

MANAGEMENT AGREEMENT

This Management Agreement (“Agreement”) is made and entered into as of the 1st day of July, 2015 by and between **BARDWELL GROUP, INC.**, an educational management company and a Michigan corporation (“Bardwell”), and **DAVID ELLIS ACADEMY**, a Michigan public school academy (“Academy”) formed under Part 6A of the Revised School Code (the “Code”), as amended, being Sections 380.501 to 380.507 of the Michigan Compiled Laws.

RECITALS

The Academy is a charter school organized as a public school academy under the Code. The Academy has been issued a Contract to Charter a Public School Academy and Related Documents (“Contract”) by the Detroit Public Schools (“DPS”), pursuant to which DPS, as the authorizing body of the Academy, has granted the Academy the ability to organize and administer a public school academy. The Code permits a public school academy to contract with persons and entities for the operation and management of the public school academy.

The Academy and Bardwell desire to work together to develop and bring about a system of educational excellence and innovation at the Academy based, in part, on Bardwell’s school design, comprehensive educational program, and management principles.

The Academy desires that the acquisition of instructional materials, equipment and supplies; all matters of compensation, fringe benefits, sick leave, long and short term disability; and all matters pertaining to the daily work schedule for teachers and staff, as well as the employment of same, become the responsibility of Bardwell, to the extent permitted by law.

THEREFORE, in order to operate the Academy for the 2015-16 school year and the continuation of the Academy thereafter, and to implement an innovative educational program at the Academy, the parties desire to establish this arrangement for the management and operation of the Academy, and the Academy and Bardwell mutually agree as follows:

ARTICLE I. CONTRACTUAL RELATIONSHIP

Authority. The Academy represents that it is authorized by law to contract with a private entity for the provision of educational management services to the Academy, provided that no provision of such a contract shall be effective if it would prohibit the Board from acting as an independent, self-governing public body, allow public decisions to be made other than in compliance with the Open Meetings Act, or interfere with the Board’s constitutional duty to exercise its statutory, contractual and fiduciary obligations governing the operation of the Academy. The Academy further represents that it has been granted the Contract by DPS to organize and operate a public school academy pursuant to the Code. The Academy is authorized by DPS to supervise and control such academy, and is invested with all powers necessary or desirable for carrying out the Educational Program, as hereinafter defined, and contemplated in this Agreement.

- 1.2 Contract. The parties hereto, and herewith, agree that Bardwell, to the extent permitted by law, shall provide all employees, materials and supervision necessary for the provision of educational services to students of the Academy, and shall provide for the management, operation and maintenance of the Academy, in accordance with the educational goals, curriculum, methods of pupil assessment, admissions policy and criteria, school calendar and school day schedule, and age and grade range of pupils to be enrolled and methods to be used to monitor compliance with performance of targeted educational outcomes, all as previously adopted by the Board of Directors of the Academy (the “Board”), submitted in the Academy’s application to DPS, and included in the Contract, as the same may be amended and supplemented from time to time by the Board (the “Educational Program”).
- 1.3 Agreement Coterminous with Academy’s Contract. If the Academy’s Contract issued by DPS 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.
- 1.4 Compliance with Academy’s Contract. Bardwell agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy’s obligations under the Academy’s Contract issued by the DPS. The provisions of the Academy’s Contract shall supersede any competing or conflicting provisions contained in this Agreement.
- 1.5 Status of the Parties. Bardwell is not a division or any part of the Academy. The Academy is a body corporate and governmental entity authorized under the Code and is not a division or part of Bardwell. The relationship between the parties hereto was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement and those of any amendments executed pursuant to Section 15.7 hereof, that may exist from time to time.
- 1.6 Independent Contractor Status. The parties to this Agreement intend that the relationship between them is that of an independent contractor, not as an employee-employer relationship. No agent or employee of the Academy shall be determined to be an agent or employee of Bardwell for any reason or purpose. No agent or employee of Bardwell shall be determined to be an agent or employee of the Academy, except as follows:
- (i) Bardwell, and its respective officers, directors, employees and designated agents are each hereby authorized to serve as agents of the Academy having a legitimate educational interest in the Program and its students for purposes of the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g et seq., (“FERPA”), such that they are jointly and severally entitled to access the educational records of the Program for all purposes related to FERPA.
 - (ii) During the term of this Agreement, the Academy may disclose confidential data and information to Bardwell, 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, which information may only be used in accordance with such laws and only in the performance of services under this Agreement.

(iii) As otherwise expressly designated by written agreement of the parties with consent from anyone whose consent is required by law or contract.

1.7 Access. The Academy hereby grants to Bardwell all access and occupancy to the Academy school building as necessary or convenient to Bardwell for purposes of its rights and responsibilities under this Agreement.

ARTICLE II. TERM

2.1 Term.

This Agreement shall become effective July 1, 2015, and shall end on June 30, 2017, subject to a continued Contract from DPS and continued state per capita funding unless terminated sooner by the parties.

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

ARTICLE III. DUTIES AND RESPONSIBILITIES OF BARDWELL

3.1 Responsibility. Bardwell shall be responsible and accountable to the Board for the administration and operation and performance of the Academy in accordance with the Contract and the implementation of the Education Program. Neither Bardwell nor the Academy shall be permitted to expend Academy funds on services in excess of the amount set forth in the Academy’s annual budget approved annually by the Board.

3.2 Educational Goals and Programs. Bardwell agrees to implement the Educational Program. Should Bardwell determine that it is necessary to modify the Educational Program, Bardwell will make a recommendation to the Board for the proposed changes. As required by the Contract, Bardwell may implement such changes to the Education Program only after they have been approved by the Board and DPS.

3.3 Specific Duties. Bardwell shall be responsible for all of the management, operation, administration, and education at the Academy. Such duties include, but are not limited to:

- (a) Implementation and administration of the Educational Program, including administration of any and all extra-curricular and co-curricular activities and programs approved by the Board;
- (b) Acquisitions. All acquisitions made by Bardwell for the Academy with Federal or State School Aid funds including, but not limited to, instructional materials, equipment, supplies, furniture, computers and other technology, shall be owned by and remain the property of the Academy. Bardwell and its subcontractors will comply with the Contract and all applicable laws, rules and regulations in addition to such competitive bidding 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 and Bardwell will not include any fees or charges to the cost of the equipment, materials and supplies purchased from third parties on behalf of the Academy. In no event will any acquisition(s) be made from persons who are related to Bardwell or its owners, directors, officers, employees or agents without the prior approval of the Board and applicable Michigan conflict of interests laws.
- (c) Acquisition of instruction materials, equipment and supplies approved by the Board. Equipment and supplies provided, or caused to be provided, to the Academy by Bardwell with funds Bardwell has received from sources other than the Academy under Sections 5.3 or 5.1 shall remain the property of Bardwell or the providing entity unless agreed in writing to the contrary.
- (d) Hiring, management and supervision of all personnel, including provision of professional development for all instructional personnel and the personnel functions outlined in Article IX of this Agreement.
- (e) Operation and maintenance of the school building to the extent consistent with any and all leases pertaining to the Academy site, and the installation of technology integral to the school design as approved by the Board.
- (f) Management of all aspects of the business administration of the Academy, including receiving, depositing, accounting for all funds belonging to Academy and deposited in Academy bank accounts only, from any and all source. The Board shall determine the bank depository of all funds received by the Academy. All funds received by the Academy shall be initially deposited in the Academy's bank depository account. Signatories on the bank depository account shall be

Board members or properly designated Board employees. All interest or investment earnings on Academy deposits shall accrue to the Academy. The Board shall provide Academy funding on a consistent and timely basis to Bardwell to fulfill its obligations under this Agreement.

- (g) Any provision of transportation or food service, for the Academy as the Board decides shall be implemented pursuant to the Contract; and
- (h) Any other function necessary or expedient for the administration of the Academy and implementation of the Education Program as approved by the Board.

- 3.4 Subcontracts. Subject to this Agreement, Bardwell may subcontract the services it agrees to provide the Academy, including, but not limited to transportation and/or food service. However, Bardwell shall not subcontract the management, oversight or operation of the teaching and instructional program, or any other service for which the subcontractor is paid twenty percent (20%) or more of the fee paid to Bardwell pursuant to Section 5.1 except as specifically permitted and with prior approval by the Board.
- 3.5 Place of Performance. Bardwell shall implement the instruction portion of the Education Program at the Academy school building. Bardwell may perform functions other than instruction, such as purchasing, professional development, and administrative functions, at any Bardwell office, if any, unless prohibited by the Contract or applicable law. Student records and financial books and records of the Academy, are Academy property, and all such records shall be maintained at the Academy school building.
- 3.6 Student Recruitment. The Board shall establish the recruitment and admission policies. Bardwell shall implement such policies. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable law.
- 3.7 Due Process Hearings. The Board shall establish student discipline policies and procedures. Bardwell shall implement such policies and procedures, which shall include, but not limited to, providing students with due process hearings in conformity with the requirements of state and federal law regarding discipline, special education, confidentiality and access to records. The Board shall provide students with a right to appeal directly to the Board for any matter of discipline that includes the possibility of long-term suspension or expulsion.
- 3.8 Other Legal Requirements. Bardwell shall provide educational services that meet federal, state, and local requirements, and the requirements imposed under the Code, the Education Program and the Contract.

- 3.9 Rules and Procedures. Bardwell shall recommend reasonable rules, regulations and procedures applicable to the Academy and is authorized and directed to enforce such rules, regulations, and procedures as are approved by the Board.
- 3.10 School Year and School Day. The school year and the school day shall be as provided in the Contract.
- 3.11 Reporting. Bardwell shall be responsible for and accountable to the Board for student academic performance and the performance of Bardwell's responsibilities as set forth herein. Bardwell shall provide student academic performance information to the Board on a quarterly basis to enable the Board to reasonably monitor the students' academic performance and Bardwell's performance under this Agreement.
- 3.12 Access to Records. Bardwell shall keep accurate financial, educational, operational and student records pertaining to its operation of the Academy and shall retain all of these records in accordance with the Michigan Department of Education's public records retention policy (or longer if required by law). All records shall be kept in accordance with applicable state and federal requirements. Financial, educational, operational and student records that are now or may in the future come into the possession of Bardwell remain Academy records and are required to be returned by Bardwell to the Academy upon demand. Bardwell and the Academy shall maintain the proper confidentiality of personnel, student and other records as required by law. All Academy records shall be physically or electronically available, upon request, at the Academy's physical facilities. This Agreement shall not be construed to restrict DPS or the public's access to these records under the Freedom of Information Act or the Contract. Bardwell shall also make available to the Academy's auditor any and all records necessary to conduct and complete the annual audit
- 3.13 Pupil Performance Standards and Evaluation. Bardwell shall implement pupil performance evaluations which permit evaluation of the educational progress of each Academy student. Bardwell shall be responsible for and accountable to the Board for the performance of students who attend the Academy. At a minimum, Bardwell will utilize assessment strategies required by Contract. The Board and Bardwell will cooperate in good faith to identify other measures of and goals for students and school performance, including but not limited to parent satisfaction. See Attachment -A-.
- 3.14 Services to Disabled Students and Special Education. Bardwell shall provide special education services to students who attend the Academy in conformity with the requirements of applicable law. Bardwell may subcontract as necessary and appropriate, with the approval of the Board and subject to the provisions of section 3.4, for the provision of services to students with special needs. Such services shall be provided in a manner that complies with local, state, and federal laws and applicable regulations and policies.
- 3.15 The services provided by Bardwell to the Academy under this Agreement consist of the Educational Program during the school year and school day, and age and grade levels, as set forth in the Contract, as such school year, school day, and age and grade levels may

change from time to time. Bardwell may, in its discretion, provide additional programs, including, but not limited to, pre-kindergarten, summer school, academic camps and latch-key programs as approved by the Board. If approved by the Board, Bardwell may retain the full amount of any and all revenue collected from or for such additional programs, and Bardwell shall be responsible for the full cost of providing such additional programs, including, but not limited to the costs of any additional liability insurance or costs incurred for personal injury lawsuits filed in connection with the provision of such additional programs.

- 3.16 Student Recruitment. Bardwell and the Academy shall be responsible for the recruitment of students subject to the provisions of the Contract or applicable federal or state laws rules or regulations, and the policies adopted by the Board. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable law. Bardwell shall follow all applicable procedures regarding student recruitment, enrollment and lottery management, and shall be responsible for publication of appropriate public notices and scheduling open houses in accordance with the Contract and applicable law.
- 3.17 Contract between Academy and DPS. Bardwell will not act in a manner which will cause the Academy to be in breach of its Contract.

ARTICLE IV OBLIGATIONS OF THE BOARD

- 4.1 The Board is responsible for determining the fiscal and academic policies that will govern the operation of the Academy, including but not limited to policies relative to the conduct of students while in attendance at the Academy or on route to and from the Academy and regulations governing the procurement of supplies, materials and equipment.
- 4.2 Subject to constraints of applicable law, requirements of the Contract, and its fiduciary obligations to the Academy, the Board shall exercise good faith in considering the recommendations of Bardwell, including but not limited to, Bardwell's recommendations concerning policies, rules, regulations, procedures, curriculum, and budgets. Bardwell shall not adopt or implement such recommendations without obtaining prior Board approval. The Board shall retain any authority it may possess to make reasonable regulations relative to anything necessary for the proper establishment, maintenance, management, and carrying on of the Academy, including regulations relative to the conduct of pupils while in attendance at the Academy or on route to and from the Academy. The Board shall further retain the obligation, as provided in Section 1274 of the Code, to adopt written policies governing the procurement of supplies, materials, and equipment. Bardwell shall comply with Section 1274 of the Code and the Board's policies promulgated pursuant to Section 1274 of the Code.
- 4.3 The Board is responsible for preparing or causing to be prepared and 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 Contract, including but not limited to its oversight of Bardwell, the organization of the Academy, negotiation of the Contract and any amendments, payment of employee costs, insurance required under the Contract and this Agreement, the annual financial audit and retention of the Board's legal counsel and consultants.

The Board has established that a minimum reserve amount in the fund balance shall be \$100,000.00. Bardwell 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 Board. In addition, the Board is responsible for determining the budget reserve amount included as part of the Academy's annual budget, for implementing fiscal policies that will assist the Academy in attaining the stated budget reserve amount and for approving necessary amendments to the budget to reflect necessary deviations from the adopted budget. The budget may be amended from time to time as deemed necessary by the Board.

- 4.4 The Board shall determine when to assert, waive or not waive its governmental immunity and Bardwell is expressly prohibited from waiving governmental immunity on behalf of the Academy.

ARTICLE V COMPENSATION AND PAYMENT OF COSTS

5.1 Compensation for Services.

- (a) For the term of this Agreement, the Board shall pay Bardwell an annual fee, based upon the state school aid that the Academy receives, directly or indirectly, from the State of Michigan pursuant to the State School Aid Act of 1979, as amended, (the "State Aid Act") for the particular students enrolled in the Academy ("SSA"), less the amount DPS receives for its oversight responsibilities, as described in the Contract ("Gross SSA"). The SSA will change according to annual amendments to the State Aid Act. For each school year Bardwell shall receive as compensation for its services a fee equal to ten percent (10%) of the Academy's Gross SSA. Bardwell may also receive as compensation for its services a fee equal to ten percent (10%) of grant funds that it acquires for the Academy if permitted by the grant and applicable law. The Board will determine fair compensation on a Grant-by-Grant basis consistent with the grant and applicable law.
- (b) Reasonable Compensation. Bardwell's compensation under this Agreement is reasonable compensation for services rendered. Bardwell's compensation for services under this Agreement will not be based, in whole, or in part, on a share of net profits from the operation of the Academy. The Board's operation of the Academy is not-for-profit.

- 5.2 No Related Parties or Common Control. As stated in Section 1.6 hereof, the relationship between the parties is that of independent contractor. Bardwell does not have any role or relationship with the Academy that in any way limits the Board's ability to exercise its rights, including cancellation rights, under this Agreement. The Board may not include any director, officer or employee of Bardwell. It is agreed between the Academy and Bardwell that none of the voting power of the governing body of the Academy will be vested in Bardwell or its directors, members, managers, officers, shareholders, and employees, and none of the voting power of the governing body of Bardwell will be vested in the Academy

or its directors, members, managers, officers, shareholders, and employees. Further, the Academy and Bardwell 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.

5.3 Payment of Costs. In addition to the fee described in Section 5.1, the Academy shall reimburse Bardwell for such costs that are consistent with each Academy annual budget approved by the Board and incurred and expended by Bardwell in providing the Educational Program and other goods and services pursuant to Articles III and Article IX of this Agreement. Such costs include, but are not limited to, salaries of Bardwell employees performing work at or in connection with the Academy, curriculum and instructional materials, textbooks, library books, computer and other equipment, software, supplies, marketing and development, food service, transportation, special education, psychological services and medical services for students, if any. Bardwell shall not mark up the costs for supplies, materials, and/or equipment procured on behalf of the Academy. Bardwell shall submit to the Secretary of the Board an itemized statement of costs to be reimbursed by the Academy in a form satisfactory to the Board (the "Statement of Costs"), at least 5 days prior to the regularly scheduled monthly meeting of the Board. The Academy shall reimburse by the regularly scheduled monthly meeting of the Board. The Academy shall reimburse Bardwell for costs incurred or paid by Bardwell as a result of services provided or authorized actions taken pursuant to this Agreement. All acquisitions made by Bardwell for the Academy with funds Bardwell received pursuant to this Section 5.3 including, but not limited to, instructional materials, equipment, supplies, furniture, computers and other technology, shall be owned by and remain the property of the Academy.

5.4 Time and Priority of Payments. The fee due to Bardwell pursuant to Section 5.1 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. Bardwell shall receive its fee under Section 5.1, as calculated pursuant to the preceding sentence, in such monthly installments as provided in the State Aid Act for the payment of SSA to the Academy. Installment amounts shall be due and payable within ten (10) days of receipt by the Academy of its monthly SSA.

Payments of all costs listed in a Statement of Costs which has been delivered as provided in Section 5.3, shall be made by the Academy to Bardwell on the last day of the month.

The Academy shall satisfy its payment obligations under this Article to Bardwell in the following order of priority: (1) to reimburse Bardwell pursuant to Section 5.3 for sums due and owing for previous months; (2) to reimburse Bardwell pursuant to Section 5.3 for sums due and owing for the current month; (3) to pay Bardwell for installments payments due and owing pursuant to Section 5.1 for previous months; and (4) to pay Bardwell for installment payments due and owing pursuant to Section 5.1 for the current month.

ARTICLE VI

REVENUE OF THE ACADEMY

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

- (a) The Academy and/or Bardwell may solicit and receive grants and donations consistent with the mission of the Academy as approved by the Board;
- (b) Academy and/or Bardwell may apply for and receive grant money, in the name of Bardwell or the Academy as approved by the Board;
- (c) To the extent permitted under the Code and if approved by the Board, Bardwell may charge fees to students for extra services such as summer and after school programs, athletics, and charge non-Academy students who participate in such programs; and
- (d) All funds received by the Academy or by Bardwell on behalf of the Academy from such other revenue sources shall inure to and be deemed the property of the Academy and shall be held in the custody and care of the Academy as provided in Subsection 3.3(f) hereof.

ARTICLE VII

AGREEMENTS WITH OTHER EDUCATIONAL INSTITUTIONS

The Academy acknowledges that Bardwell may enter into similar management agreements with other public or private schools or educational institutions (“Institutions”). Bardwell shall maintain separate accounts for all reimbursable expenses on behalf of Academy and other Institutions which are capable of precise allocation between the Academy and such Institutions. In the event that expenses cannot be allocated precisely between the Academy and such Institutions, then Bardwell 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 Bardwell for the specific benefit of the Academy, shall be maintained in separate Academy accounts and used solely for the Academy.

ARTICLE VIII

REPORTING

- 8.1 Financial Reporting. Bardwell shall provide the Board with:
- (a) Assistance in developing a proposed annual budget that shall conform to the State accounting manual and the Uniform Budgeting and Accounting Act, MCL 141.421 et seq. and in a form satisfactory to the Board and to DPS. The proposed budget shall be submitted to the Board for approval not later than 30 days prior to the date when the approved budget is required to be submitted to DPS.
 - (b) Detailed monthly statements of all revenues received, from whatever source, with respect to the Academy, and detailed monthly statements of all direct expenditures for services rendered to or on behalf of the Academy, whether incurred on-site or off-site.
 - (c) Monthly Statements of Costs as provided in Section 5.3 of this Agreement.
 - (d) Annual audited financial statements in compliance with state law and regulations showing the manner in which funds are spent at the Academy. The Board shall select, retain, oversee and pay an independent auditor directly. Bardwell shall make available and provide all records as requested by the Academy's independent auditor(s).
 - (e) Any other fiscal or student performance reports required by the Board, DPS or the Michigan Department of Education, or as otherwise provided by law.
- 8.2 Reports on Academy operations and student performance. Bardwell shall provide all reports required by the Contract and the Code within the required timeframes to the Board, DPS or the State of Michigan, but in any case not less frequently than four (4) times per year.
- 8.3 Other information on operations and student performance on a periodic basis to enable the Board to monitor Bardwell's educational performance and the efficiency of its operations of the Academy.
- 8.4 Review of Budget. The Board shall be responsible for reviewing, revising, and approving the annual budget of the Academy.
- 8.5 Legal Counsel. The Board shall select and retain legal counsel to advise it regarding its rights and responsibilities under the Contract, this Agreement and applicable law.
- 8.6 Other Financial Relationships. Any lease, promissory notes or other negotiable instruments, lease-purchase agreements or other financing agreements between the Academy and Bardwell shall be contained in a document separate from this Agreement and submitted for review by DPS.
- 8.7 Chief Administrative Officer. The Chief Administrative Officer (CAO) for the Academy shall be a Board Member so designated or elected at the Annual Meeting of the Academy each year.

- 8.8 Compliance with Section 503c. On an annual basis, Bardwell agrees to provide the Board with the same information that a school district is required to disclose under section 18(2) of the State School Aid Act of 1979, MCL 388.1618, for the most recent school fiscal year for which the information is available. Within thirty (30) days of receipt of this information, the 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.

ARTICLE IX

PERSONNEL AND TRAINING

- 9.1 Personnel Responsibility. Subject to the Contract and Board policies, Bardwell shall have the sole responsibility and authority to select, evaluate, assign, discipline and transfer personnel, consistent with state and federal law, and consistent with the parameters adopted and included within the Board's Budget and the Educational Program. Bardwell will not place in the employment contracts with any of its employees assigned to work at the Academy any restrictions that would prevent the Academy from employing those individuals at the Academy or would prevent those individuals from working for the Academy or for any other entity providing educational services to the Academy. Bardwell agrees that any provision of an employment agreement with any of its employees that would be in violation of this provision is void and shall not be enforceable in any forum. Bardwell will comply with the requirements of the Code regarding the evaluation of its employees and the establishment of employee compensation levels that take into consideration student achievement.
- 9.2 Principal. Because the accountability of Bardwell to the Academy is an essential foundation of this Agreement, and because the responsibility of a principal ("Principal") is critical to its success, the Principal will be an employee of Bardwell and Bardwell will have the authority, consistent with state law, to select, evaluate, and supervise the Principal and to hold him or her accountable for the success of the Academy. The employment contract with the Principal, and the duties and compensation of the Principal shall be determined by Bardwell. The Principal and Bardwell, in turn, will have similar authority to select, evaluate, and hold accountable the teachers assigned to work at the Academy. Although the Principal will be a Bardwell employee, Bardwell agrees to consult with the Board prior to hiring the Principal. If, at any time, the Board is dissatisfied with the performance of the Principal, Bardwell will remove the Principal from the Academy.

- 9.3 Teachers. The Board shall determine the number of teachers, and the applicable grade levels, subjects and class sizes, required for the operation of the Academy. Bardwell shall provide the Academy such teachers, qualified in the grade levels and subjects required by the Academy. Such teachers may, in the discretion of Bardwell, work at the Academy on a full or part-time basis. If assigned to the Academy on a part time basis, such teachers may also work at other schools managed or operated by Bardwell. Each teacher assigned or retained to work at the Academy shall hold a valid teaching certificate issued by the State Board of Education under the Code, to the extent required under the Code, and have undergone a criminal background check and unprofessional conduct check, as required by the Code. Such criminal and unprofessional conduct background checks shall be performed by Bardwell prior to employment. Bardwell will utilize an evaluation system for teachers that comply with Section 1249 of the Code, and upon request Bardwell will review the performance of teachers with the Board. Bardwell will also report to the Board at least annually and more frequently if requested regarding the development, content, standards, procedures, adoption, and implementation of its performance evaluation system for teachers, conducted pursuant to MCL 380.1249, along with the format, timing, or number of classroom observations to be used in relation to the performance evaluations.
- 9.4 Support Staff. The Board shall determine the number and functions of support staff required for the operation of the Academy. The parties anticipate that such support staff may include clerical staff, administrative assistants to the Principal, a bookkeeping staff, maintenance personnel and the like. Bardwell shall provide the Academy with such support staff, qualified in the areas required, as required by the Board. Such support staff may, in the discretion of Bardwell, work at the Academy on a full or part-time basis. If assigned to Academy on a part time basis, such staff may also work at other schools managed by Bardwell.
- 9.5 Employer of Personnel. Except as specified in this Agreement, all teaching, support staff, and other non-teaching personnel performing functions on behalf of the Academy shall be employees of Bardwell. Compensation of all employees of Bardwell shall be paid by Bardwell. For purposes of this Agreement, "Compensation" shall include salary, fringe benefits, and state, federal, local, and social security tax withholdings. Bardwell shall have the responsibility for paying 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, Bardwell shall not make payments to the Michigan Public School Employees' Retirement Systems or any other public retirement system on behalf of its employees. Bardwell shall be responsible for conducting criminal background checks and unprofessional conduct checks on its employees, as if it were a public school academy under the Code. Teachers employed by Bardwell shall not be considered teachers for purposes of continuing tenure under MCLA §38.71 et seq.
- 9.6 Training. Bardwell shall provide training in its methods, curriculum, program and technology, to all teaching personnel, on a regular and continuous basis. In addition to outside training, Bardwell's teaching staff shall utilize their own professional abilities to provide in-service training to each other. Non-instructional personnel shall receive such training as Bardwell determines as reasonable and necessary under the circumstances.

- 9.7 Educational Consultant. At any time during the term of this Agreement, the Board may contract with an educational consultant to review the operations of the Academy and the performance of Bardwell under this Agreement. Such educational consultant shall be selected by the Board. Bardwell shall cooperate with such educational consultant in the performance of his or her responsibilities to the Board. Notwithstanding anything contained in this Article IX or elsewhere in this Agreement to the contrary, Bardwell shall have no authority to select, evaluate, assign, supervise, or control any educational consultant selected by the Board.

ARTICLE X

INSURANCE

- 10.1 Insurance of the Academy. The Academy shall purchase its own insurance policy and shall secure and maintain such policies as required by the Contract. This coverage shall include the building and related capital facilities if they are the property of the Academy. The Academy shall maintain such insurance in an amount and on such terms as are reasonably acceptable and as required by the provisions of the Contract, including the indemnification of Bardwell required by this Agreement. The Academy shall, upon request, present evidence to Bardwell that it maintains the requisite insurance in compliance with the provisions of this paragraph. Bardwell 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.
- 10.2 Insurance of Bardwell. Bardwell shall secure and maintain such policies as required by the Contract, with the Academy listed as an additional insured. In the event that the Contract requires a change in coverage by Bardwell, Bardwell agrees to comply with any change in the type and amount of coverage as requested by the Contract within thirty (30) days after notice of the insurance coverage change. Bardwell shall maintain such insurance in an amount and on such terms as are reasonably acceptable to the Academy and as required by the provisions of the Contract, including the indemnification of the Academy required by this Agreement. Bardwell shall, upon request, present evidence to the Academy that it maintains the requisite insurance in compliance with the provisions of this paragraph. The Academy shall comply with any information or reporting requirements applicable to Bardwell under Bardwell's policy with its insurer(s), to the extent practicable.
- 10.3 Workers' Compensation Insurance. Each party shall maintain workers' compensation insurance when and as required by law, covering their respective employees.

ARTICLE XI

TERMINATION OF AGREEMENT

- 11.1 Termination.
- (a) By Bardwell. Bardwell may terminate this Agreement prior to the end of the term specified in Article II in the event the Board violates this Agreement and fails to remedy a material breach within 60 days after notice from Bardwell. A material

breach includes, but is not limited to, Bardwell's failure to receive any fee or reimbursement as required by the terms of Article V of this Agreement. Bardwell may also terminate this Agreement if the Academy makes decisions regarding personnel, curriculum, or program substantially inconsistent with the recommendations of Bardwell. Termination shall not relieve the Academy of any obligations for payments outstanding to Bardwell as of the date of termination.

- (b) By Academy. The Academy may terminate this Agreement prior to the end of the terms specified in Article II in the event that Bardwell violates this Agreement and fails to remedy a material breach within 60 days after notice from the Board. Material breaches includes, but is not limited to: (1) failure to account for its expenditures or to pay Academy operating costs as required under this Agreement (provided funds are available to do so), (2) failure to substantially follow policies, procedures, rules, regulations, or curriculum duly adopted by the Board which are not in violation of the Contract, this Agreement, or law, (3) any action or inaction by Bardwell which leads to the revocation of the Contract by DPS, or (4) failure to abide by and meet educational goals set forth in the Contract or (5) violation of this Agreement.
- (c) Termination by Either Party. If Bardwell and the Board are unable to agree on changes to the Educational Programs, or other policies that affect the Academy in a significant way, either party may elect to terminate this Agreement at the end of a fiscal year, provided the terminating party gives the other party at least ninety (90) days' notice prior to termination and the opportunity within the ninety (90) days to negotiate an agreement on the educational policies at issue.

11.2 Change in Law. If any federal, state or local law or regulation, or court or administrative decision or Attorney General's opinion has a material adverse impact on the ability of either party to carry out its obligations under his Agreement, then either party, upon written notice, may request renegotiations of this Agreement and if the parties are unable or unwilling to renegotiate the terms within 90 days after the notice and after making good faith efforts which shall include the use of third party arbitrator for alternative dispute resolution, the party requiring the renegotiation may terminate this Agreement as of the end of the academic year.

The Academy may also terminate this Agreement if, at any time, the laws regarding payment to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of employees assigned by Bardwell to work at the Academy, or the law regarding continuing tenure, change such that teachers or principals and assistant principals employed by Bardwell must be covered by such retirement or continuing tenure laws.

11.3 Time of Termination/Expiration and Disposition of Funds and Property.

- (a) Effective Date of Termination. In the event this Agreement is terminated by either party prior to the end of the term specified in Article II, the termination will not become effective until the end of the academic year in which the notice of

termination was given. Notwithstanding the preceding sentence, any termination that results from a change in law as specified in Section 11.2, any violation of the applicable law or revocation of the Contract shall be effective immediately upon receipt of notice of such termination.

- (b) Personal Property. Upon termination or expiration of this Agreement, for any reason, Bardwell shall have the option to reclaim any personal property which has been purchased, or leased from a party other than the Academy, with Bardwell funds, provided Bardwell was not reimbursed for such funds from the Academy pursuant to Section 5.3. All personal property purchased or leased by Bardwell with funds received pursuant to Section 5.3 shall remain the property of the Academy.
 - (c) Upon termination or expiration of this Agreement, Bardwell shall release to the Board all Academy records in its possession.
- 11.4 Out of Pocket Expenses. Upon termination or expiration of this Agreement, for any reason, all out-of-pocket expenses paid by Bardwell with Bardwell's own funds which were previously approved by the Board, which were incurred on or before receipt of notice of termination, shall be immediately repaid by the Academy unless otherwise agreed in writing by Bardwell, provided expenses relate to Bardwell's services and performance under this Agreement as specified in Section 5.3. The Academy shall not be responsible for repayment of any amounts paid by Bardwell, for any purpose, which are incurred after Bardwell receives a termination notice.
- 11.5 Transition. In the event of termination of this Agreement for any reason by either party prior to the end of this Agreement's term, Bardwell shall upon request of the Board to do so, provide the Academy reasonable assistance for up to 90 days to assist in the transition back to a regular school program or another provider

ARTICLE XII

PROPRIETARY INFORMATION

- 12.1 Required Disclosure. The Academy shall be permitted to report any new teaching techniques or methods of significant revisions to known teaching techniques or methods to DPS and to the State Board of Education, which teaching techniques or methods may thereafter be made available to the public, as provided in Sections 505(3) of the Code. To the extent required under the Code and Freedom of Information Act, MCLA 15.231 et seq., Bardwell's educational materials and teaching techniques used at the Academy are subject to public disclosure.
- 12.2 Ownership. The Academy shall own 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 Bardwell at the direction of the Board with Academy funds dedicated for the specific purpose of developing such curriculum materials. Any educational materials including curriculum that were developed by Bardwell prior to the engagement with the Academy and/or which have been copyrighted or developed using funds from the Academy

that were not dedicated for the specific purpose of developing Academy curriculum or educational materials remains property of Bardwell.

ARTICLE XIII

INDEMNIFICATION

- 13.1 Indemnification of DPS. The parties acknowledge and agree that the DPS 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 the DPS, and its members, and their respective 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 negligence of which arise out of or are in any manner connected with DPS approval of the Academy's application, DPS consideration of or issuance of a Contract, the Academy Board's or Bardwell's preparation for and operation of the Academy, or which are incurred as a result of the reliance by DPS, or its members, or their respective officers, employees, agents or representatives, upon information supplied by the Academy Board or Bardwell, or which arise out of the failure of the Academy Board or Bardwell to perform its obligations under the Contract or Applicable Law. The parties expressly acknowledge and agree that DPS and its members, and their respective officers, employees, agents or representatives, or any of them, may commence legal action against either party to enforce its rights as set forth in this Agreement.
- 13.2 Indemnification of Bardwell. To the extent permitted by law, the Academy shall indemnify and save and hold Bardwell and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any noncompliance by the Academy with any agreements, covenants, warranties or undertakings of the Academy contained in or made pursuant to this Agreement, and any misrepresentations or breach of the representations and warranties of the Academy contained in or made pursuant to this Agreement. In addition, the Academy shall reimburse Bardwell for any and all legal expenses and costs associated with the defense of any such claim, demand or suit.
- 13.3 Limitations of Liabilities. The Academy may assert all immunities and statutory limitations of liability in connection with any claims arising under this Agreement.
- 13.4 Indemnification of Academy. Bardwell shall indemnify and save and hold the Academy and all its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any noncompliance by Bardwell with any agreements, covenants, warranties or undertakings of Bardwell contained in or made pursuant to this Agreement, and any misrepresentation or breach of the representations and warranties of Bardwell contained in or made pursuant to this Agreement. In addition, Bardwell shall reimburse the Academy

for any and all legal expenses and costs associated with the defense of any such claim, demand or suit.

- 13.5 Inability to Open School. Should either party fail to perform the obligations of this Agreement prior to the beginning of the first school year contemplated under this Agreement and in the event said failure is the substantial controlling factor to the inability to open school, it shall hold the other harmless for the reasonable expenses incurred by that party in preparing for the opening of school operations, provided that such other party has substantially fulfilled all its obligations necessary to the performance.
- 13.6 Indemnification for Negligence. To the extent permitted by law, the Academy shall indemnify and hold harmless Bardwell, and Bardwell's board of directors, partners, officers, employees, agents and representatives, from any all claims and liabilities which Bardwell may incur and which arise out of the negligence of the Academy's directors, officers, employees, agents or representatives. Bardwell shall indemnify and hold harmless the Academy, and the Academy's Board, partners, officers, employees, agents and representatives, from any claims and liabilities which the Academy may incur and which arise out of the negligence of Bardwell's directors, officers, employees, agents or representative.

ARTICLE XIV

WARRANTIES AND REPRESENTATIONS

- 14.1 Academy Warranties and Representations. The Academy represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations under this Agreement. The Board warrants that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.
- 14.2 Bardwell Warranties and Representations. Bardwell warrants and represents that it is a corporation in good standing and is authorized to conduct business in the State of Michigan. Bardwell represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement. Bardwell warrants that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.
- 14.3 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 XV

MISCELLANEOUS

- 15.1 Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and Bardwell.
- 15.2 Force Majeure. Notwithstanding any other sections of this Agreement, neither party shall be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, flood, embargo, fire, explosion, sabotage, accident, labor strike, or other acts beyond its reasonable control; provided either party may terminate this Agreement under Article XI if sufficient grounds exist as required by said Article XI.
- 15.3 State Governing Law. The rights of all parties hereto shall be subject to the jurisdiction of and be construed according to the laws of the State of Michigan.
- 15.4 Agreement in Entirety. This Agreement (including any attachments) constitutes the entire agreement of the parties.
- 15.5 Official Notices. All notices and other communications required by terms of this Agreement shall be in writing and sent to the parties hereto at the address set forth below. Notice may be given by: (1) certified or registered mail, postage prepaid, return receipt requested, or (2) personal delivery. Notice shall be deemed to have been given on the date of personal delivery if given by mail. The address of the parties hereto for the purposes aforesaid shall be:

David Ellis Academy 18977 Schaefer Hwy, Detroit, MI 48235

and to

Bardwell Group 19800 Beech Daly Rd., Redford, MI 48240

With a copy to: Morgan & McClarty, P.C.
19785 West Twelve Mile Rd. - #331
Southfield, MI 48075
Attn: Homer McClarty

- 15.6 Assignment. This Agreement shall not be assigned by Bardwell without the prior consent in writing of the Board and DPS (which consent shall not be unreasonably withheld) and DPS without prior consent in writing of Bardwell (which consent shall not be unreasonably withheld), provided that Bardwell may, without the consent of the Board, delegate the

performance of but not responsibility for any duties and obligations of Bardwell hereunder to any independent contractor, expert or professional adviser.

- 15.7 Amendment. This Agreement shall not be altered, amended, modified or supplemented except by written memorandum approved by DPS, the Board and signed by both an authorized member of the Board and authorized officer of Bardwell. The amended agreement shall be submitted to DPS in accordance with the Contract.
- 15.8 Amendment for Obtaining Tax Exempt Financing. Should the Academy determine that it is in the best interest of the Academy to obtain financing from the Michigan Finance Authority or any other type of financing that is tax-exempt pursuant to the federal Internal Revenue Code of 1986, as amended, and it is determined that this Agreement does not comply with Revenue Procedure 97-13 or any successor, then this Agreement shall be automatically amended so it can be determined that this Agreement complies with Revenue Procedure 97-13 or any successor. The parties shall promptly execute a written document reflecting such amendment, but the failure of the parties to do so shall not affect the effectiveness of automatic amendment.
- 15.9 Waiver. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision. Nor shall such waiver constitute a continuing waiver unless otherwise expressly stated.
- 15.10 Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement shall not affect the remaining portions of this Agreement, and this Agreement shall be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement.
- 15.11 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.
- 15.12 No Third Party Rights. This Agreement is made for the sole benefit of the Academy and Bardwell. Except as otherwise expressly provided, nothing in this Agreement shall create or be deemed to create a relationship between the parties to this Agreement, or either of them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.
- 15.13 Survival of Termination. All representations, warranties, and indemnities made in this Agreement shall survive termination of this Agreement.
- 15.14 Delegation of Authority. Nothing in this Agreement shall be construed as delegating to Bardwell any of the powers or authority of the Board or the Academy which are not subject to delegation by the Board or the Academy under Michigan Law or the Contract.
- 15.15 Compliance with Law. The parties agree to comply with all applicable laws and regulations.
- 15.16 Compliance with the Contract The parties intend that this Agreement shall comply with DPS Contract and Related Documents , as the same may be changed from time to time. In the event

that changes in the Contract implemented after the date of execution of this Agreement cause any provision of this Agreement to be in conflict the revised Contract, the parties agree to amend this Agreement to eliminate the conflict within thirty (30) days after being advised of such conflict.

15.17 Dispute Resolution Procedure. Any and all disputes between the parties concerning any alleged breach of this Agreement or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement that are unable to be resolved through discussion and negotiation shall be resolved by arbitration, and such an arbitration procedure shall be the sole and exclusive remedy for such matters. The arbitrator shall be selected from a panel provided by and in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the parties and the arbitrator unanimously accept. Any arbitration hearing shall be conducted in Detroit, Michigan. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction to ensure compliance with the applicable law and this Agreement. The cost of arbitration, not including attorney fees, shall be paid by the losing party. It shall be in the discretion of the arbitration panel to award reasonable attorney fees to the prevailing party, to be paid if awarded by the losing party. The Judgment of the Arbitrators shall be in writing, and any cause opinion of the Arbitrators shall be provided to the parties and DPS.

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


BARDWELL GROUP, A Michigan corporation

By: 

Its: CEO

Date: June 29, 2015

DAVID ELLIS ACADEMY, A Michigan
Public School Academy

By: 

Its: President, Board of Directors

Date: June 29, 2015

ATTACHMENT

- A -

Tab 4

EDUCATIONAL GOAL AND RELATED MEASURES

Pursuant to Applicable Law and the Terms and Conditions of this Contract, including Section 6.2, the Academy shall achieve or demonstrate measurable progress toward the achievement of the educational goal identified in this schedule. Upon request, the Academy shall provide Bay Mills Community College with a written report, along with supporting data, assessing the Academy's progress toward achieving this goal. In addition, the College expects the Academy will meet the State of Michigan's accreditation standards and achieve Adequate Yearly Progress ("AYP") pursuant to state and federal law.

Educational Goal to Be Achieved

Prepare students academically for success in college, work and life.

Measures for Determining Goal Achievement

To determine whether the Academy is achieving or demonstrating measurable progress toward the achievement of this goal, the College will annually assess the Academy's performance using the following measures.

Measure 1: Student Achievement

The academic achievement of all students in grades 2-11, who have been enrolled for three* or more years at the Academy, will be assessed using the following metrics and achievement targets:

Grade(s)	Metric	Achievement Targets
Grades 2-8	The average college readiness level based on scaled scores from the Performance Series [®] by Scantron [®] /NWEA [®] MAP [®] reading and math tests administered in the spring.	Students enrolled for three* or more years will on average achieve scaled scores equal to or greater than the grade-level achievement targets for reading and math identified in this schedule.
Grades 8-11	The average college readiness level based on subject scores from the Explore [®] , Plan [®] and ACT [®] tests by ACT, Inc. administered in the spring.	Students enrolled for three* or more years will on average achieve Explore, Plan and ACT subject scores equal to or greater than the achievement targets for reading, math, science, and English identified in this schedule.

FINAL

*If the cohort of students enrolled for three or more years is not sufficient in size to conduct a valid analysis, the cohort of students enrolled for two or more years will be used.

Achievement Targets

Scantron Performance Series (PS) and NWEA MAP College Readiness Targets

Grade	PS Reading Spring Target	MAP Reading Spring Target	PS Math Spring Target	MAP Math Spring Target
2	2265	190	2191	191
3	2504	201	2380	204
4	2691	208	2497	214
5	2843	215	2615	224
6	2921	218	2733	229
7	2948	222	2800	236
8	3012	227	2890	242

EXPLORE, PLAN and ACT College Readiness Targets

Grade/Test	READING	MATH	SCIENCE	ENGLISH
8- EXPLORE	15	17	20	13
9 - EXPLORE	16	18	20	14
10 - PLAN	17	19	21	15
11 – ACT	21	22	24	18

Measure 2: Student Growth

The academic growth of all students in grades 2 through 11 at the Academy will be assessed using the following metrics and growth targets:

Grade(s)	Metric	Growth Targets
Grades 2-8	Growth made by students from fall-to-spring in reading and math as measured by scaled scores on the Performance Series by Scantron /NWEA MAP.	Students' fall-to-spring academic growth on average will demonstrate measurable progress toward the grade-level achievement targets for reading and math identified in the schedule.
Grade 8-11	Growth made by students in reading, math, science, and English as measured by subject scores on the Explore, Plan and ACT tests.	Students' academic growth between tests on average will demonstrate measurable progress toward the achievement targets for the grade-level subject scores in reading, math, science, and English identified in the schedule.