

MANAGEMENT AGREEMENT

This Management Agreement (hereinafter "Agreement") is made and entered into as of the 6th day of June, 2019 by and between Education Management and Networks, Inc. (hereinafter "EMAN"), a Michigan corporation, located at 27704 Franklin Road, Southfield, Michigan 48034 and Oakland International Academy (the "Academy"), a Michigan public school academy, by and through its Board of Directors (the "Board").

The following is a recital of facts underlying this Agreement:

The Academy is organized as a public school academy under the Revised School Code (the "Code"). The Academy has received a contract (the "Contract") from the Saginaw Valley State University Board of Control ("SVSU" or "University")) to organize and operate a public school academy, with SVSU as the authorizing body.

EMAN specializes in providing educational institutions and other organizations with a variety of educational services and products, including management, curriculums, educational programs, teacher training, and technology. The products and services of EMAN are designed to serve the needs of a diverse student population.

The Academy and EMAN desire to enter into this Agreement, whereby the Academy and EMAN will work together to bring educational excellence and innovation to the Greater Detroit Metropolitan Area, based upon a mutually agreed upon school design, comprehensive educational program, institutional principles and management methodologies.

THEREFORE, it is mutually agreed as follows:

ARTICLE I **TERMS**

A. Term. This Agreement shall become effective **July 1, 2019**, and shall cover 5 academic years, with the entire term to end on **June 30, 2024** (the "Term"). This Agreement shall not exceed the length of the Contract.

Notwithstanding the foregoing, if the Academy's Contract issued by the University 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 of the parties.

ARTICLE II

CONTRACTUAL RELATIONSHIP

A. Authority. The Academy represents that is authorized by law to contract with a private entity to provide educational and management services. The Academy further represents that it has received its charter through SVSU to organize and operate a public school academy. The Academy is therefore authorized by SVSU to supervise and control such an academy, and is vested with all powers within applicable law for developing and implementing the educational program contemplated in this Agreement.

B. Contract. Acting under and in the exercise of such authority, the Academy hereby contracts with EMAN, to provide functions relating to the provision of educational services and management and operation of the Academy in accordance with the terms of this Agreement and the Contract. EMAN and the Academy acknowledge that each has reviewed this Agreement and all related documents and that they each shall comply with the terms and conditions set forth in the Contract. Further, EMAN and the Academy each represent and warrant that they shall comply with any and all of the terms and conditions set forth in the Contract. The provisions on the Contract shall supersede any competing or conflicting provisions contained in this Agreement.

C. Status of the Parties. EMAN is a for-profit corporation, and it 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 EMAN. The relationship between EMAN and the Academy is based solely on the terms of this Agreement. The parties intend that the relationship between them created by this Agreement is that of an independent contractor, and that no employee of EMAN shall be deemed to be an agent or employee of the Academy except the Academy designates the employees of EMAN as agents of the Academy having a legitimate educational interest such that they are entitled to access educational records of Academy students under 20 U.S.C., Section 1232g, the Family Educational Rights and Privacy Act ("FERPA"). EMAN will be solely responsible for its acts and the acts of its agents, employees and subcontractors. EMAN shall notify the Board if any principal or officer of EMAN, or EMAN (including any related organizations or organizations in which a principal or officer of EMAN served as a principal or officer) as a corporate entity, has filed for bankruptcy protection in the last six (6) months or within any applicable preference period, whichever is longer.

ARTICLE III

FUNCTIONS OF EMAN

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

1. Implementation and administration of the educational program incorporated into the Contract;

2. Recruiting, hiring and employing the principal, teachers, other professional staff and support staff at the Academy consistent with the Contract and Board approved budget;
3. Providing professional development assistance and other training and supervision for the staff at the Academy;
4. Management of all personnel and human resources functions for the staff at the Academy and other support staff who provide services for the Academy;
5. Continued development, review, and implementation of the curriculum incorporated into the Contract;
6. Selection and acquisition on behalf of the Academy of instructional materials, equipment and supplies approved by the Board;
7. Pupil accounting, as required on official count days and generally during the course of the school year;
8. Procurement and maintenance of insurance on behalf of the Academy;
9. Accounting and financial services as further specified in this Agreement;
10. Control, maintenance and operation of the Academy buildings, including daily custodial maintenance, repairs and replacements on an as-needed basis, and long-range facilities planning;
11. Installation of technology integral to the school design, including hardware, software, programming, upgrading, service, networking and maintenance approved by the Board;
12. Advertising for and recruitment of students, and performing all functions associated with enrollment consistent with the Contract, applicable law and Board policies;
13. Cooperation with the Board's legal counsel and independent auditor;
14. Implementation and enforcement of policies established by the Board;
15. Implementation of policies and procedures for the health, safety and welfare of students and other persons at the Academy;
16. Compliance services for the legal and regulatory requirements imposed upon the Academy;
17. Assisting and consulting in the design of strategic plans for the continuing educational and financial benefit of the Academy;
18. Design of an ongoing public relations strategy for the development of beneficial and harmonious relationships with other organizations and the community, for implementation by the staff at the Academy;

19. All other tasks and responsibilities necessary for the implementation and administration of the Educational Program incorporated into the Contract;
20. Performance as agent for the Academy and the Board in the overall administration of the Academy;
21. All functions which are typically associated with the operation and administration of a public school and a public school district and which, in the absence of a management agreement with an educational service provider, would be performed by the staff of the school or school district;
22. Provision of parent education, including seminars on parent skills, communication skills and workshops to improve partnership with parents.

B. Subcontracts. It is anticipated that EMAN will utilize subcontracts to provide some of the services it is required to provide to the Academy, EMAN shall not subcontract the management, oversight or operation of the teaching and instructional program without the prior approval of the Board. Board approval of other subcontracts is not required unless the proposed cost for these subcontracted services exceeds the funds appropriated for that purpose. EMAN will receive no additional fee as a result of subcontracting of any services.

C. Place of Performance. EMAN reserves the right to perform functions off-site, other than instruction, unless prohibited by the Contract or applicable law. Functions which may be performed off-site may include but are not limited to purchasing, professional development, and administrative functions. Student records shall be maintained on-site and remain the property of the Academy.

D. Acquisitions. All acquisitions made by EMAN for the Academy including, but not limited to, instructional and educational materials, equipment, supplies, furniture, computers and other technology, shall be owned by and remain the property of the Academy. EMAN and its subcontractors will comply with Section 1274 of the Code and with the Board's procurement policy as if the Academy were making these purchases directly from a third party supplier and EMAN will not include any fees or charges to the cost of the equipment, materials and supplies purchased from third parties when it seeks reimbursement for the cost of these acquisitions. All equipment, materials and supplies procured by EMAN for the Academy shall be inventoried by an acceptable method of inventory and an inventory of Academy equipment shall be maintained to establish which property belongs to the Academy.

E. Student Recruitment. EMAN shall be responsible for the recruitment of students subject to the provisions of the Contract and the policies adopted by the Board. Students shall be selected and enrolled in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable law. EMAN shall follow all applicable procedures regarding student recruitment, enrollment and lottery management, and shall be responsible for publication of appropriate public notices and scheduling open houses.

F. Student Due Process Hearings. EMAN shall provide students with procedural and substantive due process in conformity with the requirements of state and federal law regarding

discipline, special education, confidentiality and access to records, to an extent consistent with the Academy's own obligations and the jurisdictional prerogatives of the juvenile justice system. The Board shall retain the right to provide due process as required by law and to determine whether any student will be expelled.

G. Legal Requirements. EMAN shall provide educational programs that meet the requirements imposed under the Contract and applicable law.

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

1. **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.
2. **Authority:** EMAN shall have authority and power necessary to undertake its responsibilities described in this Agreement except in the case(s) wherein such power may not be delegated by law.
3. **Contract with SVSU:** EMAN will not act in a manner that will cause the Academy to be in breach of the Contract.
4. **Additional Programs:** The services provided by EMAN to the Academy under this Agreement consist of the educational program as set forth in the Contract, as the same may change from time to time. The Board may decide to provide additional programs, including but not limited to after school and evening programs, or programs at additional locations pursuant to subsequent amendments to this Agreement and the Contract. The parties may also amend this Agreement to allow the Academy to purchase additional services from EMAN at mutually agreeable cost.
5. **Annual Budget Preparation:** EMAN will annually prepare a proposed budget for the upcoming school year, subject to approval by the Board which shall not be unreasonably withheld. The proposed budget shall conform to the State accounting manual and the Uniform Budgeting and Accounting Act, MCL 141.421 et seq. and be prepared and maintained in a form satisfactory to the Board and to SVSU. The proposed budget shall contain function level detail and comply with public accounting standards. The proposed 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 no later than the regular Board meeting in May of each year, and approved by the Board no later than June 30. EMAN may not make deviations from the approved budget, absent an emergency situation, without the prior approval of the Board.

ARTICLE IV
OBLIGATIONS OF THE BOARD

A. **Board Policy Authority.** The Board is responsible for determining the fiscal, governance, and academic policies that apply to the operation of the Academy, including but not limited to policies relative to the conduct of students while in attendance at the Academy or en route to and from the Academy, policies relative to conduct of teachers and other EMAN employees while on the premises of the Academy, and policies governing the procurement of supplies, materials and equipment. The Board shall exercise good faith in considering the recommendations of EMAN 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. 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 action or inaction of the EMAN.

B. **Building Facility.** The Board is responsible for securing the availability of a building facility that complies with all of the requirements of the Contract and applicable law. The Building should be fully functional and furnished to achieve school goals at least six weeks prior to start of school year.

C. **Legal Counsel.** The Board shall select and retain legal counsel to advise it regarding its rights and responsibilities under the Contract, this Agreement and applicable law.

D. **Chief Administrative Officer.** The Board shall select the Chief Administrative Officer. EMAN and no EMAN employee shall be designated as the Chief Administrative Officer of the Academy, although an EMAN employee may be a designee of the Chief Administrative Officer for certain purposes enumerated by Board action.

E. **Audit.** The Board shall select and retain the independent financial auditor to perform the Academy's annual financial audit in accordance with the Contract and applicable state law.

F. **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. The Board is responsible for ensuring that it has adequate resources to fulfill its obligations under the Contract, including but not limited to 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, consultants and employees. 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 Board adopted budget. The budget may be amended from time to time as deemed necessary by the Board.

G. **Academy Funds.** The Board shall determine the depository institution of all funds received by the Academy. All funds received by the Academy shall be deposited in the Academy's depository account. Signatories on the depository account shall be Board members designated annually by Board resolution.

H. All interest or investment earnings on Academy deposits shall accrue to the Academy. All state school aid funds and grants received by the Board shall be made available to EMAN within five days of receipt thereof, with the exception of funds needed to pay EMAN's management fee and funds required for payment of other Board obligations including payment for the Board attorney and independent auditor. One-eleventh of the amount budgeted for such Board obligations shall be withheld from each of the eleven state school aid payments, and adjusted through the year based upon changes in budget estimates.

1. **Governmental Immunity:** The Board shall determine when to assert, waive or not waive its governmental immunity.
2. **Contract with SVSU:** The Board will not act in a manner which will cause the Academy to be in breach of the Contract.

ARTICLE V **FINANCIAL ARRANGEMENTS**

A. **School Source of Funding.** As a Michigan public school academy, the source of funding for the Academy is state school aid payments based upon the number of eligible 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 EMAN, with prior Board approval, shall endeavor to obtain revenue from other sources. In this regard:

1. The Academy and/or EMAN shall solicit and receive donations consistent with the mission of the Academy.
2. The Academy and/or EMAN may apply for and receive grant money, in the name of the Academy with the prior approval of the Board.
3. To the extent permitted under the Code, EMAN 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.

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

C. **Compensation for Services.** The Academy shall pay EMAN an annual management fee for each school year during the term of this Agreement. The amount of this annual fee shall be twelve percent (12%) of the sum of (a) all funds the Academy receives directly (State Aid, 31A, Title I, II, III, etc.) or indirectly (Lunch/Breakfast, Special ED, IDEA, Grants, etc.) attributable to a school year of the Academy during which EMAN provides services under this Agreement except for donations that are made to Academy. The management fee shall be paid in eleven (11) approximately equal installments from October through August, based upon Board approved budgeted amounts of expected revenue. Payments shall be made within five (5) business days of

receipt of the Academy of state school aid payments. If necessary, EMAN will cooperate with the Academy to modify the exact date of any monthly installment to coordinate with the timing of the receipt of funds by the Academy. Management fee payments will be modified throughout the year, as necessary, based upon changes in estimated revenues of the Academy. Should the system of funding the Academy change significantly, the parties reserve the right to renegotiate the Agreement.

D. Reasonable Compensation. EMAN's compensation under this Agreement is reasonable compensation for services rendered. EMAN'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 fee in Article V(C), the Academy shall reimburse EMAN for all costs reasonably incurred and paid by EMAN in providing the Educational Program at the Academy, consistent with the Board approved budget. Such costs shall include, but shall not be limited to, salaries and fringe benefits for all personnel, curriculum materials, professional development, Central Office Services (which would include, but are not limited to payment of Academy executive administration salaries, compliance, human resources and payroll services) solely for the benefit of the Academy, textbooks, library books, computer and other equipment, software, supplies utilized at the Academy for educational purposes, services provided pursuant to subcontract, maintenance, utilities, and marketing and development costs. Marketing and development costs paid by or charged to the Academy shall be limited to those costs specific to the Academy's program, and shall not include any costs for the marketing and development of EMAN. In paying costs on behalf of the Academy, EMAN shall not charge any added fee. The Academy shall not reimburse EMAN for any costs incurred or paid by EMAN as a result of services provided or actions taken pursuant to this Agreement unless otherwise specifically indicated herein. EMAN shall present proper documentation to the Board on a monthly basis of all expenses incurred pursuant to this Agreement for approval by the Board. At its option, the Board may advance funds to EMAN for fees and expenses associated with the Academy's operation, provided that documentation for the fees and expenses is provided to the Board within thirty (30) days after expenses are incurred. Any costs reimbursed to EMAN that are determined by an independent audit not to be incurred on behalf of the Educational Program of the Academy shall be promptly returned to the Academy by EMAN.

F. EMAN Costs. EMAN shall not be reimbursed for any corporate expenses of EMAN or expenses not related to providing the Education Program at the Academy.

G. Other Public School Academies. The Academy acknowledges that EMAN may enter into management agreements with other public school academies. EMAN shall separately account for reimbursable expenses incurred on behalf of the Academy and other public school academies and only charge the Academy for expenses incurred on behalf of the Academy.

H. Financial Reporting. EMAN shall be responsible for performing the functions and duties described in this section. On a monthly basis, EMAN shall provide the Board with financial statements that (at a minimum) include: a bank reconciliation, aged report of accounts receivable, balance sheet, and 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. This report shall be prepared in advance of the Board meeting to be

available for Board packets sent to Board members, and its designees, in preparation for Board meetings at least five (5) days prior to the meeting. EMAN shall provide special reports as necessary to keep the Board informed of changing conditions.

I. Audit Report Information. EMAN will make all of its records related to the Academy available to the Academy's independent auditor selected by the Board. EMAN staff will cooperate with the Academy's independent auditor, and EMAN shall not select or retain the Academy's independent auditor. EMAN corporate records, office records, tax records and profit and loss statements are excluded.

J. Access to Records. EMAN shall keep accurate information pertaining to its operation and management of the Academy, and retain all of information records in accordance with applicable law. Such information includes without limitation information specified in the Contract, shall be available to the Academy as deemed necessary by the Board in order to enable the Academy to fully satisfy its obligations under the Contract and applicable law. Financial, educational, operational and student records that are now or may in the future come into the possession of EMAN remain Academy records and are required to be returned by EMAN to the Academy upon demand, provided that EMAN may retain copies of records necessary to document the services provided to the Academy and its actions under the Agreement. EMAN 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. All records pertaining to teacher and administration certification, as well as a copy of the employee handbook shall be maintained physically on site or directly accessible at the Academy facility. The financial, educational, operational and student records pertaining to the Academy are Academy property and are public documents subject to disclosure in accordance with the provisions of applicable law. This Agreement shall not be construed to restrict SVSU's or the public's access to these records as required by law or the Contract.

Additionally, on an annual basis, EMAN shall make information available to the Academy 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 also at least the same information that a school district is required to disclose under section 18(2) of the State School 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 Academy Board shall make the information available on the Academy's website home page, in a form and manner prescribed by the Department of Education. The defined terms in section 503c of the Code, MCL 380.503c, shall have the same meaning in this Agreement.

EMAN shall also make available to SVSU and to the public information required under section 503 of the Code, MCL 380.503.

ARTICLE VI **PERSONNEL AND TRAINING**

A. Personnel Responsibility. EMAN shall have the sole responsibility and authority to determine staffing levels, subject to the Board approved budget and Board approval of the number of classrooms and students per classroom, and to select, evaluate, assign, discipline and

transfer personnel, consistent with state and federal law. All personnel must meet legally required qualifications for their positions. With the exception of Board employees, if any, EMAN shall be the employer of all individuals working at or for the Academy and will be responsible for the payment of all costs attributable to these employees, including wages, salaries, fringe benefits, unemployment costs, workers compensation costs, and liability insurance costs, subject to reimbursement pursuant to Article V, Paragraph E. The ESP is prohibited from executing contracts with its staff assigned to the Academy (including by way of example and not limitation, teachers, administrators, counselors and the like) that contain noncompete agreements of any nature. EMAN shall require all EMAN employees to undergo criminal background, criminal history and unprofessional conduct checks required by applicable law and for EMAN to store evidence of such on site, in physical form, at the Academy or directly accessible at the Academy facility in accordance with applicable law.

B. School Administrator. Because the accountability of EMAN to the Academy is an essential foundation of this partnership, and because the responsibility of the School Leader is critical to its success, EMAN will have the authority, consistent with state law, to select and supervise the School Administrator and to hold him or her accountable for the success of the Academy. Consistent with the Board approved budget, the employment contract with the School Leader, and the duties and compensation of the School Leader shall be determined by EMAN. EMAN with the assistance of the School Leader will, in turn, have the authority to select and hold accountable the teachers in the Academy.

C. Teachers. Subject to the Contract, Board approved budget and limitations contained in Article VI, Paragraph A, prior to the commencement of each school year, and from time to time thereafter, EMAN shall determine the number of teachers required for the operation of the Academy. The curriculum taught by such teachers shall be the curriculum set forth in the Contract. Such teachers may, in the discretion of EMAN work at the Academy on a full or part-time basis. If assigned to work for the Academy on a part-time basis, such teachers may also work at other schools managed by EMAN. Each teacher assigned to or retained to work at the Academy shall hold a valid teaching certificate or permit issued by the State Board of Education under the Code, to the extent required under the Code, and shall meet all other requirements of applicable law.

D. Support Staff. Subject to the Board approved budget, prior to the commencement of each school year, and from time to time thereafter, EMAN shall determine the number and functions of support staff required for the operation of the Academy. EMAN shall hire and provide the Academy with such support staff, qualified in the areas required, as are required by the Academy. Such support staff may, at the discretion of EMAN work at the Academy on a full-time 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 EMAN

E. Training. EMAN shall provide training in its methods, program, curriculum and technology adopted by the Board, to all teaching personnel, on a regular and continuous basis. Non-instructional personnel shall receive such training as EMAN determines as reasonable and necessary under the circumstances.

F. Leased Employees. If at any time during the Term of this Agreement, EMAN leases employees to the Academy, EMAN shall ensure that its contract with the employee leasing

company states 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. EMAN shall provide legal confirmation to the Academy Board that the employment structure qualifies as employee leasing.

G. Performance Evaluation System. EMAN agrees to adopt, implement and maintain a performance evaluation system for all required personnel as required by applicable law.

ARTICLE VII **ADDITIONAL PROGRAMS**

A. Additional Programs. The services provided by EMAN to ACADEMY under this Agreement consist of the educational program during the school year and school day as set forth in the Contract. EMAN, in cooperation with the Academy may provide additional programs including, but not limited to, adult and community education, pre-kindergarten, summer school, and latch-key programs, on such terms and conditions as EMAN and the Academy deem mutually agreeable. The Academy shall be responsible for obtaining the written consent of SVSU whenever required under the Contract when any change requires such consent.

B. Food Services and Transportation. EMAN may, at its discretion, may provide food service and transportation services to students at the Academy, provided, however, such cost must be able to be passed on to the students or fully reimbursed by appropriate funding.

ARTICLE VIII **TERMINATION OF AGREEMENT**

A. Termination by EMAN. EMAN may terminate this Agreement with cause prior to the end of the term specified in Article I in the event that the Academy fails to remedy a material breach within sixty (60) days after notice from EMAN. A material breach may include, but is not limited to, failure to make payment to EMAN as required by this Agreement, or failure to give reasonable consideration to the personnel, curriculum, program, or similar material recommendations of EMAN, regarding the operation of the Academy, a violation of the Agreement or applicable law. Upon such termination, EMAN shall have the option to reclaim any usable property or equipment (e.g., copy machines, personal computers) installed by EMAN and not paid for by the Academy, or to reclaim the depreciated cost of such equipment. Provided, however, all textbooks and instructional materials and any office operating assets, to the extent paid for by the Academy shall remain the property of the Academy.

B. Termination by the Board. The Board may terminate the term of this Agreement after sixty (60) days prior written notice to EMAN upon the occurrence of any of the following:

1. If EMAN shall cease to be approved by SVSU to render services under this Agreement;
- 2.. In the event that EMAN or any of its Shareholders, and/or Board of Directors shall be guilty of felony or fraud, gross dishonesty, or other act of gross misconduct in the rendering of services under the Agreement;

3. In the event that EMAN fails to remedy a material breach of its duties or obligations under this Agreement within sixty (60) days after written notice of the breach is provided to EMAN by Academy;

Upon such termination, EMAN shall have the option to reclaim any usable property or equipment (e.g. copy machines, personal computers) installed by EMAN and not paid for by ACADEMY or to reclaim the depreciated cost of such equipment. Provided, however, all textbooks and instructional materials and any office operating assets, to the extent paid for by ACADEMY shall remain the property of the Academy. Upon demand, costs related to the operation of the Academy incurred beyond the effective date of termination shall be reimbursed to EMAN to the extent applicable, including teacher contracts and related taxes and benefits, unemployment expense, and fees related to the cancelation of any subcontracts negotiated by EMAN for the benefit of the Academy.

Notwithstanding the foregoing, this Agreement may be terminated by either party immediately in the event the other party is declared bankrupt or insolvent, or makes an assignment for the benefit of its creditors, or if a receiver is appointed or any proceedings are commenced, voluntary or involuntary, by or against such party under bankruptcy or similar law and such status is not cured within sixty (60) days from its occurrence.

C. 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 this Agreement, and if the parties are unable or unwilling to renegotiate the terms within ninety (90) days after the notice, the party requiring the renegotiation may terminate this Agreement on thirty (30) days further written notice.

D. Termination or Expiration. Upon expiration of this Agreement, at the completion of the Term without renewal of the Contract, EMAN shall have the right to reclaim any property or equipment including but not limited to copy machines, personal computers, that it provided to the Academy at its expense or which were installed by EMAN or to claim the depreciated cost of such equipment. Fixtures to the extent required by the lease with the building owner, and building alterations shall become the property of the building owner. Upon termination the ESP shall, without charge (i) close the books on the then-current fiscal quarter; (ii) organize and prepare the Academy's records for transition to the new ESP; (iii) organize and prepare student records for transition to the new ESP; and (iv) provide for the orderly transition of employee compensation and benefits to the new ESP without disruption to staffing.

E. Effective Date of Termination. In the event this Agreement is terminated by either party prior to the end of the Term specified in Article I, absent unusual and compelling circumstances, the termination will not become effective until the end of that school year. Provided, however, that EMAN shall provide necessary transition services at a reasonable fee, negotiated and agreed upon by the parties.

F. Early Termination. In the event the University determines to exercise its prerogative under MCLA 380.507(7) and the Contract to reconstitute the Academy by requiring the termination or amendment of this Agreement, this Agreement may be terminated or amended with no cost or

penalty to the Academy, and no recourse to the University or any third party affiliated with or engaged by the University, by EMAN or any subcontracted person or entity of EMAN.

ARTICLE IX **INDEMNIFICATION**

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

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

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

D. Indemnification for Negligence. The Academy shall indemnify and hold harmless EMAN and EMAN's Owner, Board of Directors, partners, officers, employees, agents and representatives, from any and all claims and liabilities which EMAN may incur and which arise out of the negligence of the Academy's directors, officers, employees, agents or representatives. EMAN 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 EMAN's directors, officers, employees, agents or representatives.

E. Indemnification of SVSU. The parties acknowledge and agree that the SVSU 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 and hold harmless SVSU Board of Control, Saginaw Valley State University and its members, 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 SVSU, which arise out of or are in any manner connected with SVSU Board of Control's approval of the Academy's application, SVSU Board of Control's consideration of or issuance of a Contract, the Academy's preparation for and operation of the Academy, or which are incurred as a result of the reliance by Saginaw Valley State University, SVSU Board of Control or its members, or their respective officers, employees, agents or representatives, upon information supplied by the Academy or EMAN, or which arise out of the failure of the Academy to perform its obligations under the Contract or Applicable Law. The parties expressly acknowledge and agree that Saginaw Valley State University, SVSU 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 Agreement.

ARTICLE X **INSURANCE**

EMAN shall maintain such policies of insurance as required by the Contract and the Michigan Universities Self-Insurance Corporation ("M.U.S.I.C."). Any policy of insurance maintained by EMAN must include coverage for sexual molestation or abuse, must name the University as an additional, named insured, and shall not be changed, revoked or modified absent thirty (30) days' notice to the SVSU President. In the event the University or M.U.S.I.C. requests any change in coverage by educational management companies, EMAN agrees to comply with any change in the type of or amount of coverage, as requested, within thirty (30) days after notice of the insurance coverage change. EMAN's insurance is separate from and in addition to the insurance the Academy Board is required to obtain under the Contract. EMAN shall comply with the information and for reporting requirements under the terms and conditions of each of the policies of insurance required hereunder. EMAN shall ensure that the Academy and SVSU are both named as additional insureds on the policies required herein. EMAN shall purchase additional coverage on policies if reasonably requested by the Academy or required by law. In the event the University President modifies the level, type, scope or other aspects of such coverage, then the ESP shall undertake like and similar modifications within 30 days of being notified of such change.

Insurance. The Academy Board shall secure and maintain in its own name as the "first named insured" at all times as required by the Contract and M.U.S.I.C.

ARTICLE XI **WARRANTIES AND REPRESENTATIONS**

The Academy and EMAN each represent that it has the authority under law to execute, deliver, and perform this Agreement, and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will take all steps reasonably required to implement this Agreement.

ARTICLE XII
DISPUTE RESOLUTION PROCEDURE -ARBITRATION

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, shall be submitted to arbitration. Unless the parties agree upon a single arbitrator, the arbitration panel shall consist of three persons, including one person who is selected or recommended by the Academy, and one selected by EMAN, and one person selected by the parties. The arbitration shall be conducted in accordance with the commercial Arbitration Rules of the American Arbitration Association, with such variations as the parties and arbitrators unanimously accept. The parties shall be responsible for their own respective costs and attorney fees.

ARTICLE XIII
MISCELLANEOUS

A. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and EMAN.

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

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

If to EMAN:

Ahmed Saber, President
EMAN, INC.
27704 Franklin Road
Southfield, Michigan 48034

If to Oakland International Academy:

Board President
Oakland International Academy
2650 Caniff Street
Hamtramck, Michigan 48212

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. Such invalid covenant, phrase or clause shall be replaced or the remaining provisions construed so as to represent the parties' original intent as nearly as possible.

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

F. Entire Agreement. This Agreement is the entire agreement between the parties relating to the services provided, and the compensation for such services. The Academy Board and EMAN may not substantially amend this Agreement without notifying the SVSU President. No amendment shall be contrary to the Contract and shall be accompanied by a Legal Opinion. Whether or not substantial, the Academy shall submit to the SVSU President Designee all amendments to this Agreement within 10 days after such amendment. The Agreement and any amendment to this Agreement shall not be effective until and unless the SVSU President Designee notifies the Academy in writing that it has reviewed and does not disapprove the Agreement or amendment to the Agreement.

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 shall not be assigned or assignable by either party to any third party, provided EMAN may without the consent of the Board, delegate the performance but not responsibility for such duties and obligations of EMAN specifically set forth herein

I. Survival of Termination. All representations, warranties, and indemnities made herein shall survive termination of this Agreement.

J. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the State of Michigan.

K. Confidential Information and Propriety Rights. The parties hereby agree and acknowledge that, in the course of performing this Agreement, certain confidential information or trade secrets, including, but not limited to, know-how, curriculum design and implementation, operational techniques, technical information, computer software, training materials, training methods and practices, all of which are considered to be confidential in nature (the "Confidential Information") may be disclosed to one another. The parties therefore agree, subject to the requirements and/or limitations of the Contract, MCL §380.502(3), the Freedom of Information Act or any other applicable law, that any Confidential Information communicated to or received or observed by a party hereto shall be in confidence and not disclosed to others or used for such party's benefit without the prior written consent of the other party. In addition, all Confidential Information disclosed to or observed or received by a party shall at all times remain the property of such party, and all documents, together with any copy or excerpt thereof, shall be promptly returned to such party upon request. The parties acknowledge and agree that this

provision shall survive the termination or expiration of this Agreement. The parties acknowledge and agree that the Academy owns all proprietary rights to curriculum or educational materials that (i) are directly developed and/or paid for by the Academy; or (ii) developed by EMAN at the direction of the Board with Academy funds dedicated for the specific purpose of developing such curriculum or materials, and that EMAN owns (i) all curriculum or educational materials previously developed or copyrighted by EMAN; or (ii) curriculum or educational materials that are developed by EMAN using funds from the Academy that are not dedicated for the specific purpose of developing Academy curriculum or educational materials. Notwithstanding the foregoing, EMAN's educational materials and teaching techniques used by or at the Academy may be subject to disclosure under the Revised School Code, the Contract or the Michigan Freedom of Information Act to the extent required thereby.

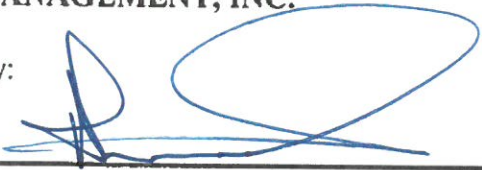
L. Board Authority. No provision of this Agreement shall interfere with the Board's duty to exercise its constitutional, statutory, contractual and fiduciary responsibilities governing the operation of the Academy. No provision of an ESP agreement shall prohibit the Board from acting as an independent, self-governing public body, or allow public decisions to be made other than in compliance with the Open Meetings Act.

M. Other Financial Relationships. Any lease, promissory notes or other negotiable instruments, lease-purchase agreements or other financing agreements between the Academy and EMAN shall be contained in a document separate from this Agreement. EMAN does not enter this Agreement with an interest in entering into promissory notes or other financing agreements and is not expected by the Academy to serve as guarantor for promissory notes or other financing agreements through other lenders.

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

**EDUCATION MANAGEMENT AND
MANAGEMENT, INC.**


By:



Ahmed Saber, President
EMAN, Inc.

ADACEMY BOARD OF DIRECTORS

By:



Board President
Oakland International Academy