

PUBLIC SCHOOL ACADEMY CONTRACT AND RELATED DOCUMENTS

BETWEEN

DETROIT PUBLIC SCHOOLS COMMUNITY DISTRICT

(The Authorizing Body)

AND

MICHIGAN EDUCATIONAL CHOICE CENTER

(A Public School Academy)

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DETROIT PUBLIC SCHOOLS
PUBLIC SCHOOL ACADEMY CONTRACT

This Public School Academy Contract made and entered as of **July 1, 2017** by and between the Detroit Public Schools Community District ("DPSCD"), a Michigan public school district and statutory body, and Michigan Educational Choice Center (the "PSA"), a Michigan non-profit corporation.

WHEREAS, DPSCD and the PSA are authorized to enter into this Contract for the purposes stated herein pursuant to Part 6A of Act No. 451, Public Acts of Michigan, 1976, as amended (the "Code"); and

WHEREAS, the PSA has been operating one public school academy at three sites since August 1, 2012 pursuant to a charter contract with the Education Achievement Authority that expires, June 30, 2017; and

WHEREAS the Board of Education has, by resolutions adopted at its meetings on March 14, 2017, and April 11, 2017, authorized the issuance of a Contract to the PSA and authorized the execution and delivery of this Contract by the undersigned officers of DPSCD and the performance of the terms hereof by such officers and by all other applicable officers, employees, agents and representatives of DPSCD; and

WHEREAS, the Board of Directors of the PSA has, by resolution adopted as of **June 15, 2017**, approved the form of this Contract and authorized the execution and delivery of this Contract by the undersigned officers of the PSA and the performance of the terms hereof by such officers and by all other applicable Directors, officers, employees, and agents of the PSA.

NOW, THEREFORE, DPSCD and the PSA agree as follows:

**ARTICLE I
DEFINITIONS**

1.01 *Certain Definitions.* In addition to the terms defined throughout this Contract, the following terms shall have the meanings provided below.

- (a) "Academy", "the Academy" or the "PSA" means Michigan Educational Choice Center.
- (b) "Academy Funds" means money, including, but not limited to, State School Aid, grants or donations, paid, due or belonging to the Academy.
- (c) "Authorizing Body" means DPSCD, or such successor as permitted under Michigan law.
- (d) "Board of Education" means the elected governing body of DPSCD.

- (e) “Catchment Area” means the area for the Academy facility as agreed to by the PSA and by DPSCD.
- (f) “Chief Financial Officer” means the Chief Financial Officer of DPSCD or the person holding the highest office of DPSCD with responsibility over financial affairs.
- (g) “Code” means the Michigan Revised School Code, as amended (including Public Act 451 of 1976, as amended, which is codified at Sections 380.1et seq. of the Michigan Compiled Laws.
- (h) “Contract” means this contractual agreement for the maintenance and operation of a Michigan public school academy and all documents incorporated herein by reference.
- (i) “Detroit Public Schools” or “DPSCD” means the Detroit Public Schools Community District, a Michigan school district established pursuant to the Code.
- (j) “Director of the DPSCD Office of Charter Schools” means the Director of the DPSCD Office of Charter Schools or the person holding office at DPSCD with responsibility over such matters
- (k) “Director(s)” means a person or persons who is or are members of the board of directors.
- (l) “DPSCD Designee” means the DPSCD Office of Charter Schools.
- (m) “ESEA” means the Education and Secondary Education Act Reauthorization of 2001 (Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002), which is also known as the No Child Left Behind Act of 2001.
- (n) “ESP” means the Educational Service Provider engaged by the Academy in accordance with the terms of Article IX of this Contract.
- (o) “ESP Requirements” means the Public School Academy Educational Service Providers Requirements prepared by DPSCD Office of Charter Schools.
- (p) “ESSA” means the Every Student Succeeds Act of 2015 (Pub. L. No. 1114-95 (December 10, 2015).
- (q) “PSA Board” means the board of directors of the PSA.
- (r) “Relative” means 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, domestic or same-sex partner.
- (s) “Resolution” means the resolutions of the Board of Education dated March 14, 2017, and April 11, 2017, the date it was approved by the Board of Education

which, for the purposes of this Contract, shall constitute an authorizing body resolution described in Part 6A of the Code.”

- (t) “State School Aid Act” means the State School Aid Act of 1979, Public Act 94 of 1979, as amended, which is codified at Sections 388.1601 to 388. 1896 of the Michigan Compiled Laws.
- (u) “State School Aid” means funds received pursuant to the State School Aid Act.
- (v) “Transparency Reporting” means all documents required to be obtained by the Board and provided to DPSCD pursuant to MCL 380.503 (6)(m).

- 1.02 *Statutory Definitions.* Statutory terms, used in this Contract, and defined in the Code, including Section 6A, shall have the same meaning in this Contract.
- 1.03 *Number and Gender.* The use of any gender in this Contract shall be deemed to be or include the other genders, including neuter, and the use of the singular shall be deemed to include the plural (and vice versa), wherever applicable.
- 1.04 All Exhibits to this Contract are incorporated into, and made part of, this Contract.
- 1.05 The Attachments to this Contract, including the Management Agreement, the Lease and staff contracts are not incorporated by reference and not made a part of this Contract. Attachments to this Contract are added as a matter of record keeping and to confirm their non-disapproval by DPSCD. The addition of the Attachments is not intended to make DPSCD a party to any of the contracts in the Attachments.
- 1.06 *Conflicting Contract Provisions.* In the event that there is a conflict between language contained in the provisions of this Contract, this Contract shall be interpreted as follows: (i) the Resolution shall control over any other conflicting language in the Contract; and (ii) this Contract shall control over any other conflicting language in the Attachments.

ARTICLE II LEGAL STATUS OF THE PUBLIC SCHOOL ACADEMY

- 2.01 *Governing Law.* The PSA is a Michigan public school academy, established pursuant to Sections 501 through 507 of the Code (MCL 380.501-.507) and shall be subject to the laws and regulations of the United States and the State of Michigan and the policies of DPSCD applicable to public school academies as they may be established from time to time, except to the extent exempted by law.
- 2.02 *Limitation on Actions to Performance of Governmental Functions.* The PSA shall act exclusively as a public school academy and shall not undertake any action inconsistent with its status as a public school academy under the Code, including, but not limited to, its authorization to receive State School Aid.

- 2.03 *Independent Status of the PSA.* The PSA is not a division or part of DPSCD, and nothing in this Contract shall be construed to create a partnership or joint venture between the parties or to waive any aspect of DPSCD's autonomy or powers.
- 2.04 *Relationship between the PSA and DPSCD.* The relationship between the PSA and DPSCD is based solely on the applicable Code provisions and the terms of this Contract.

ARTICLE III ORGANIZATIONAL STRUCTURE AND GOVERNANCE PLAN

- 3.01 *Non-Profit Status.* The PSA shall be organized and operated as a non-profit corporation organized under the Michigan Nonprofit Corporation Act, Act 162 of 1982 as amended, MCL 450.201, et seq. (the "Nonprofit Corporations Act").
- 3.02 *Method of Selection, Length of Term, and Number of Directors of the PSA Board.*
- (a) Method of Selection. The current Directors of the PSA Board are the individuals named on **Exhibit A**. In the event of a vacancy on the PSA Board, whether by resignation, removal or conclusion of a term, the PSA Board, within the earlier of thirty (30) days of such vacancy or two (2) business days after the next regularly scheduled PSA board meeting, shall present the names and credentials of at least two qualified persons for each vacancy to DPSCD, along with such additional forms, information and certificates required by DPSCD. DPSCD will consider any such candidates presented, along with others that DPSCD may recruit, but is not required to select any candidates presented by the PSA Board. Within thirty (30) days after the effective date of the vacancy (whether or not the PSA Board has presented any candidates, with the requisite documentation), DPSCD shall select someone to fill the vacancy. If DPSCD does not make a timely selection, the PSA Board may select one of the two persons presented to fill the vacancy subject to DPSCD further approval. A person selected to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the vacating member. In all cases, the PSA Board is required to satisfy any and all criminal background check requirements of DPSCD and/or the Code and to pay the costs related thereto.
 - (b) Length of Term. The term of each Director of the PSA Board shall be three (3) years. Directors continuing on the Board at time of the execution of this Contract will serve out their remaining terms, subject to their earlier removal, resignation, retirement or death.
 - (c) Removal. DPSCD may terminate the service of any Director at any time at its sole discretion. The PSA Board may remove a director upon a 2/3 vote of its members.
 - (d) Number of Directors. The number of Directors of the PSA Board shall (i) not be fewer than five (5) nor more than nine (9) as determined from time to time by the PSA Board with the consent of DPSCD and (ii) be an uneven number. All Directors

of the Academy Board shall be citizens of the United States and residents of Michigan.

- (e) Qualifications. To the extent possible, the Directors of the PSA Board shall include at least one representative of the parents of children attending the Academy. Directors of the PSA Board shall not include: (i) employees of the Academy or their Relatives; (ii) owners, directors, officers and employees of an ESP that contracts with the Academy or their Relatives; (iii) owners, directors, officers and employees of a company, or a person, who leases property to the Academy or their Relatives, unless the DPSCD Designee consents to such directorship and the lease was approved by a majority of the other Directors; or (iv) executive employees or board members of DPSCD or their Relatives.
- (f) Oath. All Directors of the PSA Board shall take and sign the constitutional oath of office, and shall cause a copy of such oath of office to be filed with the DPSCD Office of Charter Schools. No appointment shall be effective prior to the taking and signing of the oath of office.

- 3.03 *Articles of Incorporation*. Unless amended pursuant to this Contract, the articles of incorporation of the PSA as set forth in **Exhibit B** shall be the governing Articles of Incorporation of the PSA.
- 3.04 *Governance Structure*. The PSA shall be organized and administered under the direction of the PSA Board and pursuant to the governance structure of the PSA, as set forth in the bylaws, attached hereto as **Exhibit C**, incorporated herein by reference.
- 3.05 *DPSCD Approval for Assignments and Transfers*. The PSA may not transfer or assign its rights and responsibilities under this Contract, including by contract, the operation of the PSA, without the prior written approval of DPSCD and a written amendment of this Contract. 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.
- 3.06 *Conflicts of Interest*. All employees and officers of the PSA shall comply with the provisions of the Contracts of Public Servants with Public Entities Act, Act 317 of 1968, as amended, MCL 15.321, *et seq.* regarding conflicts of interest (the “Contracts of Public Servants with Public Entities Act”) and the Incompatibility of Public Offices Act, Act 566 of 1978, as amended MCL 15.181, *et seq.* regarding incompatible public offices (the “Incompatibility of Public Offices Act”). In addition, the PSA Board, by approval of this Contract, does hereby adopt the conflict of interest policy on **Exhibit D** attached hereto, which shall apply in all respects to any contract, purchase or obligation of the PSA board. Every ESP engaged by the PSA Board shall adopt the conflict of interest policy with respect to its services and actions on behalf of the PSA.

**ARTICLE IV
OPERATION OF THE PUBLIC SCHOOL ACADEMY**

- 4.01 *Nonsectarian and Non-Religious Operation.* To the extent disqualified under the State or Federal constitutions, the PSA shall not have any organizations or contractual affiliation with 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/her religious belief.
- 4.02 *Accounting Standards.* The PSA shall at all times comply with generally accepted public sector accounting principles applicable to Michigan public school academies as well as the requirements under Article XI of this Contract.
- 4.03 *Acquisition and Ownership of Property and Borrowing Limitations.* The PSA may, pursuant to Section 503(9) of the Code, acquire by purchase, gift devise, lease, sublease, or any other means as provided by law, hold and own in its own name, buildings and other property for school purposes, and interests therein, and other real and personal property necessary or convenient to fulfill its educational purposes and may incur debt as described in Section 504(a)(g) of the Code. The PSA may not levy taxes. Notwithstanding the foregoing, the PSA, only after obtaining the prior written consent of DPSCD, which consent may be withheld for any reason, may incur debt only as follows:
- (a) Short-term: As provided in Section 504a of the Code, the PSA may incur temporary debt in accordance with Section 1225 of the Code.
 - (b) Long-term: The PSA may enter into installment purchase contracts and related security agreements for any lawful purpose described in the Code and, after the second anniversary of this Contract, may issue bonds pursuant to section 1351a of the Code and in accordance with part VI of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the borrowing of money and issuance of bonds by a public school academy is not subject to section 1351a(4) or section 1351(2) to (4) No contract, mortgage, loan or other instrument of indebtedness entered into by the Academy and a third party shall in any way constitute an obligation, either general, special, or moral, of the State of Michigan or DPSCD. 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 DPSCD, shall ever be pledged for the payment of any Academy contract, mortgage, loan or other instrument of indebtedness.
 - (c) The Academy has no authority whatsoever to enter into any contract or other agreement that would financially obligate the State of Michigan or DPSCD, nor does the Academy have any authority whatsoever to make any representations to lenders or third parties that the State of Michigan or DPSCD in any way guarantee, are financially obligated, or are in any way responsible for any agreement, promissory note, contract, mortgage, loan or other instrument of indebtedness entered into by the Academy.

- (d) In no event shall the Academy enter into any financing prior to submitting the documentation related to that financing to DPSCD for review at least fifteen (15) days prior to the anticipated closing date of the financing.
- 4.04 *Contributions and Fundraising.* The PSA may solicit and receive contributions as permitted by law. No solicitation shall indicate that a contribution to the PSA is for the benefit of the Detroit Public Schools Community District.
- 4.05 *Matriculation Agreements.* The Academy may enter into one or more Matriculation Agreements, provided it receives the prior written approval of DPSCD for such agreement(s). Such agreement in which the Academy shall be the receiving/enrolling school shall be delivered to the DPSCD Office of Charter Schools and kept on file there. Until the Matriculation Agreement has been approved by the DPSCD Office of Charter Schools, the Academy is prohibited from granting an enrollment priority to any student pursuant to a Matriculation Agreement.
- 4.06 *Role of Parents and Guardians.* The PSA shall encourage the active participation of parents and guardians in the education of its student body. Parents and guardians may volunteer or be selected to serve on committees established by the PSA Board.
- 4.07 *DPSCD Approval of Condemnation.* In the event that the Academy desires to acquire property pursuant to the Uniform Condemnation Procedures Act, Act 87 of 1980, as amended, MCL 213.51 to 213.77, or other applicable statutes, it shall obtain express written permission for such acquisition from DPSCD. The Academy shall submit a written request to DPSCD describing the proposed acquisition and the purpose for which the Academy desires to acquire the property. Provided the PSA Board submits the written request DPSCD shall determine appropriate action and whether to give express written permission for the acquisition.
- 4.08 *Special Education Services.* The Academy shall ascertain the number and percentage of students with disabilities enrolled in the Academy and shall provide new or continuity of services to such students in accordance with applicable law.
- 4.09 *English Language Learners.* The Academy shall ascertain the number and percentage of English language learners enrolled in the Academy and shall provide new or continuity of appropriate services to such students in accordance with applicable law.
- 4.10 *Open Meetings.* The PSA Board shall conduct all of its regular board meetings in accordance with the Michigan Open Meetings Act, Act 267 of 1976, amended, MCL 15.261 to 15.275, (the “Open Meetings Act”) and shall conduct all regular meetings pertaining to the Academy at the Academy Facility. All special PSA Board meetings shall be held in the City of Detroit.
- 4.11 *Transportation.* The Academy shall transport pupils enrolled in grades K-8 who reside within the Academy’s Catchment Area and live more than .75 miles from the Academy Facility.

- 4.12 *Prohibition of Identified Family Relationships.* No person shall be a member of the PSA Board if he or she is: (i) an employee of the Academy or a Relative of an employee of the Academy; (ii) an owner, director, officer or employee of a management company that contracts with the Academy or a Relative of same; (iii) a Relative of a member of the PSA Board; (iv) an owner, director, officer or employee of a company, or a person, who leases property to the Academy or a Relative of same, unless the DPSCD Designee consents to such membership and the lease is approved by a majority of the other board members; or (v) an executive employee or board member of DPSCD or a Relative of same. Additionally, no Relative may occupy a direct supervisory position over another Relative. All Relatives providing services to the PSA Board shall be identified in writing by their respective organizations, by position and company, to the PSA Board and DPSCD and each organization providing services to the Academy shall certify its compliance with this Section. Likewise prohibitions against holding incompatible public office and against specified conflicts of interest set forth in the Contracts of Public Servants with Public Entities Act and Incompatibility of Public Offices Act, respectively, shall be scrupulously observed.
- 4.13 *Prohibition of Employment in More than One Full-time Position.* No individual shall be employed by or at the Academy in more than 1 full-time position in which he or she is compensated at a full time rate for each of those positions.

ARTICLE V CURRICULUM, INSTRUCTIONAL METHODS, AND PUPIL ASSESSMENT

- 5.01 *Curriculum.* The PSA's curriculum is attached hereto as **Exhibit E**.
- 5.02 *Benchmarks, Academic Assessments, and Indicators of Performance.* As required by Section 503(6)(a) of the Code, to the extent applicable, the PSA's students must be assessed using at least the Michigan Student Test of Educational Progress (M-STEP), Michigan Merit Exam (MME) and NWEA Measures of Academic Progress (MAP), or an assessment instrument developed under Section 1279g of the Code, the State School Aid Act or other similar law. Methods of pupil assessment are set forth in **Exhibit F**.
- 5.03 *Determining Educational Success of the PSA.* The PSA's educational success will be determined by evidence of the PSA's progress toward preparing students for college and careers, as measured by the educational goals set forth below and in **Exhibit G** of this Contract and such other goals as determined by the PSA and agreed to and approved by DPSCD in writing. The PSA will provide DPSCD with its annual educational goals and milestones by the date established by DPSCD for DPSCD's review and approval.

At a minimum, those goals shall be:

- (a) Students shall outperform DPSCD general admission pupils by 10% in proficiency on state math exams in each subgroup (for example, if the DPSCD general

admission pupils score 60% proficient, the academy scores must reflect 66% proficiency);

- (b) Students shall outperform DPSCD general admission pupils by 10% in proficiency on state reading exams in each subgroup;
- (c) Students shall outperform DPSCD general admission pupils by 10% in proficiency on state science exams in each subgroup.
- (d) Demonstrated improved pupil academic achievement for all groups of pupils.

DPSCD reserves the right to change these minimum goals to comply with new state and federal state requirements or educational industry or pedagogical standards with prior written notice to the Academy. The Educational Program is attached as **Exhibit H**.

5.04 *Reports to DPSCD.* The PSA shall provide the DPSCD Designee with copies of reports and assessments, at least semi-annually, regarding the educational outcomes achieved by pupils of the PSA showing, at a minimum, the attendance rates for the quarter and the results of any standardized test scores by grade occurring within the quarter, as well as any reports prepared by or for the PSA that evaluate or summarize the performance of the PSA's pupils or staff and such other information and reports requested by, and in a form and with such frequency acceptable to the Director of DPSCD Office of Charter Schools, including, but not limited to those documents listed in any Master Calendar of Reporting Requirements distributed by the DPSCD Office of Charter Schools.

ARTICLE VI GRADE LEVELS AND PUPIL ENROLLMENT

6.01 *Enrollment Capacity.* The PSA serves students in grades Kindergarten through 8th grade at each site.

6.02 *Enrollment of students will take place as follows:*

- (a) The PSA covenants and agrees to support DPSCD's intent to have all students in the Catchment Area attend the Academy if such is their desire, until that grade has reached its enrollment capacity. The Academy will be audited by the Authorizer to ensure its fidelity to this intent; enrollment shall be as outlined in Section 6.02(c).
- (b) The PSA shall comply with Section 380.503(6) of the Code and Section 388.1769 of the State Aid Act in advertising its presence and the fact that it is enrolling students and shall further advertise in the Catchment Area in a manner and form conspicuous to families and students that it is soliciting applications for enrollment from these families; the PSA shall submit evidence of its faithful adherence to this section to the DPSCD Designee.
- (c) The process for enrollment is as follows:

- (i) *Applications for Enrollment.* The PSA may consider applications for enrollment of any child between the ages of 5 and the maximum age allowed by law or the maximum grade permitted to the Academy, whichever is less, who resides within the geographic boundaries set by statute for a public school academy authorized by a school district.
- (ii) *Admission of Students.* The PSA shall enroll any student who meets the age and residency requirements and who submits a timely application for enrollment. The PSA may not discriminate in its admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, race, ethnicity, national origin, disability, gender, religion, or any other basis that would be illegal if used by a school district.
- (iii) *Enrollment When Applicants Exceed Capacity.* If the number of applicants for admission exceeds the capacity stated in this Contract for any grade, pupils shall be selected for attendance based on a random selection process, as required by Section 504(3) of the Code, except as provided below. The PSA must annually submit to the DPSCD Designee a copy of the procedures to be used to select students when applicants for enrollment exceed capacity.

The PSA must allow any pupil who was enrolled in the PSA in the immediately preceding school year to enroll in the PSA in the appropriate grade unless the appropriate grade is not offered at the PSA.

The PSA may give enrollment priority to the sibling(s) of a pupil enrolled at the PSA.

- (d) The PSA shall provide documentation to DPSCD annually sufficient to establish that the Academy has made a reasonable effort to advertise its enrollment efforts to all pupils and that the Academy's open enrollment period was for a duration of at least two weeks and permitted the enrollment of pupils by parents/guardians at times that include evenings and weekends.

6.03 *Tuition Prohibited.* The PSA shall not charge tuition. The PSA may impose fees and require payment of expenses for its activities where such fees and payments are not prohibited by law.

6.04 *Student Enrollment Count.* The PSA will maintain student enrollment count records in a manner that will enable it to provide an electronic file with student enrollment data.

6.05 *Student Identification.* The PSA will assign and use student identification numbers in administering state assessments and in meeting other state data reporting requirements. The PSA will follow procedures established by the State Board of Education and the Michigan Department of Education for issuance and record keeping of student identification numbers.

**ARTICLE VII
SCHOOL CALENDAR**

- 7.01 *Continuation of Operations.* The PSA shall continue operations promptly upon the approval of this Contract by MDE and shall perform school operations in accordance with the School Calendar and School Day Schedule, attached as **Exhibit I** hereto. For each subsequent year of this Contract, the PSA shall adopt a school calendar no later than April 1st of the prior school year, and shall submit that calendar to the DPSCD Designee no later than May 1st of that year.
- 7.02 *Fiscal Year.* The PSA fiscal year shall be July 1 – June 30 for each school year under this Contract.
- 7.03 *Length of School Day.* The length of the PSA school day for the first year of this Contract shall be 7 a.m. to 7 p.m.
- 7.04 *Common Calendar.* The PSA shall adhere to the Common Calendar established by Wayne RESA unless a waiver is obtained. If a waiver is obtained, the PSA shall cause such documentation to be filed with the DPSCD Office of Charter Schools within 10 days.

**ARTICLE VIII
PUBLIC SCHOOL ACADEMY STAFF**

- 8.01 *Authorization of Employment.* The PSA may employ or contract with personnel and companies for the operation of the PSA, to prescribe their duties, and to fix their compensation, as permitted by applicable law.
- 8.02 *Status as Employees.* All persons employed to work for the PSA, not including persons employed by an ESP pursuant to Article IX below or other authorized subcontractor, are deemed to be PSA employees. **Attachment 2** includes all PSA staff job descriptions. The PSA Board shall provide the DPSCD Designee with all contracts with PSA staff and any amended or additional contracts for employment at the PSA not more than ten (10) business days after such contract is executed. These contracts shall be kept on file with DPSCD Office of Charter Schools.
- 8.03 *Board Liaison.* If the Academy employs a Board liaison or contract administrator, it shall specify the role of such individual or entity in **Attachment 2**.
- 8.04 *Employment Qualifications.* Except as provided in Section 505 of the Code, the PSA shall employ, or contract with an ESP only as provided under Article IX which employs, classroom teachers, paraprofessionals and other personnel who meet the certification and other requirements under state and federal law. The PSA must annually provide DPSCD with documentation sufficient to demonstrate that it has complied with all applicable requirements and staff qualifications, including certifications of teachers, administrators, et al. This documentation must include copies of the applicable State certifications for each teacher, administrator and paraprofessional working at the PSA.

- 8.05 *Employee License or Certification.* The PSA shall assure that persons working in the PSA, including both instructional and non-instructional staff, meet any and all licensing and certification requirements imposed by applicable local, state or federal ordinance, statute, law or regulation. The PSA must annually provide documentation to demonstrate its compliance with all such requirements, including copies of all required licenses and certifications.
- 8.06 *Criminal Background and Unprofessional Conduct Checks.* The PSA will conduct criminal background and unprofessional conduct checks required by applicable law. The PSA will annually certify its compliance with the requirements of this Section, and, upon the request of DPSCD, provide copies of all background and unprofessional conduct checks performed, to the extent permitted by law.
- 8.07 *Total Compensation.* The Academy Board shall, upon request, report the total compensation of each individual working at the Academy.

ARTICLE IX MANAGEMENT CONTRACT

9.01 *Contract with Educational Service Provider.* The Academy has previously obtained DPSCD's review of and has placed on file with DPSCD its contractual agreement (the "Management Agreement") with its ESP and the written opinion of its counsel, addressed to DPSCD, that the Management Agreement complies with all applicable law and this contract "Legal Opinion"). The Management Agreement presented to DPSCD and not disapproved by DPSCD is attached in **Attachment 1**. The name of the Academy's ESP is: Phalen Leadership Academies.

9.02 Forty-five (45) days prior to the approval by the PSA Board of the execution of any new management agreement with a different ESP or any subsequent amendment to the Management Agreement, a copy of the execution version of the new management agreement with a different ESP or amendment to the Management Agreement shall be presented to the Director of Charter Schools for review. No new management agreement with an ESP or amendment to the Management Agreement shall be executed by or on behalf of the PSA Board, unless and until DPSCD has indicated in writing that it does not disapprove of such execution.

9.03 Every management agreement with an ESP by and between the SDA Board, the current ESP, Phalen Leadership Academies, or any new ESP, shall comply with the ESP Requirements which include, but are not limited to all of the following:

- a. In negotiating any Management Agreement, the PSA Board shall budget adequate resources to fulfill its Contract requirements, which may include, but are not limited to: oversight of the ESP, negotiation and fulfillment of the Contract and any amendments, PSA Board personnel expenditures, Academy insurance, annual financial audit, the PSA Board's legal counsel, consultants and any other such cost necessary for PSA Board operations.

- b. The PSA Board shall be responsible for determining the budget reserve included in the Academy's annual budget and any budget amendments. In addition, the PSA Board is responsible for implementing fiscal requirements that will assist the Academy in attaining the stated budget reserve amount(s).
- c. The Academy must never allow an ESP to have complete control over the Academy funds. The Academy must maintain control over the receipt and spending of all Academy Funds. Financial arrangements with ESPs, as described in the Management Agreement, shall be reviewed by DPSCD on a case by case basis. In the event such financial arrangements do not provide the Academy with sufficient control of Academy Funds, as such sufficient control shall be determined in the sole discretion of DPSCD, the Management Agreement containing such arrangements shall be subject to disapproval by DPSCD.
- d. At all times during the term of the Contract, any ESP engaged by the Academy maintains comprehensive general liability and umbrella insurance coverage at levels satisfactory to DPSCD, as set forth in the Contract. The insurance coverage required of the ESP shall not be in lieu of the insurance coverage requirements applicable to the Academy. Any policy of insurance maintained by the ESP must include coverage for sexual molestation or abuse, must name DPSCD as an additional, named insured, and shall not be changed, revoked or modified absent thirty (30) days' notice to DPSCD. The management agreement shall also specify that, in the event DPSCD modifies the level, type, scope or other aspects of such coverage, then the ESP shall undertake like and similar modifications within 30 days of being notified of such change.
- e. The Management Agreement shall provide that the ESP shall comply with the requirements under the Contract.
- f. No provision of the Management Agreement shall interfere with the PSA Board's duties under the Contract, and the Academy's duties under the Contract shall not be limited or rendered impossible by action or inaction of the ESP.
- g. No provision of the Management Agreement shall predetermine the PSA Board's course of action in choosing to assert or not assert governmental immunity.
- h. The Management Agreement shall state that all financial, educational, and student records pertaining to the Academy are subject to and shall be made available in accordance with the provisions of Michigan Freedom of Information Act, Act 442 of 1976, as amended. All such records must be stored, in physical form, on-site at the Academy's Facility or be directly accessible at the Academy Facility. 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 the Academy facility.

- i. The Management Agreement shall state that any equipment and supplies purchased with Academy Funds shall be Academy property.
- j. The Management Agreement shall state that all of the Academy's financial and other ESP-related records will be made available to the Academy's independent auditor and that the ESP staff will cooperate with said auditor, and that the ESP shall not select or retain the Academy's auditor.
- k. The Management Agreement must certify that there shall be no markup of costs for supplies, materials, or equipment procured by the ESP on the Academy's behalf and that all supplies, materials, and equipment procured for the Academy by the ESP shall be inventoried by an acceptable method of inventory and further that an inventory of Academy equipment shall be maintained so that it can be clearly established which property belongs to the Academy.
- l. The Management Agreement shall contain a provision that states upon its termination the ESP shall work for a specified period of time to transition to a new ESP, if any. There may be a reasonable fee set forth in the Management Agreement for this service.
- m. The Management Agreement shall contain a provision that states upon its termination the ESP shall, without charge (i) close the books on the then-current fiscal quarter; (ii) organize and prepare the Academy's records for transition; (iii) organize and prepare student records for transition to the new ESP if any; and (iv) provide for the orderly transition of employee compensation and benefits to the new ESP, if any, without disruption to staffing.
- n. The Management Agreement shall prohibit the ESP from executing contracts with its staff assigned to the Academy (including by way of example and not limitation, teachers administrators, counselors and the like) that contain non-compete agreements of any nature.
- o. The Management Agreement shall state that staff assigned to the Academy by the ESP shall be employees of the ESP and not employees of the Academy.
- p. The Management Agreement shall require the ESP to have a written conflict of interest policy and prohibit the ESP from executing contracts with any third party for services to be provided to or on behalf of the Academy where there is a conflict of interest.
- q. The Academy Board and the ESP may not amend any Management Agreement without complying with the requirements of Article IX of the Contract and the ESP Requirements. No amendment shall be contrary to the ESP Requirements and each shall be accompanied by a Legal Opinion. No Amendment shall be

effective until DPSCD notifies the Academy that it does not disapprove of such amendment.

- r. Every Management Agreement shall contain the following provision:

“Indemnification of DPSCD. In consideration for the grant of this Contract to the Academy, which is of material value to [the ESP], the parties hereby promise to indemnify and hold harmless DPSCD and its Board of Education (collectively and individually), officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of DPSCD, which arise out of or are in any manner connected with DPSCD’ approval of the Application, Board of Education’s consideration of or issuance of a Contract, the Academy’s preparation for and operation of a public school, or which are incurred as a result of the reliance by DPSCD and its Board of Education (collectively and individually), officers, employees, agents or representatives upon information supplied by the Academy or the Education Service Provider, or which arise out of the failure of the Academy to perform its obligations under the Contract issued to the Academy by Board of Education. [The ESP] expressly acknowledges and agrees that DPSCD and its Board of Education (collectively and individually), officers, employees, agents or representatives may commence legal action against [the ESP] to enforce its rights as set forth in this Agreement.”

- s. The Management Agreement shall require all ESP employees to undergo criminal background and unprofessional conduct checks required by the Sections 1230 and 1230a of the Code (MCL 380.1230 and MCL 380.1230a), or other similar future law.
- t. The Management Agreement shall contain a provision requiring the ESP to make information available to the Academy as deemed necessary by the PSA Board in order to enable the Academy to fully satisfy its Transparency Reporting under this Contract and also at least the information that a school district is required to be disclosed under MCLA 388.1618 for the most recent fiscal year for which that information is available and any other year for which such information is available as the PSA Board may request.
- u. The Management Agreement must provide that no ESP employee shall be designated as the “Chief Administrative Officer,” as that term is defined in Section 2b(3) of the Uniform Budgeting and Accounting Act, Act 2 of 1968, as amended, Act 2 of 1968, as amended MCLA 141.421 *et seq.*

- v. The Management Agreement must provide that the ESP shall notify the PSA Board if any principal or officer of the ESP, or the ESP (including any related organizations or organizations in which a principal or officer of the ESP 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.
- w. The Management Agreement must contain a provision providing for the early termination or amendment of the Management Agreement, with no cost or penalty to the Academy, and no recourse to DPSCD or any third party affiliated with or engaged by DPSCD, by the ESP or any subcontracted person or entity of the ESP, in the event DPSCD determines to exercise its prerogative under this Contract to require the termination or amendment of the Management Agreement.
- x. Each Management Agreement shall contain an acknowledgement by the ESP that DPSCD shall review any and all proposed management agreements, and no management agreement shall be effective until the Academy is notified in writing that DPSCD does not disapprove of such management agreement.
- y. The Management Agreement shall contain a covenant by the ESP that it shall do all things reasonably and professionally required to prevent the Academy finances from experiencing any operating or fund balance deficits and shall do all things reasonably and professionally required to keep the Academy solvent.
- z. The Management Agreement shall require the ESP to comply with Sections 1267 and 1274 of the Code and any other statute requiring competitive bidding by public school academies.

ARTICLE X ACADEMY FACILITY

- 10.01 *Locations of Operation.* The PSA shall operate multiple facilities at the following locations: Murphy Academy, 23901 Fenkell St., Detroit, MI 48223; Stewart Academy, 13120 Wildemere Street, 48238; and Trix Academy, 13700 Bringard Drive, 48205 (“Facilities”) and no others without the written consent of DPSCD.
- 10.02 *Description of the Academy Facilities.* The PSA represents that the description set forth in **Exhibit J** of this Contract is a current and accurate description of the Facility and site plan. Copies of the lease or other agreement under which the Academy enjoys occupancy of the Facility and any other documents required by DPSCD shall be submitted to DPSCD and attached to this Contract as Attachment 3.
- 10.03 *Right of Occupancy and Use.* **Exhibit K** hereto is a copy of the current occupancy and use licenses (i.e., occupancy permit) that confirms the PSA's right to occupy and use the physical plant for school purposes.

- 10.04 *Compliance with Applicable Law.* The PSA represents that the Facility complies with all applicable building, fire and safety, and zoning codes for school use. **Exhibit L** hereto includes copies of all required state and/or local Office of Fire Safety inspections of the physical plant as a school for children in the grades permitted under this Contract.
- 10.05 *Notice of Material Changes.* The PSA will notify the DPSCD Designee not more than five (5) business days following any material changes in the availability or condition of the physical plant, such as through flood, fire, or other unanticipated circumstance. The PSA will notify the DPSCD Designee not more than five (5) business days following any allegation that the PSA or the lessor has breached any lease agreement concerning the physical plant.
- 10.06 The lease, ownership or control of the Academy Facility by the ESP, or any company affiliated with the ESP, is strictly prohibited.

ARTICLE XI BUDGET, FINANCIAL PLANS, AND AUDITS

- 11.01 *Fiscal Agent.* Pursuant to Section 507 of the Code, DPSCD is the fiscal agent of the State of Michigan for the PSA. As fiscal agent, DPSCD assumes no responsibility for the financial condition of the Academy. In accordance with the provisions of the State School Aid Act, DPSCD shall forward to the PSA all State School Aid funds received by DPSCD for the benefit of the PSA, provided there has been no material breach of this Contract; and further provided that DPSCD has not been directed by the Michigan Department of Education to withhold payment of any State School Aid to the PSA, and subject also to any contractual right DPSCD may have to withhold a portion of any State School Aid as payment for rent or fees for any services provided to the Academy by DPSCD.
- 11.02 *Annual Audit.* The PSA shall conduct an annual audit by an independent certified public accountant in accordance with generally accepted governmental accounting principles and in accordance with laws and regulations applicable to public schools and public school academies in Michigan. The PSA shall transmit a copy of the audit and any management letter to DPSCD concurrently with the PSA's filing of such audit to the Michigan Department of Education.
- 11.03 *Budget and Accounting.* The PSA shall establish an annual budget in accordance with the requirements of applicable law. The PSA shall record all liabilities and loans in excess of \$3,000, individually or in the aggregate, in the fiscal year to which the liability relates.
- 11.04 *Inspection and Review.* The PSA shall permit inspection of its records and/or review of its fiscal operations at any time during normal business hours by DPSCD or others as may be designated.
- 11.05 *Insurance.* The PSA shall maintain insurance policies as described below:

- (a) The insurance must be obtained from a mutual, stock, or other responsible company licensed to do business in the State of Michigan. The PSA may join with other public school academies to obtain insurance if the PSA finds that such an association would provide economic advantages to the PSA.
- (b) During the term of this Contract, the PSA shall maintain insurance coverage as follows:

POLICY TYPE	MINIMUM REQUIREMENTS COVERAGE
<p><i>Commercial Property Policy</i> This shall be an all risk policy covering real and personal property of the PSA both on premises and in transit. Replacement cost coverage is preferred but shall in no circumstances be less than actual cash value based.</p>	<p>At least actual cash value of the PSA's real and personal property on premises and in transit.</p>
<p><i>Comprehensive General Liability</i> This shall include, but not be limited to, personal injury and property damage for premises and operations product liability, fire legal liability, non-owned automobile and contractual liability. The Detroit Public Schools must be named as an additional insured with a minimum 30-day notice of cancellation provision.</p>	<p>\$1,000,000</p>
<p><i>Automobile Liability/Statutory No-Fault</i> This coverage must be provided on all licensed vehicles owned, leased, or rented by the PSA.</p>	<p>\$500,000</p>
<p><i>Umbrella Excess Liability</i> This coverage must provide a minimum of follow form excess liability coverage.</p>	<p>\$2,000,000</p>
<p><i>Workers Compensation</i> Statutory benefits for the State of Michigan. This coverage must provide wage and medical benefits of work-related injuries and employer's liability coverage.</p>	<p>As required by Michigan law Employer's Liability coverages of \$500,000</p>
<p><i>Employee Fidelity Bond or Equivalent</i> This policy must include, but not be limited to, employee theft, forgery, burglary, and robbery both on and off premises.</p>	<p>\$250,000/\$500,000</p>
<p><i>PSA Board Directors Liability</i> This policy should cover the PSA Board, executive staff, and employees for "wrongful acts" errors or omissions not typically covered by general liability</p>	<p>\$1,000,000 (Suggested but not required)</p>

policies.	
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- (c) Insurance certificates documenting the purchase of the required insurance are attached as **Exhibit M**. Updated insurance certificates shall be provided to DPSCD, as soon as possible and in any event no later than within seven (7) days of the expiration or replacement of such insurance policies.
- (d) The PSA shall name DPSCD as an additional insured on each insurance policy that permits it.

11.06 *Indemnification*. The PSA agrees to indemnify, hold harmless and defend DPSCD and DPSCD’ officers, employees, agents, attorneys and those acting on behalf of their officers, employees, attorneys and agents from any and all claims, actions, expenses, damages, and liabilities, including costs and attorney’s fees for the defense of any of them, incurred as a result of or in connection with issuing or performance under this Contract, including but not limited to claims arising out of, connected with, or resulting from the following:

- (a) The negligence, intentional wrongful act, misconduct or culpability of the PSA’s officers, employees, management company, management company staff, contractors, lessors, or other agents in connection with and arising directly or incidentally from the operations of the PSA;
- (b) The PSA’s material breach of this Contract or any law, regulation, or ordinance;
- (c) Any failure by the PSA to pay employees, suppliers, lenders, creditors, or other contractors;
- (d) The hiring, supervision, or discipline of any officer, employee, or agent of the PSA or the management company;
- (e) The obligations of the PSA under State or Federal law;
- (f) Damages to any person or property in and around the PSA’s premises; and
- (g) The infringement of patent or other proprietary rights in any material, process, machine, or appliance used in the operation of the PSA.

11.07 *Terms of Insurance and Indemnification*. The PSA agrees that the insurance described in Section 11.05 and the duty to indemnify described in Section 11.06 shall continue in force and effect notwithstanding the expiration of this contract or any renewal term.

11.08 *Notice of Claims*. The PSA and DPSCD will make a good faith effort to advise the other of any actual or potential claims subject to the indemnification provision in Section 11.06 above, but failure to do so shall not invalidate the indemnification provision. Neither the PSA nor DPSCD shall settle or compromise any claim or suit subject to the indemnification provision without notice to the other.

**ARTICLE XII
COMPLIANCE WITH LAW**

- 12.01 *Generally.* The PSA shall comply with the Constitution of the State of Michigan; all federal and state laws and constitutional provisions that prohibit discrimination, including, but not limited to, on the following bases: age, disability, race, color gender, national origin, religion, sexual orientation or ancestry, and the regulations adopted pursuant to those laws; the Code, the state statutes specified in Section 503(7) of the Code, and the State School Aid Act and the rules and guidelines adopted pursuant to those statutes; and any other federal, state or municipal law applicable to public bodies, public school academies, or school districts, and shall ensure that all PSA directors, officers, management company, contractors, teachers, administrators, staff, parents, and pupils are advised of and agree to comply with all relevant provisions of the Code.
- 12.02 *Specific Assurances.* The PSA specifically acknowledges its obligations to abide by each of the following, including implementing rules and regulations, as they may be amended from time to time:
- (a) The nondiscrimination requirements applicable to recipients of federal funds in Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972;
 - (b) Title VII of the Civil Rights Act of 1964;
 - (c) The Family and Medical Leave Act of 1993;
 - (d) The Age Discrimination Act of 1975 and the Age Discrimination in Employment Act of 1967;
 - (e) The Individuals with Disabilities Education Act of 1990;
 - (f) Title II of the Americans with Disabilities Education Act of 1990;
 - (g) Section 504 of the Rehabilitation Act of 1973;
 - (h) The State School Aid Act;
 - (i) Section 1751 of the Code regarding special education programs and services;
 - (j) The ESEA and its implementing regulations (incl. EDGAR);
 - (k) The ESSA and its implementing regulations;
 - (l) The Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g;
 - (m) 1947 PA 336;

- (n) 1965 PA 166; and
 - (o) the Code.
- 12.03 *Open Meetings Act.* Pursuant to Section 503(7)(a) of the Code, the PSA Board shall conduct all of its meetings in accordance with the Open Meetings Act.
- 12.04 *Freedom of Information Act.* Pursuant to Section 503(7)(b) of the Code, the records of the PSA shall be records subject to the provisions of the Michigan Freedom of Information Act, Act No. 442 of the Public Acts of 1976, being Sections 15.231 to 15.246 of the Michigan Compiled laws. The PSA shall ensure that any ESP engaged by it agrees that such management company's records, as they relate to the PSA, shall also be subject to the Freedom of Information Act and shall be maintained on the premises of the PSA.
- 12.05 *Competitive Bidding.* The PSA shall comply with Sections 1267 and 1274 of the Code and any other statute requiring competitive bidding by public school academies. The PSA shall ensure that any ESP it engages complies with all competitive bidding requirements imposed on public school academies districts for purchases of items on behalf of or for use at the PSA. The PSA shall maintain all records of competitive bidding for at least two years and provide DPSCD with copies of any such records upon request.
- 12.06 *Other Statutes Specified in Section 503(7).* The PSA shall comply with the requirements of the other state statutes listed in Section 503(7), including, but not limited to Sections 1134, 1135, 1146, 1153, 1263(3) of the Code.
- 12.07 *Notice of Judicial or Administrative Proceedings.* The PSA shall notify DPSCD's legal counsel within five (5) business days of being named as a party in any court proceeding or arbitration or as the subject of any administrative enforcement proceeding alleging any of violation of law arising from the operation of the PSA.
- 12.08 *Transparency Reporting.* The Academy shall collect, maintain, and make information concerning its operation and management available to the public and as is required by state law for a public school district, including at least the following:
- (a) A copy of this Contract and all exhibits, attachments, schedules and amendments;
 - (b) A list of all currently serving members of the PSA Board, including their names, addresses, and terms of office;
 - (c) Copies of all policies approved by the PSA Board;
 - (d) All board materials, agendas, formal resolutions and minutes (excluding minutes kept of closed sessions maintained according to the Open Meetings Act) of all regular and special meetings of the PSA Board;
 - (e) A copy of the budget, and any amendments thereto, approved by the PSA Board;

- (f) Copies of all bills paid for amounts of \$10,000.00 or more in the form that they are submitted to the PSA Board;
- (g) Quarterly financial reports submitted to the DPSCD Designee;
- (h) A current list of all teachers and school administrators working at the Academy, including their individual salaries (as submitted to the registry of educational personnel), copies of their teaching or school administrator's certificates or permits (as applicable), evidence of compliance with the criminal background and unprofessional conduct checks required by the Code;
- (i) Copies of all leases for facilities and equipment used at the Academy;
- (j) Copies of all deeds relating to real property owned by the Academy;
- (k) Copies of all management or service contracts approved by the PSA Board;
- (l) All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspections, boiler inspection and food service;
- (m) Any management letters issued as part of the Academy's annual audit;
- (n) Within 20 days after the board or board of directors is informed by the department of the accreditation status of its schools for the purposes of Section 1280 of the Code for the most recent school year for which it is available, post a notice of the accreditation status of each school it operates on the homepage of its website; and
- (o) All other information required by applicable law. For purposes of this Section of this Agreement, availability to the public shall mean that, unless required to be posted on the Academy's website or elsewhere by applicable law, the Academy shall post all documents required by this Section in the locations recommended by that certain memorandum of the Michigan Department of Education to Public School Academies dated February 29, 2012, as updated and attached hereto as **Exhibit N**.

12.09 *Maintenance of Records.* The PSA shall maintain all documents and records to the extent and for the duration required by applicable law.

12.10 *Facility Signage.* The PSA shall conspicuously display signage at the Academy facility and on all letterhead stating that the PSA is authorized by DPSCD. The wording upon such signage and letterhead shall read: "A Detroit Public Schools Community District-authorized charter school."

12.11 *Certified Staff.* The Academy shall use only certified staff, including teachers, business officials and administrators, unless permitted to use staff without certifications, and then only in accordance with applicable law.

- 12.12 *Reports to MDE.* The Academy shall submit timely any and all reports required to be submitted to the Michigan Department of Education, including, but not limited to, reports relating to online or distance learning.

ARTICLE XIII OVERSIGHT OF THE PUBLIC SCHOOL ACADEMY

- 13.01 *PSA Responsibilities.* The PSA and any ESP engaged pursuant to Section 9.03 must provide to DPSCD, in the manner and pursuant to the timing specified by DPSCD, any and all documentation necessary to demonstrate the PSA's compliance with the terms of the Contract and all applicable State and Federal law, including, but not limited to, the documentation specifically required in this Contract, as well as any additional documentation that DPSCD may hereafter in its sole discretion deem necessary for DPSCD to perform its statutory oversight duties.
- 13.02 *DPSCD Responsibilities.* DPSCD shall take such actions as it deems necessary to provide the oversight required of an authorizing body or fiscal agent under the Code. DPSCD may, at its discretion, periodically conduct a review of the records and/or operations of the PSA to determine compliance with all applicable regulations, terms and conditions of this Contract, the Code, and any other applicable laws, and regulations. Such actions may, but are not required to include one or more of the following: a probationary period and a corresponding corrective action plan, acceptable to DPSCD, the establishment of an Academy Dissolution Account as described and referenced in Section 14.07, and/or requirements for additional or more detailed or more frequent reports from the Academy. DPSCD may, at its discretion, designate agents or employees to enter the premises of the PSA during normal business hours or other agreed upon time, on a scheduled or unscheduled basis, to determine whether the PSA is operating in compliance with law and the terms of this Contract. The PSA agrees to cooperate with, and shall ensure that any ESP, contractors, agents or employees working at or for the PSA shall cooperate with the DPSCD in carrying out its responsibilities as an authorizing body or in furtherance of its rights under this Contract or applicable law.
- 13.03 *Administrative Fee.* The PSA agrees that DPSCD may deduct an annual oversight and auditing expense of three percent (3%) of the per-pupil allocation funds that the PSA is entitled to receive pursuant to the State School Aid Act of 1976, as amended.

ARTICLE XIV TERM, MODIFICATION, AND TERMINATION/REVOCAION OF THE CONTRACT

- 14.01 *Term and Issue of a New Contract.* This Contract is effective as of the date first written above and will terminate on **June 30, 2018**, unless terminated earlier as provided herein. DPSCD may issue a new contract to the PSA for an additional period of time, as agreed between the parties, by mutual written agreement of DPSCD and the PSA, following an assessment of the Academy's progress in meeting the objectives of its academic program and educational goals, including those standards set forth in Section 5.03 of this Contract.

The PSA must provide a written request for a new contract no later than September 30th of the final year of this Contract. DPSCD shall, in its sole discretion, determine whether a new contract will be granted. DPSCD reserves the right to not to consider the issuance of or issue a new contract for any reason or for no reason. The most important factors that DPSCD will consider when making its renewal decision will be (a) increases in academic achievement for all groups of pupils as measured by assessments and other objective criteria, (b) a record of timely annual compliance with DPSCD, state and federal reporting requirements, (c) financial stability and viability, (d) facilities satisfactory to the DPSCD Office of Charter Schools, and (e) enrollment sufficient to sustain a quality program, as determined by DPSCD in its sole reasonable discretion. DPSCD reserves the right to change its process and standards for the issuance of a contract at any time and such changes shall take effect without the need for an amendment to this Contract.

- 14.02 *Amendments.* This Contract may only be amended by the express written and duly authorized agreement of DPSCD and the PSA.
- 14.03 *Termination by Agreement of Parties.* At any time and upon the approval of the PSA Board and the Director of Charter Schools, the parties may agree in writing to terminate this Contract prior to the date of termination specified in Section 14.01 above.
- 14.04 *Grounds for Termination or Revocation.* DPSCD may terminate or revoke this Contract upon a determination, pursuant to the procedures set forth in Section 14.05 below, that one or more of the following has occurred:
- (a) Failure of the PSA to abide by and meet the educational goals set forth in this Contract; including the requirements of Article VI, Section 5.03, including failure to demonstrate improved pupil academic achievement for all groups of pupils;
 - (b) Failure of the PSA to comply with all applicable law;
 - (c) Failure of the PSA to meet generally accepted public sector accounting principles or demonstrate sound fiscal stewardship;
 - (d) Insolvency or bankruptcy of the PSA or the failure of the PSA to pay its debts as they become due;
 - (e) Insufficiency of the PSA's enrollment to support the PSA's successful operation;
 - (f) Any material changes in state funding for the PSA such that, in DPSCD's sole discretion, continuation of the PSA's operation would be infeasible, uneconomical, or impractical;
 - (g) The PSA's default in the payment of fees under any other agreement or contract for services provided to the PSA, which default remains uncured for a period of thirty (30) business days;
 - (h) Failure of the PSA to cure a material breach of this Contract;

- (i) Provision by the PSA of false or inaccurate information on the Application, this Contract, or other materials submitted to DPSCD;
- (j) Refusal by the PSA to provide information and documents required under this Contract or to provide access to the PSA facility, documents or records;
- (k) Any academic reason deemed appropriate by DPSCD, in its sole discretion, including placement on the Michigan Department of Education's persistently low achieving list and operation in its second year of restructuring as provided in MCLA 380.1280c; and
- (l) Any other reason permitted by law.

14.05 *Procedures for Termination or Revocation.* DPSCD shall not revoke this Contract unless all of the following procedures have been followed:

- (a) Notice of Charges. The Director of DPSCD Office of Charter Schools shall advise the PSA Board in writing of a preliminary review by a DPSCD Designee that grounds for revocation may exist.
 - (i) The notice shall provide the names and addresses of individuals charging the PSA with failure to comply with this Contract and shall set forth the alleged grounds in sufficient detail for the PSA to respond.
 - (ii) The PSA shall have ten (10) business days to respond in writing to the Director of DPSCD Office of Charter Schools specifically addressing the charges set forth in the notice.
- (b) Investigating of Charges and Report. The Director of DPSCD Office of Charter Schools shall conduct an investigation to determine whether grounds for revocation or termination of the Contract exist. A final report with recommendation for termination or revocation, if applicable, will be filed with the Board of Education or its Designee and delivered to the PSA.
- (c) Decision by the Board of Education or its Designee. After receiving the report of the Director of DPSCD Office of Charter Schools, DPSCD or its Designee shall determine whether the Contract shall be revoked or terminated and shall provide written notification of his/her decision to the PSA.

14.06 Authority and Finality of DPSCD' Decisions. A decision by DPSCD to terminate, revoke or not to renew this Contract is solely within DPSCD's discretion and is final. DPSCD's termination, revocation or decision not to renew this Contract is not subject to review by a court or any state agency. DPSCD is not liable to any party for its action in terminating, revoking or not renewing this Contract to the PSA, a pupil of the PSA, the parent or guardian of any pupil of the PSA, or any other person, including any ESP, contractor or agent of the PSA.

14.07 PSA's Responsibilities upon Termination, Revocation or Non-Renewal.

- (d) If the Contract is terminated, revoked or not renewed, the PSA shall be solely responsible for any and all debts, loans, and obligations incurred at any time by the PSA in connection with the operation of the PSA. In the event of a termination, revocation or non-renewal, within thirty (30) days of notice of such termination, revocation or non-renewal, the Academy shall deposit into a separate Academy account (the “Academy Dissolution Account”) the sum of Ten Thousand Dollars (\$10,000) per month, for total not to exceed Thirty Thousand Dollars (\$30,000), to be used exclusively for the costs associated with the wind-up and dissolution responsibilities of the Academy. If the Academy has any state aid payments scheduled to be received after notice of termination, revocation or non-renewal, the Academy immediately shall provide DPSCD, in the form and manner determined by the DPSCD, with such account detail information and authorization to enable DPSCD to direct such funds to the Academy Dissolution Account. In the event that the Academy fails to establish the required account, DPSCD, as fiscal agent, is hereby authorized to establish an Academy Dissolution Account out of any remaining Academy state aid in its possession or to be received on behalf of the Academy, to satisfy the provisions of this section.
- (e) As required by Section 1618b of the State School Aid Act, if this Contract is terminated, revoked or not renewed, or if the PSA has been otherwise ineligible to receive state school aid funds for a period of at least three (3) consecutive months, the PSA must transfer to the State all property that was substantially acquired using state school aid funds.
 - (i) Property required to be transferred includes title to all real and personal property, interests in real or personal property, and other assets owned by the PSA that were substantially acquired through state school aid funds.
 - (ii) Transfer of property as required by Section 1618b of the State School Aid Act does not impose any liability on the State of Michigan, any State agency, or DPSCD for any debt incurred by the PSA.

14.08 *Final Obligations.* Termination, revocation or non-renewal of this Contract shall not relieve the PSA from any of its duties to prepare a final audit or comply with any statute, law or applicable regulation.

14.09 *Notification by State.* If the Academy is notified by the State that the Academy will be placed in the State School Reform/ Redesign School District pursuant to Section 1280c of the Code, then the Authorizing Body may terminate this Contract at the end of the current school year.

14.10 *Notification by Superintendent of Public Instruction.* If DPSCD is notified by the Superintendent of Public Instruction that the Academy is subject to closure under Part 6a of the Code (“State’s Automatic Closure Notice”), then this Contract shall automatically terminate at the end of the current school year in which the notice is received without any further action of DPSCD or the Academy. Following receipt of the State’s Automatic Closure Notice, DPSCD

shall forward a copy of the State's Automatic Closure Notice to the PSA Board and request a meeting with PSA Board representatives to discuss the Academy's plans and procedures for wind-up and dissolution of the Academy corporation at the end of the current school year. Immediately upon receipt of the State's Automatic Closure Notice, the Academy shall establish the Academy Dissolution Account referenced in Section 14.07.

14.11 *Issuance of Order.* The issuance of an order by the Superintendent of Public Instruction, pursuant to section 1280c of the Code, placing the Academy under the supervision of the State School Reform/Redesign Officer, shall constitute a material breach of this Contract. Following the issuance of the order, DPSCD shall notify the Academy of the material breach and request a meeting with PSA Board representatives to discuss the matter. To remedy the material breach, the Academy shall work toward the development of a corrective action plan that is acceptable to DPSCD. In addition to other matters, the corrective action plan shall include the Academy's redesign plan prepared pursuant to section 1280c of the Code. The development of a corrective action plan under this Section shall not in any way limit the rights of DPSCD to terminate, suspend or revoke this Contract.

14.12 *Corrective Action by Order of Reconstitution.* In addition to, or in lieu of, any provisions herein, DPSCD, in its sole discretion, may issue an Order of Reconstitution requiring the Academy to undertake a plan of corrective action in order to avoid revocation of its Contract ("Corrective Action"). The plan of Corrective Action may include (but shall not be limited to) cancellation of the Academy's contract with its ESP, withdrawal of DPSCD' approval of the ESP Agreement, termination of one or more Academy Directors' service, appointment of a new member or members to the PSA Board, or designation of a trustee or receiver to take over the operation of the Academy. In the event a Corrective Action plan is undertaken, the following steps will be observed:

- (a) DPSCD will notify the Academy, in writing, of the specific educational performance or operational issues that it deems failing at the Academy and its intent to revoke the Academy's Contract if the issues are not corrected by a date certain, which will be no earlier than 120 days (absent exigent circumstances) after the date of the notice;
- (b) Within thirty days after receipt of the notice described above, the Academy shall respond to DPSCD with any information that the PSA Board deems relevant to the issues and a plan of correction;
- (c) If DPSCD approves of the plan of correction, it shall be implemented and the Contract shall be amended accordingly; if DPSCD disapproves the plan of correction, it may implement corrective action in a manner that it, in its sole discretion, deems appropriate to the situation or continue with the revocation of the Contract as it sees fit.

For good cause, DPSCD may extend the deadlines set forth above. The issuance of the termination letter shall automatically terminate this Contract without any further action by either party. Upon issuance of the termination letter, DPSCD shall notify the

Superintendent of Public Instruction, the Michigan Department of Education, the Michigan Finance Authority (if applicable) or the successors that the Contract has been terminated.

ARTICLE XV

REQUIRED DELIVERY OF CERTAIN DOCUMENTS

15.01 No later than July 7, 2017, the Academy shall provide a copy of its executed lease agreement, no later than July 31, 2017, the Academy shall provide to DPSCD a copy of its Staff Contracts, and no later than December 31, 2017, the Academy shall provide to DPSCD a copy of its final Fire Marshall approval

15.02 If the documents listed in 15.01 above are not delivered by the dates listed, this Contract shall be null and void, in which case the Academy must proceed in accordance with Section 14.07, as if this Contract had been terminated.

15.03 DPSCD shall notify the Academy in writing of its receipt of the documents listed in this Article XV.

ARTICLE XVI GENERAL TERMS

16.01 *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 email or facsimile; (iii) upon delivery into United States mail if delivery is by postage-paid registered or certified mail, with return receipt requested; or (iv) upon delivery by a nationally recognized overnight delivery service. Each such notice shall be sent to the respective party at the address indicated below or at any other address the party may designate by notice delivered pursuant hereto:

(a) If to DPSCD Designee:

Detroit Public Schools Community District
Office of Charter Schools
Fisher Building, 9th Floor
3011 West Grand Boulevard
Detroit, Michigan 48202
Attn: Director - Office of Charter Schools

Copy to:
Detroit Public Schools Community District
Fisher Building, 10th Floor
3011 West Grand Boulevard
Detroit, Michigan 48202
Attn: Office of the General Counsel

(b) If to Academy:

Michigan Educational Choice Center
23901 Fenkell Street
Detroit, Michigan 48223
Attn: Board President

Copy to:

Collins & Blaha, P.C.
31440 Northwestern Highway, Suite 170
Farmington Hills, Michigan 48334
Attn: Scott Corba

- 16.02 *Interpretation, Enforcement, Validity, Construction and Effect.* This Contract shall be governed and controlled by the laws of the State of Michigan as to its interpretation, enforcement, validity, construction, and effect, and in all other respects.
- 16.03 *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.
- 16.04 *Non-Waiver.* Except as provided herein, no term or provision of the 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 a consent to, waiver of, or excuse for any different or subsequent breach or default.
- 16.05 *Force Majeure.* If any circumstances occur that are beyond the control of the parties and that delay or render impossible performance of 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, if such performance has been rendered permanently impossible by such circumstances, shall be canceled.
- 16.06 *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.
- 16.07 *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.
- 16.08 *Access to Copies of the Contract.* The PSA agrees to make copies of this Contract available for public inspection at its administrative offices during normal business hours.

- 16.09 *DPSCD Immunity*. Pursuant to Section 380.503(8) of the Code, DPSCD and its agents are immune from liability in connection with any acts or omissions in connection with DPSCD authorization of this Contract, provided that such actions were within the scope of DPSCD or its agent's authority or were undertaken in the reasonable belief that the actions were within the scope of that authority.
- 16.10 *DPSCD Assignments and Transfers*. The District, without the written consent of the PSA, may assign this Contract and its rights and delegate its obligations hereunder to any successor school district. Any permitted assignee shall assume all assigned obligations of its assignor under this Agreement.
- 16.11 *Entire Contract*. This Contract, along with all documentation referenced herein or attached hereto, sets forth the entire agreement between DPSCD and the PSA with respect to the subject matter of this Contract.
- 16.12 *Contract Submission to MDE*. This Contract shall be submitted to the Michigan Department of Education within ten days of issuance.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective and duly authorized officers as of the day and year indicated herein.

**MICHIGAN EDUCATIONAL
CHOICE CENTER**

**SCHOOL DISTRICT OF THE CITY
OF DETROIT**

By:  _____

By:  _____


Its: President

Its: Superintendent

Dated: 6/21/17

Dated: 6/28, 2017

**DPSCD Approved as to Form:
Office of the General Counsel**

By:  _____
Name: Phyllis Hurks-Hill
Title: General Counsel

In accordance with MCL 380.503 (6) (i), I certify that Michigan Educational Choice Center will comply with all federal and state laws, rules, and the terms of this Contract.

By:  _____

PSA Board President

Date: 6/22/17

EXHIBIT A
BOARD MEMBERS

EXHIBIT B
ARTICLES OF INCORPORATION

EXHIBIT C
BYLAWS

1. When answering **Yes or No** to the following questions you must consider past, present or future occurrences of the events detailed below involving you, your spouse/partner and immediate family:
- | | | |
|---|-----|----|
| a. Enter into contractual agreements with the Academy or the management company contracted by the Academy | Yes | No |
| b. Have ownership interest, directly or indirectly, in the management company or any other company contracting with the Academy | Yes | No |
-
- | | | |
|--|-----|-----|
| c. Lease or sale of real property to the Academy or the management company contracted by the Academy | Yes | No |
| d. Sale of any supplies, materials, equipment or other personal property to the Academy or the management company contracted by the Academy | Yes | No |
| e. Guarantee any loans for the Academy or provisions for any money | | Yes |
| No | | |
| f. Have employment with the Academy, its management company or other contractors | Yes | No |
| g. Have a personal or business relationship with a current Academy board member, staff or faculty member | Yes | No |
| h. Receive, directly or indirectly, any payments, gifts, or anything else of value from the Academy, its management company contracted by the Academy, or from anyone acting on behalf of either the Academy or the management company | Yes | No |
2. Does or will any other individual, board, group or corporations believe it has a right to control or have input on votes you will cast as a member of the Academy board?
No
3. Do you currently serve as a member of the board of any public school district or public school Academy other than this Academy's board?
No
4. Do you have any experience in, or association with, local, state or federal government (exclusive of elective public office but including advisory, consultative, honorary or other part time service or position)?
If yes, please list dates of service.
5. Have you served as a public official since your last appointment anniversary

date? (If you do not serve as a public official in any other capacity than this Academy board, please select “No” as your response.) Yes
No

6. To the best of your knowledge, are there situations not described above which may give the appearance of a conflict of interest between you or a member of your immediate family, or would make it difficult for you to discharge the duties of your office in an independent manner? Yes
No

Certification

I recognize that all information submitted with this Annual Conflict of Interest Disclosure becomes a matter of public record, subject by law to disclosure upon request to members of the general public. I agree to release, hold harmless and indemnify Detroit Public Schools, its trustees, officers, employees, or authorized agents from liability for the disclosure of any information related to my representation contained herein.

I hereby certify that all information contained in this document is true and complete to the best of my knowledge and agree to notify the Academy and the Detroit Public Schools Office of Charter Schools of any change that may create a conflict of interest. **Upon disclosure of actual or potential conflicts of interest, I understand that I may need to meet additional requirements as determined by the Detroit Public Schools in order to remain on the board.** Further, I recognize that falsification or failure to submit a complete Annual Conflict of Interest Disclosure may result in my removal from the board.

Signature

Date

**Detroit Public Schools
Office of Charter Schools
3011 W. Grand Blvd., 9th Floor Fisher Bldg.
Detroit, MI 48202
Tel: 313.873.7927 • Fax: 313.873.6194**

EXHIBIT E
CURRICULUM

EXHIBIT F
ASSESSMENTS

EXHIBIT G
EDUCATIONAL GOALS

EXHIBIT H
EDUCATIONAL PROGRAM

EXHIBIT I
SCHOOL CALENDAR AND SCHOOL DAY SCHEDULE,

EXHIBIT J
FACILITY DESCRIPTION

EXHIBIT K
OCCUPANCY AND USE LICENSES

N/A

EXHIBIT L
FIRE MARSHALL APPROVALS

EXHIBIT M
INSURANCE CERTIFICATES

EXHIBIT N
MEMORANDUM OF THE MICHIGAN DEPARTMENT OF EDUCATION TO PUBLIC
SCHOOL ACADEMIES DATED FEBRUARY 29, 2012, AS UPDATED

ATTACHMENT 1
MANAGEMENT AGREEMENT AND AMENDMENTS

ATTACHMENT 2
STAFF CONTRACTS

ATTACHMENT 3
LEASE OR DEED FOR FACILITY