

MANAGEMENT SERVICES AGREEMENT

This Management Services Agreement (the “Agreement”) is made and entered into as of the 1st day of July, 2023 by and between **Choice Schools Associates, L.L.C.**, a Michigan limited liability company (“Choice”), and **Battle Creek Montessori Academy** (the “Academy”), a body corporate and public school academy organized under the Michigan Revised School Code (the “Code”).

WHEREAS, The Academy operates a public school academy pursuant to a contract (the “Contract”) issued by Ferris State University Board of Trustees (University Board); and

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

WHEREAS, Choice 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 Choice to perform certain services related to the Academy’s educational program and operations.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

ARTICLE 1 CONTRACTUAL RELATIONSHIP

A. Authority. The Academy has been granted the Contract by the University Board 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. No provision of this Agreement shall 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 Choice 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 the terms and conditions of the Contract. The Contract shall be deemed incorporated herein by this reference. In the event of any inconsistency between the provisions of this Agreement and provisions of the Contract, the provisions of the Contract shall prevail.

C. Status of the Parties. Choice 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 Choice. The relationship between Choice and the Academy is based solely on the terms of this Agreement.

D. Independent Contractor/Designation of Agents. The parties to this Agreement intend that the relationship between them is that of an independent contractor, not an employee-employer relationship. The relationship between the parties was developed and entered into through arm's length negotiations and is based solely on the terms of this Agreement. Except as otherwise expressly designated by written agreement of the parties with consent from anyone whose consent is required by law or contract, no agent, officer or employee of the Academy shall be determined to be an agent or employee of Choice and no agent, officer or employee of Choice shall be determined to be an agent or employee of the Academy except if expressly acknowledged, if at all, in writing by the other party. The Academy will be solely responsible for its acts and omissions and the acts and omissions of its agents, officers and employees and Choice will be solely responsible for its acts and omissions and the acts and omissions of its agents, officers, employees and subcontractors. Choice is not a division of any part of the Academy. In the performance of services under this Agreement, Choice (its officers, directors, employees and designated agents) shall be regarded at all times as performing services as an independent contractor of the Academy. Choice shall be solely and exclusively responsible for recruiting, selecting, hiring, compensating, training, evaluating, disciplining, dismissing, terminating and otherwise controlling the employment conditions, employment rights, compensation and other similar matters relative to all individuals whom Choice employs in connection with providing services under this Agreement. Except as otherwise provided for in this Agreement, and subject to the Contract, Choice shall be self-directed in its activities and shall determine its own methods and manner for performing the Services required under the terms of this Agreement within the overall policies and budgets established by the Academy Board, as the same may be amended from time to time.

(i) Choice accepts full liability for benefits, salaries, worker's compensation, unemployment compensation and liability insurance for its employees leased to the Academy or working on Academy operations.

(ii) No agent or employee of Choice shall be determined to be an agent or employee of the Academy, except as follows:

(1) Choice, and its respective officers, directors, employees and designated agents are each hereby authorized to serve as agents of the Academy having a legitimate educational interest in the Program and its students for purposes of the Family Educational Rights and Privacy Act, 20 USC § 1232g *et seq.* ("FERPA"), such that they are jointly and severally entitled to access the educational records of the Program for all purposes related to FERPA.

(2) During the term of this Agreement, the Academy may disclose confidential data and information to Choice, and its respective officers, directors, employees and designated agents and Choice may access confidential data and information, to the extent permitted by applicable law, including without limitation, the Family Educational Rights and Privacy Act, 20 USC § 1232g, 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. Choice agrees that it shall comport with all applicable laws, rules and regulations in the handling, maintaining, safeguarding, re-disclosing, and returning of confidential data and information disclosed or accessed under this Agreement. Choice will be solely responsible for the acts of its agents, employees, and those contractors and subcontractors who are contracted through Choice.

(iii) As otherwise expressly designated by written agreement of the parties with consent from anyone whose consent is required by law or contract.

ARTICLE 2

TERM

A. Term. This Agreement shall become effective July 1, 2023, (the “Effective Date”) and shall cover five (5) academic year commencing on July 1, 2023, and ending on June 30, 2028, subject to a continued Contract from the University Board and continued state per pupil funding. The Contract from the University Board is effective through June 30, 2028, and the parties recognize that during the reauthorization process the University Board may condition an extension of the Contract upon modifications to this Agreement or submission of a new Agreement. The maximum term of this Agreement shall not exceed the length of the Contract.

B. Revocation or Termination of Academy’s Contract. If the Academy’s Contract issued by the University Board is revoked or terminated, this Agreement shall automatically terminate on the same date as the Academy’s Contract is revoked or terminated without further action by the parties.

C. Reconstitution of Contract. In the event that the Academy is required (i) to close an Academy site pursuant to a notice issued by the Michigan Department of Education under Sections 507, 528 and 561 of the Code, MCL 380.507, 380.528, 380.561; or (ii) to undergo a reconstitution pursuant to Sections 507, 528 and 561 of the Code, MCL 380.507, 380.528 and 380.561, and the Contract, and such closure of an Academy site or reconstitution causes an amendment to or termination of this Agreement, the parties agree that this Agreement shall be amended or terminated to implement the Academy site closure or reconstitution, with no cost or penalty to the Academy, and Choice shall have no recourse against the Academy or the University Board for implementing such site closure or reconstitution.

ARTICLE 3

FUNCTIONS OF CHOICE

A. Responsibility. Choice shall be responsible for the management, operation, administration, and education at the Academy, consistent with Board Policy, the Contract and applicable law. Such functions include, but are not limited to:

(i) Implementation and administration of the Educational Program and curriculum contained in the Contract;

- (ii) Marketing and communication plan development for Board approval; the cost of implementation shall be the Academy's responsibility;
- (iii) Budget preparation and financial management services;
- (iv) Management of accounting and bookkeeper services;
- (v) Risk management;
- (vi) Acquisition of instructional and non-instructional materials, equipment and supplies, the cost of which shall be the Academy's responsibility;
- (vii) 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;
- (viii) Food service management;
- (ix) Transportation management;
- (x) Facilities management, including assistance in securing funding sources for facility improvements;
- (xi) Preparation and timely submission of required Ferris State University, local, state and federal reports;
- (xii) Information and technology system management;
- (xiii) Preparation of applications and reports for state and federal grants;
- (xiv) Management of school building operations;
- (xv) Administration of extra-curricular and co-curricular activities and program approved by the Board;
- (xvi) Preparation and implementation of administrative guidelines supporting Board policy, including student codes of conduct;
- (xvii) Provisions of special education programs and services to eligible students who attend the Academy in conformity with the requirements of state and federal laws and applicable regulations and policies.

B. Educational Goals and Program. Choice shall implement the educational goals and programs set forth in the Contract, and established by the Board 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 (collectively the "Educational Program"). In the event that Choice determines that it is advisable to modify the Educational Program set forth

in the Contract, Choice will provide written notification to the Board specifying the changes it recommends and the reasons for the proposed changes. No changes in the Educational Program shall be implemented without the prior approval of the Board and the University Board. Choice 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 same may be changed from time to time. The Educational Program shall be in compliance with applicable state and federal laws, rules and regulations.

C. Subcontracts. It is anticipated that Choice 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. Choice shall not subcontract the management, oversight or operation of the teaching and instructional program, without the prior approval of the Board. Board approval of other subcontracts is not required unless the cost for these subcontracted services exceeds the funds appropriated for that purpose in the Academy's approved budget. Choice will receive no additional fee as a result of subcontracting of any services. Choice remains responsible to the Academy for the services provided through subcontracting agreements. Choice shall ensure that all subcontracts comply with applicable law including the Family Educational Rights and Privacy Act, 20 USC § 1232g *et seq.* ("FERPA") and the criminal background check provisions of the Code.

To the extent that Choice may subcontract any or all aspects of the services permitted by the terms of this Agreement, Choice represents that it shall include in the subcontracted services agreement provisions comparable to those contained in this Article 1, inclusive of subparts, to identify the employer of any person providing services under a contracted services agreement or, in the absence of an employer and in the case of an independent sub-contractor, to expressly provide that the service provider is an individual independent contractor and is not intended to be, and shall not be regarded as an employee of the Academy.

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

E. Acquisitions. All acquisitions made by Choice 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. Choice and its subcontractors will comply with all federal and state laws, rules and regulations in addition to such policies as the Board may, from time to time adopt, and shall comply with the Code, including, but not limited to, Section 1267 and Section 1274 of the Code as if the Academy were making these purchases directly from a third-party supplier. Choice and its subcontractors 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 these acquisitions.

F. Pupil Performance Standards and Evaluation. Choice is responsible for and accountable to the Board for the performance of students who attend the Academy. Choice 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 Choice, including but not limited to parent satisfaction surveys.

G. Student Recruitment. Choice shall be responsible for 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 the Code and other applicable law. Choice shall follow all applicable procedures regarding student recruitment, enrollment and lottery management, and shall be responsible for publication of appropriate public notices.

H. Student Due Process Hearings. Choice shall provide students with procedural and substantive due process in conformity with the requirements of applicable laws, rules and regulations 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. Choice shall provide educational programs that meet the requirements under the Contract and applicable law, unless such requirements are or have been waived.

J. Policies and Procedures. The Board shall consider, adopt and conduct its operations in conformity with policies and procedures applicable to the Academy, and Choice is directed to enforce the policies and procedures adopted by the Board. Choice shall assist the Board in its policy-making function by recommending the adoption of reasonable policies 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 and applicable law.

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

M. Compliance with Academy's Contract. Choice 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 University Board, including all schedules attached thereto and policies referenced therein, as they may be amended. The provisions of the Academy's Contract shall supersede any competing or conflicting provisions contained in this Agreement. Choice agrees to assist the Academy in complying with all of the Academy's reporting, recordkeeping and other obligations under the Academy's Contract. Choice shall not act in a manner which will cause the Academy to be in breach of its Contract. Any action or inaction by Choice that causes the Contract to be revoked, terminated or suspended, or which results in the Academy receiving official notification from the Charter Schools Office, University Board, Superintendent of Public Instruction, or other authorized body or official, of the commencement or an intent to initiate proceedings for the termination, revocation or suspension of the Contract,

shall be designated a material breach, which shall be grounds for termination of the Agreement by the Academy.

N. Additional Programs. The services provided by Choice 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 Academy 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 Choice at mutually agreeable cost. Such additional services purchased by the Academy from Choice shall be documented in writing as an amendment to this Agreement.

O. Annual Budget Preparation. The Board shall by Board resolution appoint the Board Treasurer, or such other officer as determined by the Board, to serve as the chief administrative officer of the School (the "CAO") under the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.* (the "Budgeting and Accounting Act"). Notwithstanding any other provisions of the Agreement to the contrary, the Board resolution may designate Choice's chief financial officer, or such other Choice employee as is mutually agreed upon by Choice and the Academy, as the designated agent of the CAO to assist the CAO with the performance of the CAO's duties under the Budgeting and Accounting Act. Choice will provide the Board with a proposed annual budget that shall conform to the Michigan Public School Accounting Manual and the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.* and in a form satisfactory to the Board and in compliance with the Contract. The budget shall contain reasonable detail as requested by the Board and as necessary to 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 not later than thirty (30) calendar days prior to the date when the approved budget is required to be submitted to the University Board. Choice may not make deviations from the approved budget without the prior written approval of the Board.

P. Compliance with the Contract. Choice shall make information concerning the operation and management of the Academy, including without limitation the information described in the Contract, available to the Academy as deemed necessary by the Board in order to enable the Academy to fully satisfy its obligations under the Contract.

Q. 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 Choice is required to refrain from any action that will result in being suspended or debarred. Choice certifies and affirms that it is not included on the federal Suspension and Debarments list of Excluded Parties List; nor is Choice affiliated with any party that is included on the federal Suspension and Debarments list of Excluded Parties List.

R. Personally Identifiable Information. Choice agrees to treat all personally identifiable information (“PII”) received from the Academy or from students confidentially and securely, in compliance with all applicable laws and regulations related to protecting the privacy of PII, including without limitation the Family Education Rights and Privacy Act (FERPA), the Michigan Revised School Code, and Section 5 of Michigan’s Student Online Personal Protection Act. MCL 388.1295. Except as permitted under the Code, Choice shall not sell or otherwise provide to a for-profit business entity any PII that is part of an Academy student’s education records. If Choice receives information that is part of an Academy student’s education records, Choice 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 “educational records” and “personally identifiable information” shall have the same meaning as those terms in Section 1136 of the Code. MCL 380.1136. In addition, Choice will maintain a documented security program that incorporates appropriate, commercially reasonable and industry-standard security measures to protect such PII. Choice will notify the Academy of any security breach that impacts PII received from the Academy or from students within a commercially reasonable time after discovery and will provide regular status updates until the breach is resolved. After final resolution of the breach, Choice will provide the Academy with a final incident report.

S. Data Security Breach. Choice shall promptly report to the Board, not later than the first business day following discovery, any use or disclosure of personally identifiable information from the Academy’s education records or other information not suitable for public release (collectively, Covered Data or Information (“CDI”)) that is not authorized by this Agreement or applicable law. Choice agrees to promptly undertake to identify: (i) the nature of the unauthorized use or disclosure, (ii) the CDI used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Choice has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, (v) whether, and if so on what grounds, Choice has determined that the security breach has not or is not likely to cause substantial loss or injury to, or result in identity theft with respect to, one or more residents of this state, and (vi) what corrective action Choice has taken or shall take to prevent future similar unauthorized use or disclosure. Choice shall provide such other information as reasonably requested by the Academy Board. Choice shall take appropriate action, in accordance with MCL 445.72, to notify affected individuals whose CDI may have been compromised.

T. Bankruptcy Notice. Choice shall notify the Academy Board if any principal or officer of Choice, or Choice (including any related organizations or organizations in which a principal or officer of Choice served as a principal or officer) as a corporate entity, files for bankruptcy protection or, at the time this Agreement is executed, has filed for bankruptcy protection within the last five (5) years.

ARTICLE 4 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 policies relative to the conduct of students while in attendance at the Academy or in 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 Choice 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 Choice and the Board to agree on educational policies is grounds for termination of the Agreement by either party and will be subject to Article 7, Section C. of this Agreement.

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.

C. Academy Employees. The Board may employ such employees as it deems necessary. The cost to employ Academy 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 Choice under this Agreement. Choice 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. Choice 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 it on any matter, including but not limited to its rights and responsibilities under the Contract, this Agreement and applicable law.

F. Audit. The Board shall select and retain an independent auditor to perform the annual financial audit in accordance with the Contract and applicable state law. Choice shall not select or retain the independent auditor for the Academy. Choice shall make available all of its financial and other records related to the Academy available to the Academy and the Academy's independent auditor.

G. 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 Choice, 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. Choice may not make expenditures or commitments which deviate from the amounts or purposes of appropriations contained in the approved budget without the prior approval of the Board in the form of an approved amendment of the budget in accordance with applicable law and the Contract. 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. The Board shall designate an Academy Board member as the Chief Administrative Officer of the Academy.

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

I. Governmental Immunity. The Board shall determine when to assert, waive or not waive its governmental immunity. Nothing in this Agreement is intended to nor shall it be construed as a relinquishment or waiver by the Board of any immunity from action or liability.

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

K. Evaluation of Choice. The Board will evaluate the performance of Choice each year to provide Choice with an understanding of the Board's view of its performance under this Agreement. A copy of the evaluation will be sent to the Board for review and reflect on its answers in March, with the completion of the evaluation done by the end of May each year. Choice will determine the format to conduct this evaluation.

ARTICLE 5 FINANCIAL ARRANGEMENT

A. Primary Source of Funding. As a Michigan public school academy, the primary source of funding for the Academy is state school 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 Choice shall endeavor to obtain revenue from other sources. In this regard:

- (i) The Academy and/or Choice shall solicit and receive donations consistent with the mission of the Academy.
- (ii) The Academy and/or Choice may apply for and receive grant money in the name of the Academy. Choice 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 filing or submitting the grant application.
- (iii) To the extent permitted under the Code, Choice may 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 approved by the Board.

All funds received by Choice 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 as an amendment to this Agreement.

C. Compensation for Services. For the term of this Agreement, the Academy shall pay Choice an annual fee. This annual fee shall be calculated as follows: The annual fee to be paid for services performed between July 1, 2023 through June 30, 2028 shall be ten (10.00%) percent of all annual gross revenues. For purposes of this Section, the term “gross revenues” means the sum of (a) the amount of all payments applicable to a school year that the Academy receives directly or indirectly under Article V, Paragraph A plus (b) the amount of all grants received by the Academy under Article V, Paragraph B(2) that were initiated and administered by Choice and which are to be expended during that school year. Gross revenue does not include any local revenue, currently classified under function codes 128 to 199 of the State of Michigan Chart of Accounts, and as may be amended or revised. Choice’s 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 school aid payment from the State of Michigan to be received in that month. In months where no state school 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 school aid anticipation notes or other sources. All installments of the annual fee for the 2027 - 2028 school year shall be paid by June 30, 2028 if this Agreement is not extended beyond the scheduled termination date. The amount of the annual fee is subject to reduction in a mutually agreeable amount in any school year if extenuating circumstances make payment of the entire annual fee inappropriate.

D. Reasonable Compensation. The parties wish to satisfy the requirements of Rev. Proc. 97-13 so that the provision of Choice’s 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. Choice’s compensation under this Agreement is reasonable compensation for services rendered. Choice’s compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the operations of the Academy.

E. Payment of Educational Program Costs. In addition to the Academy’s obligation to reimburse Choice for the compensation of certain of its employees under Article 6, 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 textbooks, library books, computer and other equipment, software, supplies utilized at the Academy for educational purposes, building payments, maintenance, utilities, capital improvements, graphic design, special education supervision and appeals, and marketing and development. Marketing and development costs charged to the Academy shall be limited to those costs specific to the Educational Program and shall not include any costs for the marketing and development of Choice. The Board shall pay or reimburse Choice monthly for approved fees and expenses upon properly presented documentation and approval by the Board, but reimbursements for the cost of compensation of Choice employees under Article 6 shall be made not later than thirty (30) business days before that compensation is due to the employees. At its option, the Board may advance funds to Choice for the fees and expenses associated with the Academy’s operation provided that documentation for the fees and expenses are provided for Board ratification. In paying costs on behalf of the Academy, Choice shall not charge an added fee. Any costs reimbursed to Choice 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 Choice.

F. Choice Costs. The annual fee to be paid to Choice set forth in Article 6, Section C. is intended to compensate Choice for all expenses it incurs for administrative and financial services it 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, legal services for Choice-related issues, management and budgeting services and administrative services. Choice will provide sufficient professional and non-professional staff in these areas, who shall be compensated by Choice. In addition, the annual fee is intended to compensate Choice for all costs incurred by Choice to provide these services. The annual fee does not include payments for Choice personnel provided pursuant to Article 6, Sections B., C. and D., the cost of which will be reimbursed in accordance with Article 6, Section A., nor does it include legal services related to special education appeals or Academy related matters.

G. Choice Legal Services. The annual fee set forth in Article V, Section C is intended to compensate Choice 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 Choice is required to provide under this Agreement. The annual 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 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 Choice has entered or will enter into management agreements with other public school academies. Choice 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. Financial Reporting. On not less than a monthly basis, Choice shall provide the Board with a balance sheet, a written report detailing the status of the budget to actual revenues and a detailed schedule of expenditures at an object level detail for review and approval by the Board. This report shall explain any variances from the approved budget, changes in fund balance and shall contain recommendations for necessary budget corrections. The foregoing presentation shall be in a form and format acceptable to the Board and shall be provided to Board members not less than three (3) business days prior to the Board meeting at which the information will be considered in the Board packets sent to Board members in preparation for Board meetings. Choice shall provide special reports as necessary to keep the Board informed of changing conditions. All finance and other records of Choice related to the Academy will be made available to the Academy, the Academy's independent auditor and the Authorizer upon request.

J. Operational Reporting. At least four (4) times per year Choice will provide the Board with comprehensive written reports detailing Academy operations, finances and student performance. In order to enable the Board to monitor Choice's educational performance and the efficiency of its operation of the Academy, upon the request of the Board, Choice will provide written reports to the Board on any topic of Academy activity or operations which are consistent

with this Agreement. These special reports will be provided in a timely fashion, at a date mutually agreed upon by the Board and Choice.

K. Other Financial Relationships. Any lease, promissory notes or other negotiable instruments, lease purchase agreements or other financing agreements between the Academy and Choice shall be contained in a document separate from this Agreement, and shall be separately approved by the University Board, and shall comply with all applicable law, the Contract issued by the University Board and any applicable policies created by the University Board and/or the University Charter Schools Office.

L. Access to Records. Choice shall keep accurate financial records pertaining to its operation of the Academy, together with all Academy financial records prepared by or in the possession of Choice, and retain all of these records for a period as required by Bulletin 1022 of Michigan's Record Retention Schedule or applicable law, whichever period is the longest, from the close of the fiscal year to which such books, accounts and records relate. Choice shall further make information concerning the operation and management of the Academy, including but not limited to, information required to be kept by the Contract with the University Board, including all exhibits, schedules, 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 Contract with the University Board. Financial, educational, operational and student records that are now or may in the future come into the possession of Choice remain Academy records and are required to be returned by Choice to the Academy upon demand. Choice 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 Academy property and are public records subject to disclosure in accordance with the provisions of the Michigan Freedom of Information Act. This Agreement shall not be construed to restrict the University Board's or the public's access to these records under the Freedom of Information Act or the Contract except to the extent permitted by law.

M. Access to Confidential Information. Choice, and its respective officers, directors, employees and designated agents are each hereby authorized to serve as agents of the Academy having a legitimate educational interest in the Educational Program and its students for purposes of the Family Educational Rights and Privacy Act, 20 USC § 1232g *et seq.* ("FERPA"), such that they are jointly and severally entitled to access the educational records of the Educational Program for all purposes related to FERPA. The Academy agrees to define "school official" in the Academy's annual notification of rights under 20 USC § 1232g, 34 CFR § 99, 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 CFR § 99.33(a) governing the use and redisclosure of personally identifiable information from education records. The Board designates Choice 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. Choice and its employees and subcontractors agree to comply with FERPA and corresponding regulations applicable to school officials. Except as set forth in this paragraph or as expressly acknowledged in writing by the Board, no employee of Choice shall be deemed to be an agent of

the Academy. During the term of this Agreement, the Academy may disclose, and Choice and its officers, directors, employees and designated agents may have access to, confidential information to the extent permitted by applicable law, including without limitation, the Family Educational Rights and Privacy Act, 20 USC § 1232g *et seq.* (“FERPA”), 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-1320d-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. Choice agrees that it shall comply with all applicable law regarding the safeguarding of the confidentiality of such information.

N. Representations Regarding Performance. Choice and the Academy hereby certify the following representations with regard to its performance under this Agreement. These representations are deemed to be incorporated into the Agreement and binding upon the parties:

(i) Choice’s compensation under this Agreement is reasonable and is not based, in whole or in part, on a share of the net profits and/or a share of the net losses from the operation of the Academy or upon the disposition, damage or destruction of the Academy’s property.

(ii) This Agreement does not pass along to Choice the burden of bearing any share of the net losses from the operation of the Academy or upon the disposition, damage or destruction of the Academy’s property.

(iii) The term of this Agreement is not greater than 30 years or 80 percent of the useful life of the Academy’s tax-exempt bond financed school facility (if shorter) including all renewal options.

(iv) The Academy bears the risk of loss upon the disposition, damage or destruction of the Academy’s property.

(v) Choice is not entitled to and will not take any federal tax position that is inconsistent with being a service provider under this Agreement to the Academy.

O. Governance. Further, with regard to governance:

(i) No more than 20 percent of the voting power of the governing body of the Academy is vested in the directors, officers, shareholders, partners, members and employees of the service provider, in the aggregate.

(ii) The governing body of the Academy does not include the chief executive officer of the service provider or the chairperson (or equivalent executive) of the service provider’s governing body.

(iii) The chief executive officer of Choice is not the chief executive officer of the Academy or any of the Academy’s related parties (as defined in Treasury Regulation 1.150-1(b)).

P. Relationship Between the Academy and Choice. In interpreting this Agreement and the provision of services required pursuant to this Agreement, Choice shall not have any role

or relationship with the Academy that, in effect, substantially limits the Academy's ability to exercise its rights, including cancellation rights, under this Agreement. As required by the Academy's Articles of Incorporation and Bylaws, the Academy Board may not include any director, officer or employee of the management company that contracts with the Academy. In furtherance of such restriction, it is agreed between the Academy and Choice that none of the voting power of the governing body of the Academy will be vested in Choice or its directors, members, managers, officers, shareholders and employees and the Academy and Choice will not be related parties as defined in Treasury Regulation 1.150-1(b)(6).

ARTICLE 6 PERSONNEL AND TRAINING

A. Personnel Responsibility. Choice is responsible for providing the Academy with a School Administrator and 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. Choice shall have the authority to recruit, select, hire, evaluate, compensate, assign, discipline, transfer and terminate the employment of all individuals working at or for the Academy with the exception of the Board employees, if any, consistent with state and federal laws, rules and regulations and the provisions of this Agreement. With the exception of Board employees, if any, Choice shall be the employer of all individuals working at or for the Academy and will be responsible for the payment of all costs attributable to these employees, including wages, salaries, fringe benefits, payroll taxes, social security contributions, unemployment costs, workers' disability compensation costs and liability insurance costs irrespective of whether Choice 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, Choice shall not make payments to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees. Choice will provide the Board with a detailed listing of the actual wages, salaries, fringe benefits, social security contributions, unemployment costs and workers' compensation costs for all employees of Choice who will be assigned to provide services at the Academy. The Board will reimburse Choice for the cost of the actual wages, salaries, fringe benefits, social security contributions, unemployment costs and workers' compensation costs of employees assigned to the Academy not later than thirty (30) business days before that compensation is due to the employees or to other entities to be paid to provide these benefits, provided that these costs are not higher than anticipated and approved in the annual budget. At its option, the Board may advance funds to Choice for the cost of the wages, salaries, fringe benefits, social security contributions, unemployment costs and workers' compensation costs of employees assigned to the Academy provided that documentation for the fees and expenses are provided for Board review at its next regularly scheduled Board meeting and are consistent with budget allocations. At the request of the Board, Choice will provide payroll services for employees of the Board. Choice will not assign any employee to work at the Academy who has not successfully completed a pre-employment background check (including statutorily required criminal history, criminal background and unprofessional conduct checks) consistent with Michigan State Police guidelines credential verification, and a pre-employment physical if appropriate.

B. Restrictive Covenants. Choice will not place in the employment contracts with any of its employees assigned to work at the Academy any provisions that contain non-compete,

no-hire or similar provisions prohibiting or restricting the Academy from hiring instructional staff that performs work for the Academy. Choice 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.

C. Evaluation. Choice shall 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. In the event that an employee hired by Choice is retired under the Michigan Public School Employees Retirement Act, Choice will comply with any applicable notice and reporting requirement.

D. School Administrators. Choice shall provide the Academy with School Administrators who shall be responsible for the daily operational control of the Academy and to make recommendations to Choice regarding employees to be assigned to the Academy. Choice will have the authority, consistent with state law, to select and supervise the School Administrators and to hold the School Leader accountable for the success of the Academy. Choice shall have the sole responsibility and prerogative to hire the School Administrators; however, the Academy Board may provide reasonable input to Choice in the decision. The School Administrators shall be employees of Choice. Choice shall take into consideration the Academy Board's input during evaluations of Choice in the assignment and staffing of the School Administrators. Choice will notify the Board prior to taking any action that would alter the employment status of the School Administrators. At the request of the Board, Choice will review the performance of the School Administrators with the Board. Upon receipt of written notification indicating that the Board is not satisfied with the performance of a School Administrator, Choice may reassign the School Administrator if the performance problems are not resolved, in its sole discretion. The employment contract with the School Administrator(s), and the duties and compensation of the School Administrator(s), shall be determined by Choice, but that individual (or individuals) 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 written approval of the Board. If Choice chooses to execute a contract with a School Administrator that has a term longer than one year, the Board may request Choice to reassign the School Administrator at the end of the school year; however, Choice has the sole discretion whether to reassign any School Administrators from the Academy.

E. Teachers. As part of the annual budgeting process, Choice shall make a recommendation to the Board regarding the number of teachers required for the operation of the Academy pursuant to the Contract and applicable law. Choice 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 prescribed in the Contract. Such teachers may, in the discretion of Choice, 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 Choice. Each teacher assigned to or retained by the Academy shall be a highly qualified teacher with a valid teaching certificate or temporary special permit issued by the State Board of Education under the Code, to the extent required under the Code and the Every Student Succeeds Act of 2015 ("ESSA") or other applicable law. If Choice chooses to execute contracts with teaching staff that have a term of longer than one year, if the Board is dissatisfied with a

teacher's performance, the Board may request Choice to reassign the teacher at the end of the school year; however, Choice has the sole discretion whether to reassign any teacher from the Academy.

F. Support Staff. As part of the annual budgeting process, Choice shall make a recommendation to the Board regarding the number of support staff required for the operation of the Academy pursuant to the Contract. Choice shall provide the Academy with such support staff, qualified in the areas required, as are required by the Board. Such support staff may, in the discretion of Choice, 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 the Choice. Each support staff employee assigned to or retained by the Academy shall have received the training and hold the certificates, degrees or licenses legally required for the position to which they are assigned under the Code and the Every Student Succeeds Act of 2015 or other applicable law. Choice will provide annual performance reviews of the performance of support staff to the Board. If Choice chooses to execute contracts with support staff that have a term of longer than one year, and the Board is dissatisfied with performance, the Board may request Choice to reassign the support staff at the end of the school year; however, Choice has the sole discretion whether to reassign any support staff from the Academy.

G. Training. Choice shall provide training to the School Administrators, teachers paraprofessionals and support staff on a regular and continuing basis and shall insure that they receive all training required by law. The School Administrators, teachers, paraprofessionals and other support staff employees shall receive such other training as Choice determines is reasonable and necessary under the circumstances.

H. No Tenure Under Teachers' Tenure Act. None of the teachers, School Leader, principal, administrators or staff employed, retained or contracted by Choice shall be considered employees or teachers of the Academy for purposes of tenure or continuing tenure under the Teachers' Tenure Act, MCL 38. 71 *et seq.* Nor shall any of Choice's or its contracted teachers, School Leader, principal, administrators or staff be entitled to administer tenure under the Code.

I. Criminal Background Checks. Choice agrees that it shall not assign any of its employees, agents or other individuals to perform any services under this Agreement except as permitted under Sections 1230, 1230a, 1230b and related provisions of the Code pertaining to criminal background and criminal conduct checks. Choice shall perform or cause to be performed all criminal and unprofessional conduct checks required by law to be performed with fidelity.

J. Unprofessional Conduct Checks. Choice agrees that it will conduct unprofessional conduct checks, in accordance with MCL 380.1230b before hiring an employee assigned to work at or for the Academy.

ARTICLE 7 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 2 in the event that Choice should fail to remedy a material breach within a period reasonable under the circumstances, which

in no event shall be longer than sixty (60) days after notice from the Academy. A material breach is a failure by Choice to carry out its responsibilities under this Agreement and may include, but is not limited to, (1) failure to account for its expenditures or to pay operating costs (providing funds are available to do so), (2) failure to follow policies or procedures duly adopted by the Board, (3) failure to follow the Educational Program, (4) a violation of the Contract or of applicable law, or (5) any action or inaction by Choice that is not cured within 60 days of notice thereof which causes the Contact to be revoked, terminated, suspended or which causes the Contract to be put in jeopardy of revocation, suspension or termination by the University Board. In order to terminate this Agreement for cause, the Board is required to provide Choice with written notification of the facts it considers to constitute a material breach and the period of time within which Choice has to remedy this breach not to exceed sixty (60) days. After the period to remedy the material breach has expired, the Board may terminate this Agreement by providing Choice with written notification of termination. The Academy and Choice will make every effort necessary to remedy a breach of this Agreement in order to continue school operations until completion of the then-current school fiscal year.

B. Termination by Choice for Cause. This Agreement may be terminated by Choice for cause prior to the end of the term specified in Article 2 in the event the Academy fails to remedy a material breach within a period reasonable under the circumstances, which in no event shall be longer than sixty (60) days after notice from Choice. A material breach is a failure by the Academy to carry out its responsibilities under this Agreement and may include, but is not limited to, (1) a failure to make timely payments to Choice as required by this Agreement, (2) a failure to give consideration to the recommendations of Choice regarding the operation of the Academy, (3) a violation of the Contract or of applicable law, or (4) any action or inaction by the Academy that places the Contact in jeopardy of suspension, revocation, reconstitution or termination. In order to terminate this Agreement for cause, Choice 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 not to exceed sixty (60) days. After the period to remedy the material breach has expired, Choice may terminate this Agreement by providing the Board with written notification of termination. The Academy and Choice will make every effort necessary to remedy a breach of this Agreement in order to continue school operations until completion of the then-current school fiscal year.

C. Termination by Either Party Without Cause. If Choice and the Board are unable to agree on Educational Programs, curriculum or other educational policies that affect the Academy in a significant way, either party may elect to terminate this Agreement at the end of a school year, provided that the terminating party gives the other party written notification of termination at least sixty (60) calendar days prior to the termination date.

D. Action or Inaction By Choice – Revocation, Termination or Suspension of the Agreement. Any action or inaction by Choice that causes the Contract to be revoked, terminated or suspended, or which results in the Academy receiving official notification from the Ferris State University Chart Schools Office, University Board, Superintendent of Public Instruction, or other authorized body or official, of the commencement or an intent to initiate proceedings for the termination, revocation or suspension of the Contract, shall be designated a material breach of the Agreement, which shall be grounds for termination of this Agreement. This Agreement may be

terminated if directed by the University Board as part of the process of reconstitution, as provided by the Revised School Code.

E. Change in Law. If any federal, state or local laws, rules or regulations, or court decisions have 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 ninety (90) calendar days after the notice, the party requesting the renegotiation may terminate this Agreement on thirty (30) calendar days further written notice.

F. 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 Choice with state school aid funds or other funds secured by or for the Academy, shall remain the exclusive property of the Academy. Choice shall have the right to reclaim any usable property or equipment (e.g., including, but not limited to, desks, computers, copying machines, fax machines and telephones) that was purchased by Choice with Choice funds. Fixtures and building alterations shall become the property of the Academy.

G. Mid-Year Transition. The Academy and Choice agree that mid-year terminations should be avoided if possible and endeavor to take reasonable 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 Choice agree to work cooperatively to transition management and operations of the Academy without disrupting the Academy's operations. Choice shall perform this transition in a similar manner as described under Article 7, Section J. based upon completion of the then-current school period.

H. End of Agreement Transition. Upon termination or expiration of this Agreement, or if this Agreement is terminated due to a Contract revocation, reconstitution, or termination or non-renewal, Choice 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 required within the required timelines established by the appropriate local, state or federal authority; (ii) organize and prepare student records for transition to the new educational services provider, 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 educational services provider 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 Choice to the Academy; (iv) organize and prepare the Academy's records, both electronic and hard-copy, for transition to the new educational services provider, self-management or dissolution; and (v) provide for the orderly transition to the new educational services provider, 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.

ARTICLE 8 PROPRIETARY INFORMATION

A. Choice Proprietary Information and Academy Right of Use. Choice shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials developed by Choice, its employees, agents or subcontractors, or by any individual working for or supervised by Choice, which (i) were directly developed by staff working at the Academy; or (ii) were paid for by Choice with Choice funds. The Academy shall have an ongoing right to use, at no cost, all such materials in use as of the termination of this Agreement.

B. Academy Proprietary Information and Choice Rights of Use. The Academy shall own all copyright and other proprietary rights to all instructional and educational materials, training materials, curriculum and lesson plans, and any other materials (i) developed exclusively by staff working at the Academy; (ii) both directly developed and paid for by the Academy; or (iii) developed by Choice, at the direction of the Board with Academy funds. Choice shall have an ongoing right to use, at no cost, all such materials developed during the term of this Agreement.

C. Required Disclosure. Both parties shall be permitted to report any new teaching techniques or methods of significant revisions to known teaching techniques or methods to Ferris State University, the ISD in which the Academy is located and to the State Board of Education, which teaching techniques or methods may thereafter be made available to the public, as provided in Section 505(3) of the Code, notwithstanding anything contained in this Article 8 to the contrary. Any educational materials and teaching techniques developed by Choice and/or used by the Academy are subject to disclosure under the Code and the Freedom of Information Act.

D. Marks. The Academy and Choice shall provide written notice to the other party regarding the existence of any trademarks, service marks, mascot, or other identifying symbols (Marks) that they consider to be proprietary in nature. Execution of the Agreement satisfies this notice requirement as to each party's name and the Academy's logo. The Academy and Choice agree not to use Marks of the other party without the prior written approval.

ARTICLE 9 INDEMNIFICATION

A. Indemnification of Choice. To the extent permitted by law, the Academy shall indemnify and hold Choice (which term for purposes of this Section A includes Choice's officers, directors and employees) harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorney fees and costs) that may arise out of, or by reason of, any noncompliance by the Academy Board (its officers, directors and employees) with any agreements, covenants, warranties or undertakings of the Academy Board (its officers, directors and employees) 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 Choice for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this section may be met by the purchase of insurance in a form and amounts reasonably acceptable to Choice.

B. Limitations of Liabilities. The Academy may assert or not 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, Choice shall indemnify and hold the Academy (which term for purposes of this paragraph includes the Academy'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, any noncompliance by Choice with any agreements, covenants, warranties, or undertakings of Choice contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of Choice contained in or made pursuant to this Agreement. In addition, Choice 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 reasonably acceptable to the Academy.

D. Indemnification for Negligence. To the extent permitted by law, the Academy shall indemnify and hold harmless Choice, and Choice's Board of Directors, partners, officers, employees, agents and representatives, from any and all claims and liabilities which Choice 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, Choice shall indemnify and hold harmless the Academy, and the Board, 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 Choice's directors, officers, employees, agents or representatives.

E. Indemnification of Ferris State University. The parties acknowledge and agree that the Ferris State University Board of Trustees, Ferris State University and its members, officers, employees, agents or representatives are deemed to be third-party beneficiaries for purposes of this Agreement. As third-party beneficiaries, Choice hereby promises to indemnify, defend and hold harmless the Ferris State University Board of Trustees, Ferris State University and its members, officers, employees, agents or representatives from all claims, demands, 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 and related expenses, expert and other professional fees) of settlement and prosecution imposed upon or incurred by the University, and not caused by the sole negligence of Ferris State University, Ferris State University Board of Trustees, and its members, officers, employees, agents or representatives which arise out of or are in any manner connected with the Ferris State University Board of Trustees' approval of the Academy's Application, the University Board's consideration of or issuance of a Contract, Choice's preparation for and operation of a public school, or which are incurred as a result of the reliance by Ferris State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by Choice, or which arise out of Choice's failure to comply with the Contract or applicable law. The parties expressly acknowledge and agree that Ferris State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against Choice to enforce its rights as set forth in this section of the Agreement.

**ARTICLE 10
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 Choice required by this Agreement. The Academy shall, upon request, present evidence to Choice that it maintains the requisite insurance in compliance with the provisions of this paragraph. Choice 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 Choice. Choice shall secure and maintain such policies of insurance as required by the Contract and M.U.S.I.C. In the event the University or M.U.S.I.C. requests any change in coverage by Choice, Choice agrees to comply with the change in the type or amount, as requested, within thirty (30) days after notice of the insurance coverage change. Choice’s insurance is separate from and in addition to the insurance the Academy Board is required to obtain under the Contract. Choice shall, upon request, present evidence to the Academy and Ferris State University 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 Choice under Choice’s policy with its insurer(s), to the extent practicable.

C. Workers’ Disability Compensation Insurance. Each party shall maintain workers’ disability compensation insurance when and as required by law, covering their respective employees.

**ARTICLE 11
MISCELLANEOUS**

A. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and Choice 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, pandemic, infectious, disease 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, request, consents, demands and other communications from one party to the other that are given pursuant to the terms of 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. All notices, request, consents, demands and other communications shall be addressed as follows:

If to Choice: Choice Schools Associates, LLC
Attn: Sarah Wildey
5251 Clyde Park Ave SW
Wyoming, MI 49509

If to Academy: Battle Creek Montessori Academy
Attn: Board President
3999 N. 20th Street
Springfield, MI 49037

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 Choice, and signed by a duly authorized officer. In addition, the Board must also secure the approval of the University Board before any modification to this Agreement can become effective.

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. Choice may assign this Agreement only with the prior written approval of the Board.

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 Choice 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, rules and regulations.

L. Warranties and Representations. The Academy and Choice each represent (1) that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, (2) that its actions have been duly and validly authorized, and (3) 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 list 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, with such variations as the parties and the arbitrator unanimously accept. Any arbitration hearing shall be conducted in Grand Rapids, Michigan. The arbitrator shall be required to issue a cause opinion with a written explanation as to the final decision. This cause opinion shall be made available to the Ferris State University Charter Schools Office upon request. A judgment on the award rendered by the arbitrator may be entered in any court having appropriate jurisdiction to ensure compliance with applicable laws and this Agreement. The cost of arbitration, not including attorney fees, shall be paid by the losing party. The arbitrator shall have the discretion to award reasonable attorney fees to the prevailing party, to be paid, if awarded, by the losing party.

N. Modification to Conform to Changed University Board Policies. The parties intend that this Agreement shall comply with Ferris State University Educational Service Provider Policies, as the same may be changed from time to time. In the event that changes in Ferris State University 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 of such conflict.

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

**ARTICLE 12
MATTERS RELATED TO REVENUE PROCEDURES 2017-13**

A. Choice's compensation under the Agreement is reasonable and is not based, in whole or in part, on a share of the net profits and/or a share of the net losses from the operation of the Academy or upon the disposition, damage or destruction of the Academy's property;

B. The Agreement does not pass along to Choice the burden of bearing any share of the net losses from the operation of the Academy or upon the disposition, damage or destruction of the Academy's property;

C. The term of the Agreement is not greater than 30 years or 80 percent of the useful life of the Academy's tax-exempt bond financed school facility (if shorter) including all renewal options;

D. The Academy bears the risk of loss upon the disposition, damage or destruction of the Academy's property; and

E. Choice is not entitled to and will not take any federal tax position that is inconsistent with being a service provider under this Agreement to the Academy.

Further, with regard to governance:

A. None of the Academy's Board of Directors serve as a director, officer, shareholder, partner, member, or employee of the service provider;

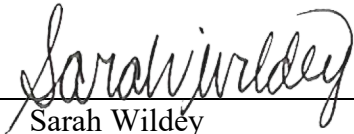
B. The Academy's Board of Directors does not include the chief executive officer of the service provider or the chairperson (or equivalent executive) of the service provider's governing body; and

C. The chief executive officer of the service provider is not the chief executive officer of the Academy or any of the Academy's related parties (as defined in Treasury Regulation 1.150-1(b)).

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

**CHOICE SCHOOLS ASSOCIATES,
L.L.C.**

By: _____



Sarah Wildey
Chief Executive Officer

**BATTLE CREEK MONTESSORI
ACADEMY**

By: _____



President, Board of Directors