

## CLIENT SERVICES AGREEMENT

This AGREEMENT is signed this 10 day of June 2020 and is effective July 1, 2020 by and between Old Mission Peninsula School (hereinafter OMPS) whose address is 2699 Island View Rd, Traverse City, MI 49686, and Charter HR Educational Services, LLC, a Michigan limited liability company located at 528 4<sup>th</sup> Street NW, Grand Rapids, MI 49504 (hereinafter "Charter HR Educational Services, LLC")

### RECITALS

- A) OMPS is a Michigan public school academy under the direction of the OMPS Board of Directors ("Board").
- B) OMPS is authorized by Grand Valley State University ("Authorizer").
- C) Charter HR Educational Services, LLC is a Michigan Corporation with its offices at 528 4<sup>th</sup> Street NW, Grand Rapids, MI 49504.
- D) Charter HR Educational Services, LLC offers to Michigan Public School Academies employee administration and management services including, but not limited to, staff employment, payroll, benefit administration, business management and other similar services.
- E) OMPS desires to engage Charter HR Educational Services, LLC to perform certain services upon the terms and conditions set forth in this Agreement and pursuant to its authority, OMPS hereby contracts with (CHARTER HR EDUCATIONAL SERVICES, LLC), to the extent permitted by law, specified functions relating to the administration and management services.
- F) OMPS designates the employees of Charter HR Educational Services, LLC assigned to OMPS as agents of the OMPS having a legitimate educational interest such that they are entitled access to educational records under 20 U.S.C. Section 1232g, the Family Educational Rights and Privacy Act ("FERPA").

THEREFORE, the parties agree as follows:

1. Services Provided by Charter HR Educational Services, LLC. Charter HR Educational Services, LLC shall provide personnel services as outlined in this Agreement.
  - a) Selection of Employees. Charter HR Educational Services, LLC shall employ and assign to OMPS all such qualified and certified classroom teachers, instructors, and support staff as may be necessary to accomplish the educational mission of OMPS consistent with the OMPS Board's approved budget ("Covered Employees").

Charter HR Educational Services, LLC shall comply with all Federal and State statutes and administrative requirements including, but not limited to, the Immigration Reform and Control Act. All work force positions of the OMPS shall be covered under this Agreement

b) Employee Agreements and Compensation. Charter HR Educational Services, LLC shall have the exclusive right to set all terms and conditions of such employment, which shall be established in a written employment agreement between Charter HR Educational Services, LLC, and each employee. Compensation for all Covered Employees including, but not limited to, health care and retirement benefits, shall be established by OMPS through its budget and implemented by Charter HR Educational Services, LLC. Information regarding all costs, including the employment costs, annual salary and benefit costs by individual assigned to the OMPS by Charter HR Educational Services, LLC, will be provided to the OMPS Board by Charter HR Educational Services, LLC upon request.

c) Health Care Insurance. Charter HR Educational Services, LLC shall provide comprehensive medical care insurance to all qualified employees assigned to the OMPS who are not covered by a spouse's plan. In addition, Charter HR Educational Services, LLC shall be responsible for COBRA compliance and continuation of health benefit plans to terminated 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 Federal and State statutes.

d) Retirement Plan. Charter HR Educational Services, LLC shall make available to all qualified employees assigned to work at OMPS a retirement plan pursuant to IRC Section 401(k).

e) Payroll Taxes. Charter HR Educational Services, LLC shall report and pay all applicable federal, state and local employee and employer payroll taxes from Charter HR Educational Services, LLC's own accounts. Charter HR Educational Services, LLC will comply with all local, state and federal record keeping requirements.

f) Payroll Records. Charter HR Educational Services, LLC shall maintain and verify all required payroll and benefit records.

g) Policies and Procedures. All payroll, benefit and personnel policies and procedures shall be established by Charter HR Educational Services, LLC. Charter HR Educational Services, LLC will provide all such policies and procedures OMPS on an annual basis.

h) Worker's Compensation Insurance. Charter HR Educational Services, LLC shall maintain Worker's Compensation insurance during the term of this Agreement on all employees assigned to work at OMPS under this Agreement. Charter HR Educational Services, LLC shall provide a Certificate of Insurance to OMPS verifying coverage of Worker's Compensation insurance.

i) At-Will Employment Relationship. Charter HR Educational Services, LLC has the exclusive right to select staff for employment and to terminate with or without cause any employee with advance written notice to the OMPS chief administrator.

j) Implementation and Supervision of Policies and Procedures. During the term of this Agreement, Charter HR Educational Services, LLC shall have the exclusive right and authority to implement and supervise personnel policies and procedures relating to the Covered Employees. Charter HR Educational Services, LLC shall make good faith reasonable efforts to act in the best interest of OMPS with regard to its policy and procedure in exercising control over Covered Employees. OMPS agrees to cooperate and oversee Charter HR Educational Services, LLC in the implementation and supervision of all such policies and procedures.

k) Hiring, Evaluating, Supervising, Disciplining and Firing. Charter HR Educational Services, LLC shall have responsibility for the hiring, evaluating, supervising, disciplining and firing of Covered Employees. Charter HR Educational Services, LLC shall consult with the OMPS chief administrator concerning any hiring, evaluating, supervising, disciplining, and firing before formal action is taken. OMPS Board will have input on the selection and evaluation of the chief administrator.

l) On-site Supervision. Charter HR Educational Services, LLC shall be responsible for on-site employee supervision at the OMPS directly and through the Chief Administrator. The Chief Administrator will serve as the liaison to the OMPS Board on employment matters on behalf of Charter HR Educational Services, LLC. The chief administrator will supervise the overall operation of OMPS and keep the Board informed of employment related matters. The chief administrator shall be an employee of and shall assist Charter HR Educational Services, LLC with its administrative and personnel responsibilities on the OMPS' premises. As to all administrative and personnel matters, the Chief Administrator shall coordinate with and report to designated Charter HR Educational Services, LLC managers and officers at Charter HR Educational Services, LLC's home office. Charter HR Educational Services, LLC, after consulting with the Chief Administrator, shall determine the procedures to be employed by Covered Employees in the day-to-day performance of their job responsibilities. Charter HR Educational Services,

LLC shall make good faith reasonable efforts to act in the best interests of OMPS with regard to OMPS' policies and procedures. Charter HR Educational Services, LLC shall ensure that the chief administrator follows all appropriate guidelines concerning Charter HR Educational Services, LLC's oversight of Covered Employees and complies with all Charter HR Educational Services, LLC directives dealing with its responsibilities herein above set forth.

2. Charter HR Educational Services, LLC Requirements.

a) Compliance with Applicable Criteria. Charter HR Educational Services, LLC assumes sole responsibility for assuring that all services set forth in Paragraph 1 provided by Charter HR Educational Services, LLC 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 the OMPS have secured or is seeking accreditation, including but not limited to the Authorizer and the Michigan Department of Education; and (iii) all other applicable written policies of OMPS as communicated to Charter HR Educational Services, LLC through the Chief Administrator, or the OMPS Board. Charter HR Educational Services, LLC shall promptly provide to OMPS, within twenty-four hours of receipt, all notices, reports or correspondence from individuals or governmental agencies that assert claims, deficiencies or charges against OMPS, employees assigned to OMPS, or Charter HR Educational Services, LLC.

b) Employment Laws. Charter HR Educational Services, LLC shall comply with all applicable federal, state and local employment laws. Charter HR Educational Services, LLC shall comply with the Fair Labor Standards Act and control all overtime.

c) Records. Charter HR Educational Services, LLC, through the chief administrator, shall maintain actual time records and verify the accuracy of all wage hour information provided to Charter HR Educational Services, LLC at the end of each pay period. Charter HR Educational Services, LLC shall verify the accuracy of all wage and salary reports which shall be supplied to OMPS by Charter HR Educational Services, LLC at the end of each pay period. OMPS shall not pay any wages, salaries or other compensation, including employee benefits, to Covered Employees subject to Section 1b above but shall reimburse Charter HR Educational Services, LLC for all such wages,

salaries or other compensation, including employee benefits, to Covered Employees pursuant to Section 5b below.

d) Compliance with Authorizer ESP policies. Charter HR Educational Services, LLC will be responsible for complying with Authorizer ESP policies only to the extent that such policies apply to human resource services support. Charter HR Educational Services, LLC will be responsible for supplying only information that they have in their possession in regards to the Services included in this Agreement.

e) Compliance with OMPS' Charter Contract. Charter HR Educational Services, LLC agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with OMPS's obligations under the OMPS Charter Contract issued by Grand Valley State University Board of Trustees. The provisions of the OMPS Charter Contract shall supersede any competing or conflicting provisions contained in this Agreement.

f) Compliance with Section 503c. On an annual basis, Charter HR Educational Services, LLC agrees to provide the OMPS 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 388.1618, for the most recent school fiscal year for which the information is available. Within thirty (30) days of receipt of this information, the OMPS Board shall make the information available on the OMPS'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.g0

g) Compliance with Section 11.23 of Contract Terms and Conditions. Charter HR Educational Services, LLC shall make information concerning the operation and management of OMPS, including without limitation the information described in Schedule 6 of the Contract, available to OMPS as deemed necessary by the OMPS Board in order to enable OMPS to fully satisfy its obligations under Section 11.23(a) of the Contract Terms and Conditions.

3. OMPS Requirements. OMPS shall provide the following:

a) Personnel Requirements. Advise Charter HR Educational Services, LLC, through the Chief Administrator, of the teachers, instructors, and administrators required by OMPS, consistent with its approved budget, to perform its mission.

b) Insurance. Maintain all necessary insurance in accordance with Paragraph 8 of this Agreement.

c) Financial Reports. Prepare annual budgets and all required financial reports for OMPS.

d) Employee Benefits. OMPS shall provide to Charter HR Educational Services, LLC a written statement with regard to all policies concerning employee benefits, if any. These policies shall comply with all federal, state and local governmental laws and regulations.

e) Confidential Information. OMPS shall be solely responsible for instituting and maintaining safeguards and procedures for handling confidential information, money or other valuables of staff assigned to OMPS. Charter HR Educational Services, LLC may require bonding of such individuals. OMPS shall give Charter HR Educational Services, LLC written notice of such individuals. It shall be the sole responsibility of OMPS to protect such valuables.

f) Discipline, Layoff, or Termination of Employees. OMPS agrees to comply with all Charter HR Educational Services, LLC personnel directives, both general and specific, regarding the discipline, layoff, or termination of Covered Employees. OMPS further agrees to immediately notify Charter HR Educational Services, LLC of any material change in the current business operations of OMPS.

g) Personnel Issues. In the event OMPS becomes dissatisfied with the performance of any individual Charter HR Educational Services, LLC employee assigned to OMPS, Charter HR Educational Services, LLC shall be notified, in writing, setting forth the nature of the dissatisfaction, the proposed remedial action, and any specific action requested. All decisions regarding the disposition of such requests are at the sole discretion of Charter HR Educational Services, LLC.

h) Applicant/Employee Background Checks. Charter HR Educational Services, LLC, or its designated subcontractor shall be responsible for performing all pre-employment, and any employment related background, license and eligibility review and other screening and investigation; however, OMPS shall perform all criminal records check and unprofessional conduct check activities required by federal, state or local law, including the Michigan Revised School Code (the "Code"), of all Covered Employees. The parties acknowledge that currently such checks may be undertaken by a designated OMPS board member using the methodology recommended by the Michigan State Polices. The results of the screening and investigation will be reported to Charter HR Educational Services, LLC **in a manner that accords with applicable law (e.g. "red light"/ "green light" letter.** All costs or fees incurred by Charter HR Educational Services, LLC in connection with the screening and investigation shall be billed to and

paid by OMPS. The results of the screening and investigation of pre-employment records must be made available for review by the Authorizer's Charter Schools Office in the manner and form compliant with applicable law. The parties shall develop a written policy and procedure that complies in all aspects with applicable law and the requirements of the Michigan State Police for the performance of the background and unprofessional conduct checks described herein, which shall be incorporated into the Board policy manual.

4. Term of Agreement. This Agreement shall commence on July 1, 2020 and continue for a period of thirty six (36) months, through June 30, 2023. If OMPS and/or Charter HR Educational Services, LLC becomes obligated for MPERS or an unexpected fee or tax is instituted, (e.g. State service tax fee) either party may terminate this Agreement at any time upon providing ninety (90) days' notice to the other party. 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 Charter Contract reauthorization, the Authorizer may require OMPS and Charter HR Educational Services, LLC to submit a new or amended Agreement for review by the Authorizer. OMPS must give Charter HR Educational Services, LLC ninety (90) day notice of termination.

5. Fees. OMPS shall pay Charter HR Educational Services, LLC the following fees for the services rendered under this Agreement:

a) Service Fee. A Service Fee shall be charged to OMPS equal to the total gross pay of all Covered Charter HR Educational Services, LLC employees assigned to OMPS multiplied times .025 (the Service Fee rate). The Service Fee is calculated without regard to individual limitations on wages for purposes of determining the amount of unemployment taxes. The Service Fee shall be billed once per pay period and due upon receipt with said billing including an itemized, detailed breakdown of all costs, fees and expense (i.e. salary and payroll; FUTA; SUTA; Workers Compensation; FICA, a breakdown of fringe benefits, by benefit; etc. The Service Fee shall be adjusted upon the effective date of any increase or decrease in employee wage rates. The Service Fee may also be adjusted through an addendum to this Agreement if the parties agree, in writing, to modify the services provided by Charter HR Educational Services, LLC.

b) Payroll Costs. Payroll costs will be charged, in addition to the service fee, equal to Gross Payroll and associated payroll costs including FICA, FUTA, SUTA, Workers Compensation and any additional taxes passed by the

State and/or Federal government during the term of this Agreement. All benefits provided under Paragraph 1 d) and 1 e) will be billed to OMPS on a pay period basis. Charter HR Educational Services, LLC will provide written notice within five (5) business days of receiving notice of an increase to any of the costs other than the Service Fee costs and include said increase as of the effective date of the increase. However, this provision shall not apply to a change in payroll costs which may vary because of a change in hours worked by employees. OMPS, at its election, may respond to the written notice of cost increase by issuing notice to cancel effective ninety (90) days after the date of cost increase.

6. Additional Costs, Fees and Expenses. OMPS shall pay all additional costs or expenses incurred by Charter HR Educational Services, LLC that are incidental to the performance of this Agreement and that have prior approval of the OMPS Board President or his/her designee. These additional costs, fees or expenses may include, but are not limited to, employee replacement costs, applicant/employee background checks, hiring temporary personnel, substitute teachers, fidelity bonding, and employee training programs.

7. Payment of Costs, Fees and Expenses. OMPS shall execute a Wire Transfer to Charter HR Educational Services, LLC at least 48 hours prior to each payroll date, from the designated OMPS account in an amount equal to the Services Fees, Payroll costs described in Paragraph 5 and Costs, Fees and Expenses described in Paragraph 6 of this Agreement, upon receipt of a detailed billing. 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 OMPS 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 12. Any errors in payment of costs, fees and expenses will be promptly corrected with the parties acting in good faith and with reasonable efforts

8. Insurance. Charter HR Educational Services, LLC and OMPS shall maintain such policies of insurance as required by the Charter, the Authorizer's insurance carrier recommendations, and applicable law. Charter HR Educational Services, LLC's insurance is separate from and in addition to the insurance the OMPS Board is required to obtain under the Charter. Each party shall, upon request, present evidence to the other and the Authorizer that it maintains the requisite insurance in compliance with the provisions of this Article. In the event that the Authorizer's insurance carrier recommends any change in coverage, each party agrees to comply with any change in the type and

amount of coverage as requested by the Authorizer's insurance carrier within thirty (30) days after notice of the insurance coverage change is provided to Charter HR Educational Services, LLC and the School. Each party shall comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

9. Safety Requirements. OMPS and Charter HR Educational Services, LLC shall comply with all safety, health and work laws, regulations and rules at its own expense. OMPS and Charter HR Educational Services, LLC shall also comply with all safe work practices and use of protective equipment required by federal, state or local law. OMPS will reimburse at direct cost any required safety equipment or PPE required by Federal, State or Local regulation. All accidents involving employees shall be reported immediately to Charter HR Educational Services, LLC by the Chief Administrator. OMPS shall cooperate with Charter HR Educational Services, LLC's Worker's Compensation carrier and liability insurance carrier who shall have the right to inspect the OMPS properties.

10. Termination of Agreement.

a) By Charter HR Educational Services, LLC. Charter HR Educational Services, LLC, in its sole discretion, may terminate this Agreement, relieving it of all further responsibility under this Agreement, as of the ending date of the last payroll period immediately preceding any of the following events:

- i) OMPS files for bankruptcy or becomes insolvent;
- ii) The facility where employees are engaged in work for OMPS is closed;
- iii) OMPS requests a layoff of 25% of the workforce;
- iv) OMPS and its successors and assigns discontinue operation;
- v) OMPS meets the definition of a financially distressed business as set forth in the Worker Assistance and Retraining Notification Act.
- 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 Charter HR Educational Services, LLC to terminate this Agreement.
- viii) Failure of OMPS to timely make payment(s) required by this Agreement or reduces the amount invoiced by more than \$5,000.00 of the contested invoice.

b) By OMPS. OMPS may terminate this Agreement prior to the end of the term specified in Paragraph 4 in the event that Charter HR Educational Services, LLC 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 sixty (60) days, then the cure period shall be extended for an additional thirty (3) days if Charter HR Educational Services, LLC proceeds to cure with reasonable dispatch. Notwithstanding the above, the notice requirement for breach by reason of 10.b.(i) below is thirty (30) days. Material breach includes, but is not limited to:

- i) Charter HR Educational Services, LLC's failure to account for its expenditures or to pay its obligations as specifically noted in this agreement (provided funds are available to do so);
- ii) Failure of Charter HR Educational Services, LLC to follow policies, procedures, rules, regulations or curriculum duly adopted by the OMPS Board and communicated to Charter HR Educational Services, LLC, provided that such policies, procedures, rules, regulations or curriculum are not inconsistent with the Contract, as amended, this Agreement, or in violation of applicable law;
- iii) Receipt by the OMPS Board of unsatisfactory reports from Charter HR Educational Services, LLC or from an educational consultant retained by the Board about matters concerning Charter HR Educational Services, LLC's performance or the performance of the staff which are not reasonably corrected or explained; or
- iv) Charter HR Educational Services, LLC's failure to abide by all applicable laws in its administration of this Agreement.

c) In the event OMPS terminates this Agreement pursuant to this Paragraph, OMPS shall pay all charges due under this Agreement through the last date of services provided by Charter HR Educational Services, LLC.

d) OMPS has the right to terminate the contract if the Authorizer threatens to terminate the OMPS charter contract if the client service agreement with Charter HR Educational Services, LLC is not terminated.

e) If OMPS' Charter Contract issued by the Grand Valley State University Board of Trustees is suspended, reconstituted, revoked or terminated, or a new charter contract is not issued to the Academy after expiration of the Contract, this Agreement shall automatically terminate on the same date as OMPS's Contract is suspended, reconstituted, revoked or termination without further action of the parties.

f) Amendment Caused By Site Closure or Reconstitution. In the event that OMPS is required (i) to close a site pursuant to a notice issued by the Department under Section 507 of the Code, MCL 380.507; or (ii) to undergo a reconstitution pursuant to Section 507 of the Code, MCL 380.507, and Section 10.6 of the Contract Terms and Conditions, and such closure of a site or reconstitution causes an amendment to or termination of this Agreement, the parties agree that this Agreement shall be amended or terminated to implement the Academy site closure or reconstitution, with no cost or penalty to OMPS, and Charter HR Educational Services, LLC shall have no recourse against OMPS or the Authorizer for implementing such site closure or reconstitution.

g) OMPS also has the right to terminate this Agreement without cause upon providing six (6) months' advance written notice to Charter HR Educational Services, LLC.

#### 11. Indemnification.

a) Charter HR Educational Services, LLC. Charter HR Educational Services, LLC shall indemnify and hold the Authorizer and OMPS, including its officers, directors, and agents, harmless from any and all third-party claims, actions, damages, expenses, losses or awards, including employment related claims by Charter HR Educational Services, LLC 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 (i) the negligence or intentional misconduct of Charter HR Educational Services, LLC, (ii) any action taken or not taken by Charter HR Educational Services, LLC, or (iii) any noncompliance or breach by Charter HR Educational Services, LLC of any of the terms, conditions, warranties, representations, or undertakings contained in or made pursuant to this Agreement made at the sole direction of Charter HR Educational Services, LLC. This indemnification shall include any failure on the part of Charter HR Educational Services, LLC that results in violations of federal, state and

local laws and regulations. Charter HR Educational Services, LLC shall not be responsible to indemnify OMPS for the acts or omissions of an unlicensed individual that occur when that individual is not under the supervision of a Covered Employee. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to OMPS and shall be not less than \$1,000,000 per occurrence. As used herein, Charter HR Educational Services, LLC shall include directors, officers, agents and attorneys.

b) OMPS. To the extent not prohibited by the Charter or applicable law, OMPS hereby agree to indemnify, defend, and hold Charter HR Educational Services, LLC harmless from and against any and all third-party claims, actions, damages, expenses, losses or awards which arise out of (i) the negligence or intentional misconduct of the OMPS Board, (ii) any action taken or not taken by the OMPS Board, or (iii) any noncompliance or breach by OMPS of any of the terms, conditions, warranties, representations, or undertakings contained in or made pursuant to this Agreement made at the sole direction of OMPS. As used herein, OMPS shall include directors, officers and attorneys. This indemnification shall include any failure on the part of OMPS for violations of federal, state and local laws and regulations. OMPS shall not indemnify Charter HR Educational Services, LLC for acts or omissions of an unlicensed individual that may occur when that individual is not under the supervision of OMPS. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to Charter HR Educational Services, LLC and shall be not less than \$1,000,000 per occurrence. Notwithstanding anything in this Agreement to the contrary, the OMPS Board shall not be precluded by the terms of this Agreement from asserting or declining to assert a claim of governmental immunity.

c) Indemnification of Grand Valley State University. The parties (OMPS and Charter HR Educational Services, LLC) acknowledge and agree that the Grand Valley State University Board of Trustees, Grand 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 Grand Valley State University Board of Trustees, Grand 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 Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board's approval of the 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 Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the Academy or the ESP, or which arise out of the failure of the Academy to perform its obligations under the Contract issued to the Academy by Grand Valley State University Board of Trustees. The parties expressly acknowledge and agree that Grand 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.

12. Arbitration. In the event of a dispute regarding a breach, alleged breach, validity or interpretation of any provision of this Agreement, both OMPS and Charter HR Educational Services, LLC 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 Michigan Mediation and Arbitration Services ("MMAS") and governed by the Michigan Court Rules and Michigan Arbitration Act.

The arbitration hearing will be held in Kent County and will be the exclusive remedy for resolving the disagreement. Either party may file for arbitration but must do so with MMAS within one hundred twenty (120) calendar days of the event precipitating the disagreement, or within the applicable statute of limitations, whichever is sooner.

If arbitration is requested by either OMPS or Charter HR Educational Services, LLC, 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 MMAS, 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.

13. 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, approved by the OMPS Board, 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.

14. 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:

**OMPS:**

2699 Island View Rd  
Traverse City, MI 49686

**Charter HR Educational Services, LLC:**

528 4<sup>th</sup> Street NW  
Grand Rapids MI  
49504

With a copy to:

CS3 Law PLLC  
250 Monroe Ave. NW  
Suite 400  
Grand Rapids, MI 49503

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.

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

16. 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.

17. 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.

18. No Third-Party Rights. This Agreement is intended solely for the benefit of Charter HR Educational Services, LLC and OMPS, and it shall not be construed to create any benefits for or rights in any other person or entity, including employees, students, or their representatives.

19. 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.

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

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

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

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

24. Assignment. The Agreement may not be assigned by either party without the written consent of the other party, prior approval of the OMPS Board, except that Charter HR Educational Services, LLC may assign its rights and duties to an entity within the Charter HR Educational Services, LLC organization upon 60 days' written notice to the OMPS Board and provided the OMPS Board approves said assignment.

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

independent, self-governing public bodies, or allow public decisions to be made other than in compliance with the Open Meetings Act.

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

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

a) Certain Prohibitive Conduct Regarding Personally Identifiable Information. Except as permitted under the Code, Charter HR Educational Services, LLC shall not sell or otherwise provide to a for-profit business entity any personally identifiable information that is part of an OMPS student's education records.

b) Certain Prohibitive Conduct Regarding OMPS Student Records. If Charter HR Educational Services, LLC receives information that is part of an OMPS student's education records, Charter HR Educational Services, LLC shall not sell or otherwise provide the information to any other person except as permitted under the Code.

c) For purposes of paragraphs a) and b) above, the terms "education records" and "personally identifiable information" shall have the same meaning as those terms in section 1136 of the Code, MCL 380.1136.

28. Independent Auditor. Charter HR Educational Services, LLC shall not select or designate the independent auditor, accounting firm or legal counsel for OMPS. All finance and other records of Charter HR Educational Services, LLC relating to OMPS will be made available to OMPS's independent auditor at the request of OMPS or the auditor.

29. Procurement of Equipment, Materials, and Supplies. If Charter HR Educational Services, LLC procures equipment, materials, and supplies at the request of or on behalf of OMPS, Charter HR Educational Services, LLC 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 Charter HR Educational Services, LLC on behalf of or as the agent of OMPS are the property of OMPS. When making a purchase on behalf of or as agent of OMPS, Charter HR Educational Services, LLC shall comply with Section 1274 of the Code as if OMPS were making a purchase directly from a third party.

30. OMPS Proprietary Rights. OMPS owns all proprietary rights to curriculum, educational or management materials that:

- a) are either directly developed or paid for by OMPS;
- b) are developed by staff assigned to work at OMPS.

All educational materials and teaching techniques used by OMPS may be subject to disclosure under the Revised School Code and the Freedom of Information Act.

31. Charter HR Educational Services, LLC Proprietary Rights. Charter HR Educational Services, LLC owns all proprietary rights over curriculum, educational or management materials:

- a) previously developed or copyrighted by Charter HR Educational Services, LLC or
- b) developed by Charter HR Educational Services, LLC for OMPS with its own funds independent of the Service Fees under this Agreement.

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

32. Employment Liability. Charter HR Educational Services, LLC is the sole 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.

33. Marketing and Development. Should Charter HR Educational Services, LLC provide marketing and development services to OMPS, the cost paid by or charged to OMPS shall be limited to those costs specific to the OMPS program and shall not include any costs for the marketing and development of Charter HR Educational Services, LLC.

34. Compliance with Charter Contract. OMPS and Charter HR Educational Services, LLC intend for this Agreement to comply with the Charter Contract issued by

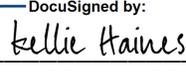
the Authorizer to OMPS and the Education Service Provider Policies issued by the Authorizer’s Charter Schools Office. To the extent any provision of this Agreement is inconsistent with the Charter Contract or Policies, that provision is invalid, and the Contract and Policies shall govern. Any additional costs of compliance because of changes mandated by the Authorizer will be borne by OMPS and subject to Charter HR Educational Services, LLC’s ability to perform. If the additional costs are deemed excessive by the OMPS Board, and the matter cannot be resolved, it may opt out of this Agreement by giving 90 days written notice.

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

Old Mission Peninsula School

DocuSigned by:  
By:  6/10/2020  
Its Board President – Amanda Igra

Charter HR Educational Services, LLC

DocuSigned by:  
By:  6/10/2020  
Its President – Kellie Haines

(Old Mission Peninsula School)

6/10/20