

**TERMS AND CONDITIONS
OF CONTRACT**

DATED: JULY 27, 2012

ISSUED BY

THE SCHOOL DISTRICT OF THE CITY OF HIGHLAND PARK

TO

HIGHLAND PARK PUBLIC SCHOOL ACADEMY SYSTEM

CONFIRMING THE STATUS OF

HIGHLAND PARK PUBLIC SCHOOL ACADEMY SYSTEM

AS A

PUBLIC SCHOOL ACADEMY

TABLE OF CONTENTS

Page

**ARTICLE I
DEFINITIONS**

Section 1.1.	Certain Definitions	1
Section 1.2.	Captions.....	4
Section 1.3.	Gender and Number	4
Section 1.4.	Statutory Definitions	4
Section 1.5.	Schedules.....	4
Section 1.6.	Application.....	4
Section 1.7.	Conflicting Contract Provisions	4

**ARTICLE II
RELATIONSHIP BETWEEN
THE SYSTEM AND THE DISTRICT**

Section 2.1.	Independent Status of District	4
Section 2.2.	Independent Status of the System	5
Section 2.3.	Financial Obligations of the System Are Separate From the State of Michigan, District Board and the District	5
Section 2.4.	System Has No Power to Obligate or Bind State of Michigan, the District Board or the District.....	5

**ARTICLE III
ROLE OF THE DISTRICT BOARD
AS AUTHORIZING BODY**

Section 3.1.	District Board Resolutions	5
Section 3.2.	District Board as Fiscal Agent for the System	5
Section 3.3.	Oversight Responsibilities of the District Board.....	6
Section 3.4.	Reimbursement of District Board Expenses	6
Section 3.5.	District Board Approval of Condemnation	6
Section 3.6.	Authorization of Employment.....	6
Section 3.7.	District Board Review of Certain Financing Transactions	6
Section 3.8.	Authorizing Body Contract Authorization Process.....	7
Section 3.9.	District Board’s Invitation to System to Apply For Conversion to Schools of Excellence	7

**ARTICLE IV
REQUIREMENT THAT THE SYSTEM
ACT SOLELY AS GOVERNMENTAL ENTITY**

Section 4.1.	Limitation on Actions in Performance of Governmental Functions	7
Section 4.2.	Other Permitted Activities.....	8
Section 4.3.	System Board Members Serve In Their Individual Capacity	8
Section 4.4.	Incompatible Public Offices and Conflicts of Interest Statutes	8

Section 4.5.	Prohibition of Identified Family Relationships	8
Section 4.6.	Dual Employment Positions Prohibited	9
Section 4.7.	Oath of Public Office	9

**ARTICLE V
CORPORATE STRUCTURE OF THE SYSTEM**

Section 5.1.	Nonprofit Corporation	9
Section 5.2.	Articles of Incorporation	9
Section 5.3.	Bylaws	9
Section 5.4.	Quorum.....	9

**ARTICLE VI
OPERATING REQUIREMENTS**

Section 6.1.	Governance Structure	10
Section 6.2.	Educational Goals	10
Section 6.3.	Educational Programs	10
Section 6.4.	Curriculum	10
Section 6.5.	Method of Pupil Assessment.....	10
Section 6.6.	Application and Enrollment of Students	10
Section 6.7.	School Calendar and School Day Schedule	11
Section 6.8.	Age or Grade Range of Pupils.....	11
Section 6.9.	Employer Functions	11
Section 6.10.	Employment Relationships	11
Section 6.11.	Accounting Standards	11
Section 6.12.	Annual Financial Statement Audit	12
Section 6.13.	Address and Description of Physical Plant(s)	12
Section 6.14.	Contributions and Fund Raising.....	12
Section 6.15.	Disqualified Organizational or Contractual Affiliations.....	12
Section 6.16.	Method for Monitoring System’s Compliance with Applicable Law and Performance of its Targeted Educational Outcomes.....	12
Section 6.17.	Matriculation Agreements.....	12
Section 6.18.	Postings of AYP and Accreditation Status.....	13

**ARTICLE VII
TUITION PROHIBITED**

Section 7.1.	Tuition Prohibited; Fees and Expenses	13
--------------	---	----

**ARTICLE VIII
COMPLIANCE WITH PART 6A OF THE CODE AND OTHER LAWS**

Section 8.1.	Compliance with Part 6A of the Code	13
Section 8.2.	Compliance with State School Aid Act.....	13
Section 8.3.	Open Meetings Act.....	13
Section 8.4.	Freedom of Information Act	13
Section 8.5.	Public Employee Relations	13

Section 8.6.	Prevailing Wages on State Contracts	13
Section 8.7.	Uniform Budgeting and Accounting Act	13
Section 8.8.	Revised Municipal Finance Act	13
Section 8.9.	Non-discrimination.....	13
Section 8.10.	Other State Laws	14
Section 8.11.	Federal Laws	14

**ARTICLE IX
AMENDMENT**

Section 9.1.	Amendments.....	14
Section 9.2.	Process for Amendment Initiated by the System	14
Section 9.3.	Process for Amendment Initiated by the District Board	14
Section 9.4.	Final Approval of Amendments.....	14
Section 9.5.	Change in Existing Law	14

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

Section 10.1.	Termination by District Board	15
Section 10.2.	Contract Suspension.....	15
Section 10.3.	Statutory Grounds for Revocation.....	15
Section 10.4.	Other Grounds for Revocation	16
Section 10.5.	District Board Procedures for Revoking Contract	17
Section 10.6.	Venue; Jurisdiction.....	19
Section 10.7.	Automatic Amendment or Revocation by State of Michigan	20
Section 10.8.	Appointment of Conservator/Trustee.....	20
Section 10.9.	System Dissolution Account.....	20

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

Section 11.1.	The System Budget	21
Section 11.2.	Insurance	21
Section 11.3.	Legal Liabilities and Covenant Against Suit.....	22
Section 11.4.	Lease or Deed for Proposed Locations	22
Section 11.5.	Occupancy and Safety Certificates	23
Section 11.6.	Criminal Background and History Checks; Disclosure of Unprofessional Conduct; Compliance with School Safety Initiative	23
Section 11.7.	Special Education.....	23
Section 11.8.	Deposit of Public Funds by the System	23
Section 11.9.	Nonessential Elective Courses	23
Section 11.10.	Management Agreement	23
Section 11.11.	Required Provisions for Management Agreement.....	23

**ARTICLE XII
GENERAL TERMS**

Section 12.1. Notices.....	25
Section 12.2. Severability.....	25
Section 12.3. Successors and Assigns.....	25
Section 12.4. Entire Contract.....	25
Section 12.5. Assignment.....	25
Section 12.6. Alternate Authorizing Body.....	25
Section 12.7. Former 1990 PA 72.....	26
Section 12.8. Intergovernmental Agreements.....	26
Section 12.9. Access to Records.....	27
Section 12.10. Non-Waiver.....	27
Section 12.11. Governing Law.....	27
Section 12.12. Counterparts.....	27
Section 12.13. Term of Contract.....	27
Section 12.14. Indemnification.....	28
Section 12.15. Construction.....	28
Section 12.16. Superior Force.....	28
Section 12.17. No Third Party Rights.....	28
Section 12.18. Non-agency.....	28
Section 12.19. District Board General Policies on Public School Academies Shall Apply.....	28
Section 12.20. Survival of Provisions.....	29
Section 12.21. Information Available to the Public.....	29
Section 12.22. Termination of Responsibilities.....	29

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

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

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

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

WHEREAS, under the Local Government and School District Fiscal Accountability Act, 2011 PA 4, MCL 141.1501 to 141.1531 (“Act”), the Emergency Manager for the School District of the City of Highland Park (“Highland Park”) possesses the authority to act for and in the place and stead of the School Board of the School District of the City of Highland Park (“District Board”) and the Emergency Manager has the power to exercise solely, on behalf of the School District of the City of Highland Park (“District”), all other authority and responsibilities affecting the District that are prescribed by law to the District Board; and

WHEREAS, the Emergency Manager has considered the authorization of the Highland Park Public School Academy System (“System”) and has approved the issuance of a contract to the System; and

NOW, THEREFORE, as authorized by The Revised School Code, 1976 PA 451, MCL 380.1 to 380.1853, and the Act, the Emergency Manager, acting for and in place and stead of the District Board, grants a contract conferring certain rights, franchises, privileges, and obligations of a public school academy and confirms the status of a public school academy in this state to the Highland Park Public School Academy System. In addition, the parties agree that the granting of this contract is subject to the following terms and conditions:

ARTICLE I

DEFINITIONS

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

- (a) “Act” means the Local Government and School District Fiscal Accountability Act, 2011 PA 4, MCL 141.1501 to 141.1531.

- (b) “Applicable Law” means all state and federal law applicable to public school academies.
- (c) “Application” means the public school academy application and supporting documentation submitted to the Emergency Manager for the establishment of the System.
- (d) “Authorizing Resolution” means the resolution incorporated into Order 2012-4 adopted by the Emergency Manager on July 27, 2012.
- (e) “Code” means The Revised School Code, 1976 PA 451, MCL 380.1 to 380.1853.
- (f) “District” means the School District of the City of Highland Park.
- (g) “District Board” means the board of education for the District. If an Emergency Manager is in place for the District under the Act, or any successor statute, “District Board” means the Emergency Manager as the Emergency Manager is authorized to act in the place and stead of the District Board under the Act and may be authorized to act in the place and stead of the District Board under a successor statute. If the Act is repealed, suspended, or no longer in effect, former 1990 PA 72 is again in effect or applicable, and an emergency financial manager is in place for the District under former 1990 PA 72, “District Board” means the emergency financial manager for the District under former 1990 PA 72.
- (h) “Contract” means, in addition to the definition set forth in the Code, these Terms and Conditions, the Authorizing Resolution, the Resolution, the Master Calendar, the Schedules, and the Application.
- (i) “Director” means an individual who is a member of the System Board.
- (j) “Educational Service Provider” or “ESP” means an educational management organization as defined under Section 503c of the Code that has entered into a contract or agreement with the System Board for operation or management of the System, which contract has been submitted to the District Board for review as provided in Section 11.10 and has not been disapproved by the District Board.
- (k) “Emergency Manager” means the individual appointed under the Act, or any successor statute, as the emergency manager for the District. If the Act is repealed, suspended, or no longer in effect and former 1990 PA 72 is again in effect or applicable, “Emergency Manager” means the individual appointed under former 1990 PA 72 as the emergency financial manager for the District.
- (l) “Fund Balance Deficit” means the System has more liabilities than assets at the end of a school fiscal year, and includes any school fiscal year where

the System would have had a budget deficit but for a financial borrowing from, or monetary contribution by an Educational Service Provider or other person or entity to the System. If the System receives a gift or grant of money or financial support from an Educational Service Provider or other person or entity that does not require repayment by the System, and is not conditioned upon the actions or inactions of the System Board, then the gift or grant shall not constitute a financial borrowing or contribution for purposes of determining a Fund Balance Deficit.

- (m) “Management Agreement” or “ESP Agreement” means an agreement as defined under Section 503c of the Code that has been entered into between an ESP and the System Board for the operation and/or management of the System, which has been submitted to the District Board for review as provided in Section 11.10, and has not been disapproved by the District Board.
- (n) “Master Calendar” or “MCRR” means the Master Calendar of Reporting Requirements developed and administered by the District Board setting forth a reporting timeline for certain financial, administrative, facility, System Board, and educational information relating to the System. The District Board may, at any time and at the District Board’s sole discretion, amend the Master Calendar. Upon amendment, changes to the Master Calendar shall automatically be incorporated into this Contract and shall be exempt from the amendment procedures under Article IX of these Terms and Conditions.
- (o) “Resolution” means the resolution incorporated into Order 2012-3 adopted by the Emergency Manager on July 26, 2012, approving the Application for the System, establishing the standard method of selection, length of term and number of members format for public school academies issued a Contract by the District, appointing the initial Members of the System Board, and authorizing the System Board to take certain actions. The method of selection process contained in the Resolution may be amended from time to time at the discretion of the Emergency Manager.
- (p) “Schedules” means the following Contract documents of the System: Schedule 1: Articles of Incorporation, Schedule 2: Bylaws, Schedule 3: Fiscal Agent Agreement, Schedule 4: Oversight Agreement, Schedule 5: Description of Staff Responsibilities, Schedule 6: Physical Plant Description, and Schedule 7: Required Information for Public School Academies.
- (q) “State Board” means the State Board of Education, required by Section 3 of Article 8 of the State Constitution of 1963.

- (r) “System” means the Highland Park Public School Academy System, a Michigan nonprofit corporation, established as a public school academy pursuant to this Contract.
- (s) “System Board” means the Board of Directors of the System.
- (t) “Terms and Conditions” means this document entitled “Terms and Conditions of Contract, Dated July 27, 2012, Issued by the School District of the City of Highland Park to the Highland Park Public School Academy System Confirming the Status of the Highland Park Public School Academy System as a Public School Academy”.

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

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

Section 1.4. Statutory Definitions. Statutory terms defined in Part 6A of the Code shall have the same meaning in this Contract.

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

Section 1.6. Application. The Application submitted to the District Board for the establishment of the System is incorporated into, and made part of, this Contract. In the event that there is an inconsistency or dispute between materials in the Application and the Contract, the language or provisions in the Contract shall control.

Section 1.7. Conflicting Contract Provisions. In the event that there is a conflict between language contained in the provisions of this Contract, the Contract shall be interpreted as follows: (a) the Resolution shall control over any other conflicting language in the Contract; (b) the Authorizing Resolution shall control over any other conflicting language in the Contract with the exception of language in the Resolution; (c) the Terms and Conditions shall control over any other conflicting language in the Contract with the exception of language in the Resolution and the Authorizing Resolution; and (d) the Articles of Incorporation shall control over any other conflicting language in the Contract with the exception of language in the Resolution, Authorizing Resolution and these Terms and Conditions.

ARTICLE II

RELATIONSHIP BETWEEN THE SYSTEM AND THE DISTRICT

Section 2.1. Independent Status of District. The District Board is an authorizing body as defined by the Code. In approving this Contract, the District Board voluntarily exercises additional powers given to the District Board under the Code. Nothing in this Contract shall be

deemed to be any waiver of the District Board's powers or independent status and the System shall not be deemed to be a part of the District Board or the District.

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

Section 2.3. Financial Obligations of the System Are Separate From the State of Michigan, District Board and the District. Any contract, agreement, note, mortgage, loan or other instrument of indebtedness entered into by the System and a third party shall not in any way constitute an obligation, either general, special, or moral, of the State of Michigan, the District Board, or the District. 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 District Board or the District shall ever be assigned or pledged for the payment of any System contract, agreement, note, mortgage, loan or other instrument of indebtedness.

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

ARTICLE III

ROLE OF THE DISTRICT BOARD AS AUTHORIZING BODY

Section 3.1. District Board Resolutions. The District Board has adopted the Resolution providing for the method of selection, length of term, number of Directors and the qualification of Directors. The District Board has adopted the Authorizing Resolution which approves the issuance of this Contract. The Resolution and the Authorizing Resolution are incorporated into this Contract as Exhibit A. At any time and at its sole discretion, the District Board may amend the Resolution. Upon District Board approval, changes to the Resolution shall automatically be incorporated into this Contract and shall be exempt from the amendment procedures under Article IX of these Terms and Conditions.

Section 3.2. District Board as Fiscal Agent for the System. The District Board is the fiscal agent for the System. As fiscal agent, the District Board assumes no responsibility for the financial condition of the System. The District Board is not liable for any debt or liability incurred by or on behalf of the System, or for any expenditure approved by or on behalf of the System Board. Except as provided in the Oversight Agreement and Article X of these Terms and Conditions, the District Board shall promptly, within five (5) business days of receipt, forward to the System all state school aid funds or other public or private funds received by the

District Board for the benefit of the System. The responsibilities of the District Board, the State of Michigan, and the System are set forth in the Fiscal Agent Agreement incorporated as Schedule 3. While the District is exercising duties as a fiscal agent for the System, funds of the System remain funds of the System, and are not funds of the District. Funds of the System transmitted or otherwise held by the System remain funds of the System and are not funds of the District.

Section 3.3. Oversight Responsibilities of the District Board. The District Board has the responsibility to oversee the System's compliance with the Contract and all Applicable Law. The responsibilities of the System and the District Board are set forth in the Oversight Agreement executed by the parties and incorporated as Schedule 4.

Section 3.4. Reimbursement of District Board Expenses. The System shall pay an administrative fee to reimburse the District Board for the expenses associated with the execution of its authorizing body and oversight responsibilities. The terms and conditions of the administrative fee are set forth in Schedule 4.

Section 3.5. District Board Approval of Condemnation. In the event that the System desires to acquire property pursuant to the Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.51 to 213.77, or other applicable statutes, it shall obtain express written permission for the acquisition of property from the District Board. The System shall submit a written request to the District Board describing the proposed acquisition and the purpose for which the System desires to acquire the property.

Section 3.6. Authorization of Employment. The District Board authorizes the System to employ or contract directly with personnel or staff according to the position information outlined in Schedule 5. However, the System Board shall prohibit any individual from being employed by the System, an Educational Service Provider or an employee leasing company involved in the operation of the System, in more than one (1) full-time position and simultaneously being compensated at a full-time rate for each of these positions. Any employee hired by the System shall be an employee of the System for all purposes and not an employee of the District or Educational Service Provider for any purpose. With respect to any System employees, the System shall have the power and responsibility to: (a) select and engage employees; (b) pay their wages and benefits; (c) discipline and dismiss employees; and (d) control the employees' conduct, including, but not limited to, the method by which the employee carries out his or her work. The System Board shall be responsible for carrying workers' compensation insurance and unemployment insurance for any System employees.

Section 3.7. District Board Review of Certain Financing Transactions. In the event that the System desires to finance the acquisition, by lease, purchase, or other means, of facilities or equipment, in excess of \$150,000.00, pursuant to arrangements calling for payments over a period greater than 372 days, and that include a pledge, assignment, or direction to one or more third parties of a portion of the funds to be received by the System from the State of Michigan under The State School Aid Act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896, then the System shall obtain prior review for the financing of the acquisition from the District Board. The System shall submit a written request to the District Board describing the proposed financing transaction, and the facilities or equipment to be acquired with the proceeds thereof. If

the proposed transaction is not disapproved by the District Board within sixty (60) days of submission, the District Board may still condition the decision not to disapprove on compliance by the System and any lender, lessor, seller or other party with terms and conditions the District Board deems appropriate under the circumstances. If the proposed transaction is disapproved, the disapproval may state one or more conditions that, if complied with by the System and any lender, lessor, seller or other party, would cause such disapproval to be deemed withdrawn. No transaction described in this Section may be entered into by the System if the proposed transaction is disapproved by the District Board. By not disapproving a proposed transaction, the District Board is in no way giving approval of the proposed transaction, or representing that the System has the ability to meet or satisfy any of the terms or conditions thereof.

Section 3.8. Authorizing Body Contract Authorization Process. Pursuant to the Code, the District Board is not required to issue a contract to the System. This Contract is for a fixed term and will terminate at that end of the Contract Term set forth in Section 12.13 without any further action of either the System or the District Board. The System may seek a new contract by making a formal request to the District Board in writing at least one year prior to the end of the current Contract Term. The District Board shall provide to the System a description of the timeline and process by which the System may be considered for issuance of a new contract. The timeline and process for consideration of whether to issue a new contract to the System shall be solely determined by the District Board. The standards for the issuance of a new contract shall include increases in academic achievement for all groups of pupils as measured by assessments and other objective criteria established by the District Board as the most important factor of whether to issue or not issue a new contract. The District Board, at its own discretion, may change its timeline and process for issuance of a new contract at any time, and the change shall take effect automatically without the need for any amendment to the Contract. Consistent with the Code, the District Board may elect, at its sole discretion, not to consider the issuance of a contract, consider reauthorization of the System and elect not to issue a contract, or consider reauthorization of the System and issue a contract for a fixed term.

Section 3.9. District Board's Invitation to System to Apply For Conversion to Schools of Excellence. If the District Board is interested in accepting applications to issue contracts to charter Schools of Excellence under Part 6E of the Code, and the District Board determines that the System meets the District Board's and the Code's eligibility criteria for applying to converting the System to a School of Excellence, then the District Board may invite the System to submit an application to apply for a contract to convert the System to a school of excellence. In accordance with the Code, the District Board shall establish its own competitive application process and provide the necessary forms and procedures to eligible public school academies.

ARTICLE IV

REQUIREMENT THAT THE SYSTEM ACT SOLELY AS GOVERNMENTAL ENTITY

Section 4.1. Limitation on Actions in Performance of Governmental Functions. The System shall act exclusively as a governmental entity and shall not undertake any action inconsistent with its status as a body corporate authorized to receive state school aid funds pursuant to Section 11 of Article 9 of the State Constitution of 1963.

Section 4.2. Other Permitted Activities. Consistent with the provisions of this Contract, the System is permitted to engage in lawful activities that are not in derogation of the System's mission and status of operating a public school academy or that would not jeopardize the eligibility of the System for state school aid funds.

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

Section 4.4. Incompatible Public Offices and Conflicts of Interest Statutes. The System shall comply with 1978 PA 566, MCL 15.181 to 15.185, and 1968 PA 317, MCL 15.321 to 15.330. The System Board shall ensure compliance with Applicable Law relating to conflicts of interest. Notwithstanding any other provision of this Contract, the following shall be deemed prohibited conflicts of interest for purposes of this Contract:

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

Section 4.5. Prohibition of Identified Family Relationships. The System Board shall prohibit specifically identified family relationships pursuant to Applicable Law and the Terms and Conditions of this Contract. Notwithstanding any other provision of this Contract, the following shall be deemed prohibited familial relationships for the purposes of this Contract:

- (a) No person shall be appointed or reappointed to serve as a System Board member if the person's mother, mother-in-law, father, father-in-law, son,

son-in-law, daughter, daughter-in-law, sister, sister-in-law, brother, brother-in-law, spouse or same-sex domestic partner:

- (i) Is employed by the System;
- (ii) Works at or is assigned to the System;
- (iii) Has an ownership, officer, policymaking, managerial, administrative non-clerical, or other significant role with the System's ESP or employee leasing company.

Section 4.6. Dual Employment Positions Prohibited. Any person working at the System is prohibited by law from being employed at the System in more than one full-time position and simultaneously being compensated for each position.

Section 4.7. Oath of Public Office. System Board members are public officials. Before entering upon the duties of a public school board member, each System Board member shall take, sign and file the constitutional oath of office with the District.

ARTICLE V

CORPORATE STRUCTURE OF THE SYSTEM

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

Section 5.2. Articles of Incorporation. The Articles of Incorporation of the System, as set forth in Schedule 1, shall be the Articles of Incorporation of the System. Any subsequent amendments to the System's Articles of Incorporation shall only be incorporated into this Contract pursuant to Article IX of these Terms and Conditions.

Section 5.3. Bylaws. The Bylaws of the System, as set forth in Schedule 2, shall be the Bylaws of the System. Any subsequent amendments to the System's Bylaws shall only be incorporated into this Contract pursuant to Article IX of these Terms and Conditions.

Section 5.4. Quorum. Notwithstanding any document in the Contract that is inconsistent with this Section, including the System's Articles of Incorporation and Bylaws, a quorum of the System Board that is necessary to transact business and to take action shall be a majority of the System Board members.

ARTICLE VI

OPERATING REQUIREMENTS

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

Section 6.2. Educational Goals. The System shall pursue the educational goals identified in Schedule 7b. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils.

Section 6.3. Educational Programs. The System shall deliver the educational programs identified in Schedule 7b.

Section 6.4. Curriculum. The System shall implement and follow the curriculum identified in Schedule 7c.

Section 6.5. Method of Pupil Assessment. The System shall evaluate pupils' work based on the assessment strategies identified in Schedule 7d. To the extent applicable, the pupil performance of the System shall be assessed using at least the Michigan Educational Assessment Program (MEAP) test or the Michigan Merit Examination (MME) designated under the Code. The System shall provide the District Board with copies of reports, assessments and test results concerning the following:

- (a) educational outcomes achieved by pupils attending the System and other reports reasonably requested by the District;
- (b) an assessment of the System's student performance at the end of each academic school year or at other times as the District Board may reasonably request;
- (c) an annual education report in accordance with the Code;
- (d) an annually administered nationally recognized norm-referenced achievement test for the System's grade configuration, or a program of testing approved by the District Director; and
- (e) all tests required under Applicable Law.

Section 6.6. Application and Enrollment of Students. The System shall comply with the application and enrollment policies identified in Schedule 7e. With respect to the System's pupil admissions process, the System shall provide any documentation or information requested by the District that demonstrates the following:

- (a) The System has made a reasonable effort to advertise its enrollment efforts to all pupils; and
- (b) The System's open enrollment period was for a duration of at least 2 weeks and permitted the enrollment of pupils at times in the evening and on weekends.

Section 6.7. School Calendar and School Day Schedule. The System shall comply with the school calendar and school day schedule guidelines as set forth in Schedule 7f.

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

Section 6.9. Employer Functions. The System shall employ, by contract or otherwise, any personnel or staff of the System needed for the exercise of functions or responsibilities of the System under this Contract. Collective bargaining agreements, if any, with any employees of the System shall be the responsibility of the System. The District shall function as the public employer of any personnel or staff of the District needed for the exercise of functions or responsibilities of the District under this Contract. Collective bargaining agreements, if any, with any employees of the District shall remain the responsibility of the District. The Educational Service Provider shall function as the employer of any personnel or staff of the Educational Service Provider. Collective bargaining agreements, if any, with employees of the Educational Service Provider shall remain the responsibility of the Educational Service Provider. The System has the responsibility, authority, and right to manage and direct the functions, responsibilities, or services performed or exercised by the System or any employees or agents of the System. The District has the responsibility, authority, and right to manage and direct the functions, responsibilities, or services performed or exercised by the District or any employees or agents of the District. The Educational Service Provider has the responsibility, authority, and right to manage and direct the functions, responsibilities, or services performed or exercised by the Educational Service Provider or any employees or agents of the Educational Service Provider, consistent with the requirements of this Contract.

Section 6.10. Employment Relationships. Nothing in this Contract creates an employment relationship between the System and any employees of the District or employees of the Educational Service Provider. Nothing in this Contract creates an employment relationship between the District and any employees of the System or employees of the Educational Service Provider. Nothing in this Contract creates an employment relationship between the Educational Service Provider and any employees of the System or any employees of the District. Nothing in this Contract creates a joint employer relationship between two (2) or more of the following: the System, the District, or the Educational Service Provider.

Section 6.11. Accounting Standards. The System shall at all times comply with generally accepted public sector accounting principles and accounting system requirements that comply with The State School Aid Act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896, and applicable State Board of Education and Department of Education rules.

Section 6.12. Annual Financial Statement Audit. The System shall conduct an annual financial statement audit prepared and reviewed by an independent certified public accountant. In accordance with timeframes set forth in the Master Calendar, the System shall submit one (1) copy of the annual financial statement audit, auditor's management letters and any responses to auditor's management letters to the District.

Section 6.13. Address and Description of Physical Plant(s). The address and description of the physical plant(s) for the System is set forth in Schedule 6. More detailed information regarding the physical plant(s) for the System also is available at the administrative offices of the District. Each of the sites listed in Schedule 6 are under the direction and control of the System Board. As detailed in Schedule 6, the District Board authorizes the System to operate the same configuration of age or grade levels at more than one (1) site. In authorizing the operation of the same configuration of age or grade levels at more than one (1) site, the District Board acknowledges that the Education Service Provider presented materials as an applicant during the application process demonstrating that as an applicant, the ESP's proposed educational model has resulted in schools making measureable progress toward meeting their educational goals.

Section 6.14. Contributions and Fund Raising. The System may solicit and receive contributions and donations as permitted by law. No solicitation shall indicate that a contribution to the System is for the benefit of the District or the District Board.

Section 6.15. Disqualified Organizational or Contractual Affiliations. The System shall comply with all state and federal law applicable to public schools concerning church-state issues. To the extent disqualified under the state or federal constitutions, the System shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization. Nothing in this Section shall be deemed to diminish or enlarge the civil and political rights, privileges and capacities of any person on account of his or her religious belief.

Section 6.16. Method for Monitoring System's Compliance with Applicable Law and Performance of its Targeted Educational Outcomes. The System shall perform the compliance certification duties required by the District Board and outlined in the Oversight Agreement set forth as Schedule 4. In addition to the District Board's oversight responsibilities and other reporting requirements set forth in this Contract, the System's compliance certification duties shall serve as the method for monitoring the System's compliance with Applicable Law and its performance in meeting its educational goals.

Section 6.17. Matriculation Agreements. Before the System Board approves any matriculation agreement with any public school other than the District, the System shall provide a draft copy of the agreement to the District Board for review. Any matriculation agreement entered into by the System shall be incorporated into Schedule 7 by a contract amendment pursuant to Article IX of these Terms and Conditions. Until a matriculation agreement is incorporated into the Contract, the System is prohibited from granting an enrollment priority to any student under that matriculation agreement.

Section 6.18. Postings of AYP and Accreditation Status. The System shall post notices to the System’s homepage of its website disclosing the adequate yearly progress status and accreditation status of each school in accordance with Section 1280e of the Code.

ARTICLE VII

TUITION PROHIBITED

Section 7.1. Tuition Prohibited; Fees and Expenses. The System shall not charge tuition. The System may impose fees and require payment of expenses for activities of the System if the fees and payments are not prohibited by law.

ARTICLE VIII

COMPLIANCE WITH PART 6A OF THE CODE AND OTHER LAWS

Section 8.1. Compliance with Part 6A of the Code. The System shall comply with Part 6A and other parts of the Code that apply to public school academies.

Section 8.2. Compliance with State School Aid Act. In order to assure that funds are available for the education of pupils, the System shall comply with all applicable provisions of The State School Aid Act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

Section 8.3. Open Meetings Act. The System Board shall conduct all of its meetings in accordance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.

Section 8.4. Freedom of Information Act. The records of the System shall be records subject to the provisions of the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246 (“FOIA”). The System Board shall designate a freedom of information coordinator to assure compliance with FOIA and other applicable law providing for public disclosure or for protection of privacy.

Section 8.5. Public Employee Relations. As required by the Code, the System shall comply with 1947 PA 336, MCL 423.201 to 423.217.

Section 8.6. Prevailing Wages on State Contracts. As required by the Code, the System shall comply with 1965 PA 166, MCL 408.551 to 408.558.

Section 8.7. Uniform Budgeting and Accounting Act. The System shall comply with the Uniform Budgeting and Accounting Act, 1968 PA 2, MCL 141.421 to 141.440a.

Section 8.8. Revised Municipal Finance Act. The System shall comply with Part VI of the Revised Municipal Finance Act, 2001 PA 34, MCL 141.2601 to 141.2613, regarding any borrowing of money and issuance of bonds by the System.

Section 8.9. Non-discrimination. The System shall be separately responsible for compliance with applicable laws pertaining to equal opportunity and anti-discrimination laws, including, but not limited to: the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 to 37.2804; the Persons with Disabilities Civil Rights Act, 1976 PA 22, MCL 37.1101 to 37.1607;

Subtitle A of Title II of the Americans with Disabilities Act of 1990, Public Law 101-336, 42 USC 12101 *et seq*; and Title VII of the Civil Rights Act of 1964, Public Law 88-352, 42 USC 2000e *et seq*.

Section 8.10. Other State Laws. The System shall comply with other state laws applicable to public school academies. Nothing in this Contract shall be deemed to apply any other state law to the System.

Section 8.11. Federal Laws. The System shall comply with federal laws which are applicable to public school academies. Nothing in this Contract shall be deemed to apply any other federal law to the System.

ARTICLE IX

AMENDMENT

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

Section 9.2. Process for Amendment Initiated by the System. The System, by a majority vote of its Board of Directors, may, at any time, propose specific changes in this Contract or may propose a meeting to discuss potential revision of this Contract. The proposal will be made to the District Board.

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

Section 9.4. Final Approval of Amendments. Amendments to this Contract take effect only after they have been approved by the System Board and by the District Board.

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

ARTICLE X

CONTRACT TERMINATION, SUSPENSION, AND REVOCATION

Section 10.1. Termination by District Board. If the System is notified by the State that a school within the System will be placed in the State School Reform/Redesign School District under Section 1280c of the Code, the District Board may terminate this Contract before the end of the Contract Term, with the termination effective at the end of the school year in which the System is notified that a school within the System will be placed in the State School Reform/Redesign District.

Section 10.2. Contract Suspension. The District Board's process for suspending the Contract is as follows:

- (a) District Board Action. If the District Board determines that probable cause exists to believe that the System Board: (i) has placed staff or students at risk; (ii) is not properly exercising its fiduciary obligations to protect and preserve the System's public funds and property; (iii) has lost its right to occupancy of the physical facilities described in Schedule 6, and cannot find another suitable physical facility for the System prior to the expiration or termination of its right to occupy its existing physical facilities; (iv) has failed to secure or has lost the necessary fire, health, and safety approvals as required by Schedule 6; (v) has willfully or intentionally violated this Contract or Applicable Law; or (vi) has violated Section 10.5(e) or (f), the District Board may immediately suspend the Contract, pending completion of the revocation procedures set forth in Section 10.5. A copy of the suspension notice, setting forth the grounds for suspension, shall be sent to the System Board and to the Hearing Panel. If this subsection is implemented, the notice and hearing procedures set forth in Section 10.5 shall be expedited as much as possible.
- (b) Immediate Revocation Proceeding. If the System Board, after receiving a notice of Contract suspension from the District Board, continues to engage in conduct or activities that are covered by the suspension notice, the Hearing Panel may immediately convene a revocation hearing in accordance with the procedures set forth in Section 10.5(e) of this Contract. The Hearing Panel has the authority to accelerate the time line for revoking the Contract, provided that notice of the revocation hearing shall be provided to the District Board and the System Board at least five (5) days before the hearing. If the Hearing Panel determines that the System Board has continued to engage in conduct or activities that are covered by the suspension notice, the Hearing Panel may recommend revocation of the Contract. The District Board shall proceed to consider the Hearing Panel's recommendation in accordance with Section 10.5(f) through (h).

Section 10.3. Statutory Grounds for Revocation. This Contract also may be revoked by the District Board upon a determination by the District Board, pursuant to the procedures set forth in Section 10.5, that one or more of the following has occurred:

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

Section 10.4. Other Grounds for Revocation. In addition to the statutory grounds for revocation set forth in Section 10.3 and the grounds for an automatic revocation of the Contract set forth in Section 10.7, the District Board may revoke this Contract, pursuant to the procedures set forth in Section 10.5, upon a determination that one or more of the following has occurred:

- (a) The System is insolvent, has been adjudged bankrupt, or has operated for two or more school fiscal years with a Fund Balance Deficit;
- (b) The System has insufficient enrollment to successfully operate a public school academy;
- (c) The System defaults in any of the terms, conditions, promises or representations contained in or incorporated into this Contract;
- (d) The System files amendments to its Articles of Incorporation with the Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services without first obtaining the District Board's approval;
- (e) The District Board discovers grossly negligent, fraudulent or criminal conduct by the System's applicant(s), directors, officers, employees or agents in relation to their performance under this Contract; or
- (f) The System's applicant(s), directors, officers, employees or agents have provided false or misleading information or documentation in connection with the District Board's approval of the Application, the issuance of this Contract, or the System's reporting requirements under this Contract or Applicable Law.
- (g) The System violates the site restrictions set forth in the Contract or the System operates at a site or sites without the prior written authorization of the District Board; or
- (h) The District Board, its Trustees, officers, employees, agents or representatives are not included as third party beneficiaries under any Management Agreement entered into by the System for purposes of indemnifying the parties in accordance with Section 11.11 of the Terms and Conditions.

Section 10.5. District Board Procedures for Revoking Contract. The District Board's process for revoking the Contract is as follows:

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

process. An attempt to improve student educational performance may include, but is not limited to, one of the following actions: (i) removal of 1 or more members of the System Board; (ii) termination of at-will board appointments of 1 or more System Board members; (iii) withdrawal of the System's authorization to contract with an ESP; or (iv) the appointment of a new System Board or a conservator/ trustee to take over operations of the System. The District Board shall notify the Superintendent of Public Instruction of any Plan of Correction that includes a reconstitution of the System to ensure that the System is not included on the list of school buildings subject to automatic closure under Section 1280c of the Code.

- (e) Request for Revocation Hearing. The District Board may initiate a revocation hearing before the District Charter Schools Hearing Panel if the District Board determines that any of the following has occurred:
- (i) the System Board has failed to respond to the Notice of Intent to Revoke under Section 10.5(b);
 - (ii) the System Board's response admits violations of the Contract or Applicable Law which the District Board deems cannot be remedied or cannot be remedied in an appropriate period of time, or for which the District Board determines that a Plan of Correction cannot be formulated;
 - (iii) the System Board's response contains denials that are not supported by sufficient documentation or other evidence showing compliance with the Contract or Applicable Law;
 - (iv) the System Board has not complied with part or all of a Plan of Correction established in Section 10.5(c);
 - (v) the System Board has engaged in actions that jeopardize the financial or educational integrity of the System; or
 - (vi) the System Board has been issued multiple or repeated Notices of Intent to Revoke.

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

- (f) Hearing Panel. Within thirty (30) days of receipt of a request for revocation hearing, the Hearing Panel shall convene a revocation hearing. The Hearing Panel shall provide a copy of the notice of hearing to the District Board and the System Board at least ten (10) days before the hearing. The purpose of the Hearing Panel is to gather facts surrounding the District Board's request for Contract revocation, and to make a recommendation to the District Board on whether the Contract should be revoked. The

revocation hearing shall be held at a location, date and time as determined by the District Board and shall not last more than three hours. The hearing shall be transcribed by a court reporter and the cost of the court reporter shall be divided equally between the District and the System. The District Board, and the System Board or its designee, shall each have equal time to make their presentation to the Hearing Panel. Although each party is permitted to submit affidavits and exhibits in support of their positions, the Hearing Panel will not hear testimony from any witnesses for either side. The Hearing Panel may, however, question the District Board and the System Board. Within thirty (30) days of the revocation hearing, the Hearing Panel shall make a recommendation to the District Board concerning the revocation of the Contract. For good cause, the Hearing Panel may extend any time deadline set forth in this subsection. A copy of the Hearing Panel's recommendation shall be provided to the District Board and the System Board at the same time that the recommendation is sent to the District Board.

- (g) District Board Decision. If the Hearing Panel's recommendation is submitted to the District Board at least fourteen (14) days before the District Board's next formal session, the District Board shall consider the Hearing Panel's recommendation at its next formal session and vote on whether to revoke the Contract. The District Board reserves the right to modify, reject or approve all or any part of the Hearing Panel's recommendation. The District Board shall have available to it copies of the Hearing Panel's recommendation and the transcript from the hearing. The District Board may waive the fourteen (14) day submission requirement or hold a special formal session to consider the Hearing Panel's recommendation. A copy of the District Board's decision shall be provided to the System Board and the Michigan Department of Education.
- (h) Effective Date of Revocation. If the District Board votes to revoke the Contract, the revocation shall be effective on the date of the District Board's act of revocation, or at a later date as determined by the District Board.
- (i) Disposition of State School Aid Funds. Notwithstanding any other provision of the Contract, any state school aid funds payable for periods after revocation of the Contract may be withheld by the District Board or returned to the Michigan Department of Treasury upon request.

Section 10.6. Venue; Jurisdiction. The parties agree that all actions or proceedings arising in connection with this Contract will be tried and litigated only in the Circuit Court of Wayne County, Michigan, the Michigan Court of Claims, or the Federal District Court for the Eastern District of Michigan ("Courts"). The parties irrevocably accept for themselves and their property, generally and unconditionally, the jurisdiction of the Courts. The parties irrevocably consent to the service of process out of any such courts in any such action or proceedings by the mailing of copies thereof by registered or certified mail, postage prepaid, to each party, at its

address set forth for notices in this Contract, with the service effective ten (10) days after mailing. The parties irrevocably waive any right they may have to assert the doctrine of *forum non conveniens* or to object to venue to the extent any proceedings is brought in accordance with this Section 10.6. This Section 10.6 shall not in any way be interpreted as an exception to the System's covenant not to sue contained in Section 11.3 of these Terms and Conditions.

Section 10.7. Automatic Amendment or Revocation by State of Michigan. If the District Board is notified by the Superintendent of Public Instruction that the System is subject to closure under Part 6A of the Code ("State's Automatic Closure Notice"), and the System is currently not undergoing a reconstitution as part of a Plan of Correction developed under Section 10.5, then this Contract shall automatically be amended to eliminate the System's authority to operate certain age and grade levels at the site or sites identified in the State's Automatic Closure Notice. If the State's Automatic Closure Notice includes all of the System's existing sites, then this Contract shall automatically be revoked at the end of the current school year in which the notice is received without any further action of the District Board or the System. The District Board's revocation procedures set forth in Section 10.5 do not apply to an automatic revocation initiated by the State.

Following receipt of the State's Automatic Closure Notice, the District Board shall forward a copy of the State's Automatic Closure Notice to the System Board and request a meeting with System Board representatives to discuss the System's plans and procedures for the elimination of certain age or grade levels at the identified site or sites, or if all of the System's existing sites are included in the State's Automatic Closure Notice, then wind-up and dissolution of the System corporation at the end of the current school year. All System inquiries and requests for reconsideration of the State's Automatic Revocation Notice shall be directed to the Superintendent of Public Instruction, in a form and manner determined by that office or the Michigan Department of Education.

Section 10.8. Appointment of Conservator/Trustee. Notwithstanding any other provision of the Contract, when the District Board determines that conditions or circumstances exist to lead the District Board to believe that the health, safety, educational or economic interest of the System or its students is at risk, the District Board may take immediate action against the System pending completion of the process described in Section 10.5. As part of a reconstitution, the District Board may appoint a conservator/ trustee to manage the day to day operations of the System in place of the System Board. A conservator/ trustee appointed by the District Board shall have all the powers and authority of the System Board under this Contract and Applicable Law. Upon the appointment of a conservator/ trustee, the appointment and term of office for each System Board member shall be suspended and the conservator/ trustee shall act in place of the System Board. If this section has been implemented and the Hearing Panel under Section 10.5 determines the revocation to be appropriate, the revocation shall become effective immediately upon the District Board's decision.

Section 10.9. System Dissolution Account. If the District Board terminates, revokes or fails to issue a new Contract to the System, the District Board shall notify the System that, beginning thirty (30) days after notification of the District Board's decision, the District Board shall direct up to \$10,000.00 from each subsequent State School Aid Fund payment, not to exceed a combined total of \$30,000.00, to a separate System account ("System Dissolution

Account”) to be used exclusively to pay the costs associated with the wind up and dissolution responsibilities of the System. Within five (5) business days of the District Board’s notice, the System Board Treasurer shall provide the District Board, in a form and manner determined by the District Board, with account detail information and authorization to direct such funds to the System Dissolution Account. The System Dissolution Account shall be under the sole care, custody and control of the System Board, and such funds shall not be used by the System to pay any other System debt or obligation until such time as all the wind-up and dissolution expenses have been satisfied.

ARTICLE XI

PROVISIONS RELATING TO PUBLIC SCHOOL ACADEMIES

Section 11.1. The System Budget. The System Board is responsible for establishing, approving, and amending an annual budget in accordance with the Uniform Budgeting and Accounting Act, 1968 PA 2, MCL 141.421 to MCL 141.440a. By July 1st of each year, the System Board shall submit to the District Board a copy of its annual budget for the upcoming fiscal year. The budget must detail budgeted expenditures at the object level as described in the Michigan Department of Education’s Michigan School Accounting Manual. In addition, the System Board is responsible for approving all revisions and amendments to the annual budget. Within 10 business days after System Board approval, revisions or amendments to the System’s budget shall be submitted to the District Board.

Section 11.2. Insurance. The System Board shall secure and maintain in its own name as the “first named insured” at all times the following insurance coverages:

- (a) real and personal property insurance covering all of the System’s real and personal property, whether owned or leased;
- (b) a minimum of general liability insurance of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate;
- (c) minimum automobile insurance coverage of one million dollars (\$1,000,000.00);
- (d) workers’ compensation insurance or “workers’ compensation without employees if any insurance”;
- (e) School Leaders Liability insurance of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) aggregate; and
- (f) Employee Dishonesty Insurance of five hundred thousand dollars (\$500,000.00).

The insurance must be obtained from a licensed mutual, stock, or other responsible company licensed to do business in the State of Michigan. The System may join with other public school academies to obtain insurance if the System Board finds that such an association

provides economic advantages to the System, provided that each System maintains its identity as first named insured. The System shall list the District, the Emergency Manager, and the District Board on the insurance policies as an additional insured on insurance coverages listed in (b), (c) and (e) above. The System shall have a provision included in all policies requiring notice to the District Board, at least thirty (30) days in advance, upon termination or non-renewal of the policy. In addition, the System shall provide copies of all insurance policies required by this Contract on site for inspection by the District Board or its designee.

When changing insurance programs or carriers, the System must provide copies of the proposed policies to the District Board, or its designee, at least thirty (30) days prior to the proposed change. The System shall not cancel its existing coverage without the prior approval of the District Board. In the event the System fails to purchase the insurance coverage required by this Section 11.2, the District Board may purchase on the System's behalf the insurance required under this Section 11.2 and subtract the total cost for placed insurance from the next state school aid payment received by the District Board for forwarding to the System.

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

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

Section 11.3. Legal Liabilities and Covenant Against Suit. The System acknowledges and agrees that it has no authority to extend the full faith and credit of the District Board, the District or any other authorizing body, or to enter into a contract that would bind the District Board or the District. The System also is limited in its authority to contract by the amount of funds obtained from the state school aid fund, as provided hereunder, or from other independent sources. The System covenants not to sue the District Board or the District, or any of its officers, employees, agents or representatives for any matters that arise under this Contract. The District Board and the District do not assume any obligation with respect to any Director, employee, agent, parent, guardian, student, or independent contractor of the System, and no such person shall have the right or standing to bring suit against the District Board or the District, or any of its employees, agents, or independent contractors as a result of the issuing, overseeing, suspending, terminating or revoking of this Contract, or as a result of not issuing a new Contract at the end of the term of this Contract.

Section 11.4. Lease or Deed for Proposed Locations. The System shall provide to the District Board copies of its lease or deed for the premises in which the System shall operate. A copy of the System's lease or deed shall be incorporated into this Contract under Schedule 6. Any subsequent amendments to any System real estate leasing agreement shall only be incorporated into this Contract pursuant to Article IX of these Terms and Conditions.

Section 11.5. Occupancy and Safety Certificates. The System Board shall: (a) ensure that the System's physical facilities comply with all fire, health and safety standards applicable to schools; and (b) possess the necessary occupancy and safety certificates for the System's physical facilities. The System Board shall not conduct classes until the System has complied with this Section 11.5. Copies of these certificates shall be incorporated into this Contract under Schedule 6.

Section 11.6. Criminal Background and History Checks; Disclosure of Unprofessional Conduct; Compliance with School Safety Initiative. The System shall comply with Section 1230 and 1230a of the Code concerning criminal background and criminal history checks for its teachers, school administrator(s), and for any other position requiring State Board approval. In addition, the System shall comply with Section 1230b of the Code concerning the disclosure of unprofessional conduct by persons applying for System employment. The System shall comply with Sections 1230c through 1230g of the Code. This Section 11.6 shall apply to such persons irrespective of whether they are employed by the System or employed by an ESP contracting with the System.

Section 11.7. Special Education. Pursuant to Section 1701a of the Code, the System shall comply with Part 29 of the Code concerning the provision of special education programs and services within the System.

Section 11.8. Deposit of Public Funds by the System. The System Board agrees to comply with Section 1221 of the Code regarding the deposit of all public or private funds received by the System. A deposit shall be made within three (3) business days after receipt of the funds by the System.

Section 11.9. Nonessential Elective Courses. If the System Board elects to provide nonessential elective courses to part-time pupils at a nonpublic school building, the System shall comply with Section 166b of The State School Aid Act of 1979, 1979 PA 94, MCL 388.1166b. Prior to providing instruction, the System Board shall ensure that the System has sufficient documentation to qualify for part-time pupil funding under the State School Aid Act. The provision of nonessential elective courses by the System shall be incorporated into this Contract as an amendment pursuant to Article IX of these Terms and Conditions.\

Section 11.10. Management Agreement. The System may enter into a Management Agreement with an ESP to contract out its administrative and/or educational functions and personnel. For purposes of this Contract, an employee leasing agreement shall be considered a Management Agreement, and an employee leasing company shall be considered an ESP. A copy of the final executed Management Agreement shall be included in this Contract under Schedule 5. The District Board may disapprove the proposed Management Agreement submitted by the System if the Management Agreement is contrary to this Contract or Applicable Law. Any subsequent amendment to a Management Agreement shall be submitted for review by the District Board in the same form and manner as a new Management Agreement.

Section 11.11. Required Provisions for Management Agreement. Any Management Agreement with an ESP entered into by the System must contain the following provisions:

“Indemnification of District. The parties acknowledge and agree that the School District of the City of Highland Park (“District”), the School Board of the School District of the City of Highland Park (“District Board”), and the emergency manager for the District (“Emergency Manager”) are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties promise to indemnify and hold harmless the District, the District’s Board and the Emergency Manager 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 the District, the District’s Board or the Emergency Manager, which arise out of or are in any manner connected with the Educational Service Provider’s operation of the System, or which are incurred as a result of the reliance by the District, the District’s Board or the Emergency Manager, upon information supplied by the System Board or the Educational Service Provider, or which arise out of the failure of the System Board or the Educational Service Provider to perform its obligations under the Contract or Applicable Law. The parties expressly acknowledge and agree that the Emergency Manager may commence legal action against either party to enforce the District’s, the District’s Board or the Emergency Manager’s rights as set forth in this Agreement.”

“Agreement Coterminous With System’s Contract. If the System’s Contract issued by the District Board is suspended, revoked or terminated, or a new charter contract is not issued to the System after expiration of the Contract, this Agreement shall automatically be suspended or terminated, as the case may be, on the same date as the System’s Contract is suspended, revoked, terminated or expires without further action of the parties.”

“Compliance with System’s Contract. The Educational Service Provider agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the System’s obligations under the System’s Contract issued by the District Board. The provisions of the System’s Contract shall supersede any competing or conflicting provisions contained in this Agreement.”

“Compliance with Section 503c. On an annual basis, the ESP agrees to provide the System Board with the same information that a school district is required to disclose under Section 18(2) of The State School Aid Act of 1979, 1979 PA 94, MCL 388.1618, for the most recent school fiscal year for which the information is available. Within thirty (30) days of receipt of this information, the System Board shall make the information available on the System’s website home page, in a form and manner prescribed by the Michigan Department of Education. The defined terms in Section 503c of the Code, shall have the same meaning in this Agreement.”

- (a) “Compliance with Section 12.21 of Contract Terms and Conditions. The Educational Service Provider shall make information concerning the operation and management of the System, including without limitation the information described in Schedule 4 of the Contract, available to the

System as deemed necessary by the System Board in order to enable the System to fully satisfy its obligations under Section 12.21(a) of the Contract Terms and Conditions.”

ARTICLE XII

GENERAL TERMS

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

If to the District Board:	School District of the City of Highland Park 20 Bartlett Street Highland Park, Michigan 48203
---------------------------	---

If to the System:	Highland Park Public School Academy System 20 Bartlett Street Highland Park, Michigan 48203
-------------------	---

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

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

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

Section 12.5. Assignment. Except as provided in Section 12.6, this Contract is not assignable by either the System or the District Board.

Section 12.6. Alternate Authorizing Body. The District Board may enter into an intergovernmental agreement with another public entity empowered to function as an authorizing body under Section 502(8) of the Code. The intergovernmental agreement may provide that under certain circumstances the alternate authorizing body will assume the role of the District Board as an authorizing body for the System and under this Contract and that the alternate authorizing body will be responsible for monitoring compliance by the System Board with this Contract and all

applicable law. In the event an intergovernmental agreement with an alternate authorizing body is adopted by the District Board and the governing body of the alternate authorizing body, this Contract will otherwise continue in full force and effect.

Section 12.7. Former 1990 PA 72. If the Act is repealed, suspended, or otherwise not in effect, former 1990 PA 72 is again in effect or applicable, and an individual is appointed as the emergency financial manager for the District under former 1990 PA 72, all of the following shall apply:

- (a) This Contract shall continue in full force and effect.
- (b) The financial and operating plan adopted by the Emergency Manager under the Act shall be the written financial plan for the District for conducting the operations of the District within available resources for purposes of Section 40 of former 1990 PA 72, and may be amended from time to time as provided under Section 40 of former 1990 PA 72.
- (c) This Contract relates to fiscal matters of the District and all decisions relating to this Contract constitute fiscal decisions of the District with a fiscal impact upon the District.
- (d) This Contract is a contract that an emergency financial manager is authorized to enter into on behalf of the District under Section 41(2) of former 1990 PA 72.
- (e) An order issued by the Emergency Manager under the Act relating to this Contract shall continue in effect as an order issued by an emergency financial manager for the District authorized under Section 39 of former 1990 PA 72 until modified by the emergency financial manager.
- (f) The emergency financial manager for the District under former 1990 PA 72 shall act for and in the place and stead of the District Board on all matters or decisions relating to this Contract and the emergency financial manager for the District under former 1990 PA 72 is granted the power to exercise solely, on behalf of the District, all other authority and responsibilities relating to this Contract otherwise prescribed by law to the District or the District Board.

Section 12.8. Intergovernmental Agreements. To assure the efficient and effective provision of public educational services the system may engage in intergovernmental activities with other public entities in Michigan, including, but not limited to, the City of Highland Park, the County of Wayne, the Michigan Department of Community Health, and the Michigan Department of Human Services. Activities by the System under this provision may include, without limitation, all of the following:

- (a) Collecting data regarding intergovernmental cooperation and shared services activities.

- (b) Studying the feasibility of intergovernmental cooperation activities.
- (c) Establishing standards, criteria, or model practices for intergovernmental cooperation.
- (d) Developing or enhancing intergovernmental cooperation with one (1) or more other public entities.
- (e) Entering into mutual aid or reciprocal aid agreements or compacts.
- (f) Entering into joint endeavors, joint undertakings, or cooperative agreements with one (1) or more public agencies.
- (g) Providing for safety and security of students and District facilities.

Section 12.9. Access to Records. The District will provide the System with records of the District, including, but not limited to, student records, as requested by the System, in a manner that complies with Applicable Law. The District will assist the System in obtaining waivers from employees or former employees of the District for review of employee records by the System, if requested by the System. The District recognizes that the District will receive any records as is and will provide reasonable assistance, to the extent necessary, to the System to reconstruct any missing records or gaps or other deficiencies in the records. Missing or incomplete records shall be an affirmative defense to any revocation or suspension proceeding under these Terms and Conditions and the District agrees to indemnify and hold the System harmless against any costs, fees, expenses, or causes of actions that may arise or be asserted by any third party regarding errors or omissions in the records.

Section 12.10. Non-Waiver. Except as otherwise provided in these Terms and Conditions, no term or provision of this Contract shall be deemed waived and no breach or default shall be deemed excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to, or waiver of, a breach or default by the other, whether expressed or implied, shall constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.

Section 12.11. Governing Law. This Contract shall be governed and controlled by the laws of the State of Michigan as to interpretation, enforcement, validity, construction, and effect, and in all other respects.

Section 12.12. 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.

Term of Contract. This Contract shall commence on July 27, 2012 and terminate on August 1, 2017 (“Term”), unless sooner revoked or terminated as provided in this Contract. At the end of the Term, if the System continues to operate pursuant to a contract from the District Board or an alternate authorizing body under Section 12.6, then the Term of this Contract shall continue for additional five (5) year terms (each, an “Extension Term”), unless sooner revoked or terminated as provided in this Contract. If, at any time during an Extension Term, the District’s

financial emergency is rectified under section 24 of the Act, or any successor statute, then this Contract shall terminate at the end of the school fiscal year in which the financial emergency is rectified without any further action of the parties. If former 1990 PA 72 is again in effect or applicable, then this Contract shall terminate at the end of the school fiscal year in which the declaration of financial emergency for the District is revoked under section 42 of former 1990 PA 72 without further action of the parties.

Section 12.13. Indemnification. As a condition to receiving a grant of authority from the District Board to operate a public school pursuant to the terms and conditions of this Contract, the System agrees to indemnify and hold the Emergency Manager, the District Board, the District and its members, officers, employees, agents or representatives harmless 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 the District, which arise out of or are in any manner connected with the Emergency Manager's receipt, consideration or approval of the Application, the Emergency Manager's approval of the Resolution or Authorizing Resolution, legal challenges to the validity of Part 6A of the Code or actions taken by the Emergency Manager as an authorizing body under Part 6A of the Code, the Emergency Manager's consideration of or issuance of a Contract, the System's preparation for and operation of a public school, or which are incurred as a result of the reliance of the Emergency Manager, the District Board, the District and its members, officers, employees, agents or representatives upon information supplied by the System, or which arise out of the failure of the System to perform its obligations under this Contract. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of governmental immunity provided under Section 7 of 1964 PA 170, MCL 691.1407.

Section 12.14. Construction. This Contract shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Contract.

Section 12.15. Superior Force. If any circumstances occur which are beyond the control of the parties, which delay or render impossible the obligations of one or both of the parties, the parties' obligations to perform such services shall be postponed for an equivalent period of time or shall be canceled, if such performance has been rendered impossible by such circumstances.

Section 12.16. No Third Party Rights. This Contract is made for the sole benefit of the System and the District Board and no other person or entity, including without limitation, the Educational Service Provider. Except as otherwise provided, nothing in this Contract shall create or be deemed to create a relationship between the parties hereto, or either of them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.

Section 12.17. Non-agency. It is understood that the System is not the agent of the District.

Section 12.18. District Board General Policies on Public School Academies Shall Apply. Notwithstanding any provision of this Contract to the contrary, District Board policies clarifying procedure and requirements applicable to public school academies under this Contract, as from time to time adopted or amended, will automatically apply to the System, provided they are not

inconsistent with provisions of this Contract. Before issuing general policies under this Section, the District Board shall provide a draft of the proposed policies to the System Board. The System Board shall have at least thirty (30) days to provide comment on the proposed policies before such policies shall become effective.

Section 12.19. Survival of Provisions. The terms, provisions, and representations contained in Section 11.2, Section 11.3, Section 12.14, Section 12.17 and any other provisions of this Contract that by their sense and context are intended to survive termination of this Contract shall survive.

Section 12.20. Information Available to the Public.

- (a) Information to be provided by the System. The System shall make information concerning its operation and management, including without limitation the information described in Schedule 4, available to the public in the same manner and to the same extent as is required for public schools and school districts under Applicable Law.
- (b) Information to be provided by Educational Service Providers. If the System enters into an agreement with an Educational Service Provider for operation or management of the System, the Management Agreement shall contain a provision requiring the Educational Service Provider to make information concerning the operation and management of the System, including without limitation the information described in Schedule 4, available to the System as deemed necessary by the System Board in order to enable the System to fully satisfy its obligations under subparagraph (a).

Section 12.21. Termination of Responsibilities. Upon termination or revocation of the Contract, the District Board or its designee shall have no further obligations or responsibilities under this Contract to the System or any other person or persons in connection with this Contract.

As the designated representative of the School District of the City of Highland Park, I issue this Contract to the System on July 27, 2012.

BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF THE CITY OF HIGHLAND PARK

By: _____
Joyce Parker, Emergency Manager

Date: July 27, 2012

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

HIGHLAND PARK PUBLIC SCHOOL ACADEMY SYSTEM

By: _____

_____, System Board Designee

Date: July 27, 2012