**Saginaw Valley State University**

**School/University Partnership Office**

Educational Service Provider Agreement Checklist

The following must be submitted to SVSU upon renewal of an ESP Agreement or a new ESP Agreement:

 Proposed ESP Agreement

 Draft Legal Opinion Letter

 ESP Agreement Checklist

**For each provision listed below, please indicate where in the proposed ESP Agreement the required provision may be found. Be specific in identifying the clause or paragraph in which the provision is located.**

EXCERPT FROM SVSU CONTRACT:

## “Section 6.14 Required Contents of Contracts with ESP. The Academy may enter into or renew an agreement with an ESP for the operation or management of the Academy, provided the Academy complies with all of the requirements of this part and applicable law. At least thirty (30) days prior to the proposed effective date or one regular board meeting of the Academy Board of Directors, whichever is longer, the form of management agreement, along with: (i) an opinion of the Academy’s independent legal counsel, addressed to the University President for reliance thereon, that all such requirements, including any requirements of Applicable Law have been met and that there are no improper and/or unlawful interrelations or conflicts created by same (the “Legal Opinion”) and (ii) documentation sufficient to establish to the University President’s satisfaction that the ESP has the requisite educational and management expertise to operate the Academy in compliance with this Contract and all applicable law, including the requested information about the ESP outlined in the Academy’s Phase II Application must be furnished to SVSU for review. The University may disapprove of the proposed agreement if, in the sole opinion of the University, it is contrary to applicable law or the terms of this Contract. Additionally, the agreement must comply with the following:

| **Required Contents of ESP Contracts** | **Specific Location in Proposed ESP Agreement** |
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| 1. The Academy Board must ensure that, at all times during the term of this Contract, any ESP employed by the Academy maintains comprehensive general liability and umbrella insurance coverage at levels satisfactory to the University President (see Article 12). The insurance coverage required of the ESP shall not be in lieu of the insurance coverage requirements applicable to the Academy. Any policy of insurance maintained by the ESP must include coverage for sexual molestation or abuse, must name the University as an additional, named insured, and shall not be changed, revoked or modified absent thirty (30) days’ notice to the University President. The ESP Agreement shall also specify that, in the event the University President modifies the level, type, scope or other aspects of such coverage, then the ESP shall undertake like and similar modifications within 30 days of being notified of such change.
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| 1. The Academy Board must ensure that, and the ESP Agreement shall provide that, any ESP performing services at the Academy shall comply with the requirements under this Contract to the extent such ESP is performing services on behalf of the PSA.
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| 1. No provision of the ESP 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 action or inaction of the ESP.
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| 1. No provision of the ESP Agreement shall predetermine the Academy Board’s course of action in choosing to assert or not assert governmental immunity.
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| 1. The ESP Agreement shall state that all financial, educational, and student records pertaining to the Academy are Academy property and that such records are subject to the provisions of Michigan’s Freedom of Information Act. All such records must be stored, in physical form, on-site at the Academy’s facility or directly accessible at the Academy facility. All records pertaining to teacher and administrator certification, as well as a copy of the employee handbook shall be maintained physically on site or directly accessible at the Academy facility.
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| 1. The ESP Agreement shall state that all of the Academy’s financial and other ESP-related records will be made available to the Academy’s independent auditor and that the ESP staff will cooperate with said auditor, and that the ESP shall not select or retain the Academy’s auditor.
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| The ESP Agreement must certify that there shall be no markup of costs for supplies, materials, or equipment procured by the ESP on the Academy’s behalf and that the Academy and that all supplies, materials, and equipment procured for the Academy by the ESP shall be inventoried by an acceptable method of inventory and further that an inventory of Academy equipment shall be maintained so that it can be clearly established which property belongs to the Academy. |  |
| The ESP Agreement shall contain a provision that states upon termination, the ESP shall work for a specified period of time to transition to a new ESP. There may be a fee set forth for this service. |  |
| The ESP Agreement shall contain a provision that states upon termination the ESP shall, without charge (i) close the books on the then-current fiscal quarter; (ii) organize and prepare the Academy’s records for transition to the new ESP; (iii) organize and prepare student records for transition to the new ESP; and (iv) provide for the orderly transition of employee compensation and benefits to the new ESP without disruption to staffing. |  |
| The ESP Agreement shall prohibit the ESP from executing contracts with its staff assigned to the Academy (including by way of example and not limitation, teachers administrators, counselors and the like) that contain noncompete agreements of any nature. |  |
| The Academy Board and the ESP may not substantially amend the management contract without notifying the University President. No amendment shall be contrary to this section and shall be accompanied by a Legal Opinion. Whether or not substantial, the Academy shall submit to the University President Designee all amendments to the management contract within 10 days after such amendment. |  |
| The ESP Agreement shall contain the following provision:“Indemnification of Saginaw Valley State University. The parties acknowledge and agree that the Saginaw Valley State University Board of Control, Saginaw Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Saginaw Valley State University Board of Control, Saginaw Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Saginaw Valley State University, which arise out of or are in any manner connected with Saginaw Valley State University Board’s approval of the Public School Academy application, the University Board’s consideration of or issuance of a Contract, the Academy’s preparation for and operation of a public school, or which are incurred as a result of the reliance by Saginaw Valley State University and its Board of Control members, officers, employees, agents or representatives upon information supplied by the Academy or the Educational Management Organization, or which arise out of the failure of the Academy to perform its obligations under the Contract issued to the Academy by Saginaw Valley State University Board of Control. The parties expressly acknowledge and agree that Saginaw Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.” |  |
| The ESP Agreement shall require all ESP employees to undergo criminal background and unprofessional conduct checks required by applicable law and for the ESP to store evidence of such on site, in physical form, at the Academy or directly accessible at the Academy facility. |  |
| The ESP Agreement shall contain a provision requiring the educational service provider to 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 Section 7.4 of this Contract and also at least the information that a school district is required to be disclosed under MCLA 388.1618 for the most recent fiscal year for which that information is available. |  |
| No ESP employee shall be designated as the Chief Administrative Officer of the Academy, although such employee may be a designee of the Chief Administrative Officer for certain purposes enumerated by Board action. |  |
| The ESP shall notify the Academy Board if any principal or officer of the ESP, or the ESP (including any related organizations or organizations in which a principal or officer of the ESP served as a principal or officer) as a corporate entity, has filed for bankruptcy protection in the last six (6) months or within any applicable preference period, whichever is longer. |  |
| The ESP Agreement must contain a provision providing for the early termination or amendment of the ESP Agreement, with no cost or penalty to the Academy, and no recourse to the University or any third party affiliated with or engaged by the University, by the ESP or any subcontracted person or entity of the ESP, in the event the University determines to exercise its prerogative under MCLA 380.507(7) and Section 9.3 hereof to reconstitute the Academy by requiring the termination or amendment of the ESP Agreement. |  |

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| PSA Attorney Name: |  |
| Email Address: |  |
| Phone Number: |  |