

EDUCATIONAL SERVICE PROVIDER AGREEMENT

This Educational Service Provider Agreement is made and entered into as of the 1st day of July, 2024, by and between **The Romine Group, Inc**, (hereafter referred to as “TRG”) a Michigan corporation located at 7877 Stead Street, Utica, Michigan and **Madison Academy** (“Academy”), by and through its Board of Directors (“Academy Board” or “Board”), 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 located in Michigan.

The following is a recital of facts underlying this Agreement:

The Academy is a public school academy, organized under the Code. The Academy has been issued a contract, dated July 1, 2024, (the “Contract”) from the Bay Mills Community College Board of Regents (the “College Board”) to organize and operate a public school academy, with the College Board as the authorizing body. The Code permits a public school academy to contract with persons and entities for the operation and management of a public school academy.

TRG specializes in providing educational institutions, vocational schools, businesses, churches and other organizations with a variety of educational services and products, including management, curriculums, educational programs, teacher training, and technology. TRG’s products and services are designed to serve the needs of a diverse student population.

The Academy and TRG desire to create an enduring educational partnership, whereby the Academy and TRG will work together to bring educational excellence and innovation to the Genesee County area, based on TRG’s school design, comprehensive educational program, institutional principles and management methodologies.

In order to implement an innovative educational program at the school, the parties desire to establish this arrangement for the management and operation of certain of the Academy's educational and administrative activities or functions.

Therefore, it is mutually agreed as follows:

ARTICLE I

TERM

This Agreement shall become effective upon execution and shall run for a term of eight (8) years from July 1, 2024 until June 30, 2032. Notwithstanding the foregoing, if the Academy's Contract issued by the College Board 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 Contract is suspended, revoked, terminated or expires without further action of the parties. Further, this Agreement shall be terminable by the Academy Board, at will, and without penalty or cause, on or after the second anniversary date of this Agreement. The term of this Agreement shall not exceed the term of the Contract.

ARTICLE II

CONTRACTUAL RELATIONSHIP

A. Authority. The Academy represents that it is authorized by law to contract with a private entity and for that entity to provide educational and management services. The Academy further represents that it has been issued a Contract by the College Board to organize and operate a public school academy situated in Michigan. The Academy is therefore authorized by the College Board to supervise and control the Academy, and is vested with all powers within applicable law for carrying out the educational program contemplated in this Agreement.

B. Contract. Acting under and in the exercise of such authority, the Academy hereby contracts with TRG, to the extent permitted by law, to provide all functions relating to the provision of educational services and the management and operation of the Academy in accordance with the terms of this Agreement, the Contract, and the Academy's authorizing documents. TRG shall comply with all terms and conditions of the Contract to the extent TRG is performing services on behalf of the Academy. No provision of this Agreement shall be inconsistent with the Contract or interfere with the Board's exercise of its statutory, contractual and fiduciary responsibilities governing the operation of the Academy. Nothing in this Agreement shall prohibit the Academy 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.

C. Status of the Parties. TRG is a for-profit corporation, and is not a division or a part of the Academy. The Academy is a body corporate and governmental entity authorized by the Code, and is not a division or part of TRG. The relationship between TRG and the Academy is based solely on the terms of this Agreement. No provision of this Agreement shall interfere with the Academy Board's duties under the Contract, and the Academy's duties under the Contract shall not be limited or rendered impossible by any action or inaction of TRG. Board members, Academy employees, and their respective spouses and immediate family members may not have direct or indirect ownership, employment, contractual, or management interest in TRG. The relationship between the Academy and TRG shall be consistent with the conflicts of interest and prohibited familial relationship provisions set forth in the Contract and applicable law.

D. Independent Contractor Status. The parties to this Agreement intend that the relationship between them created by this Agreement is that of an independent contractor, and

not employer-employee or joint-employers. No agent or employee of TRG shall be determined to be the agent or employee of the Academy except as expressly acknowledged in writing by the Academy. Notwithstanding the foregoing, TRG and its employees are designated as agents of the Academy having legitimate educational interest for the limited purpose of allowing them access to educational records under 20 U.S.C. Section 1232g, the federal Family Educational Rights and Privacy Act. TRG will be solely responsible for its acts and the acts of its agents, employees, and subcontractors. No provision of this Agreement shall predetermine the Academy Board's course of action in choosing to waive or not waive, or assert or not assert governmental immunity.

E. Bankruptcy Notice. TRG shall notify the Academy Board if any principal or officer of TRG, or TRG as a corporate entity (including any related organizations or organizations in which a principal or officer of TRG served as a principal or officer), files for bankruptcy protection or, at the time this Agreement is executed, has filed for bankruptcy protection within the last five (5) years.

F. Personally Identifiable Information. TRG agrees to treat all personally identifiable information ("PII") received from the Academy or from students confidentially and securely, in compliance with all applicable laws and regulations related to protecting the privacy of PII, including without limitation the Family Education Rights and Privacy Act (FERPA), the Code, and Section 5 of Michigan's Student Online Personal Protection Act. MCL 388.1295. Except as permitted under the Code, TRG shall not sell or otherwise provide to a for-profit business entity any PII that is part of an Academy student's education records. If TRG receives information that is part of an Academy student's education records, TRG shall not sell or otherwise provide the information to any other person except as permitted under the Code. For purposes of this section, the terms "educational records" and "personally identifiable information" shall have the same

meaning as those terms in Section 1136 of the Code. MCL 380.1136. In addition, TRG will maintain a documented security program that incorporates appropriate, commercially reasonable and industry-standard security measures to protect such PII. TRG will notify the Academy of any security breach that impacts PII received from the Academy or from students within a commercially reasonable time after discovery and will provide regular status updates until the breach is resolved. After final resolution of the breach, TRG will provide the Academy with a final incident report.

G. Access to Confidential Information. TRG, and its respective officers, directors, employees and designated agents are each authorized to serve as agents of the Academy having a legitimate educational interest in the Educational Program (defined below) and its students for purposes of the FERPA, 20 USC § 1232g *et seq.*, such that they are jointly and severally entitled to access the educational records of the Educational Program for all purposes related to FERPA. TRG and its employees and subcontractors agree to comply with FERPA and corresponding regulations applicable to school officials. During the term of this Agreement, the Academy may disclose, and TRG and its officers, directors, employees and designated agents may have access to, confidential information to the extent permitted by applicable law, including without limitation, the FERPA, 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. TRG agrees

that it shall comply with all applicable law regarding the safeguarding of the confidentiality of such information.

ARTICLE III

FUNCTIONS TO BE PERFORMED BY TRG

In consideration of the management fee paid by the Academy, TRG shall perform the following:

A. **Responsibility.** TRG shall be responsible, and accountable to the Academy, for the management, operation and performance of the Academy.

B. **Educational Program.** The educational program and the program of instruction that is contained in the Contract (the “Educational Program”) shall be designed and implemented by TRG in cooperation with the Academy, and may be adapted and modified from time to time with prior Board approval and in conjunction with the Contract amendment process established under the Contract, it being understood that an essential principle of a successful, effective educational program is its flexibility, adaptability, and capacity to change in the interest of continuous improvement and efficiency, and that the Academy and TRG are interested in results and not in inflexible prescriptions.

C. **Strategic Planning.** TRG shall help design strategic plans for the continuing educational and financial benefit of the Academy.

D. **Public Relations.** TRG shall design an ongoing public relations strategy for the development of beneficial and harmonious relationships with other organizations and the community for joint implementation by the Academy and its Board.

E. **Special Functions.** Consistent with the Academy Board’s approved annual budget, TRG will provide the Academy with, but not limited to, the following services to the Academy under

the direction and supervision of the Academy Board:

Operational Public School Academy Services

1. Financial
 - * Develop salary schedules
 - * Select benefit packages
 - * Determine retirement options
 - * Financial reporting and compliance
 - * Budget Preparation
 - * Payroll
 - * Invoices
2. Educational Planning
 - * Curriculum creation and oversight
 - * Recommend methods of assessments
 - * Coordinate with the Academy to develop improvement plans
 - * Assist in seeking accreditation through North Central Association/Education
 - * Assist in the development and writing of the technology plan
3. Staff Development
 - * Provide Workshops and seminars
 - * Provide Professional Growth activities
4. Problem Solving
 - * Personnel issues
 - * Conflict resolution
 - * Student/parent/teacher issues
5. Compliance Issues
 - * Membership reports
 - * Annual reports
 - * Annual audits
6. Equipment/Furniture
 - * Purchase of necessary equipment and furniture
 - * Inventory tracking for school assets
7. Contracted Services (as needed)
 - * Maintenance (building)
 - * Cleaning supplies/equipment
 - * Snow removal
 - * Lawn service
 - * Painting
 - * Landscaping

- * Parking lot maintenance
- * Playground equipment
- * Athletic equipment

Assets provided, or caused to be provided, to the Academy by TRG with funds TRG has received from sources other than the Academy under Article V shall remain the property of TRG or the providing entity unless agreed in writing to the contrary. All acquisitions made by TRG for the Academy with funds TRG has received pursuant to Article V including, but not limited to, instructional materials, equipment, supplies, furniture, computers and technology, shall be owned by and remain the property of the Academy. The Academy Board shall retain the obligation, as provided in Section 1274 of the Code, to adopt written policies governing the procurement of supplies, materials, and equipment. In the event that TRG purchases supplies, materials, or equipment from third parties as agent for or on behalf of the Academy, TRG shall comply with Section 1274 of the Code as if the Academy were making such purchases directly from a third party. Such equipment, materials, and supplies shall be and remain the property of the Academy. TRG certifies that there shall be no markup of costs or any added fees for supplies, materials, or equipment procured by TRG on the Academy's behalf and that said supplies, materials and/or equipment shall be inventoried in such a way that it can be clearly established which property belongs to the Academy. Further, TRG shall maintain an inventory of Academy supplies, materials, and equipment so that it can be clearly established which property belongs to the Academy.

F. Subcontracts. TRG reserves the right to subcontract any and all aspects of all other services it agrees to provide to the Academy, including, but not limited to transportation, food service, payroll and/or any computer services with the prior approval of the Academy Board. TRG shall not subcontract the management, oversight, staffing, or operation of the teaching and

instructional program, except as specifically permitted herein or with the prior approval of the Academy Board.

G. Place of Performance. TRG reserves the right to perform functions other than instruction, such as purchasing, professional development and administrative functions, off site, unless prohibited by the Contract or applicable law.

H. Student Recruitment. TRG and the Academy shall be jointly responsible for the recruitment of students subject to agreement on general recruitment and admission policies approved by the Academy Board. Application by or for students shall be voluntary and shall be in writing. Students shall be enrolled in accordance with the procedures set forth in the Contract, applicable Board policies, and in compliance with the Code and other applicable law.

I. Legal Requirements. TRG shall assist the Academy in providing educational programs that meet federal, state, and local laws and regulations, and the requirements imposed under the Code, the Contract, and applicable law, unless such requirements are or have been waived by any applicable entities.

J. Rules and Procedures. TRG shall recommend to the Academy Board reasonable rules, regulations and procedures applicable to the Academy and is authorized and directed to enforce such rules, regulations and procedures adopted by the Academy Board.

K. School Years and School Day. The school year and the school day shall be scheduled as required by law and the Contract.

L. Additional Grades and Student Population. TRG, in connection with the Academy's Principal, shall make the recommendation to the Academy Board 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 by the Contract and the Academy Board's

approved annual budget.

M. Compliance with the Contract. TRG shall make information concerning the operation and management of the Academy, including without limitation the information described 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, this Agreement shall not restrict the College Board's or the public's access to the Academy's records.

N. Compliance with Section 503c. On an annual basis, TRG agrees to provide the Board with the same information that a school district is required to disclose under section 503c of the Code, MCL 380.503c or under section 18(2) of the State Aid Act of 1979, MCL 380.1618, 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 Academy's website home page, in a form and manner prescribed by the Michigan Department of Education. The defined terms in section 503c of the Code, MCL 380.503c, shall have the same meaning in this Agreement. TRG also shall make information available to the Academy as deemed necessary by the Academy Board in order to enable the Academy to fully satisfy its obligations under of the Contract.

ARTICLE IV

OBLIGATIONS OF THE BOARD

The Academy Board shall exercise good faith in considering the recommendations of TRG and the Academy Administrator/Principal including, but not limited to, their recommendations concerning policies, rules, regulations, procedures, curriculum, budgets, fund raising, public relations and school entrepreneurial affairs. TRG does understand all of these

decisions remain the responsibility of the Academy Board and may not be delegated directly to TRG.

ARTICLE V

FINANCIAL ARRANGEMENTS

A. Compensation for Services. During the term specified in Article I, the Academy shall pay TRG a capitation fee of an amount equal to ten (10%) percent, based upon all of the funds received by the Academy that the State of Michigan determines the Academy is entitled to receive pursuant to the State School Aid Act of 1979, as amended, for the particular students enrolled in the Academy (“SSA”) and the 31A –At Risk, Title I, GSRP, IIA, IID and V program funds (the “Fee”). The SSA may change according to overall changes in the student allocations by the State of Michigan. Such Fee shall not be less than \$500,000 nor exceed \$1,000,000 in any one academic year of the Academy. The SSA may change according to overall changes in the student allocations by the State of Michigan.

B. No Related Parties or Common Control; Chief Administrative Officer. TRG 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. The Academy Board may not include any director, officer or employee of a management company that contracts with the Academy. In furtherance of such restriction, it is agreed between the Academy and TRG that none of the voting power of the governing body of the Academy will be vested in TRG or its directors, members, managers, officers, shareholders, and employees, and none of the voting power of the governing body of TRG will be vested in the Academy or its directors, members, managers, officers, shareholders, and employees. The Academy and TRG will not employ the same individuals. Further, the Academy and TRG will not be members of the same

controlled group, as defined in Section 1.150-1 (f) 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. The Board shall by Board resolution appoint the Board Treasurer, or such other officer as determined by the Board, to serve as the chief administrative officer of the School (the “CAO”) under the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.* (the “Budgeting and Accounting Act”). No TRG owner, officer, director, employee or agent shall be designated as the CAO of the Academy, although a TRG employee may assist an Academy Board member who is the CAO in carrying out their responsibilities.

C. Payment of Costs. In addition to the fee described in this Section, the Academy shall reimburse TRG for all costs incurred and paid by TRG in providing the Educational Program and other goods and services, pursuant to Articles III, V, VI, and XI of this Agreement, at the Academy provided such costs are consistent with the Academy budget approved by the Academy Board. Such costs include, but are not limited to, advertising, typing, printing, duplicating, postage, application fees, curriculum materials, textbooks, library books, furniture and equipment, computers, supplies, salaries and related expenses of TRG employees assigned to the Academy to provide goods and services to the Academy, building payments, maintenance, capital improvements and subcontractor fees. In paying costs on behalf of the Academy, TRG shall not charge an added fee. The Academy shall not reimburse TRG for any costs incurred or paid by TRG as a result of services provided or actions taken pursuant to Articles I, II, IV, VII, VIII (except as otherwise specifically indicated), IX, X, XII, XIII, and XIV of this Agreement. The Academy Board may pay or reimburse TRG for approved fees or expenses upon properly presented documentation and approval by the Academy Board, or the Academy Board may advance funds to TRG for the approved fees or expenses associated with the Academy’s

operation provided that documentation for the fees and expenses are provided for Academy Board ratification within a reasonable time period not to exceed sixty (60) days. No corporate costs or “central office” personnel costs of TRG shall be charged to, or reimbursed by, the Academy.

D. Time and Priority of Payments. The fee due to TRG shall be calculated for each school year at the same time as the State of Michigan calculates the SSA, and adjustments to such calculation shall occur at the same time as the State of Michigan makes adjustments to the SSA. TRG shall receive its fee as calculated pursuant to the preceding sentence in eleven (11) installments beginning in October of each school year and ending in August of each school year. Such installment amounts shall be due and payable within five (5) days of receipt by the Academy of its monthly SSA. Payments due and owing to TRG shall be made by the Academy to TRG on or before the last day of each month.

E. Other Revenue Sources. In order to supplement and enhance the school aid payments received from the State of Michigan, and improve the quality of education, the Academy and TRG shall endeavor to obtain revenue from other sources. In this regard:

- (1) The Academy and/or TRG shall solicit and receive grants and donations consistent with the mission of the Academy, subject to the prior approval of the Academy Board.
- (2) Academy and/or TRG may apply for and receive grant money in the name of the Academy subject to the prior approval of the Academy Board.
- (3) To the extent permitted under the Code and prior approval by the Academy Board, TRG may charge fees to students for extra services such as summer and after school programs, athletics, etc., and charge non-Academy students who

participate in such programs. TRG and the Academy will split all revenue collected, in a proportion agreed upon by the parties in advance of TRG conducting such programs, less expenses to the Academy caused by such programs, if not prohibited by law.

F. Other Institutions. The Academy acknowledges that TRG may enter into similar management agreements with other public or private educational schools or institutions (“Institutions”). TRG shall maintain separate accounts for reimbursable expenses incurred on behalf of the Academy and other Institutions, and only charge the Academy for expenses incurred on behalf of the Academy. If TRG incurs authorized reimbursable expenses on behalf of Academy and other Institutions which are incapable of precise allocation between the Academy and such Institutions, to the extent permitted under applicable law, then TRG shall allocate such expenses among all such Institutions, and the Academy, on a pro-rata basis based upon the number of students enrolled at the Academy and the Institutions, or upon such other equitable basis as is acceptable to the parties. All grants or donations received by the Academy or by TRG for the specific benefit of the Academy shall be used solely for the Academy. Marketing and development costs paid by or charged to the Academy shall be limited to those costs specific to the Academy program, and shall not include any costs for the marketing and development of TRG or other schools managed by TRG.

G. Reporting. TRG shall provide the Academy with:

- (1) All information the Academy’s auditors reasonably request.
- (2) Reports on Academy operations, finances, and student performance, upon request of the Academy, the College Board, or the State of Michigan.
- (3) Level of compensation and fringe benefits of employees assigned to the

Academy.

- (4) Other information on a periodic basis to enable the Academy to monitor TRG's educational performance and the efficiency of its operations of the Academy.

H. Access to Records. TRG shall keep accurate records pertaining to its operation of the Academy, together with all Academy records prepared by or in the possession of TRG, and, unless required by law to be retained for a longer period, retain all of said records for a period of time required by the Michigan Department of Education's Record Retention Schedule to which such books, accounts and records relate. All financial, educational and student records pertaining to the Academy are Academy property. Such records are subject to the Michigan Freedom of Information Act and shall be stored, in physical form, on-site at the Academy's facility or directly accessible at the Academy facility and shall be maintained in accordance with the policies of the Michigan Department of Education. All records pertaining to teacher and administrator certification, as well as a copy of the employee handbook, shall be maintained physically on site or directly accessible at the Academy facility. TRG and the Academy shall maintain the proper confidentiality of personnel, student and other records as required by law.

I. Review of Budget; Budget Reserve. TRG shall be responsible for preparing a draft of the annual budget for the Academy Board to review. The Academy Board shall be responsible for reviewing, revising, and approving the annual budget of the Academy. TRG may not make expenditures or commitments which deviate from the amounts or purposes of appropriations contained in the approved budget without the prior approval of the Academy Board in the form of an approved amendment of the budget in accordance with applicable law and the Contract. The Academy Board shall be responsible for determining the budget reserve amount included as part of the Academy's annual budget. In addition, the Academy Board is responsible for

implementing fiscal policies that will assist the Academy in attaining the stated budget reserve amount.

J. Financial Reporting. On not less than a monthly basis, TRG shall provide the Board with a balance sheet, a written report detailing the status of the budget to actual revenues and a detailed schedule of expenditures at an object level detail for review and approval by the Board. This report shall explain any variances from the approved budget, changes in fund balance, and shall contain recommendations for necessary budget corrections. The foregoing presentation shall be in a form and format acceptable to the Board and shall be provided to Board members not less than five (5) business days prior to the Board meeting at which the information will be presented and discussed. The information shall also be included in the Board packets sent to Board members in preparation for the Board meeting. TRG shall provide special reports as necessary to keep the Board informed of changing conditions. All finance and other records of TRG related to the Academy will be made available to the Academy, the Academy's independent auditor and Bay Mills Community College Charter Schools Office ("CSO") upon request.

J. Annual Audit. The Academy Board shall select, retain, and pay for an annual financial audit in accordance with the Contract and applicable state law. TRG shall cooperate with the Academy's independent auditor and will make sure that all of the Academy's financial records and other TRG records related to the Academy will be made available to the Academy, the Academy's independent auditor, or the CSO upon request. TRG will not select, retain, evaluate or replace the Academy's independent auditor.

K. Payment of Academy Funds. The Academy Board shall direct that the deposit of all funds received by the Academy be deposited in the Academy's depository account as required by

applicable law. TRG shall not be a signatory on any Academy Board account. The signatories on the depository account shall only be Academy Board members properly designated annually by Academy Board resolution. All interest earned on Academy depository accounts shall accrue to the Academy.

ARTICLE VI

PERSONNEL & TRAINING

A. **Personnel Responsibility.** Subject to the Contract and Academy Board policies and the approved Academy Board annual budget, TRG shall, in cooperation with the Academy, recommend to the Academy Board staffing levels, and select, evaluate, assign, discipline and transfer personnel, consistent with state and federal law, and consistent with the parameters adopted and included within the Contract. The Academy and TRG agree that TRG has all the rights, discretion and authority required by law to constitute an “employer” as defined in 29 U.S.C. §152(2) of the National Labor Relations Act and is subject to the jurisdiction of the National Labor Relations Board. The Academy Board reserves the right to have TRG personnel placed elsewhere by TRG if the Academy is dissatisfied with their performance. TRG shall not have contracts with staff assigned to the Academy (including by way of example and not limitation, teachers, administrators, counselors and the like) which contain non-competition, no-hire, or similar provisions prohibiting or restricting the Academy from hiring instructional staff that perform work at the Academy.

B. **Principal.** Because the accountability of TRG to the Academy is an essential foundation of this partnership, and because the responsibility of a principal (“Principal”) is critical to its success, the Principal will be an employee of TRG and TRG will have the authority, consistent

with applicable law, to select and supervise the Principal and to hold him or her accountable for the success of the Academy. The Principal and TRG, in turn, will have similar authority to select and hold accountable the teachers in the Academy.

C. Teachers. Subject to the Contract and Academy Board policies and the approved Academy Board annual budget, and from time to time thereafter, TRG shall recommend to the Academy Board the number of teachers, and the applicable grade levels and subjects, required for the operation of the Academy. TRG shall provide the Academy with the required number of teachers, qualified in the grade levels and subjects required, as are required by the Academy Board and the Contract. The curriculum taught by such teachers shall be the curriculum prescribed by the Academy and set forth by the Contract. Such teachers may, in the discretion of TRG, work at the Academy on a full or part time basis, provided that if teachers work at the Academy on a part time basis, such teachers' salaries and benefits shall be pro-rated in the Academy's budget. If assigned to the Academy on a part time basis, such teachers may also work at other schools managed or operated by TRG. Each teacher assigned or retained to the Academy shall hold a valid teaching certificate issued by the State Board of Education under the Code and shall undergo a criminal background and record check and unprofessional conduct check, as required under the Code for teachers who are employees of the Academy.

D. Support Staff. TRG shall recommend, and the Academy Board shall determine, the number and functions of support staff required for the operation of the Academy consistent with the Contract and approved Academy Board annual budget. The parties anticipate that such support staff may include clerical staff, administrative assistants to the Principal, a bookkeeping staff, maintenance personnel, and the like.

E. Employer of Personnel. Except as specified in this Agreement, all teaching and

instructional personnel performing functions on behalf of the Academy shall be employees of TRG. Compensation of all employees of TRG shall be paid by TRG. TRG is responsible for paying employees working on Academy operations irrespective of whether TRG receives an advancement of its costs or the payment of services from the Academy. For purposes of this Agreement, "Compensation" shall include salary, fringe benefits, and state and federal tax withholdings. TRG shall be responsible for paying workers' compensation, social security, unemployment, and any other taxes required by law to be paid on behalf of its employees. Unless required by applicable statute, court or administrative decision, or Attorney General's opinion, TRG shall not make payments to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees. TRG shall be responsible for ensuring that all employees have undergone criminal background checks and unprofessional conduct checks as required by the Code, and evidence of the same shall be stored, in physical form, at the Academy or directly accessible at the Academy facility. Teachers employed by TRG shall not be considered teachers for purposes of continuing tenure under MCLA § 38.71 *et seq.*

F. **Training.** TRG shall provide training in its methods, curriculum, program, and technology to all teaching personnel on a regular and continuous basis. Such methodology shall at a minimum utilize TRG's teaching staff to utilize their own professional abilities to provide in-service training to each other. Instructional personnel will receive at least the minimum number of professional development hours as required under the Code. Non-instructional personnel shall receive such training as TRG determines is reasonable and necessary under the circumstances consistent with the Code.

ARTICLE VII

ADDITIONAL PROGRAMS

A. **Additional Programs.** The services provided by TRG to the Academy under this Agreement consist of the Educational Program during the school year and school day as set forth in the Contract. With prior approval of the Academy Board, TRG may provide additional programs including, but not limited to, adult and community education, summer school, and other special programs. In such cases where TRG is responsible for the cost of providing such additional programs, TRG and the Academy will split, in a proportion agreed upon by the parties in advance of TRG conducting such programs, with the Academy all revenues collected, less expenses to the Academy caused by such programs.

B. **Food Service and Transportation.** TRG will not initially provide transportation services to students at the Academy. If approved by the Academy Board, the students will be provided a catered lunch program under the normal school lunch program.

ARTICLE VIII

TERMINATION OF AGREEMENT

A. **Termination By TRG.** TRG may terminate the Agreement with cause prior to the end of the term specified in Article I in the event the Academy fails to remedy a material breach within sixty (60) days after notice from TRG. A material breach may include, but is not limited to, failure to make payments to TRG as required by this Agreement, or unreasonable failure to adhere to the personnel, curriculum, program, or similar material recommendations of TRG.

B. **Termination by the Academy.** The Academy may terminate this Agreement with cause prior to the end of the term in the event that TRG should fail to remedy a material breach within sixty (60) days after notice from the Academy. Material breach may include, but is not limited to, violation of this Agreement, violation of the Contract with the College Board, failure of TRG to account for its expenditures or to pay operating costs (providing funds are available to do so),

or TRG's unreasonable failure to meet performance standards.

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

D. Effective Date of Termination. In the event that this Agreement is terminated by either party prior to the end of the term specified in Article I, any termination of this Agreement for cause or without cause shall not take effect until the earlier of (i) an approved agreement by the Academy with another Educational Service Provider ("ESP") (or self-management) is in effect; or (ii) the end of the current school year in which the termination is invoked. A change in ESP (or a decision to self-manage) in mid school year is strongly discouraged and will be disapproved by CSO absent compelling circumstances and a clear demonstration that the new ESP (or transition to self-management) can seamlessly assume management and operations of the school without disrupting the Academy's operations.

E. Expiration. Upon expiration of this Agreement at the completion of the Contract term and where there is no renewal, or upon the termination of this Agreement, whether with or without cause, TRG shall have the right to (a) reclaim any usable property or equipment (e.g., copy machines, personal computers) it provided to the Academy at TRG's expense and not paid for by the Academy, or (b) to make payment for any such property, at the sole option of the Academy. If the Academy chooses to purchase such property, the purchase price shall be either fair market value of such property determined as of the effective date of the termination or

expiration of this Agreement or the depreciated cost of such property, whichever is less. Fixtures and building alterations shall become the property of the building owner.

F. Transition and Termination. Upon termination, TRG shall work for a period of up to ninety (90) days if deemed necessary by the Academy to transition to a new ESP. The fee shall be in accordance with the compensation stated herein. However, upon termination or expiration of the Agreement, or when the Agreement is terminated due to a Contract revocation, reconstitution, termination or non-renewal, TRG shall, without charge (i) close the books on the then-current school fiscal year which includes, but is not limited to, the completion and submission of the annual financial audit, state and federal grant reporting and all other associated reporting required within the required timelines established by the appropriate local, state or federal authority; (ii) organize and prepare student records for transition to the new ESP, self-management or in the case of a school closure, transfer to a student's new school as designated by the student's parent/legal guardian or to a person or entity authorized to hold such records; (iii) provide the Academy with an updated fixed asset schedule showing all property owned by the Academy; (iv) provide an updated list of outstanding vendor invoices with total amounts owed (including the total outstanding owed by the Academy to TRG, if any; (v) the amount owed by TRG to the Academy if any; (vi) ensure the closeout of existing grants and the transfer of grant funded property to Academy, if applicable; (vii) provide for the orderly transition of employee compensation and benefits to the new educational services provider or self-management without disruption to staffing, or in the case of school closure, final payment of all employee compensation, benefit and tax obligations related to services provided by TRG to the Academy; (viii) organize and prepare the Academy's records, both electronic and hard-copy, for transition to the new ESP, self-management or dissolution; and (ix) provide for the orderly

transition to the new educational services provider, self-management or dissolution of all Academy-owned assets including, but not limited to, furniture, fixtures, equipment and real estate. This includes any keys, log-in information and passwords related to any Academy asset.

G. No Penalty Early Termination. In the event that the Academy is required (i) to close an Academy site pursuant to a notice issued by the Michigan Department of Education under Section 507 of the Code, MCL 380.507; or (ii) to undergo a reconstitution pursuant to Section 507 of the Code, MCL 380.507, and the Contract, and such closure of an Academy site or reconstitution causes an amendment to or termination of this Agreement, the parties agree that this Agreement shall be amended or terminated to implement the Academy site closure or reconstitution, with no cost or penalty to the Academy, and TRG shall have no recourse against the Academy or the College Board for implementing such site closure or reconstitution.

ARTICLE IX

PROPRIETARY INFORMATION

A. Proprietary Information. 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 TRG at the direction of the Academy Board with Academy funds dedicated to the purpose of developing such curriculum or materials. TRG owns all proprietary rights to curriculum and educational materials previously developed or copyrighted by TRG, curriculum and educational materials developed by TRG not using funds from the Academy, and curriculum and educational materials not dedicated to the specific purpose of developing Academy curriculum or educational materials. TRG and the Academy shall each have the sole and exclusive right to license materials for which they own proprietary rights for use by other school districts, public schools and customers or to modify and/or sell material to other schools and

customers. The Academy and TRG each shall use reasonable efforts to ensure that its personnel and agents refrain from disclosing, publishing, copying, transmitting, modifying, altering or utilizing proprietary information owned by the other party. TRG's educational materials and teaching techniques used by the Academy are subject to disclosure under the Code and the Freedom of Information Act.

B. Required Disclosure. The Academy Principal shall be permitted to report any new teaching techniques or methods of revisions to known teaching techniques or methods to the Academy Board and to the State Board of Education, which techniques or methods may thereafter be made available to the public, as provided in Sections 505(3) of the Code, notwithstanding anything contained in this Article IX to the contrary.

ARTICLE X

INDEMNIFICATION

A. Indemnification. To the extent permitted by law and without waiving any governmental immunity, the Academy shall indemnify and save and hold TRG and all if its employees, officers, directors, subcontractors, and agents (collectively "TRG Employees") harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any action taken or not taken by Academy employees (as defined below) in the event of any claim that this Agreement or any part thereof is in violation of law; any noncompliance by the Academy with any agreements, covenants, warranties, or undertakings of the Academy contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of the Academy Board contained in or made pursuant to this Agreement. In addition, the Academy shall reimburse TRG for any and all legal expenses and costs associated with the defense of any such claim, demand, or suit.

TRG shall indemnify and save and hold the Academy and all of its employees, officers, directors, subcontractors, and agents (collectively “Academy Employees”) harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any action taken or not taken by the TRG or its Employees in the event of any claim that this Agreement or any part thereof is in violation of law; any noncompliance by TRG with any agreements, covenants, warranties, or undertakings of TRG contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of the Academy Board contained in or made pursuant to this Agreement. In addition, TRG shall reimburse the Academy for any and all legal expenses and costs associated with the defense of any such claim, demand, or suit.

B. 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 respective members, officers, employees, agents or representatives (for purposes of this paragraph, all collectively referred to as “Bay Mills Community College”) are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, TRG hereby promises to indemnify, defend, and hold harmless Bay Mills Community College against all claims, demands, actions, suits, causes of action, losses, judgments, damages, fines, penalties, forfeitures, or any other liabilities or losses of any kind, including costs, attorney fees, and related expenses, imposed upon or incurred by Bay Mills Community College 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 Regents' consideration of or issuance of a Contract, TRG's preparation for and operation of the Academy, or which are incurred as a result of the reliance by Bay Mills Community College upon information supplied by TRG, or which arise out of the failure of TRG to perform its obligations under the Contract, the Agreement or Applicable Law, as applicable. 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 TRG to enforce its rights as set forth in this Agreement.

ARTICLE XI

INSURANCE

TRG shall secure and maintain comprehensive general liability and umbrella insurance coverage as required by Michigan University Self Insurance Corporation (MUSIC) and the Contract. TRG's cost of procuring TRG's insurance under this Agreement is a corporate cost to be paid by TRG. The Academy shall maintain insurance coverage in the amounts required by the Contract. The Academy shall also maintain such insurance as shall be necessary to indemnify TRG as provided in this Agreement. TRG's insurance is separate from and in addition to the insurance the Academy Board is required to obtain under the Contract. Each party shall, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this paragraph. TRG shall comply with any information or reporting requirements applicable to the Academy under the Academy's policy with its insurer(s), to the extent practicable. TRG's insurance shall include coverage for sexual molestation or abuse, will list the Academy and the Bay Mills Community College as an additional named insured and

shall not be changed, revoked or modified absent thirty (30) days' notice to the College Board. In the event the College Board modifies the level, type, scope or other aspects of such coverage, TRG shall undertake like and similar modifications within thirty (30) days of being notified of such change.

ARTICLE XII

WARRANTIES AND REPRESENTATIONS

The Academy and TRG each represent that it has the authority under law to execute, deliver, and perform this Agreement, and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will take all steps reasonably required to implement this Agreement. The Academy and TRG mutually warrant 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 XIII

MISCELLANEOUS

- A. **Sole Agreement.** This Agreement supersedes and replaces any and all prior agreements and understanding between the Academy and TRG.
- B. **Force Majeure.** Neither party shall be liable if the performance of any part or all of this contract is prevented, delayed, hindered, or otherwise made impracticable, or impossible by reason of any strike, flood, riot, fire, explosion, war, act of God, sabotage, accident, or any other casualty, or cause beyond either party's control, and which cannot be overcome by reasonable diligence and without unusual expense.

C. **Notices.** All notices, demands, requests, and consents under this Agreement shall be in writing, shall be delivered to each party, and shall be effective when received by the parties or mailed to the parties at their respective addresses set forth below, or at such other address as may be furnished by a party to the other party:

With a copy to:

Madison Academy

6170 Torrey Rd.
Flint, MI 48507
Attn. President, Board of Directors

George Butler
Aimee Gibbs
Dickinson Wright PLLC
500 Woodward Ave., Ste. 4000
Detroit, MI 48226

The Romine Group, Inc.
Corporate Headquarters
7877 Stead Street
Utica, Michigan 48317
Attention: William Kneer

Davis Burket Savage Listman Brennan
10 N. Main Street
Suite 401
Mt. Clemens, MI 48043
Attention: John L. Burket

D. **Severability.** The invalidity of any of the covenants, phases, 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, phase, or clause had not been contained in this Agreement.

E. **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns. In the event TRG wants to assign this Agreement, it must obtain prior written approval from the Academy and such assignment must be consistent with the Contract and the CSO's policies.

F. **Entire Agreement.** This Agreement is the entire agreement between the parties relating to the services provided, and the compensation for such services. The Academy Board and TRG may not substantially amend this Agreement without notification to the College Board pursuant to the Contract and applicable CSO policies. Said amendment shall not be contrary to the Contract and it must be accompanied by a legal opinion. The Academy is responsible for

submitting any and all amendments to the College Board or the CSO, consistent with applicable CSO policies, for review under the Contract.

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

H. Assignment. This Agreement shall not be assigned by either party without the prior written consent of the other party.

I. Survival of Termination. All representations, warranties, and indemnities made herein shall survive termination of this Agreement.

J. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the State of Michigan.

K. Governmental Immunity. Nothing in this Agreement shall be interpreted as restricting the Academy Board from waiving its governmental immunity or require the Academy Board to assert, waive or not waive its governmental immunity.

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

THE ROMINE GROUP, INC.

MADISON ACADEMY

BY:

BY:

ITS:

ITS: President

DATE:

DATE: