

## SERVICE AGREEMENT

This Agreement is made this 1<sup>st</sup> day of July, 2021, by and between CHARTER SCHOOL SERVICES OF MICHIGAN, INC., a Michigan Corporation, (hereinafter referred to as "Service Provider" or "ESP"), and PONTIAC ACADEMY FOR EXCELLENCE, a Michigan Charter Public School Academy (hereinafter referred to as "Academy") having its principal place of business at 196 Cesar E. Chavez Avenue, Pontiac, Michigan, 48343.

WHEREAS, Service Provider specializes in providing services and human resources to charter schools to strengthen their capacity to implement innovative, effective and comprehensive instructional and educational systems, management principles and programs for elementary and secondary education ("Personnel Support Services").

WHEREAS, Academy is organized for the purposes of operating as a public school academy in the State of Michigan, pursuant to a contract (the "Contract") issued by the Saginaw Valley State University Board of Control (the "Authorizer") pursuant to Part 6A of Revised School Code ("Code") and

WHEREAS, Academy desires to engage Service Provider to provide Personnel and Other Support Services and Service Provider desires to accept such engagement;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties agree as follows:

1. ENGAGEMENT. Academy hereby engages Service Provider to provide instructional and non-instruction personnel and to assist in the human resource needs of the Academy activities and operations and Service Provider hereby accepts such engagement.

2. SCOPE OF SERVICES. Service Provider will provide instructional and non-instructional personnel and required support services to Academy pursuant to the engagement which shall include the following specific services:

The ESP shall require all ESP employees to undergo criminal background and unprofessional conduct checks required by applicable law and the ESP to store evidence of such on site, in physical form, at the Academy or directly accessible at the Academy facility. The ESP shall adopt, implement, and maintain a performance evaluation system for all required personnel as required by applicable law.

The ESP is required to make information available to the Academy as deemed necessary by the Academy Board in order to enable the Academy to fully satisfy its obligations under section 7.4 of the Contract and also at least the information that a school district is required to be disclosed under MCLA 388.1618 for the most recent fiscal year for which that information is available. The ESP shall also make available to the Authorizer and to the public the information required under MCL 380.503.

No ESP employee shall be designated as the Chief Administrative Officer of the Academy, although such employee may be a designee of the Chief Administrative Officer for certain purposes enumerated by Board action.

In providing services to the Academy, ESP shall comply with requirements of the Academy's contract with the Authorizer to the extent ESP is performing services on behalf of Academy. No provision of this Agreement shall interfere with the Academy Board's duties under its contract with the Authorizer and Academy's duties under its contract with the Authorizer shall not be limited or rendered impossible by action or inaction of the ESP. No provision of this agreement shall pre-determine the Academy Board's course of action in choosing to assert or not assert governmental immunity.

#### SEE ATTACHED APPENDIX A

Service Provider shall provide Academy, during the term of this engagement, the Personnel Support Services set forth in Appendix A using its best efforts to achieve the desired results.

3. SERVICE FEE. Academy agrees to pay Service Provider a fee for the Personnel Support Services to be performed hereunder as follows: All costs associated with providing management of services to the Academy will be charged back to the Academy. Upon receiving an invoice, the Academy will transfer within one working day funds necessary to cover the submitted invoice.

4. TERM. The term of this Agreement is three (3) years, beginning July 1, 2021, and ending June 30, 2024. Notwithstanding the foregoing, either party may provide written notice to the other party of its intent to terminate this Agreement within thirty (30) days of notice. Unless the Academy has obtained substitute personnel support services from another educational service provider any termination shall not take effect until the end of the current school fiscal year. Academy shall reimburse Service Provider for any fees or expenses incurred up to the date of cancellation.

5. RELATIONSHIP OF PARTIES. Nothing herein shall be construed to create a partnership or joint venture relationship between the parties hereto. Service Provider shall have no authority to transact business, enter into agreements, or otherwise make commitments on behalf of Academy. Service Provider shall at all times be and remain an independent contractor and not an employee or agent of Academy. The parties agree that Service Provider shall retain sole and absolute discretion and judgment in the manner and means of carrying out the performance of the Personnel Support Services. Service Provider will carry out its obligations under this Agreement through such employees and agents as Service Provider selects. As an independent contractor, Service Provider will assume all rights, obligations and liabilities applicable to it, including the payment of wages, benefits and employment taxes, insurance, and expenses.

6. OTHER SCHOOLS. The parties acknowledge that this arrangement is not exclusive and that Service Provider shall have the right to render similar Personnel Support Services to other persons or entities including other public or private schools and institutions.

7. INDEMNIFICATION. Each party hereto agrees, to the extent permitted by law, to indemnify and hold harmless the other party and its officers, directors, employees, agents and representatives, from and against any and all liabilities, costs, causes of action, damages and expenses (including reasonable attorney's fees and cost of litigation) which the other party may incur and arise out of the negligent and/or intentional acts or omissions of the other or its directors, officers, employees, agents and representatives.

8. INDEMNIFICATION OF SAGINAW VALLEY STATE UNIVERSITY. The parties acknowledge and agree that the Saginaw Valley State University Board of Control, Saginaw Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third-party beneficiaries, the parties hereby promise to indemnify and hold harmless Saginaw Valley State University 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 Saginaw Valley State University, which arise out of or are in any manner connected with Saginaw Valley State University Board's approval of the Public School Academy application, the University Board's consideration of or issuance of a Contract, the Academy's preparation for and operation of a public school, or which are incurred as a result of the reliance by Saginaw Valley State University and its Board of Control members, officers, employees, agents or representatives upon information supplied by the Academy or the Service Provider, or which arise out of the failure of the Academy to perform its obligations under the contract issued to the Academy by Saginaw Valley State University Board of Control. The parties expressly acknowledge and agree that Saginaw Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

9. TREATMENT OF CONFIDENTIAL INFORMATION. Service Provider agrees to treat information of Academy and its operations in confidence and agrees to limit use of such confidential information for the sole purpose of performing its obligations under this Agreement. Service Provider shall have the right to communicate information to its officers, employees, attorneys and other representatives to the extent necessary to perform its obligations under this Agreement; provided, however, that Service Provider shall ensure that all such recipients are bound to the same restrictions in favor of Academy as that of Service Provider.

In the course of performing its service if ESP obtains any student records as defined in Family Educational Rights and Privacy Act ("FERPA") ESP is authorized to do so but must comply with all requirement of FERPA in handling such records.

10. NOTICES. All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if delivered or mailed, first-class postage prepaid, to the last known address of the intended recipient or to such other address as may be specified in writing by the parties to CSSM at the Pontiac Academy for Excellence at 196 Cesar E. Chavez Ave. Pontiac, Michigan 48342.

11. WAIVER. The waiver by any party of any breach or breaches of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach of any provision of this Agreement.

12. AMENDMENT. This Agreement shall not be amended, altered, or terminated except by a writing executed by each party. The Academy Board and the ESP may not substantially amend this Agreement without notifying the University President of Saginaw Valley State University. No amendment shall be contrary to this section and shall be accompanied by a Legal Opinion. Whether or not substantial, the Academy shall submit to the University President Designee all amendments to the management contract within 10 days after such amendment. Neither this Agreement nor any amendment to this Agreement may become effective until and unless the Director of Saginaw Valley State University School/University Partnership Office notifies the Academy in writing that it has reviewed and does not disapprove of this Agreement or any amendment of this Agreement.

13. GOVERNING LAW. This Agreement shall be governed in all respects by the laws of the State of Michigan.

14. HEADINGS. The paragraph headings used in this Agreement are included solely for convenience.

15. SEVERABILITY. All sections and subsections of this Agreement shall be deemed severable, and in the event any section or subsection shall be rendered null and void by a Court of competent jurisdiction or shall be found to be unenforceable precisely as to its terms, then the Court may enforce such section or subsection to the full extent the said Court deems appropriate under the law then obtaining, and the remaining section and subsection shall not be affected but shall continue in full force and effect.

16. BINDING EFFECT. This Agreement, inclusive of its terms and provisions, shall be binding on and inure to the benefit of, and be enforceable by, the respective successors and assigns of the parties.

17. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the parties regarding the subject matter hereof and supersedes all prior understandings and agreements, written or oral.

18. All financial, educational, and student records pertaining to the Academy are Academy property and such records are subject to the provisions of Michigan's Freedom of Information Act. All such records must be stored, in physical form, on-site at the Academy's facility or directly accessible at the Academy facility. All records pertaining to teacher and

administrator certification, as well as a copy of the employee handbook shall be maintained physically on site or directly accessible at the Academy facility.

19. All of the Academy's financial and other ESP-related records will be made available to the Academy's independent auditor and the ESP staff will cooperate with said auditor. The ESP shall not select or retain the Academy's auditor.

20. The ESP certifies that there will be no markup costs for supplies, materials, or equipment procured by the ESP on the Academy's behalf and that all supplies, materials, and equipment procured for the Academy by the ESP shall be inventoried by an acceptable manner of inventory and further than an inventory of Academy equipment shall be maintained so that it can be clearly established which property belongs to the Academy.

21. Insurance. ESP shall, at all times during the term of this contract, maintain comprehensive general liability in the amount of \$1,000,000 Dollars per occurrence; \$2,000,000 Dollars aggregate and umbrella insurance coverage of at least \$4,000,000 Dollars as well as any insurance required under the Contract. Any policy of insurance coverage must include coverage for sexual molestation or abuse and name Saginaw Valley State University as an additional named insured and shall not be charged, revoked or modified absent thirty (30) days' notice to President of Saginaw Valley State University. In the event that the University President modifies the level, type scope or other aspects of such coverage, the ESP shall undertake like or similar modifications within thirty (30) days of being notified of the change.

22. The ESP will, upon termination, work for a 3-month period of time to transition to a new ESP. There may be a fee set forth for this service as determined by the parties.

23. 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.

24. ESP shall not execute contract with its staff assigned to the Academy (including by way of example and not limitation, teachers, administrators, counselors and the like) that contain noncompete and/or non-solicitation agreements of any nature.

25. NOTIFICATION. The ESP shall notify the Academy Board if any principal or officer of ESP or ESP (including any related organizations or organizations in which a principal or officer of ESP 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.

26. The ESP agrees to the early termination or amendment of this Agreement, 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 the ESP or any subcontracted person or entity of ESP in the event the University determines to exercise its prerogative under MCLA 380.507(7) and

Section 9.3 of the contract with the Authorizer to reconstitute the Academy by requiring the termination or amendment of the ESP Agreement.

27. ASSIGNMENT. This Agreement may not be assigned or assignable to any third party.

IN WITNESS WHEREOF, the undersigned have executed this Agreement by their duly authorized representatives effective the date first written above.

CHARTER SCHOOL SERVICES OF  
MICHIGAN, a Michigan Non-Profit  
Corporation

PONTIAC ACADEMY FOR  
EXCELLENCE, a Michigan Charter  
Public School Academy

By: *NZ Bryant Jr*  
Its: Authorized Representative

By: *Mary B Richard*  
Its: Board Chairperson and Authorized  
Representative

**APPENDIX A**  
**EDUCATIONAL SERVICES AND PERSONNEL SUPPORT SERVICES**

The purposes for which the corporation is organized are to provide support to Pontiac Academy for Excellence, a chartered Michigan Public School Academy to include but not limited to the following:

1. Provide, according to all rules and regulations, all employees for the operation of Pontiac Academy for Excellence.
2. Provide salaries to all employees that will be carrying out the Mission and Vision of Pontiac Academy for Excellence.
3. Provide all qualified employees a benefit package as outlined in the Charter School Services of Michigan, Inc./Pontiac Academy for Excellence Employee Handbook.
4. Provide Human Resources to strengthen the capacity of Pontiac Academy for Excellence to implement innovative, effective and comprehensive management principles and programs for elementary and secondary education.
5. Provide evaluation services on Charter School Services of Michigan, Inc. employees carrying out the Mission and Vision of Pontiac Academy for Excellence and make recommendations to the Board of Directors of Pontiac Academy for Excellence.