

MANAGEMENT AGREEMENT

This Management Agreement (the "Agreement") is made and entered into as of the 9th day of July, 2012, by and between **Mosaica Education, Inc.**, a Delaware corporation ("MEI"), and the **Muskegon Heights Public School Academy System** (the "System"), a Michigan non-profit corporation and public school academy organized under the Michigan Revised School Code (the "Code").

RECITALS

WHEREAS, the System has been granted a charter (the "Charter") from the Board of Education for the School District of the City of Muskegon Heights (the "Authorizing Body") to organize and operate a public school academy, as defined in the Code;

WHEREAS, MEI was established, among other things, to manage public schools and to provide assistance and expertise, including regulatory, financial, facilities, and other advice, in connection with the organization and operation of public school academies;

WHEREAS the System desires to develop educational excellence at the System based on MEI's school design, comprehensive educational program and management principles;

WHEREAS, subject to the terms of this Agreement, the System has approved the MEI curriculum and received a proposed budget for the upcoming school year, and agrees that it is in its best interests to enter into this Agreement with MEI; and

WHEREAS, the System's Board of Directors (the "Board") desires to engage MEI to perform certain services related to the Academy's educational program and operations, all as set forth below.

THEREFORE, the parties mutually agree as follows:

ARTICLE I.

EDUCATIONAL SERVICES AND ADMINISTRATIVE SERVICES

1.01 Educational Services.

- (a) For the Term (as defined in ARTICLE II below), MEI shall implement the educational goals and programs set forth in the Charter and established by the Board, including but not limited to methods of pupil assessment, admission policy and criteria, school calendar and school day schedule, age and grade classifications of pupils to be enrolled, and methods to be used to monitor performance towards targeted educational outcomes (collectively the "Educational Program"). In the event that MEI determines that it is advisable to modify the Educational Program set forth in the Charter, MEI will provide written notification to the Board specifying the changes it recommends and the reasons for the proposed changes. No changes in the Educational Program shall be implemented without the prior approval of the Board and the Authorizing Body. MEI shall provide the Board with periodic written reports specifying the level of achievement of each of the Academy's educational goals set forth in the Charter and detailing its plan for meeting any educational goals that are not being attained. These reports will be submitted to the Board on a quarterly basis, and at such other times as specified in Board policy as the same may be changed from time to time. The Educational Program shall be in compliance with applicable state and federal laws, rules and regulations.

Under the policy direction of the Board, MEI shall be responsible for the aforesaid educational services (the "Educational Services") to be provided to the System and its students. Such Educational Services include, but are not limited to:

- (i) Curriculum. The development and implementation of the curriculum used in the System, including a license, for which the System will pay MEI an annual license fee of \$200,000, such fee to be paid in 12 equal monthly payments, for (i) the use of MEI's Paragon™ Curriculum and (ii) such lesson plan materials ("Paragon™ Lesson Materials")

as MEI may provide in printed or other format for implementation of the Paragon™ Curriculum;

- (ii) Instruction. Oversight and coordination of the services to be provided by instructional and administrative personnel, including the Head of School, the building principals and the rest of the leadership team, the teachers and support staff, all in accordance with ARTICLE VI below;
 - (iii) Special Education. Provision of special education services to System students in conformity with the requirements of state and federal laws and applicable regulations and policies;
 - (iv) Instructional Tools. At the request of the Board, the selection of instructional tools, equipment and supplies, including textbooks, computers, software and multi-media teaching tools and such other tools as are appropriate and commonly used in public education;
 - (v) Extra-Curricular and Co-Curricular Programs. The development and implementation of appropriate extra-curricular and co-curricular activities and programs approved by the Board, including the operation and oversight of the System's athletic programs as approved by the Board (but not Supplemental Programs as defined in ARTICLE V below); and
 - (vi) Additional Educational Services. At the request of the Board, such other services as are necessary or expedient for the provision of teaching and learning at the System as may be agreed to in writing between the parties.
- (b) MEI will be responsible and accountable to the Board for the provision of the Educational Services, provided that such obligations, duties and responsibilities are limited by the System Budget established pursuant to Section 1.02(a)(iii)(D) below, and MEI will not be required to expend funds on such services in excess of the amounts set forth in such System Budget unless approved by the Board and MEI.
- (c) The Board may retain an educational consultant or consultants to review the operations of the System and the performance of MEI under this Agreement. MEI shall cooperate with the educational consultant or consultants and, subject to the terms of this Agreement, the Charter and the Code, will provide those individuals with access to records, facilities and information as if such requests came from the Board. MEI shall have no authority to select, evaluate, assign, supervise or control any educational consultant employed by the Board, and agrees that it will not bring or threaten to bring any legal action against any educational consultant for the performance of the functions requested to be performed by the Board and which are consistent with this Agreement, the Charter and the Code. The cost of the education consultant will be the responsibility of the System and will be provided for in the System Budget.

1.02 Administrative Services.

- (a) For the Term (as defined in ARTICLE II below), MEI will provide to the System the following administrative services (the "Administrative Services"):
- (i) Personnel Management. Management and professional development of all personnel providing Educational Services and Administrative Services in accordance with ARTICLE VI below;
 - (ii) Facility Operation and Maintenance. Operation and maintenance of the System's facilities (the "Facilities") to the extent consistent with any and all leases or other

documents pertaining to the Facilities, including oversight and management of any repairs and renovations undertaken by the System with respect to the Facilities;

- (iii) Business Administration. Administration of the following business aspects of the System:
- (A) Payroll. MEI will manage the payroll using ADP or such other suitable alternative payroll provider as MEI may select from time to time. MEI employees, including administrative employees assigned to the System and corporate employees in the national or regional offices, will be responsible for all data input. The System will be responsible for establishing appropriate banking arrangements to enable ADP to make direct charges of payroll against the System's payroll account each pay period.
 - (B) Transportation and Food Services. MEI will be responsible managing the provision of transportation and food services, including the supervision of MEI employees involved in providing such services, coordination with the entities with which the System contracts for such services, and the management and assessment of the services provided under such contracts, all as required by the Board;
 - (C) Public Relations. Coordination and assistance with any and all advertising, media and public relations efforts, including community outreach programs. All public relations will be subject to the mutual approval of both parties.
 - (D) Budgeting and Financial Reporting.
 - 1) The Board is responsible for adopting a budget in accordance with the provisions of the Uniform Budgeting and Accounting Act, MCL 141.421 et seq, that has adequate resources to fulfill its obligations under the Charter, including but not limited to its oversight of MEI, the organization of the System, negotiation of the Charter and any amendments, payment of employee costs, insurance required under the Charter and this Agreement, the annual financial audit and retention of the Board's legal counsel and consultants. In addition, the Board is responsible for determining the budget reserve amount included as part of the System's annual budget, for implementing fiscal policies that will assist the System in attaining the stated budget reserve amount and for approving necessary amendments to the budget to reflect necessary deviations from the adopted budget. Beginning with respect to the first school year governed by this Agreement, MEI will prepare and present to the Board a proposed annual budget (the "System Budget"). Future annual budgets will be prepared by MEI in the same general manner as the first year's annual budget (unless a different format is required by the Code, the Charter or the Board) and will be subject to the approval of the Board, consistent with this Agreement, the Charter and the Code. The projected annual budget will include, but not be limited to, the financial details relating to the Educational Services and Administrative Services to be provided pursuant to this Agreement and may be amended from time to time as deemed necessary by the Board.
 - 2) The preparation of detailed statements of all revenues received, from whatever source, with respect to the System, and detailed statements of all expenses, including an accounting of all expenditures for services rendered to, or on behalf of, the System by MEI, whether incurred on-site or off-site.
 - 3) The preparation of other financial statements as required by and in compliance with the Charter, the Code and other applicable laws and regulations, including such documentation as may be required by the independent certified public

accountants retained by the Board to perform annual audits of the System's financial statements. The cost for preparation of the financial statements will be the responsibility of MEI. The cost of the audit will be the responsibility of the System and will be provided for in the System Budget.

- 4) The preparation of such other reports on the finances and operation of the System as requested or required by the Michigan Department of Education (the "MDE"), the Board or the Authorizing Body to ensure compliance with the terms of the Charter. Monthly unaudited financial statements for the months August through May will be provided to the Board within 25 days after the end of the month. Year-end unaudited financial statements will be provided within 45 days of the end of the fiscal year. Financial statements for the month of July will be provided to the Board with the August financial statements no later than September 25, unless the parties shall otherwise agree.
 - 5) Other information on a periodic basis or requested with reasonable notice as may be reasonably necessary to enable the Board to monitor MEI's performance under this and any related agreements, including the effectiveness and efficiency of its operations at the System.
- (E) Maintenance of Financial and Student Records.
- 1) MEI will maintain accurate financial records pertaining to its operation of the System together with all System financial records prepared by MEI, and retain these records as required by the Records Retention and Disposal Schedule for Michigan Public Schools and other applicable laws and regulations. All the System financial records retained by MEI pertaining to the System will be available to the System, the Authorizing Body, and to all other appropriate regulatory authorities for inspection and copying at the System's facilities upon request, it being understood that in most cases such copies will be made available within thirty (30) business days.
 - 2) MEI will maintain accurate student records pertaining to students enrolled in the System as is required and in the manner provided by the Charter, the Code and applicable laws and regulations, together with all additional System student records prepared by or in the possession of MEI. MEI shall retain such records permanently on behalf of the System, until this Agreement or its successor (if any) is terminated, at which time such records will be delivered to the System, which shall thereafter be solely responsible for the retention and maintenance of such records (it being understood that such student records are and shall be at all times the property of the System).
 - 3) During the term of this Agreement, the System may disclose confidential data and information to MEI and its respective officers, directors, employees and designated agents to the extent permitted by applicable law, including without limitation, the Individuals with Disabilities Education Act ("IDEA"), 20 USC §1401 *et seq.*, 34 CFR 300.610 – 300.626; Section 504 of the Rehabilitation Act of 1973, 29 USC §794a, 34 CFR 104.36; the Michigan Mandatory Special Education Act, MCL 380.1701 *et seq.*; the Americans with Disabilities Act, 42 USC §12101 *et seq.*; the Health Insurance Portability and Accountability Act ("HIPAA"), 42 USC 1320d – 13200d-8; 45 CFR 160, 162 and 164; and social security numbers, as protected by the federal Privacy Act of 1974, 5 USC §552a; and the Michigan Social Security Number Privacy Act, MCL 445.84. MEI and the System will maintain the proper confidentiality of such records as required by

law and the Charter, including the provisions of the Family Educational Rights and Privacy Act (20 USC Section 1232g *et seq*) (“FERPA”). MEI, and its respective officers, directors, employees and designated agents are hereby authorized to serve as agents of the System, having a legitimate educational interest in the Program and its students for purposes of the FERPA such that they are jointly and severally entitled to access the educational records of the Program for all purposes related to FERPA.

- 4) MEI will maintain accurate employment, business and other records pertaining to the operation of the System as is required and in the manner provided by the Charter, the Code and applicable laws and regulations, together with all additional System employment, business and other records prepared by or in the possession of MEI. MEI shall retain such records permanently on behalf of the System until this Agreement or its successor agreement (if any) is terminated, at which time such records will be delivered to the System, which shall thereafter be solely responsible for the retention and maintenance of such records (it being understood that such employment, business, and other records are and shall be at all times the property of the System). MEI and the System will maintain the proper confidentiality of such records as required by the Charter and applicable law. All System records shall be physically or electronically available, upon request, at the System’s physical facilities. The financial, educational, operational and student records pertaining to the System are System property, and are public records subject to disclosure in accordance with the provisions of the Michigan Freedom of Information Act. This Agreement shall not be construed to restrict the Authorizing Body’s or the public’s access to these records under the Freedom of Information Act or the Charter, except to the extent permitted by law.
 - 5) The Board shall be entitled at any time upon reasonable notice to MEI to audit the books and records of MEI pertaining to its operation of the System pursuant to this Agreement (including, without limitation, the financial records relating thereto).
- (iv) Admissions. Implementation of the System's admission and student enrollment policy in accordance with the Charter and applicable laws and regulations;
 - (v) Student Hearings. Administration and enforcement of student disciplinary and special education hearings in conformity with the requirements of the Code, the procedures established by the Board, and other applicable laws and regulations (including, but not limited to, requirements involving due process and confidentiality) to the extent consistent with the Board's duties and obligations under the Code and other applicable laws and regulations;
 - (vi) Academic Progress Reports. MEI will provide to the Board on a quarterly basis (or as necessary for the Board to satisfy its obligations under the Charter, the Code and other applicable laws and regulations) a report detailing (A) the System's students' academic performance, and (B) MEI's performance of the Educational Services and Administrative Services;
 - (vii) Rules and Procedures. MEI will recommend to the Board rules, regulations and procedures applicable to the System and its students and will enforce such rules, regulations and procedures adopted by the Board that are not in direct conflict with this Agreement, the Charter, the Code and other applicable laws and regulations. The Board shall exercise good faith in considering the recommendations of MEI on such issues, subject to the constraints of law and the requirements of this Agreement and the Charter,

but the Board is responsible for determining the fiscal and academic policies that will govern the operation of the System, including policies relative to the conduct of students while in attendance at the System or en route to and from the System, and

- (viii) Parent Satisfaction Forms. MEI will provide to the Board copies of Parent Satisfaction Forms to be completed by parents of the System's students, with copies or summaries thereof promptly provided to the Board on an annual basis.
 - (ix) Financing. The parties recognize that the System may be required to incur unsecured and/or subordinated financing to fund building repairs or renovations, start-up costs or other working capital requirements, some or all of which MEI shall arrange. Any such loans shall be structured to require repayment in full during the term of the Charter, and the System's annual budgets shall provide for repayment in accordance with the loan terms. If MEI provides, co-signs or guarantees such debt financing, the loan and the terms thereof will be separately documented.
 - (x) System Funds. The Board shall determine the depository of all funds received by the System. All funds received by the System shall be initially deposited in the System's depository account. Signatories on the depository account shall be current Board members or their designees, properly designated by Board resolution. All interest or investment earnings on System deposits shall accrue to the System.
 - (xi) Additional Administrative Services. Any other services reasonably necessary or expedient for the effective administration of the System as agreed to in writing from time to time by MEI and the Board.
- (b) The Administrative Services will be provided in accordance with the Educational Program, the Code, and the Charter.
 - (c) Subject to this Agreement, the Charter, the Code, other applicable laws and regulations, MEI may modify the methods, means and manner by which such Administrative Services are provided at any time, provided that MEI supplies the Board with written notice of such modifications.
 - (d) MEI will be responsible and accountable to the Board for the provision of the Administrative Services, provided that such obligations, duties, and responsibilities are limited by the System Budget established in Section 1.02(a)(iii)(D) above, and MEI will not be required to expend funds on such services in excess of the amounts set forth in such System Budget unless approved by the Board and MEI.
 - (e) The Board shall have the right to select and retain legal counsel to advise it regarding its rights and responsibilities under the Charter, this Agreement and applicable law. The cost thereof will be the responsibility of the System and will be provided for in the System Budget.
- 1.03 Place of Performance; Provision of Offices. The Board is responsible for the acquisition by purchase or lease of Facilities that comply with all of the requirements of the Charter and will provide MEI with necessary and reasonable classroom and office space at the Facilities to perform all services described in this Agreement. MEI will provide instructional, extra-curricular and co-curricular services at the Facilities. MEI may provide other services elsewhere, unless prohibited by the Charter and applicable laws.
- 1.04 Authority. By this Agreement, the Board provides MEI all authority and power necessary and proper for MEI to undertake its responsibilities, duties and obligations provided for in this Agreement, except in cases wherein such authority may not be delegated under the provisions of the Code, any other applicable laws and regulations, or the Charter, provided further that no

provision of this Agreement shall prohibit the Board from acting as an independent, self-governing public body, permit public decisions to be made other than in compliance with the Open Meetings Act or interfere with the Board's obligations to exercise its statutory, contractual and fiduciary responsibilities in governing the operation of the Academy.

- 1.05 Charter Compliance. MEI agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the System's obligations under its Charter, including all schedules attached thereto and the Authorizing Body's policies referenced therein. This Agreement is subject to all the terms and conditions of the Charter, which shall be deemed incorporated herein by reference, and the provisions of the Charter shall supersede any competing or conflicting provisions contained in this Agreement. MEI agrees to assist the System in complying with all of its reporting, recordkeeping, and other obligations under the Charter, and shall not cause the System to be in breach thereof.
- 1.06 Compliance with Section 503c. On an annual basis, MEI agrees to provide the Board with the same information that a school district is required to disclose under section 18(2) of the State Aid Act of 1979, MCL.388.1618, for the most recent school fiscal year for which the information is available. Within thirty (30) days of receipt of this information, the Board shall make the information available on the System's website home page, in a form and manner prescribed by the MDE. The defined terms in section 503c of the Code, MCL 380.503c, shall have the same meaning in this Agreement.
- 1.07 Compliance with Section 12.21 of Charter Terms and Conditions. MEI shall make information concerning the System's operation and management, including without limitation the information described in Schedule 4 of the Charter, available to the Board as deemed necessary by the Board to satisfy its obligations under Section 12.21(a) of the Charter's Terms and Conditions.
- 1.08 Evaluation of MEI. The Board will evaluate the performance of MEI annually to provide MEI with an understanding of the Board's view of its performance under this Agreement. A preliminary evaluation will normally occur in December of each year followed by a year-end evaluation in June. The Board will determine the format to conduct this evaluation. Special evaluations may occur at any time. The Authorizing Body shall conduct a review of MEI's performance under this Agreement every two years.

ARTICLE II. TERM

- 2.01 Term. Subject to ARTICLE VII below and Section 2.02 below, this Agreement will become effective as of the date hereof (the "Effective Date"), cover five academic years and end on June 30, 2017 (the "Termination Date").
- 2.02 Renewal. Upon the expiration of the Term defined in Section 2.01 above or a Renewal Term defined in this Section 2.02, this Agreement will automatically renew for a period of five years, each renewal term to run from July 1 to June 30 of the fifth succeeding year (a "Renewal Term") unless (i) written notice of an intent to terminate or renegotiate is given by either party not less than 180 days prior to the Termination Date or the end of a Renewal Term, or (ii) this Agreement is terminated pursuant to ARTICLE VII below.

**ARTICLE III.
RELATIONSHIP OF THE PARTIES**

- 3.01 Status of the Parties. The Authorizing Body has granted the Charter to the System to organize and operate a public school academy, together with the powers necessary or desirable for carrying out the Educational Program set forth therein. The System is authorized to contract with MEI to provide the Educational and Administrative Services provided for herein. MEI is not a division or any part of the System. The System is a body corporate and governmental entity authorized under the Code and is not a division or a part of MEI. The relationship between the parties was developed and 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. Nothing herein will be construed to create a partnership or joint venture by or between the System and MEI or, except as provided in Section 1.02(a)(iii)(E)(3), above, to make one the agent of the other. Neither the System nor MEI will otherwise hold itself out as a partner or agent of the other or state or imply by advertising or otherwise any relationship between it and the other in any manner contrary to the terms of this Agreement. Neither the System nor MEI has, and neither will represent that it has, the power to bind or legally obligate the other. No employee of MEI will be considered an employee of the System by either party for any purpose whatsoever.
- 3.02 MEI Attendance at Board Meetings. MEI shall receive notice from the Board of any regular, special, or executive session meeting of the Board and shall have the right to have its Regional Vice-President or designee present at any such meeting, provided, however, that the MEI representative shall have no right to attend a properly constituted executive session except upon invitation of a majority of the Board, it being understood that the parties intend to work together as transparently as possible, subject to this Agreement, the Charter and the Code, and consistent with preserving their legal rights.
- 3.03 No Related Parties or Common Control. MEI will not have any role or relationship with the System that, in effect, substantially limits the System's ability to exercise its rights, including cancellation rights, under this Agreement. The Board may not include any director, officer or employee of MEI. None of the voting power of the Board will be vested in MEI or its directors, members, managers, officers, shareholders and employees, and none of the voting power of the Board of Directors or Shareholders of MEI will be vested in the System or its directors, officers and employees. Furthermore, the System and MEI will not be members of the same control group, as defined in Section 1.150-(f) of the regulations under the Internal Revenue Code of 1986 as amended (or its successor), or related persons, as defined in Section 144(a)(3) of the Internal Revenue Code of 1986 as amended (or its successor).
- 3.04 Other Schools. The parties acknowledge that this arrangement is not exclusive and that MEI will have the right to render similar services to other persons or entities including other public or private schools or institutions ("Other Schools"). MEI will maintain separate accounts for reimbursable expenses incurred on behalf of the System and Other Schools and only charge the System for expenses incurred or consideration earned on behalf of the System. All grants or donations received by the System, or by MEI for the specific benefit of the System, will be maintained in separate accounts and used solely for the System. If MEI incurs authorized reimbursable expenses on behalf of the System and Other Schools which are incapable of precise allocation between the System and Other Schools, then MEI will allocate such expenses among all such Other Schools and the System on a *pro rata* basis based upon the number of students enrolled at the System and the Other Schools, or upon such other equitable basis as the parties may agree.

**ARTICLE IV.
CONSIDERATION**

4.01(a) Compensation for Services. Commencing July 1, 2012, for the term of this Agreement, including each and every Renewal Term, and subject to subsection (b) below, the Academy will pay MEI an annual fee calculated as follows:

- (i) **2012-2013 School Year**. The annual fee to be paid for services performed between July 9, 2012 through June 30, 2013 shall be the sum of (a) \$1,450,000 plus (b) \$200,000 as a license fee for Paragon and (c) twelve and one-half (12.5%) percent of all adjusted gross revenues in excess of \$13,200,000 received during that school year.
- (ii) **2013-2014 School Year**. The annual fee to be paid for services performed between July 1, 2013 through June 30, 2014 shall be the sum of (a) \$1,500,000 plus (b) \$200,000 as a license fee for Paragon and (c) twelve and one-half (12.5%) percent of all adjusted gross revenues in excess of \$13,600,000 received during that school year.
- (iii) **2014-2015 School Year**. The annual fee to be paid for services performed between July 1, 2014 through June 30, 2015 shall be the sum of (a) \$1,550,000 plus (b) \$200,000 as a license fee for Paragon and (c) twelve and one half (12.5%) percent of all adjusted gross revenues in excess of \$14,000,000 received during that school year.
- (iv) **2015-2016 School Year**. The annual fee to be paid for services performed between July 1, 2015 through June 30, 2016 shall be the sum of (a) \$1,600,000 plus (b) \$200,000 as a license fee for Paragon and (c) twelve and one-half (12.5%) percent of all adjusted gross revenues in excess of \$14,400,000 received during that school year.
- (v) **2016-2017 School Year**. The annual fee to be paid for services performed between July 1, 2016 through June 30, 2017 shall be the sum of (a) \$1,650,000 plus (b) \$200,000 as a license fee for Paragon and (c) twelve and one-half (12.5%) percent of all adjusted gross revenues in excess of \$14,800,000 received during that school year.

MEI's annual fee shall be paid in twelve (12) equal monthly installments beginning in July of each school year. The exact day of the month that each monthly installment payment is to be paid will coincide with the timing of any state aid payment from the State of Michigan to be received in that month. In months where no state school aid payments are to be received, the day of the month when that monthly installment will be due will be mutually agreed upon by the parties after taking into consideration available year-end funds and the timing of funds to be made available from state aid anticipation notes or other sources. All installments of the annual fee for the 2016-2017 school year shall be paid by June 30, 2017 if this Agreement is not extended beyond that scheduled termination date. The amount of the annual fee is subject to reduction in a mutually agreeable amount in any school year if extenuating circumstances make the entire annual fee inappropriate.

(b) Any additional compensation paid to MEI by the System during each fiscal year under this Agreement pursuant to Section (a)(i)(c), (a)(ii)(c), (a)(iii)(c), (a)(iv)(c), (a)(v)(c) or any other provision of this Agreement shall not exceed \$412,500 in 2012-2013, \$425,000 in 2013-2014, \$437,500 in 2014-2015, \$450,000 in 2015-2016, or \$462,500 in 2016-2017.

4.02 Payment of Costs. In addition to the Management Fee described in Section 4.01 above, the System will reimburse MEI for all costs incurred and paid by MEI in providing the Educational Services and Administrative Services. Such costs include, but are not limited to, rent and/or lease payments (including costs pursuant to any Equipment Lease or Facility Lease that the parties may enter into), facility maintenance and utility costs, salaries of MEI employees assigned to the staff

of the System, costs related to curriculum, instructional materials, textbooks, library books, computers, software, supplies, food service, transportation, special education, psychological services and medical services. MEI and its subcontractors will comply with all federal and state laws, rules and regulations in addition to such policies as the Board may, from time to time adopt, under Section 1267 and Section 1274 of the Code as if the Academy were making these purchases directly from a third party supplier. Except as provided in Section 4.04(d) below or as may be provided in loan documents or other financing agreements hereinafter entered into between the parties, in charging for such costs to the System and paying for such costs, MEI will not charge an added fee unless such fee is approved in advance by the Board.

4.03 Notwithstanding the Payment of Costs provision described in Section 4.02 above, the Management fee described in Section 4.01 above is intended to compensate MEI for all expenses it incurs for managerial, supervisory, educational and administrative services it provides under this Agreement beyond those services provided by MEI employees assigned to work as administrators, teachers or support staff at System facilities. Such non-reimbursable expenses include but are not limited to, salaries and expenses associated with MEI corporate employees providing professional, advisory and curriculum development services, accounting, budgeting and other administrative services, legal and management services and administrative services. In addition, no part of MEI's general corporate overhead costs shall be allocated to the System.

4.04 Time and Priority of Payments.

- (a) MEI will receive its Management Fee in the same number of installments and in the same proportion that the System receives its revenues. Each installment of the Management Fee will be due and payable within ten (10) business days of receipt by the Charter School of the revenues related thereto, and shall be payable without any further notice or invoice from MEI.
- (b) MEI will notify the System of any payments due and owing to MEI pursuant to Section 4.02 above as soon as possible after the end of each month and the System will make such payments to MEI within fifteen (15) days thereafter.
- (c) The System will satisfy its payment obligations under this Article to MEI in the following order of priority: (i) payments due and owing under Section 4.02 above with the oldest amounts due first; and (ii) payments due and owing pursuant to Section 4.01 above with the oldest amounts due first.
- (d) Any payment due under Section 4.01 or Section 4.02 above not paid when due will be subject to a late fee calculated as interest on the amount in arrears calculated at Prime plus 2% from the due date, where "Prime" shall be the interest rate charged by Bank of America as its "Prime Rate."

4.05 Other Revenue Sources.

- (a) The System and MEI may, together or independently, solicit and receive grants and donations from public and private sources consistent with the mission and the System's Charter, in the name of either MEI or the System; provided, however, that any solicitation of such grants by MEI in the name of the System or which identifies the System shall be subject to the prior approval of the Board.
- (b) All funds received by MEI or the System for the benefit of the System from such other revenue sources and programs pursuant to this Section 4.05 shall be deemed System funds. MEI shall receive no compensation from the System upon receipt or expenditure of such funds and shall have no responsibility for management of the programs funded by donations

contemplated in the first sentence of Section 4.05(a), unless the parties shall expressly agree otherwise, and then only to the extent allowable by the donor or grantor of such funds.

- (c) Nothing in this Section 4.05 will be construed to prohibit MEI from soliciting funds or grants solely for its own general corporate purposes and using such funds or grants solely for such purposes.

**ARTICLE V.
SUPPLEMENTAL PROGRAMS**

- 5.01 Supplemental Programs. In addition to the Educational Services and Administrative Services provided by MEI to the System, MEI may, subject to Board approval (which approval shall not be unreasonably withheld), provide additional services, including, but not limited to, pre-kindergarten, summer school, academic camps, before and after school programs, vocational training, and latch-key programs to students and non-students of the System (the "Supplemental Programs"), provided that nothing herein shall require MEI to provide any such Supplemental Program. MEI may retain the full amount of any and all revenues collected from or for such Supplemental Programs, and MEI will be responsible for the full cost of providing such Supplemental Programs. The Board will permit MEI to operate such Supplemental Programs at the Facilities without charge to MEI; provided, however, that MEI shall provide to the System a fee equal to 12.5% of the profits (if any) derived by MEI from such Supplemental Programs.

**ARTICLE VI.
PERSONNEL AND TRAINING**

- 6.01 Personnel Responsibility.
 - (a) Subject to Sections 1.01 and 1.02 above, the Charter, the Code and other applicable laws and regulations, MEI will have the sole responsibility and authority to provide qualified administrative, teaching and support staff to operate the System within the staffing levels approved by the Board in its annual budget, and to select, evaluate, assign, discipline, supervise, manage and transfer personnel necessary to carry out the Educational Services, the Administrative Services, the Supplemental Programs (if any) and all other services provided under this Agreement.
 - (b) Except as specified in this Agreement or as required by the Code or the Charter, the HOS (as defined in Section 6.02 below), teachers and support staff recommended by MEI pursuant to this Agreement will be employees of MEI, which, subject to Section 4.02 above, will be responsible for the payment of all costs attributable to these employees, including wages, salaries, fringe benefits, unemployment costs, workers compensation costs, and liability insurance costs. Unless required by applicable statute, court or administrative decision, or Attorney General's opinion, MEI shall not make payments to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees. The Board may employ such other employees as it deems necessary, provided that the cost therefor are included the System Budget. MEI will be responsible for conducting reference, employment checks, criminal background checks and unprofessional conduct checks on its employees to the extent required under the Code and other applicable laws and regulations as if the employees were employed by a Charter School, and will not assign any individual to work at a System facility who could not legally be employed in a similar position by a Charter School. Upon request, MEI will provide the Board with documentary evidence of such background checks and with a detailed listing of the actual compensation and fringe benefit costs for all MEI employees assigned to provide services at the System.

- (c) MEI will comply with the requirements of applicable law regarding the evaluation of its employees based in part upon data on student growth and the establishment of employee compensation levels that include job performance and job accomplishments as a significant factor.
- 6.02 Head of School/Principal. Each Head of School ("HOS") and/or School Principal will be an employee of MEI and will be the academic and administrative head of the System and/or one of the System's schools. As such, he or she shall have full responsibility for its operation and shall be required to implement the Paragon™ Curriculum and MEI's Educational Program. MEI will have the authority, consistent with the Code and other applicable laws and regulations, to supervise the HOS and Principals and to hold them accountable for the success of the System.
- 6.03 Teachers. MEI will provide to the System such teachers as are required to provide the Educational Services, Administrative Services and Supplementary Programs (if any). Subject to the System Budget, MEI will determine the number and assignments of such teachers. Such teachers may work at the System on a full or part time basis. Each teacher assigned to the System will be qualified in his or her grade levels and subjects, and, to the extent required under the Code and other applicable laws and regulations, hold a valid teaching certificate. The teachers will be employees of MEI, which shall have the right to evaluate the teachers and to determine promotions, salaries, discharge and other factors relating to their employment.
- 6.04 Support Staff. MEI may hire such support staff for the System as are required to provide the Educational Services, Administrative Services and Supplementary Programs. Such support staff may include, among others, teachers' aides, clerical staff, administrative assistants to the HOS, bookkeepers and maintenance personnel. Such support staff may work at the System on a full or part time basis.
- 6.05 Training. MEI will provide training in its instructional methods, curriculum, educational program and support technology to its instructional personnel on a regular and continuous basis. Such training will enable the HOS and the System's instructional staff to provide in-service training to each other. Non-instructional personnel will receive such training as MEI determines to be reasonable and necessary under the circumstances.
- 6.06 Non-Hiring. During the term of this Agreement and for one complete school year after any termination or expiration of this Agreement by either party for any reason, including without limitation Section 7.01(b) hereof, the System shall not hire, employ, or retain, as trustee, director, officer, employee or consultant, or in any other capacity, the HOS, Principal, any Vice President, any curriculum director or consultant, or any regional program facilitator of MEI (or anyone who served in any such positions within one year prior to any termination or expiration of this Agreement). MEI shall otherwise not provide in employment contracts with any teachers or support staff assigned to work at the System any restrictions that would prevent the System from employing those individuals at the System or would prevent those individuals from working for the System or for any other entity providing educational services to the System after the Termination of this Agreement. MEI agrees that any provision of an employment agreement in violation of this provision is void and shall not be enforceable in any forum.

**ARTICLE VII.
TERMINATION OF AGREEMENT**

7.01 Termination.

- (a) By MEI. MEI may terminate this Agreement prior to the end of the term specified in ARTICLE II in the event that the Board fails to remedy a material breach within a period reasonable under the circumstances, which in no event shall be longer than sixty (60) days

after written notice from MEI. A material breach includes, but is not limited to (i) the System's failure to pay any fee or reimbursement as required by the terms of this Agreement, (ii) adoption by the System of an Educational Program in substantial variance from the Paragon™ Curriculum or the material recommendations of MEI, or (iii) an act or omission that causes MEI to be unable to perform its material obligations under this Agreement. Termination by MEI will not relieve the System of any obligations for payments outstanding to MEI as of the date of termination or liability for financial damages suffered by MEI as a consequence of the System's breach (or of MEI's termination as a result thereof) of this Agreement.

- (b) By the System. The System may terminate this Agreement prior to the end of the term specified in ARTICLE II in the event that MEI fails to remedy a material breach of this Agreement within 30 days after written notice from the Board. A material breach by MEI includes, but is not limited to: (i) a material failure to account for its expenditures of System funds or for other expenses incurred by the System at MEI's direction, (ii) MEI's failure to substantially follow policies, procedures, rules, regulations or curriculum duly adopted by the Board which are not in violation of or conflict with the Charter, this Agreement, the Code, the Paragon™ Curriculum and applicable laws and regulations, (iii) failure to abide by and meet the educational goals set forth in the Charter such that the Charter will be terminated or revoked, (iv) the employment of teachers in violation of the Code or this Agreement, (v) any act or omission that causes the System to materially breach the Charter or any of the System's other material contractual obligations in any way, or (vi) filing of bankruptcy by MEI. Termination by the System will not relieve the System of any obligations for payments outstanding to MEI as of the date of the termination.
- (c) By the System Without Cause. Notwithstanding the provisions of the foregoing subparagraph (b), the Board shall have the right (assuming that MEI otherwise has no continuing liability, contingent or otherwise, to third parties under contracts entered into by Charter School) to terminate this Agreement without cause, provided, however, that upon such termination, MEI shall be entitled to an award of damages suffered on account of such early termination.
- (d) Termination of the Charter. This Agreement will terminate upon the System's ceasing to be a party to a valid and binding charter. If the Charter is suspended, revoked or terminated, or a new charter contract is not issued by the Authorizing Body after expiration of the Charter, this Agreement shall automatically be suspended or terminated, as the case may be, on the same date as the Charter is suspended, revoked, terminated or expires without further action by the parties provided, however, that this Agreement will continue to remain in effect until the Termination Date or the end of a Renewal Term (as applicable) if the Board has entered into a subsequent charter. Termination pursuant to this paragraph will not relieve the System of any obligations for payments outstanding to MEI as of the date of termination.
- 7.02 Change in Law. If any federal, State or local law or regulation, court or administrative decision or Attorney General's opinion has a materially adverse effect on the ability of either party to carry out its obligations under this Agreement, such party, upon written notice, may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith and will include the use of a third party mediator or other alternative dispute resolution process. If the parties are unable to renegotiate the terms within 90 days after such notice and good faith negotiations, the party requesting the renegotiation may terminate this Agreement on 120 days' further written notice or at the end of a school year, whichever is earlier.
- 7.03 Real and Personal Property. Upon termination, all real and personal property leased by MEI to the System will remain the real and personal property and leases of MEI, and all other personal

property purchased by MEI with the funds provided to MEI by the System pursuant to Section 4.02 above will be the personal property of the System.

- 7.04 Future Advances/Out-of-Pocket Expenses. Prior to (and in the case of the System as a condition of) termination in accordance with Section 7.01(b) above, or upon the termination or expiration of this Agreement for any other reason, the System shall (i) reimburse MEI for all expenses owed pursuant to Section 4.02 above, (ii) repay all advances or loans from MEI, whether or not then due, and (iii) post a letter of credit or bond in favor of MEI guaranteeing (A) any future payments due under any equipment or facilities lease from, guaranteed, cosigned, or collateralized by MEI or an affiliate thereof and (B) the System's performance of any other obligations guaranteed, cosigned, or collateralized in whole or part by MEI or an affiliate thereof.
- 7.05 Termination of Paragon™ License. Upon termination or expiration of this Agreement by either party for any reason, including without limitation Section 7.01(b), the license to use the Paragon™ curriculum shall automatically terminate, and the System shall immediately cease any use of the Paragon™ curriculum. If the System shall be delinquent by 30 days or more in making any payments due to MEI pursuant to this Agreement, MEI shall have the right to suspend the license of the System to use the Paragon™ curriculum until such amounts have been paid in full, and the System shall not use the Paragon™ curriculum during any such period of suspension.
- 7.06 Return of MEI Materials. Within five business days of any termination or expiration of the Management Agreement by either party for any reason, including without limitation Section 7.01(b) the System shall (i) assemble in a safe place (a) all materials relating to the Paragon™ Curriculum, including the Paragon™ Lesson Materials and the Paragon™ Resource Materials, whether in hard copy or electronic format or otherwise, and any copies thereof, (b) all professional development and training materials, guides, and models, prepared and provided by MEI in connection with training of instructional or administrative personnel, and (c) all operational, systems and other administrative manuals and material, and copies thereof, and (ii) the CAO of the System and/or the President of the Board shall certify to MEI in writing that the System has ceased to use the Paragon™ Curriculum, such Paragon™ Lesson Materials, Paragon™ Resource Materials, all professional development and training materials, guides, and models, and all such administrative manuals and materials. At MEI's direction, the System will promptly send at its expense all such materials to MEI or permit representatives of MEI to pick up all such materials at the System's Facilities.

ARTICLE VIII. PROPRIETARY INFORMATION AND OWNERSHIP

- 8.01 Ownership. Curriculum or other educational materials purchased by MEI with funds MEI receives pursuant to this Agreement will be the property of the System. Notwithstanding the foregoing, the System acknowledges that MEI owns the intellectual property rights and interests in the Paragon™ Curriculum, and the Paragon™ Lesson Materials licensed to the System during the term of this Agreement and to the names "Mosaica" and "Paragon" (such names being registered marks of MEI). The Board acknowledges and agrees that the System has no intellectual or property interest or claims in the Paragon™ Curriculum, the Paragon™ Lesson Materials or such names and has no right to use the Paragon™ Curriculum, the Paragon™ Lesson Materials, or such names unless expressly agreed to in writing by MEI. MEI shall have the right to install signs approved by the Board (which approval shall not be unreasonably withheld) on the System facilities, including under the System's or one of its schools' name, describing the services provided by MEI, including "Managed by Mosaica Education, Inc." or "Educational Services Provided by Mosaica Education, Inc." Upon any expiration or termination of this Agreement, those signs shall be promptly removed.

**ARTICLE IX.
INDEMNIFICATION**

- 9.01 Indemnification of MEI. To the extent permitted by law, the System will indemnify, defend and save and hold MEI and its affiliates and all of their respective employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorneys' fees and costs) that may arise out of, or by reason of, any noncompliance by the System with any agreements, covenants, warranties or undertakings of the System contained in or made pursuant to this Agreement, and any misrepresentations or breach of the representations and warranties of the System contained in or made pursuant to this Agreement. In addition, the System will reimburse MEI 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 9.01 may be met by the purchase of insurance pursuant to ARTICLE X below.
- 9.02 Indemnification of the System. MEI will indemnify, defend and save and hold the System and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorneys' fees and costs) that may arise out of, or by reason of, any noncompliance by MEI with any agreements, covenants, warranties or undertakings of MEI contained in or made pursuant to this Agreement, and any misrepresentation or breach of the representations and warranties of the MEI contained in or made pursuant to this Agreement. In addition, MEI will reimburse the System 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 9.02 may be met by the purchase of insurance pursuant to ARTICLE X below.
- 9.03 Defense. A party entitled to indemnification under this ARTICLE IX (the "Indemnitee") shall give notice to the indemnifying party (the "Indemnitor") of a claim or other circumstances likely to give rise to a request for indemnification, promptly after the Indemnitee becomes aware of the same. The Indemnitor shall be afforded the opportunity to undertake the defense of and to settle by compromise or otherwise any claim for which indemnification is available under this ARTICLE IX. The Indemnitor's selection of legal counsel is subject to the Indemnitee's approval (which approval shall not be unreasonably withheld). If an Indemnitor so assumes the defense of any claim, the Indemnitee may participate in such defense with legal counsel of the Indemnitee's selection and at the expense of the Indemnitee. If the Indemnitor, prior to the expiration of the fifteen (15) days after receipt of notice of a claim by the Indemnitee under this ARTICLE IX, has not assumed the expense of the defense thereof, the Indemnitee may thereupon undertake the defense thereof on behalf of, and at the risk and expense of, the Indemnitor, with all reasonable costs and expenses of such defense to be paid by the Indemnitor.
- 9.04 Limitations of Liabilities/Governmental Immunity. The Board shall determine when to assert, waive or not waive its governmental immunity. The System will not be entitled to indemnification under this ARTICLE IX to the extent that its claim for indemnification would be limited by the assertion of immunity or other statutory limitation of liability in connection with any claims arising from its operations. The System shall not be entitled to indemnification to the extent its claim is contributed to by the System's waiver, without the prior written consent of MEI, of any immunities or limitations.
- 9.05 Right of Set-Off. Either party may, but shall not be obligated to, set off against any and all payments due the other party under this Agreement, any amount to which the party is entitled to be indemnified hereunder, provided that the parties have agreed to the indemnification obligation under this ARTICLE IX or there has been a final judicial determination thereof.
- 9.06 Indemnification of the Authorizing Body. The parties acknowledge and agree that the School District for the City of Muskegon Heights ("District"), the District's Board of Education

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(“District Board”) and the District’s Emergency Manager (“Emergency Manager”) are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify, defend and hold harmless the District, the District Board and the Emergency Manager 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 the District, the District Board or the Emergency Manager, which arise out of or are in any manner connected with MEI’s operation of the System, or which are incurred as a result of the reliance by the District, the District Board or the Emergency Manager upon information supplied by the Board or MEI, or which arise out of the failure of the Board or MEI to perform their obligations under the Charter or Applicable Law. The parties expressly acknowledge and agree that the Emergency Manager may commence legal action against either party to enforce the District’s, the District Board’s or the Emergency Manager’s rights as set forth in this section of the Agreement.

**ARTICLE X.
INSURANCE**

- 10.01 Insurance Coverage. The System will maintain general liability insurance and umbrella insurance coverage in the amounts required by the Charter. Such policies shall name MEI and its affiliates and their respective directors, officers, employees, subcontractors, and agents as additional insureds under such policies. The System will comply with any information requests from its insurer(s) and all reporting requirements applicable to such insurance.
- 10.02 MEI Coverage. MEI will maintain general liability insurance and umbrella insurance coverage in the same amounts required of the System by the Charter. Such policies shall name the System and its respective directors, officers, employees and agents as additional insured under such policies. MEI will comply with any information requests from its insurer(s) and all reporting requirements applicable to such insurance.
- 10.03 Workers' Compensation Insurance. Each party will maintain workers' compensation insurance as required by law, covering its respective employees.
- 10.04 Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this ARTICLE X. Each party will comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

**ARTICLE XI.
WARRANTIES AND REPRESENTATIONS**

- 11.01 Representations and Warranties of MEI. MEI hereby represents and warrants to the System:
 - (a) MEI is a duly organized corporation in good standing and is authorized to conduct business in the State of Michigan.
 - (b) To the best of its knowledge, MEI has the authority under the Code and other applicable laws and regulations to execute, deliver, perform this Agreement, and to incur the obligations provided for under this Agreement.
 - (c) MEI's actions under this Agreement have been and will be duly and validly authorized, and it will adopt any and all further resolutions or expenditure approvals required for execution of this Agreement.

11.02 Representations and Warranties of the System. The System hereby represents and warrants to MEI:

- (a) The Charter to be received by the System (i) authorizes the System to operate and receive the State, Federal and Local education funds, as well as other revenues; (ii) approves the Education Program and other activities contemplated by this Agreement; and (iii) vests the System with all powers necessary and desirable for carrying out the Education Program and other activities contemplated in this Agreement.
- (b) The System has the authority under the Code and other applicable laws and regulations to contract with a private entity to perform the Educational Services, Administrative Services, Supplemental Programs, and all other services under this Agreement and execute, deliver and perform this Agreement, and to incur the obligations provided for under this Agreement.
- (c) The System's actions and those of the Board have been duly and validly authorized, and the System and Board will adopt any and all further resolutions or expenditure approvals required for execution of this Agreement; provided, however, that with regard to expenditures, such resolutions and approvals shall be required only if the relevant information is available to the System and the System has sufficient funds in the Budget to pay for such expenditures.
- (d) The System has provided and will provide MEI all authority and power necessary and proper for MEI to undertake its responsibilities, duties, and obligations provided for in this Agreement.
- (e) The System is not in breach of the terms of the Charter and will not breach the Charter once fully issued.
- (f) The System is not in breach or default under any loan or financial obligations, including, but not limited to, salary obligations and related benefits, payroll taxes, and leases for real and personal property, to the extent that any such obligation is related to the System's required performance under this Agreement.
- (g) The Educational Program has been reviewed and approved by the Board.
- (h) The System has no intellectual or property rights or claims in the Paragon™ Curriculum or in the names "Mosaica™" or "Paragon™" and will make no such claims in the future.

11.03 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 XII. DISPUTE RESOLUTION

12.01 Dispute Resolution Procedure. The parties hereto will endeavor to resolve in good faith any controversy, disagreement or claim arising between them, whether as to the interpretation, performance or operation of this Agreement or any rights or obligations hereunder. If they are unable to do so, any such controversy, disagreement or claim will be submitted, for final resolution to a court of competent jurisdiction in the County of Muskegon in the State of Michigan. Pending the resolution of the dispute, all other obligations of the parties hereto will continue as stipulated herein, and all monies not directly involved in such dispute or difference will be paid when due. The court will make its decision in accordance with the laws of the State of Michigan and the United States.

- 12.02 Damages Upon Termination. The parties agree that in the event of the wrongful termination of this Agreement by the System, the System will owe MEI existing obligations such as unpaid Management Fees through the date of the wrongful termination of this Agreement, un-reimbursed expenses, and obligations of the System pursuant to Sections 6.04 and 6.05 and ARTICLE VIII and ARTICLE IX. The Board acknowledges that MEI will argue that the System will owe to MEI damages equal to the present value of the estimated Management Fees specified in ARTICLE IV through the end of the term specified in ARTICLE II based upon its assertion that such Management Fees are used to offset MEI's fixed costs, corporate overhead and profit. MEI acknowledges that the System has the right to contest such damage claim and/or the calculation thereof and that the provisions of this Agreement provide no specific authority for granting damages based upon that assertion.

**ARTICLE XIII.
MISCELLANEOUS**

- 13.01 Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the System and MEI.
- 13.02 Force Majeure. Notwithstanding any other sections of this Agreement, neither party will be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, labor strike or other acts beyond its reasonable control.
- 13.03 Governing Law. The laws of the State of Michigan will govern this Agreement, its construction, and the determination of any rights, duties and remedies of the parties arising out of or relating to this Agreement.
- 13.04 Agreement in Entirety. This Agreement constitutes the entire agreement of the parties.
- 13.05 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument.
- 13.06 Official Notices. All notices and other communications required by the terms of this Agreement will be in writing and sent to the parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees). Notice may be given by: (i) certified or registered mails, postage prepaid, return receipt requested, (ii) facsimile (with confirmation of transmission by sender's facsimile machine) or (iii) personal delivery. Notice will be deemed to have been given two days after mailing or on the date of personal delivery or on the date of transmission of a facsimile if on a business day during normal business hours (or, if not, the first business day). The addresses of the parties are:

To:
Muskegon Heights Public School Academy
System
Attn: Board President
2603 Leahy Street
Muskegon Heights, MI 48003

To:
Mosaica Education, Inc.
42 Broadway, Suite 1039
New York, NY 10004
Attn: CEO
Fax: (212) 232-0309

With a copy to:

Mika Meyers Beckett & Jones PLC
Attn: John H. Gretzinger
900 Monroe NE
Grand Rapids, MI 49503
Fax: (616) 832-8027

With a copy to:

Mosaica Education, Inc.
42 Broadway, Suite 1039
New York, NY 10004
Attn: General Counsel
Fax: (212) 232-0309

- 13.07 Assignment. This Agreement will not be assigned by MEI without the prior consent in writing of the System (which consent will not be unreasonably withheld) or by the System without the prior consent in writing of MEI (which consent will not be unreasonably withheld). It is anticipated that MEI may utilize subcontracts to provide some of the services it is required to provide to the System. MEI shall not subcontract the management, oversight or operation of the teaching and instructional program without the prior approval of the Board. Board approval of other subcontracts is not required unless the cost for these subcontracted services exceeds the funds appropriated for that purpose in the System's approved budget. Every subcontract entered into without Board approval, and the appropriation(s) from which it will be paid, shall be reported to the Board at its next meeting.
- 13.08 Amendment. This Agreement will not be altered, amended, modified or supplemented except in a written document approved by the Board and signed by both the President or other authorized officer of the System and an authorized officer of MEI. Any amendment to this Agreement shall be presented to the Authorizing Body and shall not be effective unless it has been approved by the Authorizing Body or has been reviewed and not disapproved as provided for in the Code.
- 13.09 Waiver. No waiver of any provision of this Agreement will be deemed to be or will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly stated.
- 13.10 Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement will not affect the remaining portions of this Agreement, and this Agreement will be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement. To the extent that any of the services to be provided by MEI are found to be overbroad or an invalid delegation of authority by the System, such Services will be construed to be limited to the extent necessary to make the Services valid and binding.
- 13.11 Successors and Assigns. Except as limited by Section 13.07 above, this Agreement will be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.
- 13.12 No Third Party Rights. This Agreement is made for the sole benefit of the System and MEI. Except as otherwise expressly provided, nothing in this Agreement will 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.
- 13.13 Survival of Termination. All representations, warranties and indemnities made in this Agreement will survive termination of this Agreement.

MOSAICA MANAGEMENT AGREEMENT

IN WITNESS WHEREOF, THE UNDERSIGNED HAVE EXECUTED THIS AGREEMENT AS OF THE DATE AND YEAR FIRST ABOVE WRITTEN.

MOSAICA EDUCATION, INC.

MUSKEGON HEIGHTS PUBLIC SCHOOL
ACADEMY SYSTEM

By: *Michael J. Conall*
Its: *Chief Executive Officer*

By: *Carmella Ealom*
Its: Vice President of the Board