

## MANAGEMENT AGREEMENT

This Management Agreement ("Agreement") is made and entered into as of June 30, 2019 by and between Cincinnati Education Management LLC, a Delaware Limited Liability Company, located at 6385 Beach Rd., Eden Prairie, Minnesota 55344 ("Manager") and International Academy of Saginaw (the "Academy") formed under Part 6A of the Revised School Code (the "Code"), as amended, being Sections 380.501 to 380.507 of the Michigan Compiled Laws.

### RECITALS

The Academy is a public school academy organized under the Code. The Academy has been issued a Public School Academy Contract and Related Documents (the "Contract") from Bay Mills Community College Board of Regents ("Bay Mills") to organize and operate a public school academy, with Bay Mills as the authorizing body. The Code permits a public school academy to contract with persons and entities for the operation and management of the public school academy.

Manager has been successfully managing the academic and educational program of the Academy in accordance with the requirements of Board policy, the Contract and applicable law.

The Manager is in the business of educating children in accordance with the educational program and philosophy of SABIS Educational Systems, Inc., ("SABIS") and is desirous of working with the Board to maintain the SABIS® Education Program and Philosophy at the Academy. The Board desires to have the Manager provide continuing services to and on behalf of the Academy, in accordance with the provisions of the Code, and any and all other applicable laws and regulations and upon the terms and conditions hereinafter set forth and the Manager desires to continue providing such services to the Board.

The Board and Manager share a common vision that diligent use of the SABIS® Educational System helps randomly selected, diverse groups of students become responsible citizens with a love of life-long learning.

The Academy and Manager desire to maintain an enduring educational affiliation hereunder. The Academy and Manager will work together to bring educational excellence and innovation to the Academy based on Manager's school design expertise, comprehensive educational program, institutional principles and management methodologies. Manager shall elicit the specific vision and design of the Board and shall use best efforts to realize the educational goals and objectives of the Board, as envisioned by the Board.

### ARTICLE I. CONTRACTUAL RELATIONSHIP

#### 1. Rights and Obligations of the Board.

**1.1. Appointment.** The Board represents that it is authorized by law to contract with a private entity for that entity to provide educational management services. The Board

hereby appoints and engages the Manager for the purpose of providing the services more specifically described herein.

**1.2. Governance.** The Board shall be responsible for the oversight, but not the day-to-day management, of the School. In its oversight capacity, the Board will designate an Academy Board member to serve as the chief administrative officer ("CAO") for the Academy. While the Board agrees that it shall refrain from interference with the operational prerogatives of the Manager, to the extent that such are faithfully implementing the undertakings set forth in the Contract and approved by the Board, nothing in this Agreement shall interfere with the Board's exercise of its statutory, contractual and fiduciary responsibilities governing the operation of the Academy. No provision of this Agreement shall prohibit the Board from acting as an independent, self-governing public body, or allow public decisions to be made other than in compliance with the Open Meetings Act. In order to allow for the Manager to attend Board meetings virtually, the Board agrees to work with the Manager to make use of available and suitable video conferencing technology at all its Board meetings. However, the Board members must be physically present at each meeting and conducted in accordance with the Open Meetings Act.

**1.2.1.** Manager and the Board shall work together to implement student due process hearings as outlined in the Academy's code of conduct in conformity with the requirements of state and federal law regarding discipline, special education, confidentiality and access to records.

**1.3. Maintenance of Contract.** The Board has the obligation to comply with the provisions of and to maintain the Contract, granted by Bay Mills, for establishment of the School in accordance with the Code and in accordance with all other applicable federal and state laws.

#### **1.4. Communication with Manager.**

**1.4.1. Third-Party Complaints.** The parties intend that complaints made by third parties shall be resolved at the lowest level possible, consistent with principles of good governance. Complaints about the Manager received by the Board or its agents shall be routed to the Board President and promptly to Manager's representative. Complaints about the Board or its agents shall be promptly routed to the Board President with a copy to Manager.

**1.5. Evaluation of Manager.** Manager shall cooperate fully with the Board in the Board's review of the progress of Manager towards educating the children in accordance with the Contract. The criteria for the evaluation shall be set by the Board in conformity with the Contract. Any third-party evaluation initiated by the Board must be performed by an evaluator selected by the Board. Nothing in this provision shall prohibit the Board from working with the Manager to determine an appropriate evaluator. The Manager may, at its discretion, employ its own evaluator. Any evaluation of the Manager must not disrupt the educational process. Evaluations shall be conducted in the manner and method, and with such frequency, as may be directed by Bay Mills.

**1.6. Student Enrollment.** Manager and the Board shall work cooperatively in recruiting

and admitting students to the Academy, subject to the Code, Board Policies, and any and all other applicable federal and state laws and regulations. Manager shall be responsible for the faithful administration of the Academy's recruitment, admissions, lottery and enrollment processes in accordance with the Contract.

**1.7. Legal Status.** The Academy is a public school academy established by a Contract issued by Bay Mills. The Academy is organized as a Michigan non-profit corporation under the direction of the Board.

**1.8. Physical Space.** The Board shall be responsible for finding and acquiring occupancy rights in the physical spaces where the Academy will operate, and for ensuring the physical spaces will be ready for occupancy at least seven weeks prior to the first day of school. All costs incurred in locating facilities, including but not limited to surveying, engineering, renovation, consultant costs, and initial lease payments, shall be paid from funds allocated in the Academy's annually-adopted Operating Budget presented to Bay Mills, and additional lease payments shall be part of the Academy's annually-adopted Operating Budget. The Board may delegate to the Manager the management of such real estate. However, at all times, the Board shall be responsible for decisions and resolution of any and all problems associated with the physical space. The Board and Manager agree to work together to determine who has access to the building, including who has keys to the building. The Board may designate a Board member thereof to hold a key to the premises and shall keep Manager informed of the identity of such person.

**1.9. Name of the School.** The name of the Academy shall remain "International Academy of Saginaw". During the term of this Agreement, all business cards, letterhead, brochures, signs, press releases, official school correspondence, websites, including social media sites, etc., shall also contain the following words: "Member of the SABIS® Network" pursuant to the corporate guidelines and the SABIS® Logo – the olive tree with the date 1886. If Manager or another SABIS® affiliate no longer manages the Academy, the Board shall not be permitted to use any copyrighted or protected name or logo associated with SABIS® and shall immediately remove and return all items containing the SABIS® name and or logo. The parties acknowledge and agree that the failure of the Board to remove and/or return all items containing the SABIS® and and/or logo within the seventy-two hours provided herein shall constitute an adequate basis for a request for, and a grant of, injunctive relief from a court of competent jurisdiction.

**1.10. Publicity.** The Board shall not refer to the Manager or any entity affiliated with the Manager in any advertising or other publication in connection with goods or services rendered by the Manager without the prior written approval of the Manager. Similarly, the Manager or any entity affiliated with the Manager shall not refer to the Board of the Academy in any advertising or other publication without the approval of the Board.

**1.11. Board Training.** In addition to any Academy Board member training provided by Bay Mills, prior to the opening of each school year during the term of this Agreement, all Board members shall identify and participate in (a) educational and professional development opportunities pertaining to effective charter school governance and (b) self-evaluation exercises for the purpose of identifying opportunity for advancing members' charter school governance knowledge and skill. The cost of such training shall be a budget item.

**1.12. Status of the Parties.** Manager is not a division or any part of the Academy. The Academy is a body corporate and governmental entity authorized under the Code and is not a division or a part of Manager. The relationship between the parties hereto was developed and is entered into through arms-length negotiations and is based solely on the terms of this Agreement and those of any other agreements that may exist from time to time between the parties hereto.

## **ARTICLE II. TERM**

**2. Term.** This Agreement will be for a term of 4 academic years beginning July 1, 2019 and ending on June 30, 2023 (the "Term") but shall not (a) be effective prior to the date of Academy's receipt of notice from Bay Mills that the Agreement has not been "disapproved", as such term is given meaning with the Bay Mills Charter School Office Education Service Provider Policies, nor (b) remain in effect beyond the date of the Academy's Contract.

## **ARTICLE III. FUNCTION OF MANAGER**

### **3. Rights and Obligations of Manager.**

**3.1.** Consistent with the obligations of the Board under the Code, the Contract, Board Policies, and any and all applicable federal and state laws and regulations, Manager shall have the following rights and obligations in connection with the operations:

- (a) The use of the education program and program of instruction (currently, the SABIS® curriculum, SABIS® books and SABIS® Educational System identified in the Charter application) designated in the Contract, inclusive of all special education program requirements.
- (b) Providing the Board-adopted curriculum designated in the Contract, as well as implementing the applicable grade levels and subjects designated in the Contract.
- (c) Routine maintenance and operation of the School facilities.
- (d) Management and administration of the Academy, its facilities and programs.
- (e) All extra-curricular programming, including but not limited to before and after school care and programs, implemented in connection with the Academy as approved by the Board.
- (f) **Strategic Planning.** Manager shall work with the Board to design strategic plans for the continuing educational and financial benefit of the Academy.

(g) **Legal Requirements.** Manager shall provide educational programs that satisfy federal, state, and local requirements, and the requirements imposed under the Code and the Contract.

(h) **Rules and Procedures.** Manager shall recommend reasonable rules, regulations and procedures applicable to the Academy and is authorized and directed to enforce such rules, regulations and procedures adopted by the Board.

(i) **School Year and School Day.** The school year and the school day shall be as provided in the Contract.

(j) **Authority.** Manager shall have authority and power necessary to undertake its responsibilities described in this Agreement, except in cases wherein such authority or power is non-delegable by the Board as a matter of law. In such cases, the Manager shall have no authority or power to undertake any responsibilities.

(k) **Additional Grades and Student Population.** Manager shall make recommendations to the Board, subject to Board approval not to be unreasonably withheld, concerning limiting, increasing, or decreasing the number of grades offered and the number of students served per grade or in total, within the limits provided for in the Contract.

(l) **Student Recruitment.** The Board shall be responsible for establishing the recruitment and admission policies for the Academy. Manager shall implement such policies. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable law.

(m) Manager and the Academy shall work together to implement student due process hearings as outlined in the Academy's code of conduct in conformity with the requirements of state and federal law regarding discipline, special education, confidentiality and access to records.

(n) Manager shall cooperate with and provide assistance to the School Leader.

It is expressly understood that the Manager will not be the employer of the School Leader, school staff, teachers, and administrators. The School Leader, school staff, teachers, and administrators shall be employees of an independent personnel staffing. It is understood and agreed that the staffing company accepts full liability for benefits, salaries, worker's compensation, unemployment compensation, and liability insurance for its employees leased to the Academy or working on Academy operations. A separate agreement has been or will be entered into by the Academy and the staffing company providing for these rights and obligations. Notwithstanding the foregoing, Manager may occasionally assign its own agents to perform work for the Manager at the School site at the direction of and for the benefit of the Manager.

All decisions regarding the selection and termination of Academy staff shall be made in cooperation, and with the consent of, Manager. Any Academy contract with a staffing company shall preserve this right of Manager to meaningfully participate in the decision-making process. All decisions regarding the recruitment, selection, and termination of the School Leader shall be made in cooperation, and with the consent of, Manager. Academy Board shall not abdicate its rights to recruit, select, and terminate the School Leader to a staffing company. Any Academy contract with a staffing company shall preserve this right of Manager to meaningfully participate in the decision-making process.

**3.2.** Manager shall coordinate the procurement of contracted services provided by public or private entities of individuals set forth in this Section 3.2 as set forth in the Operating Budget and as approved by the Board, in furtherance of the objectives of this Agreement for:

- Food and transportation;
- Custodial services, supplies and equipment;
- Special education services;
- Construction management of new buildings and/or improvements to existing building sites as approved by the Board and in compliance with applicable State, Federal, and local code; and
- Any other services as consented to by the Board that Manager deems reasonable and necessary to achieve the goals of the Board and Manager, including but not limited to nursing, after-school programs, security, drafting requests for proposals, and drafting grant applications.

The Board shall meet in a prompt manner sufficient to allow for contracts with service providers to be executed in adequate time for the proper functioning of the school. All such service provider contracts shall contain reasonable vendor indemnification and insuring agreement provisions acceptable to Manager.

Where required by State or Federal law, competitive bidding is required before issuance of any contract or agreement.

**3.3. Student Outcomes.** Manager shall provide to the Board the reports set forth in 3.4 of this Agreement for the Board's review and approval, and shall set student standards, to be approved by the Board, for performance which shall meet or exceed the minimum standards established by the Contract and Michigan Department of Education. It shall be the responsibility of Manager that the students shall meet annually agreed upon standards for performance which shall provide for:

- Full compliance with the Contract.
- Full compliance with Michigan Department of Education requirements.
- Student testing in the first month of school using a nationally recognized norm-reference test to establish a benchmark or such other measurements as may be required by Bay Mills and the Code. Students will be tested again in spring, using another form of the same test, to determine their improvement during the year. A one month gain for each month of school between the Fall and Spring administration of the test is expected. The cost of these tests will be a budget

item.

- Student proficiency in essential concepts per subject. Through frequent testing, as needed, as well as final exams at the end of each term, students will display proficient understanding of essential subject material as defined by the curriculum.
- All testing that is done shall meet and be consistent with the requirements set out by the Michigan Department of Education.

**3.4. Reporting by Manager.** Manager shall submit an annual report to the Board before the beginning of the following academic year, reporting the student outcomes during the immediately preceding year. The report shall contain information regarding student achievement by grade level on required norm-referenced tests. Manager shall submit its annual report directly, or through the School Leader or the Academic Quality Control officer.

**3.4.1.** Manager shall provide to the Board on a quarterly basis a budget analysis showing budget versus actual comparisons in the same format as the budget. The Board shall engage an independent audit firm to complete the annual audit and Manager shall comply with all reasonable requests. The cost of the audit shall be a budget item. The Manager shall have no authority to select, retain, evaluate or replace the Academy's independent auditor. Manager shall submit its annual report directly, or through the School Leader or the Academic Quality Control officer.

**3.4.2.** In the event Bay Mills provides written notice to Manager that it elects, consistent with its Contract, to reconstitute the Academy by requiring the termination or amendment of this Agreement, this Agreement may either be amended by mutual agreement or it may be terminated by either party without cost or penalty to the Academy and with no recourse against Bay Mills or any third party affiliated with or engaged by Bay Mills.

**3.4.3.** Manager shall provide full opportunity for the Board to observe the Manager's Educational processes, review curriculum, review appropriate data, and meet and confer with designated Manager contacts, provided arrangements are made in advance with the Manager and provided the educational process is not disrupted. However, the Board, acting reasonably and pursuant to its responsibilities under the Contract, may request Manager staff to attend meetings of the Board and report.

**3.4.4.** Manager shall report regularly through reports at Board Meetings or at other times, as necessary. All reports will comply with the timing and format required by the Board and Bay Mills.

**3.4.5.** All Academy financial and educational information ("Academy Records") shall be stored on site at the Academy either in paper form or electronic form. Further, all finance and other records of the Manager that are maintained on behalf of and relate to the Academy shall be made available to the academy's independent auditor and are the property of the Academy.

**3.4.6.** Manager will provide to Bay Mills, with the appropriate level of advanced review and approval of the Board, reports required by Bay Mills' master calendar on the dates and times, and in the format specified, in the master calendar as detailed in the Contract.

**3.4.7.** Manager shall make information concerning the operation and management of the Academy, including but not limited to, information in the Contract, including all exhibits, schedules, and the like, available to the Academy as deemed necessary by the Academy Board in order to enable the Academy to fully satisfy its obligations under the Contract. Except as permitted under the Contract, and applicable law, no education service provider agreement shall restrict Bay Mills or the public's access to the Academy Records.

**3.5. Fees.** Fees may only be charged to students in accordance with applicable provisions of the Code, school policies, and any other applicable federal or state laws or regulations. No fees may be charged or assessed to students by the Board without the prior written approval of the Board.

**3.6. Academy Records.** The Academy Records are Academy property and are subject to inspection and copying by the Academy Board, Bay Mills, and by the public to the same extent that records of any other public school are subject to inspection and copying pursuant to the Michigan Freedom of Information Act. All Academy Records shall be physically or electronically available in directly accessible form, upon request, at the Academy. A copy of the employee handbook shall be maintained physically on site or be directly accessible on-line or in electronic form at the Academy facility. All such requests for copies will be made to the School Leader, and the person making the request will be provided access to the records in accordance with the Michigan Freedom of Information Act.

**3.7. FERPA.** The Academy designates the agents of the Manager as agents of the Academy having legitimate educational interest such that they are entitled to access to educational records under 20 U.S.C. Section 1232g, the Family Educational Rights and Privacy Act. ("FERPA").

#### **ARTICLE IV. BUDGET, FUNDING, AND COMPENSATION**

**4. Budget.** All revenues will be used as prescribed by their source. Manager, through one of its agents, the School Leader or Business Manager, shall prepare and present to the Board a detailed recommended budget for each fiscal year (the "Proposed Budget"), in the manner and form prescribed by the Uniform Budget and Accounting Act, as well as Bay Mills. The Proposed Budget shall show, at the object level in the Michigan Chart of Accounts format, each area of expenditure as a separate line item. The Board, as part of its budgeting, shall create a Budget Reserve. The amount of the Budget Reserve shall be determined by the Board.

**4.1. Net Loss.** The Academy shall at all times maintain a balanced budget. Manager

shall not be obligated to cover any Net Loss (as per the audited financial statements) of the Academy, nor shall Manager be obligated to reduce its fees to balance an unbalanced budget. Academy and Manager may mutually agree to a reduced Manager fee or reduction in Manager-provided services as a result of an amended budget.

**4.2. Gaps in State Funding.** In the event that there is a gap between State School Aid and expenses incurred by the School due to the funding cycle set by the State (i.e. State School Aid is distributed to the Academy through Bay Mills on or about 20th of each month, with no payment in the September), the Academy will use its best efforts to cover the gap either using fund balance surplus or through a statutorily authorized borrowing procedure.

**4.3. Funding.** All funds received in connection with the Academy shall be deposited in the Academy's bank account. Expenditures from the Academy's bank account shall be made only in accordance with the Budget (as it may be modified from time to time) as approved by the Board and upon execution by the party or parties designated by the Board of the appropriate bank draft.

Nothing in this Agreement shall alter the Academy Board treasurer's legal obligation to direct that the deposit of all funds received by the Academy be placed in the Academy's depository account as required by applicable law. The signatories on the depository accounts shall only be (a) Academy Board members properly designated annually by the Academy Board Resolution, or (b) properly designated Academy Board employee(s), or (c) employee(s) of the education provider contracted by the Academy Board to supply personnel to the school. The Board shall ensure that 2 of these signatories will be available in a prompt manner to sign the bi-monthly accounts payable checks in order to stay compliant with the Academy's fiduciary responsibility. Interest income earned on Academy depository accounts shall accrue to the Academy. Subject to applicable laws and regulations, and upon approval by the Board, the Manager may apply for and receive funding from private sources to be used for the benefit of the Academy. The Parties shall cooperate in good faith in applying for applicable funding. Manager further agrees that any grants received from any federal or state agency or non-profit corporation shall be used as directed by the grantor of the grant and any unexpended funds from those sources shall not be deemed as unexpended funds, and shall not be part of the base upon which Manager's fees are calculated nor in any calculation of the Year End Operating Budget. The "Year End Operating Budget" is the final budget approved by the Board at the conclusion of the school year. If Manager obtains and administers grant funds for the Academy and such grant funds contain a component for administration, Manager shall be entitled to that component if allowed under the terms of the grant and by law.

The Parties acknowledge that all funds allocated for the operational support of the Academy shall be spent in accordance with the Board-approved Operating Budget, which shall be amended in accordance with the Uniform Budget and Accounting Act. Manager will timely inform the Board of any need to amend the Operating Budget and shall provide the Board with all relevant information within its control to enable the Board to make budgetary decisions.

**4.5. Compensation to Manager.**

**4.5.1.** License Fees of eight percent (8%) of State School Aid for the use of SABIS® pedagogical materials (including but not limited to curriculum, pacing charts, AMS exams of Math & English, Periodic exams of Math, English, Science, Spanish, Social studies, and SABIS® School Management System) provided by the Manager during the term of this Agreement ("License Fee"); and

**4.5.2.** Management Fees of six percent (6%) of State School Aid, for services provided, including but not limited to instructional methodologies, teaching techniques, strategies to enhance student achievement, academic program oversight, operational support and coordination of vendor services, and advice and guidance appropriate for educational institution mission and purpose (the "Management Fee").

**4.5.3.** Prior to the renewal of the Agreement, the Board and Manager reserve the right to re-negotiate the License Fee and Management Fee.

**4.5.4.** Support Services. Services outside the scope of Section 4.5.2 such as, by way of example only, grant writing, website development, IT training, recruitment, facilities search services, and RFP drafting may be performed by Manager or Manager's parent company, SABIS® Educational Systems, Inc. if requested by the Board and when compensation for such services are included in the Approved Operating Budget.

**4.5.5.** All License and Management fees shall be paid within three (3) days of receipt by the Board of any funds paid by the State to the Board. The balance of all fees shall be paid within thirty (30) days of the final installment payment.

**4.6. No Related Parties or Common Control.** Manager will not have any role or relationship with the Academy that, in effect, substantially limits the Academy's ability to exercise its rights, including cancellation rights, under this Agreement. As required by the Academy's Articles of Incorporation and Bylaws, and as required by the Contract, members of the Board may not hold a position as director, officer or employee of a management company that contracts with the Academy. In furtherance of such a restriction, it is agreed between the Academy and Manager that none of the voting power of the governing body of the Academy will be vested in Manager or its directors, members, managers, officers, shareholders, and employees, and none of the voting power of the governing body of Manager will be vested in the Academy or its directors, members, managers, officers, shareholders, and employees. The Academy and Manager will not employ the same individuals. Further, the Manager has represented to the Academy that the Academy and Manager will not be members of the same controlled group, as defined in Section 1.414(b)-1 of the regulations under the Internal Revenue Code of 1986, as amended, or related persons, as defined in Section 144(a)(3) of the Internal Revenue Code of 1986, as amended.

**4.7. No Markup.** If the Manager procures supplies, materials, equipment or services at the request of or on behalf of the Academy, the Manager shall not include any Manager-added fees or charges with the cost of equipment, materials, and supplies

purchased from third parties. Any and all purchases, materials, and supplies shall be and remain the property of the Academy. The Manager shall comply with all Federal, State, and section 1274 of the Revised School Code, as if the Academy, when making these purchases directly from a third party supplier.

**4.8. Marketing and Development Costs And Expenses.** The Manager shall expense to the Academy only those actual marketing and development costs incurred on behalf of the Academy. There shall be no pooling with other schools operated by the Manager.

## **ARTICLE V FINANCIAL AND ACADEMIC REPORTING**

**5. Financial and Academic Reporting.** Manager shall provide the Board with:

- (a) Assistance to the Academy's independent auditor in its performance of annual audits in compliance with state law.
- (b) Reports on Academy operations, finances and student performance, upon the request of the Academy, Bay Mills or the State of Michigan, but not less frequently than four (4) times per year.
- (c) Other information on a periodic basis to enable the Board to monitor Manager's educational performance and the efficiency of its operations of the Academy.

**5.1. Access to Records.** Manager shall keep accurate records pertaining to its operation of the Academy, together with all Academy records prepared by or in the possession of Manager, and maintain all Academy Records on site at the Academy. Within 30 days after termination or expiration of this Agreement, Manager shall turn over an orderly and organized set of such records to the Academy. All Academy Records are Academy property and, as such, are subject to the Michigan Freedom of Information Act.

**5.2. Independent Auditor.** The Academy's independent auditor shall not be selected, retained, evaluated, or replaced by Manager. Manager will cooperate with the independent auditor.

**5.3. Approval of Budget.** The Board shall be responsible for approving an annual budget of the Academy. The Manager shall submit its proposed budget to the Board at least 30 days prior to the April Board meeting, which should be held the last Wednesday of April.

## **ARTICLE VI TERMINATION OF AGREEMENT**

**6. Termination.**

- (a) **Without Cause.** Upon ninety (90) days written notice to the Board, Manager may terminate this Agreement without cause.

(b) **With Cause.** Upon sixty (60) days written notice, the Manager shall be entitled to terminate this Agreement upon the determination that the Academy committed a material breach of this Agreement and failed to remedy that breach within 60 days after having been provided notice; or if the parties have reached an impasse on the budget. A material breach includes, but is not limited to, the Academy's failure to pay any fee or reimbursement required by the terms of this Agreement.

(c) **By Academy.** The Academy may terminate this Agreement prior to the end of the term specified in Article II in the event that Manager fails to remedy a material breach within 60 days after notice from the Board or if the parties have reached an impasse on the budget. Material breach includes, but is not limited to: (1) failure to account for its expenditures or to pay Academy operating costs as required under this Agreement (provided funds are available to do so), (2) failure to substantially follow policies, procedures, rules, regulations or curriculum duly adopted by the Board which are not in violation of the Contract, this Agreement, or law; (3) failure to meet educational and performance goals set forth in the Contract;.

**6.1. Change in Law.** If any federal, state or local law or regulation, or court or administrative decision or Attorney General's opinion has a material adverse impact on the ability of either party to carry out its obligations under this Agreement and if the parties are unable or unwilling to renegotiate the terms within 30 days after the effective date of such change in the law, the party claiming material adverse impact may terminate this Agreement on 30 days written notice.

## **6.2. Termination/Expiration.**

(a) **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, absent unusual and compelling circumstances or if notice of termination is provided by the Manager pursuant to Paragraph 6(a), the termination shall be effective on the last date of the academic year following the notice of termination.

(b) **Personal Property.** Upon termination or expiration of this Agreement, for any reason, the Academy shall elect whether to (a) return any property that has been purchased or leased from a third party with Manager funds to Manager or (b) purchase such property from Manager or said third party for at the Manager's depreciation cost as provided on the its books.

(c) **Future Advances/Out-of-Pocket Expenses.** Manager shall not expend funds out-of-pocket, unless specifically in accordance with the terms of this Agreement and only upon notification and approval by the Board.

**6.3. Transition.** In the event of termination of this Agreement for any reason by either party prior to the end of this Agreement's term, Manager shall provide the Academy good faith, reasonable assistance for up to 90 days to assist in the transition to a

new management format or to another manager. Upon termination, and without charge, the Manager shall (i) close the books on the then-current fiscal quarter; (ii) organize and prepare the Academy's educational and financial records for transition to the new manager; and (iii) organize and prepare student records for transition to the new manager. In all such arrangements, Academy shall take all necessary efforts to accept and relieve Manager's responsibility for Academy record custody and management.

**6.4. Reconstitution.** In the event Bay Mills exercises its right under section 380.507(6) of the Code to reconstitute the Academy by requiring early termination or amendment of the Contract or by revoking the power of the Academy to enter into agreements with educational service providers, then neither Bay Mills nor any third party affiliated with or engaged by Bay Mills shall be liable for such action.

6.5 Termination shall not relieve the Academy of any obligations for payments outstanding to Manager as of the date of termination. If this Agreement is terminated prior to June 30, the amount due for the year of termination to the Manager shall be the Manager's total annual fees divided by 12 months and multiplied by the number of months the contract was in effect. Manager shall be reimbursed for all expenses incurred on behalf of the Academy through the date the Contract is terminated.

**6.6. No Disparagement.** The Parties agree that in the event of termination of this Agreement, each shall use reasonable and good faith efforts to ensure its respective board members, managing members, corporate officers, directors, and key employees and representatives refrain from publicly expressing any disparaging or defamatory statement regarding the parties' relationship under this Agreement that would damage the business reputation or goodwill of the other, or the business reputation or goodwill of each of the other's respective parent, affiliate or subsidiary companies. Nothing in this Agreement shall prohibit either party's disclosure of information required to be disclosed in compliance with applicable laws or regulations or which may be disclosed in good faith within a judicial, arbitration, mediation, or regulatory administrative proceeding..

Notwithstanding the foregoing, nothing in this paragraph or elsewhere in this Agreement shall prohibit either party from making any statement or disclosure required by applicable law.

## ARTICLE VII. PROPRIETARY INFORMATION

**7. Required Disclosure.** The Academy shall be permitted to report any new teaching techniques or methods or significant revisions to known teaching techniques or methods to Bay Mills and to the State Board of Education, which teaching techniques or methods may thereafter be made available to the public, as provide in Sections 505(3) of the Code. To the extent required under the Code and the Freedom of Information Act, MCLA 15.231 *et seq.*, Manager's educational materials and teaching techniques used at the Academy are subject to public disclosure.

**7.1. Ownership.** The Academy owns all proprietary rights to curriculum or educational materials that (i) are both directly developed and paid for by the Academy; or (ii) were developed by the Manager at the direction of the Academy Board with Academy funds

dedicated for the specific purpose of developing such curriculum or materials. Notwithstanding anything to the contrary, the Academy shall have no proprietary rights over curriculum or educational materials previously developed or copyrighted by the Manager, SABIS Educational Systems, Inc., SABIS Educational Services, or curriculum or educational materials that are developed by the Manager using funds received from the Academy for Manager's services under this Agreement, that are not dedicated for the specific purpose of developing Academy curriculum or educational materials. All of the Manager's educational materials and teaching techniques used by the Academy are subject to disclosure under the Revised School Code and the Freedom of Information Act.

## **ARTICLE VIII INDEMNIFICATION**

**8. Indemnification of Manager.** To the extent permitted by law and only in the event that the insurance of the party seeking indemnification does not provide coverage, the Academy shall indemnify and save and hold Manager, its parent, subsidiaries, and affiliates, and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability not caused by the sole negligence of Manager 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 or to the Contract, and any misrepresentations or breach of the representations and warranties of the Board contained in or made pursuant to this Agreement or to the Contract. In addition, the Academy shall reimburse Manager for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this section may be met by the purchase of insurance pursuant to Article IX. The right of indemnification under this section shall be in addition to and not exclusive of all other rights to which any indemnitee may be otherwise entitled by contract or by law. Claims related to co-employment by Academy and Manager and any third party are excluded from this Section. Nothing herein shall restrict the Academy from waiving its governmental immunity or to compel the Academy to assert, waive or not waive its governmental immunity.

**8.1. Limitations of Liabilities.** Nothing in this Agreement shall be construed to prohibit the Academy and its officers, employees and directors from, in their discretion, asserting any immunities or statutory limitations of liability in connection with any claims arising under this Agreement.

**8.2. Indemnification of Academy.** To the extent permitted by law and only in the event that the insurance of the party seeking indemnification does not provide coverage, Manager shall indemnify and save and hold the Academy and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability not caused by the sole negligence of Academy that may arise out of, or by reason, of any noncompliance by Manager with any agreements, covenants, warranties or undertakings of Manager contained in or made pursuant to this Agreement, and any misrepresentation or breach of the representations and warranties of the Manager contained in or made pursuant to this Agreement. In addition, Manager 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 section may be met by the purchase of insurance pursuant to Article IX. The right of indemnification under this section shall be in addition to and not exclusive of all other rights to which any indemnitee may be otherwise entitled by contract or by law. .

**8.3. Indemnification of Bay Mills Community College.** The parties acknowledge and agree that the Bay Mills Community College Board of Regents, Bay Mills Community College and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Bay Mills Community College, Bay Mills Community College Board of Regents and its members, and their respective officers, employees, agents or representatives of all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Bay Mills Community College, which arise out of or are in any manner connected with Bay Mills Community College Board of Regents' approval of the Academy's application, Bay Mills Community College Board of Regent consideration of or issuance of a Contract or renewal, the Academy Board's or the Manager's operation of the Academy, or which are incurred as a result of the reliance by Bay Mills Community College, Bay Mills Community College Board of Regents or its members, or their respective officers, employees, agents or representatives, upon information supplied by the Academy Board or the Manager to perform its obligations under the Contract or Applicable Law. The parties expressly acknowledge and agree that Bay Mills Community College, Bay Mills Community College Board of Regents and its members and their respective officers, employees, agents or representatives, or any of them may commence legal action against either party to enforce its rights as set forth in his Agreement.

**8.4. Agreement Coterminous with Academy's Contract.** If the Academy's Contract issued by Bay Mills is suspended, revoked or terminated, or a new charter contract is not issued to the Academy after expiration of the Contract, this Agreement shall automatically be suspended or terminated, as the case may be, on the same date as the Academy's is suspended, revoked, terminated or expires without further action of the parties.

**8.5. Compliance with Academy's Contract.** The Manager agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Academy's Contract issue by the Bay Mills Community College Board of Regents. The provisions of the Academy's Contract shall supersede any competing or conflicting provisions contained in this Agreement.

**8.6. Compliance with Section 503c.** On an annual basis, the Manager agrees to provide the Board with the same information that a school district is required to disclose under section 18(2) of the State School Aid Act of 1979, MCL 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 Academy 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 section 8.6.

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

## **ARTICLE IX. INSURANCE**

**9. Insurance Coverage.** Manager shall maintain such policies of insurance as required by the Contract or applicable law. In addition, Manager shall maintain an umbrella policy of not less than two million dollars (\$2,000,000.00) (or such greater amount if required by the terms of the Contract or applicable law). Each party shall maintain general liability insurance in the amount of One Million Dollars (\$1,000,000.00) per occurrence (or such greater amount if required by the terms of the Contract or applicable law), with the other party listed as an additional insured if permitted by the Contract or applicable law. The Academy shall maintain insurance on its facility and related capital items leased by the Academy, all as may be required by the terms of the Academy's lease(s). Each party shall, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this paragraph. In the event that Bay Mills requests any change in coverage by Manager, Manager agrees to comply with any change in the type and amount of coverage requested within thirty (30) days after notice of the insurance coverage change is provided to Manager. Each party shall comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

**9.1. Worker's Compensation Insurance.** Each party shall maintain workers' compensation insurance as required by law, covering their respective employees, if any.

## **ARTICLE X. WARRANTIES AND REPRESENTATIONS**

**10. Academy Warranties and Representations.** The Academy represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement. The Board warrants 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.

**10.1. Manager Warranties and Representations.** Manager warrants and represents that it is a corporation in good standing and is authorized to conduct business in the State of Michigan. Manager represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement. Manager warrants 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.

**10.2. Mutual Warranties.** Each party to the Agreement warrants to the other that there are no pending actions, claims, suits or proceedings, to its knowledge, threatened or reasonably anticipated against or affecting it, which if adversely determined, would have a material adverse effect on its ability to perform its obligations under this Agreement.

**ARTICLE XI.  
ALTERNATIVE DISPUTE RESOLUTION PROCEDURE**

**11.** 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, shall be resolved by arbitration, and such procedure shall be the sole and exclusive remedy for such matters. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, by an arbitrator knowledgeable and expert in Michigan and federal education law with such variations as the parties and arbitrators unanimously accept. The arbitrator's award shall be final and binding and shall be a reasoned written award ("cause opinion"). A judgment on the award rendered by the arbitrator may be entered in any court having appropriate jurisdiction. The cause opinion shall be made available to Bay Mills or as directed by Bay Mills.

**ARTICLE XII.  
MISCELLANEOUS**

**12. Sole Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes and replaces any and all prior agreements and understandings between the Academy and Manager.

**12.1. Force Majeure.** Notwithstanding any other sections of this Agreement, neither party shall be liable for any delay in performance or inability to perform due to a Force Majeure event. For purposes of this Agreement, "Force Majeure Event" means, with respect to a party, any event or circumstance, regardless of whether it was foreseeable, that was not caused by that party and that prevents a party from complying with any of its obligations under this agreement [(other than an event or circumstance that results in a party's not having sufficient funds to comply with an obligation to pay money)], on condition that that party uses reasonable efforts to do so.

**12.2. State Governing Law.** The rights of all parties hereto shall be subject to the jurisdiction of and be construed according to the laws of the State of Michigan.

**12.4. Official Notices.** All notices and other communications required by the terms of this Agreement shall be in writing and sent to the parties hereto at the address set forth below. Notice may be given by: (1) certified or registered mail, postage prepaid, return receipt requested, or (2) personal delivery. The address of the parties hereto for the purposes aforesaid shall be:

International Academy of Saginaw  
1944 Iowa Avenue  
Saginaw, MI 48601

With a copy to:      Foley & Mansfield PLLP  
Gregory M. Meihn

130 Nine Mile Rd.  
Ferndale, Michigan 48220

Cincinnati Education Management LLC  
Mahdi Kansou  
6385 Beach Rd.  
Eden Prairie, Minnesota 55344

With a copy to      Legal Counsel  
Cincinnati Education Management LLC  
6385 Beach Rd.  
Eden Prairie, Minnesota 55344

**12.5. Assignment.** This Agreement may not be assigned by Manager without the prior consent in writing of the Academy (which consent shall not be unreasonably withheld) and review by Bay Mills in accordance with the Code and Bay Mills education service provider policies.

**12.6. Amendment.** This Agreement shall not be altered, amended, modified or supplemented except by memorandum approved by the Board and signed by both the President of the Academy and authorized officer of Manager. The Board and Manager may not agree to amend this Agreement without notifying Bay Mills. No amendment shall be contrary to the Contract and each shall be accompanied by a Legal Opinion required under the Contract. Whether or not substantial, the Academy shall submit to Bay Mills all amendments to this Agreement within 10 days after such amendment. No amendment will be effective until Bay Mills notifies the Academy that it does not disapprove the amendment.

**12.7. Amendment for Obtaining Tax-Exempt Financing.** The parties agree to promptly amend this Agreement to comply with reasonable interpretations of Revenue Procedure 97-13 or any successor document should such be necessary for participation by the Academy in tax-exempt financing of operational or facilities-related indebtedness requested by the Board and undertaken in compliance with the Contract.

**12.8. Waiver.** No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision. Nor shall such waiver constitute a continuing waiver unless otherwise expressly stated. 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.

**12.9. 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.

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

**12.11. No Third Party Rights.** This Agreement is made for the sole benefit of the

Academy and Manager. Except as otherwise expressly provided, nothing in this Agreement shall create or be deemed to create a relationship between the parties to this Agreement, or either of them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.

**12.12. Survival of Termination.** All representations, warranties, and indemnities made in this Agreement shall survive termination of this Agreement.

**12.13. Approval of Bay Mills Required.** The parties hereto acknowledge that this Agreement must be reviewed by Bay Mills and may be disapproved by Bay Mills if it violates the Contract or applicable law. This Agreement shall not become effective until Bay Mills notifies the Academy that it has not disapproved of the Agreement.

**12.14. Counterparts; Signature.** This Agreement may be executed in multiple counterparts by the parties. All counterparts so executed shall constitute one agreement binding upon all parties. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures. This Agreement, any other document necessary for the consummation of the transaction contemplated by this Agreement may be accepted, executed or agreed to through the use of an electronic signature in accordance with the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"), Title 15, United States Code, Sections 7001 et seq., the Uniform Electronic Transaction Act ("UETA") and any applicable state law. Any document accepted, executed or agreed to in conformity with such laws will be binding on each party as if it were physically executed.

INTERNATIONAL ACADEMY OF SAGINAW | EDUCATION MANAGEMENT AGREEMENT

*IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first above written.*

INTERNATIONAL ACADEMY OF SAGINAW

Name: Vanessa Lewis

Title: Board President

Signature: Vanessa Lewis

Date: 5/21, 2019

CINCINNATI EDUCATION MANAGEMENT, LLC

Name: Mahdi Kansou

Title: Manager

Signature: M. Kansou

Date: 5/28/, 2019