

Client Service Agreement

This AGREEMENT is made this 22nd day of August, 2012 by and between Richfield Public School Academy whose address is 3807 North Center Road, Flint, MI 48506 (“ACADEMY”), and Advance Educational Services, Inc., a Michigan Corporation, whose address is 4407 W. St. Joseph, Lansing, Michigan 48917 (“AED” or the “Employer”).

RECITALS

A. ACADEMY is a public school academy providing public school instruction as a charter school located at 3807 North Center Rd, Flint, MI 48506 pursuant to a contract (“Contract”) issued by the Bay Mills Community College Board of Regents (“Bay Mills”).

B. ACADEMY operates a public school academy under the direction of the ACADEMY Board of Directors (“Board”).

C. AED is a Michigan Corporation with its offices at 4407 W. St. Joseph, Lansing, Michigan 48917.

D. AED provides educational and managerial services to Michigan public school academies.

E. ACADEMY desires to engage AED to perform certain services upon the terms and conditions set forth in this Agreement and pursuant to its authority, ACADEMY hereby contracts with AED, to the extent permitted by law, specified functions relating to the administration and management services.

ARTICLE I

A. Authority. The ACADEMY has been granted the Contract by Bay Mills 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 constitutional duty to exercise its statutory, contractual and fiduciary obligations governing the operation of the ACADEMY.

B. Compliance with Academy's Contract. The Educational Service Provider agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Academy's Contract issued by the Bay Mills Community College Board of Regents. The provisions of the Academy's Contract shall supersede any competing or conflicting provisions contained in this Agreement. Acting under and in the exercise of such authority, the ACADEMY hereby contracts with AED, to the extent permitted by law, for specified functions relating to the provision of educational services and the management and operation of the ACADEMY.

C. Status of the Parties. AED is a Michigan Corporation, 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 AED. The relationship between AED and the ACADEMY is based solely on the terms of this Agreement.

D. Designation of Agents. The Board designates the employees of AED as agents of the Academy having a legitimate educational interest such that they are authorized access to educational records under 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act ("FERPA"). Except as set forth in this Paragraph or as expressly acknowledged in writing by the Board, no employee of edtec shall be deemed to be an agent of the Academy.

ARTICLE II

THEREFORE, the parties agree as follows:

1. Services Provided by AED. Under the policy direction of the Board, AED shall be responsible for the management, operation, and administration at the ACADEMY. Such functions are as follows:

(a) Selection of Covered Employees. AED, at the recommendation of the Chief Operating Officer shall, employ and designate to ACADEMY all such qualified and certified faculty and staff except those work force positions which are listed as "excluded Work Force Positions" on Exhibit A to this Agreement, as may be necessary to accomplish the educational mission of ACADEMY consistent with the Board approved budget. With the prior approval of the Board, which approval shall not be unreasonably withheld, AED reserves the right at any time during the term of this Agreement, on notice to ACADEMY to re-designate a Covered Employee to an Excluded Work Force Position. The designated Excluded Work Force Positions shall not be covered by this Agreement unless otherwise mutually agreed.

AED shall comply with all Federal and State statutes and administrative requirements that apply to an employer including, but not limited to, the Immigration Reform and Control Act.

(b) Employee Agreements and Compensation. AED shall be responsible for the compensation of all Covered Employees including, but not limited to, wages, health care and retirement benefits. The terms and conditions of such employment shall be set forth in an employment agreement between AED and each employee. Information regarding all costs, including the employment costs, annual salary and benefit costs by individual assigned to ACADEMY by AED, will be provided to the Board by AED upon request and shall be consistent with the Board's approved budget.

(c) Health Care Insurance. AED shall provide all qualified Covered Employees assigned to ACADEMY who are not covered by a spouse's plan, comprehensive medical care insurance. In addition, AED shall be responsible for COBRA compliance and continuation of health benefit plans to terminated Covered Employees and qualified dependents, subject to the continuation of this Agreement. If this Agreement terminates, all responsibilities with regard to continuation of health insurance cease consistent with applicable law.

(d) Retirement Plan. AED shall make available to all qualified Covered Employees a retirement plan pursuant to IRC Section 401(k).

(e) Payroll Taxes. AED shall report and pay all applicable federal, state and local employee and employer payroll taxes from AED's own accounts.

(f) Payroll Records. AED shall maintain and verify all required payroll and benefit records.

(g) Policies and Procedures. All payroll, benefit and personnel policies and procedures for Covered Employees shall be established by AED in collaboration with ACADEMY. Evaluation and compensation systems shall comply with the Michigan Revised School Code ("Code").

(h) Worker's Compensation Insurance. AED shall maintain Worker's Compensation insurance during the term of this Agreement on all Covered Employees assigned to work at the ACADEMY under this Agreement. Upon written request, AED shall provide a Certificate of Insurance verifying coverage of Worker's Compensation insurance.

(i) At-Will Employment Relationship. AED retains the right to not hire any Covered Employee candidate for employment or terminate with or without cause any Covered Employee with written notice to the ACADEMY. AED shall consult, seek agreement, and

coordinate with its Chief Operating Officer assigned to ACADEMY prior to taking any formal action is taken under this section.

(j) Implementation and Supervision of Policies and Procedures. During the term of this Agreement, AED shall have the right and authority to implement ACADEMY's policies and procedures relating to the Covered Employees. AED shall make every reasonable effort to act in the best interest of ACADEMY with regard to ACADEMY's policy and procedure in exercising supervision and control over Covered Employees. ACADEMY agrees to cooperate and assist AED in the implementation and supervision of all such policies and procedures. All personnel policies and directives shall be made with approval of AED.

(k) Hiring, Evaluating, Supervising, Disciplining and Firing. AED shall have the ultimate authority and control over hiring, evaluating, supervising, disciplining and termination of Covered Employees consistent with the Board's approved budget. ACADEMY may recommend the hiring or termination of a Covered Employee, it being understood that AED retains full control over all personnel decisions involving Covered Employees, and ultimate authority to resolve and decide employee grievances and disputes. AED shall consult, seek agreement, and coordinate with its Chief Operating Officer assigned to ACADEMY concerning any hiring, evaluating, supervising, disciplining, and termination before formal action is taken. ACADEMY Board will collaborate with AED on the selection and evaluation of the Chief Operating Officer

(l) On-site Supervision. AED shall be responsible for On-site Supervision directly and through its Chief Operating Officer assigned to ACADEMY. The Chief Operating Officer will serve as the liaison to the ACADEMY Board on behalf of AED. The Chief Operating Officer shall be the On-site Supervisor for AED and shall assist AED with its administrative and personnel responsibilities on ACADEMY premises as outlined below:

- (i) Implementation and administration of the ACADEMY'S Educational Program including staff-performance evaluation and review;
- (ii) Coordination of Core Curriculum Development, Accreditation, building-level School Improvement Teams, and School Development.
- (iii) Student environment management and community outreach/marketing services;
- (iv) Facilities maintenance management;
- (v) Preparation of required Bay Mills, state and federal reports;

- (vi) Information and technology system development and management;
- (vii) Preparation of applications for grants and special programs approved by the Board;
- (viii) Operation of the school buildings;
- (ix) Provide special education services to students who attend the ACADEMY in conformity with the requirements of state and federal laws and applicable regulations and policies;
- (x) Execution of the Board's strategic plans for continuing educational and financial benefit of the ACADEMY;
- (xi) Implementation and enforcement of the Board's student school code of conduct;
- (xii) Administrative and personnel management;
- (xiii) Maintenance of actual time records and verification of the accuracy of all wage hour information provided to AED at the end of each pay period and verifying the accuracy of all wage and salary reports, which shall be supplied to ACADEMY by AED at the end of each pay period.
- (xiv) Any other function necessary or expedient for the administration of the ACADEMY with the prior approval from the Board.

The Chief Operating Officer shall coordinate with and report to designated AED managers and officers at AED's home office. AED, after consulting with the Chief Operating Officer, shall determine the procedures to be employed by Covered Employees in the day-to-day performance of their job responsibilities. AED shall make every effort to act in the best interests of ACADEMY with regard to ACADEMY's policy and procedure in exercising control over the Covered Employees. AED shall make certain that all appropriate guidelines concerning AED's oversight of Covered Employees is followed by said Chief Operating Officer and that its Chief Operating Officer shall comply with all AED directives dealing with its responsibilities herein above set forth.

(m) **Accounting.** AED shall be responsible for Accounting Services consisting of the following:

- (i) Preparation of accounts payable at least twice each month per invoices vouched and approved by the Chief Operating Officer, or his or her designee;

- (ii) A fiscal year to date budget report showing annual budget, expenditures, and purchase orders received by account number and remaining balance of budget;
- (iii) Form 1099 Preparation;
- (iv) FID preparation and electronic upload;
- (v) Preparation for audit and interface with independent auditors selected by the Board, as appropriate;
- (vi) Monthly financial statements, bank reconciliation and monthly report to Bay Mills, according to Bay Mills' approved format.
- (vii) General assistance with budget forecasting and other services as mutually agreed.
- (viii) Monthly financial statements will be provided no more than forty-five (45) days in arrears at least one week prior to each Board meeting to allow sufficient time for all Board members to review the information prior to the meeting. These financial statements shall include: a balance sheet, a statement of revenues, expenditures and changes in the fund balance at object level, detail with a comparison of budget-to-actual variances, and cash flow statement.
- (ix) Annual services in excess of 200 hours subject to charges per Exhibit B. Additional services requested by the Board or to be provided and billed as outlined in Exhibit B.
- (x) Initial Set-up Finance Services for the customization of accounts and reports and the transition of any necessary historical financial data will be billed on a "time and materials" basis subject to charges per Exhibit B not to exceed \$5,000.

No provision of this Agreement shall limit the Academy Board Treasurer's legal obligation to direct that the deposit of all funds received by the Academy be placed in the Academy's depository account as required by law. The signatories on the depository account shall remain solely Academy Board members or properly designated Academy Board employee(s). Interest income earned on Academy depository accounts shall accrue to the Academy.

(n) Employee Background Checks. AED, or its designated subcontractor (approved by ACADEMY) shall be responsible for performing all pre-employment, background, license and eligibility review and other screening and investigation required by federal, state or local law, including the Michigan Revised School Code, as amended (the "Code"). All fees incurred by AED in connection with the screening and investigation shall be billed to and paid

by ACADEMY. The results of the screening and investigation of pre-employment records must be made available for review by the Bay Mills Charter Schools Office.

(o) Chief Administrative Officer. The Board shall approve the selection of the Chief Administrative officer and any other financial officer as nominated by AED to ensure fiscal responsibility and accountability by AED. No AED employee shall be designated as the Chief Administrative Officer of the Academy; however, an AED employee may be a designee of the Chief Administrative Officer for certain purposes enumerated by Board action.

2. AED Requirements.

(a) Compliance with Applicable Criteria. AED assumes sole responsibility for assuring that all services set forth in Paragraph 1 provided by AED are provided in compliance with and conform to (i) all applicable federal, state and local government laws, rules and regulations, including, but not limited to all civil rights laws, Bullard-Plawecki Employee Right to Know Act, Whistleblower's Protection Act, Fair Labor Standards Act, and Fair Credit Reporting Act; (ii) all pertinent policies of those accrediting agencies from which ACADEMY has secured or is seeking accreditation, including but not limited to Bay Mills and the Michigan Department of Education; and (iii) all other applicable policies of ACADEMY. AED shall promptly provide to ACADEMY, within twenty four hours of receipt, all notices, reports or correspondence from individuals or governmental agencies that assert claims, deficiencies or charges against ACADEMY or AED that otherwise threaten the (i) suspension, revocation, or termination of the Contract; or (ii) other action adverse to any approval, authorization, certificate, determination, finances, license or permit required or necessary to operate ACADEMY.

(b) Employment Laws. AED shall comply with all applicable federal, state and local employment laws. AED shall comply with the Fair Labor Standards Act and control all overtime.

3. ACADEMY Requirements. ACADEMY shall provide the following:

(a) Personnel Requirements. Make recommendation to AED of the faculty and staff requested by ACADEMY to perform its mission, consistent with the Board's approved budget. The ACADEMY shall establish through its budget, financing for the compensation of all Covered Employees including, but not limited to, health care and retirement benefits. Information regarding all costs, including the employment costs, annual salary and benefit costs of each individual assigned to ACADEMY by AED, will be provided to the Board by AED upon request.

(b) Insurance. Maintain casualty and premises liability insurance on all school buildings and premises and to maintain professional liability insurance pertaining to the staff that could result in a claim against ACADEMY and name AED as an additional insured.

(c) Financial Reports. Prepare annual budgets and periodic financial reports as required by the Contract, Bay Mills, the Code, and/or statute or as desired by the Board.

(d) Laws. ACADEMY shall comply with all applicable federal, state and local laws.

(e) Records. ACADEMY shall not pay to any AED employee any wages, salaries or other compensation, including employee benefits, without informing AED in writing.

(f) Employee Benefits. ACADEMY shall provide to AED a written recommendation based on its budget with regard to all policies concerning employee compensation, evaluation and benefits. These policies shall comply with all federal, state and local governmental laws and regulations.

(g) Safety Requirements. ACADEMY shall comply with all safety, health and work laws, regulations and rules at its own expense. ACADEMY and AED shall also comply with all safe work practices and use of protective equipment required by federal, state or local law. All accidents involving Covered Employees shall be reported immediately to AED by the Chief Operating Officer or designee. ACADEMY shall cooperate with AED's Worker's Compensation carrier and liability insurance carrier who shall have the right to inspect ACADEMY's property.

(h) Discipline, Layoff, or Termination of Covered Employees. ACADEMY agrees to comply with all AED personnel directives, both general and specific and subject to the terms of this Agreement, regarding the discipline, layoff, or termination of Covered Employees to the extent those directives reasonably consider the policies, procedures, rules, regulations, mission and curriculum established by the Board. ACADEMY further agrees to immediately notify AED of any material change in the current business operations of ACADEMY.

(i) Personnel Issues. In the event ACADEMY becomes dissatisfied with the performance of any Covered Employee, the ACADEMY shall notify AED in writing, setting forth the nature of the dissatisfaction, the proposed remedial action, and any specific action requested.

(j) Academic Program. The Board is responsible for determining the fiscal and academic policies that will govern the operation of the ACADEMY, including but not

limited to policies relative to the conduct of students while in attendance at the ACADEMY and regulations governing the procurement of supplies, materials and equipment. The Board shall exercise good faith in considering the recommendations of AED 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.

4. Term of Agreement. This Agreement shall commence on July 1, 2012 and continue for a period of two (2) years, through June 30, 2014. If ACADEMY and/or AED becomes obligated for MPSERS or an unexpected fee or tax is instituted (e.g., State service tax fee), either party may immediately invoke the 90-day termination notice provision at any time during the Contract. Termination of this Agreement shall not affect the continuation of the obligations of either party incurred during the term of the Agreement. The parties acknowledge that as part of any Contract reauthorization with Bay Mills, ACADEMY and AED may be required to submit an entirely new Agreement for review by Bay Mills. The Accounting Services outlined in Paragraph 1.n is subject to a thirty (30) day written cancellation notice by either party.

5. Service Fee. A Service Fee shall be charged to ACADEMY equal to the total gross pay of all Covered Employees within a class assigned to ACADEMY multiplied times the billing rate for each class of Covered Employees. The Service Fee is reduced as individual earnings reach the individual limitations on wages covered by unemployment tax during a calendar year.

The following billing rates apply:

- (i) School Professional at the billing rate of 1.1580, 1.1520, 1.1170 as taxable wage limits are reached.
- (ii) Clerical at the billing rate of 1.1570, 1.1510, 1.1160 as taxable wage limits are reached.
- (iii) Janitorial at the billing rate of 1.2306, 1.2246, 1.1896 as taxable wage limits are reached.
- (iv) Food Service at the billing rate of 1.1795, 1.1735, 1.1385 as taxable wage limits are reached.
- (v) Drivers at the billing rate of 1.2397, 1.2337, 1.1987 as taxable wage limits are reached.

(vi) ACADEMY acknowledges that AED's cost for any item covered by the Service Fee may be more or less than the amount collected using the Service Fee rates.

(vii) The Service Fee shall be billed once per pay period and due upon receipt.

(viii) The Service Fee shall be adjusted upon the effective date of any increase or decrease in employee wage rates, payroll taxes, worker's compensation premiums, or employee benefit program changes. AED shall give ACADEMY thirty (30) days written notice of any change in the Service Fee, subject to AED's timely notice from any third party involved. This provision does not pertain to monthly fee rates which may vary because of the hours worked by Covered Employees.

(ix) The Accounting Services fee for services outlined in Paragraph 1.n will be One Thousand Two-Hundred Fifty Dollars (\$1,250) per month, due on the first of the month following services rendered, unless discounted in writing by AED. Annual services in excess of 200 hours subject to charges per Exhibit B. Additional services identified in this Agreement and requested by the Board are to be provided and billed as outlined in Exhibit B.

6. Costs. ACADEMY shall pay all additional costs or expenses sustained by AED at the request of ACADEMY, including but not limited to retirement contributions and benefit premiums. Upon sufficient notification by AED and ACADEMY approval, ACADEMY shall pay all additional costs or expenses incurred by AED that are incidental to the performance of this Agreement. These additional costs or expenses may include, but are not limited to, the first \$1,000.00 of any non-lost time worker's compensation claims, employee replacement costs, hiring temporary personnel, fidelity bonding, and ACADEMY approved training programs. AED's total billings to ACADEMY, however, for the Fees described in Paragraph 5 and the Costs described in this Paragraph shall not exceed the total budget amount approved by the Board, provided that AED is only obligated to provide services equal to that amount. Additional costs shall be billed once per month and are due upon receipt. AED shall provide reasonable notice, or seek approval of the Board and amendment of the Board's budget, before costs are incurred.

All costs reasonably incurred in providing the Educational Program at ACADEMY shall be paid by ACADEMY, including but not limited to, curriculum materials and development services, professional development, textbooks, library books, computer and other equipment, software, supplies utilized at ACADEMY for educational purposes, building payments,

maintenance, utilities, capital improvements, and marketing and developments. No corporate costs of AED shall be paid by ACADEMY. Marketing and development costs paid by or charged to ACADEMY shall be limited to those costs specific to ACADEMY program, and shall not include any costs for the marketing and development of AED. The Board shall reimburse AED for approved fees and expenses upon properly presented documentation and approval by the Board. At its option, the Board may advance funds to AED for the fees and expenses associated with ACADEMY'S operation provided that documentation for the fees and expenses are provided for Board ratification. In paying costs on behalf of ACADEMY, AED shall not charge an added fee. Any costs reimbursed to AED that are determined by the independent audit not to be reasonably incurred on behalf of the Educational Program of ACADEMY shall be promptly returned to ACADEMY by AED.

7. Payment of Fees and Costs. ACADEMY shall execute a Wire Transfer to AED, from the designated ACADEMY account in an amount equal to the Fees described in Paragraph 5 and Costs described in Paragraph 6 of this Agreement. ACADEMY agrees to pay AED immediately upon receipt of a properly documented invoice, incurred pursuant to this Agreement, subject to ratification by the Board. If there is any disputed amount to an invoice, the non-disputed amount shall be ratified. If there is a disputed amount, whether ratified by the Board or not, the parties shall meet within fourteen (14) days to discuss and attempt to resolve the disputed amount prior to submitting the matter to arbitration as addressed in Paragraph 11.

If, for any reason not attributable to AED, payment is not made when due, ACADEMY agrees to pay AED interest on the amount due at a rate of three (3) percent of the delinquent amount plus one and one-half percent (1.5%) of the delinquent amount per month for any period of delinquency over one month.

8. Insurance. ACADEMY's insurance policies will be in compliance with the Contract requirements and in accordance with the limits required by Bay Mills. ACADEMY will be the first named insured and Bay Mills and AED will also be named as an additional insured.

(a) Vehicle Insurance. ACADEMY shall provide liability insurance for any Covered Employee of AED driving any vehicle while in the employment of AED at ACADEMY. The policy shall insure against bodily injury and property damage with a minimum combined single limit (CSL) of \$1,000,000. ACADEMY shall also provide personal injury protection coverage of \$1,000,000. ACADEMY shall name AED as an additional insured on these policies with thirty (30) days advance notice of cancellation or material change in such policies.

(b) General Liability Insurance. ACADEMY shall maintain a comprehensive general liability insurance policy in the amount of \$1,000,000 (CSL) insuring ACADEMY against bodily injury and property damage liability caused by ACADEMY's premises operations or activities conducted off premises related to operation of ACADEMY. The policy shall include blanket contractual liability and personal injury coverage. ACADEMY shall name AED as an additional insured on this policy with thirty (30) days advance written notice of cancellation or material change.

(c) Professional Liability Insurance. ACADEMY shall provide professional liability insurance, including sexual abuse coverage, in the amount of \$1,000,000 naming AED as an additional insured. ACADEMY shall maintain a Worker's Compensation policy with an "if only" provision.

(d) AED Insurance Coverage. AED shall maintain a comprehensive general liability, errors & omissions, directors & officers, school leaders errors & omissions, auto liability and employment practices liability insurance policy, each of which will be not less than \$1,000,000.00 as well as any such insurance policy in the amounts similar to those required of the Academy under the Contract. The policy shall include blanket contractual liability, crime, and personal injury coverage. AED shall name ACADEMY and Bay Mills as an additional insured on this policy with thirty (30) days advance written notice of cancellation or material change.

9. Termination of Agreement.

(a) This Agreement shall terminate and AED shall be relieved of all responsibility under this Agreement as of the ending date of the last payroll period immediately preceding any of the following events:

- (i) ACADEMY files for bankruptcy or becomes insolvent;
- (ii) The facility where Covered Employees are engaged in work for ACADEMY is closed permanently;
- (iii) ACADEMY requests a layoff of 25% of the workforce;
- (iv) ACADEMY and its successors and assigns discontinue operation;
- (v) ACADEMY meets the definition of a financially distressed business as set forth in the Worker Assistance and Retraining Notification Act.

- (vi) Agreement Coterminous With Academy's Contract. If the Contract issued by Bay Mills is revoked, terminated or a new charter contract is not issued to ACADEMY after expiration of the Contract, this Agreement shall automatically terminate on the same date as ACADEMY's Contract is revoked, terminated or expires without further action of the parties.
- (vii) Any other reason set forth in this Agreement, including as identified in Paragraph 4 of this Agreement, that constitutes a default under the Agreement or allows AED to terminate this Agreement.
- (viii) State mandated shut down of ACADEMY

(b) ACADEMY may terminate this Agreement prior to the end of the term specified in Paragraph 4 or in the event that AED shall fail to remedy a material breach within sixty (60) days after notice from the Board, provided however that if the nature of the breach is such that the cure cannot be reasonably accomplished within 60 days, then the cure period should be extended so long as AED proceeds to cure with reasonable dispatch. Material breach includes, but is not limited to: (1) AED's failure to account for its expenditures or to pay ACADEMY operating costs as specifically noted in this Agreement (provided funds are available to do so), (2) failure of AED to follow mission, policies, procedures, rules, regulations or curriculum duly adopted by the Board and communicated to AED, provided that such mission, policies, procedures, rules, regulations or curriculum are not inconsistent with the Contract, as amended, this Agreement, or in violation of applicable law, (3) receipt by the Board of unsatisfactory reports from AED or from an educational consultant retained by the Board about matters concerning AED's performance or the performance of the staff which are not reasonably corrected or explained; (4) AED's failure to abide by all applicable laws in its administration of this Agreement (5) failure by AED to hire, retain, or terminate employees consistent with the Board's reasonable expectations, policies, procedures, rules, regulations, mission or curriculum; or (6) any action or inaction by the Advance HR that causes the Contract to be in jeopardy of revocation or termination is a material breach of the Agreement.

(c) In the event ACADEMY terminates this Agreement pursuant to this Paragraph, ACADEMY shall pay all charges due under this Agreement through the last date of services provided by AED.

10. Indemnification.

(a) AED. AED shall indemnify and hold Bay Mills and ACADEMY, including its officers, directors, and agents, harmless from any and all claims, including employment related claims by AED Covered Employees or applicants, administrative determinations, judgments, damages, reimbursements, back pay, penalties, fines, costs or loss, demands, suits, including reasonable attorney's fees or other forms of liability that may arise out of, or by reason of, any noncompliance by AED with any agreements, covenants, warranties, or undertakings of AED contained in or made pursuant to this Agreement and any misrepresentation or breach of the representations and warranties of AED contained in or made pursuant to this Agreement or for wrongful or negligent acts. In addition, AED shall reimburse ACADEMY for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. This indemnification shall include all wrongful or negligent acts of AED or any failure on AED's part to perform any of its duties during the term of this Agreement, including violations of federal, state and local laws and regulations. AED shall not be responsible to indemnify ACADEMY for the acts or omissions of an unlicensed individual that occur when that individual is not under the supervision of a Covered Employee.

(b) ACADEMY. To the extent permitted by law, ACADEMY shall indemnify and hold AED, including its officers, directors and agents harmless from all wrongful or negligent acts committed by ACADEMY or any Covered Employees under the supervision of the Board. This includes violations of federal, state or local laws and regulations. ACADEMY shall indemnify AED against any claims, administrative determinations, judgments, damages, reimbursement, back pay, penalties, fines, costs or loss, including reasonable attorney fees resulting from such wrongful or negligent acts.

(c) Indemnification of Bay Mills Community College. The parties acknowledge and agree that the Bay Mills Community College Board of Regents, Bay Mills Community College 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 Bay Mills Community College, Bay Mills Community College Board of Regents 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 Bay Mills Community College, which arise out of or are in any manner connected with Bay Mills Community College Board of Regents' approval of the Academy's application, Bay Mills Community College Board of Regents' consideration of or issuance of a Contract, the Academy

Board's or AED's preparation for and operation of the Academy, or which are incurred as a result of the reliance by Bay Mills Community College, Bay Mills Community College Board of Regents or its members, or their respective officers, employees, agents or representatives, upon information supplied by the Academy Board or AED, or which arise out of the failure of the Academy Board or AED to perform its obligations under the Contract or Applicable Law. The parties expressly acknowledge and agree that Bay Mills Community College, Bay Mills Community College Board of Regents 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.

11. Arbitration. In the event of a dispute regarding a breach, alleged breach, validity or interpretation of any provision of this Agreement, both ACADEMY and AED agree to submit such disputes, except as either party may be seeking injunctive relief, to final and binding arbitration as the sole and exclusive remedy for such disputes. Said disputes shall be submitted to the American Arbitration Association under its National Rules for the Resolution of Employment Disputes.

The arbitration hearing will be held in Eaton County and will be the exclusive remedy for resolving the disagreement. Either party may file for arbitration but must do so with AAA within ninety (90) calendar days of the event precipitating the disagreement, or within the applicable statute of limitations, whichever is sooner.

If arbitration is requested by either ACADEMY or AED, the parties shall be entitled to be represented by attorneys and/or counsel of their choice. The parties shall equally split the filing fee, and any administrative fees or costs assessed by AAA, regardless of who requests the arbitration. The parties will split the arbitrator's compensation, and each party will pay its own costs and attorney fees in connection with the arbitration, except as those costs and fees may be reallocated by the arbitrator in the award of damages in accordance with this Agreement or the relevant state or federal statute.

If arbitration is requested, the arbitrator shall allow both parties the right to conduct limited and reasonable discovery, which may include depositions, and for a period of time necessary for the parties to reasonably prepare for the arbitration hearing. The arbitrator is authorized to issue subpoenas to summon witnesses.

The arbitrator may award any and all remedies allowable by the cause of action pled in the request for arbitration, including but not limited to equitable relief and money damages. The arbitrator shall issue a written decision, containing his/her findings of fact and conclusions of

law. The arbitrator's award will be final and binding on both parties, and may be enforced in a court of competent jurisdiction.

12. Entire Agreement. This document, being executed in multiple and identical counterparts all of which shall constitute part of the Agreement, contain the entire Agreement between the parties with regard to the subject matter of this Agreement. All previous negotiations, statements and preliminary instruments of the parties and their respective representatives are merged into this Agreement. No modification of this Agreement shall be valid or binding unless such modification is in writing, dated and signed by the authorized representative of each party. The conditions of this Agreement extend to and bind the subsidiaries, successors and assigns of each party.

13. Notices. All notices required or permitted by this Agreement shall be in writing and delivered personally or by first class mail, postage prepaid to the address of each party as follows:

Richfield Academy
3807 North Center Road
Flint, MI 48506

Advance Educational Services, Inc.
4407 W. St. Joseph
Lansing, MI 48917

With a copy to:
Collins & Blaha, P.C.
31700 Middlebelt Road, Suite 125
Farmington Hills, MI 48334

If one of the parties to this Agreement changes his/her or its address, they shall within thirty (30) days notify the other party, in writing, of the new address. Notice shall be deemed received on the date it is delivered or mailed.

14. Responsibility For Performance of Agreement. Each party, their successors and assigns shall be jointly and severally responsible for the performance of their obligations under this Agreement.

15. Severability and Validity. The invalidity or unenforceability of any provision or part of this Agreement shall not affect the validity or enforceability of any other provision or part of this Agreement.

16. Contract Interpretation. The Parties acknowledge that this Agreement and the language contained in this Agreement are the result of negotiations between the parties and no part of this Agreement shall be construed against either party by virtue of authorship.

17. No Third-Party Rights. Except as otherwise provided above, this Agreement is intended solely for the benefit of AED and ACADEMY, and it shall not be construed to create any benefits for or rights in any other person or entity, including Covered Employees or their representatives.

18. Waiver of Breach. The waiver by one party to this Agreement of a breach of this Agreement by the other party shall not operate as or be construed as a waiver of any subsequent breach or breaches by the other party.

19. Caption Headings. The captions headings for each provision of this Agreement are not part of this Agreement nor shall they be use to construe the provision more broadly or narrowly than the text would indicate.

20. Necessary Documents. The parties shall execute all necessary documents required to carry out the terms and intent of this Agreement.

21. Governing Law. The Agreement shall be construed under the law of the State of Michigan.

22. Counterparts. This Agreement may be executed in identical counterparts, each of which shall be deemed an original.

23. Assignment. The Agreement may not be assigned by either party without the written consent of the other party, prior approval of the Board, except that AED may assign its rights and duties to a subsidiary within the AED organization upon 60 days' written notice to the Board and provided the Board approves said assignment.

24. ACADEMY Board's Constitutional Duty. No provision of this Agreement shall or is intended to interfere with the Board's duty to exercise its statutory, contractual and fiduciary responsibilities governing the operation of ACADEMY as provided under Michigan law. This Agreement does not 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.

25. Governmental Immunity. No provision of this Agreement is intended to restrict the Board from waiving or requiring it to assert its governmental immunity. Nothing in this paragraph shall prohibit AED from asserting any defense that may be available to it under this Agreement or under Michigan law. ACADEMY shall not waive or assert any rights to the sole detriment of AED related to ACADEMY's obligations to AED under this agreement unless said actions are the result of an alleged breach of this Agreement by AED.

26. Financial, Educational, Employee and Student Records. Financial, educational, employee, and student records pertaining to ACADEMY are ACADEMY property, and such records may be subject to the provisions of the Michigan Freedom of Information Act. All ACADEMY records shall be physically or electronically available, upon request, at ACADEMY's physical facilities and shall be kept in accordance with applicable state and federal requirements. Except as permitted under applicable law, AED shall not restrict the authorizer's, the public's, or the independent auditor's access to ACADEMY's records consistent with applicable statutes.

27. Independent Auditor. AED shall not select or designate the independent auditor, accounting firm or legal counsel for ACADEMY. All finance and other records of AED relating to ACADEMY will be made available to ACADEMY's independent auditor at the request of ACADEMY or the auditor.

28. Procurement of Equipment, Materials, and Supplies. If AED procures equipment, materials, and supplies at the request of or on behalf of ACADEMY, AED shall not include any added fees or charges with the cost of the equipment, materials, and supplies purchased from third parties. Any equipment, materials, or supplies purchased by AED on behalf of or as the agent of ACADEMY are the property of ACADEMY. When making a purchase on behalf of or as agent of ACADEMY, AED shall comply with Section 1274 of the Code as if ACADEMY were making a purchase directly from a third party.

29. ACADEMY Proprietary Rights. ACADEMY owns all proprietary rights to curriculum or educational materials that:

- (a) are both directly developed and paid for by ACADEMY; and
- (b) were developed by AED at the direction of the ACADEMY Board with ACADEMY funds dedicated for the specific purpose of developing such curriculum or educational materials.

All educational materials and teaching techniques used by ACADEMY are subject to disclosure under the Code and the Freedom of Information Act.

30. AED Proprietary Rights. AED owns all proprietary rights over curriculum, educational or ACADEMY management materials:

- (a) previously developed or copyrighted by AED, or
- (b) curriculum, educational or ACADEMY management materials that are developed by AED funds for ACADEMY or

- (c) materials that are not otherwise dedicated for the specific purpose of developing ACADEMY curriculum, educational or ACADEMY management materials.

All educational materials and teaching techniques used by ACADEMY are subject to disclosure under the Code and the Freedom of Information Act.

31. Employment Liability. AED is the employer of record for employee compensation, collection of payroll taxes and withholdings, worker's compensation and unemployment liability and payment of benefits, all of which are set forth in this Agreement.

32. Marketing and Development. Should AED provide marketing and development services to ACADEMY, the cost paid by or charged to ACADEMY shall be limited to those costs specific to the ACADEMY program and shall not include any costs for the marketing and development of AED or any other school that receives services from AED.

33. Compliance with Section 12.17 of Contract Terms and Conditions. AED shall make information concerning the operation and management of the Academy, including without limitation the information described in Schedule 4 of the Contract, available to the Academy as deemed necessary by the Academy Board in order to enable the Academy to fully satisfy its obligations Section 12.17(a) of the Contract Terms and Conditions.

34. Status of the Parties and Designation of Agents. The parties to this Agreement intend that the relationship of AED to the Academy is that of an independent contractor, and not as an employee of the Academy. AED is not a division or part of the Academy. The Academy is a public school district organized and authorized under the Code and is not a division or part of AED. The relationship between the parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement. No agent or employee of the Academy shall be determined to be an agent or employee of AED for any reason or purpose. No agent or employee of AED shall be determined to be an agent or employee of the Academy, except as follows:

- (i) AED 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 Right and Privacy Act, 20 U.S.C. §1232g et seq., 34 CFR Part 99 ("FERPA"), such that they are jointly and severally entitled to access the educational records of the Program for all purposes related to FERPA.

(ii) During the term of this Agreement, the Academy may disclose confidential data and information to AED and its respective officers, directors, employees and designated agents to the extent permitted by applicable law, including without limitation, 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. Except as set forth in this Paragraph or as expressly acknowledged in writing by the Board, no employee of AED shall be deemed to be an agent of the Academy.

(iii) As otherwise expressly designated by written agreement by the Academy.

35. Compliance with Section 503c. On an annual basis, AED agrees to provide the Board with the same information that a school district is required to disclose under section 18(2) of the State School Aid Act of 1979, 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.

36. Other Agreements. Any lease, promissory notes or other negotiable instruments, lease-purchase agreements or other financing agreements between the ACADEMY and AED shall be contained in a document separate from this Agreement and separately approved by Bay Mills. All such agreements shall comply with the Contract, as well as any applicable Board and Bay Mills Community College Charter Schools Office policies. AED 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.

This Agreement is executed as of the date first written above.

Richfield Public School Academy

By: 

Its: President

AED:

Advance Educational Services, Inc.

By: 

Blaine Schultz, President



Exhibit A

List of Excluded Workforce Positions

- All others not contemplated in the SCOPES of Basic Manual Classifications as 8868 – School: Professional Employees, 8810 – Clerical Office Employees, and 9015 – Buildings Operations

List of Covered Employee Positions at Richfield Public School Academy

- Chief Operating Officer (Designated On-Site Advance Liaison/Consultant)
- Assistant Chief Operating Officer
- School Secretary/Bookkeeper
- Curriculum Implementation Facilitator
- School Counselor
- School Social Worker
- Food Service Director
- Teacher
- Special Education Teacher
- Custodian
- Teacher's Aide
- Behavior Intervention Specialist

Exhibit B

Bookkeeping Services (billed at \$45/hour):

- All other general bookkeeping services

Accounting Services (billed at \$65/hour):

- Interface with IT contractors
- All other general accounting services

Executive Services (billed at \$85/hour):

- Executive level assistance (i.e. working with Blaine Schultz or Tish Geer) with policy creation, consulting, etc.