

MANAGEMENT AGREEMENT

This Management Agreement (hereinafter “Agreement”) is made and entered into as of the 1st day of July, 2021, by and between the Chatfield Management Corporation, a Michigan corporation (“CMC”), and the Chatfield School, a Michigan public school academy (the “Academy”), by and through its Board of Directors (the “Board”) (hereinafter jointly referred to as “Academy”).

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”) and is located at 231 Lake Drive, Lapeer, Michigan 48446. The Academy is authorized pursuant to a contract (the “Contract”) issued by the Saginaw Valley State University Board of Control (“SVSU”) to organize and operate a public school academy.

The Board believes that it can best fulfill its mission for the Academy by having the Board members able to concentrate on the general policies, evaluation, and fiscal integrity of the Academy and to employ a management service to provide for the general administration of the school. CMC’s officers and directors, being persons experienced in school management and personnel matters, believe that they can provide both the staff and the management expertise required to fulfill the policies and expectations of the Board, the parents and the children of the Academy. CMC accepts that fulfilling this task must be done within the financial parameters established by the Board and as permitted under the Contract, the Code and applicable law.

The Board and CMC and all of its trustees, members, officers, and directors individually enter into this Agreement for the sole and expressed purpose of fulfilling the mission of the Academy. All parties believe that the arrangement specified in the Agreement provides benefits for the students and parents associated with the school, not any personal or corporate benefit.

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE I CONTRACTUAL RELATIONSHIP

A. **Authority.** The Academy has been granted the Contract by SVSU 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. **Contract.** Acting under and in the exercise of such authority, the Academy hereby contracts with CMC, for specified functions relating to the provision of educational services and the management and operation of the Academy. CMC 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. CMC 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.

C. **Status of the Parties.** CMC 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 CMC. The relationship between CMC and the Academy is based solely on the terms of this Agreement. The parties to this Agreement intend that the relationship between them created by this Agreement is that of an independent contractor, and that except as expressly set forth in this Agreement, no employee of CMC shall be deemed to be an agent or employee of the Academy. CMC will be solely responsible for its acts and the acts of its agents, employees and subcontractors. No individual is now serving, has not served, nor at any time in the future will serve concurrently as a member of the Board and as an officer or director of CMC.

At such times as this Agreement is being negotiated, altered, or the quality of the services provided for under the Agreement being evaluated, CMC shall be represented at meetings with the Board by an officer, director, or representative who is not assigned a position at the Academy, if the Board specifically requests such a representative.

CMC shall not be prohibited from assigning, nor is required to assign any of its corporate officers or directors to fulfill any position or service required to be performed for the Academy by the terms of the Agreement. CMC shall have sole discretion, subject only to applicable state or federal statutes and regulations, for determining the persons assigned to positions designated as managerial or administrative under the terms of the Agreement; subject, however, to Item 3 of the Mutual Responsibilities and Understandings. The Contract sets forth provisions determining if family members, whether of officers, directors, or employees of CMC, are used in positions at the school that are prohibited under the Contract or the Code.

D. **Designation of Agents.** The Board designates the employees of CMC 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 CMC shall be deemed to be an agent of the Academy.

ARTICLE II TERM

This Agreement shall become effective July 1, 2021, and shall cover five (5) academic years, ending on June 30, 2026 (the "Term"), subject to a continued Contract from SVSU and continued state per capita funding. If the Contract is revoked or terminated, or a new charter contract is not issued to the Academy after expiration of the Contract, this Agreement shall automatically be terminated, as the case may be, on the same date as the Contract is revoked, terminated or expires without further action of the parties.

ARTICLE III
FUNCTIONS OF CMC

A. **Responsibility.** CMC shall be responsible for all of the management, operation, administration, and personnel at the Academy. Such functions include, but are not limited to:

1. Implementation and administration of the educational program set forth in the Contract (the "Educational Program");
2. Recruiting, hiring and employing the principal, teachers, other professional staff and support staff at the Academy;
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, including recordkeeping, wage and benefits administration, training and technical assistance);
5. Continued development, review, and implementation of the curriculum at the Academy;
6. Selection and acquisition on behalf of the Academy of instructional materials, equipment and supplies in accordance with the Board approved budget;
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;
12. All functions associated with enrollment of students in the Academy;
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. Preparation of required SVSU, local, state and federal reports;
18. Assisting and consulting in the design of strategic plans for the continuing educational and financial benefit of the Academy;
19. 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;
20. All other tasks and responsibilities necessary for the implementation and administration of the Educational Program;
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;
23. Preparation of student codes of conduct for review and Board approval; implementation of student codes of conduct approved by the Board; and
24. Any other function necessary or expedient for the administration of the Academy with prior approval from the Board.

B. **Subcontracts.** CMC may utilize subcontracts to provide some of the services it is required to provide to the Academy. CMC shall not subcontract the management, oversight or operation of the teaching and instructional program without the prior approval of the Board. CMC will receive no additional fee as a result of subcontracting of any services.

C. **Place of Performance.** CMC reserves the right to perform functions off-site, other than instruction, unless prohibited by the Contract and 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 CMC for the Academy including, but not limited to, instructional materials, equipment, supplies, furniture, computers and other technology, shall be owned by and remain the property of the Academy. CMC (and any 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. CMC 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 supplies, materials, and equipment procured for the Academy by CMC shall be inventoried by an acceptable method of inventory and an inventory of Academy equipment shall be maintained by CMC so that it can be clearly established which property belongs to the Academy.

E. **Pupil Performance Standards and Evaluation.** CMC is responsible for and accountable to the Board for the performance of students who attend the Academy. CMC shall implement pupil performance evaluations which permit evaluation of the educational progress of each Academy student, using measures of student and school performance required by the Contract and such additional measures as shall be mutually agreed between the Board and CMC and consistent with the Contract.

F. **Student Recruitment.** CMC 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. CMC 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.

G. **Student Due Process Hearings.** CMC shall provide students with procedural and substantive due process in conformity with the requirements of applicable law and Board approved policies 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.

H. **Legal Requirements.** CMC shall provide the Educational Program in accordance with the requirements imposed under the Contract and applicable law.

I. **Educational Goals and Program.** CMC shall implement the Educational Program as set forth in the Contract, including but not limited to, methods of pupil assessment, school calendar and school day schedule, age and grade classifications or pupils to be enrolled, and methods to be used to monitor performance towards targeted educational outcomes. In the event that CMC determines that it is advisable to modify the Educational Program, CMC will provide written notification to the Board specifying the changes it recommends and the reasons for the proposed changes. No changes in the Educational Program shall be implemented without the prior approval of the Board and SVSU.

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

K. **School Year and School Day.** The school year and the school day shall be as provided in the Contract and as defined annually by the Board.

L. **Authority.** CMC 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.

M. **Contract with SVSU.** CMC will not act in a manner that will cause the Academy to be in breach of its Contract with SVSU. CMC agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Contract. The provisions of the Contract shall supersede any competing or conflicting provisions contained in this Agreement. No provision of this Agreement shall interfere with the 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 CMC.

N. **Additional Programs.** The services provided by CMC 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 Academy may also purchase additional services from CMC at mutually agreeable cost provided that the parties document the types and terms of such services by either amending this Agreement or entering into separate agreement. Any such agreements must comply with the Contract, as well as any applicable SVSU Board or SVSU SUPO policies.

O. **Annual Budget Preparation.** CMC will annually prepare a proposed budget for the upcoming school year, subject to approval by the Board. The budget shall be submitted to the Board for review at least ten (10) days before the meeting at which it will be voted on. The budget shall conform to the State pupil 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 budget shall contain function level detail and comply with public accounting sector standards. The budget shall include anticipated revenues and projected expenses and costs reasonably associated with operating the Academy and the Educational Program including, but not limited to, the projected cost of the Educational Program provided to the Academy, rent and lease payments, debt service, maintenance and repairs to Academy facilities, supplies and furnishings necessary to operate the Academy, taxes, insurance premiums, utilities, professional fees, and other costs and expenses connected to the operation of the Academy. The proposed budget shall be submitted to the Board for approval not later than 30 days prior to the date when the approved budget is required to be submitted to SVSU. CMC may not make deviations from the approved budget without the prior approval of the Board.

P. **Compliance with Code Sections 503c.** On an annual basis, CMC agrees to provide the Board with the same information that a school district is required to disclose under section 18(2) of the State Aid Act of 1979, MCL.388.1618, for the most recent school fiscal year for which the information is available, and any other information as deemed necessary by the Board to fully satisfy its obligations under Section 7.4 and 7.12 of the Contract. Within thirty (30) day 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. CMC agrees to comply with section 503 of the Code, and will make required information available to SVSU and the public.

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, and policies governing the procurement of supplies, materials and equipment. The Board shall exercise good faith in considering the recommendations of CMC 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.

B. **Building Facility.** The Board is responsible for the acquisition, either by purchase or lease, of a building facility that complies with all of the requirements and of the Contract and applicable law. CMC shall have the right to use, without cost, the phone system, equipment, technologies, and mail system at the facility while performing their duties for the Academy and any ancillary CMC responsibilities related to the Academy.

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. **Academy Employees.** The Board may employ such employees as it deems necessary. The cost to employ Academy employees shall be paid by the Board.

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

F. **Audit.** The Board shall select and retain the independent auditor to perform the annual financial audit in accordance with the Contract and applicable law.

G. **Budget.** The Board is responsible for adopting a budget in accordance with the provisions of the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.* 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 CMC 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 adopted budget. The budget may be amended from time to time as approved by the Board.

H. **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 and/or Board designated employees. All interest or investment earnings on Academy deposits shall accrue to the Academy. The Board shall provide funding on a consistent and timely basis to allow CMC to fulfill its obligations under this Agreement.

I. **Governmental Immunity.** The Board shall determine when to assert, not assert, waive or not waive its governmental immunity.

J. **Evaluation of CMC.** CMC's performance and fulfillment of its responsibilities shall be evaluated annually by the Board in May or June of each year and a statement summarizing the evaluation shall be adopted as a resolution of the Board. The evaluation shall consider each of the following: 1) the efficacy and timeliness of CMC's responses to concerns that may be expressed by the Board regarding the quality and performance of personnel; 2) the quality of planning and implementing of professional development for fulfilling the Academy's Mission; 3) CMC's fulfillment of all requirements and adherence to all laws and regulations of SVSU, the Michigan Department of Education, the State of Michigan, and any other governmental unit supervising the Academy; 4) maintenance of the fiscal integrity of the Academy and its Board; and 5) assisting the Board to fulfill all its legal obligations and its responsibilities under this Agreement and any impact those responsibilities have on the ability

of CMC to fulfill its obligations under the Contract. Should the annual evaluation result in a negative performance resolution, CMC shall have one year to correct areas noted as negative. After the one-year improvement opportunity, should the Board decide to terminate this Agreement, CMC shall have six months to plan and implement a transition plan that properly fulfills all of its requirements to CMC staff assigned to the Academy.

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 CMC, with prior Board approval, shall endeavor to obtain revenue from other sources. In this regard:

1. The Academy and/or CMC shall solicit and receive donations consistent with the mission of the Academy.
2. The Academy and/or CMC 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, CMC 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 CMC 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.** Neither CMC, as a corporate body, nor any of its officers or directors individually, is to receive any compensation for the services provided to the Board. The officers and directors shall provide their expertise and attention without compensation, except for publicly determined compensation paid to any officer, director, or employee of CMC assigned specific management duties or management positions at the Academy and as specified within this Agreement. CMC has not and will not be expected to invest any financial resources in the Academy. The Board recognizes that since it is not the expectation of CMC to profit from its management of the school, it is an equal expectation that the CMC will not incur expenses or liabilities operating the Academy that are not reimbursable to CMC or become the obligations of the Board.

D. **Reasonable Compensation.** Any CMC compensation under this Agreement is reasonable compensation for services rendered. Any CMC 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 the course of performing its responsibilities under the Agreement, CMC shall incur expenses for such things as legal and accounting services, corporate taxes, and other business and corporate expenses reimbursed by the Academy. Such expenses shall collectively be considered the Management Fee charged to the Academy provided that CMC is responsible for maintaining all such expenses within the budget allocations determined by the Board or for seeking specific approval for any expenses anticipated to exceed the budget allocation. 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 CMC administration salaries assigned to work at the Academy, compliance 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 program, and shall not include any costs for the marketing and development of CMC. In paying costs on behalf of the Academy, CMC shall not charge an added fee. The Academy shall not reimburse CMC for any costs incurred or paid by CMC as a result of services provided or actions taken pursuant to this Agreement unless otherwise specifically indicated herein. CMC 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 CMC for the fees and expenses associated with the Academy's operation provided that documentation for the fees and expenses are provided to the Board within thirty (30) days after the expense is incurred. Any costs reimbursed to CMC that are determined by the independent audit not to be reasonably incurred on behalf of the Educational Program of the Academy shall be promptly returned to the Academy by CMC.

F. Other Public School Academies. The Academy acknowledges that CMC may enter into management agreements with other public school academies. CMC 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. This Agreement shall not restrict CMC's pursuit of other business opportunities. Income earned by CMC from services provided to educational entities other than the Board shall be reported to the Board in the financial review. CMC shall pay the Board one percent (1.0%) of any revenue/payments collected by billing other entities. Should services and billings unrelated to the Academy exceed \$10,000 per month, CMC shall notify the Board and discussions regarding appropriate changes in the Agreement will be opened.

G. Financial Reporting. CMC shall be responsible for performing the functions and duties described in this section. On not less than a monthly basis, CMC shall provide the Board with a cash flow analysis, an aged report of accounts payable, bank reconciliation, a written report detailing the status of the budget to actual revenues and a detailed schedule of expenditures at an object level for review and approval by the Board. The Board must be presented a balance sheet and a statement of revenues, expenditures, and changes in fund balance at a function level detail at each regularly scheduled meeting. This report shall be prepared at least 3 days in advance of the Board meeting to be available for Board packets sent to Board members, and its designees, in preparation for Board meetings. CMC shall provide special reports as necessary to keep the Board informed of changing conditions.

H. **Operational Reporting.** In order to enable the Board to monitor CMC's educational performance and the efficiency of its operation of the Academy, upon the request of the Board, CMC will provide written reports to the Board on any topic of Academy activity or operations and which are consistent with this Agreement. These special reports will be provided in a timely fashion, but not less than one (1) week after the request for the report is received by CMC unless the Board and CMC mutually agree upon an extended timetable.

I. **Audit Report Information.** CMC will make all of the Academy's financial and of CMC's other related records available to the Academy's independent auditor selected by the Board and will cooperate with the auditor.

J. **Access to Records.** CMC shall keep accurate records pertaining to its operation of the Academy, and retain all of these records in accordance with Contract and applicable law. All financial, educational, and student records pertaining to the Academy are Academy property and 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 be directly accessible at the Academy facility. All records pertaining to teacher and administrator certification, as well as a copy of the employee handbook shall be maintained physically on site or be directly accessible at the Academy facility. CMC may retain copies of records necessary to document the services provided to the Academy and its actions under the Agreement. CMC and the Academy shall maintain the proper confidentiality of personnel, student and other records as required by the Contract and applicable law. This Agreement shall not be construed to restrict SVSU's or the public's access to these records under that Act or the Contract.

K. **Other Financial Relationships.** Any lease, promissory notes or other negotiable instruments, lease-purchase agreements or other financing agreements between the Academy and CMC shall be contained in a document separate from this Agreement, and shall be separately approved by the SVSU, and shall comply with all applicable law, the Contract issued by SVSU, and any applicable policies created by SVSU.

L. **Bankruptcy.** CMC shall notify the Board if any principal or officer of the CMC, or CMC (including any related organizations or organizations in which a principal or officer of CMC 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.

M. **Tax Exempt Financing.** If at any time the Academy determines that it is in the best interests of the Academy to obtain financing that is tax-exempt pursuant to the IRS Code, then the parties agree that this Agreement shall be automatically amended for the sole and limited purpose of compliance with Revenue Procedure 97-13 or successor procedure. Any such automatic amendment shall be as limited as practicable, and the parties shall promptly execute a written agreement reflecting such amendment, but the failure of the parties to do so shall not affect the effectiveness of the automatic amendment referenced above.

ARTICLE VI **PERSONNEL AND TRAINING**

A. **Personnel Responsibility.** Subject to Academy policies, CMC shall, in cooperation with the Board, recommend to the Board staffing levels, and select, evaluate,

assign, discipline and transfer personnel, consistent with applicable law, and consistent with the parameters adopted and included within the Contract. All personnel must meet legally required qualifications for their positions. CMC shall adopt, implement, and maintain a performance evaluation system for all required personnel as required by applicable law. With the exception of Board employees, if any, CMC 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(E). The Board reserves the right to request that CMC personnel be placed elsewhere by CMC if the Academy is dissatisfied with their performance. Notwithstanding the foregoing, CMC shall immediately replace any CMC personnel whose conduct, in the reasonable opinion of the Board, may cause the Academy to be in actual or potential breach of the Contract.

B. School Leader. Because the accountability of CMC to the Academy is an essential foundation of this partnership, and because the responsibility of the School Leader is critical to its success, CMC will have the authority, consistent with state law, to select and supervise the School Leader and to hold him or her accountable for the success of the Academy. The employment contract with the School Leader, and the duties and compensation of the School Leader shall be determined by CMC. CMC 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 and Board policies, prior to the commencement of each school year, and from time to time thereafter, CMC shall recommend to the Board the number of teachers, and the applicable grade levels and subjects, required for the operation of the Academy. Thereafter, the Board shall determine the number and applicable grade levels and subjects of the Academy. CMC shall provide the Academy with such teachers, qualified in the grade levels and subjects, as are required by the Board and the Contract. The curriculum taught by such teachers shall be the curriculum set forth in the Contract. Such teachers may, in the discretion of CMC work at the Academy on a full or part-time basis, provided that such teachers' salaries and benefit shall be prorated in the Academy's budget. If assigned to work for the Academy on a part-time basis, such teachers may also work at other schools managed by CMC. 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, shall have undergone a criminal background and record check and unprofessional conduct check, as required under the Code, and shall meet all other requirements of state and federal laws, rules, and regulations.

D. Support Staff. Subject to the approved Board budget, prior to the commencement of each school year, and from time to time thereafter, CMC shall recommend, and the Board shall determine, the number and functions of support staff required for the operation of the Academy. CMC 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 CMC, work at the Academy on a full-time or part-time basis, provided that such staffs' salaries and benefits shall be prorated in the Academy's budget. If assigned to work for the Academy on a part-time basis, such staff may also work at other schools managed by CMC. Each staff member assigned to or retained to work at the Academy shall meet all licensure, permitting, and criminal background and records check requirements of state and federal laws, rules, and regulations.

E. **Employer.** Except as specified in this Agreement, all teaching and instructional personnel performing functions on behalf of the Academy and any other CMC staff assigned to work at the Academy or on behalf of the Academy shall be employees of CMC. Compensation of all employees of CMC shall be paid by CMC. For purposes of this Agreement, "Compensation" shall include salary, fringe benefits, and state and federal tax withholdings. CMC shall be responsible for paying social security, unemployment, and any other taxes required by law to be paid on behalf of its employees. Unless required by applicable statute, court or administrative decision, or Attorney General's opinion, CMC shall not make payments to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees. The Academy shall be responsible for conducting criminal background and record checks and unprofessional conduct checks on all CMC employees, and evidence of the same shall be stored, in physical form, at the Academy in accordance with applicable law. Teachers employed by CMC shall not be considered teachers for purposes of continuing tenure under MCL § 38.71 et seq. Evidence of such background checks and unprofessional conduct checks required by law shall be stored on site, in physical form, at the Academy or may be directly accessible at the Academy facility.

F. **Training.** CMC shall provide training in its methods, program, curriculum and technology adopted by the Board, to all teaching personnel, on a regular and continuous basis. Instructional personnel will receive at least the minimum number of professional development hours as required under the Code. Non-instructional personnel shall receive such training as CMC determines as reasonable and necessary under the circumstances and consistent with the Code.

G. **Non-Compete Agreements.** CMC is prohibited from executing contracts with any personnel assigned to the Academy (including by way of example and not limitation, teachers, administrators, counselors and the like) that contain non-compete and/or non-solicitation agreements of any nature.

ARTICLE VII TERMINATION OF AGREEMENT

A. **Termination by the Academy for Cause.** This Agreement may be terminated by the Academy for cause prior to the end of the term specified in Article II in the event that CMC should fail to remedy a material breach within a period reasonable under the circumstances, which shall not be longer than sixty (60) days after notice from the Academy. Material breach may include, but is not limited to, a failure to carry out its responsibilities under this Agreement such as a failure to make required reports to the Board, failure to account for its expenditures or to pay operating costs (provided funds are available to do so); a violation of the Contract or of applicable law. In order to terminate this Agreement for cause, the Board is required to provide CMC with written notification of the facts it considers to constitute material breach and the period of time within which CMC has to remedy this breach. After the period to remedy the material breach has expired, the Board may terminate this Agreement by providing CMC with written notification of termination.

B. **Termination by CMC for Cause.** This Agreement may be terminated by CMC for cause prior to the end of the term specified in Article II in the event the Academy fails to remedy a material breach within a period reasonable under the circumstances, which shall not be longer than sixty (60) days after notice from CMC. Material breach may include, but is not limited to, a failure to carry out its responsibilities under this Agreement such as a failure to make payments to CMC as required by this Agreement or a failure to give consideration to the recommendations of CMC regarding the operation of

the Academy; a violation of the Contract or of applicable law. In order to terminate this Agreement for cause, CMC is required to provide the Board with written notification of the facts it considers to constitute material breach and the period of time within which the Academy has to remedy this breach. After the period to remedy the material breach has expired, CMC may terminate this Agreement by providing the Board with written notification of termination.

C. **Termination by Either Party Without Cause.** If CMC and the Board are unable to agree on educational programs, curriculum or other educational policies that affect the Academy in a significant way, either party may elect to terminate the Agreement at the end of a school year, provided that the terminating party gives the other party written notification of termination at least ninety (90) calendar days prior to the termination date and provides the other party with an opportunity within that period to negotiate an agreement on the educational policies at issue.

D. **Reconstitution.** There shall be no cost or penalty to the Academy, and no recourse against SVSU or any third party affiliated with or engaged by SVSU, by CMC or any subcontracted person or entity of CMC, in the event SVSU determines to exercise its prerogative under MCL 380.507 or the Contract to reconstitute the Academy by requiring the termination or amendment of the Agreement.

E. **Change in Law.** If any federal, state or local law or regulation, or court decision has a material adverse impact on the ability of either party to carry out its obligations under this Agreement, then either party, upon written notice, may request renegotiation of the Agreement; and if the parties are unable or unwilling to renegotiate the terms within 90 days after the notice, the party requiring the renegotiation may terminate this Agreement on 30 days further written notice.

F. **Effective Date of Termination.** In the event this Agreement is terminated by either party prior to the end of the term specified in Article II, the termination will not become effective until the end of that school year, unless immediate termination is required by law or SVSU.

G. **Rights to Property Upon Termination.** Upon termination of this Agreement all equipment, whether purchased by the Academy or by CMC with state school aid funds or other funds secured by the Academy, shall remain the exclusive property of the Academy. CMC shall have the right to reclaim any usable property or equipment (e.g., including, but not limited to, desks, computers, copying machines, fax machines, telephones) that were purchased by CMC with CMC funds. Fixtures and building alterations shall become the property of the Academy.

H. **Role of CMC on Termination.** Upon termination of this Agreement, for any reason, CMC 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 educational service provider; (iii) organize and prepare student records for transition to the new educational service provider; and (iv) provide for the orderly transition of employee compensation and benefits to the new educational service provider without disruption to staffing.

I. **Transition.** In the event of termination of this Agreement for any reason by either party prior to the end of the Agreement's term, CMC shall provide the Academy reasonable assistance for up to ninety (90) days after the effective date of the termination to allow a transition back to a regular school program or to another education service provider.

ARTICLE VIII
PROPRIETARY INFORMATION

A. **Proprietary Information.** The Academy shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials developed by CMC, its employees, agents or subcontractors, or by any individual working for or supervised by CMC, which were developed during working hours or during time for which the individual is being paid by CMC which (i) were directly developed and paid for by the Academy; or (ii) were developed by CMC at the direction of the Board with Academy funds dedicated for the specific purpose of developing such curriculum or materials.

B. **Required Disclosure.** The Academy shall be permitted to report any new teaching techniques or methods of significant revisions to known teaching techniques or methods to SVSU and to the State Board of Education, which teaching techniques or methods may thereafter be made available to the public, as provided in Section 505 of the Code, notwithstanding anything contained in this Article to the contrary.

ARTICLE IX
INDEMNIFICATION

A. **Indemnification of CMC.** To the extent permitted by law, the Academy shall indemnify and hold CMC (which term for purposes of this Paragraph A, includes CMC'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 CMC 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 CMC as required by M.U.S.I.C.

B. **Limitations of Liabilities.** The Academy may assert or not assert all immunities, privileges, and statutory limitations of liability in connection with any claims arising under this Agreement.

C. **Indemnification of the Academy.** CMC 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 CMC with any agreements, covenants, warranties, or undertakings of CMC contained in or made pursuant to this Agreement, including any and all employment related claims, demands or suits by CMC employees, former employees or applicants; and any misrepresentation or breach of the representations and warranties of CMC contained in or made pursuant to this Agreement. In addition, CMC 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 and as required by M.U.S.I.C.

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

E. **Indemnification of SVSU.** The parties acknowledge and agree that the SVSU Board of Control, SVSU, 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 Academy's 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 CMC, 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.

ARTICLE X INSURANCE

A. **Insurance of the Academy.** The Academy shall secure and maintain such policies of insurance as required by SVSU and the Contract. This coverage shall include the building and related capital facilities if they are the property of the Academy. The Academy shall, upon request, present evidence to CMC that it maintains the requisite insurance in compliance with the provisions of this paragraph. CMC shall comply with any information or reporting requirements applicable to the Academy under the Academy's policy with its insurer(s), to the extent practicable.

The Academy shall maintain at least the minimum insurance coverages required from time to time by SVSU insurance providers, including but not limiting to, M.U.S.I.C. At the time of execution of this Agreement these coverages are as follows, and shall include coverage for sexual molestation and abuse:

- (a) General Liability: \$1 million per occurrence, \$2 million aggregate, Academy First Named Insured, SVSU Additional, named insured with primary and noncontributory coverage;
- (b) Automobile Liability: \$1 million per accident, Academy First Named insured, SVSU Additional, named insured with primary and noncontributory coverage;
- (c) Workers Compensation: Meeting statutory requirements with \$1 million Employers' Liability Limits;
- (d) School Leaders Errors and Omissions: \$1 million per occurrence, \$3 million aggregate, Academy First Named insured, SVSU Additional, named insured with primary and noncontributory coverage;
- (e) Crime (Including Employee Dishonesty coverage): \$500,000 per occurrence and third party coverage;
- (f) Umbrella: \$4 million limit and aggregate or unlimited aggregate at a \$2 million limit, Academy First Named insured, SVSU Additional, named insured with primary and noncontributory coverage.

B. Insurance of CMC. CMC shall secure and maintain such policies of insurance as the Academy shall maintain as required by SVSU and the Contract, with the Academy and SVSU listed as additional named insureds. The insurance coverage required of CMC shall not be in lieu of the insurance coverage requirements applicable to the Academy. CMC shall, upon request, present evidence to the Academy and SVSU that it maintains the requisite insurance in compliance with the provisions of this paragraph. The Academy shall comply with any information or reporting requirements applicable to CMC under CMC's policy with its insurer(s), to the extent practicable.

The CMC shall maintain at least the minimum insurance coverages required from time to time by SVSU insurance providers, including but not limiting to, M.U.S.I.C. At the time of execution of this contract these coverages are as follows, and shall include coverage for sexual molestation and abuse:

- (a) General Liability: \$1 million per occurrence, \$2 million aggregate, CMC First Named Insured, Academy and SVSU Additional, named insured with primary and noncontributory coverage;
- (b) Automobile Liability: \$1 million per accident, CMC First Named insured, Academy and SVSU Additional, named insured with primary and noncontributory coverage;
- (c) Workers Compensation: Meeting statutory requirements with \$1 million Employers' Liability Limits;

- (d) School Leaders Errors and Omissions: \$1 million per occurrence, \$3 million aggregate, CMC First Named insured, Academy and SVSU Additional, named insured with primary and noncontributory coverage;
- (e) Crime (Including Employee Dishonesty coverage): \$500,000 per occurrence and third party coverage;
- (f) Umbrella: \$4 million limit and aggregate or unlimited aggregate at a \$2 million limit, CMC First Named insured, Academy and SVSU Additional, named insured with primary and noncontributory coverage.
- (g) Any policy of insurance maintained by CMC must include coverage for sexual molestation or abuse, must name SVSU as an additional named insured, and shall not be changed, revoked or modified absent thirty (30) days' notice to the SVSU President. CMC also agrees that, in the event the SVSU President modifies the level, type, scope or other aspects of such coverage, then CMC shall undertake like and similar modifications within thirty (30) days of being notified of such change.

C. **Workers' Compensation Insurance.** Each party shall maintain workers' compensation insurance when and as required by law, covering their respective employees.

ARTICLE XI
MISCELLANEOUS

A. **Sole Agreement.** This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and CMC on the subject matter hereof.

B. **Force Majeure.** Neither party shall be liable if the performance of any part or all of this Agreement is 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 party'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 set forth below, or at such other address as may be furnished by a party to the other party:

If to CMC:	Chatfield Management Corporation Attn: Matt Young, President
------------	---

If to Academy:	Chatfield School 231 Lake Drive Lapeer, MI 48446 Attention: Board President
----------------	--

And a copy to the Board Attorney:
John C. Kava
Collins & Blaha, P.C.
31440 Northwestern Hwy, Suite 170
Farmington Hills, MI 48334

D. **Severability.** The invalidity of any of the covenants, phrases or clauses in this Agreement shall not affect the remaining portions of this Agreement, and this Agreement shall be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement.

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

F. **Entire Agreement.** This Agreement is the entire agreement between the parties relating to the services provided, and the compensation for such services, by the parties. Any modification to this Agreement must be made in writing, approved by the Board and CMC, and signed by a duly authorized officer. The Board and CMC may not substantially amend this Agreement without first notifying SVSU and providing a legal opinion to the SVSU President from the Academy's counsel on the proposed amendment. Whether or not substantial, the Academy shall submit to SVSU all amendments to this Agreement within 10 days after such amendment. In addition, the Academy Board must also secure the non-disapproval of SVSU before this Agreement and any modification to this Agreement can become effective.

G. **Non-Waiver.** No failure of a party in exercising any right, power or privilege under this Agreement shall affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.

H. **Assignment.** This Agreement may not be assigned and is not assignable to any third party.

I. **Governing Law.** This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.

J. **Delegation of Authority.** Nothing in this Agreement shall be construed as delegating to CMC any of the powers or authority of the Board that are not subject to delegation by the Board under the Contract or applicable law.

K. **Compliance with Law.** The parties agree to comply with all applicable laws and regulations.

L. **Warranties and Representations.** Both the Academy and CMC represent that each 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 adopt any and all resolutions or expenditure approvals required for execution of this Agreement.


M. **Dispute Resolution Procedure.** Any and all disputes between the parties concerning any alleged breach of this Agreement or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement that are unable to be resolved through discussion and negotiation shall be resolved by arbitration, and such an arbitration procedure shall be the sole and exclusive remedy for such matters. The arbitrator shall be selected from a panel provided by and in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the parties and the arbitrator unanimously accept. Any arbitration hearing shall be conducted in Lapeer County, Michigan. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction. Any such judgment shall require a cause opinion as to the final decision and shall be made available to SVSU upon request. The cost of arbitration, not including attorney fees, shall be paid by the losing party. It shall be in the discretion of the arbitration panel to award reasonable attorney fees to the prevailing party, to be paid if awarded by the losing party.

N. **Modification to Conform to Changed SVSU Policies.** The parties intend that this Agreement shall comply with SVSU's Educational Service Provider Policies, as the same may be changed from time to time. In the event that changes in SVSU's Educational Service Provider Policies implemented after the date of execution of this Agreement cause any provision of this Agreement to be in conflict the revised Policies, the parties agree to amend this Agreement to eliminate the conflict within thirty (30) days after being advised by SVSU of the changes to its policies.

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

CHATFIELD MANAGEMENT CORPORATION

By:



Its: Trustee
4812-0095-6652, v. 2

CHATFIELD SCHOOL

By:



Vice
Its: Board President