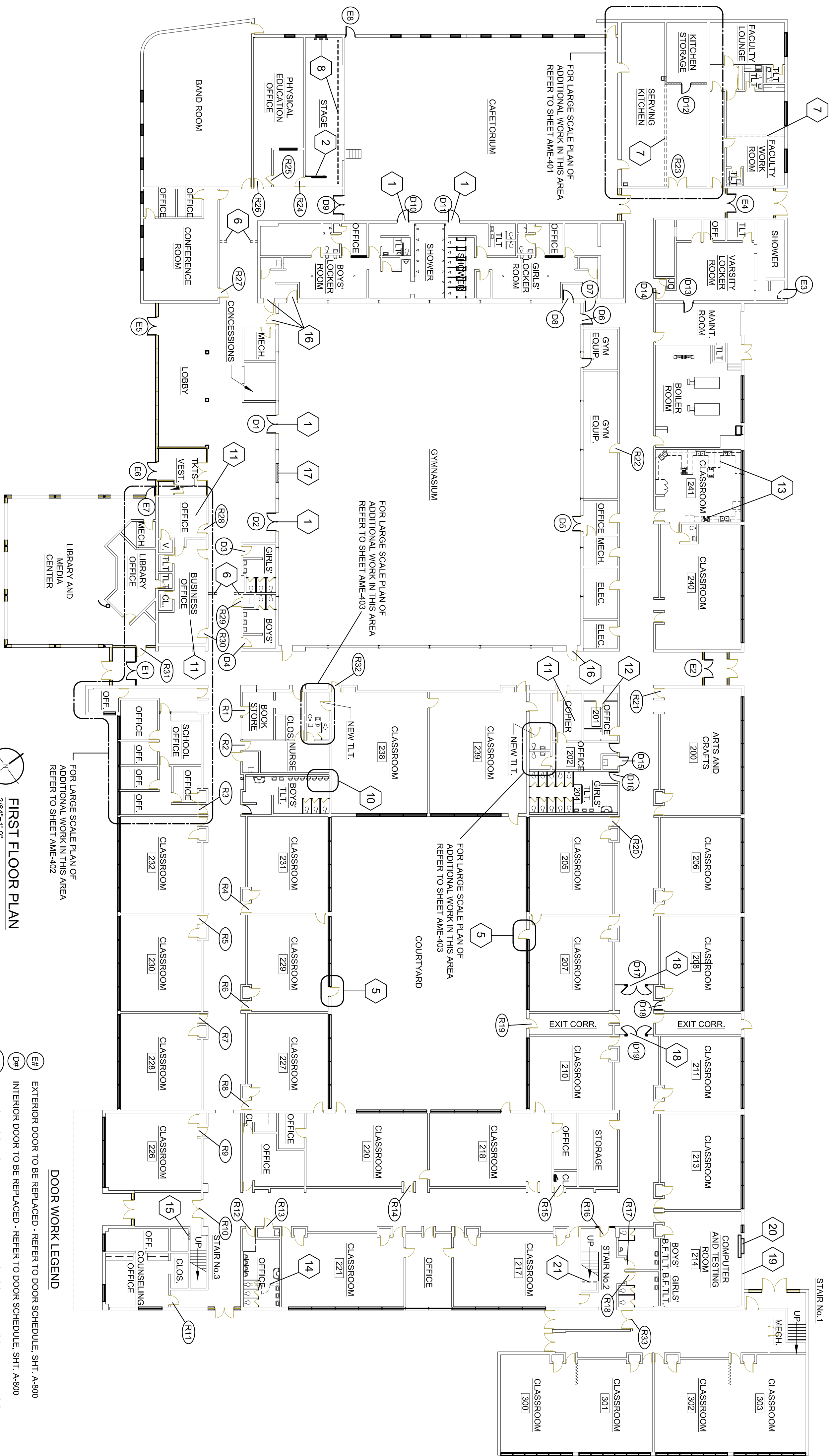
**NEW WORK KEY NOTES**

- 1 REMOVE GYPSUM BD./MTL. STUD INFILL OF EXISTING DOOR FRAME OPENINGS AND INSTALL NEW DOOR(S) IN EXISTING FRAME.
- 2 REMOVE EXISTING 2x4 WOOD, GUARD RAIL, AND REPLACE WITH NEW STL. GUARD AND HAND RAIL - REFER TO DETAIL, SHIT. #A-800
- 3 REMOVE SECTION OF EXISTING EXTERIOR WINDOW SYSTEM AND INSTALL NEW SECTION OF HORIZONTAL SLIDING EMERGENCY EGRESS WINDOW SYSTEM - REFER TO SHIT. #A-201.
- 4 REMOVE PORTION OF EXISTING CEILING EITHER SIDE OF EXISTING GYPSUM BD./MTL. STUD STAIR CLOSURE WALL AND EXTEND 1-HOUR FIRE RATED CONSTRUCTION OF 9/8" GYPSUM BD. BOTH SIDES OF 3 5/8" MTL. STUDS @ 16" O.C. TIGHT TO ROOF STRUCTURE ABOVE.
- 5 PROVIDE THE STOPPING AT DECK AND SIDE WALLS. REPAIR CEILING EACH SIDE TO MATCH EXISTING. *THIS WORK SHALL BE DONE BY THE GENERAL CONTRACTOR UNDER THE SUPERVISION AND APPROVAL OF THE OFFICE OF FIRE SAFETY.*
- 6 PROVIDE NEW PIPE INSULATION AND CUSTOM FABRICATED 18GA. ELECTRICALLY RATED PIPING ENCLOSURES FOR HYDRONIC HEATING PIPING ROUTED AROUND AND OVER DOOR OPENINGS TO THE EXTERIOR. PIPE MOUNTED USING CONCEALED MOUNTING BRACKETS. ALL EDGES TO BE ROLLED OR GROUND SMOOTH PRIOR TO PAINTING. ENCLOSURES TO BE INSTALLED *ONLY AFTER INSULATION HAS BEEN VISUALLY INSPECTED AND APPROVED BY THE OWNER'S REPRESENTATIVE AND CODE OFFICIAL HAVING JURISDICTION.*
- 7 REMOVE GYPSUM BD./MTL. STUD FRAMED OPENING AND PATCH ADJACENT FLOOR, WALL AND CEILING SURFACES TO MATCH.
- 8 REMOVE 1x WOOD NAILERS AT STAGE CEILING.
- 9 REMOVE EXISTING WOOD PANELING AND INSTALL NEW 1/2" GYPSUM BOARD ON EXISTING 2x4 WOOD FRAMING TO UNDERSIDE OF EXISTING CEILING IN BOTH CLASSROOMS. (PAINT GYPSUM BOARD AND INSTALL NEW RESILIENT BASE)
- 10 INSTALL NEW 3'-0" D. x 4'-0" H. x 6" H. NON-SLIP CERAMIC TILE FACED URINAL STAIR PLATFORM - REFER TO DETAIL, SHIT. #A-800.
- 11 REMOVE EXISTING WOOD PANELING IN ENTIRE ROOM AND PATCH/REPAIR EXISTING GYPSUM BOARD AS REQUIRED & PAINT.
- 12 REMOVE EXISTING WOOD SHELINGS WITHIN OFFICE AREA.
- 13 REMOVE ALL EXISTING HOME ECONOMICS CASEWORK, EQUIPMENT AND RESILIENT TILE BASE. MECHANICAL AND ELECTRICAL TRAYS TO REMAIN. REMOVE EXISTING MASONRY WALLS AND PATCH EXISTING MASONRY WALLS AND PAINT ENTIRE ROOM, THOROUGHLY SCRAPE AND PREP CONCRETE FLOOR AND INSTALL NEW RESILIENT TILE AND BASE.
- 14 REMOVE EXISTING STUD WALL AND PATCH FLOOR/WALLS AS REQUIRED TO MATCH EXISTING.
- 15 REMOVE EXISTING LIGHTING FIXTURE EXTENDING THROUGH WALL AND INFILL OPENING WITH NEW BLOCK - PAINT.
- 16 REMOVE GYPSUM BD./MTL. STUD INFILL OF EXISTING DOOR FRAME OPENINGS AND RE-ING EXISTING DOOR.
- 17 EXISTING GYPSUM BD./MTL. STUD INFILL OF EXISTING DOOR FRAME OPENING TO REMAIN AT LOBBY SIDE (PAINT); REMOVE ALUMINUM FLOOR ANGLE RETURNS INTO MASONRY OPENING ON GYMNASIUM SIDE. INFILL EXISTING 6'-4" W. x 7'-2" H. MASONRY OPENING WITH NEW 6" CMU (PAINT). INSTALL NEW SECTION OF ALUMINUM FLOOR BASE ANGLE TO MATCH EXISTING AT INT'L.
- 18 REMOVE EXISTING FIRE DOORS AND HARDWARE FROM EXISTING FRAME AND RETAIN FOR REUSE - REMOVE EXISTING H.M. FRAME AND PORTION OF RATED WALL AS REQUIRED TO REBUILD AND BRACE JAMBS FOR PROPER ANCHORAGE OF NEW PLACEMENT 90 MIN. FIRE RATED FRAME. RE-ING EXISTING GYPSUM BOARD AND PATCH ADJACENT FLOOR, WALL AND CEILING SURFACES TO MATCH. RECONNECT TO FIRE ALARM SYSTEM AND CERTIFY HOLD-OPEN RELEASE OPERATION. FINISH AND PAINT ENTIRE WALL BOTH SIDES TO INCLUDE FREESTOPPING AS REQUIRED.
- 19 REMOVE EXISTING THRU-WALL AIR CONDITIONER AND INFILL OPENING WITH BRICK AND BLOCK TO MATCH EXISTING.
- 20 REMOVE EXISTING UNIT VENTILATOR INTAKE LOUVER AND REWORK OPENING TO SUIT NEW INTAKE LOUVER, INCLUDING INSTALLATION OF NEW STEEL LINTEL - REFER TO DETAIL, SHIT. #A-201.
- 21 REMOVE EXISTING STEEL SCISSOR GATE IN STAIRWELL - REMOVE WALL ANCHORS AND PATCH WALL. REMOVE AND REPLACE EXISTING STEEL HANDRAIL WHICH WAS CUT FOR GATE INSTALLATION (PAINT).

**DOOR REPAIR SCHEDULE**

DOOR TAG	DESCRIPTION OF WORK REQUIRED	DOOR TAG	DESCRIPTION OF WORK REQUIRED
R1	ADJUST LATCH TO PROVIDE POSITIVE LATCHING.	R20	REPAIR CLOSER AS REQUIRED TO PROVIDE POSITIVE LATCHING.
R2	REMOVE AND REPLACE EXISTING LOCKSET WITH NEW OFFICE FUNCTION LOCKSET TO MATCH EXISTING.	R21	UNDERCUT EXISTING DOOR AS REQUIRED TO ALLOW FULL SWING WITHOUT BINDING.
R3	REPAIR CLOSER AND STRIKE TO PROVIDE POSITIVE LATCHING.	R22	REPAIR CLOSER AS REQUIRED TO PROVIDE POSITIVE LATCHING.
R4	ADJUST LATCH TO PROVIDE POSITIVE LATCHING.	R23	REPAIR CLOSERS AS REQUIRED TO PROVIDE POSITIVE LATCHING.
R5	REPAIR STRIKE TO PROVIDE POSITIVE LATCHING.	R24	RE-HANG/RE-HINGE DOOR AS REQUIRED TO PROVIDE POSITIVE LATCHING.
R6	ADJUST LATCH TO PROVIDE POSITIVE LATCHING.	R25	RE-HANG/RE-HINGE DOOR AS REQUIRED TO PROVIDE POSITIVE LATCHING.
R7	ADJUST CLOSER TO PROVIDE POSITIVE LATCHING.	R26	REMOVE EXISTING PLASTIC DOOR LITE AND REPLACE WITH NEW NOM. 10"x35" FIRE GLASS.
R8	INSTALL NEW PUSH SIDE CLOSER - REPLACE NOM. 10"x35" LITE WITH NEW FIRE GLASS.	R27	RE-HANG/RE-HINGE DOOR AS REQUIRED TO PROVIDE POSITIVE LATCHING.
R9	RE-HANG/RE-HINGE DOOR AS REQUIRED TO PROVIDE POSITIVE LATCHING.	R28	INSTALL NEW FULL SIDE CLOSER.
R10	REPAIR CLOSER ARM.	R29	ADJUST CLOSER TO PROVIDE POSITIVE LATCHING.
R11	INSTALL NEW PUSH SIDE CLOSER.	R30	ADJUST LATCH TO PROVIDE POSITIVE LATCHING.
R12	ADJUST CLOSER TO PROVIDE POSITIVE LATCHING.	R31	ADJUST CLOSER AND LATCH TO PROVIDE POSITIVE LATCHING. PROVIDE NEW FLOOR STOP TO PREVENT SWING INTO NEW ALUMINUM FRAME AT NEW DOORS(E).
R13	INSTALL NEW PUSH SIDE CLOSER.	R32	ADJUST LATCH TO PROVIDE POSITIVE LATCHING.
R14	REPAIR LATCH TO PROVIDE POSITIVE LATCHING.	R33	INSTALL (2) NEW DOOR/A # R400 LB + HTTG& SWB SURFACE VERTICAL ROD (LESS BOTTOM ROD) PAVIC
R15	ADJUST CLOSER TO PROVIDE POSITIVE LATCHING.	R34	ADJUST LOCKSET TO PROVIDE POSITIVE LATCHING.
R16	INSTALL MISSING RM STRIKE.	R35	INSTALL NEW NOM. 10"x35" FIRE GLASS LITE IN DOOR WHERE MISSING.
R17	RE-HANG/RE-HINGE DOOR AS REQUIRED TO PROVIDE POSITIVE LATCHING.	R36	REMOVE EXISTING PLASTIC DOOR LITE AND REPLACE WITH NEW NOM. 10"x35" FIRE GLASS.
R18	RE-HANG/RE-HINGE DOOR AS REQUIRED TO PROVIDE POSITIVE LATCHING.	R37	ADJUST LATCH TO PROVIDE POSITIVE LATCHING.
R19	INSTALL NEW ELECTRIC STRIKE TO ALLOW FREE EMERGENCY EGRESS FROM COURTYARD. INTERLOCKED WITH AND INITIATED BY BUILDING FIRE ALARM SYSTEM.	R38	RE-HANG/RE-HINGE DOOR AS REQUIRED TO PROVIDE POSITIVE LATCHING.

NOTE: NEW DOOR HARDWARE, DEVICES OR ACCESSORIES REFERENCED IN THIS SCHEDULE SHALL BE IDENTICAL TO THOSE SPECIFIED FOR NEW DOORS IN THE DOOR SCHEDULE.

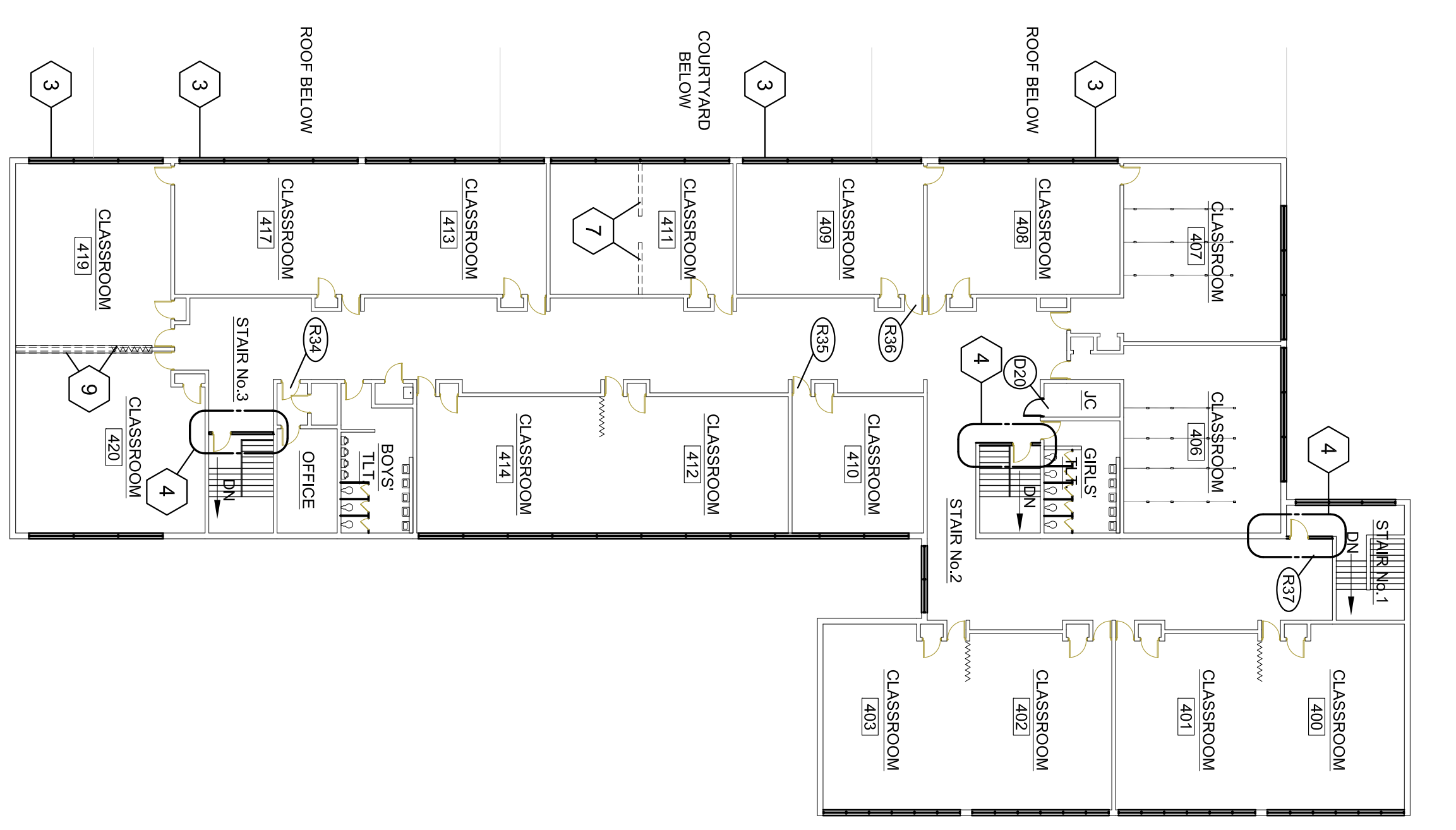


**FIRST FLOOR PLAN**  
3/64"=1'-0"

**DOOR WORK LEGEND**

- EB EXTERIOR DOOR TO BE REPLACED - REFER TO DOOR SCHEDULE, SHIT. A-800
- DB INTERIOR DOOR TO BE REPLACED - REFER TO DOOR SCHEDULE, SHIT. A-800
- RB INTERIOR DOOR TO BE REPAIRED - REFER TO DOOR REPAIR SCHEDULE, THIS SHIT

**SECOND FLOOR PLAN**  
3/64"=1'-0"





## AGREEMENT OF LEASE WITH OPTION TO PURCHASE

THIS AGREEMENT OF LEASE WITH OPTION TO PURCHASE (this “**Lease**”) is made as of the 8th day of July, 2020, by and between **CSDC FACILITIES CORPORATION**, a District of Columbia nonprofit corporation (hereinafter referred to as “**CSDC**” or “**Landlord**”), and **DISTINCTIVE COLLEGE PREP**, a nonprofit corporation and Michigan public school academy formed under Part 6a of the Revised School Code, Public Act 451 of 1976 (the “**Code**”), as amended, (“**School**” or “**Tenant**”).

### RECITALS:

A. Landlord has contracted to purchase certain real property consisting of approximately 15.636 acres, situated in the City of Harper Woods, County of Wayne, and known as 19360 Harper Avenue, Harper Woods, MI 48225, as more particularly described on Exhibit A attached hereto and made a part hereof (the “**Real Property**”).

B. The Real Property is improved by a two-story building comprising approximately 106,000 +/- square feet (the “**Building**”; together with the Real Property, the “**Property**”). Landlord will perform roof renovations to the Building, which work is more particularly described in Section 1.C. of this Lease and Exhibit B attached hereto and made a part hereof.

C. Contingent upon Landlord’s successful closing on the purchase of the Property, School desires to lease the entire Property from Landlord, and Landlord desires to lease the Property to School, for the rentals and upon the terms and conditions herein set forth.

D. Landlord and School desire to confirm in writing the terms of their agreement and understanding pertaining to the foregoing lease and option to purchase the Property.

NOW, THEREFORE, in consideration of the rents herein reserved by Landlord to be paid by School, and the mutual covenants and agreements of the parties herein contained, and for other good and valuable consideration, the parties, intending to be legally bound, hereby covenant and agree as follows:

### 1. PREMISES.

A. Premises. Subject to the terms and provisions contained in this Lease, Landlord hereby exclusively rents, demises and leases to School and School does hereby take, hire and lease from Landlord for the Lease Term (as hereinafter defined), and at the rentals and other terms, conditions and covenants more fully described below, the Property.

B. Applicable Law. Leasing to School of the Property is subject to all building restriction lines, other restrictions and rights imposed on the Property or held therein by governmental authorities having jurisdiction thereof, and is subject to all applicable governmental laws, codes and regulations.

C. Delivery of Premises. Landlord shall deliver the Property “as-is” and “where-is” without warranty for School’s use and occupancy. The title to all alterations and improvements physically attached to the Property made, furnished or installed at or by the expense of either Landlord or School shall vest in Landlord upon the installation thereof. Prior to the Lease Commencement Date, Landlord shall perform certain repairs to the roof of the Building as described on Exhibit B (“**Landlord Work**”).

Improvements independently made by School (“**School’s Work**”), if any, shall be performed in accordance with plans and specifications prepared on behalf of School and approved by Landlord, by a contractor approved in writing by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. In no event shall any such approval by Landlord constitute any warranty by Landlord to School as to the adequacy of the design, workmanship or quality of any work or materials for School’s intended use or impose any liability upon Landlord in connection with the performance of School’s Work. Notwithstanding the foregoing, improvements to the Property costing less than \$50,000 in the aggregate may be made by School without Landlord’s consent. School shall cause School’s Work to be performed in accordance with such other reasonable conditions as Landlord may impose during performance of School’s Work including a requirement that School’s Work not interfere with the Landlord Work.

## 2. TERM OF LEASE.

A. Term. This Lease shall commence on the date that Landlord closes on the acquisition of the Property (the “**Lease Commencement Date**”) and shall conclude on June 30, 2040, unless this Lease earlier terminates or expires by its terms (the “**Initial Term**”). The phrase “**Lease Year,**” as used herein, shall mean each successive period of twelve (12) full consecutive calendar months during the term hereof running from July 1<sup>st</sup> through June 30<sup>th</sup> of each year, however the First Lease Year shall commence on the Lease Commencement Date and conclude on June 30, 2021. All rentals and other amounts payable by School under this Lease for the First Lease Year shall be pro-rated and be paid on a per diem basis, and for any period consisting of less than a full Lease Year shall be pro-rated and be paid on a per diem basis.

To the extent the School does not exercise its Option to Purchase, School agrees to vacate the Property in the condition as described in Section 19 of this lease at the end of the Lease Term.

B. Renewal Term. Provided no Event of Default (as hereinafter defined) or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default, has occurred and is continuing hereunder, School shall have the option to renew this Lease for two (2) additional five-year periods beyond the Lease Term (each a “**Renewal Term**”) at the same terms as set forth in Section 3 herein. The Initial Term and any applicable Renewal Term shall be referred to herein as the “**Lease Term**”.

C. Marketing.

School may design, construct and install signage on the Property, advertising the School, in compliance with all applicable laws.

D. Hold Over.

1. If School shall, with the knowledge and consent of Landlord, remain in possession of the Property after expiration of the Lease Term, and if Landlord accepts Rent (as hereinafter defined) from School for any period after such expiration, then School shall become a tenant by the month, commencing on the day next following the last day of the Lease Term, such monthly hold-over tenancy to be at the same Base Monthly Rent (as hereinafter defined) that applied during the month immediately preceding such holdover, and upon all other terms hereof, except that during such monthly hold-over tenancy, School shall give to Landlord at least thirty (30) days' prior written notice of any intention to quit the Property, and School shall be entitled to at least thirty (30) days' prior written notice from Landlord demanding School to quit the Property, except in the event of nonpayment of Rent in advance or the breach of any other covenant by School, in which event School shall not be entitled to any notice to quit, the statutory notice (if any) and all other notices to quit being hereby expressly waived by School, to the extent permitted by applicable law.

2. If School holds over after expiration of the Lease Term without Landlord's written consent and Landlord has a new tenant able to lease the Property, then (i) Landlord, at its option, may forthwith re-enter and recover possession of the Property by any legal process in force, School hereby waiving all notices to quit to the extent such waivers are permitted by applicable law, and School shall be deemed to be in default hereunder, and (ii) School shall pay to Landlord, in advance on the first (1st) day of each calendar month in any such holdover tenancy, monthly use and occupancy payments for the Property in an amount equal to one hundred twenty-five percent (125%) of the Base Monthly Rent applicable during the month immediately preceding such holdover for the initial thirty (30) days of such holdover and one hundred fifty percent (150%) of the Base Monthly Rent for all subsequent periods of such holdover. The aforesaid use and occupancy payments shall not be deemed to preclude Landlord from the recovery of any actual damages that it may suffer by reason of School's wrongful holdover.

E. Termination Confirmation. If this Lease is terminated pursuant to any provision hereof, School agrees to join with Landlord, promptly on Landlord's written request, in executing a memorandum confirming such termination. The provisions contained in this Subsection E together with the obligation of School to pay Landlord any Base Rent or Additional Rent (as hereinafter defined) which has accrued during the Lease Term but remains unpaid at expiration or termination hereof, whether billed or unbilled as of such date, shall expressly survive the expiration or termination of the Lease Term.

3. RENTAL; SECURITY AND RENTAL DEPOSIT.

School hereby covenants and agrees to take and hold the Property, as lessee of Landlord, for the Initial Term and any applicable Renewal Terms, and School covenants and agrees to pay to Landlord rental for the Property as set forth below in this Section 3.

A. Base Rent. During the Lease Term, School covenants and agrees to pay to Landlord base annual rent (“**Base Annual Rent**”) in equal monthly installments (“**Base Monthly Rent**”). Base Annual Rent and Base Monthly Rent are sometimes hereinafter referred to as “**Base Rent**”.

For the first and second Lease Years, Base Annual Rent shall be in an amount equal to one hundred twenty-two percent (122%) of Landlord’s Debt Service Coverage Payments for the Total Project Cost (both as hereinafter defined). As used herein, (i) the term “**Total Project Cost**” shall mean the aggregate of the actual, complete and final “all-inclusive” out-of-pocket cost of Landlord to acquire the Property and deliver the same to School (collectively, the “**Project**”), including, but not limited to: the property acquisition cost and related closing costs; architectural, engineering and legal costs; financing costs associated with the acquisition of the Property and any payments to third parties for title insurance and surveys and for operating expenses prior to the Closing and building fixtures, but excluding moveable furnishings and equipment; and (ii) the term “**Debt Service Coverage Payments**” shall mean the sum of all the debt service payments for the Project, including payments with respect to the Financing, all as further described in the draft pro forma attached hereto as Exhibit C (the “**Pro Forma**”). All documents evidencing, securing or relating to the Financing are herein referred to collectively as the “**Financing Documents**”. Landlord agrees to set the financing rate for the entire Lease Term, and therefore setting the Base Annual Rent for the entire Lease Term provided that the Total Project Cost does not change. The Base Annual Rent for each lease year is set forth on Exhibit F.

By way of example only, and without establishing the Total Project Cost for the Project, assuming a Total Project Cost of TWO MILLION TWO HUNDRED FORTY-NINE THOUSAND FOUR HUNDRED TEN DOLLARS AND NO/CENTS (\$2,249,410.00), at financing rates as set forth on Exhibit C, the Base Annual Rent for the First Lease Year is estimated to be TWO HUNDRED TWENTY THOUSAND ONE HUNDRED FIFTY NINE DOLLARS AND FORTY FIVE CENTS (\$220,159.45). Notwithstanding the foregoing, in the event that the scope and cost of the Landlord Work increases, and the Total Project Cost increases, the Rent shall also increase consistent with the above-mentioned formula.

As noted herein, the Base Annual Rent shall adjust upon any and all adjustments of the Total Project Cost. Landlord shall prepare a Project Completion Rent Reconciliation document to be attached hereto as Exhibit F upon completion of the renovations and close-out of the Project.

Once Base Annual Rent commences, it shall not be re-calculated for any reason except as provided for in Section 3.B and 4.C of this Lease Agreement.

B. Annual Increase. Effective on the commencement of each Lease Year after the second Lease Year, the Base Annual Rent shall be increased by the amount of one percent (1.00%) of the Adjusted Base Annual Rent for the preceding Lease Year as identified in Exhibit F. This annual increase shall continue in full force and effect during any Renewal Term.

C. Payments. On the Lease Commencement Date, School shall pay to Landlord the first installment of Base Monthly Rent in an amount equal to the Base Monthly Rent prorated based on the number of days from the Lease Commencement Date to the end of that month. Thereafter, each installment of Base Monthly Rent, in the applicable amounts as above described, shall be due and payable without deduction, notice, setoff or demand (except as otherwise provided in this Lease) on the first day of each month during the Lease Term. Landlord agrees to issue monthly invoices for record-keeping purposes, but the monthly invoices for the entire lease year shall be submitted to Tenant at the commencement of each lease year. In the event of any partial month during the Lease Term, such monthly installment shall be prorated based upon the number of days within the Lease Term in such month in relationship to the number of days in the particular month. All Base Rent and other sums payable by School under this Lease (“**Additional Rent**”; Base Rent and Additional Rent being hereinafter collectively referred to as “**Rent**”, where no distinction is required) shall be paid by ACH payment from Tenant’s operating account. Tenant agrees to complete such forms as required by the receiving Depository financial institution.

D. Time; Partial Payments. Regarding all rentals and other sums, and all covenants, agreements and obligations, to be paid or performed hereunder by School, time is hereby agreed to be of the essence. No payment by School or receipt or acceptance by Landlord or its agent of a lesser amount than the Rent herein stipulated shall be deemed to be other than on account of the earliest due Rent, nor shall any endorsement or statement on any check or any letter accompanying any check in payment of Rent be deemed an accord and satisfaction; and instead, Landlord may accept such check or payment without prejudice to Landlord’s rights to recover the balance of such Rent and/or to pursue any other remedies.

E. Security and Rental Deposit. A security deposit equal to Twenty Thousand Dollars (\$20,000) shall be due on the Lease Commencement Date. Landlord shall hold the security deposit in accordance with applicable law and as security for the performance Tenant’s obligations under this Lease. Landlord may, from time to time, apply all or a portion of the Security Deposit to cure any arrearage of Rent, repair damages to the Property or satisfy any of Tenant’s delinquent monetary obligations under this Lease.. No later than sixty (60) days after the expiration or earlier termination of the Lease, Landlord shall return to Tenant: (i) the Security Deposit, or the balance thereof, if any application of the Security Deposit was made along with an accounting of such application (if not previously provided to School) and (ii) any unused capital account reserve funds.

F. Reporting and Filing Requirements. School shall provide Landlord with the following financial documentation either by providing hardcopy documentation or by providing link to specific information:

(i) Within thirty (30) days following its annual issuance, and in any event no later than one hundred sixty (160) days following the end of each fiscal year, a copy of School's annual unqualified certified financial statements, which shall include the consolidated financial statements of School;

(ii) As soon as available but in any event no later than the forty-five (45) days following the end of each fiscal quarter of School, a copy of School's quarterly financial statements certified by an authorized signer of School, as true and correct;

(iii) At the earlier of (a) thirty (30) days prior to the commencement of each school year, or (b) August 1 of each year; a copy of School's annual operating budget, as approved by School's governing board and submitted to the Michigan Department of Education ("MDE");

(iv) A copy of any other financial or other reports of a material nature delivered to School by School's chartering authority, the MDE or the relevant state or local school authority, within ten (10) days of receipt of the same; and

(v) A copy of all other financial reports required by the relevant state or local school authority, including the MDE in the prescribed form required.

Subject to the privacy rights and nondisclosure requirements set forth in applicable laws and regulations, including but not limited to the Family Educational Rights and Privacy Act of 1974 ("FERPA") and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); the School shall also provide the following performance and management documentation on an annual basis, unless otherwise specified:

- (i) A copy of aggregate numbers, by grade and campus, of its expected students and the actual enrolled as calculated by including each student considered to be enrolled in the School and according to the official enrollment count in October of each year as submitted to the MDE or other such agency as designated by the laws of the State of Michigan to collect and verify enrollment data from public charter schools, within ten (10) days of School's filing of same, and an update as to such enrollment numbers on a semi-annual basis;
- (ii) A copy of the annual report provided to the MDE, which annual report shall document (a) the previous school year's progress in meeting the performance-based goals identified in School's charter petition on the Annual School Report Card and (b) all state mandated test scores and other accountability indicators, including proficiency rates;

- (iii) A copy of the annual monitoring reports of School's operations, as prepared by the MDE or other applicable agency, as well as School's response to such reports;
- (iv) A copy of the results of School's standardized student performance testing required by the MDE or relevant state or local school authority. Again, nothing in this subsection shall require the School to provide any data, information, or documentation prohibited by any state or federal privacy law, including, but not limited to the FERPA and HIPAA;
- (v) Upon request from Landlord, School shall request from the MDE or its chartering authority and shall, upon receipt, provide to Landlord, certification stating that: (i) School is in good standing under its charter; and (ii) School has not been given notice of probation.
- (vi) A copy of the School's conflict of interest policies and disclosures of thereunder whether or not submitted to the MDE or other chartering authority.

School shall undertake its best effort to provide legally disclosable, non-confidential information relating to its operations and the financial condition of the School no more than thirty (30) days following Landlord's reasonable request for such information.

Landlord recognizes School's independent responsibility to comply with all state and federal privacy laws, including, but not limited to FERPA and HIPPA, and nothing in this Lease shall require School to provide information, data, or documentation in violation of any privacy law. Landlord shall also protect and maintain the confidentiality of all student information protected under FERPA, state law or local school authority, it lawfully receives pursuant to the terms of this Lease.

G. Additional Indebtedness; Capital Expenditures. During the Lease Term, School shall not incur any additional indebtedness, or make capital expenditures, specifically related to the school occupying the Property in excess of Fifty Thousand Dollars (\$50,000.00), in the aggregate, without the written consent of Landlord, to which consent and such approval shall not be unreasonably withheld, delayed, or conditioned. This provision does not apply to state aid borrowing for operation of the School.

H. Subordination of Management Fees. Tenant agrees that any management agreement it intends to enter into with an education management organization ("EMO") shall be required to have any fees earned by the EMO be subordinated to the Rent as set forth in Exhibit G.

4. BUILDING MAINTENANCE; OPERATING EXPENSES; REAL ESTATE TAXES AND ASSESSMENTS.

This Lease shall be deemed and construed to be a “net lease”, and School shall pay to Landlord, throughout the Lease Term, the Rent, free of any charges, assessments, impositions or deductions of any kind and without abatement, deduction or set-off whatsoever.

A. Operating Expenses. School shall be responsible for all of the maintenance, repair and replacement, at its expense, of all structural portions of the Building and all other buildings and improvements located within the Property, including the roof and floor slabs, brick replacement or repair, and all building equipment and systems such as HVAC, electrical and plumbing systems and equipment. Notwithstanding the foregoing, Landlord shall use its best efforts to have any and all warranties on the Building components honored for repairs to the Building. Landlord shall provide School with copies of all such warranties. To the extent that School fails to maintain, repair or replace such structural portions of the Building improvements and building equipment and systems, Landlord shall have the right to enter the Property and perform such work. Before commencing work under this Section, Landlord shall provide written notification to Tenant summarizing the scope of work needed and cost estimation, if known, prior to any contracts or commitments made by Landlord with third party contractors or vendors. Unless required sooner due to an emergency need for repairs that compromises safety to occupants of the Building, Tenant shall have fifteen days to provide a written response to Landlord’s identified required repairs or replacements. In the event of a dispute between the Parties as to the necessity of repairs or replacements identified by Landlord pursuant to this 4A (except for repairs deemed by Landlord to be emergency repairs which may be performed by Landlord in its sole discretion), the parties shall consult with an independent third party engineer consultant selected by agreement of the Parties. Tenant shall be responsible for all costs associated with any third party engineer and any costs associated with work performed by Landlord. Parties agree to abide by the selected consultant’s recommendations. All of Landlord’s reasonable out of pocket costs associated with the responsibilities listed above shall be included as Additional Rent. School shall also be responsible for all additional operations, repair and maintenance of the Property, to the extent not otherwise set forth in this Lease. To the extent it is commercially feasible, all utilities servicing the Property shall be listed and contracted with the utility provider in School’s name and School shall contract directly with vendors of its choice for the services defined as “Operating Expenses” below. To the extent it is not commercially feasible for School to contract directly with utility providers and other vendors for such services, School further covenants and agrees to pay to Landlord as Additional Rent during the Lease Term and during any holdover term or Renewal Term, the Operating Expenses and (if applicable) Real Estate Taxes as defined in Subsection 4.B. below.

(i) “**Operating Expenses**” shall mean any and all reasonable out-of-pocket expenses incurred by Landlord in connection with the management of the Property, and, except as specifically set forth above as the responsibility of Landlord, the operation, maintenance and repair of the Property, including but not limited to: utilities; water and sewer charges; casualty and liability insurance; repairs and maintenance; snow removal; cleaning; repair and maintenance of



grounds; service or management contracts; landscaping expenses; any other items listed as “Operating Expenses” elsewhere in this Lease; and the cost of capital improvements made to the Property which are (a) required under any governmental law or regulation that was not required of the Property at the time this Lease was executed or (b) installed to improve the operating efficiency of any system within the Property with the good faith intent to reduce Operating Expenses (the said items described in (a) and (b) being defined herein as “**Permitted Capital Improvements**”), provided that such Permitted Capital Improvements shall be amortized over their useful lives as reasonably determined by Landlord and agreed to by School.

(ii) It is anticipated that all Operating Expenses will be paid directly by School and that Landlord will not pay any such Operating Expenses; however, if during the Lease Term Landlord does pay any such Operating Expenses, School will reimburse Landlord within thirty (30) days of written demand, which demand shall include all information necessary to fully explain the Operating Expenses paid by Landlord for which reimbursement is sought.

B. Real Estate Taxes.

(i) It is the intent of the parties that the Property shall be used for public charter school purposes, and therefore, the Property may be exempted from the payment of Real Estate Taxes as may be assessed or levied pursuant to state and/or local law. Landlord shall file an application with the appropriate governmental authority to seek such exemption and shall notify school of such application. In the event such exemption is denied for any reason, School agrees to promptly cooperate with Landlord, in connection with the application and any hearings or other process seeking such exemption. Also in the event that such exemption is denied or the Property is otherwise subject to Real Estate Taxes, School covenants and agrees to pay the Real Estate Taxes levied against the Property in accordance with the terms and provisions set forth below; provided, however, that in the event School does not pay the Real Estate Taxes when due, Landlord or its assignee may pay such Real Estate Taxes and the amount paid shall be included as Additional Rent.

(ii) For purposes of this Lease, “**Real Estate Taxes**” shall mean all taxes, rates and assessments, general and special and including also any increases in tax rate and/or in assessed valuation, which are now or at any time(s) hereafter levied, assessed or imposed with respect to the Property, or measured by the gross rentals payable under this Lease; and including without limitation real estate taxes, all personal property taxes applicable to the Property, and assessments of any and every kind and nature whatsoever, and all unincorporated and other business license and/or franchise taxes, and any levies which may at any time be imposed and/or collected by any governmental, quasi-governmental or corporate entity. Real Estate Taxes shall also include all of the costs (including, without limitation, attorneys’ fees) incurred by Landlord to sustain an existing exemption or assessment, reduce a proposed increase in assessment or (with the exception of the application referred to in Subsection 4.B(i), above) in an attempt to obtain an exemption. If the system of real estate taxation shall be altered or varied and any new tax or levy shall be levied or imposed on the Property and/or on any other elements thereof and/or on Landlord, in addition to or in substitution for real estate taxes and/or personal property taxes levied on immovables,

including, without limitation, taxes on rents, then in any such event any such new tax or levy shall be included as “Real Estate Taxes” for purposes of this Lease. If Real Estate Taxes are reduced by, or credited with, any abatement or exemption issued by a taxing authority to help finance or reimburse Landlord for costs incurred and actually paid by Landlord to comply with laws or otherwise, then Real Estate Taxes hereunder shall be computed without regard to such abatement or exemption. School further agrees to pay all taxes imposed during the Lease Term upon or against School, or against School’s income or interest in this Lease, or against personal property of any kind owned or leased by School or placed in, upon or about the Property by School, including any penalty and interest assessed thereon in the event of late payment. In the event that the taxing authority includes or calculates, in the over-all taxes to be paid by Landlord, the value of improvements or betterments made or installed by School on the Property, or machinery, equipment, fixtures or other assets of School, then School also shall pay when due all taxes to the extent applicable to such items.

C. CSDC Fee.

CSDC shall earn a Fee of five percent (5%) of the Total Project Cost. The Fee shall be deemed earned and shall be payable by School on Landlord’s Closing on the acquisition of the Property. School has elected to have the Fee financed as part of the Total Project Cost. Effective on the commencement of the Third Lease Year and each Lease Year thereafter the Base Annual Rent shall be increased by the amount of two percent (2.00%) of the adjusted Base Annual Rent for the preceding Lease Year. This annual increase shall continue in full force and effect during the Lease Term until the Fee has been paid in full. The annual two percent increase shall represent the School’s payment toward the total amount of the Fee still owed by the School. Tenant shall incur no prepayment penalties related to the CSDC Fee. Any unpaid portion of the Fee shall be due and payable on the date on which the School exercises its Purchase Option in accordance with the terms set forth in Section 23.B., or the Lease terminates, whether by early termination or by expiration of the Lease Term.

D. Capital Improvement Reserve. Tenant shall fund a Capital Improvement Reserve fund to be held by Landlord for the maintenance, repair and replacement of the roofs, structural portions and building systems listed in Section 4A. Tenant shall make a payment of \$6,250 each month beginning on the Lease Commencement Date and continuing until that balance of the Capital Improvement Reserve fund reaches \$225,000 and such monthly payments shall resume if at any time the balance in the Capital Improvement Reserve Fund falls below \$225,000. Tenant may make draws upon the Capital Improvement Reserve fund by submitting a written request to Landlord describing the repairs/improvements needed, the cost or the improvements, and the timeline of the repairs. If approved by Landlord in its sole discretion, Landlord shall disburse the approved funds upon submission of receipts by Tenant to Landlord. Landlord may also, in its sole discretion, debit funds from the Capital Improvement Reserve fund to pay any amounts owed to Landlord under Section 4. A., above. In the event a needed repair/improvement project is mutually agreed by Tenant and Landlord as required which exceeds the existing balance of the Capital Improvement Reserve at the time of the project’s identification (hereinafter “Qualifying Excess Project”), Landlord shall fund the excess costs of the Qualifying Excess Project that are above the

remaining balance of the Capital Improvement Reserve. Any excess costs paid by Landlord toward a Qualifying Excess Project shall be repaid by Tenant at a then to be determined interest rate and over a 36-month amortization schedule. Any such agreement between the parties shall be separately documented as a legally structured financing for a charter public school in Michigan. Landlord shall have no obligation to fund excess costs of a Qualifying Excess Project if Tenant has not fulfilled its Capital Improvement Reserve payment obligations at the time a Qualifying Excess Project is identified. The sum of any payments repaid by Tenant to Landlord toward any Qualifying Excess Projects under this Section shall be deducted from a calculation of the Purchase Option Price in Section 23(B)(b). Any amount remaining in the Capital Improvement Fund at the termination of the Lease shall be first applied to any amounts outstanding and due to Landlord, and any remaining funds shall be disbursed to Tenant.

5. USE OF PREMISES.

A. Unless and until the School exercises its Option to Purchase, School covenants and agrees to use the Property only (i) for the operation of a public charter school, infant through pre-kindergarten childcare, summer school, parent workshops and related administrative uses, and before and after school care (including the use or leasing of residential structures by or to anyone involved in the operation of the public charter school on the Property); and (ii) for educational purposes ancillary or complementary to the operation of the Property as a public charter school (collectively, the “**Permitted Use**”), and for no other purpose whatsoever. Tenant shall not use the Property for any purpose in violation of any law, municipal ordinance, or regulation, nor shall the Tenant perform any acts or carry on any practices which may injure the Property or the building on which the Property are located. It is expressly recognized that adult activities shall not be conducted during normal school hours on the Property, with the exception of customary parent-teacher conferences, parent-teacher association or board meetings and other school-related parent participation activities. It is expressly recognized that operation of a school may include sports, dances, concerts, and other special events, or community events or activities, depending on space availability.

B. Throughout the Lease Term, School shall maintain and renew its charter, and, as requested by Landlord from time to time, shall provide Landlord with written evidence, in form and content reasonably satisfactory to Landlord, that School’s charter to operate its public charter school remains in full force and effect and that School continues to be in compliance with all applicable laws and requirements of each authority relating to the ownership, funding and operation of charter schools generally and School further covenants and agrees that it will perform and comply with all applicable laws, regulations, terms, conditions and agreements necessary to maintain its Charter School (as such term is defined in Exhibit D attached hereto and made a part hereof) status, and its continued eligibility to receive all public funding for which it, as a public charter school in good standing, is entitled. School further covenants and agrees not to perform any act or enter into any agreement that (i) shall cause any revocation or adverse modification of or otherwise jeopardize School’s charter to operate a public charter school; (ii) shall adversely affect the funding and operation of School as a public charter school in accordance with all laws, regulations and requirements applicable thereto; (iii) would threaten or not permit School to

continue to receive public funding; or (iv) would or could result in the curtailment of or ban on student enrollment and/or participation in School's school programs.

If the Tenant's charter issued by the Central Michigan University Board of Trustees is revoked, terminated or a new charter contract is not issued to the Tenant after expiration, Tenant shall have the right to terminate this Lease on written notice to Landlord, without penalty for early termination. However, if the Tenant (i) elects to terminate or not renew its charter during the term of the Lease, or (ii) Tenant is required to undergo a reconstitution pursuant to Section 507 of the Code, MCL 380.507, and the Charter Contract, and such closure of an Academy site or reconstitution causes an amendment to or termination of this Lease Agreement, Tenant may be subject to default under this Lease and may be held liable for Landlord's damages as set forth herein. In no event shall the Landlord have any recourse against the Authorizer for implementing such site closure or reconstitution. Such termination shall not limit any recourse the Landlord has against the Tenant as it relates to Tenant's obligations under this Lease accruing prior to the date of termination. Notwithstanding the foregoing, Tenant shall be required to seek timely renewal of its charter and to use reasonable efforts to maintain its charter in good standing.

Neither Landlord nor School shall perform any act or enter into any agreement that shall cause the revocation, or any adverse modification of its status, if such status is achieved, as an organization described in Section 501(c)(3) or (4) of the Internal Revenue Code, or carry on or permit to be carried on any trade or business, the conduct of which is not substantially related to the exercise or performance by Landlord or School, as applicable, of the purposes or functions constituting the basis for its exemption under Section 501(c)(3) or (4) of the Internal Revenue Code if such trade or business would result in the loss of Landlord's or School's exempt status, if such status is achieved, under Section 501(c)(3) or (4) of the Internal Revenue Code.

C. School agrees to comply with the rules and regulations listed under Exhibit E, attached hereto and made a part hereof.

## 6. UTILITIES AND SERVICES AND ALTERATIONS.

A. Utilities and Services. Landlord and School shall endeavor to have all utilities provided to the Property in School's name and with School responsible for all costs for the utilities. If this is not commercially feasible, Landlord, at School's sole cost and expense, shall furnish water, heat, air conditioning, gas, and electricity required for the use and occupancy of the Property at the actual cost charged by the utility providers. School shall be responsible for the normal and routine maintenance of the Property including janitorial services which shall also be the sole responsibility of School. In the event any governmental entity imposes mandatory or voluntary controls or guidelines on Landlord, the Property or the Building or any part thereof, relating to the use or conservation of energy, water, gas, oil and electricity, or in the event Landlord is required to make alterations to the Property or the Building in order to comply with mandatory or voluntary controls or guidelines, Landlord may, in its sole discretion, comply with such mandatory or voluntary controls or guidelines or make such alterations to the Property or the Building. Such

compliance in the making of such alterations shall in no event entitle School to any damages, release School of the obligation to pay the full Rent due hereunder or constitute a constructive or other eviction of School.

B. Maintenance and Security by School. School agrees at all times, at its own expense, to maintain the Property in a safe, neat, clean and sanitary condition, and in compliance with all applicable governmental laws, codes, orders, rules, regulations and requirements and all insurance regulations. School agrees that it shall be solely responsible to provide, at its sole cost and expense, to the extent such costs and expenses have not otherwise been assessed by Landlord as “Operating Expenses” or otherwise, all customary, daily janitorial/custodial services and security services.

## 7. ALTERATIONS, IMPROVEMENTS AND FIXTURES

A. School shall neither make nor allow any alterations, additions or improvements to the Property or any part thereof, including those that will or may affect the structure, the mechanical, electrical, plumbing or HVAC systems of the Building or any other improvements on the Property, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, delayed or conditioned. All of such alterations, additions or improvements, structural or otherwise, must conform to all requirements of any and all applicable laws, codes and regulations, including any municipal laws or local ordinances. Notwithstanding anything in this Section 7 to the contrary, School may make non-structural alterations the cost of which on a per project basis does not exceed Fifty Thousand Dollars (\$50,000.00) without obtaining Landlord’s prior written consent.

B. If Landlord gives consent as specified in Subsection 7.A. above, Landlord may impose, as a condition to such consent, such requirements as Landlord, in its reasonable discretion, may deem necessary or desirable, including without limitation, the right to approve the plans and specifications for any work and the right to impose requirements as to the manner in which or the time or times at which work may be performed. If Tenant contracts for construction related work as specified in Subsection 7.A, it shall comply with Sections 1267 and 1274 of the Code.

C. Except for liens securing the Financing, each party shall keep the Property free from any liens, including, without limitation, those arising out of any work performed on, or materials furnished to, the Property, or arising from any other obligation incurred by the party. In no event shall one party be deemed to be the agent of the other party and no contractor of either party shall by virtue of its contract be entitled to assert any mechanic’s lien against the Property. If any mechanic’s or materialmen’s lien is filed against the Property, for work claimed to have been done for or materials claimed to have been furnished to either party, such lien shall be discharged by the party against whom it was filed within twenty (20) days thereafter, at the party’s sole cost and expense, by the payment thereof or by filing any bond or commencing any contest required by law to prevent enforcement of such lien. If the party responsible for such lien shall fail to discharge any such mechanic’s or materialman’s lien, the party shall automatically be in default and the other party may, at its option, discharge or adjust the next installment of Rent as appropriate; it being expressly covenanted and agreed that such discharge by one party shall not be deemed to waive or

release the default of the other party in not discharging the same. To the extent permitted by law and without waiving any applicable governmental immunities, each party shall indemnify and hold harmless the other party and the Property, from all expenses, liens, claims, actions or damages to person or property in connection with any such lien or the performance of such work or the furnishing of such materials. Each party shall be obligated to, and each party reserves the right to, post and maintain on the Property at any time such notices as shall, in the reasonable judgment of the party, be necessary to protect the party against liability for all such liens or actions.

D. Any alterations, additions or improvements of any kind to the Property or any part thereof, including the Building, except School's furniture and trade fixtures, shall at once become part of the realty and belong to Landlord and shall be surrendered with the Property, as a part thereof, at the end of the Lease Term; provided, however, that Landlord may, by written notice to School prior to issuance of Landlord's original consent to any alteration, addition, fixture or other improvement, require School to remove any alterations, additions, fixtures or other improvements made by School, and to repair any damage to the Property caused by such removal, all at School's sole expense.

E. Any article of personal property, including business and trade fixtures, which were installed by School at its sole expense, shall be and remain the property of School and may be removed by School at any time during the Lease Term provided that School repairs any damage to the Property caused by such removal.

## 8. INSURANCE AND INDEMNITY.

A. No Liability. Landlord shall not be liable to School, its students, employees, agents, contractors, business invitees, licensees, customers, clients, family members or guests, and School, on its own behalf and on behalf of the classes of people identified in this sentence, hereby waives all claims against Landlord for any entry into the Property, or for any damage, compensation or claim to or by any person or property in or about the Property or the approaches, entrances, streets, sidewalks or corridors thereto, by or from any cause whatsoever, including without limitation, damage caused by any defect in the Building, or by water leakage of any character from the roof, walls, basement or other portion of the Building, or caused by gas, fire, oil, electricity or any cause whatsoever in, on, or about the Property or any part thereof, unless any of the foregoing is caused by the negligence or willful misconduct of Landlord, its agents, employees, contractors or representatives. School shall promptly notify Landlord of any defective condition material in nature in or about the Property that requires immediate attention. Landlord shall not be liable, and School hereby waives all claims, for damages that may be caused by Landlord in reentering and taking possession of the Property as herein provided, unless such damages are caused by Landlord's gross negligence or willful misconduct.

B. School's Indemnity. To the extent permitted by law and without waiving any governmental immunities, School agrees, except to the extent of any injury or damage resulting from the negligence or intentional acts of Landlord, its agents, employees, contractors or representatives, to indemnify, defend with counsel acceptable to Landlord, and hold Landlord and

its agents harmless from and against any and all cost, damage, claim, liability or expense (including reasonable attorney's fees) incurred by or claimed against Landlord, for any injury or damage to any person or property whatsoever, occurring in, on or about the Property or any part thereof, or occurring in, on or about the Building or any facilities thereof (including, without limitation, lobbies, elevators, stairways, passageways or hallways), when such entry or damage shall be caused in part or in whole by the gross negligence, fault, act or omission of any duty with respect to the same by School, its students, employees, agents, contractors, business invitees, licensees, customers, clients, family members and guests. Any cost, damage, claim, liability or expense incurred by Landlord for which School is obligated to reimburse Landlord hereunder shall be deemed Additional Rent.

C. School Insurance. School shall maintain in effect at all times, or require that it's Educational Management Organization ("EMO") maintain in effect at all times during the Lease Term, the following insurance coverage:

(i) Liability Insurance. Commercial general liability insurance insuring School against liability for bodily injury, property damage (including loss of use of property) and personal injury at the Property. Such insurance shall name Landlord, and Landlord's agent and lender(s) as additional insured. The initial amount of such insurance shall be \$1,000,000.00 per occurrence, \$3,000,000.00 in the aggregate. The liability insurance obtained by School under this Subsection 8.C. shall be primary. The amount and coverage of such insurance shall not limit School's liability nor relieve School of any other obligation under this Lease. School shall take all necessary actions to bind all activities on the Property to the insurance coverage.

(ii) Workers' Compensation Insurance. Workers' Compensation Insurance (including Employers' Liability Insurance) in the statutory amount covering all employees of School employed or providing services at the Property, providing such benefits as are required by the State of Michigan.

(iii) Automobile Liability Insurance. Liability insurance, including but not limited to passenger liability on all owned, and hired vehicles used in connection with the Property, if the School owns any, with a combined single limit per occurrence of not less than \$1,000,000 per vehicle for injuries or death of one or more persons or loss or damage to property.

(iv) Personal Property Insurance. Personal Property Insurance covering School's leasehold improvements, School's personal property and trade fixtures from time to time in, on, or at the Property, in an amount not less than 100% of the full replacement cost, without deduction for depreciation, providing protection against events protected under "All Risk Coverage," as well as against sprinkler damage, vandalism, and malicious mischief. Any proceeds from the Personal Property Insurance shall be used for the repair or replacement of the property damaged or destroyed, unless this Lease is terminated under an applicable provision herein.

D. General Insurance Provisions.

(i) Any insurance that School shall be required to maintain under this Lease, shall include a provision which requires the insurance carrier to give notice to all certificate holders (which shall include Landlord and Landlord's lender(s) as applicable) in accordance with policy provisions prior to any cancellation or material modification of such coverage. If any insurance company refuses to provide the required notice, School or its insurance broker shall notify Landlord of any cancellation or non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

(ii) Prior to the earlier of School's entry into the Property or the Lease Commencement Date, School shall deliver to Landlord an insurance company certificate that School has obtained the insurance coverages required herein and, throughout the Lease Term, not less than thirty (30) days prior to the expiration or termination of any insurance, School shall deliver to Landlord renewal certificates therefor. If School shall fail to deliver any certificates or renewal certificates to Landlord or if any such policy shall be canceled or modified in a manner materially adverse to Landlord during the Lease Term without Landlord's written consent, Landlord may, after ten (10) days written notice to School and School's failure to cure the same, obtain such insurance, in which case School shall reimburse Landlord, as Additional Rent, for the cost of procuring such insurance within ten (10) days after receipt of a statement of the cost of such insurance.

(iii) School shall maintain all insurance required under this Lease with a company or companies having a General Policy Rating of A-VI or better, set forth in the most current issue of the Best Key Rating Guide. Landlord and School, on behalf of themselves and their insurers, each hereby waive any and all rights of recovery against the other, or against the members, officers, partners, employees, agents or representatives of the other, for loss of or damage to its property or the property of others under its control, if such loss or damage shall be covered by any insurance policy in force (whether or not described in this Lease) at the time of such loss or damage. All property insurance carried by either party shall contain a waiver of subrogation against the other party to the extent such right shall have been waived by the insured prior to the occurrence of loss or injury.

E. Landlord Insurance. During the Lease Term, Landlord shall insure the Building (excluding, however, any property that School is obligated to insure under Section 8(C)(iv) above) against damage with All-Risk insurance Commercial General Liability insurance, all in such amounts and with such deductibles as Landlord reasonably considers appropriate or as required by any mortgagee of Landlord. Landlord may, but shall not be obligated to, obtain and carry any other form or forms of insurance as it or Landlord's mortgagees may reasonably determine advisable including, without limitation, rent loss insurance and insurance against hazardous materials. All premiums for the insurance policies provided in this Section 8 shall be deemed an Operating Expense of the Property and shall be paid by School in accordance with the provisions of Section 4 above to the extent such insurance costs relate to the Property leased hereunder by School. Notwithstanding any contribution by School to the cost of insurance premiums, as provided herein, School acknowledges that it has no right to receive any proceeds from any insurance policies carried by Landlord.



9. ASSIGNMENT AND SUBLETTING.

A. Except as provided herein, School shall not sublease, assign, mortgage, pledge, hypothecate or otherwise encumber this Lease or its leasehold interest in the Property in whole or in part, nor sublet the Property in whole or in part, without Landlord's prior written consent, which consent may not be unreasonably withheld, conditioned or delayed provided the use of the Property is consistent with Section 5. No consent of Landlord to any assignment, subletting or mortgaging by School shall waive the necessity for Landlord's prior written consent to any further assignment or subletting; and the terms and conditions of any consents thereto (if given) by Landlord shall bind School, its mortgagees, assignees and sub-lessees. School may assign this lease to a to-be-formed entity who will hold the charter and operate the school, but such assignment is subject to certain terms and conditions to be imposed by Landlord.

B. No assignment or subletting, nor any consent thereto by Landlord, shall (i) result in a change in the use of the Property from the Permitted Use specified in Section 5, (ii) terminate or reduce any liability of School under this Lease unless consented to by Landlord in writing, nor (iii) be deemed to waive the necessity of obtaining Landlord's prior written consent to any further assignment or subletting.

C. Any assignment or subletting shall be made subject to all terms and provisions of this Lease, and shall not extinguish or reduce any of Landlord's or School's obligations under this Lease, including without limitation the obligation of Landlord to provide to any permitted assignee or sublessee the services of Landlord required hereunder.

D. School shall pledge and collaterally assign to Landlord, rents or other payments received from any sublessee up to the amount of Rent due Landlord under this Lease. School shall also collaterally assign to Landlord any such sublease to permit Landlord to collect rent under such sublease upon the occurrence of an Event of Default hereunder.

10. SUBORDINATION.

Subject to the provisions of this Section, this Lease and all rights of School hereunder shall be subject and subordinate to the mortgages securing the Financing, and to any and all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding the foregoing, School's obligation to subordinate its interest in the Property to the mortgages securing the Financing is expressly conditioned upon such holder's execution of a mutually acceptable subordination, non-disturbance and attornment agreement ("SNDA") pursuant to which such holder agrees not to disturb, impair or extinguish School's possession or School's Purchase Option upon such holder's acquiring title to the Property so long as School is not then in default under this Lease beyond all applicable cure periods, and agrees to attorn to such holder following such acquisition of title. Landlord shall deliver to School mutually acceptable SNDAs for the mortgages securing the Financing before the Lease Commencement Date. Notwithstanding the subordination of this Lease as aforesaid, any future mortgagee under any mortgage replacing (but not increasing)

the Financing may, by giving School written notice thereof, require that School enter into a new SNDA for the benefit of such new lender, the terms of which shall be substantially similar to the SNDA entered into with the existing Financing lender. Subject to the terms of the SNDA, School covenants and agrees, in the event of foreclosure of any such mortgage or deed of trust, to attorn to the purchaser upon such foreclosure sale and to recognize such purchaser as the landlord under this Lease. School agrees to execute in recordable form and deliver, at any time and from time to time, within twenty (20) days after request of Landlord or the holder of the Financing or any replacements thereof, any instrument which, in the reasonable judgment of Landlord, or the Financing lenders or any replacement lenders under the Financing, may be necessary or appropriate in any such foreclosure proceedings or otherwise to evidence such attornment. School further waives the provisions of any statute or rule of law, now or hereafter in force, which may give or purport to give School any right or election to terminate or otherwise adversely affect this Lease, and the obligations of School hereunder, as a result of any such foreclosure. Any mortgagee or purchaser at foreclosure, who requests such attornment shall not (a) be bound by any prepayment of Base Rent for more than thirty (30) days in advance of the due date of such Base Rent or which School might have paid for more than the current month to any prior lessor (including Landlord), so that Base Rent shall be payable after such deed of trust or mortgage foreclosure or termination of the ground or underlying lease, as the case may be, in case of a requested attornment as aforesaid, in accordance with the terms of this Lease as if such prepayment of Base Rent for more than one month in advance had not been made; (b) be bound by any amendment or modification to this Lease or by any waiver or forbearance on the part of any prior lessor (including Landlord) made or given without the prior written consent of Landlord's mortgagees; (c) be liable for any act or omission of any prior lessor (including Landlord); nor (d) be subject to any offsets or defenses which School might have against any prior lessor (including Landlord); and furthermore, Landlord's mortgagees shall be discharged of any responsibility hereunder to School which may have arisen (by reason of the mortgagee becoming a mortgagee in possession, a lessor or otherwise) after such mortgagee disposed of its interest in the Property. School hereby agrees not to look to Landlord's mortgagees, as mortgagees, mortgagees in possession, or successors in title to the Property or to any leasehold interest in the Real Property for accountability for any security deposit required or held by Landlord hereunder, unless and to the extent that such sums have actually been received by said mortgagees as security for School's performance of or under this Lease.

11. EMINENT DOMAIN.

School agrees that if the Property, or any part thereof, shall be taken, condemned or acquired for public or quasi-public use or purpose by any competent public or quasi-public authority (the "**Taking Authority**"), whether by condemnation proceedings, lease or purchase (collectively and individually a "taking"), then Landlord and School shall share the value of any recovery according to the value of their respective property interests as such interests existed on the date of the taking. If all or a substantial part of the Property be so taken or acquired, the term of this Lease shall, at Landlord's or School's option, cease and terminate from the date on which title to the Property vests in the Taking Authority. If this Lease is terminated under this Section 11, then all Rent and other sums payable by School hereunder shall be adjusted and paid by School

to Landlord at the later to occur of (a) the date School vacates the Property in compliance with this Lease, or (b) the date on which title to the Property vests in the Taking Authority. For purposes hereof, a substantial part of the Property shall be deemed to have been taken if, in Landlord's and School's reasonable judgment, the remainder of the Property not so taken is not reasonably usable or is not reasonably and economically repairable. If less than a substantial part of the Property is taken (a "**partial taking**"), then this Lease shall remain in force as regards the portion of the Property not so taken. In the event of such partial taking, and if neither party elects to terminate this Lease in such circumstances, Base Rent shall abate if, and so long as School is unable to use and occupy the Property during the course of repairs thereof, such abatement to be in proportion to the rentable area of the Property rendered unusable by School for the purposes herein permitted until Landlord has substantially completed the restoration work it elects to perform. In such event, Landlord shall, at its own expense (provided that this Lease has not been terminated hereunder and that Landlord receives sufficient funds from the Taking Authority to pay therefor), restore the remaining portion of the Property (excluding School's fixtures, furnishings, equipment, alterations and leasehold improvements, collectively herein called "**School's Restoration Work,**" all of which School's Restoration Work shall be repaired and restored by School at its own expense in conformity with the applicable terms of this Lease) to the extent reasonably feasible to render such remainder reasonably suitable for the purposes for which they are leased hereunder; and Landlord shall make such repairs (if any) to the remainder of the Property as may be reasonably necessary to enable School to operate the Property for the Permitted Use and to resume occupancy. School shall fully cooperate with Landlord in all such efforts, and School will not commence or perform School's Restoration Work until Landlord has completed its work (unless otherwise permitted by Landlord). However, School may at its option and discretion terminate this Lease, with Rent adjusted to the date of termination, if any partial taking involving at least thirty-five percent (35%) of the Property occurs or if the partial taking involves a lesser amount of the Property and School can no longer conduct business operations at the Property in a manner similar to that conducted by School prior to any such partial taking. Nothing herein contained shall preclude School (provided it is not in default under this Lease nor subject to any Events of Bankruptcy (as hereinafter defined)) from prosecuting, at its own expense claims directly against the Taking Authority for loss of business, damage to, cost of removal of, or for the value of, trade fixtures, furniture, equipment and other personal property belonging to School. If this Lease is terminated pursuant to this Section 11, then School agrees to vacate the Property in accordance with this Lease within thirty (30) days after such termination is effective.

## 12. WAIVER OF CLAIMS AND SUBROGATION.

Anything herein contained to the contrary notwithstanding, Landlord and School do each hereby release the other from any and all claims of liability for any loss or damage to their respective properties caused by fire or any of the other casualties covered by the risks included in extended coverage insurance to the extent of insurance proceeds received. This limited mutual release is given notwithstanding that such fire or other casualty shall have resulted from the act, omission or negligence of Landlord or School or their respective agents, employees, licensees or contractors. Landlord and School agree to cause their respective insurance policies covering the Building and/or the Property and contents thereof to contain an appropriate endorsement whereby

the insurer agrees that the insurance policy and coverage will not be invalidated by reason of the foregoing waiver of the right of recovery against Landlord or School, respectively, for loss occurring to the properties covered by such policies, and whereby such insurers also waive any right of subrogation against Landlord and School (as the case may be). Each party will, upon request, deliver to the other a certificate evidencing such waiver of subrogation by the insurer. However, the provisions of this Section 12 shall not be operative during any period of time when such “waiver of subrogation” feature is not available from insurance companies licensed to do business in the State of Michigan at nominal cost or no cost.

### 13. DAMAGE BY FIRE OR CASUALTY.

If the Property shall at any time during the Lease Term be partially damaged by fire or other casualty, Landlord shall (except as otherwise herein provided) promptly repair and restore the portions of the Property damaged by such casualty (the “**Landlord Repairs**”), but excluding any School’s Restoration Work, to substantially the condition thereof that existed promptly prior to the occurrence of such damage (subject to delays necessitated by time needed to adjust, settle and compromise insurance claims and to obtain governmental licenses and permits for such work, and subject to the other conditions contained in this paragraph). However, if the Landlord Repairs are so extensive that the costs of repair exceed the insurance proceeds available to Landlord to pay for the restoration and repairs inclusive of any deductible, Landlord, at its option and exclusive discretion, shall have the right to terminate this Lease by giving School written notice to that effect within forty-five (45) days following such casualty, unless School either elects to purchase the Property pursuant to the Purchase Option or to make the needed repairs at its expense. In addition, in the event Landlord does not notify School in writing within such forty-five (45) day period that the Landlord Repairs will be completed within one hundred eighty (180) days following such casualty, School at its option and exclusive discretion, may terminate this Lease by giving Landlord written notice of such termination. In the event of any such partial damage or total destruction of the Building, the Base Rent and all Additional Rent shall be abated from the date of the damage until the date Landlord substantially completes the Landlord Repairs (excluding any School’s Restoration Work, the same to be repaired by and solely at the expense of School upon Landlord’s notification to School that the Landlord Repairs have been substantially completed); such Base Rent and Additional Rent abatement to be in proportion to the area of the Property rendered unusable by School for the purposes herein permitted during the period of such usability. However, if the Building is partially damaged by fire or other casualty to such extent that School is unable to conduct the Permitted Use therein, then during the course and until substantial completion of the Landlord Repairs, all Base Rent and Additional Rent payable hereunder shall abate on a pro rata basis for the portion of the Building that School is unable to use. In no event shall Landlord be obligated to perform or pay for or provide any repairs or replacements of School’s trade fixtures or equipment or any other School’s Restoration Work; it being agreed that School, at its own expense, shall perform all such repairs and replacements, whether necessitated by casualty damage or otherwise. Further, in no event shall Landlord be obligated to expend any sums in excess of the insurance proceeds (inclusive of any deductible) made available to Landlord on account of the fire or casualty for the purpose of such restoration. School and School Parties (as defined in Section 27(A) below) will not interfere with, delay or alter any Landlord Repairs; it

being agreed that there shall be no Base Rent or Additional Rent abatement during any period while any violation of this provision delays Landlord Repairs. If this Lease is terminated by Landlord pursuant to this Section 13, and provided that School does not elect to exercise its Purchase Option or to make the necessary improvements itself, then School agrees to vacate the Property in accordance with this Lease within thirty (30) days after the date such termination is effective. In the event that School either elects to exercise its Purchase Option or to make the necessary repairs, then, to the extent permitted to do so under the Financing documents, Landlord shall assign to School all insurance proceeds that may cover the losses resulting from the casualty.

14. LOSSES OR DAMAGE TO PROPERTY.

All personal property and other equipment and items of any kind belonging to School or School Parties located in or about the Property, shall be there at the sole risk of School, and in no event shall Landlord have any liability for any loss, damage or theft thereof from any cause whatsoever (to the extent permitted by law and without waiving any governmental immunities, School hereby indemnifying Landlord against any and all suits, actions and claims in regard thereto) unless the same is occasioned by the gross negligence or intentional act of Landlord, its agents, employees, contractors or representatives.

15. COMPLIANCE WITH GOVERNMENTAL ORDERS.

School shall, at its own expense, at all times during the term of this Lease and any Renewal Terms or holdover terms or while School is occupying all or any part of the Property, fully, properly and promptly cause its use of the Property to comply with and abide by all laws, orders, ordinances, rules, regulations and requirements, as the same now exist or as the same may hereafter be enacted, amended or promulgated, of any Federal, State of Michigan, or County of Wayne, or City of Harper Woods authority, and/or any department or agency thereof, and of the Board of Fire Underwriters, or any similar organization having jurisdiction thereof, and all insurance regulations, relating to the Property and/or School's specific use and occupancy of the Property or to the operation of the public charter school at the Property (collectively herein referred to as "**Laws**"). Subsequent to the completion of the Landlord Work, at all times while this Lease is in force, School, at its own expense, will obtain and keep in force and display on the Property all certificates of use and occupancy, and other governmental permits, licenses and authorizations required for the Property and School's business, use and occupancy thereof and thereat, and School will provide Landlord copies of said certificates, licenses and permits within ten (10) days after Landlord's written request. Following completion of the Landlord Work, School, at its own expense, agrees to promptly comply with all federal, state, county and municipal laws now or hereafter in force involving handicapped persons and means of access for such persons and facilities for their use that involve their use of the Property or affect the use or occupancy of or the conduct of business in or at the Property. Landlord shall, at its own expense, ensure that the entire Property as of the date School first occupies any or all of the Property, fully, properly and promptly complies with the Certificate of Completion and abides by all Laws of any Federal, State, or County of Wayne, or City of Harper Woods authority and/or any department or agency thereof,

including but not limited to any Laws pertaining to Hazardous Materials, environmental concerns, or disability access.

16. BANKRUPTCY.

A. Events of Bankruptcy. For purposes of this Lease, the following shall be deemed “**Events of Bankruptcy**” of School: (i) if School becomes “insolvent”, as defined in Title 11 of the United States Code, entitled “Bankruptcy”, 11 U.S.C. Section 101 et. seq., as amended from time to time (the “**Bankruptcy Code**”), or under the insolvency laws of any state, district, commonwealth or territory of the United States of America (“**Insolvency Laws**”); (ii) if a receiver or custodian is appointed for any or all of School’s property or assets, or if there is instituted a foreclosure action on any of School’s property; (iii) if School files a voluntary petition under the Bankruptcy Code or Insolvency Laws; (iv) if there is filed an involuntary petition against School as the subject debtor under the Bankruptcy Code or Insolvency Laws that is not dismissed within sixty (60) days of filing, or results in issuance of an order for relief against the debtor; or (v) if School makes or consents to an assignment of its assets, in whole or in part, for the benefit of creditors, or a common law composition of creditors. Notwithstanding anything in this Section 16 to the contrary, the terms and provisions of this Section 16 shall be subject to the provisions of the Bankruptcy Code as then in force.

B. Landlord’s Option to Terminate Lease. Upon the occurrence of an Event of Bankruptcy, or if School takes advantage of any Insolvency Laws, Landlord, at its option and sole discretion, may terminate this Lease by written notice to School (subject, however, to applicable provisions of the Bankruptcy Code or Insolvency Laws during the pendency of any action thereunder involving School as the subject debtor). If this Lease is terminated under this Subsection, School shall promptly surrender and vacate the Property, waives all statutory and other notice to quit, and agrees that Landlord’s obligations under this Lease shall cease from such termination date, and Landlord may recover possession by process of law or in any other lawful manner. Furthermore, if this Lease is terminated under this Subsection, Landlord shall have all rights and remedies against School provided in case of the default of School in payment of Rent (subject, however, to applicable provisions of the Bankruptcy Code or Insolvency Laws).

C. Assumption of Lease. If School becomes the subject debtor in a case pending under the Bankruptcy Code, Landlord’s right to terminate this Lease under this Section 16 shall be subject to the applicable rights (if any) of the trustee in bankruptcy to assume or reject this Lease as then provided for in the Bankruptcy Code. However, the trustee in bankruptcy must give to Landlord and Landlord must receive proper written notice of the trustee’s assumption or rejection of this Lease within sixty (60) days after the date of the trustee’s appointment or such longer period if any provided by applicable law (the “**Assumption or Rejection Period**”); it being agreed that the failure of the trustee to give notice of such assumption hereof within the Assumption or Rejection Period shall conclusively and irrevocably constitute the trustee’s rejection of this Lease and waiver of any rights of the trustee to assume or assign this Lease. The trustee shall not have the right to assume or assign this Lease unless said trustee (i) promptly and fully cures all defaults under this Lease, (ii) promptly and fully compensates Landlord for all monetary damages incurred

as a result of such default, and (iii) provides to Landlord “adequate assurance of future performance” (as defined herein below). Landlord and School hereby agree in advance that “adequate assurance of future performance”, as used in this Subsection, shall mean that all of the following minimum criteria must be met: (a) School shall deliver to Landlord a security deposit in an amount equal to three (3) months’ Base Rent at the rate applicable hereunder, which deposit Landlord may apply toward curing any defaults of School under this Lease, (b) School must pay to Landlord all Rent and other sums payable by School hereunder, including also therein its share (as estimated by Landlord) of the cost of all services (if any) provided by Landlord (whether directly or through agents or contractors, and whether or not the cost of such services is to be passed through to School), in advance of the performance or provision of such services, and (c) School must agree (by writing delivered to Landlord) that the use of the Property as stated in this Lease will remain unchanged. In the event School is unable to (i) cure its defaults, (ii) reimburse Landlord for its monetary damages, (iii) pay the Rent due under this Lease or any other payments required of School under this Lease on time, or (iv) meet the criteria and obligations imposed by (a) through (c) above in this Subsection, then School hereby agrees in advance that School has not met its burden to provide adequate assurance of future performance, and this Lease may be terminated by Landlord in accordance with Section 16(B) hereof.

D. Consent to Lift Stay. In the event that this Lease is terminated by notice and School shall thereafter seek protection under the Bankruptcy Code or any equivalent state Insolvency Laws or regulations, School (if a debtor-in-possession) agrees to consent to any application by Landlord to terminate the automatic stay provisions of the Bankruptcy Code or any Insolvency Laws on the grounds that there is no equity in the Lease as a result of the pre-petition termination notice.

E. Severability. Section 28 A of this Lease is incorporated by reference. Furthermore, in the event that this Section 16, in whole or part thereof, shall be invalid, illegal or unenforceable in any respect under any applicable law, then without need for any further agreement, notice or action, the validity, legality and enforceability of the remaining provisions shall remain effective and binding on the parties thereto and shall not be affected or impaired thereby; the obligation to be fulfilled shall be reduced to the limit of such validity.

## 17. DEFAULTS AND REMEDIES.

A. The following occurrences shall be deemed an “**Event of Default**” hereunder: if (i) School shall fail to pay the Rent or security deposit, or any installments thereof as aforesaid, at the time the same shall become due and payable although no demand shall have been made for the same or any other sums payable under this Lease when and as due as herein provided, and if such monetary default is not cured by School within seven (7) days after written notice thereof is sent by Landlord to School (or if School commits more than two monetary defaults in any calendar year, and thereafter any additional monetary default occurs in that calendar year, whether or not Landlord has given School notice thereof); (ii) School violates or fails or neglects to keep and perform any of the other covenants, conditions and agreements herein contained on the part of School to be kept and performed, and if such non-monetary default (other than failure to maintain

insurance required of School hereunder) is not cured by School within thirty (30) days after written notice thereof is sent by Landlord to School, as extended for such additional period (not to exceed an additional ninety (90) days) reasonably necessary to cure such default if School acts diligently to do so and to the extent permitted by law holds Landlord harmless from all liability, loss, costs, damage and expense arising from such default and provided such default does not materially jeopardize the value, safety or structural integrity of the Building nor subject Landlord or its agents to any liability or expense; (iii) School fails to keep in force any insurance required of it under this Lease; (iv) the Property shall become abandoned, vacant or deserted, provided however that closure of the school during school breaks or government mandated closures shall not be considered abandonment, vacation or desertion; (v) School fails to remain a public Charter School in good standing under the laws of the State of Michigan or under any other applicable regulation pertaining to School, or if School fails to qualify or remain eligible for public funding provided such change in eligibility or good standing is not due to a change in Michigan law or regulation, and further provided that the same is not cured within thirty (30) days of Landlord's written demand; or (vi) except as permitted under this Lease, the Lease is terminated or expires by its terms prior to the expiration of the Lease Term. In connection with all of the foregoing events, provided School has not duly exercised its Purchase Option prior to Landlord taking possession of the Property, at the sole option and discretion of Landlord (and in addition to and not in limitation of Landlord's right to distraint for rent, and other remedies), this Lease and School's right of possession shall, in accordance with the law, thereupon cease and terminate, and Landlord shall be entitled to the possession of the Property and to re-enter the same and remove all persons and property therefrom, without additional demand of Rent or demand of possession of the Property, and may forthwith proceed to recover possession of the Property by process of law. In the event of such re-entry by process of law, School nevertheless agrees to remain answerable for any and all damage, deficiency or loss of Rent that Landlord may sustain by such re-entry, including reasonable attorney's fees and court costs; and in such case, Landlord reserves the full power, which is hereby acceded to by School, to relet the Property at the risk and expense of School. However, Landlord's rights and School's obligations under this Lease shall not be affected or reduced by Landlord's inability to relet the Property despite using reasonable commercial efforts. In no event shall Landlord be required to accept any prospective lessee submitted by School. Any such reletting shall be only to such party or parties as Landlord may approve in its reasonable discretion. Any such reletting may be of all or any part of the Property and may be for a term or terms less than or greater than the then remaining portion of the term of this Lease, all at Landlord's exclusive discretion. Such relettings shall be on such terms, rental and conditions as Landlord may reasonably determine, and in no event will School have any right to any excess of such net rents collected from re-lettings over the sums payable by School hereunder. Unless stated otherwise in this Lease Agreement, whether or not Landlord elects to terminate this Lease under this Section 16, School shall remain liable for all damages, deficiencies, loss, costs and expenses Landlord may sustain, including without limitation deficiency in rent, reasonable attorneys' fees, court costs, brokerage commissions, and all reasonable expenses incurred in preparing the Property for re-letting (including any necessary alterations, none of which shall be deemed to release School from liability hereunder). In no event shall Landlord be liable for its inability or failure to re-let or to collect rentals under re-lettings, nor shall School be released from liability (nor shall School's obligations and liability under this Lease be reduced in whole or part) by reason thereof. Any



damage or loss of Rent sustained by Landlord may be recovered from School, at Landlord's option, at time of re-letting, or in separate actions as said damages become determinable from re-lettings, or in a single action deferred until expiration of the Lease Term (in which case the cause of action shall not accrue until the expiration of the Lease Term), or in a single action prior to the re-letting or termination or expiration hereof. Nothing herein contained shall prevent Landlord from proving in full damages for Rent accrued prior to the termination hereof and not paid, and from proving under any applicable laws any amounts allowed thereby and recovering such sums. It is further agreed that if, under the provisions hereof, applicable summary process shall be served, and a compromise or settlement thereof shall be made, such compromise or settlement shall not constitute a waiver of any subsequent breach of any covenant, condition or agreement herein contained, and that no waiver by Landlord of any breach of any covenant, condition or agreement herein contained shall be deemed to occur unless and only to the extent that such waiver is in writing signed by Landlord, and no such waiver shall operate as a waiver of the covenant, condition or agreement itself, or of any subsequent breach thereof.

B. In addition to and not in limitation of the other remedies in this Lease provided, in the Event of Default, Landlord shall be entitled to the restraint by injunction of any violation or attempted or threatened violation of any of the terms, covenants, conditions, provisions or agreements of this Lease. Landlord shall take reasonable steps to mitigate damages with respect to an Event of Default.

C. The remedies of Landlord and School provided for in this Lease are cumulative and are not intended to be exclusive of any other remedies to which Landlord or School may be lawfully entitled. The exercise by Landlord or School of any remedy to which it is entitled shall not preclude or hinder the exercise of any other such remedy, nor constitute an election of remedies.

D. A defaulting party agrees to promptly on demand reimburse the other party for any expenses, including but not limited to court costs and reasonable attorneys' fees which the non-defaulting party may incur in enforcing its rights under this Lease, including, but not limited to, the collection of Rent, the securing of possession of the Property and the enforcement of the Purchase Option. In addition, if either party shall incur any charge or expense on behalf of the other party under the terms of this Lease because of such other party's failure to cure any Event of Default or other breach, then such charge or expense shall be repaid within fifteen (15) days after demand therefore.

E. If either party fails to fully, timely and properly pay and perform any covenants, duties, agreements, obligations or requirements that are payable by, imposed upon or otherwise required under any provision of this Lease, then the other party may, after giving at least ten (10) days' prior written notice (except that no notice shall be required in emergencies), make the payment or perform such matters, in which event the responsible party agrees to promptly reimburse the other party upon request all such payments and other costs and expenses incurred, together with interest on such amounts at the current Prime Rate (defined below) plus three percent (3%) per annum from the date the aforesaid expenses are advanced or incurred until repaid in full

by the responsible party. No such sums advanced or work or other actions done or taken by a party shall relieve the other party, to any extent, from its covenants, duties, liabilities or obligations under this Lease, nor be deemed to be a waiver or acquiescence. The “**Prime Rate**” shall mean the “base rate” of interest per annum from time to time published by *The Wall Street Journal*, New York, New York, presently designated as the “Prime Rate” under the category of “Money Rates,” as the same may fluctuate from time to time. In the event that the “Prime Rate” ceases to be published in *The Wall Street Journal*, then the Prime Rate hereunder shall thereafter be the prime rate publicly announced from time to time by CitiBank N.A. or its successor.

F. If Landlord shall fail to timely receive any installment or installments of Rent or any other amounts due and payable under this Lease, and if such failure is not corrected within fourteen (14) days after written notice thereof from Landlord, then School shall pay to Landlord, in addition to the rental or other sums so in default, a “late charge” in an amount equal to two cents (\$0.02) for each one dollar (\$1.00) so in default. Notwithstanding the foregoing, Landlord shall not be required to provide more than two such notices in any twelve month period, and any successive failure of Landlord to timely receive payment in such twelve month period after the second such notice shall entitle Landlord to the aforesaid late charge without the necessity of further notice to School.

G. In the event that Landlord shall default in the performance of any covenant, condition or provision of this Lease, and such default remains uncured beyond any applicable cure period expressly provided herein or thirty (30) days, whichever is longer, from and after the date Landlord receives notice of such default from School (or such longer period (not to exceed an additional ninety (90) days) as may be reasonably required to cure such default with the exercise of due diligence and best efforts so long as Landlord promptly commences and diligently pursues such cure without interruption) (except in the case of emergency, in which case School shall have the immediate right to cure following notice to Landlord), School may, at its option, without waiving any claim for breach of Landlord’s obligations, cure such default for Landlord at Landlord’s expense, and Landlord shall reimburse School upon School’s demand all reasonable costs and expenses incurred by School in curing Landlord’s default. All such sums not reimbursed to School on demand shall accrue interest at the Prime Rate plus three percent (3%) and may be offset by School against Rent and other payments due under this Lease, if not paid within thirty (30) days. School shall have no right to terminate this Lease, however, unless Landlord violates School’s quiet enjoyment of the Property; however, in addition to the above, School may pursue any other legal remedy allowed at law or in equity, including injunctive relief and specific performance.

#### 18. RIGHTS RESERVED BY LANDLORD.

Landlord reserves the right to itself, its agents, contractors and designees, to enter the Property at all reasonable times during normal business hours and at such other times as Landlord deems necessary and at any time in case of emergencies as follows: (i) for the making of inspections or repairs, as Landlord (without being obligated to perform) may deem necessary or desirable or for any other purposes involving the safety, protection or preservation of the Property

or the Building; (ii) during the last six (6) months of the term hereof, to exhibit the Property to prospective tenants; and (iii) at all times during normal business hours, to exhibit the Property to existing lenders or to prospective mortgagees and purchasers. Landlord shall provide School at least two (2) business days' prior written notice of its desire for such access (except that no notice will be required in circumstances believed by Landlord to constitute an emergency). Landlord shall be accompanied by a School representative, to the extent School is able or desires to provide a representative, at all times during any visit to the Property during normal business hours. Landlord, upon ten (10) business days' prior written notice to School, may install and exhibit in or on the exterior of the Building or the Property "For Rent" signs and "Building For Sale" signs during the last six (6) months of the Lease Term, and School will not obstruct or interfere with such signs.

19. SURRENDER CONDITION.

By no later than the expiration or any termination of this Lease (unless the Purchase Option has been exercised by School), School will surrender to Landlord possession of the Property, with all personal property owned by School and any School Parties removed from the Property, and with the Property in good condition, appearance and repair, reasonable wear and tear and damage from casualty and/or condemnation excepted, broom clean, and free of occupants.

20. NOTICES.

All notices required under this Lease shall be given in writing and shall be deemed to be properly served by School if sent by first class certified or registered United States Mail, return receipt requested, postage prepaid, or by national overnight courier service, with delivery charges prepaid, addressed to Landlord at the address where Rent is then payable hereunder, with a copy to Macdonald + Macdonald PC, 181 Harry S. Truman Parkway, Suite 260, Annapolis, MD 21401, Attention: Alan S. Macdonald, Esq. or to such other party and address as Landlord may from time to time designate in writing. Such notices shall be deemed to be properly served by Landlord if sent by first class certified or registered United States Mail, postage prepaid, or by courier service, addressed to School, attention to School Board President, at the Property address set forth on page 1 of this Lease Agreement.

21. NON-WAIVER.

The failure of either party to insist, in any one or more instances, upon a strict performance by the other party of any of the covenants of this Lease, or to exercise any option herein contained, or to serve any notice, or to institute any action or summary proceedings, or otherwise to act as though this Lease had expired pursuant to any of the provisions of this Lease, shall not be construed as a waiver or relinquishment by such party for the present or future of such covenant or option, or right thereafter to serve notice and to have this Lease expire under any provision of this Lease, but such covenant or option shall continue and remain in full force and effect. The receipt by Landlord of Rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof or breach thereof by

School shall be deemed to have been made unless expressed in writing and signed by Landlord. The rights and remedies herein created are cumulative, and the use of one remedy shall not be taken to exclude or waive the right to the use of another.

22. ENTIRE AGREEMENT.

This instrument contains all the agreements made between the parties hereto and is a complete integration of all of such parties' agreements and the parties shall not be bound by any oral or written agreements or correspondence not herein contained. This Lease may not be modified orally or in any other manner than by agreement in writing, signed by all the parties hereto or their respective successors in interest.

23. BINDING EFFECT OF AGREEMENT; SCHOOL'S RIGHT TO ACQUIRE PROPERTY.

A. Benefit of Successors. Except as otherwise expressly provided herein, the terms, covenants, conditions, obligations and agreements herein contained shall be binding upon Landlord and School and inure to the benefit of Landlord, School, and each of their respective heirs, executors, administrators, personal representatives, successors and assigns (subject however, to the restrictions upon School contained in Sections 9, 16 and 23(B) hereof).

B. Rights of School to Acquire Property.

(i) Option to Purchase. Provided School is not then in default under this Lease, School will have the right at any time from the execution of this Lease and throughout the Lease Term to purchase Landlord's interest in the Property, (the "**Purchase Option**") together with easements, rights-of-way, and appurtenances thereto, pursuant to the terms listed herein.

(a) Exercise of Purchase Option. School may exercise the Purchase Option by notifying Landlord in writing of its intention to exercise the Purchase Option ("**Purchase Option Notice**"). The Purchase Option Notice shall be addressed to Landlord at the notice address set forth in Section 20 and shall be delivered by one of the methods set forth in Section 20. The Purchase Option Notice shall be deemed received by Landlord seven (7) days after mailing if sent by certified mail, return receipt requested or the next business day if sent via national overnight courier service. Closing of the purchase of the Property under the Purchase Option ("**Purchase Option Closing**") must take place within one hundred twenty (120) days of the date that the Purchase Option Notice is received or deemed received by Landlord (or if such date is not a business day, then on the next business day) and prior to the end of the Lease Term, subject to satisfaction of the condition set forth in Section 23(C).

(b) Purchase Option Price. The purchase option price for the Property under the Purchase Option (the “**Purchase Option Price**”) shall be in an amount equal to the Total Project Cost less the amount of any CSDC Fee received and any Qualifying Excess Project amounts due to Landlord (if any), multiplied by 1.05 plus other amounts due under this Lease. Landlord shall provide School, within ten (10) days of School’s written request, an annual accounting of the Total Project Cost.

(ii) Assignment. The Purchase Option cannot be assigned by School to an entity that is not affiliated with School and, therefore, any assignment to a non-affiliated entity will not inure to the benefit of any such successor or assign of School, except with the written consent of Landlord, which consent may be granted or withheld in Landlord’s sole and absolute discretion. Notwithstanding the above, School may assign such rights to an affiliated entity.

C. Purchase Option Closing. The Purchase Option Closing shall occur at the offices of the title company/escrow agent in the jurisdiction to be designated by School. The parties shall execute escrow instructions and such other documentation as shall be necessary to permit the close of escrow as contemplated herein. The following are conditions to the Purchase Option Closing:

(i) Title and Survey; Environmental. School, at School’s sole cost and expense, will obtain a current title commitment (“**Title Commitment**”) for an owner’s title policy from a title company selected by School (“**Title Company**”) showing the status of title of the Property, and all exceptions, including easements, restrictions, right-of-way, covenants, reservations and other conditions affecting the Property, committing the title company to issue its extended owner’s title policy to School in the full amount of the purchase price for the Property at the close of escrow. School acknowledges receipt of the survey and title commitment for the Property at the time of Landlord’s purchase of the Property. School, may at its option, order an ALTA survey of the Premises (the “**Survey**”). School may also conduct such environmental tests as it deems necessary, including Phase I and Phase II environmental audits. At least ten (10) days prior to the date of the Purchase Option Closing, Tenant may notify Landlord of any objections to the Title Commitment and Survey, if applicable and environmental reports; provided that School agrees to accept title to the Property subject to (a) all exceptions and notations found on that survey and the title commitment prepared by First American Title Insurance Company (file number NCS-992391-MKE), other than mortgages or deeds of trust liens or other monetary liens not caused by School, which shall be released by Landlord at closing and (b) any other liens, encumbrances or exceptions imposed on the Property subsequent to the date hereof which are acceptable to School in its sole discretion (collectively, the “**Permitted Exceptions**”). On or before the date of the Purchase Option Closing, School shall be responsible for obtaining, in its discretion and

at its cost, a marked commitment for an Owner's Policy ("**Title Policy**") to be issued by Title Company dated the date of Closing in the amount of the purchase price, without the standard exceptions (provided School has provided a survey sufficient to cause the Title Commitment to remove the standard survey exceptions) and insuring over the "gap" period.

(ii) Closing Statement. Prior to the date of the Purchase Option Closing, School shall cause the Title Company to prepare a closing statement (the "**Closing Statement**") for review and approval by Landlord and School.

(iii) Landlord Deliveries. On or before the date of the Purchase Option Closing, Landlord shall deliver in escrow to the Title Company the following:

(a) an executed and an acknowledged Warranty Deed, conveying good and marketable fee simple title to the Premises to School, subject to the Permitted Exceptions.

(b) an executed bill of sale, conveying to School all of Landlord's right, title and interest in any personal property located at or used in connection with the Property, if any.

(c) an executed assignment conveying to School all of Landlord's right, title and interest in any service or other contracts affecting the Premises (to the extent approved by School for assumption); plans, warranties with respect to the Premises, including but not limited to the roof and an building systems, if applicable; municipal approvals, and such other rights, properties, powers and privileges constituting or relating to the Premises, if any and to the extent transferable (the "**General Assignment**").

(d) a written termination of this Lease and a written termination of any memorandum of lease recorded in connection with this Lease, each duly executed and acknowledged as applicable (collectively, the "**Lease Termination**").

(e) a so-called FIRPTA.

(f) a real estate transfer valuation affidavit executed by Landlord in the form prescribed by the Wayne County Register of Deeds for determining the amount of transfer tax, if any, payable with respect to the transfer of the Premises to School and/or such other transfer tax forms or affidavits as are required.

(g) such affidavits, statements, gap undertakings, and other documents reasonably required by School or the Title Company to consummate the sale, including but not limited to an owner's affidavit sufficient to remove standard title exceptions.

(h) such resolutions or consents reasonably required by the Title Company and School evidencing the authorization of the sale of the Premises to School.

(i) an executed counterpart of the Closing Statement.

(j) keys, alarm codes, instruction manuals, warranty information and other reports and documentation related to the maintenance and operation of the Premises, which shall be delivered to School (not the Title Company) if the same exist and are in Landlord's possession.

(iv) School Deliveries. On or before the date of the Purchase Option Closing, School shall deliver in escrow to the Title Company the following:

(a) the Purchase Price, plus or minus closing adjustments set forth on the Closing Statement.

(b) an executed counterpart of the General Assignment and the Lease Termination (if applicable).

(c) an executed counterpart of the Closing Statement.

(d) such resolutions or consents reasonably required by the Title Company and Landlord evidencing the authorization of the purchase of the Premises by School.

(v) Closing Costs. Landlord shall pay the cost of (i) all transfer taxes, if any (iv) one-half (1/2) of the Title Company closing and/or escrow fee. School shall pay the following closing costs: (i) the cost of the ALTA survey, (ii) the cost of the Title Commitment, including any search and examination fees, (iii) the premium for the Title Policy, (iv) the fee to record the Warranty Deed and the Lease Termination (if recording is applicable). Each of Landlord and School shall pay their respective attorneys' fees. All closing costs and expenses not set forth herein shall be divided in the in the manner which is customary for transactions of this nature in the Harper Woods, Michigan area between 501(c)(3) nonprofit corporations.

(vi) Default. Notwithstanding anything to the contrary in this Lease, if Landlord shall default in its obligation to sell and convey the Property on the date of the Purchase Option Closing, then School may elect to enforce, pursue and seek specific performance of the terms and condition of this Section 23, which election shall be in addition to any rights and remedies School may have at law or in equity.

24. NO PERSONAL LIABILITY.

If Landlord shall sell, convey or otherwise transfer the Property or its interest therein, as permitted herein, and provided that at the time of such transfer Landlord is not in breach of any obligation imposed herein, and further provided that the new owner assumes all obligations of Landlord imposed herein, then Landlord shall be deemed released of all obligations accruing hereunder from and after the date of such transfer and the transferee shall be deemed the landlord hereunder, contingent upon the release and transfer by Landlord of the security deposit and capital projects reserve funds, if any, to the transferee as set forth in Section 3.E of this Agreement. In all events, and at all times, Landlord's liability under this Lease shall be limited to its interest in the Property. Neither Landlord nor its agents shall have any personal liability in the event of any claim against Landlord arising out of or in connection with this Lease, the relationship of Landlord and School or School's use of the Property, except for acts of gross negligence, or intentional and willful misconduct. In no event shall any officer, director, member, contractor or employee of Landlord or School, respectively, have any personal liability for any obligation, duty or covenant of Landlord or School, as applicable, under this Lease, the parties expressly recognizing that any such individuals are acting in a representative capacity only hereunder. Notwithstanding anything contained in this Lease to the contrary, School confirms that the covenants of Landlord are made and intended, not as personal covenants of the individual executing this Lease on behalf of Landlord, but solely in the exercise of the representative powers conferred upon the officer by Landlord. Neither School nor School's agents shall have any personal liability in the event of any claim against School arising out of or in connection with this Lease, the relationship of Landlord and School or School's use of the Property, except for acts of intentional and willful misconduct. Notwithstanding anything contained in this Lease to the contrary, School confirms that the covenants of School are made and intended, not as personal covenants of the individual executing this Lease on behalf of School, but solely in the exercise of the representative powers conferred upon the officer by School.

25. BROKERAGE.

School and Landlord warrant that no real estate broker has been involved in this transaction, nor shall any be entitled to a commission upon execution of this Lease. To the extent permitted by law, each party to this Lease shall indemnify, defend and hold harmless the other party from and against any and all claims, actions or demands asserted against such other party by any real estate broker, finder or intermediary relating to any act of the indemnifying party in connection with this Lease. No brokerage commission shall be due to any real estate broker in the event School elects to exercise its Purchase Option.

26. SIGNS, EXTERIOR; NUISANCE.

School may install, subject to the conditions herein contained, exterior signage (the "**Permitted Signs**") in compliance with all applicable laws. All such Permitted Signs must be of a size, color and design which are compatible with the appearance, color and design of the Building. All Permitted Signs shall comply with all applicable laws, codes and regulations, and



insurance requirements. All costs of installing, maintaining, repairing and removing the Permitted Signs shall be paid by School. School shall keep all Permitted Signs in good condition, appearance and repair at all times, and will remove all such signs and repair all damage to the Building caused thereby prior to expiration or termination of this Lease. School will not paint, cut, disfigure or otherwise alter the brickwork, facades or other exterior portions of the Building, nor the roof, windows, doors or other elements of the Building, nor install any awnings or marquees, without Landlord's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned in each instance. School will not cause or permit any smoke, grease, oil, odors, vapors, or other substances, music, sounds, bright or flashing or blinking lights, vibrations or other activities or substances to emanate outside of the Premises, which do or might injure or disturb others or property of others, or which constitute a nuisance to others; and to the extent permitted by law, School hereby holds Landlord harmless from any such activities and any suits, causes of action, claims, fines and prosecutions resulting therefrom.

27. HAZARDOUS MATERIALS.

A. School or any subtenant shall not transport, use, store, maintain, generate, manufacture, handle, dispose, release, discharge, spill or leak any "Hazardous Material" (as defined below), or permit any agent, employee, student, invitee or any other person or entity on the Property with the consent of School ("**School Parties**") to engage in such activities on or about the Property. However, the foregoing provisions shall not prohibit the transportation to and from, and use, storage, maintenance and handling within, the Property of substances customarily and lawfully used in the business that School is permitted to conduct in the Property under this Lease (i.e., normal office use, school supplies and cleaning supplies typically used in the ordinary operation of a school in compliance with applicable Laws and insurance requirements and ordinary school science classes), but only as an incidental and minor part of such business, and provided: (i) such substances shall be properly and safely labeled, contained, used and stored only in small quantities reasonably necessary for such permitted use of the Property and the ordinary course of School's business therein, strictly in accordance with applicable Laws, insurance requirements, and the manufacturers' instructions therefor; (ii) such substances shall not be disposed of, released, discharged or permitted to spill or leak in or about the Property (and under no circumstances shall any Hazardous Material be disposed of within the drains or plumbing facilities in or serving the Property or in any other public or private drain or sewer, regardless of quantity or concentration); (iii) if any applicable Law, insurance requirements, or Landlord's trash removal contractor requires that any such substances be disposed of separately from ordinary trash, School shall make arrangements at School's expense for such disposal in approved containers directly with a qualified and licensed disposal company at a lawful disposal site; (iv) any remaining such substances shall be completely, properly and lawfully removed from the Lease Premises upon expiration or earlier termination of this Lease; and (v) School shall comply with all Laws in connection with the removal and disposal of any such substances.

B. School shall promptly notify Landlord of (i) any inspection, enforcement, cleanup or other regulatory action taken or threatened by any regulatory authority with respect to any Hazardous Material on or from the Property or the migration thereof from or to other property; (ii)

any demands or claims made or threatened by any party relating to any loss or injury claimed to have resulted from any Hazardous Material on or from the Property; (iii) any release, discharge, spill, leak, disposal or transportation of any Hazardous Material on or from the Property in violation of this Section, and any damage, loss or injury to persons, property or business resulting or claimed to have resulted therefrom; and (iv) any matters where School is required by Law to give a notice to any regulatory authority respecting any Hazardous Materials on or from the Property. Landlord shall have the right (but not the obligation) to notify regulatory authorities concerning actual and claimed violations of this Section. School shall promptly upon written request from time to time provide Landlord with copies of all Material Safety Data Sheets, permits, approvals, memos, reports, correspondence, complaints, demands, claims, subpoenas, requests, remediation and cleanup plans, and all papers of any kind filed with or by any regulatory authority and any other books, records or items pertaining to Hazardous Materials that are subject to the provisions of this Section.

C. If any Hazardous Material is released, discharged or disposed of, or permitted to spill or leak by School or School Parties in violation of the foregoing provisions, School shall promptly and properly clean up and remove the Hazardous Materials from the Property and any other affected property and clean or replace any affected personal property (whether or not owned by Landlord) in compliance with applicable Laws and then prevailing industry practices and standards, at School's expense (without limiting Landlord's other remedies therefor). Such clean up and removal work ("**School Remedial Work**") shall be subject to the provisions of Section 6(C) of this Lease, including Landlord's prior written approval (except in emergencies), and any testing, investigation, feasibility and impact studies, and the preparation and implementation of any remedial action plan required by any court or regulatory authority having jurisdiction or reasonably required by Landlord. In connection therewith, School shall provide documentation evidencing that all School Remedial Work or other action required hereunder has been properly and lawfully completed (including a certificate addressed to Landlord from an environmental consultant reasonably acceptable to Landlord, in such detail and form as Landlord may reasonably require).

D. The term "Hazardous Materials" for purposes hereof shall include, but not be limited to: (i) any flammable, explosive, toxic, radioactive, biological, corrosive or otherwise hazardous chemical, substance, liquid, gas, device, form of energy, material or waste or component thereof; (ii) petroleum-based products, diesel fuel, paints, solvents, lead, radioactive materials, cyanide, biohazards, infectious or medical waste and "sharps", printing inks, acids, DDT, pesticides, ammonia compounds, and any other items which now or subsequently are found to have an adverse effect on the environment or the health and safety of persons or animals the release of which is regulated by Law, or the presence of which require investigation or remediation under any Law or governmental policy; and (iii) any item defined as a "hazardous substance", "hazardous material", "hazardous waste", "regulated substance" or "toxic substance" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq., Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq., Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq., Clean Water Act, 33 U.S.C. §1251, et seq., Safe Drinking Water Act, 14 U.S.C. §300f, et seq., Toxic Substances

Control Act, 15 U.S.C. §2601, et seq., Atomic Energy Act of 1954, 42 U.S.C. §2014 et seq., and any similar federal, State of Michigan or local Laws, and all regulations, guidelines, directives and other requirements thereunder, all as may be amended or supplemented from time to time. Hazardous Materials shall also expressly include asbestos containing materials.

E. School shall pay, prior to delinquency, any and all fees, taxes (including excise taxes), penalties and fines arising from or based on School's or any School Parties' activities involving Hazardous Materials on or about the Property, and shall not allow such obligations to become a lien or charge against the Property or Landlord. If School or any School Parties violates any provision of this Section with respect to any Hazardous Materials, Landlord may pursue such other remedies as may be available to Landlord under this Lease or applicable Law.

F. Landlord represents to School that, as of the date of this Lease, Landlord has not received any written notice of, and does not otherwise have actual knowledge of any Hazardous Materials at the Property in violation of any applicable Law. Landlord further represents and warrants, to Landlord's actual knowledge, that no leak, spill, discharge, emission or disposal of Hazardous Materials in violation of applicable Law has occurred at, on or under the Property. Landlord agrees to indemnify, defend and hold School harmless from any claims by reason of (i) the breach by Landlord of its representations in this Section (F), unless such breach is caused by School or any School Parties or (ii) any spill, leak or discharge of Hazardous Materials by Landlord or any of its employees, agents and contractors in, on or under the Building or (iii) any spill, leak, airborne, or discharge of Hazardous Materials deemed by a qualified third party to have resulted from a condition existing prior to School's first occupancy of the Property. Landlord shall not use Hazardous Materials in or about the Building except in the ordinary course of business of owning, managing, repairing and maintaining the Building as a school building and uses accessory thereto. Landlord further agrees that any such use of Hazardous Materials by Landlord in connection therewith shall be in compliance with all Laws. In the event (i) Hazardous Materials are discovered at the Property, (ii) the presence of such Hazardous Materials is found to be in violation of Laws, and (iii) neither the presence of such Hazardous Materials nor any contamination caused by such Hazardous Materials is caused by School or any School Parties, then Landlord shall promptly commence to cure (or cause a cure to be made thereof) the violation of Law caused by the Hazardous Materials, and Landlord shall thereafter pursue such cure with reasonable diligence.

G. Notwithstanding any other provisions in this Lease Agreement, the parties agree that the School has no liability or obligation to investigate, clean, remove, remediate, or otherwise deal with hazardous material present at the site prior to the execution of this Lease Agreement. Any such liabilities are the responsibility of the Landlord.

## 28. MISCELLANEOUS.

A. Severability. If any term or provision hereof, or any portion thereof, or the application thereof to any person(s) or circumstances shall, to any extent, be held by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is

so judicially held to be invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

B. Estoppels. Landlord and School agree, within ten (10) days after each request from the other party, to execute, acknowledge and deliver a statement in writing as reasonably requested and furnished by the other party certifying (if such in fact then is the case) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), and the date to which the Rent and other charges, if any, have been paid in advance, and the amount of any security deposit held by Landlord, and whether or not there is any existing default hereunder by Landlord or School known to School or Landlord, or notice of default served by Landlord or School (including the details of such defaults as known to School or Landlord), and any other matters the requesting party reasonably may specify; it being intended that any such statement delivered pursuant to this paragraph may be relied upon by the requesting party and by any prospective purchaser, mortgagee or assignee of any mortgage or holder of other interests in the Property.

C. Plural and Singular Context. Wherever required in the context, the singular number shall include the plural number, the plural number shall include the singular number, and the use of any gender shall be deemed to include all genders, as appropriate.

D. Governing Law. This Lease is made pursuant to, and shall be construed and enforced in accordance with, the laws of the State of Michigan. The parties stipulate and agree that any action brought hereunder shall be brought only in an appropriate court in the State of Michigan and the parties waive any claim of forum non conveniens or transfer of any action to any other court. The parties agree that the State of Michigan has a substantial relationship to the parties and to the underlying transaction.

E. Mediation. The parties agree to submit any dispute regarding this Lease to a third party mediator in the Detroit metropolitan area prior to commencing any legal action to enforce the provisions of this Lease. The mediator shall be a person selected by the parties, or if the parties cannot agree, then the mediator shall be selected in accordance with the rules of the American Arbitration Association. The mediation shall occur within sixty (60) days of either party's written request. Both parties agree to use all reasonable efforts to complete such mediation in a timely manner; provided, however if notwithstanding the reasonable efforts of both parties to coordinate such mediation within such period of time, the mediation cannot be timely completed then the parties shall no longer be subject to the requirement to mediate. The costs associated with such mediation shall be shared equally by the parties.

F. No Joint Venture. Any intention to create a joint venture or partnership relation between the parties is hereby expressly disclaimed, it being agreed that their only relationship is that of lessor and lessee.

G. Jury Trial Waiver. Landlord and School agree to waive the right to trial by jury.

H. Recitals. The parties hereby incorporate into this Lease the recitals contained in the preamble.

I. Time. As used herein, the word “day” shall mean a calendar day, unless otherwise specified. “Business Day” shall mean a day which is not a Saturday, Sunday or legal holiday in the State of Michigan and any time period which expires on a day which is not a Business Day shall be deemed to be postponed until the next Business Day.

J. Captions. The captions in this Lease are inserted for convenience of reference only and do not define, describe or limit the scope of this Lease or any term hereof.

K. Marketing. Upon the execution of this Agreement, Landlord shall not market the Property for lease or sale except and unless School is in default hereunder or School does not exercise its Option to Purchase.

L. Arm’s Length Agreement. This Lease Agreement transaction involves no related parties. Related parties include the EMO, ESMO owners, EMO employees, family members of EMO owners and employees, parent, subsidiary or affiliates of the EMO, as well as Academy Board members, Academy employees and family members of Academy Board members and Academy employees.

M. Force Majeure. Any delay or failure of any party (the “affected party”) in the performance of its required obligations under this Lease Agreement shall be excused if and to the extent caused by war, rebellion or insurrection; an act of God; fire; government statute or executive order, or any other order or regulation prohibiting or significantly inhibiting the performance of this Lease Agreement; riots; strikes, labor stoppages, lockouts or labor disputes to the extent such occurrences are not caused by the actions of the party seeking relief under this Section, accident, pandemic, or unforeseen national or global catastrophe, provided that (i) written notice of such delay or suspension is given by the affected party to the other party within a reasonable timeframe of knowledge of such event, which notice shall set forth in detail the nature of each delay or suspension; and (ii) the affected party shall use all commercially reasonable efforts to minimize the extent of such force majeure delay or suspension. Upon receipt of a notice of force majeure, the time for the affected party’s performance shall be extended for a period of time reasonably necessary to overcome the effect of such delay or suspension, and the parties agree to renegotiate the term, level of services, and/or payment set forth in the Lease Agreement to the extent possible to continue modified services under the Lease Agreement. Notwithstanding the foregoing, so long as Tenant is receiving its per pupil payments, it cannot claim a force majeure event, even if it is prohibited from occupying the Property due to a government mandate or health advisory. Specifically, if Tenant cannot occupy the Property due to the COVID or related/similar pandemic, but is still receiving funding from its public funding sources, then it cannot claim a force majeure event.

M. School Statutory Duties. No provision of this Lease Agreement shall interfere with the School Board’s exercise of its statutory, contractual and fiduciary responsibilities governing

the operation of the School. No provision of this Lease Agreement shall prohibit the School Board from acting as an independent, self-governing public body, or allow public decisions to be made other than in compliance with the Open Meetings Act.

N. Landlord Procurement. In the event the Landlord procures equipment, materials or supplies at the request of or on behalf of the School, the Landlord agrees to follow applicable competitive bidding laws and shall not include any added fees or charges with the cost of equipment, materials and supplies purchased from third parties (except that the Lessor may assess actual costs, such as taxes, shipping, permits, installation, or other similar expenses).

29. QUIET POSSESSION.

Landlord covenants that if and so long as there shall have occurred no Event of Default nor any Events of Bankruptcy affecting School, School shall hold, occupy and enjoy the Property during the term of this Lease, without hindrance or molestation by Landlord, but subject to all of the terms, conditions and provisions hereof. If Landlord's ownership of the Property terminates as a result of foreclosure of any deed of trust or mortgage on its interest therein, or sale of the Property by Landlord, School's possession of the Property under this Lease shall not be disturbed by such foreclosure or sale provided there is no Event of Default under this Lease and provided further that School shall not be subject to any Events of Bankruptcy.

30. DRAFT NOT BINDING.

Submission of this Lease in any number of drafts unexecuted by Landlord and School shall not constitute, nor shall any negotiations between Landlord and School constitute, a legally binding obligation of Landlord of any kind; it being agreed that this Lease shall only be binding upon Landlord when fully executed by Landlord and School with a counterpart fully executed original received by Landlord.

31. ARTICLES OF INCORPORATION; FINANCIAL STATEMENTS.

A. School represents and warrants that School has furnished Landlord a true and complete copy of School's Articles of Incorporation and that said Articles of Incorporation are in full force and effect and not modified, and that School, acting by its undersigned duly authorized officers, has the lawful right to execute, deliver and perform its obligations under this Lease, and this Lease represents the lawful obligation of School, and is binding upon and enforceable against School in accordance with the terms hereof. School further warrants that School is in good standing under the laws of the State of Michigan. School further represents and warrants that the financial statements of School and those of any subtenant of all or any part of the Property, furnished to Landlord are true and correct in all respects and accurately reflect the financial condition of School. The representations and warranties made by School in this Lease are material inducements to Landlord's execution of this Lease; and any material inaccuracy therein shall be deemed a default of School under this Lease. School represents and warrants that it has the lawful right to execute, deliver and perform its obligations under this Lease, and that its officers executing this Lease are

duly authorized to do so and this Lease constitutes the lawful obligation of and is legally binding on School.

B. School agrees to furnish its financial statements and those of any subtenant of all or any part of the Property, including without limitation balance sheets and income and expense statements, reasonably requested by Landlord within thirty (30) Business Days of receiving such written request.

32. COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

33. PHYSICAL PLANT RECORDS. Landlord agrees to make all lease and physical plant records in the Landlord's possession related to the School available to the School's independent auditor and the Authorizer upon request within a reasonable timeframe.

34. LEASE AMENDMENTS. Any amendments to the Lease Agreement must be reviewed by the Authorizer before execution, and must be in writing and subsequently signed by both parties.

**[Signatures Begin on Next Page]**


IN WITNESS WHEREOF, Landlord and School have caused this Lease to be executed by their duly authorized officers; all done as of the date first hereinbefore written.

ATTEST:

\_\_\_\_\_

LANDLORD:

CSDC FACILITIES CORPORATION, a  
District of Columbia nonprofit corporation,

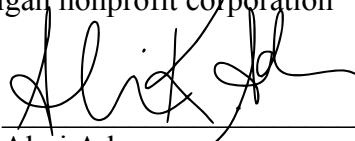
By:   
Name: Michelle Liberati  
Title: Chief Operating Officer

ATTEST:

\_\_\_\_\_

SCHOOL:

DISTINCTIVE COLLEGE PREP,  
a Michigan nonprofit corporation

By:   
Name: Alari Adams  
Title: Vice President, Board of Directors



## EXHIBIT A

### PROPERTY DESCRIPTION

Land in the City of Harper Woods, Wayne County, MI, described as follows:

#### Parcel 1

That part of Private Claim 617 and Private Claim 618, described as: Commencing at the Westerly most corner of Lot 1 of Grosse Pointe Homes Subdivision as recorded in [Liber 71 of Plats, Page 76](#) of Wayne County Records the same being the intersection of the Easterly line of Tyrone Avenue (60 feet Right of Way) with the Northerly line of Bournemouth Avenue (60 feet Right of Way); thence along the said Northerly line of Bournemouth Avenue extended, North 61 degrees 12 minutes 30 seconds West 60.00 feet to the intersection of the Westerly line of said Tyrone Avenue with said Northerly line of Bournemouth Avenue and the point of beginning; thence along the said Northerly line of Bournemouth Avenue, North 61 degrees 12 minutes 30 seconds West 260.00 feet; thence along a line parallel with said Westerly line of Tyrone Avenue, North 29 degrees 13 minutes 12 seconds East 264.00 feet; thence along a line parallel to said Northerly line of Bournemouth Avenue, North 61 degrees 12 minutes 30 seconds West 728.11 feet to the Easterly line of Harper Avenue (variable Right of Way); thence along said Easterly line of Harper Avenue, North 25 degrees 55 minutes 34 seconds East 307.19 feet to the Northerly line of Private Claim 617, also being the Southerly line of Private Claim 618; thence along said Northerly line of Private Claim 617, South 61 degrees 13 minutes 12 seconds East 751.84 feet; thence parallel with said Westerly line of Tyrone Avenue, North 29 degrees 13 minutes 12 seconds East 122.29 feet; thence North 51 degrees 24 minutes 55 seconds East 142.75 feet; thence parallel with said Westerly line of Tyrone Avenue, North 29 degrees 13 minutes 12 seconds East 282.65 feet; thence South 61 degrees 18 minutes 27 seconds East 200.00 feet to said Westerly line of Tyrone Avenue; thence along said Westerly line of Tyrone Avenue, South 29 degrees 13 minutes 12 seconds West 1108.02 feet to the point of beginning.

#### Parcel 2

Situated in the City of Harper Woods, Wayne County, Michigan, that part of Private Claim 617, described as: commencing at the Westerly most corner of Lot 1 of Grosse Pointe Homes Subdivision as recorded in [Liber 71 of Plats, Page 76](#) of Wayne County Records the same being the intersection of the Easterly line of Tyrone Avenue (60 feet right of way) with the Northerly line of Bournemouth Avenue (60 feet right of way); thence along the said Northerly line of Bournemouth Avenue extended, North 61 degrees 12 minutes 30 seconds West 60.00 feet to the intersection of the Westerly line of said Tyrone Avenue with said Northerly line of Bournemouth Avenue; thence along the said Northerly line of Bournemouth Avenue, North 61 degrees 12 minutes 30 seconds West 260.00 feet to the point of beginning; thence continuing along said Northerly line of Bournemouth Avenue, North 61 degrees 12 minutes 30 seconds West 712.92 feet to the Easterly line of Harper Avenue (variable right of way); thence along said Easterly line of Harper Avenue, North 25 degrees 55 minutes 34 seconds East 264.32 feet; thence along a line parallel to said Northerly line of Bournemouth Avenue, South 61 degrees 12 minutes 30 seconds East 728.11 feet; thence along a line parallel with said Westerly line of Tyrone Avenue, South 29 degrees 13 minutes 12 seconds West 264.00 feet to the point of beginning.

**EXHIBIT B**

<u>Item</u>		<u>Cost</u>
Four (4) Sump Pumps on Existing Roof	\$	16,515
Emergency Repairs	\$	33,300
Contingency (10%)	\$	4,980
Total Improvements	\$	54,795

**EXHIBIT C**  
**Pro Forma**

USES OF FINANCING						
			Per SF		% of Total	
Property Acquisition	\$	2,050,000	\$	19	91%	
Closing Costs (legal, title, property diligence)	\$	37,500	\$	0	2%	
Hard Costs - Improvements (Roof Repairs)	\$	54,795	\$	1	2%	
Soft Costs / Property Diligence (envir., survey, etc.)	\$	-	\$	-	0%	
Capitalized Costs	\$	-	\$	-	0%	
CSDC Fee	5.00%	\$	107,115	\$	1	5%
Contingency	\$	-	\$	-	0%	
<b>Total Uses (Total Project Costs)</b>	<b>\$</b>	<b>2,249,410</b>	<b>\$</b>	<b>21</b>	<b>100%</b>	

SOURCES OF FINANCING					
			Per SF		% of Total
CSDC Funds	\$	1,999,410	\$	19	89%
Seller Financing	\$	250,000	\$	2	11%
<b>Total Sources</b>	<b>\$</b>	<b>2,249,410</b>	<b>\$</b>	<b>21</b>	<b>100%</b>

FINANCING SUMMARY				
	CSDC Funds	Seller Financing	School Contribution	Total
Loan Amount	\$ 1,999,410	\$ 250,000	\$ -	\$ 2,249,410
LTC	89%	11%	0%	100%
Interest Rate	5.50%	5.00%		5.44%
Amort Term (years)	20	10		19
Monthly Payment	\$ 13,754	\$ 2,652		\$ 16,405
Annual Payment	\$ 165,044	\$ 31,820		\$ 196,864

Distinctive College Prep - Harper Woods					
Rent Calculation / Purchase Option Price					
July 2, 2020					
Fiscal Year-end of June	Year 1	Year 2	Year 3	Year 4	Year 5
	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025
	11 Months	12 Months	12 Months	12 Months	12 Months
<b>Lease Rental Payments</b>					
CSDC Funds	\$ 151,291	\$ 165,044	\$ 165,044	\$ 165,044	\$ 165,044
Seller Financing	\$ 29,168	\$ 31,820	\$ 31,820	\$ 31,820	\$ 31,820
School Contribution	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Debt Service</b>	<b>\$ 180,459</b>	<b>\$ 196,864</b>	<b>\$ 196,864</b>	<b>\$ 196,864</b>	<b>\$ 196,864</b>
Rent Coverage (minimum of 1.22)	1.22	1.22	1.26	1.29	1.33
<b>Base Rent to CSDC (Annual)</b>	<b>\$ 220,159</b>	<b>\$ 240,174</b>	<b>\$ 247,379</b>	<b>\$ 254,801</b>	<b>\$ 262,445</b>
Capital Improvement Reserve	\$ 68,750	\$ 75,000	\$ 71,875	\$ -	\$ -
Cumulative	\$ 68,750	\$ 143,750	\$ 215,625	\$ 215,625	\$ 215,625
<b>Rent Escalation Analysis</b>					
Total Rent Escalation %	0.0%	0.0%	3.0%	3.0%	3.0%
Base Rent Escalation %	0.0%	0.0%	1.0%	1.0%	1.0%
CSDC Fee Escalation %	0.0%	0.0%	2.0%	2.0%	2.0%
Cumulative Increase in Rent Payment over Base Rent until CSDC Fee is paid off			\$ 7,205	\$ 14,627	\$ 22,271
Cumulative Lease Escalation Payments Received Over Base Rent			\$ 2,402	\$ 4,876	\$ 7,424
Cumulative CSDC Fee Payment Via Rent Payments			\$ 4,803	\$ 9,751	\$ 14,847
<b>Purchase Option Price</b>					
Purchase Option Price	5.00%	\$ 2,361,880	\$ 2,361,880	\$ 2,361,880	\$ 2,361,880
Less: Credit for any additional payments		\$ -	\$ -	\$ (4,803)	\$ (9,751)
<b>Total Adjusted Purchase Option Price</b>		<b>\$ 2,361,880</b>	<b>\$ 2,361,880</b>	<b>\$ 2,357,077</b>	<b>\$ 2,352,129</b>

## **EXHIBIT D**

The definition of a “Charter School” under this Agreement of Lease with Option to Purchase is the same as the definition used by the U.S. Department of Education’s Public Charter Schools Program (PCSP):

(1) A charter school is a public school that--

(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) has a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

(H) is a school to which parents choose to send their children, and that –

(i) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(ii) in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in clause (i);

(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law; and

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and may serve students in early childhood education programs or postsecondary students.

## **EXHIBIT E**

### **RULES & REGULATIONS**

1. School shall not construct, maintain, use or operate within the Property or elsewhere in the Building or on the outside of the Building, any equipment or machinery which produces music, sound or noise that is not related to normal school functions or which is unreasonably loud and audible beyond the Property.

2. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, or rags shall be thrown therein.

3. No cooking, except for cooking by School and its vendors, employees or agents for functions related to normal school functions shall be done or permitted by any tenant on the Property. No tenant shall cause or permit any unusual or objectionable odors to permeate from the Property.

4. Plumbing fixtures and appliances shall be used only for the purpose for which constructed, and no sweepings, rubbish, rags, or other unsuitable material shall be thrown or placed therein. The cost of repairing any stoppage or damage resulting to any such fixtures or appliances from misuse on the part of a tenant or such tenant's officers, agents, servants, and employees shall be paid by such tenant.

5. School shall not do anything, or permit anything to be done, in or about the Property, or bring or keep anything therein, that will in any way unreasonably increase the risk of fire or other casualty or obstruct or interfere with the rights of, or otherwise injure or annoy, other tenants, or do anything in conflict with the valid, pertinent laws, rules, or regulations of any governmental authority.

6. School shall not place a load upon any floor of the Building which exceeds the floor load allowed by applicable building code. Landlord may reasonably prescribe the weight and position of all safes and heavy installations which School desires to place in the Building so as properly to distribute the weight thereof. Landlord shall have the authority to reasonably prescribe the weight and position of safes or other heavy equipment which may overstress any portion of the floor. All damage done to the Building by the improper placing of heavy items which overstress the floor will be repaired at the sole expense of School. Landlord reserves the right to have Landlord's structural engineer review School's floor loads on the Building.

7. School shall not use or keep on the Property any flammable or explosive, fluid or substance, or any illuminating material in violation of applicable law.

8. If any governmental license or permit shall be required for the proper and lawful conduct of School's business, School, before occupying the Property, shall procure and maintain

such license or permit and submit it for Landlord's inspection. School shall at all times comply with the terms of any such license or permit.

9. School covenants and agrees that its use of the Property shall not cause a discharge of more than the design flow gallonage per day of sanitary (non-industrial) sewage allowed under the sewage discharge permit(s) for the Property. Discharges in excess of that amount, and any discharge of industrial sewage, shall only be permitted if School, at its sole expense, shall have obtained all necessary permits and licenses therefor, including without limitation permits from state and local authorities having jurisdiction thereof.

10. School shall not use or operate any electric or electrical devices or other devices that would unreasonably interfere with the operation of any device or equipment or radio or television broadcasting or reception from or within the Building.

11. School assumes full responsibility for protecting its space from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Property and Building closed and secured.

Violation of these rules may be considered a default of School's lease after Landlord has provided School with written notice thereof and an opportunity and reasonable timeframe in which to cure such violation. Landlord reserves the right to rescind any of these Rules and Regulations and make such other and further rules and regulations not inconsistent with the express terms of the Lease as in the reasonable judgment of Landlord shall from time to time be needed for the safety, protection, and care of the Property, which Rules and Regulations when made and written notice thereof given to School shall be binding upon it in like manner as if originally herein prescribed. In the event of any conflict, inconsistency, or other difference between the terms and provisions of these Rules and Regulations, as now or hereafter in effect, and the terms and provisions of the Lease to which these Rules and Regulations are attached, the terms of the Lease shall control.

**EXHIBIT F**  
**Project Completion Base Rent Reconciliation**

**MEMORANDUM CONFIRMING ANNUAL BASE RENT**

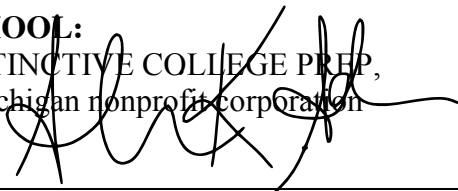
This Project Completion Base Rent Reconciliation (“**Base Rent Reconciliation**”) is being made and entered into effective as of July 8, 2020 (the “**Effective Date**”) by and between by and between CSDC LLC (“**Landlord**”) and The Charter School (“**Tenant**”).

In accordance with the Lease with Option to Purchase, Landlord has calculated the Rent based upon the Total Project Cost and the Developer Fee payments as set forth in Section \_\_ of the Lease to be:

	Start Date		Adjusted Base Rent Payment		Base Rent Payment		CSDC Fee Payment		
			Annual	Monthly	Annual	Monthly	Annual	Monthly	Balance
Lease Year 1	8/1/2020	6/30/2021	\$ 220,159.45	\$ 20,014.50	\$ 220,159.45	\$ 20,014.50	\$ -	\$ -	\$ 107,114.75
Lease Year 2	7/1/2021	6/30/2022	\$ 240,173.94	\$ 20,014.50	\$ 240,173.94	\$ 20,014.50	\$ -	\$ -	\$ 107,114.75
Lease Year 3	7/1/2022	6/30/2023	\$ 247,379.16	\$ 20,614.93	\$ 242,575.68	\$ 20,214.64	\$ 4,803.48	\$ 400.29	\$ 102,311.27
Lease Year 4	7/1/2023	6/30/2024	\$ 254,800.53	\$ 21,233.38	\$ 249,852.95	\$ 20,821.08	\$ 4,947.58	\$ 353.40	\$ 97,363.69
Lease Year 5	7/1/2024	6/30/2025	\$ 262,444.55	\$ 21,870.38	\$ 257,348.54	\$ 21,445.71	\$ 5,096.01	\$ 339.73	\$ 92,267.68
Lease Year 6	7/1/2025	6/30/2026	\$ 270,317.89	\$ 22,526.49	\$ 265,068.99	\$ 22,089.08	\$ 5,248.89	\$ 437.41	\$ 87,018.79
Lease Year 7	7/1/2026	6/30/2027	\$ 278,427.42	\$ 23,202.29	\$ 273,021.06	\$ 22,751.76	\$ 5,406.36	\$ 450.53	\$ 81,612.43
Lease Year 8	7/1/2027	6/30/2028	\$ 286,780.24	\$ 23,898.35	\$ 281,211.70	\$ 23,434.31	\$ 5,568.55	\$ 464.05	\$ 76,043.88
Lease Year 9	7/1/2028	6/30/2029	\$ 295,383.65	\$ 24,615.30	\$ 289,648.05	\$ 24,137.34	\$ 5,735.60	\$ 477.97	\$ 70,308.28
Lease Year 10	7/1/2029	6/30/2030	\$ 304,245.16	\$ 25,353.76	\$ 298,337.49	\$ 24,861.46	\$ 5,907.67	\$ 492.31	\$ 64,400.60
Lease Year 11	7/1/2030	6/30/2031	\$ 313,372.52	\$ 26,114.38	\$ 307,287.61	\$ 25,607.30	\$ 6,084.90	\$ 507.08	\$ 58,315.70
Lease Year 12	7/1/2031	6/30/2032	\$ 322,773.69	\$ 26,897.81	\$ 316,506.24	\$ 26,375.52	\$ 6,267.45	\$ 522.29	\$ 52,048.25
Lease Year 13	7/1/2032	6/30/2033	\$ 332,456.90	\$ 27,704.74	\$ 326,001.43	\$ 27,166.79	\$ 6,455.47	\$ 537.96	\$ 45,592.77
Lease Year 14	7/1/2033	6/30/2034	\$ 342,430.61	\$ 28,535.88	\$ 335,781.47	\$ 27,981.79	\$ 6,649.14	\$ 554.09	\$ 38,943.64
Lease Year 15	7/1/2034	6/30/2035	\$ 352,703.53	\$ 29,391.96	\$ 345,854.92	\$ 28,821.24	\$ 6,848.61	\$ 570.72	\$ 32,095.02
Lease Year 16	7/1/2035	6/30/2036	\$ 363,284.63	\$ 30,273.72	\$ 356,230.56	\$ 29,685.88	\$ 7,054.07	\$ 587.84	\$ 25,040.95
Lease Year 17	7/1/2036	6/30/2037	\$ 374,183.17	\$ 31,181.93	\$ 366,917.48	\$ 30,576.46	\$ 7,265.69	\$ 605.47	\$ 17,775.26
Lease Year 18	7/1/2037	6/30/2038	\$ 385,408.67	\$ 32,117.39	\$ 377,925.00	\$ 31,493.75	\$ 7,483.66	\$ 623.64	\$ 10,291.60
Lease Year 19	7/1/2038	6/30/2038	\$ 396,970.93	\$ 33,080.91	\$ 389,262.76	\$ 32,438.56	\$ 7,708.17	\$ 642.35	\$ 2,583.42
Lease Year 20	7/1/2039	6/30/2040	\$ 403,524.06	\$ 33,627.01	\$ 400,940.64	\$ 33,411.72	\$ 2,583.42	\$ 215.29	\$ -

Acknowledged and accepted this 8th day of July, 2020

**SCHOOL:**  
DISTINCTIVE COLLEGE PREP,  
a Michigan nonprofit corporation

By:   
Name: Alari Adams  
Title: Vice President, Board of Directors



## EXHIBIT G

### SUBORDINATION OF FEES AGREEMENT

**THIS SUBORDINATION OF FEES AGREEMENT** (“Agreement”) is made as of this 8<sup>th</sup> day of July \_\_\_\_\_, 2020, by and among **CSDC FACILITIES CORPORATION**, a District of Columbia nonprofit corporation (hereinafter referred to as (“**CSDC**”), and **DISTINCTIVE SCHOOLS**, an Illinois nonprofit corporation (“**EMO**”) and acknowledged by **DISTINCTIVE COLLEGE PREP**, a Michigan nonprofit corporation (“**School**”) .

#### RECITALS:

- A. This Agreement is being executed in connection with a Lease With Option to Purchase of even date between School and CSDC (the “Lease”).
- B. School has entered into a Lease with CSDC for a portion of the property known as 19360 Harper Avenue, Harper Woods, MI 48225 and more fully described in the Lease (“Property”).
- C. The School has employed the EMO to operate, administer and manage the School at the Property pursuant to certain agreements between the School and the EMO (all such agreements between School and the EMO, including any amendments or modifications thereto or restatements thereof, whether oral or written, are collectively referred to herein as the “School Management Agreements”). A copy of the School Management Agreement is attached hereto as Attachments “A” and incorporated herein by reference.
- D. CSDC, as a condition to entering into the Lease with School, requires that the School and EMO subordinate all management fees payable to the EMO under the terms of the School Management Agreement as set forth below.

NOW, THEREFORE, in consideration of the above and the mutual promises contained in this Agreement, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. Definitions. All capitalized terms used herein and not otherwise defined shall have the meanings set forth for such terms in the Lease.
2. School’s Covenants. The School hereby covenants with CSDC that during the term of the Lease the School shall, in the manner provided for in this Agreement, give notice to CSDC of any notice or information that the School receives which indicates that the EMO is terminating the School Management Agreement or that the EMO is otherwise discontinuing its oversight of the School.
3. Subordination of Management Fees. The School and the EMO hereby agree that at all times prior to the termination of the Lease, the EMO shall not be entitled to receive any service fee,

(including, incentive management fees, if any) for and during any period of time that any amount due and owing the Landlord under the Lease is not paid when due; provided, however, that the EMO shall not be obligated to return or refund to the Landlord any fee, commission or other amount already received by the EMO, and to which the EMO was entitled under the School Management Agreement.

4. Performance. School's right to occupy the Leased Premises shall be conditioned upon the continuing validity of this Agreement and EMO's performance of this Agreement.

5. Consent and Agreement by EMO. The EMO hereby acknowledges and consents to this Agreement and agrees that the EMO will act in conformity with the provisions of this Agreement and the CSDC's rights hereunder or otherwise related to the School Management Agreement.

6. Notice. All notices given hereunder shall be in writing to the other party at the address, and in the manner set forth in the Lease, as the case may be, and in the case of the EMO to the address below:

To EMO:

Distinctive Schools  
910 W. Van Buren, Suite 315, Chicago, IL 60607  
Attn: Scott Frauenheim  
Telephone: 312-332-4998  
Facsimile: 312-624-8481

7. Binding Nature of Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

8. Counterparts. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument.

9. Governing Law: Recourse. This Agreement shall be governed by the laws of the State of Michigan and applicable federal law. This Agreement is being executed in connection with the issuance of the Lease.

[Signatures on Following Page]

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date first written above.

DISTINCTIVE SCHOOLS, an Illinois nonprofit corporation

By: 

Name: Scott Frauenheim

Title: Chief Executive Officer

CSDC FACILITIES CORPORATION, a District of Columbia nonprofit corporation,

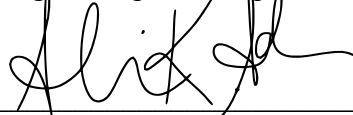
By: 

Name: Michelle Liberati

Title: Chief Operating Officer

Accepted and Acknowledged by:

DISTINCTIVE COLLEGE PREP,  
a Michigan nonprofit corporation

By: 

Name: Alari Adams

Title: Vice President, Board of Directors

4818-2628-4733 v5 [74500-3]

**INSPECTION REPORT**  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF FIRE SERVICES  
**FIRE MARSHAL DIVISION**

FACILITY NAME Distinctive College Prep Academy	INSPECTION DATE August 7, 2017	COUNTY Wayne	PROJECT 162167
ADDRESS 19360 Harper	FACILITY TYPE School-Charter	RULES/CODES School/College 2016	JOB/LIC/FAC. NO. N/A
CITY, STATE ZIP CODE Harper Woods, MI 48225	FACILITY REPRESENTATIVE Karen O'Donoghue		INSPECTION TYPE Follow-up
FACILITY PHONE 313-510-1273	FACILITY FAX 1313-961-9947	FACILITY E-MAIL <a href="mailto:KarenODnoghue@taltixsolutions.com">KarenODnoghue@taltixsolutions.com</a>	

**Re: School Safety Inspection**

A follow-up fire safety inspection was completed this date. Deficiencies noted in our last inspection report have been satisfactorily corrected.

cc:

[KarenODnoghue@taltixsolutions.com](mailto:KarenODnoghue@taltixsolutions.com)

FIRE SAFETY CERTIFICATION Approved	PROJECT STATUS Closed	REVIEWED BY
INSPECTING OFFICIAL Larry DeWachter, State Fire Marshal Inspector	ADDRESS	3101 Technology Blvd., Suite H Lansing, MI 48910
SIGNATURE OF OFFICIAL <i>L. De Wachter</i>	TELEPHONE	(248) 888-8761
	FAX	(517) 332-1427
	E-MAIL	dewachterL@michigan.gov
The Department of Licensing and Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.		Authority: PA207 of 1941, as amended Completion: Required Penalty: Misdemeanor

BFS-40 (Rev. 1/07)

**Distribution:** Architect, BFS Central/Field Office, BHS/DHS/DOC/DOE, Facility, Local Fire Department

# CERTIFICATE OF USE AND OCCUPANCY

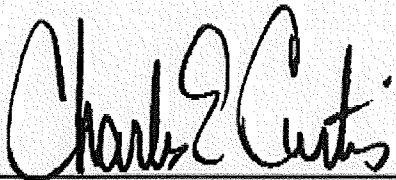
## PERMANENT

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. B033587  
Starr Detroit Academy  
19360 Harper  
Harper Woods, Michigan  
Wayne County

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

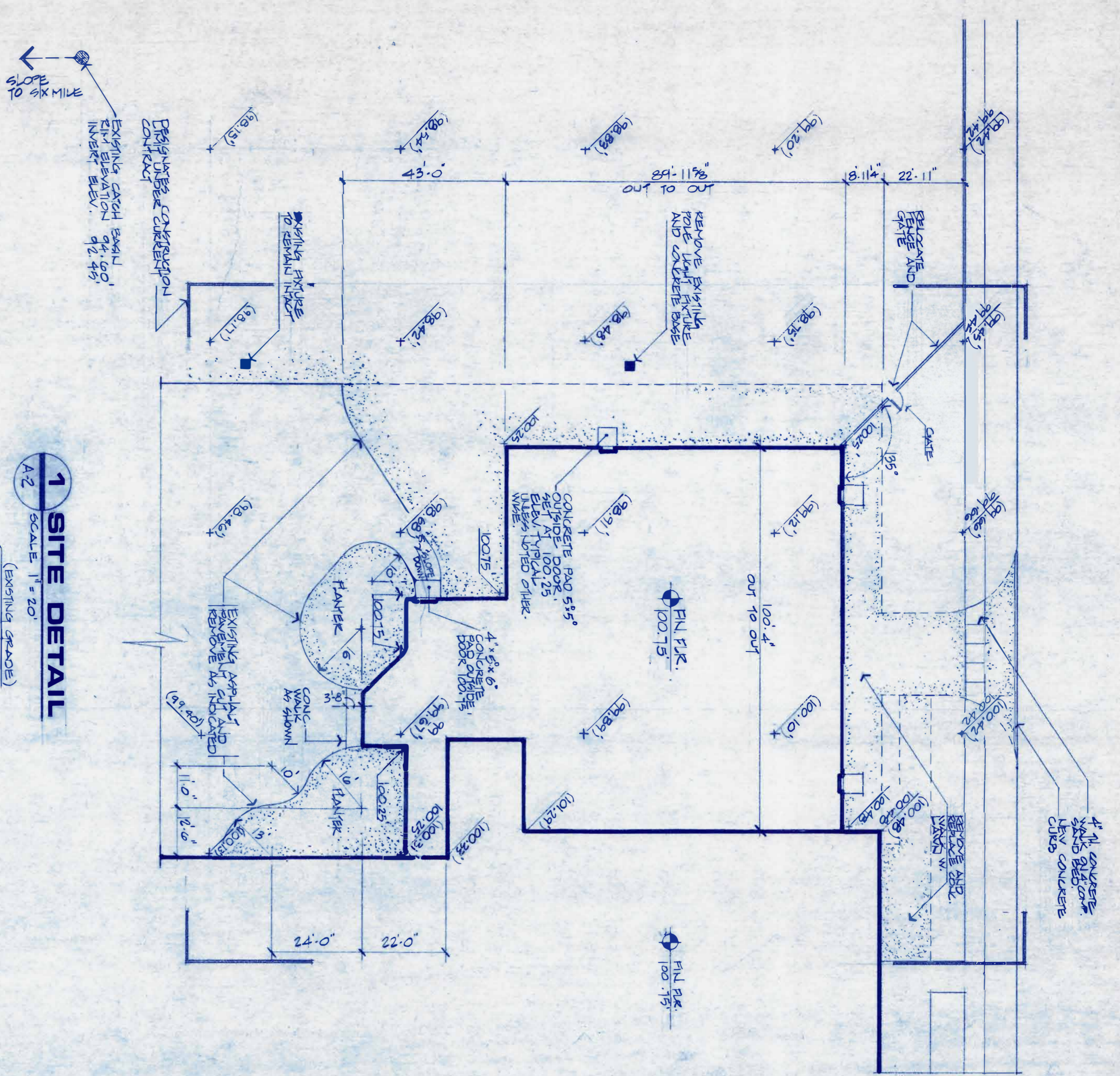
THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 111.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.



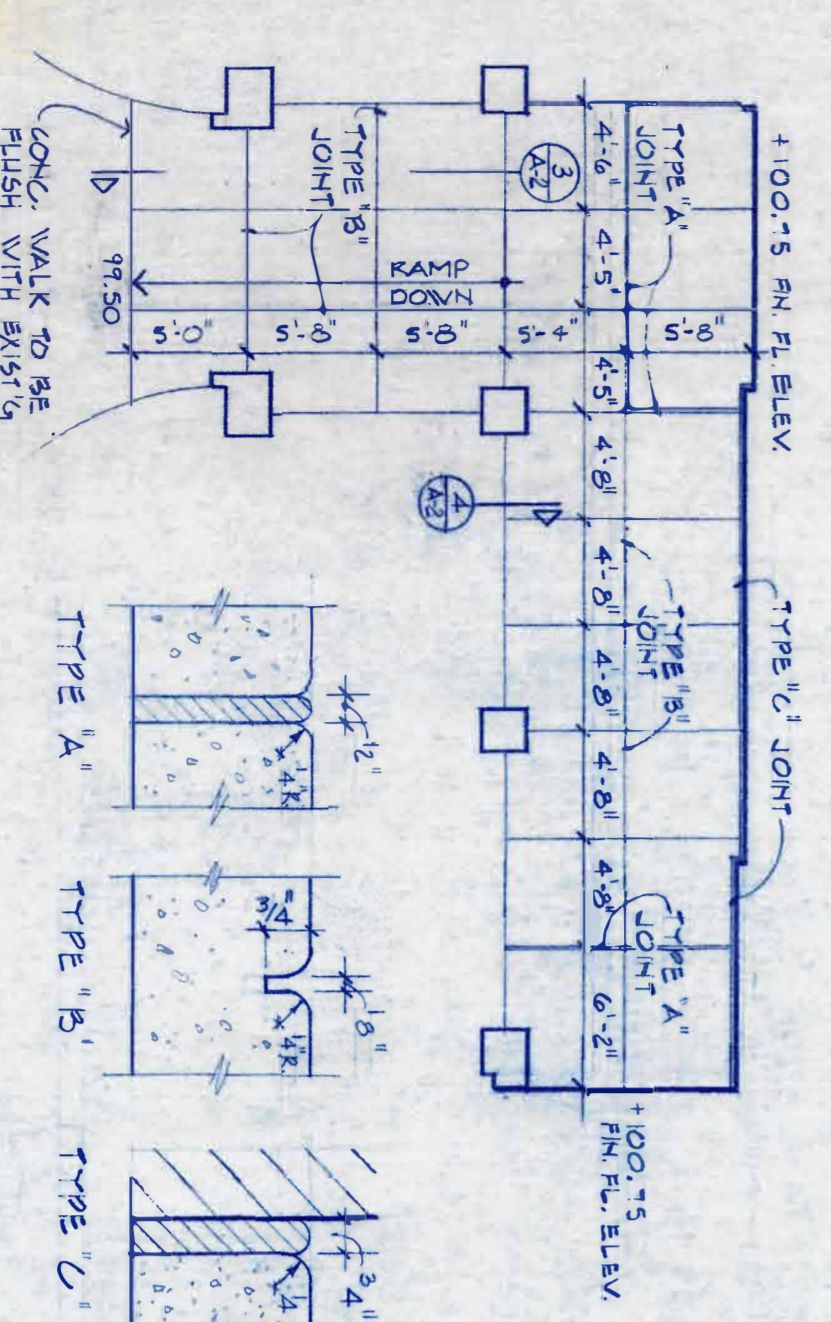
Larry Lehman, Chief  
Charles E. Curtis, Assistant Chief  
Building Division

November 27, 2012

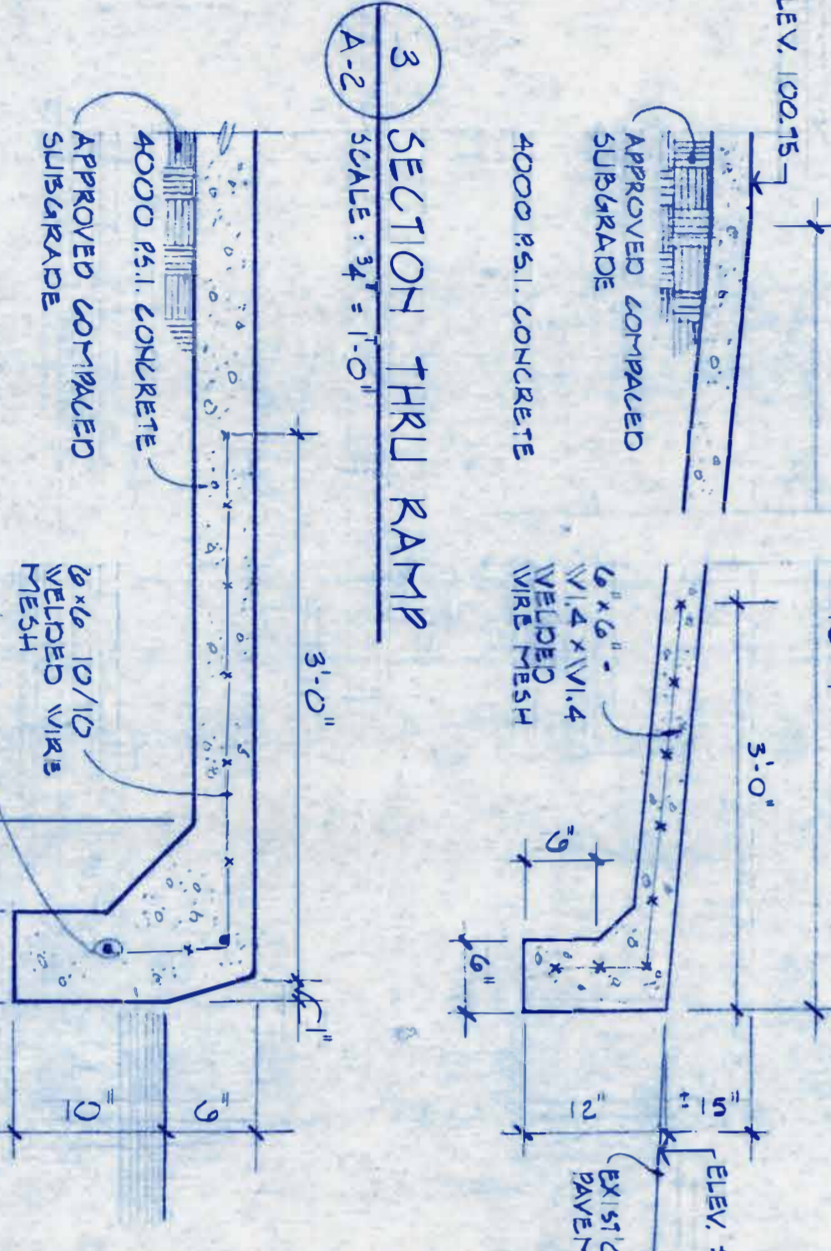
## **Distinctive College Prep – Redford**



**1 SITE DETAIL**  
 SCALE: 1" = 20'  
 A-Z

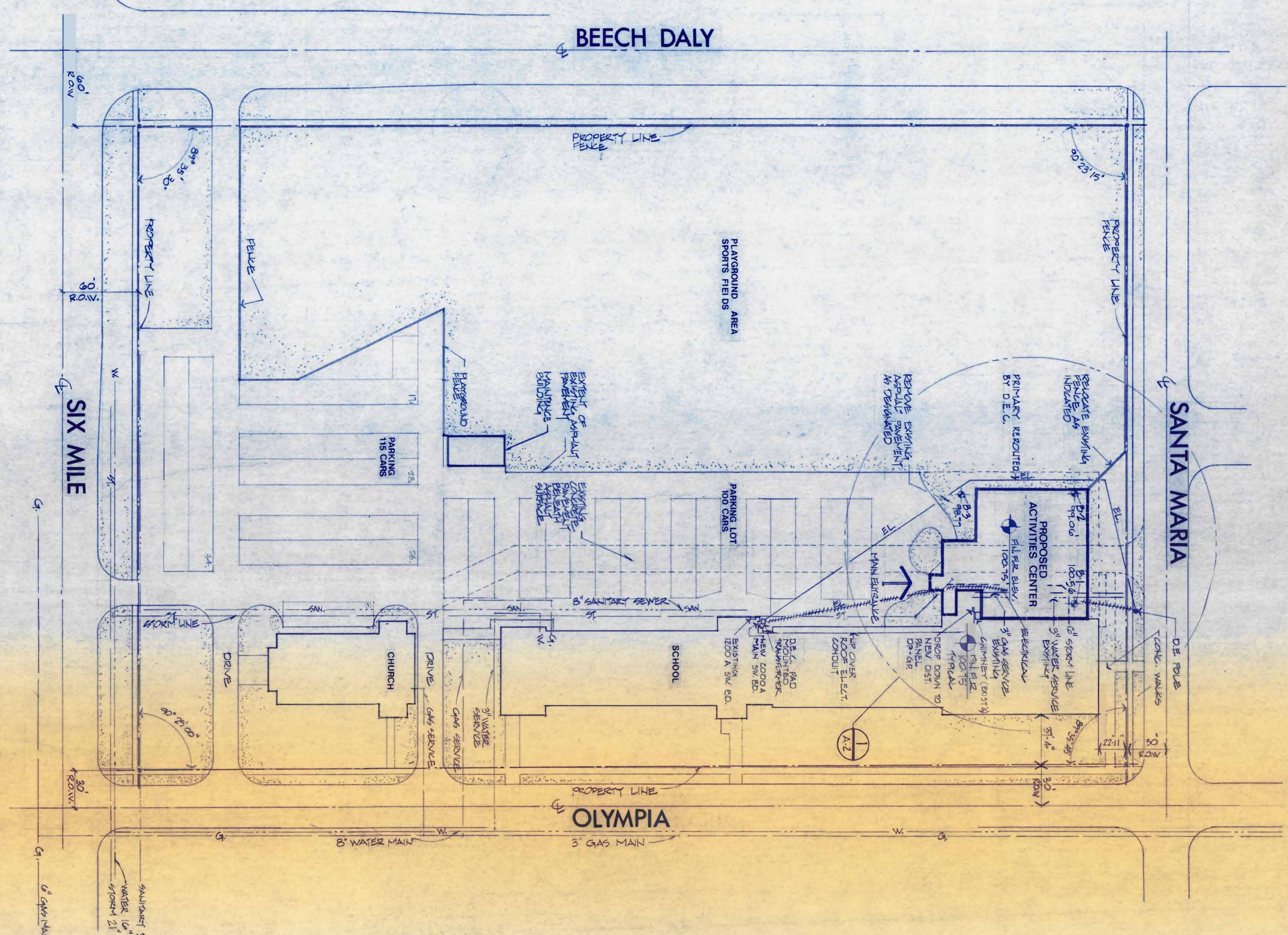


**2 SIDEWALK JOINTS & DETAILS**  
 SCALE: 1" = 1'-0"



**3 SECTION THRU RAMP**  
 SCALE: 1/2" = 1'-0"

**4 CONCRETE CURB @ SIDEWALK**  
 SCALE: 1" = 1'-0"



**SITE PLAN**

APPLICABLE CODES AND REGULATIONS  
 Bedford Township, Wayne County, State of Michigan codes and regulations shall be in force.  
 Making facilities accessible for the physically handiapped, State of Michigan.  
 O.S.H.A., Code and local ordinances.  
 Department of Labor construction safety standards commission safety standards.

Project: **ACTIVITIES CENTER ADDITION**  
 OUR LADY LORETO PARISH  
 1716 OLYMPIA BEDFORD MI.  
 sheet title: **SITE PLAN & DETAILS**

Issued for date	Site Review	Comments

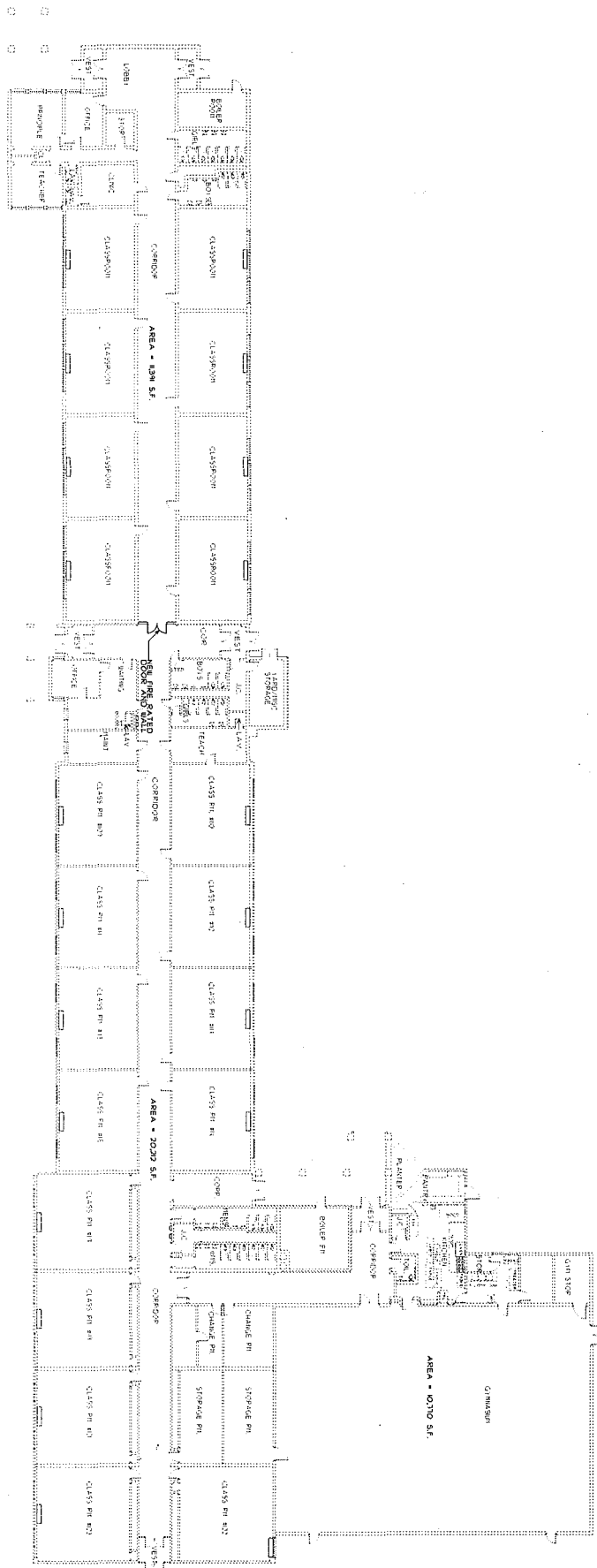
Revision	date

Architectural  
 Resource  
 Associates PC.  
 29701 six mile suite 120a  
 livonia, mi. 48152 313-421-8780

Project no. **B426-00**  
 sheet no. **A-2**

**EXISTING FLOOR PLAN**

AMA Upper Elementary



TOTAL BUILDING AREA = 4238 S.F.

LINE LEGEND	
(Symbol)	NEW CONSTRUCTION
(Symbol)	EXISTING TO REMAIN
(Symbol)	DEMOLITION



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

**Ex1**  
09/16

SCHOOL RENOVATIONS for:  
**CS PARTNERS**  
REDFORD TOWNSHIP, MICHIGAN  
**EXISTING FLOOR PLAN**

DR: WJL	REVISED	ISSUED FOR
CK: JCP		
APP'D: XXXX	03-23-04	date

consultant

**Lindhout Associates  
architects aia pc**  
10465 citation drive, brighton, michigan 48116-9510  
www.lindhout.com (810)227-5668 fax:(810)227-5855





## AMENDMENT NO. 1 TO LEASE AGREEMENT

**THIS AMENDMENT NO. 1 TO LEASE AGREEMENT** (“Amendment”) is made as of July 1, 2021, by and between, Allen H. Vigneron, Roman Catholic Archbishop of the Archdiocese of Detroit, whose address is 12 State Street, Detroit, Michigan 48226 (“Lessor”), and Distinctive College Prep, a Michigan non-profit corporation, whose address is 910 West Van Buren, Suite 315, Chicago, Illinois 60607 (“Lessee”).

### **R E C I T A L S:**

**WHEREAS**, Lessor and Lessee entered into a Lease Agreement dated as of July 13, 2018 (“Lease”) with respect to the Our Lady of Loretto Parish School Building, Activities Building and the Common Areas, located in the Charter Township of Redford, County of Wayne and State of Michigan, as more particularly described in the Lease, as amended hereby (“Leased Premises”);

**WHEREAS**, Lessor and Lessee desire to amend certain terms and conditions of the Lease as more particularly set forth herein;

**NOW, THEREFORE**, in consideration of the mutual covenants and undertakings hereinafter set forth, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. **Rent.** The last sentence of the third paragraph of Section 5 of the Lease, which paragraph begins with the words “Tenant shall provide Landlord with copies ...” is hereby deleted in its entirety and replaced with the following:

Anything in this Lease to the contrary notwithstanding, in no event shall the Monthly Base Rent Payment for the period of July 1, 2018 through the Term be less an amount based on (i) for the period from July 1, 2018 through August 31, 2019, 194 students, (ii) for the period from September 1, 2019 through August 31, 2020, 169 students, (iii) for the period from September 1, 2020 through August 31, 2021, 221 students, (iv) for the period from September 1, 2021 through August 31, 2022, 270 students, (v) for the period from September 1, 2022 through June 30, 2023, 320 students, and (vi) for the period from July 1, 2023 and at all times thereafter, 350 students.

2. **Term.** The term of the Lease is extended to expire on June 30, 2028. Tenant shall have no right to extend the term of the Lease beyond such date.

3. **Capitalized Terms.** Capitalized terms not defined herein shall have the meaning ascribed to them in the Lease.

4. **Ratification.** Except as specifically modified by this Amendment, all of the terms and conditions of the Lease are hereby ratified and confirmed by Lessor and Lessee as being in

full force and effect. In the event of any conflict between the terms of the Lease and this Amendment, the terms of this Amendment shall control.

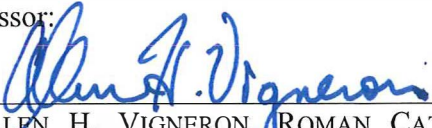
5. **Binding Effect.** This Amendment shall be binding upon, and the benefits hereof shall inure to, the parties hereto and their respective successors and assigns.

6. **Miscellaneous.** This Amendment may be executed by facsimile or in counterparts, each of which, for all purposes, shall be deemed to constitute an original and all of which counterparts, when taken together, shall be deemed to constitute one and the same agreement, even though all of the parties hereto may not have executed the same counterpart.

**[remainder of page intentionally left blank]**

**THIS AMENDMENT** has been entered into and effective as of the date and year first set forth above.

Lessor:

  
\_\_\_\_\_  
ALLEN H. VIGNERON, ROMAN CATHOLIC  
ARCHBISHOP OF THE ARCHDIOCESE OF  
DETROIT

Lessee:

DISTINCTIVE COLLEGE PREP, a  
Michigan non-profit corporation

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

Its: 09/09/2021  
\_\_\_\_\_

## LEASE AGREEMENT

This Lease Agreement (hereinafter called the "Lease"), entered into as this 13<sup>TH</sup> day of JULY, 2018, by and between **ALLEN H. VIGNERON, ROMAN CATHOLIC ARCHBISHOP OF THE ARCHDIOCESE OF DETROIT**, whose address 12 State Street, Detroit, Michigan 48226 (herein called "Landlord") and **DISTINCTIVE COLLEGE PREP, a Michigan nonprofit corporation**, whose address is 910 West Van Buren, Suite 315, Chicago, Illinois 60607 (herein called "Tenant").

Landlord and Tenant agree as follows:

1. **The Leased Premises.** Landlord leases to Tenant and Tenant accepts and agrees to lease from Landlord the Leased Premises (as defined below). As used in this Lease, the following terms shall have the meanings set forth below.

**"Activities Building"** shall mean the Activity Building depicted on Exhibit B attached hereto located on the Property.

**"Common Areas"** shall mean the hallways and bathrooms within the School Building, the Shared Driveway, the School Parking Lot, the Fields and the sidewalks surrounding the School Building.

**"Fields"** shall mean the activity fields, baseball diamond and playground located on the Property.

**"Holy Days"** shall mean, for any applicable calendar year, those days of such year identified by the Catholic Church as holy days. A list of the current Holy Days for 2018 is attached as Exhibit C hereto.

**"Leased Premises"** shall mean (a) from July 1, 2018 through June 30, 2021, the School Building (excluding the Religious Education Classrooms), the Activities Building and the Common Areas, and (b) from July 1, 2021 through the end of the Term (as defined below) of this Lease, the School Building, the Activities Building and the Common Areas.

**"Parish"** shall mean Our Lady of Loretto Parish.

**"Pastor"** shall mean the then sitting Pastor of the Parish, as assigned by the Archdiocese of Detroit.

**"Property"** shall mean the real property situated in the Charter Township of Redford, County of Wayne and State of Michigan commonly referred to as the former Our Lady of Loretto School, as more particularly described on the attached Exhibit A.

**"Religious Education Classrooms"** shall mean classrooms 101-108 located within the School Building.

**"School Building"** shall mean the School building depicted on Exhibit B attached hereto located on the Property.

Detroit\_15366352\_9

**“School Parking Lot”** shall mean the parking lot located behind the School Building.

**“Shared Driveway”** shall mean the driveway located off Olympia Road located on the Property.

Landlord reserves the right, without Tenant’s consent: (a) to install, maintain, use, repair and replace pipes, ducts, conduits, wires and structural elements leading through the Leased Premises and serving other parts of the Property, (b) to make alterations or additions to, and improvements to, the Common Areas, to construct other buildings and improvements on the Property, to relocate the various buildings, parking areas and other Common Areas, to reduce the Common Areas, and change the configuration of the Property in any manner it deems fit, to close temporarily any Common Area to make repairs or changes, and to do such other acts in and to the Common Areas as in its judgment may be desirable to improve the convenience thereof, (c) to grant easements on the Property, to allow third parties to use all internal access ways constructed on the Property, to make boundary adjustments to the Property, and to dedicate for public use portions of the Property, including without limitation any public streets or any other improvements; provided, however, none of the foregoing shall materially interfere with Tenant’s use or quiet enjoyment of the School Building. Tenant shall not block, obstruct or in any manner interfere with the Common Areas, or any part thereof, by any means whatsoever.

2. **Occupancy.** Subject to the terms and conditions of this Lease, during the Term (as defined below), the Tenant will have the right to occupancy and use of the Leased Premises as follows:

- a. Commencing July 1, 2018 through June 30, 2021, (i) Tenant shall have the right to exclusive occupancy and use of the School Building, excluding the Religious Education Classrooms, and (ii) Tenant shall have the right to non-exclusive use of the Activities Building and Common Areas, in common with Landlord and anyone claiming by or through Landlord.
- b. Commencing July 1, 2021 throughout the expiration or earlier termination of the Term of the Lease, (i) Tenant shall have the right to exclusive occupancy and use of the School Building, and (ii) Tenant shall have the right to non-exclusive use of the Activities Building and Common Areas, in common with Landlord and anyone claiming by or through Landlord.

With respect to any part of the Leased Premises with respect to which Tenant has the right to non-exclusive use, any conflicts regarding use of such Property shall be determined in writing by the Pastor. The Parish shall provide the Tenant with a list of Parish representatives for each event, and such Parish representatives shall coordinate the Parish’s use of the Activities Building and Common Areas with Tenant.

Notwithstanding the foregoing, (i) Landlord shall have first priority in its right to use of the School Parking Lot Saturdays after 3 p.m., Sundays and other Holy Days for Mass parking and on Fridays during Lent, (ii) Landlord shall have first priority in its right to use the Fields and Religious

Education Classrooms after 6 p.m. and on weekends, and (iii) Landlord shall have first priority in its right to use the Activities Building upon fourteen (14) days written notice to Tenant, unless Tenant has a pre-scheduled function or event in such space scheduled prior to Landlord's giving its 14-day notice.

The Tenant shall provide to the Pastor keys and all access codes, if applicable, for the Leased Premises.

3. **Term.** The term of this Lease begins July 1, 2018 and ends June 30, 2023 (as it may be extended as provided below, the "Term"), unless earlier terminated as provided herein. Provided no Event of Default has occurred or exists, Tenant shall have one (1) option to extend the initial Term for a five (5) year period, from July 1, 2023 to June 30, 2028 ("Extension Period"), on the same terms and conditions in effect under the Lease immediately prior to the Extension Period. Tenant shall have no further right to extend the Term beyond the Extension Period. Such option to extend may be exercised only by giving Landlord written notice thereof no earlier than one (1) year and no later than six (6) months prior to the end of the initial Term.

4. **Use.** The Leased Premises are to be used and occupied only as a public school academy as defined in Act 362 of the Public Acts of 1993 of the State of Michigan (as amended) and for no other purpose.

5. **Rent.** The Tenant agrees to pay the Landlord, without demand, offset or deduction, as rental for the Leased Premises, on the first (1<sup>st</sup>) day of each and every month, in advance, the following (the "Monthly Base Rent Payment"):

(a) commencing July 1, 2018 and monthly thereafter through October 31, 2018, 50% of one-twelfth (1/12<sup>th</sup>) of ten percent (10%) of any and all amounts actually received by Tenant from (i) the per pupil enrollment/state student aid grant amount based on the State Board of Education counts of students enrolled at the Leased Premises whenever such counts may be taken (the "State Aid Amount") and/or (ii) tuition derived from students enrolled at the Leased Premises;

(b) commencing November 1, 2018 and monthly thereafter through February 28, 2019, 150% of one-twelfth (1/12<sup>th</sup>) of ten percent (10%) of any and all amounts actually received by Tenant from (i) the State Aid Amount and/or (ii) tuition derived from students enrolled at the Leased Premises; and

(c) commencing March 1, 2019 and monthly thereafter through the Term, one-twelfth (1/12<sup>th</sup>) of ten percent (10%) of any and all amounts actually received by Tenant from (i) the State Aid Amount and/or (ii) tuition derived from students enrolled at the Leased Premises.

Anything in this Lease to the contrary notwithstanding, in the event Tenant operates the Leased Premises as a Charter School and the State of Michigan in any way, whether by statute, administrative order or otherwise, changes the way in which it determines, calculates and/or distributes the State Aid Amount ("Rent Calculation Change"), the parties hereby agree that the rental amount paid by Tenant under this Lease shall be renegotiated by the parties. In the event the parties are unable to agree upon a new rental amount, Landlord shall have the right, in its sole and absolute discretion; to either (i) set the rental rate as the amount paid by Tenant on the first day of the month prior to the Rent Calculation Change, or (ii) terminate this Lease.

Tenant shall provide Landlord with copies of the forms submitted to the State of Michigan regarding the student count within fifteen (15) days after such information is submitted to the State of Michigan. The principal will apprise the pastor in writing regarding actual student enrollment twice yearly; the fall count in September, and the winter count in February. Based on the results of these student counts, the monthly rental shall be increased or decreased retroactively to the beginning of the month of the current student count date. Any overpayment or underpayment shall be reconciled with the next month's rent payment. Any further adjustments made to enrollment count or state aid will adjust rent retroactively as provided in this Paragraph. Anything in this Lease to the contrary notwithstanding, in no event shall the Monthly Base Rent Payment for the period from July 1, 2018 through the Term be less an amount based on (i) for the period from July 1, 2018 through August 31, 2019, 200 students, (ii) for the period from September 1, 2019 through August 31, 2020, 250 students, (iii) for the period from September 1, 2020 through August 31, 2021, 300 students, (iv) for the period from September 1, 2021 through August 31, 2022, 350 students, and (v) for the period from September 1, 2022 and at all times thereafter, 400 students.

All checks shall be payable to "Our Lady of Loretto," and shall be mailed to:

Pastor, Our Lady of Loretto Parish  
17116 Olympia  
Redford, Michigan 48240

If at any time payment of the monthly rental amount reserved under this Section is more than five (5) days past due, Tenant shall pay Landlord a late fee in the amount of ten percent (10%) of the amount past due. The parties agree that such a late fee represents a fair and reasonable estimate of the costs Landlord will incur by reason of a late payment. In the event that any monthly rental payment is more than ten (10) days past due, in addition to the late fee, Tenant shall pay Landlord interest on the unpaid amount at the rate of ten percent (10%) per annum commencing on the tenth (10th) day after such payment was due, until such payment is made. Acceptance of the late fee or interest under this Section shall in no event constitute a waiver of Tenant's default with respect to the overdue amount, nor prevent Landlord from exercising any of his rights and remedies. Except as may otherwise be expressly permitted in this Lease, rents shall not abate for any reason during the term hereof.

6. **Utilities.** Tenant shall pay all charges for gas charged to the School Building and Activities Building during the Term, and within ten (10) days of receipt of written notice from Tenant of the same, Landlord shall reimburse Tenant for ten percent (10%) of such gas charges. Landlord shall pay all charges for electric, water and sewer charged to the School Building and Activities Building, and upon written notice, Tenant shall reimburse Landlord for seventy percent (70%) of such charges ("Utility Charges"). Tenant shall pay its share of the monthly utility costs within ten (10) days of receipt of written notice from the Landlord of the same, as determined by the Landlord.

7. **Compliance With Laws.** Tenant agrees to comply promptly with all laws, orders, regulations, and ordinances of all municipal, county, state and federal authorities, and all easements and building and use restrictions of record, affecting the Leased Premises and the cleanliness, safety, occupation, and use of same, including without limitation the Americans with Disabilities Act of

1990 42U.S.C. 12101-12213 (1991), as amended. Tenant also agrees to observe all reasonable regulations and requirements of underwriters concerning the use and condition of the Leased Premises tending to reduce fire hazards and insurance rates, and not permit nor allow any rubbish, waste material or products to accumulate on the Leased Premises. Tenant shall not do or permit anything to be done in or about the Leased Premises that will in any way obstruct or interfere with the rights of other tenants, if any, or use or allow the Leased Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Leased Premises.

8. **Maintenance, Repairs, Snow Removal and Landscaping.** Except for the express obligations of the Landlord set forth below (“Landlord’s Obligations”), during the entire term of this Lease, including any extension period, Tenant agrees, at its sole cost and expense, to maintain the entire Leased Premises and fixtures in good order, condition and repair at all times (including any replacements thereof if necessary in the event such item or component of the Leased Premises or fixture cannot be repaired). Tenant shall keep the Leased Premises in a clean, sanitary and safe condition at all times, including custodial services. Tenant hereby acknowledges and agrees that it is the intent of the parties that, other than the Landlord’s Obligations, Landlord shall have no obligation whatsoever to repair or maintain or replace any portion of the Leased Premises.

Landlord, after receiving notice from the Tenant, agrees to keep in good order and repair and to replace as Landlord in its sole determination deems necessary the roof and four outer walls of the School Building and the boilers in the School Building, except for damage to the roof or outer walls or boilers caused by Tenant or anyone Tenant permits to use the Leased Premises, which shall be the obligation of the Tenant. In addition, Landlord shall be responsible for contracting for trash disposal, maintenance of the lawn and landscaping of the School Building, and for snow and ice removal from the pavement, driveways, walkways and parking lots of the Common Areas. Tenant shall reimburse Landlord for the following (collectively, “Maintenance Costs”): (i) 50% of the costs for trash removal, dumpster and disposal, and lawn maintenance, landscaping and snow and ice removal within ten (10) days of receipt of written notice from the Landlord of same, and (ii) 50% of the cost of maintenance and repair of the boilers in the School Building, in each case within ten (10) days of receipt of written notice from Landlord of same. If Tenant utilizes any maintenance service personnel of Landlord or Parish, Tenant shall be billed separately for such use. In the event the boilers in the School Building need to be repaired or replaced at any time during the term of this Agreement, as determined by an engineering consultant selected by Landlord (“Consultant”), Landlord shall be responsible for the repair or replacement of the boiler and Tenant shall reimburse Landlord for a part of the cost thereof in the amount of the Boiler Reimbursement Amount. The “Boiler Reimbursement Amount” shall be the product of (a) the quotient of (i) 50% of the actual cost to repair or replace the boiler divided by (ii) the extended useful life of the boiler after the repair or the new boiler as determined by the Consultant (“Per Year Reimbursement Amount”), multiplied by (b) the number of years remaining in the current term of this Agreement (whether the initial term or any option term) rounded to the nearest half year. The Boiler Reimbursement Amount shall be payable on a monthly basis, payable along with and in the same manner (unless otherwise indicated by Landlord) as monthly rental (“Boiler Replacement Costs”). In addition, in the event Tenant exercises any option to renew provided for in this Agreement, if any, after the boiler is repaired or replaced by Landlord pursuant to this Section, Tenant shall be required to pay to Landlord concurrent with the notice to extend any such term, and as a condition precedent to the effectiveness of such notice, an amount equal to the number of years of such option term times the Per Year



Reimbursement Amount payable on a monthly basis, payable along with and in the same manner (unless otherwise indicated by Landlord) as monthly rental ("Additional Boiler Replacement Costs"). In the event Tenant fails to reimburse Landlord within thirty (30) days after receipt of Landlord's demand for reimbursement of the Boiler Replacement Cost or Additional Boiler Replacement Cost, if applicable, paid by Landlord ("Boiler Delinquency Date"), Tenant shall be required to pay to Landlord, on the Boiler Delinquency Date and every thirty (30) days thereafter until Landlord receives such reimbursement, in addition to the amount of such Boiler Replacement Cost or Additional Boiler Replacement Cost, if applicable, a late fee in the amount of ten percent (10%) of the outstanding amount of the Boiler Replacement Cost or Additional Boiler Replacement Cost, if applicable. Acceptance of the late fee or interest under this Section 8 shall in no event constitute a waiver of Tenant's default with respect to the overdue amount, nor prevent Landlord from exercising any of its rights and remedies.

9. **Licenses.** If the nature of the Tenant's business requires licensure, Tenant shall keep in effect a valid license to operate the Leased Premises for that purpose and provide Landlord with a current copy of the required license.

10. **Security.** Tenant agrees to provide any and all security for its use of the Leased Premises during the term of this Lease. Tenant hereby acknowledges that Landlord is not responsible for providing any security during Tenant's use of the Leased Premises and hereby releases Landlord Parties (as later defined) from any and all claims Tenant may have against Landlord arising from, or related to, security of the Leased Premises during the term of this Lease. In addition, Tenant hereby agrees to indemnify, defend (using counsel of Landlord's choice) and hold Landlord Parties (as later defined) harmless for any claim, expense or loss arising from, or relating to, security of the Leased Premises.

11. **Quiet Enjoyment.** The Landlord covenants that the Tenant, on payment of the rental at the time and in the manner aforesaid and performing all the foregoing covenants, shall and may peacefully and quietly have, hold, and enjoy the Leased Premises for the term aforesaid.

12. **Insurance.** The Tenant will procure and keep in effect during the term hereof commercial general liability insurance on an occurrence basis with limits of at least Two Million Dollars (\$2,000,000.00) per occurrence, with a Two Million Dollar (\$2,000,000.00) annual general aggregate insurance issued by a company acceptable to Landlord for benefit of the Landlord. Said policy shall name the Tenant and the Owner (as later defined), Landlord, the Archdiocese of Detroit, the Parish and the Pastor as additional named insureds. Tenant shall deliver a Certificate of Insurance to the Landlord. Such policy shall (a) contain cross-liability endorsements and shall include coverage for bodily injury, property damage, premises and operations, personal and advertising injury and contractual liability insurance that covers the indemnification obligations of this Lease; (b) be primary, not contributing with, and not in excess of coverage which Landlord may carry; (c) state that Landlord and other applicable Landlord Parties are entitled to recovery for the negligence of Tenant even though Landlord and such other Landlord Parties are named as additional insureds; (d) provide for severability of interest; (e) provide that an act or omission of one of the insured or additional insureds which would void or otherwise reduce coverage shall not void or reduce coverages as to the other insured or additional insured; (f) afford coverage after the term of this Lease (by separate policy or extension if necessary) for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the term of

this Lease; and (g) contain a provision that it may not be canceled without at least thirty (30) days prior written notice being given by the insurer to Landlord.

The insurance required hereunder shall be obtained from insurance companies authorized to conduct business in the State of Michigan and rated A+ or better by Best's Insurance Guide. Upon Tenant's failure to deliver a Certificate of Insurance, the Landlord may, at his option, immediately cancel this Lease upon written notice to Tenant. The limits of said insurance shall not limit any liability of Tenant hereunder. Not more frequently than every three (3) years, if, in the reasonable opinion of Landlord, the amount of liability insurance required hereunder is not adequate, Landlord shall promptly increase said insurance coverage as required by Landlord.

Tenant shall be responsible for securing any insurance it deems advisable on contents and tenant improvements or for business interruption and Landlord shall have no liability with respect to any loss to Tenant's personal property or improvements.

Landlord or the Parish shall maintain casualty insurance on the buildings in which the Leased Premises are located in such amounts and with such carriers as Landlord deems appropriate, in its sole and absolute discretion, which insurance is solely for the benefit of the Landlord and is not available for the benefit of the Tenant. Tenant shall reimburse Landlord or the Parish during the term hereof, as additional rent, for the insurance premiums for such casualty insurance carried by Landlord or the Parish covering the Leased Premises. Such payments shall be made by Tenant to Landlord or the Parish within thirty (30) days after receipt by Tenant of an invoice for such premiums.

13. **Indemnity.** Tenant shall indemnify, defend (using counsel satisfactory to Landlord in its sole discretion) and hold harmless Owner (as later defined), Landlord, the Archdiocese of Detroit, the Archbishop of Detroit, the Parish, the Pastor, and their respective employees, managers, partners, officers, directors, attorneys, contractors and agents (collectively, the "Landlord Parties" and each a "Landlord Party") from and against all claims, demands, liabilities, obligations, damages, penalties, causes of action, suits, judgments, and expenses (including attorneys' fees) arising from or related to (i) the occupancy, condition, operation or use of the Leased Premises, (ii) any accident, occurrence, injury to or death of persons, or loss of or damage to property occurring on or about the Leased Premises, (iii) use or misuse of any portions of the Leased Premises by a Tenant or any of Tenant's respective agents, contractors, employees, visitors, and invitees, or (iv) Tenant's failure to perform its obligations under this Lease. The obligations of Tenant under this paragraph arising by reason of any occurrence taking place during the term of this Lease shall survive any termination of this Lease.

14. **Alterations.** The Tenant may make no alterations, additions, or improvements to the Leased Premises without the Landlord's prior written consent. All such alterations, additions and improvements shall be at the expense of the Tenant and Tenant hereby indemnifies and holds Landlord Parties harmless from all costs, liability and loss of any kind and all claims of loss or liability, in any way arising out of or by reason of any such alterations, additions or improvements. Upon vacation of the Leased Premises, said improvements, additions and alterations shall, at Landlord's option, become the property of the Landlord. Tenant shall promptly remove all such alterations, additions and improvements required by Landlord to be removed and Tenant shall restore the Leased Premises after such removal to substantially their condition prior to the time such

alteration, addition or improvement was made. All furnishings and equipment which are not attached or affixed to the Leased Premises made or placed by Tenant upon the Leased Premises shall be the property of the Tenant, and the Tenant shall remove the same at the end of the term of this Lease.

If Landlord consents to Tenant's performance of any alteration or addition to the Leased Premises ("Work"), Tenant shall ensure that the Work shall be made in accordance with the Plans and Drawings (as defined below) and all applicable laws, regulations and building codes, in a good and workmanlike manner and in quality satisfactory to Landlord. In addition, prior to commencement of any Work, Tenant must submit to Landlord for approval, which approval Landlord may withhold in its sole and absolute direction:

- (i) a complete set of plans and specifications ("Plans") prepared and sealed by a registered architect or engineer,
- (ii) a complete set of drawings and specifications for mechanical, electrical and plumbing systems ("Drawings"); and
- (iii) a list of the contractors and subcontractors ("Contractors") who will perform the Work, together with proof of insurance and performance and labor bonds, in such amounts and with such carriers or sureties as Landlord may require in its sole and absolute discretion.

Landlord's approval of the Plans and Drawings for Tenant's alterations shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency or compliance with all laws, rules and regulations of governmental agencies or authorities. No person shall be entitled to any lien on the Leased Premises because of any labor or material furnished to Tenant in connection with any alterations or improvements by Tenant, and nothing in this Lease shall be construed to constitute a consent by Landlord to the creation of any lien. If any lien is filed against the Leased Premises as a result of a claim against Tenant for labor or material furnished to Tenant, Tenant shall cause the lien to be discharged of record within fifteen days after filing. If Tenant fails to cause the lien to be discharged within such time, Landlord may, without the obligation to do so, payoff the lien and Tenant shall reimburse Landlord for all costs and expenses incurred by Landlord to pay and discharge such lien, including, but not limited to, reasonable attorney fees ("Lien Expense"). Tenant shall indemnify Landlord Parties from any costs, including, but not limited to, reasonable attorney fees, in connection with any such lien.

15. **Eminent Domain.** If all or any part of the Leased Premises shall be taken as a result of the exercise of the power of eminent domain, this Lease shall terminate as to the part so taken as of the date of taking, and, in the case of partial taking, either Tenant or Landlord shall have the right to terminate this Lease as to the balance of the Leased Premises by notice to the other within thirty (30) days after such date; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Leased Premises taken shall be of such extent and nature as substantially to handicap, impede or impair Tenant's use of the balance of the Leased Premises. In the event of any taking, Landlord shall be entitled to any and all compensation, damages, income, rent, awards, or any interest therein whatsoever which may be paid or made in connection therewith, and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or otherwise. In the event of a partial taking of the Leased Premises which does not result in a termination of this Lease, the rental thereafter to be paid shall be reduced on a per square foot basis.

16. **Taxes.** Any real property taxes, assessments, impositions or charges, whether general or special, including, but not limited to, any and all real estate taxes and assessments, personal property taxes and assessments and the like, assessed against the Leased Premises or any property of which they are a part, at any time, shall be paid by the Tenant where such taxes have resulted because of rental of the Leased Premises by Tenant or any party Tenant permits to use the Leased Premises.

Payment of all such taxes, assessments, impositions and charges shall be made on or before the last day when payment may be made without interest or penalty. Tenant may, when permitted by appropriate governmental authority, pay any tax, assessment or charge over a period of time.

Tenant agrees to exhibit to Landlord on demand any time following such date for payment of taxes, assessments, impositions or charges, receipts evidencing payments of all such taxes, assessments or charges so payable.

17. **Additional Rent.** All taxes, insurance, Utility Charges, Maintenance Costs, Boiler Replacement Costs, Additional Boiler Replacement Costs, if applicable, and any other costs and expenses that the Tenant assumes or agrees to pay under this Lease, together with all interest and late charges that may accrue thereon in the event of failure of Tenant to pay these items, and all other damages that Landlord may incur by reason of any default of the Tenant to comply with the terms and conditions of this Lease shall be deemed additional rent, and in the event of non-payment, Landlord shall have all the rights as herein provided for failure to pay rent.

18. **Assignment and Subletting.** Tenant covenants that it will not assign, sell, mortgage or in any manner transfer or encumber this Lease or any interest herein, or sublet the Leased Premises or any part or parts thereof or grant any concession or license or otherwise permit occupancy of all or any part thereof by others without in each case first obtaining the prior written consent of Landlord. The consent by Landlord to an assignment or subletting shall not in any way be construed to release Tenant from obtaining the express consent of the Landlord to any further assignment or subletting of any part of the Leased Premises nor shall the collection of rent by Landlord from any assignee, subtenant or other occupant be deemed a waiver of this covenant or the acceptance of the assignee, subtenant or occupant as a tenant hereunder or a release of Tenant from the further performance by Tenant of the covenants in this Lease on Tenant's part to be performed. In the event Landlord consents to any subletting, Landlord shall have the right, upon the occurrence of a default by Tenant under this Lease, to demand the sublessee to pay the rent due under the sublease directly to the Landlord to be applied to sums due Tenant under this Lease.

If Tenant is a limited liability company, corporation, partnership, the sale or transfer of fifty percent (50%) or more of such limited liability company's membership interests or corporation's voting shares or partnership's general partnership interests, as the case may be, shall be deemed to be an assignment of this Lease. If Tenant is a nonprofit corporation, then the occurrence of any of the following events also shall be deemed to be an assignment of this Lease: (i) during any twelve (12) month period, the change of thirty-five percent (35%) or more of the members of the Board of Directors; or (ii) a change in the name of Tenant or the nature of its business, generally, or in its affiliations or in its use of the Leased Premises, any of which, in the sole discretion of Landlord, is substantial; or (iii) in the event that the Tenant is currently affiliated with the Roman Catholic Church or any group or organization identified with, approved by or affiliated with the Roman

Catholic Church, any event which causes Tenant to lose such affiliation.

19. **Default.** The occurrence of any one or more of the following events (hereinafter referred to as “Events of Default”) shall constitute a default or breach of this Lease by Tenant:

- a. if Tenant shall fail to pay rent or any other sum when and as the same becomes due and payable;
- b. if Tenant shall fail to perform or observe any other term hereof to be performed or observed by Tenant under this Lease;
- c. if Tenant or Guarantor (as later defined) shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated as insolvent or shall file a petition in any proceeding seeking any reorganization, arrangements, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or fail timely to contest or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or Guarantor or any material part of its properties;
- d. if this Lease or any estate of Tenant hereunder shall be levied upon under any attachment or execution and such attachment or execution is not vacated within ten (10) days;
- e. if Tenant vacates, abandons or deserts the Leased Premises or Tenant fails to occupy the Leased Premises for more than thirty (30) consecutive days; and
- f. if there is a revocation, termination or other invalidation of any permit, license or authorization with respect to Tenant’s use and/or occupancy of the Leased Premises, including, but not limited to, certificates of occupancy, business licenses or charters.

20. **Remedies.** Upon the occurrence of any an Event of Default, in addition to any other remedies which may be available to Landlord, Landlord may, at his option, after providing to Tenant any notice required under Michigan Law, do one or more of the following:

- a. Terminate this Lease and, upon such termination, this Lease shall come to an end and expire upon Landlord’s termination, but Tenant shall remain liable for damages as provided in Section 21 hereof; or
- b. Either with or without terminating this Lease, Landlord may immediately or at any time after the Event of Default or after the date upon which this Lease shall expire, reenter the Leased Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, (without being liable to indictment, prosecution or damages therefor), and may repossess the Leased Premises and remove any and all of Tenant’s property and effects from the Leased Premises; or

- c. Either with or without terminating this Lease, Landlord may relet the whole or any part of the Leased Premises from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the expiration of this Lease, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. In the event of any such reletting, Landlord shall not be liable for the failure to collect any rental due upon any such reletting, and no such failure shall operate to relieve Tenant of any liability under this Lease or otherwise to affect any such liability; and Landlord may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Leased Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting such liability;
- d. Perform for the account of Tenant any default of Tenant under this Lease and immediately recover as expenses any expenditures made and the amount of any expenses (including legal fees) or obligations incurred in connection therewith, plus interest at the maximum legal interest rate allowed by law in the State of Michigan, from the date of any such expenditure. The payment of interest on such amount shall not excuse or cure any default by Tenant under this Lease.
- e. Landlord shall have the right to recover the rental and all other amounts payable by Tenant hereunder as they become due and all other damages incurred by Landlord as a result of an Event of Default including, without limitation, attorney's fees and costs.
- f. Accelerate all rental due for the balance of the term of this Lease and declare the same to be immediately due and payable.
- g. Landlord shall have the right to enforce the Guaranty (as later defined).

21. **Recovery of Damages upon Termination.** Upon termination of this Lease by Landlord pursuant to Section 20(a) hereof, Landlord shall be entitled to recover from Tenant the aggregate of:

- a. the worth at the time of award of the unpaid rental which had been earned at the time of termination;
- b. the worth at the time of award of the amount by which the unpaid rental which would have been earned after termination until the time of award exceeds the then reasonable rental value of the Leased Premises during such period;
- c. the worth at the time of the award of the amount by which the unpaid rental for the balance of the term of this Lease after the time of award exceeds the reasonable rental value of the Leased Premises for such period; and
- d. any other amount necessary to compensate Landlord for all the detriment

proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award" of the amounts referred to in clauses (a) and (b) above is computed from the date such rent was due or would have been due, as the case may be, by allowing interest at the rate of three percent (3%) in excess of the prime rate as published in The Wall Street Journal or, if a higher rate is legally permissible, at the highest rate legally permitted. The "worth at the time of award" of the amount referred to in clause (c) above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of Chicago at the time of award, plus one percent (1%). Tenant hereby waives any and all rights to set-off or recoup any present or future accounts, amounts, damages or claims arising as a result of or in connection with this Lease, any transaction, any incident, any occurrence or any other agreement between Landlord and Tenant against any of its present or future payments due Landlord under this Lease.

22. **Landlord's Cure.** All covenants, terms and conditions to be performed by Tenant under any of the terms of this Lease shall be at its sole cost and expense and without any abatement of rental. If Tenant shall fail to pay any sum of money, other than the payment of rent, required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder, Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as in this Lease provided. Tenant shall reimburse all sums so paid by Landlord and all necessary incidental costs related thereto ("Reimbursable Expenses") within fifteen (15) days of receipt of written notice from Landlord of the amount due. All Reimbursable Expenses shall be deemed additional rental, and Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rent.

23. **Tenant's Payment Obligations.** In the event Tenant fails to pay any sum of money, other than the payment of rent, required to be paid by Tenant under the terms of this Lease, including, but not limited to any Reimbursable Expenses, Lien Expense and Utility Charges ("Delinquent Payment"), within five (5) days of when due ("Delinquency Date"), Tenant shall pay to Landlord, on the Delinquency Date and every thirty (30) days thereafter until such payment is made, in addition to the amount of such Delinquent Payment, a late fee in the amount of ten percent (10%) of the amount of the Delinquent Payment. In the event such Delinquent Payment is more than ten (10) days past due, in addition to the late fee, Tenant shall pay to Landlord interest on the unpaid amount of the Delinquent Payment at the rate of ten percent (10%) per annum commencing on the tenth (10th) day after such Delinquent Payment was due, until such Delinquent Payment is made. Acceptance of the late fee or interest under this Section shall in no event constitute a waiver of Tenant's default with respect to the Delinquent Payment, nor prevent Landlord from exercising any of his rights and remedies set forth in this Lease.

24. **Landlord's Rights and Non-liability.** Landlord shall have the right from time to time, without notice to Tenant, to inspect the Leased Premises to confirm Tenant's compliance with this Lease. Landlord shall not be responsible or liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining areas or any part of the area adjacent to or connected with the Leased Premises or any part of the structures or improvements on the Leased Premises or for any loss or damage resulting to Tenant or its property

from theft or a failure of the security systems, if any, in the structures or improvements on the Leased Premises, or for any damage or loss of property within the Leased Premises from any cause other than solely by reason of the gross negligence or willful misconduct of Landlord, and no such occurrence shall be deemed to be an actual or constructive eviction from the Leased Premises or result in an abatement of rents.

If Landlord shall fail to perform any covenant, term or condition of this Lease upon Landlord's part to be performed, and, if as a consequence of such default, Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only against the right, title and interest of Landlord in the Leased Premises and out of rents or other income from the Leased Premises by Landlord, or out of the consideration received by Landlord from the sale or other disposition of all or any part of Landlord's right, title and interest in the Leased Premises, and Landlord shall not be liable for any deficiency.

25. **Controlling Law; No Other Agreement or Representatives; Time of Essence.** This Lease shall be governed by the laws of the State of Michigan. This Lease represents the entire agreement between the parties and there are no understandings, agreements, representations, or warranties, expressed or implied, other than those set forth in a written addendum or supplement executed simultaneously herewith, or as herein set forth fully or incorporated by specific reference, respecting this Lease or any real or personal property leased hereunder. Time is of the essence in this Lease.

26. **Non-Waiver; Modifications.** No waiver of any provision of this Lease, or a breach thereof, shall be construed as a continuing waiver, nor shall it constitute a waiver of any other provision or breach. The acceptance of part (but not all) of a rent installment(s) due Landlord hereunder shall not constitute a waiver of default hereunder for nonpayment of rent. The acceptance of all or part of a rent installment(s) due Landlord hereunder shall not constitute a waiver of any other type of default hereunder. No modification, alteration and/or amendment of this Lease shall be binding upon the other party hereto, unless the same shall be reduced to writing and signed by the party against whom it is sought to be enforced.

27. **Notices.** Whenever under this Lease provision is made for notice of any kind, unless otherwise expressly herein provided, it shall be in writing and shall be served personally or sent by registered or certified mail, with postage prepaid, to the address of Landlord or Tenant, as the case may be, as stated below, or such other address as either of the parties may subsequently designate in writing by notice to the other party in the manner required herein:

To the Landlord at:

Pastor, Our Lady of Loretto Parish  
17116 Olympia  
Redford, Michigan 48240

and

Director of Properties  
Archdiocese of Detroit  
12 State Street



Detroit, Michigan 48226

To the Tenant at:

Distinctive Schools  
910 West Van Buren, Suite 315  
Chicago, Illinois 60607

and

Distinctive College Prep  
19360 Harper Ave.  
Harper Woods, MI 48225

28. **Surrender.** The Tenant shall return said Leased Premises peaceably and promptly to the Landlord at the end of the term of this Lease, or at any earlier termination thereof, in as good condition as the same are now in or may hereafter to be put in, except for ordinary wear and tear. Upon termination of this Lease, whether by expiration of the term, abandonment or surrender by Tenant, process of law or otherwise, any personal property belonging to Tenant and left on the Leased Premises shall be deemed to be abandoned and may be removed and disposed of by Landlord at Tenant's expense.

29. **Damage to Leased Premises.** If the Leased Premises become wholly untenable through damage or destruction, this Lease shall automatically be terminated without any further action by the parties; if partially untenable, Landlord shall have the option of terminating this Lease at any time within thirty (30) days after such casualty. If Landlord does not terminate this Lease, the Landlord shall repair the Leased Premises with all convenient speed. The obligation of the Tenant to pay the monthly rental shall be abated during the time the Leased Premises are untenable and shall be partially abated during the time the Leased Premises are partially untenable. In no event shall Landlord be required to repair or replace Tenant's personal property, including, but not limited to, trade fixtures, furnishings or equipment. If Landlord is required or elects to repair or rebuild the Leased Premises as herein provided, Tenant shall repair or replace personal property, including, but not limited to, trade fixtures, furnishings and equipment, in a manner and to at least a condition equal to that prior to its damage or destruction.

30. **Right to Terminate.** This Lease may be terminated at any time by Landlord upon one hundred twenty (120) days written notice to Tenant in the event Landlord makes the determination to suppress, merge or close Our Lady of Loretto Parish ("Termination Notice"), which termination shall be effective as of the end of the current school year as of the date the notice is provided it being understood by the parties that a school year runs from July 1 to the following June 30.

31. **Successors and Assigns.** This Lease and each of the covenants, conditions, and agreements contained herein shall be binding upon each of the parties and upon their respective successors, representatives and assigns, and the benefits shall inure to each of the parties and to their respective permitted successors, representatives and assigns.

32. **“AS IS”; No Representations.** Tenant accepts the Leased Premises in its condition on the date of this Lease, “AS IS” and without any representations or warranties of any kind, express or implied, by Landlord. Tenant acknowledges that no representation, verbal or written, has been made by any broker, agent or employee of Landlord regarding the condition of the improvements on the Leased Premises. This Lease is not made in reliance upon any representation whatsoever.

33. **Security Deposit.** Tenant shall deposit \$20,000 with Landlord. Such deposit shall consist of (i) \$5,000 deposited by Tenant with Landlord as of the date hereof, and (ii) \$1,250 deposited each month by Tenant with Landlord, for a total combined amount equaling \$20,000, as security for the faithful performance of all of the covenants, conditions, and agreements of this Lease, but in no event shall the Landlord be obliged to apply the same upon rents or other charges in arrears or upon damages for the Tenant’s failure to perform said covenants, conditions, and agreements; the Landlord may so apply the security at his option; and the Landlord’s right to the possessions of the Leased Premises for non-payment of rent or for any other reason shall not in any event be affected by reason of the fact that the Landlord holds this security. The said sum, if not applied toward payment of rent in arrears or toward the payment of damages suffered by the Landlord by reason of the Tenant’s breach of the covenants, conditions, and agreements of this Lease, is to be returned to the Tenant when this Lease is terminated, according to the terms, but in no event is the said security to be returned until the Tenant has vacated the Leased Premises and delivered possession to the Landlord. In the event that the Landlord repossesses himself of the Leased Premises because of the Tenant’s default or because of the Tenant’s failure to carry out the covenant, conditions, and agreements of this Lease, the Landlord may apply the said security upon all damages suffered to the date of said repossession and may retain the said security to apply upon such damages as may be suffered or shall accrue thereafter by reason of the Tenant’s default or breach. The Landlord shall not be obliged to keep the said security as a separate fund, but may mix the said security with its own funds nor shall Landlord be required to obtain or account for any interest on said funds.

34. **Hold Over.** It is hereby agreed that in the event the Tenant herein holds over after the termination of this Lease, that thereafter the tenancy will be from month-to-month in the absence of a written agreement to the contrary. All terms of the previous lease will remain the same, except that the rent amount shall be increased to 150% of the previous rent amount.

35. **Brokers.** The parties hereto each represent to one another that no real estate brokers are involved in this transaction, except for CBRE. Landlord will pay CBRE a commission pursuant to a separate agreement between Landlord and CBRE. Each party indemnifies the other against the claims of any brokers and salespeople who allege that they represented a party or are entitled to a commission or fee as a result of this transaction.

36. **Headings.** The headings of this Lease are for purposes of reference only and shall not limit or define the meaning of any provisions of this Lease.

37. **Hazardous Materials.** Tenant will not use Hazardous Materials as hereinafter defined, on or at the Leased Premises in any manner that violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials.

In the event Tenant uses or stores any Hazardous Materials on the Leased Premises, then with regard to such use or storage of any Hazardous Materials upon the Leased Premises, the Hazardous Materials shall be stored and/or used in compliance with all applicable federal, state and local laws and regulations; and without limiting the foregoing, Tenant shall not cause the Leased Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall Tenant cause, as a result of any intentional or unintentional act or omission on the part of Tenant, the release of Hazardous Materials onto the Leased Premises.

With respect to the release of Hazardous Materials upon the Leased Premises caused by or resulting from the activities of Tenant, its employees or agents on the Leased Premises, Tenant shall: (i) to the extent required by applicable law, conduct and complete all investigations, studies, sampling and testing, and perform all remedial, removal, response and other actions necessary to clean up and remove all Hazardous Materials, on, under, from or affecting the Leased Premises in accordance with all applicable federal, state and local laws, ordinances, rules, regulations and policies, and in accordance with the orders and directives of all federal, state, and local governmental authorities; and (ii) defend, indemnify and hold harmless Landlord Parties 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, removal, or release of any Hazardous Materials on, over, under, from or affecting the Leased Premises or the soil, water, vegetation, buildings, personal property, persons or animals thereon; (2) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; and (3) 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, including, without limitation, reasonable attorneys' and consultants' fees, investigation and laboratory fees, court costs and litigation expenses.

For purposes of this Lease, "Hazardous Materials" includes, but is not limited to, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in: (1) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.); (2) the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801 et seq.); (3) the Resource Conservation and Recovery Act, as amended (41 U.S.C. Section 9601, et seq.); (4) the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; or (5) Michigan's Natural Resources and Environmental Protection Act, as amended (M.C.L. 324.101 et seq.), including any regulations adopted or publications promulgated pursuant to the above-referenced statutes, or as otherwise defined, classified, characterized, listed or identified by any other federal, state or local and governmental law, ordinance, rule or regulation.

38. **Asbestos.** Tenant, at Tenant's sole cost and expense, hereby agrees to comply with all of the requirements under Michigan's Asbestos in Educational Facilities Act (MCL 388.861 et seq.) and the Asbestos Hazard Emergency Response Act (15 USC § 2601 et seq.)(collectively, the "Asbestos Laws") with respect to the Leased Premises, including, but not limited to, performing all of Landlord's obligations. All obligations of Tenant under this Section must be performed by accredited contractors approved by Landlord, in its sole and absolute discretion, and all contracts with such contractors shall expressly provide that Landlord is a third party beneficiary of such

contract. Tenant hereby indemnifies and holds Landlord Parties harmless from all costs, liability and loss of any kind and all claims of loss or liability, in any way arising out of or by reason of Tenant's failure to comply with this Section and/or the Asbestos Laws.

39. **Use Agreement.** Landlord has the right to exclusive use and occupancy of the Leased Premises under a use agreement between the fee title holder of the Leased Premises, Mooney Real Estate Holdings, a Michigan nonprofit corporation (together with its successors in title, the "Owner") and Landlord effective as of April 2, 2018 (as it may be amended from time to time, the "Use Agreement"). This Lease, as it may be amended, renewed or extended from time to time, is subject and subordinate to the Use Agreement, provided that if the Use Agreement is terminated for any reason, Tenant's rights under this Lease, as it may be amended, renewed or extended from time to time, with respect to the Leased Premises shall not be disturbed or interfered with by Owner and Owner will not join Tenant as a party defendant in any action or proceeding for the purpose of terminating Tenant's interest under this Lease, as it may be amended, renewed or extended from time to time, because of a termination of the Use Agreement. Rather, this Lease, as it may be amended, renewed or extended from time to time, shall automatically continue as a direct lease between the Owner, as landlord, and Tenant, as tenant, with the same force and effect as if the Owner, as landlord, and Tenant, as tenant, had entered into a lease as of the date of the termination of the Use Agreement, containing the same terms, covenants and conditions as those contained in this Lease, as it may be amended, renewed or extended from time to time, for a term equal to the unexpired term of this Lease, as it may be amended, renewed or extended from time to time, plus all remaining renewal terms (if any) existing as of said date. In the event of a termination of the Use Agreement, at Owner's request, Tenant shall enter into a separate lease directly with Owner consistent with the terms of this Lease, as it may be further amended, renewed or extended from time to time (although the failure to enter into a separate lease shall not modify or limit the operation or effect of the provisions hereof). Landlord represents and warrants to Tenant that Landlord has the right under the Use Agreement to enter into this Lease and to grant Tenant the rights in and to the Leased Premises granted hereunder, and that the Use Agreement provides for the continuation of this Lease, as it may be amended, renewed or extended from time to time, after termination of the Use Agreement as provided above. The provisions of this Section shall survive the termination, rejection or disaffirmance of the Use Agreement.

40. **Transfer of Leased Premises by Landlord.** Landlord reserves the right to sell, assign or otherwise transfer its interest in the Leased Premises without Tenant's consent. In the event of any such sale, assignment or transfer, the transferor shall automatically be relieved of any obligations or liabilities on the part of Landlord accruing from and after the date of such transfer and Tenant covenants and agrees to recognize such transferee as the Landlord under this Lease.

41. **Subordination.** This Lease and the rights of the Tenant hereunder are hereby made subject and subordinate to all mortgages now or hereafter placed upon the Leased Premises. Tenant covenants and agrees to execute and deliver on demand an instrument or instruments subordinating this Lease to the lien of any such mortgage or mortgages and hereby irrevocably appoints Landlord the attorney-in-fact of Tenant to execute and deliver any such instrument or instruments in the name of Tenant. In addition, Tenant agrees that, upon the request of Landlord or any mortgagee of Landlord, Tenant shall execute a estoppel certificate in form satisfactory to Landlord or any mortgagee of Tenant.

42. **Recording.** Neither party shall record this Lease or a copy thereof without the written consent of the other; however, upon the request of either party hereto, the other party shall join in the execution of a memorandum of this Lease for the purposes of recordation. Said memorandum of this Lease shall describe the parties, the Leased Premises, the term of this Lease and any special provisions, except rentals payable hereunder, and shall incorporate this Lease by reference.

43. **Signs.** No sign may be erected on the Leased Premises without the prior written consent of the Pastor. If such consent is given, the size, type, design, legend, and location must be in compliance with all applicable laws, including but not limited to, all applicable City of Redford ordinances. Provided such signage meets the foregoing requirements and such proposed signage conforms to normally observed industry standards, the Pastor shall not unreasonably withhold or delay his consent. Tenant hereby acknowledges and agrees to maintain, at Tenant's sole cost and expense, any sign erected by Tenant pursuant to this Section in good repair and working order at all times. In addition, Tenant hereby agrees to indemnify, defend and hold Landlord Parties harmless (using counsel of Landlord's choice) from and against any cost, expense, claim or liability, including reasonable attorneys' fees, arising from or related to any sign erected by Tenant on the Leased Premises or the maintenance thereof.

At the expiration or termination of this Lease, the Tenant shall promptly remove the sign and shall restore the Leased Premises and/or surrounding land to substantially their condition prior to installation of the sign. If the sign is not so removed within 30 days after the termination or expiration of this Lease, then the sign shall, at Landlord's option, be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant and without any obligation to account for such sign. All costs and expenses incurred by Landlord in connection with repairing or restoring the Leased Premises and/or surrounding land to the condition called for herein, together with the costs, if any, of removing the sign shall be invoiced to Tenant and shall be immediately due from and payable by Tenant.

44. **Attorneys' Fees.** If Landlord uses the services of an attorney in connection with (i) any breach or default in the performance of any of the provisions of this Lease, in order to secure compliance with such provisions or recover damages therefor, or to terminate this Lease or evict Tenant, or (ii) any action brought by Tenant against Landlord, or (iii) any action brought against Tenant in which Landlord is made a party, Tenant shall reimburse Landlord upon demand for any and all attorneys' fees and expenses so incurred by Landlord.

45. **Rules and Regulations.** Tenant shall faithfully observe and comply with the rules and regulations as issued by Landlord from time to time, if any, and, after notice thereof, all reasonable modifications thereof and additions thereto from time to time promulgated in writing by Landlord. Landlord shall not be responsible to Tenant for the nonperformance by any other tenant or occupant, if any, of the Leased Premises of any of such rules and regulations.

46. **Jury Waiver.** LESSOR AND LESSEE ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN

**THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS LEASE.**

47. **Severability; Authority.** Each provision of this Lease must be interpreted in a way that is valid under applicable law. If any provision is held invalid, the rest of this Lease will remain in effect. Each of the parties executing this Lease does hereby covenant and warrant that it is a fully authorized and existing corporation, limited liability company, partnership or other business entity, if applicable, that it has and is qualified to do business in the State of Michigan, that it has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of such entity are authorized to do so.

48. **Guaranty.** This Lease and Tenant's obligations hereunder are guaranteed by Distinctive Schools, Inc., an Illinois nonprofit corporation ("Guarantor") under a Guaranty made by Guarantor to Landlord dated of even date herewith, as it may be amended from time to time (the "Guaranty").

49. **Revocation or Termination of Contract.** . If the Tenant's Charter Contract issued by the Central Michigan University Board of Trustees is revoked, terminated or a new charter contract is not issued to the Tenant after expiration of the Tenant's Contract, unless such termination is attributable to the intentional acts or negligence of Tenant, Tenant shall have the right to terminate this Lease on written notice to Landlord, without penalty for early termination. Such termination shall not limit any recourse the Landlord has against the Tenant as it relates to Tenant's obligations under this Lease accruing prior to the date of termination.

50. **Amendment Caused By Academy Site Closure or Reconstitution.** In the event that the 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 Charter Contract Terms and Conditions, and such closure of an Academy site or reconstitution causes an amendment to or termination of this Lease (which, in the case of an amendment to this Lease, must be acceptable to and approved in writing by the Landlord), unless such closure or reconstitution is attributable to the intentional acts or negligence of Tenant, the parties agree that this Lease shall be amended (provided such amendment is on terms which must be acceptable to and approved in writing by the Landlord) 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 University Board for implementing such site closure or reconstitution. This provision is not intended to limit any recourse the Landlord has against the Tenant as it relates to Tenant's obligations under this Lease accruing prior to the date of closure/reconstitution.

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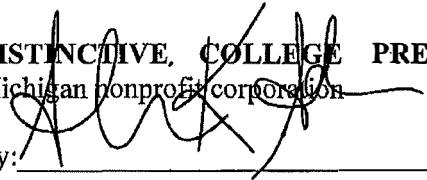
In witness whereof, the parties hereto have executed this Lease the day and year first written above.

**LANDLORD:**

\_\_\_\_\_  
**ALLEN H. VIGNERON, ROMAN  
CATHOLIC ARCHBISHOP OF THE  
ARCHDIOCESE OF DETROIT**

**TENANT:**


**DISTINCTIVE, COLLEGE PREP, a**  
Michigan nonprofit corporation

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

Its: Alari K. Adams - Board Vice President \_\_\_\_\_

In witness whereof, the parties hereto have executed this Lease the day and year first written above.

**LANDLORD:**

  
\_\_\_\_\_  
**ALLEN H. VIGNERON, ROMAN  
CATHOLIC ARCHBISHOP OF THE  
ARCHDIOCESE OF DETROIT**

**TENANT:**

**DISTINCTIVE COLLEGE PREP, a**  
Michigan nonprofit corporation

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

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



**EXHIBIT A**

**DESCRIPTION OF REAL ESTATE**

08F1A 1B1 1C1 11A1 12A THAT PART OF THE SW 1/4 OF SEC 8 DES AS BEG AT A POINT ON THE E LINE OF BEECH RD DIS N 88D 00M 15SEC E 60.0 FT AND N 1D 34M 35SEC W 60.0 FT FROM THE SW COR OF SEC 8 AND PROC TH N 1D 34M 35SEC W ALONG SAID E LINE 820.0 FT TH N 87D 59M 50SEC E 571.51 FT TH S 1D 34M 35SEC E 820.09 FT TO THE N LINE OF SIX MILE ROAD TH S 88D 00M 15SEC W ALONG SAID N LINE 571.51 FT TO THE POB EXC THE NORTH 43 FT THEREOF ALSO EXC THE EAST 60 FT THEREOF 9.13 ACRES

Parcel Identification No.: 79 012 99 0001 000

Commonly Known As: 17175 Olympia

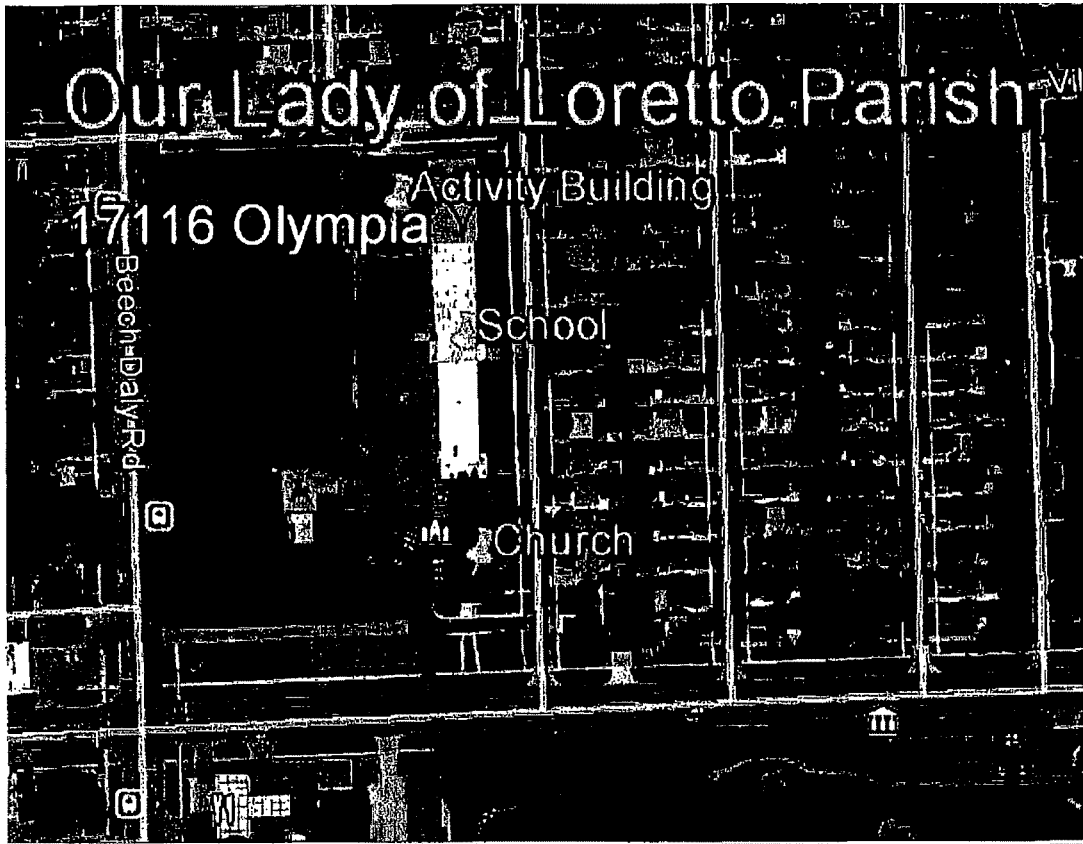
08J268 269 LOTS 268 AND 269 FRISCHKORNS GOLF HEIGHTS SUB NO. 2 T1S R10E L74 P41 WCR

Parcel Identification No.: 79 012 04 0268 000

Commonly Known As: 17126 Olympia

Square Footage 43,000 sq. ft.

**EXHIBIT B**



## **EXHIBIT C**

### **CURRENT HOLY DAYS**

Advent Begins **Sunday, December 3, 2017**

Funeral and Ritual Masses not permitted on the Sundays of Advent

Immaculate Conception of the Blessed Virgin Mary **Friday, December 8, 2017**

Holy Day of Obligation Funeral and Ritual Masses not permitted

Nativity of the Lord (Christmas) **Monday, December 25, 2017**

Holy Day of Obligation Funeral and Ritual Masses not permitted

Solemnity of Mary, the Holy Mother of God **Monday, January 1, 2018**

Not a Holy Day of Obligation this year. Funeral Mass permitted, Ritual Masses not permitted

The Epiphany of the Lord **Sunday, January 7, 2018**

Funeral Masses permitted, Ritual Masses not permitted

The Baptism of the Lord **Tuesday, January 9, 2018**

Funeral Masses permitted, Ritual Masses permitted with the permission of the diocesan Bishop

Ash Wednesday **Wednesday, February 14, 2018**

Day of Fast and Abstinence Funeral Masses permitted, Ritual Masses not permitted

Easter Triduum: Holy Thursday, Good Friday, Holy Saturday **March 29, 30, 31, 2018**

Funeral and Ritual Masses not permitted on these days

Easter Sunday **Sunday, April 1, 2018**

Funeral and Ritual Masses not permitted

Octave of Easter **Monday, April 2 to Saturday April 7, 2018**

Funeral Masses permitted, Ritual Masses not permitted

Ascension of the Lord **Sunday, May 13, 2018**

Funeral and Ritual Masses not permitted

Pentecost Sunday **Sunday, May 20, 2018**

Funeral and Ritual Masses not permitted

The Most Holy Body and Blood of Christ **Sunday, June 3, 2018**

Funeral and Ritual Masses not permitted

Saints Peter and Paul **Friday, June 29, 2018**

Ritual Masses not permitted

Assumption of the Blessed Virgin Mary **Wednesday, August 15, 2018**

Holy Day of Obligation Funeral and Ritual Masses not permitted

All Saints Day **Thursday, November 1, 2018**

Holy Day of Obligation Funeral and Ritual Masses not permitted

All Soul's Day **Friday, November 2, 2018**

Funeral Masses permitted, Ritual Masses not permitted

**Our Lord Jesus Christ, King of the Universe Sunday, November 25, 2018**  
Funeral Masses permitted, Ritual Masses not permitted

**Advent Begins Sunday, December 2, 2018**

FACILITY NAME Distinctive College Prep- Redford	INSPECTION DATE August 8, 2018	COUNTY Wayne	PROJECT 163547
ADDRESS 17176 Olympia	FACILITY TYPE School-Charter	RULES/CODES School/College 2016	JOB/LIC/FAC. NO. N/A
CITY, STATE ZIP CODE Redford, MI 48240	FACILITY REPRESENTATIVE April Shaw		INSPECTION TYPE Follow-up
FACILITY PHONE 414-732-8052	FACILITY FAX N/A	FACILITY E-MAIL <a href="mailto:ashaw@distinctiveschools.org">ashaw@distinctiveschools.org</a>	

**Re: School Safety Inspection**

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

cc:  
April Shaw  
[ashaw@distinctiveschools.org](mailto:ashaw@distinctiveschools.org)

# **CERTIFICATE OF USE AND OCCUPANCY**

## **PERMANENT**

**Michigan Department of Energy, Labor and Economic Growth  
Bureau of Construction Codes / Building Division  
P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317**

**Permit No. B028951  
American Montessori Academy  
17175 Olympia  
Redford Twp., MI  
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 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.**



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

**November 4, 2009**

**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:

Sub Indicator	Measure	Metric	Target
<b>Against a Standard:</b>	The percentage of students meeting or surpassing the current, spring, grade-level national norms <sup>2</sup> on the NWEA Growth reading and math tests administered in the spring.	Distribution (which will be in the form of percentages): 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:

Sub Indicator	Measure	Metric	Target
<b>Against a Standard:</b>	The median of student growth percentiles (MGP) reflecting fall-to-spring scaled score growth on the reading and math NWEA Growth tests.	MGP: Exceeds $\geq$ 65th Meets $\geq$ 50th Approaching $\geq$ 45th Does not meet $<$ 45th	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.

### MISSION & VISION

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

The vision of the Academy is to close the achievement gap by increasing the number of students meeting or exceeding Michigan standards in reading and math by the end of third grade, ensuring that low-income children are prepared to succeed in school, in college and in life.

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

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

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

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

### COMMITMENTS

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

## ASSURANCES

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

## OBJECTIVES

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

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

## PRIORITIES FOR 2022/23 SCHOOL YEAR

Distinctive Schools (“DS”) was founded on the ideas of social justice, access to high-quality education regardless of zip code, social emotional learning, and innovation. These commitments remained strong during the COVID-19 response and continue to be a call to action to combat the inequities and challenges of education that were exacerbated by the pandemic and rebuild stronger and better than ever before. Distinctive Schools has launched a multi-year commitment to three key areas of focus: Mental Health and Wellness; Learning Acceleration; and Diversity, Equity, and Inclusion (“DEI”). Each key area is defined by unique attributes and action steps, however all three priority areas are interconnected.



## PROGRAM ALIGNMENT TO MISSION, VISION & VALUES

The Academy learning model, which aims to prepare capable, high-achieving, future-ready students, is intentionally delivered through three core lenses: Personalized Learning; Social Emotional Learning; and Diverse Learning (Special Education & Language Learning). Because the Academy believes that education is most effective when it incorporates the needs of the whole child, the Academy’s pedagogical mindset values the integration and intertwining of social, emotional, and academic learning. To ensure all students find success in the DS Learning Model, the Academy incorporates a Multi-Tiered System of Supports (“MTSS”), a prevention-based framework for improving learning outcomes for all students through a layered (tiered) continuum



of evidence-based supports. These supports integrate the academic and social emotional needs of students to foster lifelong success.

The DS Learning Model has successfully shifted from one with a traditional focus on teaching to one with a focus on deep learning. Using a strengths-based approach, coupled with real-time feedback generated from short-cycle assessment data, Academy educators coach students in the development of strong and positive student identity and agency. In turn, students become confident, well-rounded, resilient members of the learning community and are well-positioned for success in college, career, and life.

### **PERSONALIZED LEARNING PRACTICES#**

Personalized learning promotes student-centered opportunities that promote students owning the cognitive lift and developing agency and a strong identity which is key in the DS model. Students are active partners in their education and teachers strive to design learning experiences that provide students with the right content, at the right time, in the right place, using the right mode of instruction. The Academy's personalized learning model places a clear and steadfast emphasis on the process of learning and that learning experiences are designed around students' individual or collective strengths, interests, and goal areas. Teachers plan lessons to support students in mastering grade level standards while simultaneously addressing targeted skills and close any academic gaps.

The Academy, alongside DS, has adopted the LEAP Learning Framework to guide the personalized learning work. The four core personalized learning practices can be seen in DS classrooms: Learner Profiles, Personalized Learning Paths, Flexible Learning Environments, and Competency-Based Progressions.

- **Flexible Learning Environments:** The needs of learners drive the design of the learning environment to ensure environments, staffing plans, space design and time allocations contribute to supporting in meeting individual goals.
- **Learner Profiles (“LP”):** The LP is a two-way communication tool and vehicle for students to convey individual learning needs and student preferences, strengths and goals. LPs capture important information about each learner beyond test scores and achievement levels; personal stories, attributes and weaknesses are conveyed, which help guide planning, instruction and learning. The LP serves as a catalyst for conversation, negotiation and creative problem-solving, which promotes meaningful, student-centered learning and a strong sense of student agency.
- **Personal Learning Paths (“PLP”):** Each student has a customized path that responds and adapts based on his/her strengths, needs, interests and goal areas. The PLP is designed to support students in achieving grade level standards and targeted skills to extend learning and/or close learning gaps. Plans are adaptable and responsive to learner needs and are strengthened when students and parents are true partners in planning.
- **Competency Based Progression:** Each student follows an individual path to support progress toward mastery of all appropriate state standards. Teachers design student learning opportunities based on student assessment data, needs, interests and goals. To ensure that students learn and grow toward well-defined targets and goals, students are

continually assessed and monitored so learners are able to advance toward new targets and goals as soon as students are ready. The academic day includes opportunities for mastery of grade level standards and targeted skills instruction to close learning gaps.

## **CURRICULUM AND INSTRUCTION**

In order to deliver an exceptional educational experience for children, one that is consistent with the Academy’s mission and strives to ensure college and career readiness, the Academy uses an array of resources and tools to deliver a standards-aligned curriculum according to the parameters defined by each state in which DS serves. Curriculum and instruction are planned to support students in college, career, and life readiness. This requires intentional planning, rigorous tasks, access to grade level standards and work, and a strong belief in students’ ability to reach his/her goals.

The DS model provides a balance of grade level standards with targeted skill instruction to strategically address student goals and close any learning gaps. To this end, curriculum resources are carefully selected to provide access to rigorous, grade level standards and personalized, differentiated learning opportunities. Personalized learning mindset and practices are combined with whole class, small group and individual instruction to provide learning opportunities to meet individual and collective needs.

DS educators engage in rich professional learning to strengthen the use of proven instructional strategies, best-practice pedagogy, and innovation to create rich learning environments in which to learn and grow. Professional educators are equipped to design highly engaging learning experiences for Academy students, and educators expertly weave standards together in complex instruction in order to meet the rigorous outcomes set forth by the curriculum. Educators collaborate regularly with the support and expertise of the campuses’ instructional leaders and employ effective blended learning practices to leverage technology in support of excellent teaching and learning. DS educators bring the curriculum to life through the expert use of a variety of core tools, supports, and resources.

### **K-4 Core Curricular Tools and Resources**

- ***Move This World*** provides a digital library of videos with grade specific exercises and explicit instruction in student wellness and social emotional learning, and sets the tone for a supportive and positive classroom culture. Each video coaches students and educators through creative exercises that explicitly teach core social emotional learning skills and provide opportunities for practice, discussion, planning, and goal setting. As a result, students learn how to better manage their emotions, develop empathy for others, build skills for more effective communication, and improve their overall wellbeing.
- ***Benchmark Advance***<sup>®</sup> is a comprehensive English Language Arts (“ELA”) tool in which foundational phonics skills, reading, writing, and word study are integrated to create a balanced literacy model using a workshop approach. Units are built upon essential questions in which students uncover the key knowledge and skills and rich enduring understandings through reading and rereading rich texts. Students read closely, annotate text, support thinking with evidence, and discuss their thinking and analysis with peers within independent, guided, and collaborative learning opportunities. Social studies and science content is integrated into the units. Weekly, unit, and interim assessments provide

multiple opportunities to demonstrate mastery and provide personalized instruction. Benchmark Adelante<sup>®</sup> and English Language Development kits are used to provide native language and language support for English Learners (“EL”) as they gain proficiency in English.

- ***Handwriting Without Tears<sup>®</sup> (K-1)*** A developmentally appropriate sequence and multi-sensory approach to support students in mastering legible and fluent handwriting. An interim assessment provides opportunities to assess growth and functionality of grip and handwriting.
- ***Heggerty (K-2)*** is a daily phonemic and phonological awareness activities to support early literacy. Students may refer to this as the “blue book” in kindergarten and “yellow book” in first and second grades.
- ***EngageNY*** is a standards aligned math resource that articulates modules of study through a rigorous, differentiated and targeted approach to ensure every domain of the Common Core Learning Standards for Math are addressed in a year-long scope and sequence. Mathematical Practice Standards are interwoven to deepen student learning and develop mathematical mindsets. Students engage in daily formative assessments through exit slips. Progress is monitored through mid-module and end-of-module assessments.
- ***Box Cars & One-eyed Jacks<sup>®</sup>*** are math manipulatives and games to help students develop a strong conceptual understanding of mathematics and to strengthen their process skills aligned to the Standards of Mathematical Practice.
- ***Mystery Science*** is an inquiry-based, online resource aligned to the Next Generation Science Standards (“NGSS”). Each lesson begins by asking a question and uses children’s natural curiosity to help them develop a plan to systematically investigate and collect evidence and guides them to develop an independent conclusion.
- ***i-Ready<sup>®</sup>*** is a digital program providing personalized instruction and competency-based pathways for students in reading and mathematics. A diagnostic assessment identifies a student’s current level of performance and customizes a personalized plan based upon strengths and areas of focus. Students participate in guided lessons, digital instruction and practice, as well as teacher-led small groups.

### **5th Core Curricular Tools and Resources**

- ***Move This World*** provides a digital library of videos with grade specific exercises and explicit instruction in student wellness and social emotional learning, and sets the tone for a supportive and positive classroom culture. Each video coaches students and educators through creative exercises that explicitly teach core social emotional learning skills and provide opportunities for practice, discussion, planning, and goal setting. As a result, students learn how to better manage their emotions, develop empathy for others, build skills for more effective communication, and improve their overall wellbeing.
- ***Summit Learning<sup>™</sup> Program*** is an online curriculum platform that enables students to learn content at a personalized pace, complete meaningful learning projects, track progress towards state standards in science, English and history content areas. This personalized approach provides opportunities for project-based learning. Projects are designed to help students develop the skills, habits, and knowledge that they need to be successful in the real world. Students apply and expand on the content and background knowledge that they learn in self-paced focus areas. Students learn and are assessed on cognitive skills, which

are interdisciplinary, higher-order thinking skills necessary for college and career readiness aligned to Common Core State Standards, and were chosen to help students compete in the 21st century job market. The curriculum is supported by self-directed learning, a dedicated time for goal setting, planning and reflection, which is embedded into a student's weekly schedule. Each student is partnered with a staff mentor for weekly mentoring sessions. This provides time for personalized support and builds strong student-adult relationships.

- ***EngageNY*** is a standards aligned math resource that articulates modules of study through a rigorous, differentiated and targeted approach to ensure every domain of the Common Core Learning Standards for Math are addressed in a year-long scope and sequence. Mathematical Practice Standards are interwoven to deepen student learning and develop mathematical mindsets. Students engage in daily formative assessments through exit slips. Progress is monitored through mid-module and end-of-module assessments.
- ***Box Cars & One-eyed Jacks*** are math manipulatives and games to help students develop a strong conceptual understanding of mathematics and to strengthen their process skills aligned to the Standards of Mathematical Practice.
- ***i-Ready*** is a digital program providing personalized instruction and competency-based pathways for students in reading and mathematics. A diagnostic assessment identifies a student's current level of performance and customizes a personalized plan based upon strengths and areas of focus. Students participate in guided lessons, digital instruction and practice, as well as teacher-led small groups.

#### **6th-8th Core Curricular Tools and Resources**

- ***Move This World*** provides a digital library of videos with grade specific exercises to provide explicit instruction in student wellness, social emotional learning, and set the tone for a supportive and positive classroom culture. Each video coaches students and educators through creative exercises that explicitly teach core social emotional learning skills and provide opportunities for practice, discussion, planning, and goal setting. As a result, students learn how to better manage their emotions, develop empathy for others, build skills for more effective communication, and improve their overall wellbeing.
- ***Summit Learning Program*** is an online curriculum platform that enables students to learn content at a personalized pace, complete meaningful learning projects, track progress towards state standards in math, science, English and history content areas. This personalized approach provides opportunities for project-based learning. Projects are designed to help students develop the skills, habits, and knowledge that they need to be successful in the real world. Students apply and expand on the content and background knowledge that they learn in self-paced focus areas. Students learn and are assessed on cognitive skills, which are interdisciplinary, higher-order thinking skills necessary for college and career readiness aligned to Common Core State Standards, and were chosen to help students compete in the 21st century job market. The curriculum is supported by self-directed learning, a dedicated time for goal setting, planning and reflection, which is embedded into a student's weekly schedule. Each student is partnered with a staff mentor for weekly mentoring sessions. This provides time for personalized support and builds strong student-adult relationships.
- ***i-Ready*** is a digital program providing personalized instruction and competency-based pathways for students in reading and mathematics. A diagnostic assessment identifies a

student’s current level of performance and customizes a personalized plan based upon strengths and areas of focus. Students participate in guided lessons, digital instruction and practice, as well as teacher-led small groups.

**K-8 Multi-Disciplinary Tools**

- **Thinking Maps** visual patterns connected to eight specific thought processes that provide a language for learning across all contexts and content areas. Teachers and students create concrete, visual images in maps of their abstract thoughts. These patterns and maps help students creatively and critically think.#

CURRICULUM & INSTRUCTION OVERVIEW				
	TIER 1 CORE INSTRUCTION	TIER 2 GROUP INTERVENTION	TIER 3 INTENSIVE INTERVENTION	ASSESSMENT & DATA SOURCES
<b>ENGLISH LANGUAGE ARTS (“ELA”)</b>	<a href="#">Benchmark Advance</a> <a href="#">Summit Learning</a> <a href="#">i-Ready</a> <a href="#">Heggerty</a> <a href="#">Handwriting Without Tears</a> <a href="#">Thinking Maps</a>	<a href="#">Benchmark Advance Intervention</a> <a href="#">i-Ready</a> <a href="#">Florida Center for Reading Research</a> <a href="#">Heggerty</a> <a href="#">Handwriting Without Tears</a>	<a href="#">i-Ready</a> <a href="#">Florida Center for Reading Research</a>	MAP Growth <ul style="list-style-type: none"> <li>● <a href="#">MAP Reading Fluency</a></li> </ul> Benchmark Unit & Interim Assessments <ul style="list-style-type: none"> <li>● i-Ready Diagnostic</li> <li>● Summit Learning</li> </ul>
<b>MATH</b>	<a href="#">(Engage NY)</a> <a href="#">Summit Learning</a> <a href="#">i-Ready</a>	<a href="#">i-Ready</a> <a href="#">IXL</a>	<a href="#">i-Ready</a> <a href="#">IXL</a>	ENY Exit Slips and mid/End of Module Assessments MAP Growth IXL Diagnostics and assessments i-Ready Diagnostic Summit Learning
<b>SCIENCE</b>	<ul style="list-style-type: none"> <li>● <a href="#">Mystery Science</a></li> </ul> NGSS K-2, <a href="#">Grade 3</a> <a href="#">Grade 4</a> <a href="#">Grade 5</a> are integrated with Benchmark Advance <a href="#">Summit Learning</a> (5-8)	<i>Students receive extended instruction in literacy as a support to develop Science and Social Studies mastery.</i>		
<b>SOCIAL STUDIES</b>	<ul style="list-style-type: none"> <li>● <a href="#">MI K-12 SS Standards</a> aligned to Benchmark Advance</li> </ul> <a href="#">Summit Learning</a> (5-8)			

CURRICULUM & INSTRUCTION OVERVIEW				
	TIER 1 CORE INSTRUCTION	TIER 2 GROUP INTERVENTION	TIER 3 INTENSIVE INTERVENTION	ASSESSMENT & DATA SOURCES
<b>HEALTH &amp; PHYSICAL EDUCATION</b>	<ul style="list-style-type: none"> <li>• <a href="#">MI K-8 PE Standards</a></li> <li>• <a href="#">MI K-8 Health Standards</a></li> </ul> <a href="#">Move This World</a> (K-8)			
<b>Educational Development</b>	<a href="#">SuccessBound</a> (6-8)			

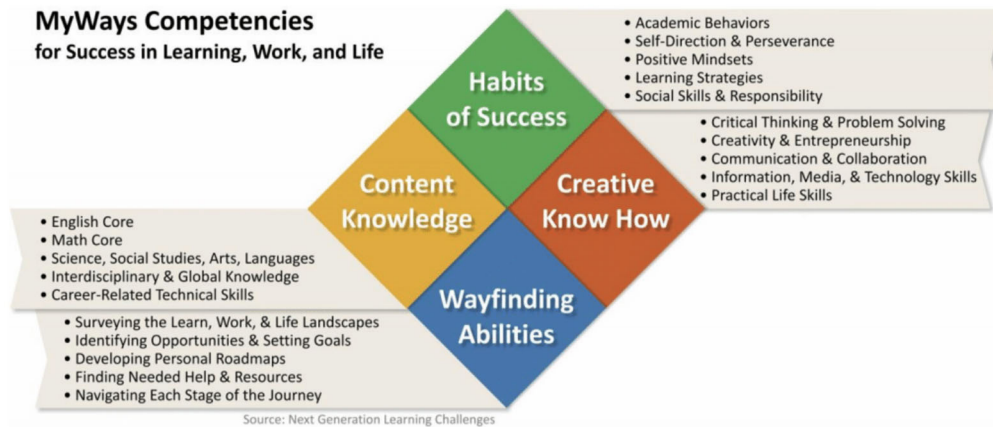
The Academy incorporates a MTSS, a prevention-based framework for improving learning outcomes for all students through a layered (tiered) continuum of evidence-based supports. The regional MTSS team has identified core beliefs and commitments to support MTSS mindsets, processes, and structures. These beliefs and commitments ensure that all efforts are in alignment with network values and the Strategic Plan.

The daily schedule includes a What I Need (“WIN”) block at each grade level. This time is focused on providing personalized, competency-based pathways for each student which could include reinforcement, remediation, or extension of grade level skills. Digital programs, small groups or 1:1 instruction and workshops are used to support the learning. Often, teachers will address any system level (grade or class) needs based upon data. Tier 2 and/or 3 interventions, as determined by the campus problem solving team, can also be administered during the WIN block. This time is dedicated to providing supports in reading and math in Tiers 1 for all students and Tiers 2 and 3 for some students.

### **SOCIAL EMOTIONAL LEARNING**

The Academy believes strong academic instruction and learning happens best when the academic, social, and emotional needs of the whole child are addressed and met. To ensure students’ success, well-being and character, the Academy aims to develop self-awareness, self-regulation, collaborative relationships and responsible decision-making skills that are needed to be healthy, well-rounded and successful global citizens. DS strives to help children and adults alike to broaden views of success and have a reliable toolkit to tackle the challenges of the future.

Intended to help educators navigate the challenges of preparing students for an unknown future, with unknown and rapidly changing demands and circumstances, The Next Generation Learning Challenges (“NGLC”) organization presented its MyWays Framework. The Framework distills research and sparks ideas for educational change that honors and nurtures the whole child.



Inclusive of the tenets of the MyWays Framework, DS developed its own Social Emotional Learning (“SEL”) Framework to guide its work alongside the Personalized Learning Framework to support the whole child. The DS SEL Framework provides educators with a quality foundation to establish students’ overall self-awareness, self-regulation, collaborative relationships, and responsible decision-making. Explicit guidance on student, classroom and school-wide supports promote the students’ development of the following core competencies as defined by the MyWays Habits of Success: academic behaviors, self-direction and perseverance, positive mindsets, learning strategies, and social skills and responsibilities. SEL in DS is addressed through four core areas of community, social justice, mindsets, and culture.

All Academy students engage in explicit and daily SEL instruction and dedicated time for community gathering. The core curricular tool of Move This World provides a scope and sequence that is developmentally appropriate for the grade level to support students in developing social and emotional competencies. Additionally, each middle school learner has a staff mentor that provides guidance and support in meeting deadlines, navigating challenges, project planning, study habits, and developing a strong academic identity. Mentors meet weekly for 10-15 minutes or as needed. This relationship provides 1:1 time for students and fosters a trusting relationship to support academic or social goals.

To assist students in their development of positive mindsets, particularly when faced with challenges, the Academy uses a PRIDE Framework to convey the attributes of a Distinctive Schools learner: Problem-solving, Responsibility, Integrity, Drive, and Empathy. The PRIDE Framework was built off a more traditional Positive Behavioral Interventions and Supports model and is used to embed, social, emotional, and behavioral supports at the student, classroom, and school levels. The language of the PRIDE Framework is consistent and common across the entire Distinctive Schools network, and school teams highlight explicit SEL instruction through the letters of PRIDE (learner attributes). The PRIDE Framework provides support and structures to help students manage their emotions and feelings. Whether faced with anger, stress, frustration, disillusionment, sadness, inattentiveness or any number of social challenges, students learn to use the PRIDE Framework as a tool to help them cope with life’s difficulties in and beyond the classroom.

## **DIVERSE LEARNING**

### **Special Education Students**

When making educational placement decisions for students with disabilities, the Academy will ensure that parents are contributing members of the Individualized Educational Program (“IEP”) team, and together the team will make decisions that are subject to requirements regarding provision of the least-restrictive environment. When determining how services will be delivered to students with disabilities, the Academy will follow all Special Education Rules as issued by the Michigan Department of Education. If a child with a current IEP enrolls in the Academy, the Academy will implement the existing IEP to the extent possible or will provide an interim IEP agreed upon by parents until a new IEP can be developed. IEPs will be developed, revised and implemented in accordance with the Individuals with Disabilities Education Improvement Act (“IDEIA”) and state law and regulations.

The Academy will fully comply with federal laws and regulations governing children with disabilities as follows:

1. The Academy is responsible for providing a free, appropriate public education to children with disabilities enrolled in the Academy that have been determined through an IEP to require Special Education programs and services.
2. The Academy will ensure that children who are suspected of having disabilities are properly evaluated by a multidisciplinary team, as defined in the Michigan Special Education Rules, and that children who have already been identified are re-evaluated by the multidisciplinary team at least every three years.
3. When a multidisciplinary team determines that a special education student requires Special Education programs and services, the Academy will ensure that the IEP is fully implemented in accordance with IDEIA and reviewed on an annual basis or more frequently as determined by the IEP team.

IEPs drive all instruction for Academy students with special needs. The Academy implements a specialized curriculum based on the needs of the student and their least restrictive environment. The Academy meets IEP requirements in the personalized learning model because instruction is tailored for all students based on individual needs. Another layer of accountability for the special education students is the legal IEP in which the Academy identifies and implements all services outlined by the team.

### **English Language Learners**

The Academy serves a diverse population including English Language Learners (“ELL”). The mission of the Academy is to ensure all students, including ELL, attain the highest level of academic success and language proficiency. Academy leaders and teachers leverage ELL students’ home languages, cultural assets and prior knowledge and actively engage parents as participants, contributors and cultural liaisons to the school community. To ensure ELL students reach academic goals and growth targets, language development practices and cultural responsiveness plans are integrated into daily instruction.



The Academy follows the WIDA™ standards that align with the DS curriculum framework to provide students, educators and parents with a set of clear expectations leading to college and career readiness. The Academy focuses on preparing every teacher to teach academic language and challenging content to all students, including ELL students. ELL staffing is dependent on the language and number of students receiving services. All teachers must be skilled in how to support ELL students as students acquire content knowledge, while also progressing towards English proficiency. The core literacy curriculum was intentionally chosen and designed to align instruction in bilingual classes to ensure appropriate access in diverse education settings.

### **Advanced and Above Grade Level Learners**

The personalized learning model and blended instructional approach is designed to advance all learners, regardless of grade level. Digital adaptive programs provide personalized pathways for students that may go beyond grade level. Small group instruction and deep learning experiences provide opportunities for deeper investigation of topics. Formative assessment data is to drive student readiness to demonstrate mastery in order to move on to the next concept within the PLP.

### **Educational Development Plan**


One element of the DS Middle School model is dedicated time for students to learn about themselves, interests, needs and strengths, both academic and social-emotional. This time is embedded into the school day and integrated into projects, tasks, LP and community-time activities. The goal is for students to understand who they are today and to identify potential interests to begin planning future high school, college and career opportunities. Staff takes time to reinforce that every student can go to college or trade school after high school and that today's experiences are part of the personal journey. Explicit connections to future career goals or educational needs are referenced during projects and learning. Teachers will use tools, resources, and curriculum from SuccessBound to support students in thinking beyond high school and potential career opportunities.

### **ASSESSMENT**

DS uses a rigorous plan and related protocols for measuring learning outcomes for grade level content and targeted skill instruction. Frequent progress monitoring and checks for understanding are intentionally planned into daily lessons. Digital content includes adaptive programs that measure learning and provide PLPs for students. Individual student growth is measured within the context of the research document, *Measuring Growth Toward College Readiness: Using MAP (Measures of Academic Progress) Scores to Predict Success on the ACT Test Benchmark Scores* (Robert A Theaker, Northwest Evaluation Association, Portland, Oregon, Clay S. Johnson, University of Arkansas), where the MAP Growth assessments were used to connect third through 11th grade student growth with college readiness. Specifically, the Academy administers the NWEA MAP Growth assessments each fall, winter and spring to inform instruction, set growth targets mapped from the SAT addendum to the original study and gauge overall academic progress. Teachers use these data to inform instruction with concentrated flexible learning groups.

In addition to the MAP Growth assessments, the Academy also participates in all state required assessments. Data from these assessments, in-class demonstrations of learning and digital programs are used to monitor progress and allow for flexible groupings around discrete skill instruction based on relevant needs.

There is no value to administering assessments unless the data are used in a timely manner to impact instruction. Knowing this, the Academy’s schedule allows for daily collaborative meeting time between teams of teachers. Data are ever present at these meetings, and scrutinized to ensure all students are progressing toward growth targets. Dynamic groupings and skill-focused instruction are modified based on patterns revealed across platforms, which include digital programs and in class assessments. The instructional coach leads the process in which data is analyzed and instructional implications are planned with teachers. The Coach ensures teachers have access to all data through program logins and share documents charting results. All individual student assessment results are available in a student’s LP. Teachers work collaboratively to set individual growth targets for each student. Students take an active role in understanding learning goals through their PLP; this can be the most powerful influence on student achievement of all. All levels of the Academy organization are focused on monitoring and analyzing student performance data. Based on the analysis, plans are adjusted at the Academy, classroom and individual student level. Professional development is reexamined and aligned with updated plans. This level of responsiveness promotes continuous improvement in teaching and learning and in corresponding improved academic results.

<b>ASSESSMENT PLAN</b>		
 <b>DISTINCTIVE SCHOOLS</b>	<b>Purpose</b>	<b>Frequency</b>
<b>M-Step</b>	State required summative assessments. (3-8)	Annually
<b>MAP Growth (NWEA) Screener</b>	Growth & Attainment measures are primary accountability measures (K-8)	Three times per year
<b>MAP Reading Fluency Benchmark</b>	Identify students reading below grade level to provide intervention support plan (K-4)	Three times per year
<b>ACCESS</b>	English Language Proficiency Assessment for English Learners (K-8)	Annually
<b>Eureka Math<sup>2</sup> End of Module Assessments</b>	Summative assessment for skills taught within each unit (K-5)	Ongoing
<b>Benchmark Advance Unit and Interim Assessments</b>	Core curriculum assessment measures progress towards end of the year standards and text complexity. (K-4)	Four times per year
<b>Summit Assessments</b>	Summative assessment for skills taught in each core content area (6-8)	Ongoing
<b>Daily Formative Assessments</b>	Essential assessments provide insights on student mastery of daily objectives and are used to inform instructional decisions. (K-8)	Daily
<b>EasyCBM Progress Monitoring</b>	Monitor progress of students in formal Tier 2 or 3 interventions. (K-8)	Biweekly

The Academy believes investing in and developing teachers’ professional capacity is fundamental to improving student achievement and engagement. The Academy uses the DS Teaching Framework, created with teachers, by teachers, and for teachers, based on the work of Charlotte Danielson and the Teacher Advancement Program (“T.A.P.”), to define and support best practices in instruction. The framework includes eight instructional indicators, each of which is defined by

a concrete set of descriptors that articulate a continuum of expertise ranging from Emerging to Distinctive.

ASSESSMENT			
Emerging (1)	Developing (2)	Effective (3)	Distinctive (4)
<b>A</b> Student work neither aligns to the objective nor requires students to interpret information and think analytically.	<b>A</b> Student work aligns to the objective but rarely require students to interpret information and think analytically.	<b>A</b> Student work both aligns to the objective and usually requires students to interpret information and think analytically.	<b>A</b> Student work aligns to the objective and consistently requires students to interpret information and think analytically.
<b>B</b> Teacher does not use formative assessment results to drive instruction, identify differentiated student supports, or to determine student groupings.	<b>B</b> Teacher uses the results of at least one formative assessment tool to drive instruction, but inconsistently uses these same results to identify differentiated students supports or student groupings.	<b>B</b> Teacher consistently uses the results of multiple formative assessments (independent work, program data, etc.) to drive instruction, identify differentiated student supports, and to determine student groupings.	<b>B</b> Students use formative assessments results to take ownership of their learning process by identifying and analyzing mistakes, seeking help from the teacher or a peer, and determining the support needed to achieve mastery.
<b>C</b> Expectations and assessment criteria have not been determined in planning process and, as a result, are not clearly communicated to students.	<b>C</b> Expectations and assessment criteria are determined in planning process, but are not clearly communicated to students.	<b>C</b> Expectations and assessment criteria are clearly communicated for successful student performance. (i.e.- rubric, checklist, mastery)	<b>C</b> Students self- or peer-evaluate using assessment criteria to reinforce, relearn, or extend the lesson/objective.
<b>D</b> Lesson does not include an assessment.	<b>D</b> Lesson includes an assessment but teacher has no system for collecting assessment data, or only uses data to determine the grade rather than to inform future instruction.	<b>D</b> Teacher has an efficient system for collecting and using lesson assessment data to inform future instruction (exit ticket, anecdotal notes, charts, portfolios, program data, etc.)	<b>D</b> Teacher implements intentional system for using lesson assessment data immediately and creates differentiated assessments based on these results.

### PROFESSIONAL LEARNING AND COACHING MODEL

As an innovative organization, the Academy’s understanding of best practices in instruction continues to evolve. In order to ensure that the framework aligns to and supports current instructional beliefs and values, a cohort of various DS stakeholders composed of both teachers and teacher leaders serving in a wide range of roles, convenes annually to review and revise the language of the framework. The team makes content recommendations based on the most current research in the field and the team’s experience in using the framework in the classroom. Upon the finalization of the framework, each campus then devotes a significant amount of professional learning time at the beginning of the year analyzing and discussing the revisions, their purpose, and most importantly, what the revisions mean when applied in the classroom.

In mirroring the work done with Academy students, the Academy uses a strengths-based approach to support teachers’ professional growth. The framework is a tool for both teachers and leaders; it provides a common language for all members of the DS instructional team and supports ongoing collaboration and reflection on best practice. Leaders use the framework for informal and formal observations and to guide conversations about instruction, and teachers use the framework to identify instructional strengths and needs and to identify a personalized trajectory of professional growth.

To directly support teachers in the development of best practice teaching and learning, instructional coaches at each campus lead job-embedded professional learning. Teachers and coaches collaboratively identify points of practice from the DS Teaching Framework and engage in a Collaborative Coaching cycle that is defined by co-creating a student-centered goal, identifying and implementing an instructional strategy, and monitoring progress towards the goal. Instructional coaching is an integral part of the instructional model and allows for teachers to engage in continuous improvement.

A cornerstone of the DS model is hiring and retaining top talent, with a special emphasis on building a diverse team – one that reflects the diversity of the children and families the Academy serves. Professional growth, support and regular opportunities for collaboration with colleagues are critical to teacher retention. These priorities are fulfilled by the role of Instructional Coach. DS instructional coaches utilize a *coaching from within* model and each have a full-time teaching assignment. This ensures that our best teachers are in front of students and provide real-time leadership, model classrooms, conduct observations, and lead feedback conversations with peers. Grade level and content team meetings occur multiple times per week where staff can analyze data and plan data informed responses for students. These meetings engage teachers in collaborative planning around the standards and needs of each student. DS follows the research of Joyce and Showers, which indicates coaching and collaboration on the Academy level provides greater impact on achievement than sourcing outside professional development.

### **Personalized Professional Learning**

Instructional Coaches and mentors provide job-embedded professional learning and peer-to-peer coaching and support in order to support continuous improvement through the Collaborative Coaching Cycle. The coach strives to create a strong, trusting relationship that supports open, honest dialogue, and the exchange of constructive feedback and reflection. Once established, the coach creates conditions for learning and refining practices such as observing a classroom, modeling a lesson, or professional reading. Finally, teachers engage in practicing the skill or strategy with opportunities for observation, feedback, and support checklists. There are times that Instructional Coaches will provide directive or facilitative conversations.

DS guides instructional improvement through reflective coaching on instructional best practices as identified in the DS Teaching Framework. During the course of a school year, teachers receive multiple formal evaluations from a school director and instructional coach that require teachers to self-score according to the guidelines of the DS Teaching Framework. Self-scores are compared to the evaluator's scores along with coaching steps to identify areas of reinforcement and refinement. Follow-up steps are identified from the formal evaluations to support the teacher's implementation of refinement suggestions. Additionally, every teacher and leader creates a Professional Growth Plan ("PGP"). The PGP is a student-centered experience, meaning that the learner drives the learning. While some shared expectations are put in place to ensure continuity across the organization and to provide a solid foundation for learning, each person has a high degree of autonomy with regards to meeting these expectations. Teachers must connect their PGP to the Campus Growth Plan ("CGP"); similarly, leader PGPs connect to the Professional Standards for Educational Leaders. Teachers and leaders choose a question, problem or topic to investigate and reflect on the learning process throughout the year. While the PGP is a learning opportunity that provides all DS members a way to pursue a personal area of interest, the ultimate goal is to share the deep learning and "Pay-it-Forward" to colleagues so others can gain from the learning. The Academy leaders and staff will craft an individual PGPs each year.

Staff collaboration plays a significant role in improving teaching and learning. DS believes in providing on-going, job embedded professional development for all staff through delivery of the instructional model. An annual calendar is established with a corresponding weekly schedule. In this process, school teams identify areas for improvement and organize collaborative teacher teams to research and implement strategies designed to improve student learning outcomes. Individuals

or teams meet to conduct action research, co-plan implementation of a strategy, view models of strategy or analyze student work to determine the effectiveness of the strategy. Schools implement two to four cycles per school year.

### **ACADEMIC REVIEW TEAM AND PROGRAM EVALUATION**

DS conducts Academic Review Visits two times per year. The DS Academic Review provides leaders the opportunity to reflect on and discuss instructional trends at the Academy level and identify actionable next steps that lead to improved instructional practice and gains in student achievement. The process also allows Academic Team members to identify instructional trends at the network level and supports needed in terms of Leadership Academy, professional development and cross-campus collaboration. DS believes that collaboration, reflection and feedback are essential components of professional growth. The Academic Review is a co-constructed process in which DSs' campus and network leaders participate in an observation cycle designed to identify instructional trends over time to both celebrate progress and identify points of practice at both the campus and network level.

The Campus Growth Plan ("CGP") functions as a school improvement plan for each academic year and is the core tool used to define and monitor success and performance of the school and organization. The CGP identifies clear goals and priority areas based on the previous year's culture and academic data and is monitored quarterly. The Academy reviews annual and historical data trends and determines priority goal areas. Goals are developed around academic areas (e.g., math, literacy), student culture (identify affirmation, attendance, office referrals etc.), priority groups (special education subgroup, race, gender, etc.) and a strategic initiative goal (e.g. enrollment). Each goal and its corresponding action steps provide a "road map" of changes and actions to put in place in order to improve the student growth, development, and achievement and ensure that all students succeed.

The Academy instructional leadership teams (e.g., principal, assistant principal, dean, and instructional coaches) deeply analyze progress toward annual CGP goals, review standardized tests, common assessments, school culture, attendance, and behavior data. The result of the data dive is to identify areas of celebration, attention, and priorities and put appropriate next steps in place.

**SECTION D**  
**CURRICULUM**

## CURRICULUM

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.4, the Academy shall implement, deliver, and support the curriculum identified in this schedule.

The Academy has adopted Benchmark Advance<sup>®</sup> English language arts (“ELA”) and social studies, Engage NY mathematics and Mystery Science as a curriculum for kindergarten through fourth grades; Summit Learning<sup>™</sup> ELA, science, social studies and Engage NY math for grade five; Summit Learning for grades six, seven and eight ELA, math, science and social studies; Michigan Model for Health<sup>™</sup> and Exemplary Physical Education Curriculum<sup>™</sup> (“EPEC<sup>™</sup>”). The curriculum for all core subjects has been received, reviewed and approved by the Center.

- Benchmark Universe<sup>™</sup> <https://nsdba.benchmarkuniverse.com/>
- Engage NY <https://www.engageny.org/>
- Mystery Science <https://mysteryscience.com/>
- Summit Learning <https://www.summitlearning.org/login/interstitial2>
- Michigan Model for Health [http://www.michigan.gov/mdhhs/0,5885,7-339-73971\\_4911\\_4912\\_74286---,00.html](http://www.michigan.gov/mdhhs/0,5885,7-339-73971_4911_4912_74286---,00.html)
- EPEC <https://michiganfitness.org/activity/epec/>

### **Elementary**

The following subjects/courses are offered at the Academy.

Course	K	1	2	3	4	5	6	7	8
English Language Arts	X	X	X	X	X	X	X	X	X
Mathematics	X	X	X	X	X	X	X	X	X
Science	X	X	X	X	X	X	X	X	X
Social Studies	X	X	X	X	X	X	X	X	X
Health	X	X	X	X	X	X	X	X	X
Physical Education	X	X	X	X	X	X	X	X	X

**SECTION E**

**METHODS OF PUPIL ASSESSMENT**



## **METHODS OF PUPIL ASSESSMENT**

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Article VI, Section 6.5, the Academy shall properly administer all state-mandated academic assessments identified in the Code, as applicable, and all academic assessments identified in the Public School Academy Chartering Policies adopted by the University Board, as applicable, in accordance with the requirements detailed in the Master Calendar annually issued by the Center.

The Academy shall authorize the Center to have access to the Academy's Student/School Data Applications through the Center for Educational Performance and Information and to the electronic reporting system administered by the Michigan Department of Education to access the Academy's state assessment results, as applicable. The Academy shall ensure that those involved with the administration of these assessments are properly trained and adhere to the ethical standards and testing procedures associated with these assessments.

### **Academic Assessments to Be Administered:**

Assessments as identified in Schedule 7b 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 950 students across the two Sites identified in Schedule 6 of the Contract. Enrollment will be distributed across the Sites as follows:

19360 Harper Ave.:	No more than 625 students may be served this Site.
17175 Olympia:	No more than 325 students may be served at this Site.

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, 2022 Contract to Charter  
A Public School Academy and Related Documents

Issued To

DISTINCTIVE COLLEGE PREP  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

CONTRACT AMENDMENT NO. 1

DISTINCTIVE COLLEGE PREP

In accordance with Article IX of the Terms and Conditions of the Contract (the “Contract”), dated July 1, 2022, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the “University Board”) to DISTINCTIVE COLLEGE PREP (the “Academy”), the parties agree to amend the Contract as follows:

- 1.) Amend Article XII, Section 12.9. Term of Contract, of the Terms and Conditions of Contract, by replacing the language contained therein with the following:

“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 until June 30, 2027, 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.”

- 2.) Amend Schedule 6: Physical Plant Description, by replacing the Configuration of Grade Levels contained therein for the Distinctive College Prep – Redford Site with the following:

“Configuration of Grade Levels: Kindergarten through Eighth Grade.”

- 3.) Amend Schedule 7, Section f: Application and Enrollment of Students, by replacing the Enrollment Limits contained therein with the following:

“**Enrollment Limits**

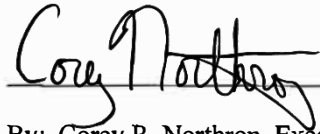
The Academy will offer kindergarten through eighth grade. The maximum enrollment shall be 1,025 students across the two Sites identified in Schedule 6 of the Contract. Enrollment will be distributed across the Sites as follows:

19360 Harper Ave.: No more than 650 students may be served this Site.

17175 Olympia: No more than 375 students may be served at this Site.

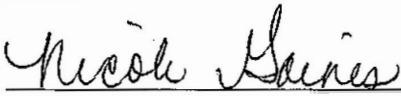
The Academy Board will annually adopt maximum enrollment figures prior to its application and enrollment period.”

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, 2023.



Dated: 05/24/2023

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



Dated: 5-23-23

By: Nicole Gaines  
Distinctive College Prep  
Designee of the Academy Board

AMENDMENT NO. 2

to the  
July 1, 2022 Contract to Charter  
A Public School Academy and Related Documents

Issued To

DISTINCTIVE COLLEGE PREP  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)



CONTRACT AMENDMENT NO. 2

DISTINCTIVE COLLEGE PREP

In accordance with Article IX of the Terms and Conditions of the Contract (the "Contract"), dated July 1, 2022, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the "University Board") to DISTINCTIVE COLLEGE PREP (the "Academy"), as amended, the parties agree to further amend the Contract as follows:

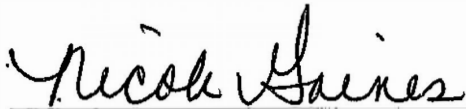
- 1.) Amend Schedule 1: Articles of Incorporation, by inserting at the end of this Schedule the Certificate of Amendment to the Articles of Incorporation, attached as Tab 1.
- 2.) The entire Contract is amended by changing the name of the Academy from "Distinctive College Prep" to "Discovery Creative Pathways."

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 June 6, 2023.



Dated: 06/28/2023

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



Dated: 6-27-23

By: Nicole Gaines  
Distinctive College Prep  
Designee of the Academy Board

Distinctive College Prep  
Contract Amendment No. 2

# Tab 1



Form Revision Date 07/2016

## CERTIFICATE OF AMENDMENT TO THE ARTICLES OF INCORPORATION

For use by DOMESTIC NONPROFIT CORPORATION

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Certificate:

The identification number assigned by the Bureau is:

802001150

The name of the corporation is:

DISTINCTIVE COLLEGE PREP

The Articles of Incorporation is hereby amended to read as follows:

### Article I

The name of the corporation as amended, is:

DISCOVERY CREATIVE PATHWAYS

2. The foregoing amendment to the Articles of Incorporation was duly adopted on: 05/31/2023 by the

directors at a meeting in accordance with Section 611(3) of the Act.

This document must be signed by an authorized officer or agent:

Signed this 6th Day of June, 2023 by:

Signature	Title	Title if "Other" was selected
Nicole Gaines	President	

By selecting ACCEPT, I hereby acknowledge that this electronic document is being signed in accordance with the Act. I further certify that to the best of my knowledge the information provided is true, accurate, and in compliance with the Act.

Decline  Accept

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**

**FILING ENDORSEMENT**

***This is to Certify that the*** CERTIFICATE OF AMENDMENT TO THE ARTICLES OF INCORPORATION

***for***

DISCOVERY CREATIVE PATHWAYS

***ID Number:*** 802001150

***received by electronic transmission on*** June 06, 2023 ***, is hereby endorsed.***

***Filed on*** June 06, 2023 ***, by the Administrator.***

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



***In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 6th day of June, 2023.***

*Linda Clegg*

***Linda Clegg, Director***

***Corporations, Securities & Commercial Licensing Bureau***

AMENDMENT NO. 3

to the  
July 1, 2022 Contract to Charter  
A Public School Academy and Related Documents

Issued To

DISCOVERY CREATIVE PATHWAYS  
(A PUBLIC SCHOOL ACADEMY)

By

THE CENTRAL MICHIGAN UNIVERSITY  
BOARD OF TRUSTEES  
(AUTHORIZING BODY)

CONTRACT AMENDMENT NO. 3

DISCOVERY CREATIVE PATHWAYS

In accordance with Article IX of the Terms and Conditions of the Contract (the "Contract"), dated July 1, 2022, issued by the CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES (the "University Board") to DISCOVERY CREATIVE PATHWAYS (the "Academy"), as amended, the parties agree to further amend the Contract as follows:

- 1.) Amend Schedule 5: Description of Staff Responsibilities, by replacing the materials contained therein with the materials attached as Tab 1.
- 2.) Amend Schedule 7, Section c: Educational Programs, by replacing the materials contained therein with the materials attached as Tab 2.
- 3.) Amend Schedule 7, Section d: Curriculum, by replacing the materials contained therein with the materials attached as Tab 3.

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, 2023.



Dated: 09/12/2023

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



Sep 5, 2023

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Discovery Creative Pathways  
Designee of the Academy Board

Discovery Creative Pathways

Contract Amendment No. 3

# Tab 1

## 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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Instructional Staff .....	5-2
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Educational Service Provider Agreement .....	5-3



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

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

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

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

### **Reporting Structure**

All positions are employed by Entrepreneurial Ventures in Education, Inc., and are outlined in the Educational Service Provider Agreement included in this Schedule.

### **Position Responsibilities**

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

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

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

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

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

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

### **Instructional Staff**

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

### **Non-Instructional Staff**

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

## EDUCATION SERVICES PROVIDER AGREEMENT

This Education Services Provider Agreement (the “Agreement”) is made and entered into as of the 1st day of May 2023, by and between **Entrepreneurial Ventures in Education, Inc.**, a Massachusetts based non-profit corporation, and its subsidiary Phalen Leadership Academies (collectively referred to as “EVE”), and **Discovery Creative Pathways f/k/a Distinctive College Prep** (“DCP” or the “Academy” and together with EVE, the “Parties”), a Michigan non-profit corporation and public school academy formed under Part 6A of the Revised School Code, as amended (the “Code”).

**WHEREAS**, DCP operates under the direction of a Board of Directors (the “Board”) and is authorized pursuant to a contract (the “Charter Contract”) issued by the Central Michigan University Board of Trustees (“Authorizer”).

WHEREAS, DCP operates two separate school campuses (DCP Redford Academy and DCP Harper Woods) under one charter contract issued by the aforementioned Authorizer.

**WHEREAS**, EVE is a Massachusetts based non-profit corporation authorized to transact business in the State of Michigan, and providing direct educational services to public school academies. EVE has the ability to implement a comprehensive educational program and training methodologies for DCP; and

**WHEREAS**, DCP desires to engage EVE to perform those services as a direct educational service provider pursuant to this Agreement.

**WHEREAS**, it is intended that DCP shall accomplish its mission by utilizing the services of EVE. DCP hereby acknowledges this intent and approves this Agreement for direct educational services of DCP by EVE.

**NOW, THEREFORE**, for good and valuable consideration, including the mutual promises and benefits contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE I:**

#### **CONTRACTUAL RELATIONSHIP**

A. **Authority.** DCP has been granted the Charter Contract by the Authorizer to organize and operate a public charter school, together with the powers necessary or desirable for carrying out the educational program set forth in the Charter Contract. DCP is authorized to contract with a private entity to provide educational services, provided that the management

agreement shall comply with the Authorizer’s Educational Services Provider requirements (the “ESP Policies”).

**B. Agreement.** Acting under and in the exercise of such authority, DCP hereby contracts with EVE for specified functions relating to the provision of direct educational services and school support activities of DCP.

**C. Status of the Parties.** EVE is a Massachusetts non-profit corporation and is not a division or a part of DCP. DCP is a public charter school authorized by the Code, and is not a division or part of EVE. The relationship between EVE and DCP is based solely on the terms of this Agreement. The Parties to this Agreement intend that the relationship between them created by this Agreement is that of an independent contractor, and that, except as expressly set forth in paragraph D below, no employee of EVE shall be deemed to be an agent of DCP. EVE is solely responsible for its acts and the acts of its agents, employees, and subcontractors. Employees of EVE, even those assigned to work exclusively at DCP, are not employees of DCP.

**D. Designation of School Officials for Purposes of FERPA.** Agents and employees of EVE having a legitimate educational interest in student record information, are hereby designated by the Board as “school officials” of DCP such that they are authorized access to educational records of the DCP’s students under 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act (“FERPA”). “Legitimate educational interest” shall be defined as having a responsibility for helping the student achieve one (1) or more of the educational goals of DCP or if the record is necessary in order for the employee to perform an administrative, supervisory, or instructional task or to perform a service or benefit for the student or the student’s family.

During the term of this Agreement, the Academy may also disclose confidential data and information to EVE, and its respective officers, directors, employees and designated agents to the extent permitted by applicable law, including without limitation, the Individuals with Disabilities Education Act ("IDEA"), 20 USC §1401 et seq., 34 CFR 300.610 -300.626; Section 504 of the Rehabilitation Act of 1973, 29 USC §794a, 34 CFR 104.36; the Michigan Mandatory Special Education Act, MCL 380.1701 et seq.; the Americans with Disabilities Act, 42 USC §12101 et seq.; the Health Insurance Portability and Accountability Act ("HIPAA"), 42 USC 1320d - 13200d-8; 45 CFR 160, 162 and 164; and social security numbers, as protected by the federal Privacy Act of 1974, 5 USC §552a; and the Michigan Social Security Number Privacy Act, MCL 445.84.

Except as permitted under the Code, or under a separate vendor contract with corresponding confidentiality provisions, Contractor 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. However, in order to fulfill obligations under this contract, it is understood that EVE will need to share personally identifiable information to certain vendors to support the school’s operations. If Contractor receives information that is part of an Academy student’s education records, Contractor shall not sell or otherwise provide the information to any other person except as permitted under the Code or pursuant to this provision of the contract.

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.

Except as set forth in this paragraph D, no agent or employee of EVE shall be deemed to be an agent of DCP.

**ARTICLE II:**  
**WARRANTIES AND REPRESENTATIONS**

A. **Representation.** DCP represents that it has the authority under State law to execute, deliver, and perform this Agreement, to incur obligations provided for under this Agreement, to incur obligations provided for under this Agreement and to contract with EVE for EVE to provide the services set forth in this Agreement on behalf of the Academy.

B. **Certification As to Pending Claims.** DCP certifies that, as of the date of this Agreement, there are no pending actions, claims, suits, or proceedings, to the knowledge of the Academy, threatened or reasonably anticipated against or affecting the Academy, which if adversely determined, would have a material adverse effect on the ability of the Charter Academy to perform its obligations under this Agreement. Further, the Academy warrants that the information it has furnished EVE concerning the Academy’s facilities, finances, revenues, student enrollment and staffing is accurate and the latest information available at the time of the execution of this Agreement.

C. **Authority of EVE.** EVE represents and warrants that it is a non-profit corporation organized and existing under the laws of the State of Massachusetts, with lawful power and authority to enter into this Agreement, acting by and through its duly authorized officers.

**ARTICLE III:**  
**TERM**

A. **Term.** This Agreement shall become effective July 1, 2023 and shall expire on June 30, 2027. However, the term of this Agreement is subject to a continued Charter Contract from the Authorizer and continued state per capita funding.

B. **Renewal.** At the end of the Term, DCP and EVE may mutually agree to extend the Agreement which shall be documented in a written amendment to this Agreement signed by both parties and will be done in a manner consistent with the Authorizer's ESP Policies. Under no circumstances, however, shall this Agreement extend beyond the term of the Charter Contract.

C. **Review by CMU.** The parties acknowledge that this Agreement is subject to the review of CMU and shall be subject to termination in the event that CMU does not provide its non-disapproval this Agreement.

#### **ARTICLE IV:** **FUNCTIONS OF EVE**

A. **Responsibility.** Contractor shall be responsible, and accountable to the Board, for the administration, operation and performance of the Academy, in accordance with appropriate sections of the Code and the Contract. Contractor shall use its best efforts to perform the obligations and responsibilities of the Academy under the Code and the Contract on behalf of the Academy or to assist the Academy in performing those obligations and responsibilities. No provision of this Agreement shall be deemed to interfere with the Board's exercise of its statutory, contractual and fiduciary responsibilities governing the operation of the Academy, or prohibit the Board from acting as an independent, self-governing public body, or allow public decisions to be made other than in compliance with the Open Meetings Act.

B. **Educational Services.** Under the direction of the Board, EVE shall be responsible for providing direct educational services to DCP. Such functions include but are not limited to:

1. Implementation and administration of the educational program.
2. Pupil accounting;
3. Budget preparation, including preparing the proposed annual budget as set forth in this Article, Paragraph O, and proposed amended budgets throughout the year, as necessary, and financial management services, as defined in this Agreement;
4. Financial services including accounting, bookkeeping services, accounts payable, and accounts receivable;
5. Acquisition of instructional and non-instructional material, equipment and supplies and the maintenance of an inventory system of all equipment;
6. Selection, professional development and training, and supervision of all teachers and staff and the personnel management services (recordkeeping,

wage and benefits administration, training, and technical assistance) necessary to support those employees;

7. Supervision of the school support services programs including food service and facilities maintenance;
8. Preparation of required authorizer, local, state, and federal reports with prior review by the Board.
9. Information and technology system development and management.
10. Preparation of applications for grants and special programs as requested by the Board.
11. Processing funding applications for special programs and facility improvements as requested by the Board.
12. Management of the Academy's marketing and communications which shall include enrollment campaigns and tools.
13. Administration of extra-curricular and co-curricular activities and programs approved by the Board.
14. Development of critical processes and procedures governing operations of the Academy as determined by the Parties and as approved by the Board.
15. Provision of special education and English Language Learners services to students who attend the Academy in conformity with the requirements of applicable law, regulations and Board policies.
16. Participation in strategic planning with the Board for the continuing educational and financial benefit of the Academy.
17. Implementation and enforcement of student codes of conduct.
18. Any other function necessary or expedient for the administration of the Academy with prior approval from the Board.

**D. Educational Goals and Program.** EVE shall implement the educational goals and programs set forth in the Charter Contract, including, but not limited to, methods of pupil assessment, admission policy and criteria, school calendar and school day schedule, age and grade classifications for pupils to be enrolled, and methods to be used to monitor performance towards targeted educational outcomes. In the event that EVE determines that it is advisable to modify the educational goals and programs set forth in the Charter Contract, EVE will provide written notification to the Board specifying the proposed changes it recommends and the reasons for the proposed changes. No changes in the educational goals and programs shall be implemented without the prior written approval of the Board and a Charter Contract amendment approved by the Board and Authorizer. EVE shall provide the Board with periodic written

reports specifying the level of achievement of each of the Academy's educational goals set forth in the Charter Contract and detailing its plan for meeting any educational goals that are not being attained, such reports to be submitted on a regular periodic basis and upon request of the Board.

E. **Subcontracts.** It is anticipated that EVE will utilize subcontracts to provide some of the services it is required to provide to the Academy under this Agreement. EVE may not subcontract the management, oversight, or operation of the teaching and instructional program without the specific prior written approval of the Board. Except as described in the previous sentence, Board approval of subcontracts is not required unless the cost for these subcontracted services exceeds the funds appropriated for that purpose of the Academy's approved budget or Board approval is required by the Charter Contract or by the Board's procurement policy. EVE will receive no additional fee as a result of subcontracting of any services, all of which shall be provided without markup. Any services to be provided by EVE that are included in the management fee, but are performed by a subcontractor, shall not be charged to, reimbursed by or passed through as an additional cost to the Academy.

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

If the Academy should expand to other locations in the future, such expansion will be accomplished by amendments to this Agreement and the Charter Contract.

G. **Acquisitions.** All acquisitions made by EVE for the Academy using any funds belonging to 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. EVE shall comply with the Revised School 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 these purchases directly from a third-party supplier or vendor. EVE will not add any fees or charges to the cost of the equipment, materials, and supplies purchased from third Parties when it seeks reimbursement for the cost of these acquisitions from the Academy. All supplies, materials, and equipment procured for the Academy by EVE shall be inventoried by an acceptable method of inventory, and an inventory of the Academy equipment shall be maintained so that it can be clearly established which property belongs to the Academy.

H. **Pupil Performance Standards and Evaluation.** EVE is responsible for and accountable to the Board for the performance of students who attend the Academy. EVE shall implement pupil performance evaluations which permit evaluation of the educational progress of each student, using measures of student and school performance required by the Charter Contract and such additional measures as shall be mutually agreed upon between the Board and EVE, which are consistent with the Charter Contract.

I. **Student Recruitment.** EVE shall be responsible for the recruitment of students subject to the provisions of the Charter Contract and the policies adopted by the Board. Students shall be selected in accordance with the procedures set forth in the Charter Contract and in



compliance with the Code and other applicable law. EVE shall follow all applicable procedures regarding student recruitment, enrollment, and lottery management, and shall be responsible for publication of appropriate public notices and scheduling of open houses, as may be required.

J. **Student Due Process Hearings.** EVE shall provide students with procedural and substantive due process in conformity with the requirements of state and federal law regarding discipline, special education, confidentiality, and access to records, to the degree that it is consistent with the Academy's own obligations. The Board shall retain the right to provide due process as required by law and to determine whether any student will be expelled.

K. **Legal Requirements.** EVE shall provide educational programs that meet the requirements imposed under the Code and the Charter Contract, unless such requirements are or have been waived.

L. **Rules and Procedures.** The Board shall adopt rules, regulations, and procedures applicable to the Academy, and EVE is directed to enforce the rules, regulations, and procedures adopted by the Academy. EVE shall assist the Board in its policy making function by recommending the adoption of reasonable rules, regulations, and procedures applicable to the Academy.

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

N. **Authority.** EVE shall have authority and power necessary to undertake its responsibilities described in this Agreement except in the case(s) wherein such power may not be delegated by law.

O. **Additional Programs.** The services provided by EVE to the Academy under this Agreement include, but are not limited to, providing the educational program described in the Charter Contract, as the same may change from time to time. The Board may decide to provide additional programs, including, but not limited to, summer school. The Academy may also purchase additional services from EVE at a mutually agreeable cost which will be documented in a written amendment to this Agreement.

P. **Annual Budget Preparation.** EVE will prepare and provide the Board with a proposed annual budget that shall conform to the State of Michigan's requirements and in a form satisfactory to the Board and to the Authorizer. The budget shall contain object level detail and comply with public accounting standards. The budget shall include anticipated revenues and projected expenses and costs reasonably associated with operating the Academy and the educational program including, but not limited to, the projected cost of all services and educational programs provided to the Academy, rent and lease payments, debt service, maintenance and repairs to the Academy facilities, supplies and furnishings necessary to operate the Academy, taxes, insurance premiums, utilities, professional fees, and other costs and expenses connected to the operation of the Academy. EVE nor any owner, officer or employee of EVE shall be designated as the Chief Administrative Officer ("CAO") of the Academy, but an EVE employee may assist the CAO in carrying out their duties.

The proposed budget shall be submitted to the Board for approval not later than thirty (30) days prior to the date when the approved budget is required to be submitted to the Authorizer. EVE may not make deviations from the approved budget between major function areas without the prior approval of the Board.

**Q. Academy Financial Health.** EVE shall do all things reasonably and professionally required to prevent the Academy's finances from experiencing any operating or fund balance deficits and shall do all things reasonably and professionally required to keep the Academy solvent.

**R. Disclosure of Information Pursuant to MCL 388.** On an annual basis, EVE 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.

**S. Restriction on Providing Personally Identifiable Information.** Except as permitted under the Code, EVE shall not sell or otherwise provide to a for-profit business entity any personally identifiable information that is part of a Academy student's education records. If EVE receives information that is part of a Academy student's education records, EVE 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.

**T. Procedures for Addressing Breach of Protected Information.** Immediately upon discovery of a confirmed or suspected Breach, EVE shall report both orally and in writing to the Academy. In no event shall the report be made more than two (2) business days after EVE knows or reasonably suspects a breach has or may have occurred. In the event of a suspected breach, EVE shall keep the Academy informed regularly of the progress of its investigation until the uncertainty is resolved. EVE's report shall identify: (i) the nature of the unauthorized access, use or disclosure, (ii) the Protected or Private Information accessed, used or disclosed, (iii) the person(s) who accessed, used and disclosed and/or received Protected or Private Information (if known), (iv) what EVE has done or will do to mitigate any deleterious effect of the unauthorized access, use or disclosure, and (v) what corrective action EVE has taken or will take to prevent future unauthorized access, use or disclosure. (vi) EVE shall provide such other information, including a written report, as reasonably requested by the Board.

(1) Coordination of Breach Response Activities. In the event of a breach, EVE will: a. Immediately preserve any potential forensic evidence relating to the breach; b. Promptly (within 2 business days) designate a contact person to whom the Academy will direct inquiries, and who will communicate EVE's responses to Academy inquiries; c. As rapidly as circumstances permit, apply appropriate resources to remedy the breach condition, investigate, document, restore the Academy's service(s) as directed by the Academy, and undertake appropriate response activities; d. Provide status reports to the Academy on breach response

activities, either on a daily basis or a frequency approved by the Academy; e. Coordinate all media, law enforcement, or other breach notifications with the Academy in advance of such notification(s), unless expressly prohibited by law; f. Make all reasonable efforts to assist and cooperate with the Academy in its breach response efforts; and g. Ensure that knowledgeable EVE staff are available on short notice, if needed, to participate in Academy-initiated meetings and/or conference calls regarding the breach.

## **ARTICLE V:**

### **OBLIGATIONS OF THE BOARD**

A. **Oversight.** The Board shall have the obligation and authority to oversee the performance of the duties of the Contractor under this Agreement.

B. **Board Policy Authority.** The Board is responsible for determining the fiscal and academic policies that will govern the operation of the Academy, including, but not limited to, policies relative to the conduct of students while in attendance at, or en route to, school, and policies and regulations governing the procurement of supplies, materials, and equipment to be used at the Academy. The Board shall exercise good faith in considering the recommendations of EVE on issues including, but not limited to, policies, rules, regulations, procedures, curriculum, and budgets, subject to the constraints of law and the requirements of the Charter Contract.

C. **Building Facility.** The Board is responsible for the acquisition by either purchase or lease of building facilities that comply with all of the requirements of the Charter Contract and applicable law.

D. **Academy Employees.** The Board may employ employees as it deems necessary, if any. The cost to employ Academy employees shall be paid by the Board.

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

F. **Legal Counsel.** The Board shall select and retain legal counsel to advise it regarding its rights and responsibilities under the Charter Contract, this Agreement, and applicable law. Such legal counsel shall advise on the negotiation of this Agreement and shall not represent EVE or any EVE owner(s), director(s), officer(s), or employee(s). While the Board's counsel and EVE's counsel may meet and confer on issues, the Board shall not seek direct advisement from EVE's legal counsel.

G. **Audit.** The Board shall select and retain the independent auditor to perform the annual financial audit in accordance with the Charter Contract and applicable state law. The Board and previous management company shall retain full responsibility for managing and completing the audit and Form 990 (Return of Organization Exempt from Income Tax relating to the 2022 - 2023 school year for the Academy).

H. **Budget.** The Board is responsible for adopting a budget in accordance with the relevant provisions of applicable law and asserts that it has adequate resources to fulfill its obligations under the Charter Contract, including, but not limited to, its oversight of EVE, the organization of the Academy, negotiation of the Charter Contract and any amendments, payment of costs associated with employees assigned to the Academy, insurance required under the Charter Contract and this Agreement, the annual financial audit, and retention of the Board's legal counsel and consultants. In addition, the Board is responsible for determining the budget reserve amount included as part of the Academy's annual budget, for implementing fiscal policies that will assist the Academy in attaining the stated budget reserve amount, and for approving necessary amendments to the budget to reflect necessary deviations from the adopted budget. The budget may be amended from time to time as deemed necessary by the Board.

I. **Academy Funds.** The Board shall determine the depository institution of all funds received by the Academy. All funds received by the Academy shall be deposited in the Academy's depository account. Signatories on Academy Board accounts shall solely be Board members and/or properly designated Academy Board employees. Administrative/view online access to the Board/Academy depository account and any other Board controlled accounts shall also be given to Board-designated EVE employees. All interest or investment earnings on Academy accounts shall accrue to the Academy. The Board shall pay its obligations under this Agreement on a consistent and timely basis. No provision of this Agreement shall alter the Board treasurer's legal obligation to direct that the deposit of all funds received by the Academy be placed in the Academy's depository account as required by law.

J. **Governmental Immunity.** The Board shall have the sole power to determine when to assert, waive, or not waive its governmental immunity.

K. **Charter Contract with Authorizer.** The Board will not act in a manner in which will cause the Academy to be in breach of its Charter Contract with the Authorizer.

L. **Evaluation of EVE.** The Board will evaluate the performance of EVE to provide EVE with an understanding of the Board's view of its performance under this Agreement. All evaluations conducted by the Board or a representative of the Board will be provided to EVE in writing, no later than thirty (30) days following the conclusion of the evaluation. EVE will be provided thirty (30) days to respond to the evaluation in writing, if it wishes to do so. Special evaluations may occur at any time at the discretion of the Board.

## ARTICLE VI:

### FINANCIAL ARRANGEMENT

A. **Academy's Source of Funding.** The major source of funding for the Academy is State School Aid received pursuant to the State School Aid Act, Act 94 of 1979, as amended ("State School Aid"). State School Aid payments are based upon the number of students enrolled in the Academy. The Academy will also receive other payments as may be available from state and federal sources for specific programs and services.

B. **Other Revenue Sources.** In order to supplement and enhance the State School Aid payments and improve the quality of education at the Academy, the Board and EVE, with prior Board approval, shall endeavor to obtain revenue from other sources. In this regard:

1. The Academy and/or EVE shall solicit and receive donations consistent with the mission of the Academy.
2. The Academy and/or EVE may apply for and receive grant money, in the name of the Academy. EVE shall provide advance written notification to the Board of any grant applications it intends to make.
3. To the extent permitted under the Code, EVE may charge fees to students for extra services such as summer programs, after school programs, and athletics, and EVE may charge non-Academy students who participate in such programs.
4. All funds received by EVE or the Academy from such other revenue sources shall inure to and be deemed the property of the Academy.

C. **Compensation for Services.** The Academy shall pay EVE an annual management fee for each school year during the term of this Agreement. The amount of this annual fee shall be twelve percent (12%) of the sum of: (a) all funds the Academy receives directly or indirectly under Paragraph A attributable to the school year during which EVE provides services under this Agreement less amounts retained by the Authorizer, plus (b) all funds that the Academy receives directly or indirectly under Paragraph B (except for individual donations, obtained without the assistance of EVE, that are made to the Academy). The amount of the annual fee is subject to reduction in a mutually agreeable amount by the Parties in any school year if extenuating circumstances make payment of the entire annual fee inappropriate.

EVE's annual management fee shall be paid in equal monthly installments, which shall be made on or about the 20<sup>th</sup> day of the months for the school year of DCP during which EVE provides services under this Agreement, commencing with the start of the 2023-2024 school year. EVE will cooperate with the Academy to modify the exact date of any monthly installment payment to coordinate with the timing of the funds received by the Academy, provided that all monthly installment payments must be remitted within thirty (30) days of the original payment date of such monthly installment payment. All payments shall be made through an electronic funds transfer directly to EVE.

1. Upon execution of the initial education services agreement, the School shall pay EVE a total transition fee of \$89,000.00 (eighty-nine thousand dollars and zero cents). This fee shall cover the comprehensive analysis and working with prior management company - Distinctive Schools to transition services for the Harper Woods and Redford DCP campuses prior to the commencement of the 2023-2024 school year Fee payments.

**D. Reasonable Compensation.** EVE's compensation under this Agreement is reasonable compensation for services rendered. EVE's compensation for services under this Agreement is not based, in whole or in part, on a share of net profits from the operation of the Academy.

**E. Payment of Educational Program Costs.** In addition to the Academy's obligation to reimburse EVE for the compensation of certain EVE employees under Article VII, all costs reasonably incurred in providing the educational programs at the Academy shall be paid by the Academy in accordance with the annual budget approved by the Board. Such costs shall include, but shall not be limited to, curriculum materials, professional learning and development required by the state or other governmental entities, textbooks, library books, computers and other equipment, software, and supplies utilized at the Academy for educational purposes, services provided pursuant to subcontract that are not included in the management fee, building payments, maintenance, utilities, capital improvements, and marketing and development costs. Marketing and development costs paid by or charged to the Academy shall be limited to those costs specific to the Academy program, and shall not include any costs for the marketing and development of EVE. The Board shall pay or reimburse EVE monthly for approved fees and expenses upon properly presented documentation and approval by the Board. In paying costs on behalf of the Academy, EVE shall not charge any additional amounts or markups. Any costs reimbursed to EVE that are determined by the independent audit not to be reasonably incurred on behalf of the educational program of the Academy shall be promptly returned to the Academy by EVE. No corporate costs of EVE shall be charged to, or reimbursed by the Academy. Furthermore, all costs for the educational program, marketing, and/or development costs as described supra, shall be aligned with the Academy's budget.

**F. EVE Costs.** The annual management fee set forth in Article VI, Section C is intended to compensate EVE for all expenses it incurs for the administrative, financial, and management services EVE is required to provide under this Agreement, including, but not limited to, expenses associated with budgeting, accounting, board support, employee recruitment, hiring, and training, and compliance. EVE will provide sufficient professional and non-professional staff in these areas and is responsible for their compensation. The costs to be paid by EVE under this Paragraph do not include payments for personnel provided pursuant to Article VII (B), (C), and (D) that are to be reimbursed by the Academy under Article VII (A) or educational program costs under Article VI (E).

**G. Other Public School Academies.** The Academy acknowledges that EVE has entered, or will enter into, management agreements with other public/charter school academies. EVE shall separately account for reimbursable expenses incurred on behalf of the Academy and

other public school academies, and only charge the Academy for expenses incurred on behalf of the Academy. EVE must maintain separate accounts for the receipt of the Academy funds and payment of expenses. Comingling of the Academy funds with EVE funds or funds of other schools is strictly prohibited.

H. **Financial Reporting.** At least monthly, EVE shall provide the Board with a monthly cash flow analysis, an aged report of accounts payable, a bank reconciliation, and a written report detailing the status of the budget to actual revenues and a detailed schedule of expenditures at an object level for review and approval by the Board. EVE shall present the Board with a balance sheet and a statement of revenues, expenditures, and changes in fund balance at each regularly scheduled meeting. All financial reports must explain any variances from the approved budget and shall contain recommendations for necessary budget corrections. These reports shall be provided to the Board finance committee and the Board members at least one week prior to each regularly scheduled Board meeting. EVE shall provide special reports as necessary to keep the Board informed of changing conditions.

I. **No Other Financial Relationships.** Other than the financial arrangements described in this Agreement, EVE and the Academy shall have no other financial relationships. No lease, promissory notes or other negotiable instruments, lease-purchase agreements, or other financing agreements between the Academy and EVE shall be permitted, and such arrangements are strictly prohibited.

J. **Access to Records.** EVE shall keep accurate financial records pertaining to its operation of the Academy, together with all the Academy financial records prepared by or in the possession of EVE (the “Records”), and retain all of these records in accordance with applicable state and federal law and the authorizer requirements. Financial, educational, operational, and student records that are now or may in the future come into the possession of EVE remain the Academy’s records and are required to be returned by EVE to the Academy upon demand, provided that EVE may retain copies of records necessary to document the services provided to the Academy and its actions under the Agreement. EVE acknowledges that said records are subject to the provisions of the Michigan Freedom of Information Act. The Parties shall maintain the proper confidentiality of personnel, student, and other records as required by law. All Academy records shall be physically or electronically available, upon request, at the Academy’s physical facilities. The financial, educational, operational, and student records pertaining to the Academy are public documents subject to disclosure in accordance with the provisions of applicable law. This Agreement shall not be construed to restrict the Authorizer’s or the public’s access to these records under applicable law or the Charter Contract.

K. **Audit Report Information.** EVE will make all finance and other records of EVE related to the Academy available to the Academy, the Academy’s independent auditor selected by the Board and the Authorizer upon request. EVE staff will fully cooperate with the Academy’s independent auditor.

L. **Bankruptcy of ESP Principal or Officer.** EVE shall notify the Academy’s Board if any principal or officer of EVE, or EVE (including any related organizations or organizations in which a principal or officer of EVE served as a principal or officer) as a

corporate entity, has filed for bankruptcy protection in the last six (6) months or within any applicable preference period, whichever is longer.

M. **Conflict of Interest.** EVE shall have a written conflict of interest policy, a copy of which shall be made available to the Board upon request. EVE shall not execute contracts with any third Parties for services to be provided to or on behalf of the Academy where there is a conflict of interest between EVE and the third party or the Academy and the third party.

## ARTICLE VII:

### PERSONNEL AND TRAINING

A. **Personnel Responsibility.** EVE is responsible for providing the Academy with qualified Administrators and teachers, instructional support, pupil support, food service, secretarial, security, and other staff required to operate the Academy within the staffing and compensation levels approved by the Board in its annual budget (the “School Employees”). EVE shall have the authority to select, evaluate, assign, discipline, transfer, and terminate the employment of all School Employees, with the exception of the Board employees, if any, consistent with applicable law and the provisions of this Agreement. EVE, in its sole discretion, may subcontract with an employee leasing agency (the “Leasing Agency”) to provide the School Employees; such School Employees will be employees of the leasing agency. EVE shall make payments to the retirement plan for school staff that is approved by the Board. Prior to the first payroll, EVE will provide the Board with a detailed listing of the anticipated compensation and fringe benefit costs for all School Employees.

B. **Payroll.** The Board will reimburse EVE for the cost of the salaries, fringe benefits, and social security withholdings of employees assigned to the Academy, provided that these costs are not higher than anticipated and approved in the annual budget. EVE accepts full liability and is responsible for paying all salaries, benefits, payroll taxes, worker’s compensation, unemployment compensation and liability insurance for its employees leased to the Academy or working on Academy operations irrespective of whether EVE receives an advancement of its costs or the payment of services from the Academy. At the request of the Board, EVE will provide payroll services for employees of the Board. All records pertaining to teacher and administrator certification, as well as a copy of the employee handbook, shall be maintained physically on site or be directly accessible at all the Academy’s facilities. Neither EVE, nor the leasing agency shall execute contracts with its staff assigned to the Academy that contain non-compete agreements of any nature.

C. **Criminal Background Checks.** EVE agrees that no individuals shall be assigned to perform any services under this Agreement that has not cleared the requisite criminal background check pursuant to applicable law. The Board may require that the results of criminal background checks are received, reviewed, and used (subject to a verification process) by a qualified governmental employee acting on behalf of the Academy and/or the Board, only as permitted by law to confirm that the individual does not have a criminal history in violation of the Code. The Board shall require the qualified governmental employee to provide a letter with a determination for assignment indicating if the individual is in compliance with the requirements of the Code or not. EVE shall not assign to the Academy any individual for whom EVE has



received determination of non-assignment. Additionally, EVE shall perform unprofessional conduct checks on each Academy employee pursuant to 1230(b) of the Code.

D. **School Leader.** EVE will have the authority, consistent with applicable law, and with input from the Board, to select and supervise the School Leader (“School Leader”) and to hold that individual accountable for the success of the Academy. At the request of the Board, EVE will review the performance of the School Leader with the Board. The School Leader may be a EVE employee, or an employee of the Leasing Agency. EVE agrees to provide the Board an opportunity to meet with the School Leader prior to placement and to inform the Board in advance prior to taking any action that would alter the employment status of the School Leader. Upon receipt of written notification indicating that the Board is not satisfied with the performance of the School Leader, EVE agrees to review the School Leader’s performance and report its findings to the Board. If EVE concurs with the Board findings and there is no resolution to the problems, EVE will provide a replacement School Leader. The School Leader shall have an administrator’s certificate covering the applicable grade levels of the Academy. The employment agreement with the School Leader and the duties and compensation of the School Leader shall be determined by EVE, but that individual must be assigned on a full-time basis to the Academy and may not be providing services to any other school or academy without the prior approval of the Board. If the Superintendent of EVE is designated as the School Leader, the Superintendent need not be assigned to the Academy on a full-time basis.

E. **Teachers.** As part of the annual budgeting process, EVE shall make a recommendation to the Board regarding the number of teachers and the applicable grade levels and subjects required for the operation of the Academy pursuant to the Charter Contract. EVE shall provide the Academy with such teachers, qualified in the grade levels and subjects required, as are required by the Academy. The Board, however, shall ultimately decide the number of teachers, the applicable grade levels, and subjects taught at Academy as prescribed in the Charter Contract. Such teachers may, at the discretion of EVE, 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 EVE in the same city. Each teacher assigned to or retained by the Academy shall be a highly qualified teacher with a valid teaching certificate or temporary special permit issued by the Michigan Department of Education under the Code, to the extent required under the Code and the Every Student Succeeds Act. Teachers employed by the Leasing Agency shall not be considered teachers for purposes of continuing tenure under applicable law, and shall not be considered employees of the Academy or the Board.

F. **Support Staff.** As part of the annual budgeting process, EVE shall make a recommendation to the Board regarding the number of support staff required for the operation of the Academy pursuant to the Charter Contract. EVE shall provide the Academy with such support staff, qualified in the areas required, as are required by the Academy. Such support staff may, in the discretion of EVE, work at the Academy on a full or part-time basis. If assigned to the Academy on a part-time basis, such support staff may also work at other schools operated by EVE in the same city. Each support staff employee assigned to or retained by the Academy shall have received the training and hold the certificates, degrees, or licenses legally required for the position to which they are assigned under the Code and Every Student Succeeds Act.

**G. Training.** EVE shall ensure training is provided to the School Leader, teachers, and paraprofessionals on a regular and continuing basis and shall insure that School Employees receive all training required by law. The School Leader, teachers, paraprofessionals, and other support staff employees shall receive such other training as EVE determines is reasonable and necessary under the circumstances.

## **ARTICLE VIII:**

### **TERMINATION OF AGREEMENT**

**A. Termination by the School for Cause.** This Agreement may be terminated by DCP for a material breach of this Agreement, as well as, violation of the charter contract, state or federal law. If the agreement is cancelled for any other reason (except for reasons defined in this section and section C below), the management fee for the remainder of the term shall be payable upon termination.

This Agreement may be terminated by the School for cause prior to the end of the term specified in Article III in the event that EVE should fail to remedy a material breach within a period reasonable under the circumstances, which shall not be longer than sixty (60) days after notice from the School. A material breach by EVE may include, but is not limited to, a failure to carry out its responsibilities under this Agreement, such as a failure to account for its expenditures or to pay operating costs (provided funds are available to do so); or violating the Charter Contract or applicable law. In order to terminate this Agreement for cause, the Board is required to provide EVE with written notification of the facts it considers to constitute material breach and the period of time within which EVE has to remedy this breach. If the material breach is not remedied, then once the established time in which to cure the material breach has expired, the Board may terminate this Agreement by providing EVE with written notification of termination consistent with the dispute resolution provisions contained in Article XIII, Paragraph L of this Agreement. However, if EVE has substantially cured the issue within the time period provided, the contract shall remain in full force and effect. If the Parties do not agree upon whether a material breach of contract has in fact occurred, the Parties shall submit to a dispute resolution process as outlined in Article XIII, section L below before any action is taken by the Board to terminate the agreement.

**B. Termination by EVE for Cause.** This Agreement may be terminated by EVE if DCP defaults on payments to EVE or if the Board fails to give consideration to the recommendations of EVE regarding the operation of DCP. EVE will act in accordance with the dispute resolution provisions contained in Article XIII, Paragraph L of this Agreement. In the event of termination under this clause, EVE will endeavor to work with the Academy to transition services to a new provider in a manner that is minimally disruptive to the operation of the School, consistent with subparagraphs F and H below.

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

D. **Change in Law.** If any federal, state, or local law, regulation, or court decision has a material adverse impact on the ability of either party to carry out its obligations under this Agreement, then either party, upon written notice to the other, may request renegotiation of the Agreement. If the Parties are unable or unwilling to renegotiate the terms within ninety (90) days after said notice, the party requesting the renegotiation may terminate this Agreement on one hundred-twenty (120) days further written notice.

E. **Academy Site Closure.** In the event the Academy is required (i) to close an Academy site pursuant to a notice issued by the Michigan Department of Education under Section [507] [528] [561] of the Code, MCL [380.507][380.528][380.561]; or (ii) to undergo a reconstitution pursuant to Section [507][528][561] of the Code, MCL [380.507][380.528][380.561], and the Charter Contract, and such closure of a Academy site or reconstitution causes an amendment to or termination of this Agreement, the parties agree that this Agreement shall be amended or terminated to implement the Academy site closure or reconstitution, with no cost or penalty to the Academy, and EVE shall have no recourse against the Academy or the University Board for implementing such site closure or reconstitution.

F. **Effective Date of Termination.** In the event this Agreement is terminated by either party prior to the end of the term specified in Article III, absent unusual and compelling circumstances or pursuant to section C of this Article, the termination will not become effective until the end of the school year in which this Agreement was terminated.

G. **Rights to Property upon Termination.** Upon termination of this Agreement, anything purchased with state school aid funds (or other Academy funds) shall remain the exclusive property of the Academy. EVE shall have the right to reclaim any usable property or equipment (including, but not limited to, desks, computers, copying machines, fax machines, and telephones) that were purchased by EVE with EVE funds. Fixtures and building alterations or any kind are the sole property of the Academy.

H. **Transition.** The Academy Board and EVE agree to make all efforts necessary to remedy a breach of this Agreement in order to continue school operations until completion of the then-current school fiscal year. If a breach cannot be remedied, the Academy Board and EVE agree to work cooperatively to transition management and operations of the school without disrupting the school's operations. Upon termination or expiration of this Agreement or if this Agreement is terminated due to a Charter Contract revocation, reconstitution, termination or non-renewal, EVE shall, without additional charge (i) close the financial records on the then-current school fiscal year which includes, but is not limited to, the completion and submission of the annual financial audit, state and federal grant reporting and all other associated reporting within required timelines established by the appropriate local, state or federal authority; (ii) organize and prepare student records for transition to the new ESP, self-management or in the case of a school closure, transfer to a student's new school as designated by the student's parent / legal

guardian or to a person or entity authorized to hold such records; (iii) provide for the orderly transition of employee compensation and benefits to the new ESP or self-management without disruption to staffing, or in the case of school closure, final payment of all employee compensation, benefit and tax obligations related to services provided by the ESP to the Academy; (iv) organize and prepare the Academy's records, both electronic and hard-copy, for transition to the new ESP, self-management or dissolution; and (v) provide for the orderly transition to the new ESP, self-management or dissolution of all Academy-owned assets including, but not limited to, furniture, fixtures, equipment and real estate. This includes any keys, login information and passwords related to any Academy asset.

## ARTICLE IX:

### PROPRIETARY INFORMATION

A. **Copyright and Proprietary Information.** All instructional materials, training materials, curriculum, lesson plans, and any other materials developed by EVE, its employees, agents, or subcontractors, or by any individual working for or supervised by EVE, which (i) were directly developed and paid for by the Academy, or (ii) were developed by EVE at the direction of the Board using Academy funds, shall be considered "work made for hire" as such term defined in Section 101 of the Copyright Act, 17 U. S. Code, Section 101 and the Academy shall own all copyright and other proprietary rights to such instructional materials, training materials, curriculum, lesson plans, and any other materials. EVE reserves its right to restrict the Academy's proprietary rights over curriculum or educational materials previously developed or copyrighted by EVE.

B. **Required Disclosure.** EVE acknowledges that educational materials and teaching techniques utilized by the Academy are subject to disclosure under the Code and the Freedom of Information Act. The Academy shall be permitted to report any new teaching techniques or methods of significant revisions to known teaching techniques or methods to the Authorizer and to the Michigan Department of Education, which teaching techniques or methods may thereafter be made available to the public.

## ARTICLE X:

### INDEMNIFICATION

A. **Indemnification of EVE.** To the extent permitted by law and without waiving any governmental immunities, the Academy shall indemnify and hold EVE (which term for purposes of this Paragraph A, includes EVE's officers, directors, and employees) harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, employment of former employees, prior relationships with vendors and any noncompliance by the Academy with any agreements, covenants, warranties, or undertakings of the Academy contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of the Board contained in or made pursuant to this

Agreement. In addition, and to the extent permitted by law, the Academy shall reimburse EVE for any and all reasonable legal expenses and costs associated with the defense of any such claim, demand, or suit. The indemnification requirements of this Paragraph may be met by the purchase of insurance in a form and amounts acceptable to EVE.

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

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

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

**E. Indemnification for Negligence.** To the extent permitted by law and without waiving any governmental immunities, the Academy shall indemnify and hold harmless EVE, and EVE’s Owners, Board of Directors, partners, officers, employees, agents, and representatives, from any and all claims and liabilities which EVE may incur and which arise out of the negligence or intentional activity of the Academy’s directors, officers, employees, agents, or representatives. EVE shall indemnify and hold harmless the Academy, and the Academy’s Board, officers, employees, agents, and representatives, from any and all claims and liabilities which the Academy may incur and which arise out of the negligence or intentional activity of EVE’s owner, directors, officers, employees, agents, or representatives.

## ARTICLE XI:

### INSURANCE

A. **Insurance for the Academy.** The Academy shall secure and maintain such policies of insurance as required by the Contract. This coverage shall include the building and related capital facilities if they are the property of the Academy. The Academy shall maintain such insurance in amounts and on such terms as required by the provisions of the Charter Contract, including the indemnification of EVE required by this Agreement. The Academy shall, upon request, present evidence to EVE that it maintains the requisite insurance in compliance with the provisions of this paragraph. EVE shall comply with any information or reporting requirements applicable to the Academy under its policy with its insurer(s), to the extent practicable.

B. **Insurance for EVE.** EVE shall secure and maintain such policies of insurance as required by the Authorizer and the Charter Contract, with the Academy listed as additional insured. EVE shall maintain such insurance in amounts and on such terms as are reasonably acceptable to the Academy and as required by the provisions of the Charter Contract and the Michigan Universities Self-Insurance Corporation (“M.U.S.I.C.”). In the event the University or M.U.S.I.C. requests any change in coverage by ESPs, EVE agrees to comply with any change in the type of or amount of coverage, as requested, within thirty (30) days after notice of the insurance coverage change. The ESP’s insurance is separate from and in addition to the insurance the Academy Board is required to obtain under the Charter Contract.

C. **Policy Documents and Requirements.** EVE shall, upon request, present evidence to the Academy and Authorizer that it maintains the requisite insurance in compliance with the provisions of this paragraph. The Academy shall comply with any information or reporting requirements applicable to EVE under EVE’s policy with its insurer(s), to the extent practicable. Any policy of insurance maintained by EVE must include coverage for sexual molestation or abuse, must name the Academy as an additional insured, and shall not be changed, revoked, or modified absent thirty (30) days’ notice to the Academy and the Authorizer. In the event the Authorizer modifies the level, type, scope, or other aspects of such coverage, then EVE shall undertake like and similar modifications within thirty (30) days of being notified of such change.

D. **Workers’ Compensation Insurance.** Each party shall maintain workers’ compensation insurance when and as required by law, covering their respective employees.

## ARTICLE XII:

### COMPLIANCE WITH CHARTER CONTRACT

A. **Charter Contract.** EVE agrees to perform its duties and responsibilities under this ESP Agreement in a manner that is consistent with the Academy’s obligations under the Academy’s Contract issued by Central Michigan University Board of Trustees. The provisions

of the Academy's Contract shall supersede any competing or conflicting provisions contained in this ESP Agreement.

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

**B. Academy Board Due Diligence.** The Board hereby agrees to perform the necessary due diligence of EVE and provide all information to the Authorizer pursuant to the ESP Policies, if any.

**C. Academy Board Members.** All Academy Board members and their respective spouses and immediate family members hereby agree that they do not have any direct or indirect ownership, employment, contractual or management interest in EVE. The relationship between the Academy and EVE shall be consistent with the conflicts of interest and prohibited familial relationship provisions set forth in the Charter Contract and applicable law.

**D. ESP Agreement.** This Agreement is an arms-length, negotiated agreement between an informed Board and EVE. The Board shall not approve this Agreement until all Board members have been given the opportunity to review the Agreement with the Academy's legal counsel. Prior to the Board's approval of this Agreement, the Board shall obtain a legal opinion from its legal counsel, in the form provided in the ESP Policies. The Board shall only approve this Agreement with a formal vote at a public board meeting.

**E. Information Reporting.** EVE is hereby required to make information concerning the operation and management of the Academy, including, but not limited to, information in the Charter Contract, including all exhibits, attachments, and the like, available to the Academy as deemed necessary by the Board in order to enable the Academy to fully satisfy its obligations under the Charter Contract. EVE shall make information available to the Academy as deemed necessary by the Board in order to enable the Academy to fully satisfy its transparency reporting under the Charter Contract, and also at least the information that a school district is required to disclose under applicable law for the most recent fiscal year for which that information is available.

### **ARTICLE XIII:**

#### **MISCELLANEOUS**

**A. 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, explosion, war, act of God, sabotage, accident, or any other casualty or cause beyond either party's control, and which cannot be overcome by reasonable diligence and without unusual expense.

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

If to EVE:  
Earl Martin Phalen, CEO  
1001 Marina Drive Apt. #410  
Quincy, MA 02171

If to Academy:  
DCP - c/o Board President  
17175 Olympia,  
Redford Charter Twp, MI 48240

**And a copy to EVE's counsel:**

Nicole J. Scott, Esq.  
4919 Cooper Road  
#42634  
Blue Ash, OH 45242

**And a copy to Board's Attorney:**

George P. Butler, III  
Aimee R. Gibbs  
Dickinson Wright PLLC  
500 Woodward Ave, Suite 4000  
Detroit, Michigan 48226

C. **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.

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

E. **Entire Agreement.** This Agreement is the entire agreement between the Parties relating to the services provided and to the compensation for such services by the Parties. Any modification to this Agreement must be made in writing, approved by the Board and EVE, and signed by a duly authorized officer of each and must be done in a manner consistent with the Authorizer's ESP Policies.

F. **Amendments and Modifications.** The Board must submit any and all amendments or modifications of this Agreement to the Authorizer not less than 45 days prior to the Board's approval of such amendments or modifications. No amendment or modification of this Agreement shall be effective unless and until the Authorizer has notified the Academy in writing that it does not disapprove of the modification.

G. **Non-Waiver.** A failure of a party in exercising any right, power, or privilege under this Agreement shall not affect such right, power, or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies of the Parties under this Agreement are cumulative and not exclusive of any rights or remedies which either party may otherwise have.



H. **Assignment.** EVE may not assign this Agreement without the prior written approval of the Board and prior written notification to Authorizer. Any assignment must be done in a manner consistent with the Authorizer's ESP Policies.

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

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

K. **Compliance with Law.** The Parties agree to comply with all applicable laws and regulations in their performance of this Agreement.

L. **Dispute Resolution Procedure.** Any and all disputes between the Parties concerning any alleged breach of this Agreement or arising out of or relating to the interpretation of this Agreement or the Parties' performance of their respective obligations under this Agreement that are unable to be resolved through discussion and negotiation shall be resolved by arbitration. Such an arbitration procedure shall be the sole and exclusive remedy for such matters. The arbitrator shall be selected from a panel provided by and in accordance with the rules of the American Arbitration Association, and the arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the Parties and the arbitrator unanimously accept. A judgment on the award rendered by the arbitrator may be entered in any court having appropriate jurisdiction and shall be binding upon the Parties. Any such judgment shall require a cause opinion as to the final decision and shall be made available to the Authorizer upon request. The cost of arbitration, not including attorney fees, shall be paid by the losing party. It shall be in the discretion of the arbitrator to award reasonable attorney fees to the prevailing party, to be paid by the losing party, if awarded.

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

**ENTREPRENEURIAL VENTURES IN EDUCATION, INC.**

By: *Earl Martin Phalen*

Earl Martin. Phalen, CEO

Dated: 07/06/23

**Discovery Creative Pathways f/k/a Distinctive College Prep**

By: *Nicole Gaines*

Nicole Gaines, Board President

Dated: July 6, 2023

4882-1791-4217 v2 [74500-1]

Discovery Creative Pathways

Contract Amendment No. 3

# Tab 2

## 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**

Discovery Creative Pathways (“Academy”) is a charter school serving kindergarten through eighth grade students. The Academy is located in Detroit and aims to provide a quality education to all students. The Academy creates a positive, safe and nurturing environment for children. The core elements of our Academy are exceptional educators, rigorous instruction, stimulating enrichment, blended learning and fostering partnerships with families. We believe that with the right education, all children can fulfill their tremendous innate potential.

### **Mission**

The mission of Discovery Creative Pathways (“Academy”), an educational practice leader committed to social justice and the elevation of access and achievement in historically underserved communities, is to support each child in becoming an engaged and curious learner, a confident self-advocate, and a creative problem-solver by setting high expectations and nurturing a positive culture that honors diversity, collaboration, and optimism.

### **Vision**

The Academy’s ultimate vision is that our scholars master key academic skills and demonstrate strong character and values, including honesty, service to others, a superior work ethic and a strong vision for and belief in their futures. The Academy aims to ensure all children attending the Academy have access to a rigorous, personalized education, as well as opportunities that support their growth as individuals.

### **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 in putting Children First. We work to ensure that all interactions and decisions put our scholars first.
- We believe in Respect. We show it, and we expect it from others.
- We believe in continuous improvement. All students and staff should try to get better and better every day.
- We believe with superior effort, we can achieve all things.
- We believe in gratitude: demonstrating gratefulness for all that we have done and the opportunity to serve.

The Academy's educational program utilizes best practices in data-driven instruction and differentiated learning to deliver instruction in core subject curricula and to create a uniquely rigorous and personalized learning experience for every child. Scholar academic success is the Academy's primary focus. The core pillars of the Academy's evidence-based educational program include:

### **Highly effective, data-driven educators**

The Academy focuses on selecting and developing exceptional educators who are able to use assessment data to continuously improve the quality of instruction. New teachers and leaders are hired and are able to meet the Academy's standard of excellence through a very rigorous, multi-stage screening process that consists of an online application; phone interview; in-person interviews; observation of the candidate's classroom teaching; modeling of data-driven teaching; and completion of intensive pre-service professional development. The Academy ensures educators have the skills needed to deliver data-driven instruction through regular feedback from exceptional school leaders, mentoring from highly effective peers and coaches and ongoing professional development. In this way, the Academy places or supports the development of an effective and data-driven teacher in every classroom. Researchers have consistently found that a teacher's level of effectiveness and data competency have a direct influence on student achievement (Carlson, Borman, & Robinson, 2011) and the racial achievement gap in metropolitan districts (Hanushek et al. 2005).

### **Rigorous, frequent assessments**

Based on scope and sequence documents, teachers implement regular formative and benchmark assessments to evaluate student mastery of content in reading, writing and math. Assessments are designed to be both highly rigorous and to align to state standards. Academy teachers also gain a holistic look at children's progress through state assessments; Common Formative Assessments ("CFA") tied to state standards; Checking for Understanding ("CFU") exit tickets and quizzes that target specific standards; as well as diagnostic assessments and qualitative data (such as scholar, parent and teacher surveys). Consistent and rigorous evaluation of student performance is correlated with both higher quality instruction and higher academic achievement (Delisio, 2007; Peariso, 2006; Rothman, 2006). A study by Shanahan, Hyde, Mann, and Manrique (2005), conducted for students from an urban school district, found that combining standards-based curriculum guides with benchmark assessments was correlated with a statistically significant gain in student achievement.

### **Extensive differentiated, small-group, and standards-aligned instruction**

One of the unique core components of the Academy, beyond the regular assessments implemented, is the time scholars spend in small-group and one-to-one instruction. Consistently providing differentiated instruction that targets specific standards, based on the results of assessment data, has been one of the core reasons for the strong growth of Academy scholars. The impact of providing extensive differentiated instruction on elementary students' achievement is well-documented. In a study of third grade students receiving differentiated instruction, researchers found that these students increased scores on the state exam (Parsons, 2004; McAdamis, 2001). Beecher & Sweeney (2008) found that using differentiation with all students drastically reduced racial achievement gaps and improved attitudes about school.

### **Rigorous and aligned curricula**

The Academy utilizes cumulative, rigorous, standards-aligned and evidence-based academic curricula to push students to perform beyond the required expectations of the assigned grade level in the main subject areas of literacy and math. The Academy uses research-based, vertically-aligned curricula, such as HMH Into Reading<sup>®</sup> and Into Literature<sup>®</sup>, and Eureka Math<sup>2™</sup>, Mystery Science and Michigan Association of Intermediate School Administrators (“MAISA”) social studies, which have been developed by some of the nation’s leading researchers and have a proven track record of raising student achievement for all student populations (Educational Research Institute of America, 2009). Teachers utilize or develop customized pacing guides for English language arts (“ELA”) and math that align with the Michigan Academic Standards (“MAS”), and these plans guide the specific skills taught and the academic standards a child should master each week.

### **Enrichment experiences**

The extensive amount of experience within Academy staff has proven that children learn most effectively when engaged. Each day, scholars may take courses in art, music and physical fitness. In addition, scholars may also hear from inspirational guest speakers; participate in educational field trips to college campuses, professional workplaces, museums and cultural landmarks; and lead service projects to build connections to communities and the future. In an intensive, longitudinal study following students attending an urban elementary school (Beecher and Sweeny, 2008), researchers found that enrichment learning resulted in increased positive attitudes toward school, increased student engagement in learning and increased student performance on district and state assessments. Students also made significant gains on closing the achievement gap between ethnic and socioeconomic groups.

### **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 Academy recognizes the importance of family engagement on student achievement and has a proven process for engaging families. Some of the elements of this process include training teachers to effectively communicate with parents; creating a welcoming environment for families; holding regular meetings with parents where families and teachers dive in depth into a scholar’s academic and behavioral progress; and hosting fun events throughout the year that celebrate student progress. Research bears out the importance of parental involvement. When parents are involved, students have higher test scores, increased motivation and better attendance (Rose, Gallup, & Elam, 1997). Family participation is in fact twice as predictive of students’ academic success as family socioeconomic status (Walberg, 1984).

Evidence and research tell us that the educational program outlined above will ensure academic success for scholars at the Academy.

### **Curriculum**

Consistent with the Academy’s evidence-based and data-driven approach, curricula are selected through a rigorous vetting process that examines each curriculum’s evidence base and ease of use in differentiation. The Academy’s curricula aligns with the MAS, and these standards are followed in determining the subject area content and skills scholars should master for each grade level.

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 Positive Behavioral Intervention and Supports ("PBIS") framework. This proactive, team-based framework for creating and sustaining safe and effective schools helps prevent problem behavior, develop pro-social skills and use data-based problem solving for addressing existing behavior concerns.

The Academy believes in providing and ensuring high quality services to students of all populations in the following ways:

### **Serving Students of Color**

The Academy is one of the very few organizations dedicated to serving children of color whose senior leaders are primarily of leaders of color. The Academy's commitment guides the approach to staffing, in that there is a highly rigorous selection process for educators who understand the scholars' needs and who have a track record of improving outcomes for students of color. The Academy selects educators who have high expectations for all children, and the Academy model is built to help scholars value self-worth and elevate confidence. The Academy supports all children in achieving at high levels by utilizing mastery-based academic scaffolding; providing personalized and data-driven instruction; acknowledging scholars for demonstrating academic growth and not just absolute grades; and helping scholars prepare for postsecondary education from a young age. The Academy approach has been highly successful at raising the achievement of African American scholars.

### **Serving Economically Disadvantaged Students**

At the Academy, the vast majority (95%) of the children served come from low-income families. The Academy is dedicated to providing children in under-resourced communities with access to a high-quality education. Many students come to the Academy having previously attended under-resourced schools, and so may be performing multiple years below grade level. The Academy ensures students receive the care and support needed to overcome these challenges. The staff selection process focuses on ensuring that caring educators with a deep commitment to and a proven track record in helping raise the achievement of economically disadvantaged students are hired. A level of personalization is provided that children need, through data-driven small-group and one-to-one intervention, to catch up academically. Additionally, out-of-class learning opportunities are provided that help scholars envision successful futures, and form partnerships with local service providers to help children and families living in poverty overcome the challenges faced each day.

### **Serving Students with Disabilities and Special Education Students**

When making educational placement decisions for students with disabilities, the Academy will ensure that parents are contributing members of the Individualized Educational Program ("IEP") team, and together the team will make decisions that are subject to requirements regarding provision of the least-restrictive environment. When determining how services will be delivered to students with disabilities, the Academy will follow all Special Education Rules as issued by the Michigan Department of Education. If a child with a current IEP enrolls in the Academy, the Academy will implement the existing IEP to the extent possible or will provide an interim IEP

agreed upon by parents until a new IEP can be developed. IEPs will be developed, revised and implemented in accordance with the Individuals with Disabilities Education Improvement Act (“IDEIA”) and state law and regulations.

The Academy will fully comply with federal laws and regulations governing children with disabilities as follows:

1. The Academy is responsible for providing a free, appropriate public education to children with disabilities enrolled in the Academy that have been determined through an IEP to require Special Education programs and services.
2. The Academy will ensure that children who are suspected of having disabilities are properly evaluated by a multidisciplinary team, as defined in the Michigan Special Education Rules, and that children who have already been identified are re-evaluated by the multidisciplinary team at least every three years.
3. When a multidisciplinary team determines that a special education student requires Special Education programs and services, the Academy will ensure that the IEP is fully implemented in accordance with IDEIA and reviewed on an annual basis or more frequently as determined by the IEP team.

The Academy implements policies and procedures to ensure all students with disabilities and special education students are served as required by law. Additionally, built into the Academy’s model are several components that ensure all scholars’ needs are identified and met. These include (1) providing a Multi-Tiered System of Support (“MTSS”) system to identify the specific special education interventions needed by each scholar; (2) ensuring that general educators are participants in the development, review, implementation and revision of the IEP for each scholar with a disability; and (3) providing targeted professional development workshops that convey best practices for working with special scholar populations. In addition, the Academy provides a range of additional services to retain students from special populations at high rates that may include: (1) social-emotional instruction that targets key skills; (2) partnerships with local service agencies such as mental healthcare providers and specialized therapy providers; (3) utilizing a school-wide behavior management system that utilizes fair and consistent rules, aligned incentives and positive reinforcement to promote pro-social behavior; and (4) partnering effectively with parents to ensure a child’s specific needs are being met.

### **Serving Limited English Proficiency/English Language Learner (“ELL”) Students**

The Academy has a series of strategies in place for meeting the needs of ELL students, and ensures the Academy’s approach is appropriate according to Michigan standards. ELL scholars spend as much time in the mainstream classroom as possible, to ensure the greatest academic and social achievement for ELL students. Teachers are given extensive, ongoing professional development on how best to serve ELL scholars. ELL scholars are assessed using the WIDA™ standardized test to determine English capabilities. If it is determined the scholar meets the legal definition of ELL, then the scholar will have access to services designated for ELL students, including auxiliary texts, supplemental curricular tools and time with staff members specifically trained in best practices to serve ELL scholars. Special education staff or providers also consider the language needs of the child as those needs relate to the child’s IEP.



## Curriculum Flexibility

The Academy's curriculum is flexible to meet the needs of all learners (e.g., advanced, below grade level, special education and ELL). 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 Teams

The MTSS teams are organized, representative groups that collaborate and communicate to ensure that learners are provided with whole child support and coordinate and evaluate activities across the system. The teams create sustainable and engaging school climates to support successful implementation of the MTSS and learner achievement. (As referenced in the Michigan Department of Education's Practice Profile for Multi-Tiered Systems of Supports, Version 4.5.)

## Reading and Math Interventions

The Academy provides Reading and Math Interventions utilizing a variety of methodologies, strategies and programs.

- ***Small Group Instruction-Reading:*** Students are assessed and placed into small groups for specific, targeted systematic intervention instruction. These intervention lessons take place 5 days per week, for 30 minutes per lesson. Resource Programs utilized include Fountas and Pinnell's Leveled Literacy Intervention for middle school, mCLASS Burst for elementary and Direct Instruction Corrective Reading.
- ***Small Group- Pull-Out Instruction-Math:*** Students are pulled out or aside in the classroom into small groups for specific, targeted, small group instruction lessons based on the students' CFU and CFA data. These intervention lessons take place 2-3 days per week, for 15-30 minutes per lesson.
- ***Blended Learning:*** Academy students are engaged in a Blended Learning environment to actively and regularly participate in differentiated activities through on-line learning platforms. Students utilize the online learning programs for at least 30 minutes per week. Resource programs utilized include Edgenuity® and Reading A-Z (Raz Kids).
- ***Small Group Instruction-In Class:*** K-5 Academy classes have a designated daily workshop block when teachers conduct guided reading and math lessons for targeted small groups of students in class. Reading and Math Workshop blocks are at least 60 minutes, daily. Grades 6-8 Academy classes have a designated daily intervention block when teachers conduct intervention lessons and activities for targeted small groups of students in class. Reading and Math Intervention blocks are between 45-60 minutes, daily.

## **Tutoring Programs**

***After-School Tutoring:*** Classroom teachers and support staff offer specialized instruction to students in order to facilitate mastery of content standards. Instructional staff extend the content of the regular curriculum by providing after school tutoring opportunities for students. Edgenuity programs are incorporated for student enrichment and practice.

***In-School Tutoring:*** The Academy hires qualified Teacher Assistants and Teacher Interns who provide additional small group lessons and instruction both in the classroom as a push-in intervention support and pull-out small group lessons.

## **Assessments**

The Academy implements state-mandated standardized assessments, norm-referenced tests and computer adaptive assessments as required.

### **Summative Assessments**

Students are assessed utilizing the NWEA® MAP® Growth™ annually, in the fall and spring. Students in grades 3-8 take the ELA, mathematics and science assessments. Students in grades kindergarten-2 take the ELA and mathematics assessments. All 3rd-8th grade students take part in the state assessment program. Students in grades 3, 4, 6 and 7 complete the ELA and mathematics assessments and students in grades 5 and 8 will complete the ELA, mathematics, science and social studies assessments. Students identified as needing alternate state assessments take the MI-Access™ assessment. ELL students are given the WIDA™ Access for ELLs each winter.

### **Formative Assessments**

Classroom assessments are formative in nature and are used by teachers and administrators to determine student acquisition of knowledge. These assessments align with the overall instructional plan, and include program-based assessments and daily CFU assessments. Teachers utilize these assessments to determine reteaching and remediation necessities. The NWEA MAP Learning Continuum is used to identify skills for small group instruction.

### **Fountas and Pinnell Benchmark Assessment System (“BAS”)**

Benchmark screening takes place 3 times per year to identify students with needs and to compare results to targets. The Fountas & Pinnell BAS evaluates student reading and comprehension ability with reliable and robust universal screening that is aligned to the Leveled Literacy Intervention System, and determines each child's instructional level for guided reading.

### **Common Formative Assessments (“CFA”)**

CFAs are completed weekly in math and reading. Math CFAs are fluency and standards based. Reading CFAs include cold or fresh reads, paired reading, close reading and vocabulary. Both Reading and Math CFAs include constructed response questions or performance tasks.

Students with special needs are assessed utilizing a variety of specific assessments for occupational therapy, social work, speech and psychological screenings. Academics are assessed via the Brigance Assessment. Teachers are expected to identify formative assessments in lesson plans and conduct regular checks for understanding during instruction. Students are also taught how to use formative feedback to maximize their own learning:

- **Questioning:** Teachers are trained to use appropriately rigorous levels of questioning based on Bloom’s Taxonomy and Webb’s Depth of Knowledge to ascertain students’ content knowledge and conceptual understanding.
- **Observation:** Teachers are expected to document anecdotal evidence of student learning, especially through interactions during one-on-one conferencing and small-group instruction.
- **Adaptive software assessments:** Computer-based content offer built-in assessments that provide immediate feedback. This allows both students and teachers to determine mastery and pace instruction appropriately. Moreover, parents can monitor students’ learning and administrators can evaluate programs and teachers.

Assessment	Timeframe	Targeted students
NWEA MAP-Reading and Mathematics	Fall, Spring	Kindergarten-8th grade
NWEA MAP-Science	Fall, Winter, Spring	3rd-8th grade students
M-Step-ELA and Math	Spring	3rd-8th grade students
M-Step Science	Spring	3rd, 4th, 6th, and 7th grade students
M-Step Social Studies	Spring	5th and 8th grade students
MI-Access	Spring	Special Education Students with MI-Access on their IEP
WIDA Screener/Access	Winter	English Language Learners
mClass DIBELS	Fall, Winter, Spring	K-5
Fountas & Pinnell Benchmark Assessment Systems: Universal Screening - Collect, analyze and report data on individual and class literacy levels	Fall, Spring	6-8
Fountas and Pinnell Progress Monitoring - Determine the growth of students’ instructional and independent reading levels over time	Ongoing throughout the year	Tier II and Tier III/IV students
Classroom Program Assessments	Ongoing throughout the year; weekly	All students

Intervention Program Assessments	Ongoing throughout the year	Tier II and Tier III
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All of these layers of assessment help the Academy keep building on scholar growth, and ensure strong ongoing monitoring, tracking and adjustments throughout the year.

The Academy uses assessment data to enhance student achievement in the following ways:

First, on regular basis, student achievement data is aggregated and student learning trends are assessed. Grade-band Cluster teams use the results of assessment data to conduct formal “data-dives” and create concrete action plans for raising student achievement. Explicit training is provided to teachers and grade-level teams on how to properly administer assessments, collect data, analyze results and develop action and/or reteach plans. In these meetings, teachers and grade level teams carefully structure all lesson plans in core subjects to align to the MAS, as well as to provide a clear progression of skill based on scholars’ beginning of year testing scores. Scholars’ performance on the state assessment and on other diagnostic and summative assessments are then used during quarterly meetings to evaluate scholar growth.

Secondly, teachers utilize the results of assessment data during weekly grade-level planning meetings, where the data are disaggregated based on student groups, need and proficiency. During weekly planning sessions, Academy educators analyze assessment data to identify struggling students who need remediation or advanced students who need additional challenges; to design weekly lessons based on clear skills and objectives outlined by pacing guides in math and ELA; and to identify the best resources to use to meet student needs during the upcoming week.

On a daily basis, teachers use assessment data to ensure scholars receive multiple, personalized and data driven touch points. Within small group sessions, teachers are able to differentiate assignments by assigning specific standards to work on according to each scholar’s performance on assessments. Based on the results of interim assessments, for example, educators are able to categorize each scholar’s mastery of key skills and standards in core subjects as “green,” “yellow,” or “red,” which indicate a child’s level of academic need. Using data generated by these assessments, teachers are able to group scholars according to the color-coded “performance band” and provide curriculum-based, skill-building exercises that target specific standards and skill deficits. Scholars who have mastered standards are able to expand the breadth of knowledge through guided assignments in teacher-led small groups; rigorous assignments that tap into student interests during independent study; and higher grade-level materials that teachers provide for students to work on at home.

The Academy also knows that parents play a critical role in ensuring a child’s achievement. That is why parents are provided with regular communications summarizing their child’s performance on assessments. Additionally, newsletters and progress reports are sent home to families regularly and parents are encouraged to utilize the PBIS management system and student information system for on demand student academic and behavioral reports. Parents of scholars who are referred to MTSS are notified upon creation of the Scholar Action Plan and are updated as new interventions are implemented. In addition, families are engaged through monthly family events.

## **Transition**

To ensure incoming sixth grade students make a successful academic transition, Academy leaders and teachers implement activities and structures to address social, developmental and learning needs of young adolescents. Academy support staff provide comprehensive orientation programs for teachers, students and families, including older siblings, who strongly influence attitudes and perceptions of transitioning students. During professional development sessions and grade level meetings, the teaching staff becomes more knowledgeable about the needs and concerns of young adolescents in transition. The Academy leadership supports teachers' efforts to address transitioning students' social, developmental and academic needs. The goal is to create a climate that values students as well as helps students understand and cope successfully with the challenges of transition. To address gaps in reading, the Academy implements the Corrective Reading program to increase the reading decoding and comprehension skills of transitioning students. Additionally, the Academy institutes tutoring sessions, small group intervention sessions and sometimes one on one academic support in reading and mathematics. As the Academy fully implements and delivers the Educational Program and provides additional support services, learning gaps will diminish and the confidence of transition students will grow.

## **Educational Development Plans (“EDP”)**

Seventh graders are introduced to the software program Career Cruising (“CC”) in a workshop during the homeroom class period. Students take an interest inventory, pick two career pathways and list short- and long-term goals. The interest inventory called “Matchmaker” generates a potential career list. Students can then explore these careers using the extensive database in the program. All of this information is saved in a password protected electronic file called an EDP. Students can access their personal file at the Academy or at home using a computer, an internet connection and their personal login information. CC components that support the Michigan EDP include:

- A variety of online skill and interest assessments, including Career Matchmaker;
- Opportunities to search hundreds of careers of interest to students;
- An "electronic filing cabinet" in which to record work and volunteer experiences, awards and certificates;
- A vehicle to identify personal and career goals;
- A huge catalog of post-secondary education options, including the military, trade schools, community colleges and universities.

## **Program Evaluation**

The Academy utilizes several strategies to determine the effectiveness of the implementation, delivery and support of the Educational Program. As a part of the Phalen Leadership Academies (“PLA”) network, Academy teachers set goals that must be approved by the building leadership each fall. These goals are input into the PLA Coaching Cycle Platform. Goals include one academic scholar growth goal and one educator development goal connected to feedback from the PLA Coaching Cycle Domains. Each teacher has an announced, scheduled Mid-Year Evaluation, which includes a 30-45 minute classroom observation, and a Final Evaluation conducted near the end of the academic year and includes an unannounced 30-45 minute observation. Within a week of both observations post-observation conferences take place with the teacher and building leader. During this meeting it will be determined if goals were met. These steps are all documented in the Coaching Cycle Platform. Ongoing observation and coaching take

place throughout the year for all teachers utilizing the PLA Coaching Performance Level Indicators Rubric and Platform. Teachers are given a comprehensive score for each indicator, and are Tiered into 3 levels to determine frequency of coaching and observation support. Coaching conversations take place after each observation and bite-sized goals are developed together based on rubric indicators and goals.

Another mechanism used to gather information is surveys. The Academy administers surveys to staff, parents and students to collect perception data. Perception data may be used to inform curricular and instructional decisions, instituting changes or modifications to courses that serve to improve the academic needs of all students.

The Academy has a defined meeting rhythm that allows for not only efficient teamwork, but also for thoughtful deliberation over school programming and instruction. Daily Huddles take place with the leadership team members to identify the top priorities for the day. Weekly Tactical meetings with the PLA network allows leaders to identify top 2 metrics and quarterly priorities and to identify challenge areas and brainstorm solutions. Quarterly Step-Back meetings help to determine areas of improvement and steps to move forward. Annual Planning, School Improvement Team (“SIT”), PLC, PBIS, MTSS and Cluster Team Meeting minutes are used to evaluate the Educational Program and, when necessary, assist in designing programmatic revisions.

The program evaluation also focuses on three major goals, the desired outcomes, activities and indicators of success as identified in the Academy’s School Improvement Plan (“SIP”). The SIP is designed to improve the quality of teaching and learning in the Academy so greater numbers of students achieve proficiency in the core academic subjects. The SIP also provides a framework for analyzing problems and addressing instructional issues. The program goals, along with the planned interventions, activities and indicators for success (referenced in the Academy’s SIP) are considered ambitious but achievable.

In addition, the Academy examines assessment data (e.g., perform item analysis) as a tool to determine academic interventions and curricular changes. Staff reviews assessment data from NWEA MAP to decide where students have misconceptions, determine what each grade level needs to be prepared for the next grade level and prepare lessons and assessments to meet these identified areas.

Finally, the Academy takes part in the PLA Instructional Review Process. This review provides proactive academic support for the Academy, through a process that occurs at the beginning of each school year as well as the end of each school year and finalizes the School Quality Review (“SQR”). The Instructional Review is conducted by members of the National PLA Team and focuses on the six domains of the Academic Priorities for Success: Effective Leadership, Effective Instruction, Climate and Culture, Collaborative Staff, Curriculum, Assessments, and Interventions and Support Systems. The process includes a survey that is sent out to staff, leadership self-assessment, leadership interview, observations of all classrooms, discussion of alignment and next steps with school leaders and identification of SQR score.

Discovery Creative Pathways

Contract Amendment No. 3

# 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.

The Academy has adopted HMH Into Reading<sup>®</sup> for kindergarten through grade five and HMH Into Literature<sup>®</sup> for grades six through eight; Great Minds<sup>®</sup> Eureka Math<sup>2™</sup> mathematics; Mystery Science for kindergarten through fifth grades and FOSS<sup>™</sup> Next Generation science for grades six through eight; MAISA social studies; Michigan Model for Health<sup>™</sup> and Exemplary Physical Education Curriculum<sup>™</sup> (“EPEC<sup>™</sup>”). The curriculum for all core subjects has been received, reviewed and approved by the Center.

- HMH Into Reading/Literature <https://www.hmhco.com/ui/login/?state>
- Eureka Math<sup>2</sup> <https://greatminds.org/resources/login>
- Mystery Science <https://mysteryscience.com/>
- MAISA Social Studies <https://oaklandk12-public.rubiconatlas.org>
- Michigan Model for Health <https://www.michiganmodelforhealth.org/>
- EPEC <https://michiganfitness.org/activity/epec/>

### **Elementary**

The following subjects/courses are offered at the Academy.

Course	K	1	2	3	4	5	6	7	8
English Language Arts	X	X	X	X	X	X	X	X	X
Mathematics	X	X	X	X	X	X	X	X	X
Science	X	X	X	X	X	X	X	X	X
Social Studies	X	X	X	X	X	X	X	X	X
Health	X	X	X	X	X	X	X	X	X
Physical Education	X	X	X	X	X	X	X	X	X