

MANAGEMENT SERVICES AGREEMENT

This Management Services Agreement (the “Agreement”) is made and entered into as of the 1st day of July 2025, by and between Choice Schools Associates, L.L.C., a Michigan limited liability company (“Choice Schools”), and Kingsbury Country Day School (the “Academy”), a body corporate and public school academy organized under the Michigan Revised School Code (the “Code”).

WHEREAS, The Academy operates a public school academy pursuant to a contract dated July 1, 2025 (the “Contract”) issued by the Saginaw Valley State University Board of Control (“Saginaw Valley”); and

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

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

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

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

ARTICLE I CONTRACTUAL RELATIONSHIP

- A. **Authority.** The Academy has been granted the Contract by Saginaw Valley to organize and operate a public school academy, together with the powers necessary or desirable for carrying out the educational program set forth in the Contract. The Academy is authorized by law to contract with a private entity to provide educational management services, provided that no provision of such a contract shall be effective if it would prohibit the Board from acting as an independent, self-governing public body, allow public decisions to be made other than in compliance with the Open Meetings Act, or interfere with the Board’s exercise of its statutory, contractual and fiduciary obligations governing the operation of the Academy.
- B. **Delegated Authority.** Acting under and in the exercise of such authority, the Academy hereby delegates to Choice Schools, to the extent permitted by law, specified functions relating to the provision of educational services and the management and operation of the Academy; provided, however, that, this Agreement is subject to all the terms and conditions of the Contract and applicable law. The Contract shall be deemed incorporated herein by this reference. In the event of any inconsistency between provisions of this Agreement and provisions of the Contract, the provisions of the Contract shall prevail.

No provision of this Agreement shall interfere with the Academy Board's duties under the Contract, and the Academy's duties under the Contract shall not be limited or rendered impossible by an action or inaction of Choice Schools.

- C. **Status of the Parties.** Choice Schools is a limited liability company of Michigan, and is not a division or a part of the Academy. The Academy is a body corporate and governmental entity authorized by the Code, and is not a division or part of Choice Schools. The relationship between Choice Schools and the Academy is based solely on the terms of this Agreement. The relationship between the parties was developed and entered into through arm's length negotiations and is based solely on the terms of this Agreement.

Board members, Academy employees, and their respective spouses and immediate family members may not have direct or indirect ownership, employment, contractual, or management interest in Choice Schools. The relationship between the Academy and Choice Schools shall be consistent with the conflicts of interest and prohibited familial relationship provisions set forth in the Contract.

- D. **Independent Contractor/Designation of Agents.** The parties to this Agreement intend that the relationship between them is that of an independent contractor, not as an employee-employer relationship, and that except as expressly set forth in this Agreement, no employee of Choice Schools shall be deemed to be an agent or employee of the Academy. The Academy will be solely responsible for its acts and omissions and the acts and omissions of its directors and Choice Schools will be solely responsible for its acts and omissions and the acts and omissions of its agents, officers, employees, and subcontractors. Choice Schools is not a division of any part of the Academy. In the performance of services under this Agreement, Choice Schools (its officers, directors, employees and designated agents) shall be regarded at all times as performing services as an independent contractor of the Academy. Choice Schools shall comply with the requirements under the Contract to the extent Choice Schools is performing services on behalf of the Academy. Choice Schools shall be solely and exclusively responsible for recruiting, selecting, hiring, compensating, training, evaluating, disciplining, dismissing, terminating and otherwise controlling the employment conditions, employment rights, compensation and other similar matters relative to all individuals whom Choice Schools employs in connection with providing services under this Agreement.

1. If Choice Schools leases employees to the Academy, Choice Schools shall provide that the leasing company accepts full liability for benefits, salaries, worker's compensation, unemployment compensation and liability insurance for its employees leased to the Academy or working on Academy operations. Choice Schools is responsible for paying employees leased to the Academy or working on Academy operations irrespective of whether Choice Schools receives an advancement of its costs or the payment of services from the Academy. If the Academy is staffed through an employee leasing agreement, legal confirmation shall be provided to the Academy Board that the employment structure qualifies as employee leasing. If Choice Schools enters into an employee leasing agreement to staff the Academy, that agreement shall provide that the leasing company is responsible for paying individuals leased to the Academy or working on Academy

operations irrespective of whether the employee leasing company receives an advancement of its costs or the payment of services from the Academy.

2. No agent or employee of Choice Schools shall be determined to be an agent or employee of the Academy, except as follows:
 - a. Choice Schools, and its respective officers, directors, employees and designated agents are each hereby authorized to serve as agents of the Academy having a legitimate educational interest in the Program and its students for purposes of the Family Educational Rights and Privacy Act, 20 USC § 1232g *et seq.* (“FERPA”), such that they are jointly and severally entitled to access the educational records of the Program for all purposes related to FERPA.
 - b. During the term of this Agreement, the Academy may disclose confidential data and information to Choice Schools, and its respective officers, directors, employees and designated agents and Choice Schools may access confidential data and information, to the extent permitted by applicable law, including without limitation, the Family Educational Rights and Privacy Act, 20 USC § 1232g, the Individuals with Disabilities Education Act (“IDEA”), 20 USC § 1401 *et seq.*, 34 CFR §§ 300.610-300.626; Section 504 of the Rehabilitation Act of 1973, 29 USC § 794a, 34 CFR § 104.36; the Michigan Mandatory Special Education Act, MCL 380.1701 *et seq.*; the Americans with Disabilities Act, 42 USC § 12101 *et seq.*; the Health Insurance Portability and Accountability Act (“HIPAA”), 42 USC §§ 1320d-13200d-8; 45 CFR §§ 160, 162 and 164; and social security numbers, as protected by the federal Privacy Act of 1974, 5 USC § 552a; and the Michigan Social Security Number Privacy Act, MCL 445.84. Choice Schools agrees that it shall comport with all applicable laws, rules and regulations in the handling, maintaining, safeguarding, re-disclosing, and returning of confidential data and information disclosed or accessed under this Agreement. Choice Schools will be solely responsible for the acts of its agents, employees, and those contractors and subcontractors who are contracted through Choice Schools.
 - c. As otherwise expressly designated by written agreement of the parties with consent from anyone whose consent is required by law or contract.

ARTICLE II TERM

- A. **Term.** This Agreement shall become effective July 1, 2025 (the “Effective Date”) and shall cover five (5) academic years commencing on July 1, 2025, and ending on June 30, 2030, subject to a continued Contract from Saginaw Valley and continued state per capita funding. The Agreement may not become effective until and unless Saginaw Valley notifies the Academy in writing that it has reviewed and does not disapprove of the

Agreement or Amendment thereto. The maximum term of this Agreement shall not exceed the length of the Contract.

- B. **Agreement Coterminous with Academy's Contract.** If the Academy's Contract issued by Saginaw Valley State University's Board of Control is suspended, revoked or terminated, or a new charter contract is not issued to the Academy after expiration of the Contract, this Agreement shall automatically be suspended or terminated, as the case may be, on the same date as the Academy's Contract is suspended, revoked, terminated, or expires without further action by the parties.

ARTICLE III FUNCTIONS OF CHOICE SCHOOLS

- A. **Responsibility.** Under the policy direction and general supervision of the Board, and in accordance with the Board approved budget and applicable law, Choice Schools shall be responsible for the management, operation, administration, and education at the Academy. Such functions include, but are not limited to:
1. Implementation and administration of the Educational Program and curriculum contained in the Contract;
 2. Curriculum improvement services;
 3. Marketing and communication plan development for Board approval and implementation of same; the cost of implementation shall be the Academy's responsibility;
 4. Student environment management and community outreach;
 5. Budget preparation and financial management services; the cost of software shall be the Academy's responsibility;
 6. Management of accounting and bookkeeping services; the cost of software shall be the Academy's responsibility;
 7. Risk management;
 8. Accounts payable;
 9. Acquisition of instructional and non-instructional material, equipment and supplies, the cost of which shall be the Academy's responsibility;
 10. Selection, employment and supervision of all teachers and staff and the personnel management services (recordkeeping, wage and benefits administration, training and technical assistance) necessary to support those employees;
 11. Food service management;

12. Transportation management;
13. Facilities management, including assistance in securing funding sources for facility improvements;
14. Preparation and timely submission of required Saginaw Valley, local, state and federal reports;
15. Information and technology system development, management, and oversight;
16. Preparation of applications and reports for State and Federal grants and special programs;
17. Management of school building operations;
18. Administration of extra-curricular and co-curricular activities and programs approved by the Board;
19. Preparation and implementation of administrative guidelines supporting Board policy as approved by the Board;
20. Assistance in preparation of strategic planning for the continuing educational and financial benefit of the Academy, if requested by the Board;
21. Provision of special education programs and services to eligible students who attend the Academy in conformity with the requirements of state and federal laws and applicable regulations and policies;
22. Implementation of an ongoing public relations strategy for the development of beneficial and harmonious relationships with other organizations and the community;
23. Preparation and enforcement of student codes of conduct after Board approval;
24. Any other function necessary or expedient for the administration of the Academy with approval from the Board.

B. Educational Goals and Program. Choice Schools shall implement the educational goals and programs set forth in the Contract, and established by the Board including but not limited to methods of pupil assessment, admission policy and criteria, school calendar and school day schedule, age and grade classifications or pupils to be enrolled, and methods to be used to monitor performance towards targeted educational outcomes (collectively the “Educational Program”). In the event that Choice Schools determines that it is advisable to modify the educational goals and program set forth in the Contract, Choice Schools will provide written notification to the Board specifying the changes it recommends and the reasons for the proposed changes. No changes in the Educational Program shall be implemented without the prior approval of the Board and Saginaw Valley. Choice Schools

shall provide the Board with periodic written reports specifying the level of achievement of each of the Academy's educational goals set forth in the Contract and detailing its plan for meeting any educational goals that are not being attained. These reports will be submitted to the Board immediately prior to the Board's regular meeting in January and July each year, and at such other times as specified in Board policy as the same may be changed from time to time. The Educational Program shall be in compliance with applicable state and federal laws, rules and regulations.

- C. **Subcontracts.** It is anticipated that Choice Schools will utilize subcontracts to provide some of the services it is required to provide to the Academy, including but not limited to transportation and/or food service. Choice Schools shall not subcontract the management, oversight or operation of the teaching and instructional program, without the prior approval of the Board and Saginaw Valley, as applicable. Choice Schools shall not expend funds in excess of the Academy's Board approved budget or any Board approved amendment thereof without prior Board approval. Board approval of other subcontracts is not required unless the cost for these subcontracted services exceeds the funds appropriated for that purpose in the Academy's approved budget. Every subcontract entered into without Board approval and the appropriation(s) from which it will be paid shall be reported to the Board at its next meeting. Choice Schools will receive no additional fee as a result of subcontracting any services. Choice Schools remains responsible to the Academy for the services provided through subcontracting agreements. Choice Schools shall ensure that all subcontracts comply with applicable law including the Family Educational Rights and Privacy Act, 20 USC § 1232g *et seq.* ("FERPA") and the criminal background check provisions of the Code. To the extent that Choice Schools may subcontract any or all aspects of the services permitted by the terms of this Agreement, Choice Schools represents that it shall include in the subcontracted services agreement provisions comparable to those contained in this Article 1, inclusive of subparts, to identify the employer of any person providing services under a contracted services agreement or, in the absence of an employer and in the case of an independent sub-contractor, to expressly provide that the service provider is an individual independent contractor and is not intended to be, and shall not be regarded as an employee of the Academy.
- D. **Place of Performance.** Instruction services other than field trips will normally be performed at the Academy facilities. Choice Schools may perform functions other than instruction, such as purchasing, professional development, and administrative functions at off-site locations, unless prohibited by the Contract or applicable law. The Academy shall provide Choice Schools with the necessary office space at the Academy site to perform all services described in this Agreement.
- E. **Acquisitions.** All acquisitions made by Choice Schools for the Academy including, but not limited to, instructional materials, equipment, supplies, furniture, computers and other technology, shall be owned by and remain the property of the Academy. Choice Schools and its subcontractors will comply with all federal and state laws, including but not limited to Section 1267 and Section 1274 of the Code rules and regulations, in addition to such policies as the Board may, from time to time adopt, as if the Academy were making these purchases directly from a third party supplier and Choice Schools and its subcontractors will not include any fees, markup of costs or charges to the cost of the equipment, materials

and supplies purchased from third parties when it seeks reimbursement for the cost of these acquisitions. All supplies, materials, and equipment procured for the Academy by Choice Schools shall be inventoried by an acceptable method of inventory. An inventory of Academy equipment shall be maintained so that it can be clearly established which property belongs to the Academy.

- F. **Pupil Performance Standards and Evaluation.** Choice Schools is responsible for and accountable to the Board for the performance of students who attend the Academy. Choice Schools shall implement pupil performance evaluations which permit evaluation of the educational progress of each Academy student, using measures of student and school performance required by the Contract or applicable laws and such additional measures as shall be mutually agreed between the Board and Choice Schools including but not limited to parent satisfaction surveys.
- G. **Student Recruitment.** Choice Schools shall be responsible for the recruitment of students subject to the provisions of the Contract, applicable law, and the policies adopted by the Board. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable law. Choice Schools shall follow all applicable procedures and legal requirements regarding student recruitment, enrollment and lottery management, and shall be responsible for publication of appropriate public notices.
- H. **Student Due Process Hearings.** Choice Schools shall provide students with procedural and substantive due process in conformity with the requirements of applicable law and Board policy regarding discipline, special education, confidentiality and access to records, to an extent consistent with the Academy's own obligations. The Board shall retain the right to provide due process as required by law and to determine whether any student will be expelled.
- I. **Legal Requirements.** Choice Schools shall provide educational programs that meet the requirements of the Educational Program under the Contract and applicable law, unless such requirements are or have been waived by the Academy and Saginaw Valley, as applicable.
- J. **Policies and Procedures.** The Board shall consider, adopt and conduct its operations in conformity with policies and procedures applicable to the Academy, and Choice Schools is directed to enforce the policies and procedures adopted by the Board. Choice Schools shall assist the Board in its policy making function by recommending the adoption of reasonable rules, regulations and procedures applicable to the Academy.
- K. **School Year and School Day.** The school year and the school day shall be as provided in the Contract and as defined annually by the Board and applicable law.
- L. **Authority.** Choice Schools shall have the authority and power necessary to undertake its responsibilities described in this Agreement except in the case(s) wherein by law such power may not be delegated.

M. **Academy's Contract with Saginaw Valley.** Choice Schools agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Academy's Contract issued by Saginaw Valley, including all schedules attached thereto and Saginaw Valley policies referenced therein, as they may be amended. The provisions of the Academy's Contract shall supersede any competing or conflicting provisions contained in this Agreement. Choice Schools agrees to assist the Academy in complying with all of the Academy's reporting, recordkeeping, and other obligations under the Academy's Contract with Saginaw Valley. Choice Schools shall not act in a manner which will cause the Academy to be in breach of its Contract with Saginaw Valley. Any action or inaction by Choice Schools that causes the Contract to be revoked, terminated or suspended, or which results in the Academy receiving official notification from Saginaw Valley of the commencement or an intent to initiate proceedings for the termination, revocation, or suspension of the Contract, shall be designated a material breach, which shall be grounds for termination of the Agreement by the Academy. In addition, a failure of Choice Schools to perform reasonably the functions set forth in Article III may be considered a material breach of this Agreement.

Further, by signing this Agreement Choice Schools acknowledges that it has provided the Academy with the following information, whether provided herein or in separate documentation, such that the Academy is able to perform sufficient due diligence to establish that Choice Schools and its key personnel have the appropriate financial resources, educational background, and managerial experience to provide the contracted services:

1. A list of all Choice Schools owner(s), directors and/or officers which discloses any conflicts of interest that any Choice Schools owner, director, and/or office may have in regard to Board members, administrators and employees associated with the Academy, as well as other vendors contracting with the Academy. Conflicts of interest include, but are not limited to, familial relationships;
2. Notification if any director or officer of Choice Schools, or Choice Schools (including related organization or organizations in which a director or officer of Choice Schools served as a principal or officer) as a corporate entity, has filed for bankruptcy within the last five (5) years.
3. Type or form of entity (for-profit corporation, non-profit corporation, limited liability company, etc.);
4. Name of Choice School's primary banking institution;
5. Legal counsel for Choice Schools. Name, address, and telephone number of firm and name of contact person;
6. Accounting firm for Choice Schools. Name, address, and telephone number of firm and name of contact person;

7. A written statement regarding Choice Schools' experience in providing educational services, and the types of educational services to be provided by Choice Schools;
8. A mission, vision, and values statement of Choice Schools;
9. List of all persons or entities with whom Choice Schools plans to subcontract for services provided to the Academy, along with a disclosure of Choice Schools' ownership in any such subcontractor;
10. List of the public school academies or other schools (public or private) to which Choice Schools provides services;
11. List of any lease, license, contract, or other agreement between Choice Schools (or its affiliates) and the Academy;
12. Identification of any start-up funding being provided by Choice Schools;
13. List of any services Choice Schools plans to provide to the Academy with regard to cash flow borrowings, including any fees from such services;
14. List of any materials equipment or supplies the Academy will purchase or lease from Choice Schools; and
15. Criminal history of Choice Schools' owners, officers, directors, managers and employees assigned to and working regularly at the Academy.

N. **Additional Programs.** The services provided by Choice Schools to the Academy under this Agreement consist of the Educational Program as set forth in the Contract, as the same may change from time to time. The Academy may decide to provide additional programs, including but not limited to summer school. Any revenues collected from such programs will go directly to the Academy. The Academy may also purchase additional services from Choice Schools at a mutually agreeable cost. Such additional services purchased by the Academy from Choice Schools shall be documented in writing as an amendment to this Agreement, subject to review by Saginaw Valley.

O. **Annual Budget Preparation.** The Board shall by Board resolution appoint the Board Treasurer, or such other officer as determined by the Board, to serve as the Chief Administrative Officer of the School (the "CAO") under the Uniform Budgeting and Accounting Act, MCL 141.422b. (the "Budgeting and Accounting Act"). No Choice Schools' owner, officer, director, employee, or agent shall be designated as the CAO of the Academy. But, notwithstanding any other provisions of the Agreement to the contrary, the Board resolution may designate Choice's Schools' chief financials and operations officer, or such other Choice Schools employee as is mutually agreed upon by Choice Schools and the Academy, as the designated agent of the CAO to assist the CAO with the performance of the CAO's duties under the Budgeting and Accounting Act. Choice Schools will provide the Board with a proposed annual budget that shall conform to the Michigan Public School Accounting Manual and the Budgeting and Accounting Act in a form satisfactory to the Board and in compliance with the Contract. The budget shall contain reasonable detail as

requested by the Board and as necessary to comply with the public accounting standards applicable to public schools under applicable law. The budget shall include anticipated revenues and projected expenses and costs reasonably associated with operating the Academy and the Educational Program including, but not limited to, the projected cost of all services and educational programs provided to the Academy, rent and lease payments, debt service, maintenance and repairs to Academy facilities, supplies and furnishings necessary to operate the Academy, taxes, insurance premiums, utilities, professional fees, and other costs and expenses connected to the operation of the Academy. The proposed budget shall be submitted to the Board for approval according to the Annual Budget Development Schedule approved at the Academy's organizational meeting and not later than thirty (30) calendar days prior to the date when the approved budget is required to be submitted to Saginaw Valley. Choice Schools may not make deviations from the approved budget without the prior written approval from the Board.

- P. **Compliance with Section 503c.** On an annual basis, and as deemed necessary by the Board in order to enable the Academy to fully satisfy its obligations under Section 7.4 of the Contract and MCL 388.1618, Choice Schools agrees to provide the Board with the same information that a school district is required to disclose under Section 18(2) of the State Aid Act of 1979, MCL 380.1618, for the most recent school fiscal year for which the information is available. Within thirty (30) days of receipt of this information, the Board shall make the information available on the Academy's website home page, in a form and manner prescribed by the Michigan Department of Education. The defined terms in section 503c of the Code, MCL 380.503c, shall have the same meaning in this Agreement. The parties agree to make the information required under Section 503 of the Code, MCL 380.503, available to Saginaw Valley and the public.
- Q. **Compliance with the Contract.** Choice Schools shall make information concerning the operation and management of the Academy, including without limitation the information described in the Contract, including all exhibits, schedules, etc., available to the Academy as deemed necessary by the Board in order to enable the Academy to fully satisfy its obligations under the Contract. Except as permitted under the Contract and applicable law, this Agreement shall not restrict Saginaw Valley's or the public's access to the Academy's records.
- R. **Suspension and Debarments List.** Federal agencies are required to award contracts only to presently responsible sources and cannot award funds to entities that have been suspended or debarred from doing business with the federal government. The Academy is a recipient of federal funding and Choice Schools is required to refrain from any action that will result in being suspended or debarred. Choice Schools certifies and affirms that it is not included on the federal Suspension and Debarments list of Excluded Parties List; nor is Choice Schools affiliated with any party that is included on the federal Suspension and Debarments list of Excluded Parties List.
- S. **Personally Identifiable Information.** Choice Schools agrees to treat all personally identifiable information ("PII") received from the Academy or from students confidentially and securely, in compliance with all applicable laws and regulations related to protecting the privacy of PII, including without limitation the Family Education Rights and Privacy

Act (FERPA), the Michigan Revised School Code, and Section 5 of Michigan’s Student Online Personal Protection Act. MCL 388.1295. Except as permitted under the Code, Choice Schools shall not sell or otherwise provide to a for-profit business entity any PII that is part of an Academy student’s education records. If Choice Schools receives information that is part of an Academy student’s education records, Choice Schools shall not sell or otherwise provide the information to any other person except as permitted under the Code. For purposes of this section, the terms “educational records” and “personally identifiable information” shall have the same meaning as those terms in Section 1136 of the Code. MCL 380.1136. In addition, Choice Schools will maintain a documented security program that incorporates appropriate, commercially reasonable and industry-standard security measures to protect such PII. Choice Schools will notify the Academy of any security breach that impacts PII received from the Academy or from students within a commercially reasonable time after discovery and will provide regular status updates until the breach is resolved. After final resolution of the breach, Choice Schools will provide the Academy with a final incident report.

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

- U. **Bankruptcy.** Choice Schools shall notify the Board if any principal or officer of Choice Schools, or Choice Schools as a corporate entity (including any related organizations or organizations in which a principal or officer of Choice Schools served as a principal or officer), has filed for bankruptcy protection in the last six (6) months or within any applicable preference period, whichever is longer.

**ARTICLE IV
OBLIGATIONS OF THE BOARD**

- A. **Board Policy Authority.** The Board is responsible for determining the fiscal and academic policies that will govern the operation of the Academy, including policies relative to the conduct of students while in attendance at the Academy or enroute to and from the Academy and regulations governing the procurement of supplies, materials and equipment. The Board shall exercise good faith in considering the recommendations of Choice Schools

on issues including, but not limited to, policies, rules, regulations, procedures, curriculum and budgets subject to the constraints of law and the requirements of the Contract. Failure of Choice Schools and the Board to agree on educational policies is grounds for termination of the Agreement by either party and will be subject to Article VII of this Agreement.

- B. **Building Facility.** The Board is responsible for the acquisition by either purchase or lease of a building facility that complies with all of the requirements of the Contract.
- C. **Academy Employees.** The Board may employ such employees as it deems necessary, if any. In the event the Board decides to directly employ any employees, the cost to employ Academy employees shall be paid by the Board.
- D. **Educational Consultants.** The Board may retain an educational consultant or consultants to review the operations of the Academy and the performance of Choice Schools under this Agreement. Choice Schools shall cooperate with the educational consultant or consultants and will provide those individuals with prompt access to records, facilities and information as if such requests came from the full Board. Choice Schools shall have no authority to select, evaluate, assign, supervise or control any educational consultant employed by the Board, and agrees that it will not bring or threaten to bring any legal action against any educational consultant for the performance of the functions requested to be performed by the Board and which are consistent with this Agreement. The cost to employ an educational consultant shall be paid by the Board.
- E. **Legal Counsel.** The Board shall select and retain legal counsel to advise it on any matter, including but not limited to its rights and responsibilities under the Contract, this Agreement and applicable law.
- F. **Audit.** The Board shall select and retain an independent auditor to perform the annual financial audit in accordance with the Contract and applicable state law. Choice Schools shall not select, evaluate, replace or retain the independent auditor for the Academy. Choice Schools shall make available all of its financial and other records related to the Academy available to the Academy, the Academy's independent auditor, and Saginaw Valley and shall otherwise cooperate with said auditor.
- G. **Budget.** The Board is responsible for adopting a budget in accordance with the provisions of the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.* that has adequate resources to fulfill its obligations under the Contract, including but not limited to its oversight of Choice Schools, the organization of the Academy, negotiation of the Contract and any amendments, payment of employee costs, insurance required under the Contract and this Agreement, the annual financial audit and retention of the Board's legal counsel and consultants. Choice Schools may not make expenditures or commitments which deviate from the amounts or purposes of appropriations contained in the approved budget without the prior approval of the Board in the form of an approved amendment of the budget in accordance with applicable law and the Contract. In addition, the Board is responsible for determining the budget reserve amount included as part of the Academy's annual budget, for implementing fiscal policies that will assist the Academy in attaining the stated budget reserve amount and for approving necessary amendments to the budget

to reflect necessary deviations from the adopted budget. The budget may be amended from time to time as deemed necessary by the Board.

- H. **Academy Funds.** The Board shall determine the depository of all funds received by the Academy. All funds received by the Academy shall be initially deposited in the Academy's depository account as required by applicable law. Signatories on the depository account shall only be current Board members properly designated annually by Board resolution. All interest or investment earnings on Academy deposits shall accrue to the Academy. The Board shall provide Academy funding on a consistent and timely basis to Choice Schools to fulfill its obligations under this Agreement.
- I. **Governmental Immunity.** The Board shall determine when to assert, waive or not waive its governmental immunity. Nothing in this Agreement is intended to nor shall it be construed as requiring the Board to assert, waive, or not waive its governmental immunity or restricting the Board from waiving its governmental immunity.
- J. **Contract with Saginaw Valley.** The Board will not act in a manner which will cause the Academy to be in breach of its Contract with Saginaw Valley.
- K. **Evaluation of Choice Schools.** The Board will evaluate the performance of Choice Schools each year to provide Choice Schools with an understanding of the Board's view of its performance under this Agreement. A preliminary copy of the evaluation will normally be sent in December of each year followed by a year-end evaluation in June. Choice Schools will determine the format to conduct this evaluation. Additional evaluations using the format selected by the Board may occur at any time.

ARTICLE V FINANCIAL ARRANGEMENT

- A. **Primary Source of Funding.** As a Michigan public school academy, the primary source of funding for the Academy is state school aid payments based upon the number of students enrolled in the Academy combined with such other payments as may be available from state and federal sources for specific programs and services.
- B. **Other Revenue Sources.** In order to supplement and enhance the state school aid payments and improve the quality of education at the Academy, the Board and Choice Schools shall endeavor to obtain revenue from other sources. In this regard:
 - 1. The Academy and/or Choice Schools shall solicit and receive donations consistent with the mission of the Academy.
 - 2. The Academy and/or Choice Schools may apply for and receive grant money, in the name of the Academy. Choice Schools shall provide advance notification to the Board of any grant applications it intends to make and receive the approval of the Board for the application prior to filing or submitting the grant application.

3. To the extent permitted under the Code, Choice Schools may charge fees to students for extra services such as summer programs, after school programs and athletics and charge non-Academy students who participate in such programs approved by the Board.

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

- C. **Compensation for Services.** For the term of this Agreement, the Academy shall pay Choice Schools an annual fee. This annual fee shall be as follows: The annual fee to be paid for services shall be eleven (11.00%) percent of all gross revenues received during that school year. For purposes of this Section, the term “gross revenues” means the sum of (a) the amount of all payments applicable to a school year that the Academy receives directly or indirectly under Article V, Paragraph A plus (b) the amount of all grants received by the Academy under Article V, Paragraph B(2) that were initiated and administered by Choice Schools and which are to be expended during that school year. Gross revenue does not include any local revenue, currently classified under function codes 128 to 199 of the State of Michigan Chart of Accounts, and as may be amended or revised.

Choice School's annual fee shall be paid in twelve (12) monthly installments beginning in July of each school year. The exact day of the month that each monthly installment is to be paid will coincide with the timing of any state school aid payment from the State of Michigan to be received in that month. In months where no state school aid payments are to be received, the day of the month when that monthly installment will be due will be mutually agreed upon by the parties after taking into consideration available year-end funds and the timing of funds to be made available from state school aid anticipation notes or other sources.

All installments of the annual fee for the 2029 – 2030 school year shall be paid by June 30, 2030 if this Agreement is not extended beyond the scheduled termination date. The amount of the annual fee is subject to reduction in a mutually agreeable amount in any school year if extenuating circumstances make payment of the entire annual fee inappropriate.

- D. **Reasonable Compensation.** The parties wish to satisfy the requirements of Rev. Proc. 97-13 so that the provision of Choice School's services under this Agreement does not cause the Academy's facilities to be treated as used in a private business use under Section 141(b) of the Internal Revenue Code of 1986, as amended. Choice School's compensation under this Agreement is reasonable compensation for services rendered. Choice School's compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the operation of the Academy.

- E. **Payment of Educational Program Costs.** In addition to the Academy's obligation to reimburse Choice Schools for the compensation of certain of its employees under Article VI, all costs reasonably incurred within the budget parameters in providing the Educational Program at the Academy shall be paid by the Academy. Such costs shall include, but shall not be limited to, instructional and non-instructional material, curriculum materials,

professional textbooks, library books, computer and other equipment and supplies, software (i.e. Student Information System, Enrollment System, Finance and Payroll software), supplies utilized at the Academy for educational purposes, building payments, maintenance, utilities, capital improvements, graphic design, special education appeals, budget preparation and financial management services, management of accounting and bookkeeping services, and the implementation of a marketing, communication and development plan. Marketing and development costs charged to the Academy shall be limited to those costs specific to the Educational Program, and shall not include any costs for the marketing and development of Choice Schools. Should Choice Schools purchase products, software, or services for the Academy, the Academy will be invoiced for only its prorated portion of the products, software, or services. The Board shall pay or reimburse Choice Schools monthly for approved fees and expenses upon properly presented documentation and approval by the Board, but payments for the cost of compensation of Choice Schools employees under Article VI shall be made not later than thirty (30) business days before that compensation is due to the employees. At its option, the Board may advance funds to Choice Schools for the fees and expenses associated with the Academy's operation provided that documentation for the fees and expenses are provided for Board ratification at its next regularly scheduled meeting. In paying costs on behalf of the Academy, Choice Schools shall not charge an added fee. Any costs reimbursed to Choice Schools that are determined by the independent audit not to be reasonably incurred on behalf of the Educational Program of the Academy shall be promptly returned to the Academy by Choice Schools.

- F. **Choice Schools' Annual Fee.** The annual fee to be paid to Choice Schools set forth in Article V, Section C is intended to compensate Choice Schools for all expenses it incurs for the administrative and financial services it is required to provide under Article III, Section A of this Agreement, including but not limited to, expenses associated with individuals providing professional and curriculum development services, accounting services, clerical services, legal services for Choice Schools related issues, management and budgeting services, and administrative services. Choice Schools will provide sufficient professional and non-professional staff in these areas, who shall be compensated by Choice Schools. In addition, the annual fee is intended to compensate Choice Schools for all costs incurred by Choice Schools to provide these services. The annual fee does not include payments for Choice Schools' personnel provided pursuant to Article VI (D), (E), and (F), the cost of which will be reimbursed in accordance with Article VI (A), the educational program costs set forth in Article V, Section E, nor does it include legal services related to special education appeals or Academy related matters. No corporate costs or "central office" personnel costs of Choice Schools shall be charged to, or reimbursed by, the Academy.
- G. **Choice Schools Legal Services.** The annual fee set forth in Article V, Section C is intended to compensate Choice Schools for routine legal fees it incurs to receive advice regarding the scope of its obligations under state and federal law to provide the administrative and financial services Choice Schools is required to provide under this Agreement. The annual fee does not cover non-routine legal services, including but not limited to the legal fees and costs associated with the appointment of special education hearing officers and the engagement of counsel to represent the Academy in legal or administrative proceedings,

which are the responsibility of the Academy. The Board shall at all times retain the sole authority and discretion to engage independent legal counsel.

- H. **Other Public School Academies.** The Academy acknowledges that Choice Schools has entered, or will enter into management agreements with other public school academies. Choice Schools shall separately account and provide written detail for reimbursable expenses incurred on behalf of the Academy and other public school academies, and only charge the Academy for expenses incurred on behalf of the Academy.
- I. **Financial Reporting.** On not less than a monthly basis, Choice Schools shall provide the Board with financial statements that include, but are not limited to, a balance sheet, an object-level detailed statement of revenues, expenditures and changes in fund balance that includes a comparison of budget-to-actual information and an explanation of variances for review and approval by the Board. This report shall explain any variances from the approved budget, changes in fund balance, and shall contain recommendations for necessary budget corrections. The foregoing presentation shall be in a form and format acceptable to the Board and shall be provided to Board members not less than five (5) business days prior to the Board meeting at which the information will be presented and discussed. The information shall also be included in the Board packets sent to Board members in preparation for the Board meeting. Choice Schools shall provide special reports as necessary to keep the Board informed of changing conditions. All finance and other records of Choice Schools related to the Academy will be made available to the Academy, the Academy's independent auditor and Saginaw Valley upon request.
- J. **Operational Reporting.** At least three (3) times per year Choice Schools will provide the Board with comprehensive written reports detailing Academy operations, finances and student performance. In order to enable the Board to monitor Choice School's educational performance and the efficiency of its operation of the Academy, upon the request of the Board, Choice Schools will provide written reports to the Board on any topic of Academy activity or operations which are consistent with this Agreement. These special reports will be provided in a timely fashion on a date mutually agreed to by Choice Schools and the Board. In addition to the quarterly operational reports, upon request by the Board, a member of the Choice Schools Executive Leadership Team will attend the regularly scheduled Board meetings to answer Board questions regarding the detailed quarterly operational report.
- K. **Audit Report Information.** Choice Schools will make all of its financial and other records related to the Academy available to the Academy, the Academy's independent auditor, and Saginaw Valley upon request.
- L. **Other Financial Relationships.** Any lease, promissory notes or other negotiable instruments, lease-purchase agreements or other financing agreements between the Academy and Choice Schools shall be contained in a document separate from this Agreement and shall be separately approved by Saginaw Valley, and shall comply with all applicable law, the Contract issued by Saginaw Valley, and any applicable policies created by Saginaw Valley and/or the Saginaw Valley School/University Partnership Office ("SUPO").

- M. **Access to Records.** Choice Schools shall keep accurate financial records pertaining to its operation of the Academy, together with all Academy financial, educational and student records prepared by or in the possession of Choice Schools, and retain all of these records for a period as required by Bulletin 1022 of Michigan's Record Retention Schedule or applicable law, whichever period is the longest, from the close of the fiscal year to which such books, accounts and records relate. Choice Schools shall further make information concerning the operation and management of the Academy, including but not limited to, information required to be kept by the Contract with Saginaw Valley, including all exhibits, schedules, and the like, available to the Academy as deemed necessary by the Board in order to enable the Academy to satisfy its obligations under the Contract with Saginaw Valley. Financial, educational, operational and student records that are now or may in the future come into the possession of Choice Schools remain Academy records and are required to be returned by Choice Schools to the Academy upon demand. Choice Schools and the Academy shall maintain the proper confidentiality of personnel, student and other records as required by law. All Academy records shall be physically or electronically available, upon request, at the Academy's physical facilities. The financial, educational and student records pertaining to the Academy are Academy property and are subject to disclosure in accordance with the provisions of the Michigan Freedom of Information Act, except for some data which may be contained in such records, which may be redacted or withheld as permitted by applicable law, which shall be specifically cited in the event of withholding or redaction. All such records must be stored, in physical form, on-site at the Academy's facility or be directly accessible at the Academy facility. All records pertaining to teacher and administrator certification, as well as a copy of the employee handbook shall be maintained physically on site or directly accessible at the Academy facility. This Agreement shall not be construed to restrict Saginaw Valley's or the public's access to these records under the Freedom of Information Act or the Contract except to the extent permitted by law.
- N. **Access to Confidential Information.** Choice Schools, and its respective officers, directors, employees and designated agents are each hereby authorized to serve as agents of the Academy having a legitimate educational interest in the Educational Program and its students for purposes of the Family Educational Rights and Privacy Act, 20 USC § 1232g *et seq.* ("FERPA"), such that they are jointly and severally entitled to access the educational records of the Educational Program for all purposes related to FERPA. The Academy agrees to define "school official" in the Academy's annual notification of rights under 20 USC § 1232g, 34 CFR § 99, FERPA to include a contractor who performs an institutional service or function for which the Academy would otherwise use its own employees, who is under the direct control of the Academy with respect to the use and maintenance of personally-identifiable information from education records, and who is subject to the requirements of 34 CFR § 99.33(a) governing the use and redisclosure of personally identifiable information from education records. The Board designates Choice Schools and certain of its employees and subcontractors as school officials of the Academy having a legitimate educational interest such that they are entitled to access to educational records under FERPA. Choice Schools and its employees and subcontractors agree to comply with FERPA and corresponding regulations applicable to school officials. Except as set forth in this paragraph or as expressly acknowledged in writing by the Board, no employee of Choice Schools shall be deemed to be an agent of the Academy. During the

term of this Agreement, the Academy may disclose, and Choice Schools and its officers, directors, employees and designated agents may have access to, confidential information to the extent permitted by applicable law, including without limitation, FERPA, the Individuals with Disabilities Education Act (“IDEA”), 20 USC § 1401 *et seq.*, 34 CFR §§ 300.610-300.626; Section 504 of the Rehabilitation Act of 1973, 29 USC § 794a, 34 CFR § 104.36; the Michigan Mandatory Special Education Act, MCL 380.1701 *et seq.*; the Americans with Disabilities Act, 42 USC § 12101 *et seq.*; the Health Insurance Portability and Accountability Act (“HIPAA”), 42 USC §§ 1320d-13200d-8; 45 CFR §§ 160, 162 and 164; and social security numbers, as protected by the federal Privacy Act of 1974, 5 USC § 552a; and the Michigan Social Security Number Privacy Act, MCL 445.84. Choice Schools agrees that it shall comply with all applicable law regarding the safeguarding of the confidentiality of such information.

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

1. Choice Schools’ compensation under this Agreement is reasonable and is not based, in whole or in part, on a share of the net profits and/or a share of the net losses from the operation of the Academy or upon the disposition, damage or destruction of the Academy’s property.
2. This Agreement does not pass along to Choice Schools the burden of bearing any share of the net losses from the operation of the Academy or upon the disposition, damage or destruction of the Academy’s property.
3. The term of this Agreement is not greater than 30 years or 80 percent of the useful life of the Academy’s tax-exempt bond financed school facility (if shorter) including all renewal options.
4. The Academy bears the risk of loss upon the disposition, damage or destruction of the Academy’s property.
5. Choice Schools is not entitled to and will not take any federal tax position that is inconsistent with being a service provider under this Agreement to the Academy.

P. **Governance.** Further, with regard to governance:

1. None of the voting power of the governing body of the Academy is vested in the directors, officers, shareholders, partners, members and employees of the service provider, in the aggregate.
2. The governing body of the Academy does not include the chief executive officer of the service provider or the chairperson (or equivalent executive) of the service provider’s governing body.

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

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

ARTICLE VI PERSONNEL AND TRAINING

A. Personnel Responsibility. Choice Schools is responsible for providing the Academy with a School Administrator and qualified administrative, teaching, food service, secretarial, maintenance and transportation staff to operate the Academy within the staffing levels approved by the Board in its annual budget. Choice Schools shall have the authority to recruit, select, evaluate, compensate, assign, discipline, transfer and terminate the employment of all individuals working at or for the Academy with the exception of the Board employees, if any, consistent with state and federal laws, rules and regulations and the provisions of this Agreement. With the exception of Board employees, if any, Choice Schools shall be the employer of all individuals working at or for the Academy and will be solely responsible for the payment of all costs attributable to these employees, including wages, salaries, fringe benefits, payroll taxes, social security contributions, unemployment costs, workers' compensation costs, and liability insurance costs. Choice Schools is responsible for paying employees leased to the Academy or working on Academy operations irrespective of whether Choice Schools receives an advancement of its costs or the payment of services from the Academy. Unless required by applicable statute, court or administrative decision, or Attorney General's opinion, Choice Schools shall not make payments to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees. Choice Schools will be the sole provider of benefits to their employees and provide the Board with a detailed listing in writing of the actual wages, salaries, fringe benefit, social security contributions, unemployment costs, and workers' compensation costs for all employees of Choice Schools who will be assigned to provide services at the Academy. The Board will reimburse Choice Schools for the cost of the actual wages, salaries, fringe benefits, social security contributions, unemployment costs, and workers' compensation costs of employees assigned to the Academy not later than thirty (30) business days before that compensation is due to the employees or to other entities to be paid to provide these benefits, provided that these costs are not higher than anticipated and approved in the

annual budget. At its option, the Board may advance funds to Choice Schools for the cost of the wages, salaries, fringe benefits, social security contributions, unemployment costs, and workers' compensation costs of employees assigned to the Academy provided that documentation for the fees and expenses are provided for Board review at its next regularly scheduled Board meeting and are consistent with budget allocations. At the request of the Board, Choice Schools will provide payroll services for employees of the Board. Choice Schools will not assign any employee to work at the Academy who has not successfully completed a pre-employment background check (including statutorily required criminal history, criminal background and unprofessional conduct checks) consistent with Michigan State Police guidelines, credential verification, and a pre-employment physical if appropriate. Choice Schools will not place in the employment contracts with any of its employees assigned to work at the Academy any restrictions that would prevent the Academy from employing those individuals at the Academy or would prevent those individuals from working for the Academy or for any other entity providing educational services to the Academy. Choice Schools agrees that any provision of an employment agreement with any of its employees that would be in violation of this provision is void and shall not be enforceable in any forum. Choice Schools will comply with the requirements of applicable law, including but not limited to section 1249 of the Code, MCL 380.1249, regarding the evaluation of its employees based in part upon data on student growth and the establishment of employee compensation levels that include job performance and job accomplishments as a significant factor. In the event that an employee hired by Choice Schools is retired under the Michigan Public School Employees Retirement Act, Choice Schools will comply with any applicable notice and reporting requirement.

- B. **Restrictive Covenants.** Choice Schools will not place in the employment contracts with any of its employees assigned to work at the Academy (including by way of example and not limitation, teachers, administrators, counselors and the like) any provisions that contain non-compete, no-hire, non-solicitation, or similar provisions prohibiting or restricting the Academy from hiring staff that performs work at the Academy or would prevent those individuals from working for the Academy or for any other entity providing educational services to the Academy. Choice Schools agrees that any provision of an employment agreement with any of its employees that would be in violation of this provision is void and shall not be enforceable in any forum.

- C. **Evaluation.** Choice Schools shall comply with the requirements of applicable law, including but not limited to Section 1249 of the Code, MCL 380.1249, regarding the evaluation of its employees based in part upon data on student growth and the establishment of employee compensation levels that include job performance and job accomplishments as a significant factor. In the event that an employee hired by Choice Schools is retired under the Michigan Public School Employees Retirement Act, Choice Schools will comply with any applicable notice and reporting requirement. Choice Schools agrees that it will adopt, implement and maintain a performance evaluation system for all required personnel as required by the Contract and applicable law.

- D. **School Administrators.** Choice Schools shall provide the Academy with School Administrators who shall be responsible for the daily operational control of the Academy

and to make recommendations to Choice Schools regarding employees to be assigned to the Academy. Choice Schools will have the authority, consistent with state law, to select and supervise the School Administrators and to hold that individual accountable for the success of the Academy. Choice Schools shall have the sole responsibility and authority to hire the School Administrators; however, the Board President may provide reasonable feedback to Choice Schools in regard to the credentials or education experience of the final candidate. The School Administrators shall be employees of Choice Schools. Choice Schools will consult with the Board prior to hiring the School Administrators and will consult with the Board prior to taking any action that would alter the employment status of the School Administrators. At the request of the Board, Choice Schools will review the performance of the School Administrators with the Board. Upon receipt of written notification indicating that the Board is not satisfied with the performance of a School Administrator, Choice Schools will consider providing a replacement School Administrator if the performance problems are not resolved. The Board may reimburse Choice Schools for any reasonable costs associated with the termination of the School Administrator during a school year, at the Board's request, provided that the amount of the costs to be reimbursed shall not exceed three (3) months of the School Administrator's salary and fringe benefits. The employment contract with the School Administrators, and the duties and compensation of the School Administrators shall be determined by Choice Schools. If Choice Schools chooses to execute a contract with a School Administrator that has a term longer than one year, the Board reserves the right to request that the School Administrator be placed elsewhere by Choice Schools if the Board is dissatisfied with that individual's performance at the end of any school year and will be considered a non-renewal rather than a termination for purposes of this Agreement.

- E. **Teachers.** As part of the annual budgeting process, Choice Schools shall make a recommendation to the Board regarding the number of teachers required for the operation of the Academy pursuant to the Contract and applicable law. Choice Schools shall provide the Academy with such teachers, qualified in the grade levels and subjects, as are required by the Academy. The curriculum taught by such teachers shall be the curriculum prescribed in the Contract. Such teachers may, in the discretion of Choice Schools, work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such teachers may also work at other schools operated by Choice Schools. Each teacher assigned to or retained by the Academy shall be a highly qualified teacher with a valid teaching certificate issued by the state board of education under the Code, to the extent required under the Code and the Every Student Succeeds Act of 2015 ("ESSA") or other applicable law. If Choice Schools chooses to execute contracts with teaching staff that have a term of longer than one year, the Board reserves the right to request teachers placed elsewhere by Choice Schools if the Board is dissatisfied with their performance at the end of any school year; however, Choice Schools has the sole discretion whether to reassign any teachers from the Academy. Teachers employed by Choice Schools shall not be considered teachers for purposes of continuing tenure under MCL Section 38.71 *et seq.*
- F. **Support Staff.** As part of the annual budgeting process, Choice Schools shall make a recommendation to the Board regarding the number of support staff required for the operation of the Academy pursuant to the Contract. Choice Schools shall provide the Academy with such support staff, qualified in the areas required, as are required by the

Academy. Such support staff may, in the discretion of Choice Schools, work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such support staff may also work at other schools operated by the Choice Schools. Each support staff employee assigned to or retained by the Academy shall have received the training and hold the certificates, degrees or licenses legally required for the position to which they are assigned under the Code and the Every Student Success Act of 2015 or other applicable law. Choice Schools will provide annual performance reviews of the performance of support staff to the Board. If Choice Schools chooses to execute contracts with support staff that have a term of longer than one year, the Board reserves the right to request that the support staff be placed elsewhere by Choice Schools if the Board is dissatisfied with their performance at the end of any school year; however, Choice Schools has the sole discretion whether to reassign any support staff from the Academy.

- G. **Training.** Choice Schools shall provide training to the School Administrators, teachers and paraprofessionals on a regular and continuing basis and shall ensure that they receive all training required by law and the policies of the Board. The School Administrators, teachers, paraprofessionals and other support staff employees shall receive such other training as Choice Schools determines is reasonable and necessary under the circumstances within the Board approved budget.
- H. **No Tenure Under Teachers' Tenure Act.** None of the teachers, School Administrator, principal, administrators or staff employed, retained or contracted by Choice Schools shall be considered employees or teachers of the Academy for purposes of tenure or continuing tenure under the Teachers' Tenure Act, MCL 38. 71 *et seq.* Nor shall any of Choice Schools' or its contracted teachers, School Administrator, principal, other administrators or staff be entitled to administer tenure under the Code.
- I. **Criminal Background Checks.** Choice Schools agrees that it shall not assign any of its employees, agents or other individuals to perform any services under this Agreement except as permitted under Sections 1230, 1230a, 1230b and related provisions of the Code pertaining to criminal background and criminal conduct checks. Choice Schools shall perform or cause to be performed all criminal and unprofessional conduct checks required by law to be performed with fidelity.
- J. **Unprofessional Conduct Checks.** Choice Schools agrees that it will conduct unprofessional conduct checks, in accordance with MCL 380.1230b before hiring an employee assigned to work at or for the Academy.

ARTICLE VII TERMINATION OF AGREEMENT

- A. **Termination.** Any termination of the Agreement for cause or without cause shall not take effect until the earlier of (i) an approved agreement by the Academy with another Educational Service Provider ("ESP") (or self-management) is in effect; or (ii) the end of the current school year in which the termination is invoked. A change in ESP (or a decision to self-mange) in mid school year is strongly discouraged. If a breach cannot be remedied,

the Board and Choice Schools agree to work cooperatively to transition management and operations of the Academy without disrupting the Academy's operations.

- B. Termination by the Academy for Cause.** This Agreement may be terminated by the Academy for cause prior to the end of the term specified in Article II in the event that Choice Schools should fail to remedy a material breach within a period reasonable under the circumstances, which in no event shall be longer than sixty (60) days after notice from the Academy. A material breach is a failure by Choice Schools to carry out its responsibilities under this Agreement and may include, but is not limited to, (1) failure to account for its expenditures or to pay operating costs (providing funds are available to do so), (2) failure to follow policies or procedures duly adopted by the Board, (3) failure to follow the Educational Program, (4) a violation of the Contract or of applicable law, or (5) any action or inaction by Choice Schools that is not cured within 60 days of notice thereof which causes the Contract to be revoked, terminated, suspended or which causes the Contract to be put in jeopardy of revocation, suspension or termination by the University Board. In order to terminate this Agreement for cause, the Board is required to provide Choice Schools with written notification of the facts it considers to constitute material breach and the period of time within which Choice Schools has to remedy this breach not to exceed sixty (60) days. After the period to remedy the material breach has expired, the Board may terminate this Agreement by providing Choice Schools with written notification of termination. The Academy and Choice Schools will make every effort necessary to remedy a breach of this Agreement in order to continue school operations until completion of the then-current school fiscal year.
- C. Termination by Choice Schools for Cause.** This Agreement may be terminated by Choice Schools for cause prior to the end of the term specified in Article II in the event the Academy fails to remedy a material breach within a period reasonable under the circumstances, which in no event shall be longer than sixty (60) days after notice from Choice Schools. A material breach is a failure by the Academy to carry out its responsibilities under this Agreement and may include, but is not limited to, (1) a failure to make timely payments to Choice Schools as required by this Agreement, (2) a failure to give consideration to the recommendations of Choice Schools regarding the operation of the Academy, (3) a violation of the Contract or of applicable law, or (4) any action or inaction by the Academy that places the Contract in jeopardy of suspension, revocation, reconstitution or termination. In order to terminate this Agreement for cause, Choice Schools is required to provide the Board with written notification of the facts it considers to constitute material breach and the period of time within which the Academy has to remedy this breach not to exceed sixty (60) days. After the period to remedy the material breach has expired, Choice Schools may terminate this Agreement by providing the Board with written notification of termination. The Academy and Choice Schools will make every effort necessary to remedy a breach of this Agreement in order to continue school operations until completion of the then-current school fiscal year.
- D. Termination by Either Party Without Cause.** If Choice Schools and the Board are unable to agree on Educational Programs, curriculum, educational policies, or school operations that affect the Academy in a significant way, or if the parties are unable to agree upon the reduction of that annual fee in any school year if extenuating circumstances make

payment of the entire annual fee inappropriate, either party may elect to terminate this Agreement subject to Section A of this Article VII, provided that the terminating party gives the other party written notification of termination at least sixty (60) calendar days prior to the termination date.

- E. **No Penalty Early Termination.** If Saginaw Valley decides to exercise its prerogative under MCL 380.507(7) and/or the Contract to reconstitute the Academy by requiring termination or amendment of the Agreement, there shall be no cost or penalty to the Academy (except what is legally owed at the date of such termination), and no recourse to Saginaw Valley or any third party affiliated with or engaged by the Saginaw Valley, by Choice Schools, or any subcontracted person or entity of Choice Schools.
- F. **Action or Inaction By Choice Schools – Revocation, Termination, or Suspension of the Agreement.** Any action or inaction by Choice Schools that causes the Contract to be revoked, terminated or suspended, or which results in the Academy receiving official notification from Saginaw Valley, the Superintendent of Public Instruction, or other authorized body or official, of the commencement or an intent to initiate proceedings for the termination, revocation or suspension of the Contract, shall be designated a material breach of the Agreement, which shall be grounds for termination of this Agreement. This Agreement may be terminated if directed by Saginaw Valley as part of the process of reconstitution, as provided by the Revised School Code.
- G. **Change in Law.** If any federal, state or local law or regulation, or court decision has a material adverse impact on the ability of either party to carry out its obligations under this Agreement, then either party, upon written notice, may request renegotiation of the Agreement; and if the parties are unable or unwilling to renegotiate the terms within ninety (90) calendar days after the notice, the party requesting the renegotiation may terminate this Agreement on thirty (30) calendar days further written notice, subject to Section A of this Article VII.
- H. **Rights to Property Upon Termination.** Upon termination of this Agreement all property (real or personal), equipment, materials and supplies whether purchased by the Academy or by Choice Schools with state school aid funds, funds under Article V, Section C, or other funds secured by or for the Academy, shall remain the exclusive property of the Academy. Choice Schools shall have the right to reclaim any usable property or equipment (e.g., including, but not limited to, desks, computers, copying machines, fax machines, telephones) that was purchased by Choice Schools with Choice Schools' funds. Fixtures and building alterations shall become the property of the Academy.
- I. **Mid-Year Transition.** The Academy and Choice Schools agree that mid-year terminations should be avoided if possible and endeavor to take reasonable efforts necessary to remedy a breach of this Agreement in order to continue school operations until completion of the then-current school fiscal year. If a breach cannot be remedied, the Board and Choice Schools agree to work cooperatively to transition management and operations of the Academy without disrupting the Academy's operations. Choice Schools shall perform this transition as described under Article VII, Section J. based upon completion of the then-current school period. In the event of termination of this Agreement for any reason by either

party prior to the end of the Agreement's term, Choice Schools shall provide the Academy reasonable assistance for up to ninety (90) calendar days after the effective date of the termination to allow a transition back to a regular school program or to another education service provider.

J. **Amendment Caused By Academy Site Closure or Reconstitution.** In the event that the Academy is required (i) to close an Academy site pursuant to a notice issued by the Michigan Department of Education under Section 507 of the Code, MCL 380.507; or (ii) to undergo a reconstitution pursuant to Section 507 of the Code, MCL 380.507, and the Contract, and such closure of an Academy site or reconstitution causes an amendment to or termination of this Agreement, the parties agree that this Agreement shall be amended or terminated to implement the Academy site closure or reconstitution, with no cost or penalty to the Academy, and Choice shall have no recourse against the Academy or Saginaw Valley for implementing such site closure or reconstitution.

K. **End of Agreement Transition.** Upon termination or expiration of this Agreement, or if this Agreement is terminated due to a Contract revocation, reconstitution, or termination or non-renewal, Choice shall, without additional charge: (i) close the financial records on the then-current school fiscal year which includes, but is not limited to, the completion and submission of the annual financial audit, state and federal grant reporting and all other associated reporting required within the required timelines established by the appropriate local, state or federal authority; (ii) organize and prepare Academy records for transition to the new educational services provider, self-management or dissolution; (iii) provide the Academy with an updated fixed asset schedule showing all property owned by the Academy; (iv) provide an updated list of outstanding vendor invoices with total amounts owed (including the total outstanding owed by the Academy to Choice Schools, if any; (v) the amount owed by Choice Schools to the Academy if any; (vi) organize and prepare student records for transition to the new educational services provider, self-management or in the case of a school closure, transfer to a student's new school as designated by the student's parent / legal guardian or to a person or entity authorized to hold such records; (vii) ensure the closeout of existing grants and the transfer of grant funded property to Academy, if applicable; (viii) provide for the orderly transition of employee compensation and benefits to the new educational services provider or self-management without disruption to staffing, or in the case of school closure, final payment of all employee compensation, benefit and tax obligations related to services provided by Choice Schools to the Academy; (ix) organize and prepare the Academy's records, both electronic and hard-copy, for transition to the new educational services provider, self-management or dissolution; and (x) provide for the orderly transition to the new educational services provider, self-management or dissolution of all Academy-owned assets including, but not limited to, furniture, fixtures, equipment and real estate. This includes any keys, log-in information and passwords related to any Academy asset.

ARTICLE VIII PROPRIETARY INFORMATION

- A. **Choice Schools Proprietary Information and Academy's Rights of Use.** Choice Schools shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials developed by Choice Schools, its employees, agents or subcontractors, or by any individual working for or supervised by Choice Schools, that were paid for by Choice Schools with Choice Schools funds. The Academy shall have an ongoing right to use, at no cost, all such materials in use as of the termination of this Agreement. All Choice Schools' educational materials and teaching techniques used by the Academy are subject to disclosure under the Revised School Code and the Freedom of Information Act.
- B. **Academy Proprietary Information and Choice Schools' Rights of Use.** The Academy shall own all copyright and other proprietary rights to all instructional and educational materials, training materials, curriculum and lesson plans, and any other materials (i) developed exclusively by staff working at the Academy; (ii) both directly developed and paid for by the Academy; or (iii) developed by Choice Schools, at the direction of the Board with Academy funds. Choice Schools shall have an ongoing right to use, at no cost, all such materials developed during the term of this Agreement.
- C. **Required Disclosure.** The Academy shall be permitted to report any new teaching techniques or methods of significant revisions to known teaching techniques or methods to Saginaw Valley, Oakland Intermediate School District and to the State Board of Education, which teaching techniques or methods may thereafter be made available to the public, as provided in Section 505(3) of the Code, notwithstanding anything contained in this Article VIII to the contrary. Any educational materials and teaching techniques developed by Choice Schools and/or used by the Academy are subject to disclosure under the Code and the Freedom of Information Act.
- D. **Marks.** The Academy and Choice Schools shall provide written notice to the other party regarding the existence of any trademarks, service marks, mascot, or other identifying symbols that they consider to be proprietary in nature. The Parties agree not to use any trademark, service mark, mascot, or other identifying symbol ("Marks") of the other party, except as provided in this Agreement, without prior written approval of that party. Execution of the Agreement satisfies this notice requirement as to each party's name and the Academy's logo.

ARTICLE IX INDEMNIFICATION

- A. **Indemnification of Choice Schools.** To the extent permitted by law, the Academy shall indemnify and hold Choice Schools (which term for purposes of this Paragraph A, includes Choice School's officers, directors, and employees) harmless against any and all claims, demands, suits, or other forms of liability (including reasonable attorney fees and costs) that may arise out of, or by reason of, any noncompliance by the Academy (its officers,

directors and employees) with any agreements, covenants, warranties, or undertakings of the Board (its officers, directors and employees) contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of the Board contained in or made pursuant to this Agreement. In addition, the Academy shall reimburse Choice Schools for any and all legal expenses and costs associated with the defense of any such claim, demand, or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts reasonably acceptable to Choice Schools.

- B. **Limitations of Liabilities.** The Academy may assert or not assert, waive or not waive, all immunities and statutory limitations of liability in connection with any claims arising under this Agreement.
- C. **Indemnification of the Academy.** To the extent permitted by law, Choice Schools shall indemnify and hold the Academy (which term for purposes of this Paragraph C, includes the Board and its officers, directors, agents and employees) harmless against any and all claims, demands, suits, or other forms of liability (including reasonable attorney fees and costs) that may arise out of, or by reason of, any noncompliance by Choice Schools with any agreements, covenants, warranties, or undertakings of Choice Schools contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of Choice Schools contained in or made pursuant to this Agreement. In addition, Choice Schools shall reimburse the Academy for any and all legal expenses and costs associated with the defense of any such claim, demand, or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts reasonably acceptable to the Academy.
- D. **Indemnification for Negligence.** To the extent permitted by law, the Academy shall indemnify and hold harmless Choice Schools, and Choice School's Board of Directors, officers, employees, agents and representatives, from any and all claims and liabilities which Choice Schools may incur and which arise out of the negligence of the Academy directors, officers, employees, agents or representatives. To the extent permitted by law, Choice Schools shall indemnify and hold harmless the Academy, and the Academy's Board of Directors, officers, employees, agents or representatives, from any and all claims and liabilities which the Academy may incur and which arise out of the negligence of Choice School's directors, officers, employees, agents or representatives. Nothing contained herein shall be deemed to be a waiver by the Academy of its right to assert the privilege of governmental immunity or any other affirmative defenses provided by law.
- E. **Indemnification of Saginaw Valley State University.** The parties acknowledge and agree that the Saginaw Valley State University Board of Control, Saginaw Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify, defend and hold harmless the Saginaw Valley State University, Saginaw Valley State University Board of Control and its members, and their respective officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness,

disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Saginaw Valley State University, which arise out of or are in any manner connected with Saginaw Valley State University's Board of Control's approval of the Academy's application, Saginaw Valley State University's Board of Control's consideration of or issuance of a Contract, the Board's or Choice School's preparation for and operation of the Academy, or which are incurred as a result of the reliance by Saginaw Valley State University, Saginaw Valley State University Board of Control or its members, or their respective officers, employees, agents or representatives upon information supplied by the academy or Choice Schools, or which arise out of the failure of the Board or Choice Schools to perform obligations under the Contract or Applicable Law. The parties expressly acknowledge and agree that Saginaw Valley State University, Saginaw Valley State University Board of Control and its members and their respective officers, employees, agents or representatives, or any of them, may commence legal action against either party to enforce its rights as set forth in this section of the Agreement.

ARTICLE X INSURANCE

- A. **Insurance of the Academy.** The Academy shall purchase its own insurance policy and shall secure and maintain such policies of insurance as required by the Michigan Universities Self Insurance Corporation ("M.U.S.I.C."). This coverage shall include the building and related capital facilities if they are the property of the Academy. The Academy shall maintain such insurance in an amount and on such terms as required by the provisions of the Contract, including the indemnification of Choice Schools required by this Agreement. The Academy shall, upon request, present evidence to Choice Schools that it maintains the requisite insurance in compliance with the provisions of this paragraph. Choice Schools shall comply with any information or reporting requirements applicable to the Academy under the Academy's policy with its insurer(s), to the extent practicable.
- B. **Insurance of Choice Schools.** Choice Schools shall secure and maintain such policies of insurance as required by the Contract, including general liability and umbrella insurance coverage at levels satisfactory to the Saginaw Valley State University President, and M.U.S.I.C. Any policy of insurance maintained by Choice Schools must include coverage for sexual molestation or abuse and must name Saginaw Valley State University as an additional, named insured, and shall not be changed, revoked, or modified absent 30 days' notice to the University President. In the event the University or M.U.S.I.C. requests any change in level, type, scope, or other aspects of such coverage by Choice Schools, Choice Schools agrees to comply with the change in the type or amount, as requested, within thirty (30) days after notice of the insurance coverage change. Choice Schools' insurance is separate from and in addition to the insurance the Academy Board is required to obtain under the Contract. Choice Schools shall, upon request, present evidence to the Academy and Saginaw Valley State University that it maintains the requisite insurance in compliance with the provisions of this paragraph. The Academy shall comply with any information or reporting requirements applicable to Choice Schools under Choice School's policy with its

350 S. Main Street Suite 300
Ann Arbor, MI 48104
agibbs@dickinson-wright.com

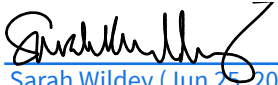
- D. **Severability.** The invalidity of any of the covenants, phrases or clauses in this Agreement shall not affect the remaining portions of this Agreement, and this Agreement shall be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement.
- E. **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.
- F. **Entire Agreement.** This Agreement is the entire agreement between the parties relating to the services provided, and the compensation for such services, by the parties. Any modification to this Agreement must be made in writing, approved by the Board and Choice Schools, and signed by a duly authorized officer. In addition, any modification of or amendment to this Agreement must comply with the Contract and any applicable policies of Saginaw Valley. The Board must also secure the approval of Saginaw Valley before any modification to this Agreement can become effective. The Board and Choice Schools may not substantially amend this Agreement without notification to the University President. Said amendment shall not be contrary to the Contract and it must be accompanied by a Legal Opinion. The Academy is responsible for submitting any and all amendments to the University President or his/her designee within ten (10) days after such amendment. This Agreement and any amendment to this Agreement shall not be effective until and unless the Director of the Saginaw Valley State University School/University Partnership Office (SUPO) notifies the Academy in writing that it has reviewed and does not disapprove of the Agreement or amendment
- G. **Non-Waiver.** No failure of a party in exercising any right, power or privilege under this Agreement shall affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.
- H. **Assignment.** This Agreement may not be assigned or assignable to any third party.
- I. **Governing Law.** This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.
- J. **Delegation of Authority.** Nothing in this Agreement shall be construed as delegating to Choice Schools any of the powers or authority of the Board that are not subject to delegation by the Board under Michigan law or the Contract.
- K. **Compliance with Law.** The parties agree to comply with all applicable laws and regulations.

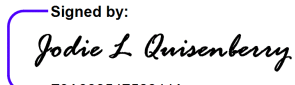
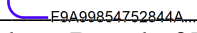
- L. **Warranties and Representations.** The Academy and Choice Schools each represent (1) that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, (2) that its actions have been duly and validly authorized, and (3) that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement. The individuals signing this Agreement represent that they have the authority to do so on behalf of the Academy.
- M. **Dispute Resolution Procedure.** Any and all disputes between the parties concerning any alleged breach of this Agreement or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement that are unable to be resolved through discussion and negotiation shall be resolved by arbitration, and such an arbitration procedure shall be the sole and exclusive remedy for such matters. The arbitrator shall be selected from a panel provided by and in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the parties and the arbitrator unanimously accept. Any arbitration hearing shall be conducted in Grand Rapids, Michigan. The arbitrator shall be required to issue a cause opinion with a written explanation as to the final decision. This cause opinion shall be made available to Saginaw Valley or the SUPO upon request. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction to ensure compliance with the applicable law and this Agreement. The cost of arbitration, not including attorney fees, shall be paid by the losing party. It shall be in the discretion of the arbitration panel to award reasonable attorney fees to the prevailing party, to be paid if awarded by the losing party.
- N. **Modification to Conform to Changed Saginaw Valley State University's Policies.** The parties intend that this Agreement shall comply with Saginaw Valley's Educational Service Provider Policies, as the same may be changed from time to time. In the event that changes in Saginaw Valley's Educational Service Provider Policies implemented after the date of execution of this Agreement cause any provision of this Agreement to be in conflict the revised Policies, the parties agree to amend this Agreement to eliminate the conflict within thirty (30) days after being advised of such conflict.
- O. **No Third-Party Beneficiaries.** Except as expressly provided in this Agreement with regard to Saginaw Valley, no person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

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

CHOICE SCHOOLS ASSOCIATES, L.L.C.

KINGSBURY COUNTRY DAY SCHOOL

By 
Sarah Wildey (Jun 25, 2025 08:32 EDT)
Sarah Wildey, Chief Executive Officer

Signed by:

By 
President, Board of Directors

Date 06/25/2025

Date 6/22/2025 | 8:37 AM EDT

KCDS_ESP_Agreement_2025_-_clean_(Final)_ S.Wildey Signature Needed

Final Audit Report

2025-06-25

Created:	2025-06-25
By:	Ashtyn Overweg (ashtynoverweg@choiceschools.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAk94qjXguqAo6iIO6vG2fRysv3Rhdfc1

"KCDS_ESP_Agreement_2025_-_clean_(Final)_ S.Wildey Signature Needed" History

 Document digitally presigned by DocuSign\, Inc. (enterprisesupport@docusign.com)


2025-06-23 - 12:46:15 PM GMT

 Document created by Ashtyn Overweg (ashtynoverweg@choiceschools.com)

2025-06-25 - 12:31:23 PM GMT

 Document emailed to Sarah Wildey (sarahwildey@choiceschools.com) for signature

2025-06-25 - 12:32:12 PM GMT

 Email viewed by Sarah Wildey (sarahwildey@choiceschools.com)

2025-06-25 - 12:32:20 PM GMT

 Document e-signed by Sarah Wildey (sarahwildey@choiceschools.com)

Signature Date: 2025-06-25 - 12:32:40 PM GMT - Time Source: server

 Agreement completed.

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