

Office of School Facilities
Jaime G. Torrens, Chief Facilities Officer

SUBJECT: THAT THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AUTHORIZE THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE:

- 1) A GROUND LEASE AGREEMENT ("LEASE AGREEMENT") BETWEEN THE MIAMI BOARDING SCHOOL, INC., A FLORIDA NOT FOR PROFIT CORPORATION, DOING BUSINESS AS THE SEED SCHOOL OF MIAMI ("SEED"), AND THE SCHOOL BOARD, IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE RESIDENTIAL COMPONENT OF A COLLEGE-PREPARATORY, PUBLIC BOARDING SCHOOL FOR AT-RISK YOUTH ("RESIDENTIAL PROGRAM"), LOCATED ON THE CAMPUS OF WESTVIEW MIDDLE SCHOOL, AT 1901 N.W. 127 STREET, UNINCORPORATED MIAMI-DADE COUNTY, FLORIDA 33167, WITH THE RENTAL PROCEEDS TO BENEFIT CARRIE P. MEEK/ WESTVIEW K-8 CENTER; AND
- 2) A CONSTRUCTION AGREEMENT ("CONSTRUCTION AGREEMENT") TO ALLOW THE DISTRICT TO PROCURE AND MANAGE THE DESIGN AND CONSTRUCTION SERVICES TO CONSTRUCT THE RESIDENTIAL AND RECREATIONAL IMPROVEMENTS NECESSARY FOR SEED TO OPERATE THE RESIDENTIAL PROGRAM; AND
- 3) ANY OTHER DOCUMENTS OR AGREEMENTS NECESSARY TO EFFECTUATE THE IMPLEMENTATION OF SEED'S RESIDENTIAL PROGRAM; AND
- 4) GRANT OR DENY ANY APPROVALS REQUIRED UNDER THE LEASE AGREEMENT AND CONSTRUCTION AGREEMENT, INCLUDING, WITHOUT LIMITATION, RENEWING, EXTENDING, CANCELING OR TERMINATING THE

**AGREEMENTS, AND PLACING SEED IN
DEFAULT, AS MAY BE APPLICABLE**

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Subsequent to receipt by the District of an unsolicited proposal from The SEED School of Miami ("SEED"), and in conformance with Board Policy 6327, the Board, at its meeting of April 5, 2017, approved staff's recommendation to award a qualifying project to SEED to establish a residential facility for a college preparatory public charter boarding school for at risk youth on the campus of the former Westview Middle School, and authorized the Superintendent to negotiate a Comprehensive Agreement/Ground Lease with SEED in accordance with Board Policy 6327, along with any other agreements that are necessary to effectuate the project, and to bring these agreements back to the Board for final approval.

Proposed Agreements

District and SEED representatives (the "Parties") have participated in discussions to develop a Ground Lease Agreement ("Ground Lease"), under which SEED would have the right to use portions of the former Westview Middle School campus ("School"), located at 1901 N.W. 127 Street, unincorporated Miami-Dade County, Florida, for the construction and operation of the residential component of a college-preparatory, public boarding school for at-risk youth. The Parties also propose to enter into a Construction Agreement to allow the District to procure and manage the construction of the residential and recreational improvements necessary for SEED to operate the residential program within a portion of the School campus, at no cost to the Board.

Ground Lease

The Deputy Superintendent/Chief Operating Officer, School Operations, recommends entering into the Ground Lease with SEED, under, substantially, the following terms and conditions:

- the Board shall lease a portion of the School campus to SEED ("Demised Area") (see Exhibit "A");
- the Demised Area may only be used by SEED for construction and operation of the residential component of a college-preparatory, public boarding school for at-risk youth;
- an initial lease term commencing upon execution of the Ground Lease by both parties and ending on June 30, 2029. Notwithstanding the foregoing, the Ground Lease shall terminate concurrent with the cancelation or expiration of SEED's approved Charter School Contract;

- SEED may extend this Ground Lease for the period running concurrent with, and not to exceed, its approved Charter School Contract, provided SEED is operating an active, public, non-profit boarding school for at-risk youth at the School under the Ground Lease, in combination with a concurrent lease agreement with the Board for an associated educational program at the School;
- SEED shall pay the sum of \$49,578.85 to the Board, as consideration for use and occupancy of the Demised Area starting with Year 1 of the Ground Lease, with 3% annual increases over the previous year's rental rate, for the balance of the initial lease term and any extensions thereto;
- SEED shall accept the Demised Area in its "as is, where is" condition and basis with all faults as of the effective date of the Ground Lease, with no representations or warranties by the Board as to the physical condition or usability of the Demised Area for any specific use or purpose. SEED shall have a period of thirty (30) days to conduct due diligence investigations of the Demised Area, at its sole cost and expense, and may cancel the Ground Lease if a determination is made during such period that the Demised Area is not suitable for the purpose intended;
- work to be carried out on the Demised Area shall include construction of up to four (4) residential modular units with a combined maximum total capacity of 400 student beds and accompanying staff apartments, 2,000 square feet of office space and 2,000 square feet of storage space, as well as ancillary improvements, such as concrete walkways, fencing and gates, and all utility hook-ups (collectively, the "Improvements");
- the parties shall enter into a Construction Agreement, under which the Board shall procure and manage construction services for the Improvements within the Demised Area, all at no cost to the Board, including a 5% construction management fee to be paid by SEED to the District for the rendering of such services;
- all work shall be performed in compliance with all applicable laws, rules and regulations;
- the District's Building Department shall be the agency that reviews and approves construction documents, issues required construction permits and provides final acceptance of any work to be performed pursuant to the Ground Lease;
- either party may cancel the Ground Lease in the event of default by the other party, which default is not cured within the applicable timeframes;
- SEED shall surrender the Demised Area to the Board, at the expiration, termination or cancellation of the Ground Lease in as good condition as existed on the effective date of the Ground Lease, ordinary wear and tear excepted, including removal of all personal property and other items belonging to SEED.

Any improvements constructed within the Demised Area pursuant to the Ground Lease shall be removed and the area restored to the same or better condition as previously existed, at SEED's sole cost and expense;

- in the event of damage or destruction of all or portions of the Demised Area, SEED may either cancel the Ground Lease, or repair or replace the damaged facilities, at SEED's expense;
- SEED may not assign or sublet any portion of the Demised Area;
- SEED, at SEED's expense, shall be responsible for all maintenance, repair and upkeep of the Demised Area, including all improvements located or constructed thereon under the Ground Lease, and for routine upkeep such as garbage and litter disposal at the Demised Area, as well as custodial or janitorial services;
- SEED shall be responsible for the installation and ongoing cost of all utilities serving the Demised Area, including, without limitation, electricity, gas, water, sewer, solid waste disposal, storm water and trash collection;
- if there is a requirement for infrastructure improvements or other regulatory compliance due to SEED's lease, use or occupancy of the Demised Area, SEED shall be responsible for fulfilling the applicable requirements, at its sole cost and expense. Non-compliance shall be deemed a material breach of the Ground Lease;
- SEED shall be allowed to erect identification, directional and informational signage at the Demised Area, subject to Board approval;
- the Board shall at all times retain the exclusive right to be the sole authorizer and recipient of revenue generators, in compliance with Board Policies, relating to the Demised Area and School site, including, without limitation, third party advertising or installation of wireless telecommunications facilities, provided such endeavors do not unreasonably interfere with SEED's right to peaceful enjoyment of the Demised Area;
- in the event the tax-exempt status of the Demised Area or School is rescinded or is at risk of being rescinded by the appropriate jurisdictional entity as a result of the use, occupancy or lease of same by SEED or other third party, such rescission shall constitute a material breach under the Ground Lease, and may result, at the Board's sole option, in the termination of the Ground Lease for cause. In addition, payment of any taxes so imposed shall be remitted to the Board within ten (10) days of receipt of notice, without demand;
- the Parties agree that the Ground Lease shall have no fiscal impact whatsoever on the Board;

- SEED shall at all times retain responsibility for providing supervision and security of the Demised Area, and of its students, staff, invitees and visitors occupying or using the Demised Area. SEED shall promptly notify the Board of any and all notices or communications received by SEED from any jurisdictional entity, as well as provide notice to the Board of any incidents that occurred, in relation to any safety issues or law enforcement incidents on the Demised Area or elsewhere on the School site. Thereafter, SEED shall provide the Board with all information reasonably requested by the Board, and shall cooperate with the Board in implementing any policies or procedures by SEED required to mitigate any further incidents. This representation by SEED shall constitute a material inducement for the Board to enter into the Ground Lease, and SEED's failure to comply with this provision may, at the Board's sole option, be deemed a default under the Ground Lease;
- SEED shall provide an Emergency Management Plan ("EMP") to the Board, for review and acceptance by the Board in its sole authority. The EMP shall include, but may not be limited to, protocols for Fire, Hurricane, Tornado, Floods, Bomb Scare, Hazardous Chemical release, Medical Emergencies, Pandemic/Epidemic, Evacuation, Police Activity as well as other emergencies typically contained in an EMP. SEED shall, on an annual basis or as otherwise requested by the Board, update the EMP and provide same to the Board;
- the Parties agree that notwithstanding any provisions of the Ground Lease to the contrary, the Board retains all of its regulatory authority as a School Board and School District under Florida law and shall in no way be estopped from withholding or refusing to issue any approvals of applications under present or future laws and regulations of whatever nature applicable to SEED or be liable for the same. Furthermore, the Board or District shall not, by virtue of the Ground Lease be obligated to grant any approvals of applications under present or future laws of whatever nature applicable to the foregoing;
- no provision contained in the Ground Lease shall be deemed a waiver of the Board's sovereign immunity;
- the Ground Lease shall be subject to Florida's Public Records Laws. SEED understands the broad nature of these laws and agrees to comply with Florida's Public Records Laws and laws relating to records retention;
- SEED shall provide the Board with proof of insurance in the types and amounts of coverage required by the Board, including but not limited to Commercial General Liability Insurance, Automobile Liability Insurance, and Worker's Compensation Insurance, or as may be amended from time to time;
- SEED shall indemnify and hold the Board harmless against any claim, action, loss, damage, injury, liability, cost or expense of whatsoever kind or nature including, but not by way of limitation, attorneys' fees and court costs arising out of bodily injury to persons, including death, or damage to tangible property

arising out of SEED's acts in connection with its activity under this Ground Lease or by others on behalf of SEED, whether or not due to or caused in part by the negligence or other culpability of the Board, except to the extent of the negligence or culpability of the Board or others on behalf of the Board;

- in addition to the above, SEED agrees, at its own expense; and upon written request by the Board, to defend any suit, action, or demand brought against the Board on any claim or demand arising out of or resulting from SEED's acts in connection with its activity under the Ground Lease;
- SEED shall not use, handle, generate, manufacture, produce, store, discharge, treat, remove, transport or dispose of Hazardous Substances at, in, upon, under, to or from the Demised Area;
- SEED shall comply with all applicable laws, rules, regulations, ordinances and codes of all governmental authorities, including, without limitation, Board Policies, the Americans with Disabilities Act and the Jessica Lunsford Act;
- the Ground Lease is and shall be subject and subordinate to any conveyance and ground or underlying leases and the rights of the Board under those leases and to all financing that may now or hereafter affect the leases or the Demised Area, or any portions thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof;
- the Ground Lease shall be construed and enforced according to the laws of the State of Florida and the venue for any disputes shall be Miami-Dade County, Florida;
- SEED shall be responsible for the cost associated with the drafting of pertinent documents or agreements not otherwise provided by the Board, including without limitation the preparation and negotiation of the Construction Agreement;
- in the event of any litigation between the parties under the Ground Lease, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels;
- SEED shall be responsible for the collection and payment of any taxes, fees or other assessments, including but not limited to sales tax, ad valorem tax, all licenses, permits and other taxes which may be imposed on the Demised Area or the School, as a result of the leasing, use or occupancy of the Demised Area by SEED;
- for purposes of the Ground Lease, the Superintendent of Schools or his/her designee shall be the party designated by the Board to grant or deny any and all approvals required by the Ground Lease relating to any construction on the Demised Area, commencement of SEED's occupancy and use of the Demised Area, or any other operational issues; and

- in addition to the above, the Superintendent of Schools shall also be the party designated by the Board to grant or deny any approvals required by the Ground Lease, including without limitation, amending any of the exhibits to the Ground Lease, placing SEED in default, and renewing, extending, canceling or terminating the Ground Lease.

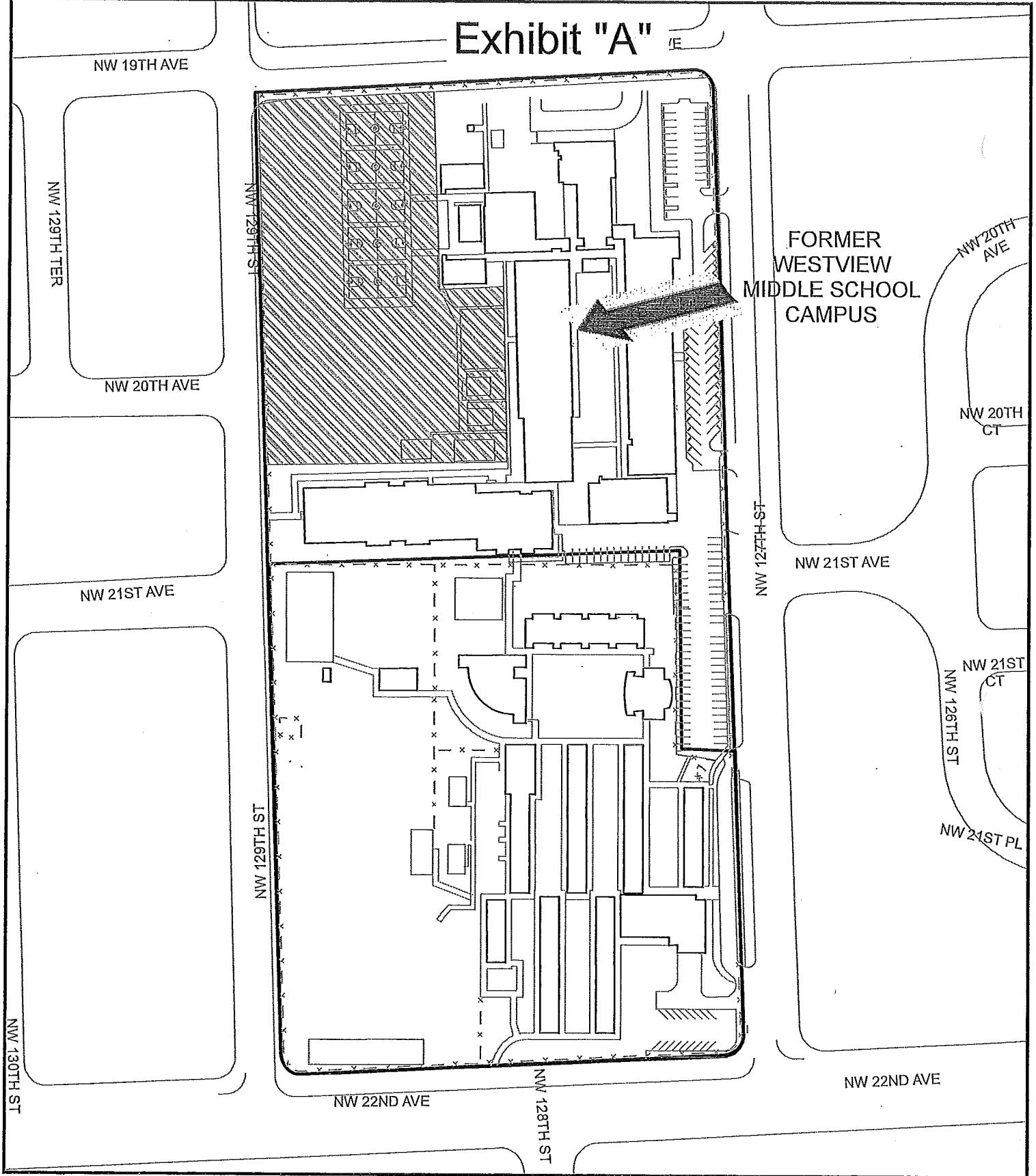
The proposed Ground Lease has been reviewed by the School Board Attorney's Office and the Office of Risk and Benefits Management for legal sufficiency and risk management issues, respectively, and found to be in compliance. A copy of the Ground Lease Agreement is attached hereto as Exhibit "B".

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to finalize negotiations and execute:

1. a Ground Lease Agreement ("Lease Agreement") between the Miami Boarding School, Inc., a Florida not for profit corporation, doing business as the SEED School of Miami ("SEED"), and the School Board, in connection with the construction and operation of the residential component of a college-preparatory, public boarding school for at-risk youth ("Residential Program"), located on the campus of Westview Middle School, at 1901 N.W. 127 Street, unincorporated Miami-Dade County, Florida 33167, with the rental proceeds to benefit Carrie P. Meek/Westview K-8 Center, under, substantially, the terms and conditions noted above; and
2. a Construction Agreement ("Construction Agreement") to allow the District to procure and manage the design and construction services to construct the residential and recreational improvements necessary for SEED to operate the residential program; and
3. any other documents or agreements necessary to effectuate the implementation of SEED's residential program; and
4. grant or deny any approvals required under the Lease Agreement and Construction Agreement, including, without limitation, renewing, extending, canceling or terminating the agreements, and placing SEED in default, as may be applicable.


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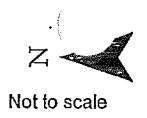
Exhibit "A"



Legend

Demised Premises

 consisting of a portion of folio # 30-2127-000-0140



GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT ("**Ground Lease**"), made and entered into this ____ day of _____, 20__, between THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a body corporate and politic existing under the laws of the State of Florida (the "**Board**" or "**LESSOR**"), and THE MIAMI BOARDING SCHOOL, INC., a Florida not for profit corporation, d/b/a THE SEED SCHOOL OF MIAMI ("**LESSEE**"). The LESSOR and LESSEE are sometimes referred to in this Ground Lease individually as "**Party**" and collectively as the "**Parties**".

WITNESSETH

WHEREAS, the LESSOR owns and has under its jurisdiction certain real property known as Westview Middle School, located at 1901 N.W. 127th Street, Miami-Dade County, Florida, and more particularly described as a portion of Folio # 30-2127-000-0140 ("**School**"); and

WHEREAS, Miami-Dade County Public Schools (the "**District**") received an unsolicited proposal requesting use by its proposer of portions of the School campus for the placement of modular dormitory facilities for a college-preparatory, public boarding school for at-risk youth, to both house and educate their students (the "**Proposal**"); and

WHEREAS, in conformance with Section 255.065, F.S., Board Policy 6327 and District Procurement procedures, District administration reviewed the Proposal and deemed the residential portion of the submission a "**Qualifying Project**" (as defined in the aforesaid Florida Statute and Board Policy), subject to Board approval; and

WHEREAS, that certain *Notice of Receipt of Unsolicited Proposal and Invitation to Submit Proposal* was published by LESSOR pursuant to Section 255.065, F.S. and Board Policy 6327, and the evaluation of any submissions relating thereto was duly performed in accordance therewith; and

WHEREAS, LESSEE was deemed the "**Successful Proposer**" pursuant to the terms of the solicitation and competitive procurement guidelines, subject to Board approval; and

WHEREAS, given the intent of the Board to lease a portion of the School site to

LESSEE for the purpose of placing modular residential facilities for a public boarding school for at-risk youth on the School campus, the LESSEE acknowledges and agrees that, in accordance with Section 163.31777, F.S., and Section 1013.33(7), F.S., Miami-Dade County ("**County**") may assert land use and/or zoning jurisdictional review; and

WHEREAS, the LESSEE acknowledges and agrees that, in accordance with Section 1013.33(9), F.S., the County may seek to impose land use and/or zoning restrictions or requirements on the development of the residential facility; and

WHEREAS, the LESSEE acknowledges and agrees that prior to the commencement of any construction related activities on the School site, and in addition to any required hearings that may be applicable should the County assert jurisdiction, LESSEE shall also seek public engagement by spearheading interactions with community members living in close proximity of the School, through publicly advertised meetings, to provide information and seek feedback related to LESSEE'S proposed onsite residential operations, and potential impact on the community; and

WHEREAS, LESSEE further acknowledges and agrees that as one of the preconditions to construction related activities on the School site, LESSEE shall secure any and all zoning and land use approvals from all applicable jurisdictional entities, if any are required; and

WHEREAS, The School Board of Miami-Dade County, Florida has authorized this Ground Lease in accordance with Board Action No. _____, at its meeting of _____, 2017; and

WHEREAS, _____ has authorized all signatories to this Ground Lease, at a meeting duly noticed, held on _____, 20____, in accordance with its By-Laws and regulations and at which meeting a quorum was present, to execute this Ground Lease on its behalf.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), restrictions and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the LESSOR and LESSEE agree as

follows:

I.

RECITALS

The above recitals are true and correct and are hereby incorporated into this Ground Lease.

II.

DEMISED AREA

Not later than _____, 2017, and as a precondition to execution of this Ground Lease by LESSOR, LESSEE shall, at its sole cost and expense, provide LESSOR with a detailed location sketch ("**location sketch**"), depicting the area of the School site that LESSEE is requesting be used by LESSEE for the residential component of its boarding school. The location sketch is to show the area of the School site proposed for use by LESSEE as if fully built-out with all proposed improvements and occupied by the maximum number of students. The location sketch is to include, but is not limited to, number and location of buildings, building height, layout of dormitory rooms, layout of staff apartments, location of storage facility, location of office facility, staff/visitor parking, connectivity between parking and residential complex, location of fencing and any on-site driveways or pedestrian corridors to be used, as well as details of any existing improvements located on the School site intended to be demolished, modified or in any way impacted by the proposed use by LESSEE under this Ground Lease. At such time as the location sketch is fully vetted and approved by LESSOR or its designee, said location sketch shall be attached hereto and become a part hereof as **Exhibit "A"**.

Subsequent to the location sketch being approved by LESSOR, LESSEE shall, at its sole cost and expense, provide a signed and sealed survey and location sketch with a legal description, certified to the LESSOR ("**Survey**"), depicting the area of the School site described in the approved location sketch, which Survey shall be attached to this Ground Lease as **Exhibit "B"**.

Effective with the Effective Date of this Ground Lease (as defined in Article III below), the LESSOR does hereby lease to the LESSEE a portion of the School, situated in Miami-Dade County, Florida, as more particularly described in Exhibit "B" (the "**DEMISED AREA**"). In addition and in conformance with the provisions of Articles XXXI and XXXIV, LESSEE shall have the unrestricted right of ingress and egress across a mutually agreed to portion of the School for LESSEE to gain access to the DEMISED AREA to and from the nearest public right-of-way. No

other buildings or portions of the School site may be accessed by LESSEE except by separate agreement granting LESSEE the right to do so.

III.

TERM

This Ground Lease shall be effective upon the date on which the last of the Parties initials or executes this Ground Lease (the "**Effective Date**"). Effective with the Effective Date, the LESSEE shall have access to the DEMISED AREA, with full right of ingress thereto and egress therefrom, for the specific and limited purpose of conducting due diligence investigations (as hereinafter defined) and as outlined in Article XXXVIII(G) of this Ground Lease, and constructing a number of improvements within the DEMISED AREA, as more specifically described in Article V of this Ground Lease (the "**Improvements**").

The initial term of this Ground Lease shall commence on the Effective Date, as defined herein, and shall expire on June-30, 2029 at midnight. Notwithstanding this provision, the Ground Lease shall terminate concurrent with the cancelation or expiration of LESSEE'S approved Charter School Contract, whichever occurs first, or upon the termination of this Ground Lease as provided for herein ("**Initial Lease Term**").

Notwithstanding the foregoing, the following shall be deemed pre-conditions to the commencement of this Ground Lease, and LESSEE, at its sole cost and expense, shall evidence its full compliance therewith to LESSOR'S satisfaction by delivering documentation substantiating same to LESSOR prior to commencement hereof: (a) any and all required zoning and land use approvals from applicable jurisdictional entities have been obtained, as well as any other approvals and permits as may be required from all applicable jurisdictional entities; (b) proof of all insurance coverages set forth in this Ground Lease satisfactory to LESSEE's Office of Risk Management; (c) deposit into a qualified Escrow Account with an Escrow Agent acceptable to LESSOR, in LESSOR'S sole discretion, one of the following: (i) a Cashier's Check; or, at LESSEE'S option (ii) an irrevocable Standby Letter of Credit from a Florida Qualified Public Depository Bank, in a form acceptable to the Board's Office of Treasury Management, that can be drawn by the Board upon demand, in an amount sufficient to pay for the destruction and removal of the residential modular units (as hereinafter defined) and any other structures or work installed by LESSEE on the DEMISED AREA or elsewhere on the School campus, as evidenced by an independent cost estimate provided by LESSOR ("**Modular Units Removal Escrow Account**"), at the cancellation, termination or expiration of this Ground Lease. Said amount shall be reviewed and adjusted with additional funds deposited, as may be required, every three (3) years; (d) LESSEE'S financial

statement for the first year of the term of this Ground Lease (and on the anniversary of the Effective Date, annually thereafter), which financial statement shall detail LESSEE'S financial ability to pay for and maintain the Improvements (as hereinafter described) throughout the term of this Ground Lease; (e) title search and LESSEE'S counsel's opinion of title with copies of all exceptions thereto, if any, of the School site, certified to LESSOR, establishing that LESSEE'S intended use of the DEMISED AREA is not in violation of any restriction or limitation of title to the subject property; (f) documentation, acceptable to the LESSOR, evidencing that LESSEE is active and authorized to do business in the State of Florida, including any and all enabling documentation relating to LESSEE'S formation, existence and legal and good standing status; (g) the necessary resolutions in form acceptable to LESSOR, verifying that LESSEE is authorized to enter into this Ground Lease, and that the party signing this Ground Lease is fully authorized and has the legal capacity to do so, on behalf of the LESSEE; (h) delivery and acceptance by the LESSOR or its designee of LESSEE'S Emergency Management plan (as hereinafter described); (i) since the Improvements will be constructed by LESSOR (as hereinafter described) the execution of a Construction Management Services Agreement by and between LESSOR and LESSEE ("**Construction Agreement**") setting forth the terms and conditions for the construction of the Improvements, acceptable to both Parties, and subject to LESSOR'S approval, in accordance with Article V hereof, and (j) copy of State of Florida Consumer's Certificate of Exemption ("Certificate of Exemption"). LESSEE shall provide the District renewal Certificates of Exemption, as provided for under Article XIX hereof.

The date on which LESSEE complies with all pre-conditions shall be defined as the "**Commencement Date**".

Notwithstanding the foregoing, the Parties acknowledge and agree that the LESSEE shall not occupy the DEMISED AREA for the purpose of operating its residential program thereon until the LESSOR'S Building Department issues a Certificate of Occupancy, Certificate of Completion, or equivalent ("**CO**") for the Work (as defined in Article V), which CO shall be attached as Exhibit "C" hereto and made a part hereof.

IV.

CONSIDERATION

The LESSEE shall pay to the LESSOR as consideration for use and occupancy of the DEMISED AREA throughout the Initial Lease Term of this Ground Lease, the sum of Forty-Nine Thousand Seven Hundred Fifty-Eight Dollars and Eighty-Five Cents (\$49,758.85) per year, payable to LESSOR by LESSEE in monthly installments of Four Thousand One Hundred Sixty-

Six Dollars and Sixty-Six Cents (\$4,146.57), excluding taxes which may be due, if any, with the first payment due and payable on the Commencement Date of this Ground Lease, and on the first day of each month thereafter without demand during the first year of the Initial Lease Term. Beginning with the second year of the Initial Lease Term, and continuing throughout the Initial Lease Term, the annual consideration amount shall increase by three percent (3%) per year, and the monthly installments due and payable to LESSOR shall be adjusted accordingly. In the event the term of the Ground Lease is extended beyond the Initial Lease Term, as set forth in Article XIV of this Ground Lease, the amount of consideration shall be adjusted as set forth therein.

If LESSEE fails to pay rent on or before the rental due date, LESSEE shall be required to pay a late fee to LESSOR at an Annual Percentage Rate of Prime Rate, as published in the Wall Street Journal in the week where the default takes place, plus five (5) percent, in addition to the past due rent amount. Failure of LESSEE to make timely payments and/or pay the late fee shall constitute a material breach under this Ground Lease, and may result, at the LESSOR'S sole option, in the termination of this Ground Lease, in accordance with Article XVI of this Ground Lease.

Notwithstanding the foregoing, at the expiration, cancellation or termination of this Ground Lease and proper surrender of the DEMISED AREA, LESSEE'S obligation to pay Consideration under this Ground Lease shall cease.

All payments shall be made payable to **The School Board of Miami-Dade County, Florida**, and shall be remitted, without demand, to the following location:

**Miami-Dade County Public Schools
Planning, Design & Sustainability
Attention: Executive Director
1450 N.E. 2nd Avenue, Room 525
Miami, Florida 33132**

V.

CONSTRUCTION ACCESS AND IMPROVEMENTS

A. Initial Construction. For purposes of constructing certain improvements on the DEMISED AREA sufficient for LESSEE to occupy and use the DEMISED AREA as of the Commencement Date of this Ground Lease ("**Initial Improvements**"), the Parties have agreed to enter into a Construction Agreement, under which the LESSOR shall retain responsibility for the construction of the Improvements within the DEMISED AREA, substantially as set forth in

Exhibit "A" of this Ground Lease. A copy of the duly executed Construction Agreement shall be attached hereto as Exhibit "D" at such time as it is executed by the Parties.

1. Improvements. Subject to the provisions and responsibilities enumerated in the Construction Agreement and pre-conditions set forth under Article III hereof and elsewhere in this Article V, effective with the Effective Date of this Ground Lease, the LESSOR does hereby grant to the LESSEE, the right and privilege to access the DEMISED AREA, with full right of ingress thereto and egress therefrom, for the specific and limited purpose of constructing up to four (4) residential modular units ("**Modular Units**") with a combined maximum total capacity of 400 student beds and accompanying staff apartments, 2,000 square feet of office space and 2,000 square feet of storage space. The work shall be performed in accordance with the above-referenced Construction Agreement, and shall include any and all activities necessary to make the Modular Units functional, including installation of concrete walkways, fencing and gates, and all utility hook-ups, as substantially set forth in Exhibit "A (all such improvements, along with any future improvements to be constructed on the DEMISED AREA by the LESSEE, or under a Construction Agreement by LESSOR, are collectively referred to herein as the "**Work**"). Once approved by the Parties, any change to the scope of Work shall be approved by the LESSOR, which the LESSOR may approve or disapprove at its sole authority and discretion. All Work will be done at the LESSEE'S sole cost and expense, and access to the DEMISED AREA for this purpose shall be as previously scheduled and coordinated with the School Administrator and assigned District Project Manager to assure that all necessary safety measures are implemented, and the Work does not interfere with or disrupt the operations of District programs operating elsewhere on the School or adjacent Board-owned lands.

2. Phasing of the Work. The Parties agree that the Modular Units shall be installed in multiple phases. Subject to compliance with all pre-conditions under Article III hereof and elsewhere in this Article V, the first phase, consisting of two (2) Modular Units and associated sitework shall be completed in compliance with the schedule included in the Construction Agreement. Future phase(s) to install the remaining Modular Units shall be as scheduled with LESSOR, at LESSOR'S sole discretion but in consideration of the LESSEE'S need to provide housing for its students, and at the sole cost and expense of the LESSEE, and all terms of this Ground Lease, as it may be amended relating to the construction and operation of the Work, shall govern the installation of the remaining Modular Units.

3. Pre-Conditions. The LESSEE acknowledges and agrees that conditions precedent to commencement of any construction activities on the DEMISED AREA shall

include, without limitation, construction of a chain link fence, a minimum of 6-feet in height, along the portion of the DEMISED AREA abutting the School campus, or as otherwise designated by LESSOR, in order to properly separate the DEMISED AREA from the balance of the School site not otherwise exclusively leased to the LESSEE by separate instrument, and in conformance with the provisions of 1012.468(1)2(e) F.S.

4. Anti-Discrimination. The Parties acknowledge and agree that the terms of the Construction Agreement, as well as any additional improvements constructed by LESSEE, shall comply with all of LESSOR'S diversity, inclusion and anti-discrimination policies, including Board Policy 6320.02, Small/Micro and Minority/Women-Owned Business Enterprise Programs; Board Policy 6320.06, Diversity, Equity, and Inclusion in Business Operations and Practices; Board Policy 6465, Anti-Discrimination in Business Operations; and Board Policy 6460, Business Code of Ethics.

B. Additional Improvements. Notwithstanding the provisions of the Construction Agreement attached hereto as Exhibit "D", the Parties acknowledge and agree that any future construction related activities not provided for under the Construction Agreement ("**Additional Improvements**") shall strictly comply in all respects with the provisions of this Article V. In that event, the LESSEE shall provide the LESSOR with a written request detailing the proposed improvements to be made, which the LESSOR or its designee may approve or disapprove at its sole authority. Any such Additional Improvements to be constructed by the LESSEE shall be at the sole cost and expense of the LESSEE, and all terms of this Ground Lease, as it may be amended, relating to the construction and operation of the Work, shall govern the construction and operation of said Additional Improvements. Unless otherwise agreed to by the Parties, the LESSEE shall retain responsibility for Maintenance, Utilities and for Damage or Destruction, under Articles VII, IX, and XXVIII of this Ground Lease, as well as any required custodial services for any Additional Improvements to be constructed during the term of this Ground Lease.

1. Plans. Prior to the commencement of construction of any Work by the LESSEE or its contractors at the DEMISED AREA, the LESSEE shall submit plans and specifications, as required by the LESSOR or the County, for review and approval. LESSEE shall be fully responsible for securing any and all permits, use approvals and/or other jurisdictional authorizations to commence the Work, at its sole cost and expense, including without limitation, application fees, consultant's fees and attorney's fees.

Plans must be signed and sealed by a duly licensed design professional and be of

sufficient detail to secure any and all permits necessary to commence construction of the Work. Any and all warranties between the LESSEE and its architect/engineer of record shall flow to the LESSOR in the event of errors and omissions. The plans shall be prepared in accordance with all applicable laws, rules, regulations, statutes and codes, including, without limitation, the District design criteria, specifications and safety codes, the State Requirements for Educational Facilities and the Florida Building Code, as applicable and in effect at the time the plans are submitted to the LESSOR. All Work shall be performed in a good and workmanlike manner by contractors who are licensed, insured and fully bonded, and the LESSEE shall provide evidence of same to the LESSOR prior to commencement of the Work. The LESSEE shall require its contractor(s) to locate and/or identify any existing underground improvements or utilities within the DEMISED AREA that may be affected by the Work, and the LESSEE shall be responsible for any damage or injury the LESSEE causes arising out of or incidental to any portion of the Work within the DEMISED AREA or elsewhere on the School campus. The LESSEE'S contractors must be pre-qualified by the LESSOR in accordance with District and Board Policies and procedures, before commencing construction of the Work or any construction activities on the DEMISED AREA or elsewhere on the School campus.

2. Permitting. Notwithstanding any requirements that may be imposed by the County, the LESSOR'S Building Department shall be the entity responsible for reviewing and approving all construction documents, issuing permits for construction of the Work and providing final acceptance of the Work. Any requirements imposed by the County or any other jurisdictional entity shall be in addition thereto, and must be satisfied prior to issuance of any permits by LESSOR. Work shall not commence until proper permits have been issued, in conformance with the requirements of the LESSOR, County and any other appropriate jurisdictional governmental entities, as required, and shall at all times be in compliance with all applicable laws, rules and regulations, as provided under Articles XXXI and XXXIV of this Ground Lease, including, without limitation, the Florida Building Code, the Americans with Disabilities Act, the Jessica Lunsford Act, the State Requirements for Educational Facilities, and District design criteria and standards, as applicable and as the same may be amended from time to time. All permits shall be properly closed by the LESSEE upon completion of the Work, and evidence of same, satisfactory to the LESSOR, shall be provided without demand. All Work shall be limited to those areas designated in the plans, and the LESSEE shall have no authority to access any other portions of the School campus, except as otherwise provided for in this Ground Lease or as authorized in writing by the LESSOR, or its designee, in its sole discretion

and on an as-needed basis. LESSOR shall cooperate with LESSEE, as limited by the provisions set forth in Article IX, in all permit and governmental applications which require the signature of the property owner.

3. Safety Criteria. The Work shall conform at all times to the safety criteria established with and approved by the LESSOR, or its designee, and shall neither unreasonably disrupt or interfere with the LESSOR'S operations at the School. The LESSEE and its contractors shall take all necessary safety precautions during construction of the Work, secure all construction areas by appropriate construction fencing, and coordinate on an ongoing basis with the School Administrator and assigned District Project Manager to assure the safety of the LESSOR'S students, faculty, staff, visitors, invitees and the public at all times during construction of the Work. In addition, the LESSEE and its contractors shall work closely with the School Administrator and assigned District Project Manager to assure the Work does not interfere with or disrupt School or District operations, or cause a significant impact on the local community.

4. Indemnification and Insurance. Prior to commencement of the Work, the LESSEE shall provide the LESSOR, or designee, with a schedule for the commencement and completion of the Work. If the LESSOR, or its designee, requests that the LESSEE cease any work at the DEMISED AREA or elsewhere on the School site due to unreasonable interference or violation of any applicable rules and regulations or the District's criteria, then the LESSEE shall immediately discontinue its activities at the DEMISED AREA, and shall proceed only after the LESSOR, or its designee, has reviewed the scheduling, safety and/or manner of work in question and has authorized the LESSEE to continue.

The LESSEE shall cause each and every of its contractors and subcontractors performing any work on the DEMISED AREA to indemnify, defend and hold harmless the LESSOR, its employees and representatives from any and all liability, damages and claims arising from the acts or omissions of that contractor or subcontractor. In addition, as a pre-condition to commencing the Work, the LESSEE shall require its contractors to provide the LESSOR with insurance certificates evidencing insurance coverage and limits meeting, at a minimum, the following requirements: (1) Commercial General Liability Insurance in an amount not less than \$1 Million combined single limit per occurrence for bodily injury and property damage, (2) Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the operations of the LESSEE'S contractors and subcontractors, in an amount not less than \$1 million combined single limit per occurrence for bodily injury and

property damage, and (3) Workers' Compensation Insurance for all employees of the LESSEE'S contractors and subcontractors, as required by Florida Statutes. "The School Board of Miami-Dade County, Florida and its members, officers and employees" shall be named as an additional insured on all liability coverages except Workers' Compensation insurance. The LESSEE'S contractor(s) and subcontractor(s) shall maintain such insurance at all times while Work is performed.

The LESSEE covenants and agrees that it shall indemnify, hold harmless and defend the LESSOR from and against any and all claims, liens, suits, actions or causes of action arising out of or in connection with any construction costs and expenses for improvements made by the LESSEE on the DEMISED AREA or elsewhere on the School campus. In addition, the LESSEE shall cause each and every of its contractors and subcontractors performing work at the DEMISED AREA (hereinafter collectively referred to as the "**Lessee Contractors**", and individually as the "**Lessee Contractor**") to further covenant and agree, at Lessee Contractors' own expense, and upon written request by the LESSOR, to defend any suit, action or demand brought against the LESSOR on any claim or demand arising out of or resulting from, Lessee Contractors' performance under any contract by and between the LESSEE and/or its assigns and any and all contractors and subcontractors. This provision shall survive the expiration or early termination or cancellation of this Ground Lease. Furthermore, the LESSEE and/or its assigns shall cause the indemnification provision and the duty to defend provision in its Contract with Lessee Contractors to survive the cancellation, early termination or expiration of any and all contracts by and between the LESSEE and/or its assigns and any Lessee Contractor.

5. Damage and Destruction. If, as a result of the LESSEE'S actions in the performance of the Work, or failure to act, portions of the DEMISED AREA or School site are damaged, in the sole opinion of the LESSOR, then the LESSEE shall repair and/or restore the damaged area, at its sole cost and expense, to the same or better condition as existed prior to the LESSEE'S entry onto the School site. The LESSEE shall complete the necessary repairs within thirty (30) days of receipt of written notice from the LESSOR. In the event that the LESSEE is unable to complete the repair work within said thirty (30) day period, the LESSEE shall provide the LESSOR with written notification stating the reasons, together with a mutually agreed to schedule for the completion of the repairs. If the LESSEE fails to complete the repair work within the prescribed time frame, then the LESSOR, at its sole option, shall have the right, but not the obligation, to make the necessary repairs, at the LESSEE'S sole cost and expense. The LESSEE covenants and agrees that it shall reimburse the LESSOR for this work within thirty

(30) days of receipt from the LESSOR of an invoice for same, accompanied by such documentation as may be reasonably required by the LESSEE to substantiate the nature and completeness of the work. In the alternative, the LESSOR may instead place the LESSEE in default under this Ground Lease.

Notwithstanding the foregoing, in the event of damage to the DEMISED AREA caused by the LESSEE or its agents, contractors or invitees, resulting in a significant impact to operations or the safety and well-being of the LESSOR'S students, staff and visitors, and requiring immediate repair, as determined by the LESSOR at the LESSOR'S sole discretion, the LESSOR may complete the necessary repairs, at the LESSEE'S sole cost and expense.

6. Payment and Performance Bond. Prior to the start of any construction activities at the DEMISED AREA, and irrespective of the LESSEE'S estimate of the cost of construction of the Work, the LESSEE shall provide to the LESSOR a payment and performance bond ("**Bond**") with a surety insurer authorized to do business in the State of Florida as surety, based on the cost of the Work as determined solely by the LESSOR. The Bond may be in the form described in Florida Statutes §255.05 or otherwise, so long as all protections and relevant provisions set forth in §255.05 are provided to all persons defined in Florida Statutes §713.01 who furnish labor, services, or materials for the prosecution of the Work provided for in the Ground Lease.

7. Liens. The LESSEE shall permit no liens to be filed or attached to the DEMISED AREA, School, or any portion thereof for any reason whatsoever, including, but not limited to, as a result of the Work performed by the LESSEE pursuant to this Ground Lease, or related to LESSEE'S financing of the Modular Units or contractual relationship with the Modular Unit manufacturer related to construction, installation or removal of the Modular Units. In the event that any such lien is recorded in the official records of Miami-Dade County, Florida, the LESSEE shall, within twenty (20) calendar days of the date of such filing, cause such lien to be removed of record or properly transferred to a bond under Chapter 713, Florida Statutes. Should the LESSEE fail to comply with this requirement, then the LESSOR may, by its own effort, cause such lien to be removed of record and the LESSEE shall be liable to the LESSOR for all costs of such removal including, without limitation, any and all reasonable attorneys' fees, court costs and any other cost or expense incurred or expended by the LESSOR.

8. Pre-Conditions to Commencement of Work. As conditions precedent to commencing the Work or any on-site activities, the LESSEE shall submit the following items to

the LESSOR:

- (a) written concurrence from the County and/or any other applicable jurisdictional entities, in a form acceptable to LESSOR, that LESSEE has secured all necessary permits, licenses, zoning or land use approvals, as required, to proceed with the Work;
- (b) a construction schedule containing the LESSEE'S major project milestone time lines, including the proposed start, duration and completion of the Work within the timeframe provided for in this Ground Lease;
- (c) copies of all permits, certificates and other approvals as required in this Ground Lease for commencement of construction;
- (d) a written statement indicating the LESSEE'S compliance with the provisions of Article V of this Ground Lease and all other terms and conditions of this Ground Lease;
- (e) a detailed plan, acceptable to the LESSOR, or its designee in its sole authority, delineating how the LESSEE and/or its contractors will implement all necessary safety measures within and around the DEMISED AREA, as well as any other locations within or around the School, that may be impacted by the LESSEE'S constructions activities;
- (f) evidence of insurance in amounts and types of coverage as required under this Ground Lease; and
- (g) a Bond as specified in Article V of this Ground Lease.

It is expressly understood by the Parties that the LESSEE shall not commence any of the Work within the DEMISED AREA, until the LESSOR, or its designee, has received all of the items listed above and any other item listed as a pre-condition hereof, and has notified the LESSEE, in writing, as to the approved date for the start of the Work ("**Notice To Proceed**"), which shall be within twenty (20) days of LESSOR'S having received all of the listed items (a) through (g) above or waived such receipt in writing.

9. Phased and Final Inspections. At the completion of a phase of the Work, the LESSEE shall secure an inspection of that portion of the Work on the DEMISED AREA from the LESSOR'S designee, verifying that the Work has been satisfactorily and properly completed, and shall not release the Lessee Contractor(s) from its/their contractual obligations or make final

payment to the Lessee Contractors until the LESSOR'S designee attests to the satisfactory completion of the subject phase of the Work. In addition, the LESSEE agrees that the LESSEE or the Lessee Contractors shall restore the DEMISED AREA to a condition that is safe and usable, including without limitation, the removal and/or disposal of equipment, materials, personal property, debris and/or trash, all at the sole cost and expense of the LESSEE. The LESSEE shall provide to the LESSOR all as-built drawings, Warranties, test data, and any other documents related to the Work, and will provide proof of closure of any and all permits related to the portion of the Work being completed, without demand and at no cost to the LESSOR.

VI.

USE OF DEMISED AREA

The DEMISED AREA as identified in Exhibit "B" shall only be used by the LESSEE for the purpose of constructing the Work, as further defined in Article V of this Ground Lease, and operating the residential component of a college-preparatory program for The Seed School of Miami students attending the educational program at the adjacent School who are at risk of academic failure, come from a family whose income is below 200% of the federal poverty guidelines, and meet at least one of the additional risk factors for eligible students, as outlined in Florida Statutes and in the District's solicitation, and for LESSEE'S staff and faculty, and for recreational facilities, and for no other purpose. The use of the DEMISED AREA for the operation of a public, residential boarding school for at-risk students, as defined in Section 1002.3305, F.S., as may be amended, shall be deemed a Covenant Running With the Land. This Ground Lease and all of the rights of LESSEE hereunder shall, at the option of LESSOR, cease and terminate if LESSEE uses the DEMISED AREA for any purpose not permitted in this Article VI, which unpermitted use is not ceased in compliance with the provisions of Article XVI of this Ground Lease.

Use of the DEMISED AREA for any purpose not set forth in this Ground Lease without the LESSOR'S prior written consent, which consent may be withheld at the LESSOR'S sole discretion, shall constitute a default under this Ground Lease. The LESSEE covenants and agrees to accept the DEMISED AREA in its "as-is", "where-is" condition and basis with all faults as of the Effective Date of this Ground Lease, subject to all easements, covenants or other encumbrances and limitations of record. The LESSOR makes no representations or warranties of any type or nature whatsoever, either expressed or implied, including, without limitation, title, known or unknown defects, the usefulness, physical condition or appropriateness of the DEMISED AREA for LESSEE'S operations, or any specific use. The LESSEE, by executing

this Ground Lease, acknowledges and agrees that the LESSOR has made no representations whatsoever regarding the DEMISED AREA, and further agrees that the LESSEE may conduct due diligence investigations on the DEMISED AREA, as detailed in Article XXXVIII(G) of this Ground Lease. The LESSEE represents that it is relying and will continue to rely solely on the LESSEE'S own investigations of the DEMISED AREA in its decision to occupy or use it, and the LESSEE further acknowledges and agrees that the LESSOR shall not indemnify the LESSEE in any way with respect to the condition of the DEMISED AREA. The provisions of this paragraph shall survive the expiration or the early termination or cancellation of this Ground Lease.

In the event a determination is made by the LESSEE during its due diligence investigations, as detailed in Article XXXVIII(G), that the DEMISED AREA is not suitable for the purpose intended under this Ground Lease, the LESSEE shall so notify the LESSOR in writing, and this Ground Lease shall terminate as of the date of said notification, and be of no further force and effect for other than those provisions of this Ground Lease intended to survive the expiration or the early termination or cancellation of this Ground Lease.

Effective with the Effective Date, the LESSEE shall have full control, custody, right and use of the DEMISED AREA for the purpose of conducting its due diligence investigations as described in Article XXXVIII(G). The LESSEE shall not be permitted to access any other portion of the School site under this Ground Lease. Upon completion of the Work and issuance of a CO by the LESSOR'S Building Department, the LESSEE shall have full control, custody, right and use of the DEMISED AREA for the operation of its residential program for its at-risk students attending The Seed School of Miami at the School and for no other purpose.

The sale or consumption of alcoholic beverages on the DEMISED AREA is expressly prohibited. In addition, use of any portion of the DEMISED AREA for carnivals, fairs, mechanical rides, midways, or the same or similar kinds of activities is expressly prohibited. Neither Party shall commit nor permit any violations of applicable laws, rules and regulations of the LESSOR, including Board Policies, County, State, or Federal government upon the DEMISED AREA.

The LESSEE agrees that it shall comply with all District safety and security criteria, and provide proper supervision of the DEMISED AREA, and maintain the DEMISED AREA safe and secure at all times, as further defined in Article XXXVIII(N). In addition, the LESSEE acknowledges and agrees that the LESSEE'S use of the DEMISED AREA shall not unreasonably disrupt nor interfere with the local community, or any of the District's educational activities or operations at the School or at the adjacent Carrie P. Meek Westview K-8 Center ("**Meek K-8 Center**"), and agrees to work closely with the School Administrators at Meek K-8

Center and the School to minimize any impact on District operations. The LESSEE shall coordinate on an ongoing basis with the School Administrators at the School and Meek K-8 Center to assure the safety of the District's students, staff, visitors, invitees and the public at all times.

VII.

MAINTENANCE AND CUSTODIAL SERVICES

The LESSEE, at the LESSEE'S sole cost and expense, shall be responsible for all maintenance, repair and upkeep of the DEMISED AREA, including the perimeter fencing and all improvements located or constructed thereon under this Ground Lease, as is necessary to keep the same in a good, safe, clean and code compliant condition at all times, including, without limitation: (a) maintenance and repair of all Modular Units and/or other buildings, structures and improvements in the DEMISED AREA, including exterior lighting, walking surfaces, covered walkways, and parking areas, (b) turf and field maintenance and mowing, (c) maintenance and repair of all trees, landscaping and irrigation systems in the DEMISED AREA, (d) maintenance and repair of fences and gates along the perimeter of or located within the DEMISED AREA, (e) maintenance and repair of all utilities servicing exclusively the DEMISED AREA, (f) general maintenance and cleaning of grounds, including trash and litter pick-up and removal, and (g) all custodial or janitorial services to any improvements on the DEMISED AREA, including, without limitation, general cleaning, restroom cleaning, and trash and litter removal.

VIII.

INSURANCE

The LESSEE shall, on or before the Effective Date of this Ground Lease, provide the LESSOR with proof of insurance evidencing insurance coverage and limits meeting, at a minimum, the following requirements:

Acceptable Insurance Providers:

Insurance providers must be: (1) authorized by subsisting certificates of authority by the Department of Financial Services of the State of Florida, or (2) an eligible surplus lines insurer under Florida Statutes. In addition, the insurer must have a Best's Rating of "A" or better and a Financial Size Category of "VI" or better, according to the latest edition of Best's Key Rating Guide, published by A.M. Best Company.

Insurance Provider Compliance:

If, during this period when an insurer is providing the insurance as required by this

Ground Lease, an insurer fails to comply with the foregoing minimum requirements, as soon as the LESSEE has knowledge of any such failure the LESSEE shall immediately notify the LESSOR and promptly replace the insurance with insurance provided by another insurer meeting the requirements. Such replacement insurance coverage must be obtained within twenty (20) days of cancellation or lapse of coverage.

Minimum Insurance Requirements:

Without limiting any of the other obligations or liabilities of the LESSEE, the LESSEE shall, at the LESSEE'S sole expense, procure, maintain and keep in force the amounts and types of insurance conforming to the minimum requirements set forth in this Ground Lease. Except as otherwise specified in this Ground Lease, the insurance shall commence prior to the Effective Date of the Ground Lessee, and shall be maintained in force, without interruption, until this Ground Lease is terminated.

Commercial and General Liability Insurance:

Liabilities Required

LESSEE'S insurance shall cover the LESSEE for those sources of liability (including, without limitation, coverage for operations, Products/Completed Operations, independent contractors, and liability contractually assumed) which would be covered by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office. Additionally the Commercial General Liability policy shall contain a sexual abuse of molestation endorsement nor more restrictive than ISO form CL CG 00 06 01 04.

Minimum Limits

The minimum limits to be maintained by the LESSEE (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per occurrence/\$3 million annual aggregate.

Deductible/Retention

Except with respect to coverage for Property Damage Liability, the Commercial General Liability coverage shall apply on a first-dollar basis without application of any deductible or self-insured retention.

Occurrence/Claims

The coverage for Property Damage Liability may be subject to a maximum deductible of \$1,000 per occurrence.

Additional Insured

The LESSEE shall include the LESSOR and its members, officers, and employees as Additional Insured on the required Commercial General Liability Insurance. The coverage afforded such Additional Insured shall be no more restrictive than that which would be afforded by adding the LESSOR as Additional Insured using the latest Additional Insured - Owners, Lessees or Contractors (Form B) Endorsement (ISO Form CG 20 10). The certificate of insurance shall be clearly marked to reflect "The Lessor (The School Board of Miami-Dade County, Florida), its members, officers, employees, and agents as Additional Insured."

Automobile Liability Insurance:

Coverage

The LESSEE'S insurance shall cover the LESSEE for those sources of liability which would be covered by Section II of the latest occurrence edition of the standard Business Auto Policy (ISO Form CA 00 01), including coverage for liability contractually assumed, as filed for use in the State of Florida by the Insurance Services Office. Coverage shall be included on all owned, non-owned, and hired autos used in connection with this Contract.

Occurrence/Claims and Minimum Limits

The minimum limits to be maintained by the LESSEE (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per occurrence, and if subject to an annual aggregate, \$3 million annual aggregate.

Workers' Compensation/Employers' Liability Insurance:

Coverage

The LESSEE'S insurance shall cover the LESSEE (and to the extent its subcontractors and its sub-subcontractors are not otherwise insured) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance,

without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act and any other applicable federal or state law.

Minimum Limits

Subject to the restrictions found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy. The minimum amount of coverage for those coverages customarily insured under Part Two of the standard Workers' Compensation Policy shall be: EL Each Accident: \$500,000; EL Disease-Policy Limit: \$500,000; EL Disease-Each Employee: \$500,000.

IX.

UTILITIES AND OTHER SERVICES

The LESSEE shall be responsible for the installation and ongoing cost of all utilities serving the DEMISED AREA, including, without limitation, electricity, gas, water, sewer, solid waste disposal, storm water and trash collection. The LESSEE shall install separate utility services and/or sub-meters in its name and shall pay for such services at the LESSEE'S sole cost and expense. The LESSEE shall notify the LESSOR in a timely manner of any utility agreements requiring the approval and/or joinder of the LESSOR as property owner. The LESSOR will cooperate as necessary, subject to review and approval of any such agreements or documents by the LESSOR or its designee, in its sole authority and discretion. It is understood and agreed that the LESSOR shall not execute any agreements, other than joinders which shall be deemed strictly as evidence of consent of property owner and without any responsibility or liability whatsoever thereunder. The foregoing includes, but is not limited to WASD Agreements and any off-site improvements which may be required by any jurisdictional agency.

X.

INDEMNIFICATION AND HOLD HARMLESS

The LESSEE shall hold harmless and indemnify the LESSOR against any claim, action, loss, damage, injury, liability, cost or expense of whatsoever kind or nature including, but not by way of limitation, attorneys' fees and court costs arising out of bodily injury to persons, including death, or damage to tangible property arising out of LESSEE'S acts in connection with its activity

under this Ground Lease or by others on behalf of the LESSEE, whether or not due to or caused in part by the negligence or other culpability of the LESSOR, except to the extent of the negligence or culpability of the LESSOR or others on behalf of the LESSOR.

In addition, LESSEE agrees, at its own expense, and upon written request by the LESSOR, to defend any suit, action or demand brought against the LESSOR on any claim or demand arising out of or resulting from LESSEE'S acts in connection with its activity under this Ground Lease. In addition, LESSEE shall indemnify LESSOR against any successful Claims Bill imposed on the LESSOR related to LESSEE'S such actions, and shall make payment under any such successful claim.

The provisions of this Article shall survive the expiration or early termination or cancellation of this Ground Lease. Nothing in this Ground Lease is intended to operate as a waiver of LESSOR'S sovereign immunity.

XI.

NO LIABILITY FOR PERSONAL PROPERTY

The LESSEE agrees to insure or self-insure its interests in personal property to the extent it deems necessary or appropriate and hereby waives all rights to recovery for loss or damage of such property by any cause whatsoever. The LESSEE waives all rights of subrogation under any policy or policies it may carry on property placed or moved on the DEMISED AREA.

XII.

LIABILITY FOR DAMAGE OR INJURY

The LESSOR shall not be liable for any damage or injury which may be sustained by the LESSEE or its invitees on or about the DEMISED AREA or School site, other than damage or injury resulting from the negligent performance or failure of performance on the part of the LESSOR, its agents, representatives or employees, and in such event the LESSOR'S liability shall be subject to the limitations included within Section 768.28, Florida Statutes. The LESSOR shall not be responsible or liable for any loss of business, consequential damages or any other damages arising from acts of God. The provisions of this Article shall survive the expiration, or early termination or cancellation of this Ground Lease.

XIII.

ASSIGNMENT AND SUBLETTING

The LESSEE shall not, at any time during the term of this Ground Lease, sublet in part or whole the DEMISED AREA, or assign, transfer, mortgage, pledge, hypothecate or otherwise

dispose of its interest in this Ground Lease or any portion or part thereof, or allow any other individual or entity to operate or manage the DEMISED AREA, or permit the DEMISED AREA to be occupied by other persons, firms, corporations, or governmental units. Any assignment, sublet or otherwise, shall constitute a material breach under this Ground Lease, and may result, at the LESSOR'S sole option, in the termination of this Ground Lease, as outlined in Article XVI of this Ground Lease.

XIV.

EXTENSION OF TERM

If not in default in performance of the obligations set forth in this Ground Lease, the Parties may, by mutual agreement, extend this Ground Lease, under the same terms and conditions set forth herein, for the period running concurrent with, and not to exceed, LESSEE'S approved Charter School Contract ("**Extension Period**"), and also provided 1) the LESSEE is operating an active, public, non-profit boarding school for at-risk students at the School under this Ground Lease, in combination with a concurrent lease agreement with LESSOR for an associated educational program at the School; and 2) the LESSEE gives written notice to the LESSOR at least ninety (90) days prior to the expiration of the Initial Lease Term or the then current term. Approval of such Extension Period by LESSOR shall be at LESSOR'S sole discretion. The Parties acknowledge and agree that any such extension of the term shall be accomplished through the execution of an amendment to this Ground Lease.

In the event of an extension of the Ground Lease beyond the Initial Lease Term or the then current term, the Consideration paid by LESSEE to LESSOR shall be adjusted annually to increase said amount by three percent (3%), on the anniversary date of the Commencement Date each year thereafter during the Extension Period.

XV.

CANCELLATION

In addition to the provisions of Articles VI, XVI, XXVIII and XXXVIII(G), the LESSEE shall have the right to cancel the Ground Lease, without penalty, in the event of any of the following occurrences: (1) by providing the LESSOR with written notice at least ninety (90) days prior to the effective date of said cancellation; and (2) in the event of default by LESSOR, which default is not cured within the applicable time frames, as set forth in Article XVI of this Ground Lease; (3) upon 30 days prior written notice, if its Charter authorization is not renewed or if the State budget allocation for LESSEE'S school is materially reduced.

In addition to the provisions of Articles V, XVI and XXVIII, the LESSOR shall have the right to cancel this Ground Lease, without penalty, in the event the LESSEE is in default of any of the terms and conditions of this Ground Lease, which default is not cured within the applicable time frames, as set forth in Article XVI of this Ground Lease.

In the event of cancellation by either Party, the LESSEE shall surrender and vacate the DEMISED AREA in compliance with Article XX of this Ground Lease.

XVI.

DEFAULT

The LESSOR shall notify the LESSEE in writing regarding the LESSEE'S failure to perform or to comply with the terms and condition of this Ground Lease. In the event the LESSEE fails to cure the default within thirty (30) days after receiving written notice or does not provide the LESSOR with a written response indicating the status of the LESSEE'S curing of the default and providing a mutually agreeable schedule to cure all defaults, said approval not to be unreasonably withheld, within thirty (30) days after receiving written notice, the LESSOR shall have the right to cancel this Ground Lease, without penalty, upon ten (10) days additional written notice to LESSEE.

Notwithstanding the above, in the event of a material breach on the part of LESSEE (as enumerated below), LESSEE shall have twenty (20) days from receipt of notice from LESSOR to cure such material breach. In the event the LESSEE fails to cure the material breach within twenty (20) days after receiving written notice, the LESSOR shall have the right to cancel this Ground Lease, without penalty, upon ten (10) days additional written notice to LESSEE. The following shall constitute a material breach on the part of LESSEE: (1) for reasons other than casualty or acts of God, failure to operate LESSEE'S residential program on the DEMISED AREA for more than one-hundred twenty (120) consecutive days after it has opened its residential program at the DEMISED AREA, (2) for reasons other than casualty or acts of God, failure to operate LESSEE'S academic program, as described herein, associated with the residential program for more than one-hundred twenty (120) consecutive days after it has opened its residential program at the DEMISED AREA, (3) failure to comply with the Jessica Lunsford Act, (4) failure to comply with Article XIX of this Ground Lease regarding infrastructure improvements and regulatory compliance, (5) failure to pay taxes or special assessments as outlined in Article XIX of this Ground Lease, (6) in the event the tax-exempt status of the DEMISED AREA or School is rescinded or is at risk of being rescinded, as outlined in Article XXXVIII(L) of this Ground Lease, (7) assignment or sublet of the DEMISED AREA, (8) failure to pay Consideration to LESSOR as provided for in Article IV of this Ground Lease, (9) failure to provide annual financial statements to LESSOR as provided in this Ground

Lease, and (10) use of the DEMISED AREA for any reason not provided for in Article VI of this Ground Lease.

The LESSEE shall notify the LESSOR in writing regarding the LESSOR'S failure to perform or to comply with the terms and conditions of this Ground Lease. If the LESSOR fails to cure the default within thirty (30) days after receiving written notice or does not provide the LESSEE with a written response indicating the status of the LESSOR'S curing of the default and providing a mutually agreeable schedule to cure all defaults, said approval not to be unreasonably withheld, within thirty (30) days after receiving written notice, the LESSEE shall have the right to cancel this Ground Lease, without penalty, upon ten (10) days additional written notice to LESSOR.

Notwithstanding the above, in the event of a material breach on the part of LESSOR (as enumerated below), LESSOR shall have twenty (20) days from receipt of notice from LESSEE to cure such material breach. In the event the LESSOR fails to cure the material breach within twenty (20) days after receiving written notice, the LESSEE shall have the right to cancel this Ground Lease, without penalty, upon ten (10) days additional written notice to LESSOR. The following shall constitute a material breach on the part of LESSOR: unreasonable disruption or interference with LESSEE'S ability to operate its residential program at the DEMISED AREA.

XVII.

PEACEFUL POSSESSION

Subject to the terms, conditions and covenants of this Ground Lease, the LESSOR agrees that the LESSEE shall have and may peaceably have, hold, and enjoy the DEMISED AREA without hindrance or interference by the LESSOR.

XVIII.

RIGHT OF ENTRY

Other than in the event of an emergency, after first providing reasonable notice to the LESSEE, the LESSOR, or any of its agents, representatives or employees, shall have the right to enter the DEMISED AREA to examine same or to make such repairs, additions or alterations as may be deemed necessary for the safety, comfort or preservation of the DEMISED AREA, provided such activities do not unreasonably interfere with the LESSEE'S use of the DEMISED AREA.

XIX.

TAXES AND REGULATORY COMPLIANCE

The LESSEE shall be responsible for collection and payment of any taxes, fees or other assessments, including but not limited to sales tax and ad valorem tax, all licenses, permits or

other taxes, which may be imposed on the DEMISED AREA or the School, as a result of the leasing, use and occupancy of the DEMISED AREA by the LESSEE. LESSEE shall provide the District renewal Certificate(s) of Exemption upon expiration of that certain Certificate of Exemption currently in effect upon execution of this Ground Lease, and subsequent thereto.

If at any time during the term of this Ground Lease, there is a requirement by any jurisdictional entity for infrastructure improvements or other regulatory compliance due to the LESSEE'S lease, use or occupancy of the DEMISED AREA, the LESSEE acknowledges and agrees that it shall be responsible for compliance with all applicable requirements, at the LESSEE'S sole cost and expense.

Non-compliance with the provisions of this Article XIX shall be deemed a material breach of this Ground Lease.

XX.

SURRENDER OF PREMISES

Except as otherwise provided in this Ground Lease, the LESSEE agrees, at the expiration, termination or cancellation of this Ground Lease or any extension thereof, to promptly and peacefully surrender and deliver possession of the DEMISED AREA to the LESSOR in a good, clean and functional condition, and in as good or better condition as existed on the Effective Date of this Ground Lease, ordinary wear and tear, or damage by fire, windstorm or other Acts of God, excepted. The LESSEE shall be required to promptly remove all of the LESSEE'S personal property and other items belonging to the LESSEE from the DEMISED AREA, including any signage installed by the LESSEE. In addition, upon the expiration, cancellation or termination of this Ground Lease, the LESSEE agrees to remove the Modular Units and any other Improvements made by LESSEE as a part of the Work, as defined in Article V, as well as any other improvements or facilities constructed by the LESSEE within the DEMISED AREA or off-site, and to restore such area to the same or better condition as existed before the Effective Date of this Ground Lease, at LESSEE'S sole cost and expense. If however, the LESSOR elects to retain portions of the Work or other improvements or facilities constructed by the LESSEE within the DEMISED AREA or off-site, the LESSEE agrees to convey title to all such improvements to the LESSOR, without any compensation or remuneration to the LESSEE or any other parties. Notwithstanding this provision, LESSEE shall remove the Modular Units as a part of its Surrender obligations, and LESSOR shall not seek to retain ownership thereof. The LESSEE shall promptly return all keys and other items belonging to the LESSOR and shall coordinate with the LESSOR to ensure a proper and timely surrender

of the DEMISED AREA. Upon verification by LESSOR that the provisions of this Article have been complied with, LESSOR shall refund any remaining funds in the Letter of Credit or cash from the Modular Unit Removal Escrow Account. Any of the LESSEE'S personal property not removed within thirty (30) days after expiration, termination or cancellation of this Ground Lease shall be considered abandoned.

In conformance with the provisions of Articles III, the LESSEE acknowledges and agrees that in the event LESSEE fails to remove the Modular Units and any other improvements made by LESSEE on the DEMISED AREA, LESSOR shall utilize the funding available in the Modular Units Removal Escrow Account to facilitate same.

XXI.

AMENDMENTS

Other than in the event of an extension of the term, which shall be accomplished through the execution of an amendment to this Ground Lease, the LESSOR and LESSEE, by mutual agreement, shall have the right, but not the obligation, to amend this Ground Lease. Such amendments shall be subject to Board approval, and shall be effective only when signed by the LESSOR and the LESSEE, and any such amendment shall be attached hereto and incorporated as part of this Ground Lease.

XXII.

NON-DISCRIMINATION

The Parties agree that there will be no discrimination against any person based upon race, color, sex, religious creed, ancestry, national origin, mental or physical handicap, or as otherwise provided by law, in the use of the DEMISED AREA. It is expressly understood that upon a determination by a court of competent jurisdiction that discrimination by a Party hereto has occurred, such event shall be treated as a Default hereunder.

The LESSEE shall comply with all of the LESSOR'S diversity, inclusion and anti-discrimination policies, including Policy 6320.02, Small/Micro and Minority/Women-Owned Business Enterprise Programs; Policy 6320.06, Diversity, Equity and Inclusion in Business Operations and Practices; Policy 6465, Anti-Discrimination in Business Operations; and Policy 6460, Business Code of Ethics.

XXIII.

CONSULTANTS' FEES/ LEGAL FEES AND COURT COSTS

LESSEE covenants and agrees to be fully responsible for the drafting of any pertinent documents or agreements not otherwise provided by LESSOR, including any that may be required

by the County or other jurisdictional entities, at LESSEE'S sole cost and expense, including any applicable attorney's fees. Notwithstanding the foregoing, LESSEE shall be responsible for payment of all consultant's fees, attorney's fees and costs which may be incurred by LESSOR in the preparation of any documentation in order to effectuate this Ground Lease, if any, including without limitation the preparation and negotiation of the Construction Agreement, representation at public hearings and community meetings. The initial deposit made by LESSEE of \$25,000 shall be applied to these costs. In the event of any litigation or other legal proceedings between the Parties under this Ground Lease, each Party shall be responsible for its own attorney's fees and court costs through trials and appellate levels.

The provisions of this Article XXIII shall survive the expiration or early termination or cancellation of this Ground Lease.

XXIV.

CONSTRUCTION OF AGREEMENT

This Ground Lease shall be construed and enforced according to the laws of the State of Florida and the venue for any disputes shall be Miami-Dade County, Florida. All applicable laws shall be construed as same presently exist and as they may be amended hereafter.

XXV.

SEVERABILITY

In the event any paragraph, clause or sentence of this Ground Lease or any future amendment thereto is declared invalid by a court of competent jurisdiction, such paragraph, clause or sentence shall be stricken from the subject Ground Lease and the balance of the Ground Lease shall not be affected by any deletion, provided to do so would not render interpretation of the Ground Lease provisions ambiguous or a nullity.

XXVI.

WAIVER

No waiver of any provision shall be deemed to have been made unless such waiver is in writing and signed by the LESSOR or LESSEE. The failure of any Party to insist upon strict performance of any of the covenants, provisions or conditions of this Ground Lease shall not be construed as waiving or relinquishing any such covenants, provisions or conditions, but the same shall continue and remain in full force and effect.

XXVII.

NOTICE AND GENERAL CONDITIONS

A. All notices or communications under this Ground Lease by either Party to the other

shall be sufficiently given or delivered if dispatched by (1) certified U.S. mail, postage pre-paid, return receipt requested, (2) hand delivery, (3) Federal Express or other comparable overnight mail service, (4) telephone facsimile transmission with transmission receipt, or (5) electronic mail to the following addresses, or as the same may be changed in writing from time to time:

In the case of notice or communication to LESSOR:

The School Board of Miami-Dade County, Florida
c/o Superintendent of Schools
School Board Administration Building
1450 N.E. Second Avenue, Room 912
Miami, Florida 33132
Fax: 305-995-1488

With a copy to:

Miami-Dade County Public Schools
Planning, Design and Sustainability
Attention: Deputy Chief Facilities and Eco-Sustainability Officer
1450 N.E. Second Avenue, Room 525
Miami, Florida 33132
Fax: 305-995-4760
E-mail: arijo@dadeschools.net

With a copy to:

The School Board of Miami-Dade County, Florida
School Board Attorney's Office
1450 NE 2nd Avenue, #400
Miami, FL 33132
Attn: School Board Attorney
Fax: 305-995-1412
E-mail: Walter.Harvey@dadeschools.net and ACraft@dadeschools.net

In the case of notice or communication to the LESSEE:

The Seed School of Miami
c/o Chair of the Board
1000 Brickell Avenue #1020
Miami FL 33131
Fax: _____
E-mail: _____

With a copy to:

Seed Foundation
CEO Lesley Poole
1776 Massachusetts Ave. NW suite 600
Washington, DC 20036
Fax: _____

E-mail: _____

B. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the Parties to this Ground Lease.

C. For purposes of this Ground Lease, the Superintendent of Schools or his/her designee shall be the party designated by the LESSOR to grant or deny any and all approvals required by the Construction Agreement or this Ground Lease relating to any construction on the DEMISED AREA, commencement of LESSEE'S occupancy and use of the DEMISED AREA, or any other operational issues.

D. In addition to the above, the Superintendent of Schools shall also be the party designated by the LESSOR to grant or deny any approvals required by this Ground Lease, including without limitation, amending any of the exhibits to the Ground Lease, placing the LESSEE in default, and renewing, extending, canceling or terminating the Ground Lease.

E. As further detailed in Article XXXVI, prior to commencement of this Ground Lease, LESSEE shall deliver to the LESSOR sufficient documentation, acceptable to the LESSOR, evidencing that LESSEE is active and authorized to do business in the State of Florida, including any and all documentation relating to LESSEE'S formation, existence and legal and good standing status with corporate or legal status to be provided periodically thereafter, as required by the LESSOR. In addition, LESSEE shall deliver to LESSOR the necessary resolutions in a form acceptable to LESSOR, verifying that LESSEE is authorized to enter into this Ground Lease, and that the party signing this Ground Lease is fully authorized and has the legal capacity to do so, on behalf of the LESSEE.

F. Except as otherwise provided in this Ground Lease, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 PM (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Ground Lease would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. "Day" as used in this Ground Lease shall be defined as calendar day, unless otherwise provided. Counsel for the LESSOR and counsel for the LESSEE may deliver Notice on behalf of the LESSOR and LESSEE, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties of any change in name or address to which Notices shall be sent by providing the same pursuant to this provision.

XXVIII.

DAMAGE AND DESTRUCTION OF IMPROVEMENTS

In the event LESSEE'S Improvements located on the DEMISED AREA, as set forth in Article V of this Ground Lease, should be destroyed or so damaged by fire, windstorm or other casualty, in whole or in part, to the extent the DEMISED AREA is rendered untenable or unfit for use as The Seed School of Miami, the LESSEE may, at the LESSEE'S sole option, either cancel this Ground Lease by giving written notice to the LESSOR, or repair or replace the damaged/destroyed facilities, at the LESSEE'S expense. If the LESSEE opts to repair or replace the damaged/destroyed facilities, then the LESSEE shall cause the damaged/destroyed facilities to be repaired or replaced, and placed in a safe, secure and useable condition within one hundred eighty (180) days from the date of said damage or destruction, or other reasonable period of time as mutually agreed to by the Parties, which shall be determined based upon the scope and nature of the damages, costs of the necessary repairs and available funding for such repairs. Should the damaged/destroyed facilities not be repaired and rendered tenantable within the aforementioned time period, then the LESSOR may, at its sole option, place the LESSEE in default.

The Parties agree that in the event of cancelation of the Ground Lease due to damage or destruction, the LESSEE shall surrender the DEMISED AREA to the LESSOR in compliance with Article XX of the Ground Lease.

XXIX.

SUBORDINATION

This Ground Lease is and shall be subject and subordinate to any conveyance and ground or underlying leases and the rights of the LESSOR under those leases and to all financing that may now or hereafter affect the leases or the DEMISED AREA, or any portions thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof. This provision shall be self-operative and no further instrument of subordination shall be necessary. However, in confirmation of this subordination, the LESSEE shall execute within thirty (30) days, any certificate that the LESSOR may request.

XXX.

HAZARDOUS MATERIALS

For purposes of this Ground Lease, the term "**Hazardous Substances**" shall include, but not be limited to, flammable substances, explosives, radioactive materials, asbestos, polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants,

contaminants, hazardous wastes, medical wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic by Environmental Law. The term "**Environmental Law**" shall mean any law, ordinance, rule, order, decree, judgment, regulation and guideline (present and future), of any governmental, quasi-public authority and applicable board of insurance underwriters related to environmental conditions on, under, or about the School or DEMISED AREA, or arising from the LESSEE'S use or occupancy of the DEMISED AREA, including, but not limited to, soil, air and ground water conditions, or governing the use, generation, storage, transportation, or disposal of Hazardous Substances in, on, at, to or from the DEMISED AREA. The term "**Hazardous Substances Discharge**" shall mean any deposit, spill, discharge, or other release of Hazardous Substance that occurs during the term of this Ground Lease, at or from the DEMISED AREA (unless caused solely by the LESSOR), or that arises at any time from the LESSEE'S use or occupancy of the DEMISED AREA.

The LESSEE shall not cause or permit to occur: (a) any violation of any Environmental Law on the DEMISED AREA or elsewhere on the School site, or (b) the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substances on, under, or about the DEMISED AREA, or the transportation to or from the DEMISED AREA of any Hazardous Substance

The LESSEE shall, at the LESSEE'S expense, act only in compliance with all applicable Environmental Laws with respect to the DEMISED AREA and School. The LESSEE shall, at the LESSEE'S own expense, make all submissions to, provide all information required by and otherwise fully comply with all requirements of any governmental authority arising under Environmental Laws with respect to its acts on the DEMISED AREA during the term of this Ground Lease. If any governmental authority requires any clean-up or clean-up measures because of any Hazardous Substances Discharge demonstrated to have been caused by the LESSEE with respect to the DEMISED AREA or caused by LESSEE elsewhere on the School site, then the LESSEE shall, at the LESSEE'S own expense, prepare and submit the required plans and all related bonds and other financial assurances and shall carry out all such clean-up plans. The LESSEE shall promptly notify the LESSOR of any notices or communications received from any jurisdictional entity, or other third party, in relation to any environmental issues on the DEMISED AREA or elsewhere on the School site, and shall promptly provide the LESSOR with all information reasonably requested by the LESSOR regarding the LESSEE'S use, generation, storage, transportation or disposal of Hazardous Substances in or at the

DEMISED AREA.

The LESSEE shall indemnify the LESSOR against any Hazardous Substances Discharge demonstrated to have been caused by the LESSEE. The obligations and liability of the LESSEE under this Article XXX shall survive the expiration, cancellation or termination of this Ground Lease.

XXXI.

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

The Parties shall comply with all applicable laws, rules, regulations, ordinances and codes of all governmental authorities, including, without limitation, the Florida Building Code, the Americans with Disabilities Act and the Jessica Lunsford Act, as all may be further amended from time to time and to the extent required by applicable law.

XXXII.

**FLORIDA PUBLIC RECORDS LAW; AUDITS AND INSPECTIONS &
ACCESS TO RECORDS**

This Ground Lease shall be subject to Florida's Public Records Laws, Chapter 119, Florida Statutes. The LESSEE understands the broad nature of these laws and agrees to comply with Florida's Public Records Laws and laws relating to records retention. The LESSEE shall keep and maintain public records required by the LESSOR to perform the service. The LESSEE shall keep records to show its compliance with this Ground Lease. The LESSEE'S contractors and subcontractors must make available, upon request of the LESSOR, a Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, any books, documents, papers, and records of the LESSEE or its assigns, contractors or subcontractors which are directly pertinent to this specific Ground Lease for the purpose of making audit, examination, excerpts, and transcriptions. Upon request from the LESSOR'S custodian of public records, the LESSEE shall provide the LESSOR with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law. The LESSEE shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Ground Lease and following the expiration or early termination or cancellation of this Ground Lease if the LESSEE does not transfer the records to the LESSOR. The LESSEE, its assigns, contractors and sub-contractors shall retain all records for five (5) years after final payment is made or received and all pending matters are completed pursuant to Title 34, Sections 80.36(b)(1). The LESSEE, upon completion of the Ground Lease, shall transfer, at no cost to the LESSOR, all public records

in possession of the LESSEE or keep and maintain public records required by the LESSOR to perform the service. If the LESSEE transfers all public records to the LESSOR upon completion of the Ground Lease, the LESSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LESSEE keeps and maintains public records upon completion of the Ground Lease, the LESSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the LESSOR, upon request from the LESSOR'S custodian of public records, in a format that is compatible with the information technology systems of the LESSOR.

The LESSEE shall incorporate this provision into every contract that it enters into relating to the DEMISED AREA.

IF THE LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS GROUND LEASE, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-995-1128, pr@dadeschools.net, and 1450 NE 2 Avenue, Miami, Florida 33132.

XXXIII.

USE OF FACILITY AS A REVENUE GENERATOR

The LESSOR shall at all times retain the exclusive right to be the sole authorizer and recipient of revenue generators, in compliance with LESSOR'S Policies, as same may be amended from time to time, relating to the DEMISED AREA and School site, including, without limitation, third party advertising or installation of wireless telecommunications facilities, provided such endeavors do not unreasonably interfere with the LESSEE'S right to peaceful enjoyment of the DEMISED AREA.

XXXIV.

JESSICA LUNSFORD ACT

In accordance with the requirements of Sections, 1012.465, 1012.32, and 1012.467, Florida Statutes, Board Policies 6320 and 8475, as amended from time to time, the LESSEE agrees that the LESSEE and all of its employees, agents, contractors, and subcontractors who provide or may provide services under this Ground Lease will complete criminal history checks, and all background screening requirements, including level 2 screening requirements as outlined in the above-referenced Statutes and Board Policies prior to entering or providing services relating to the DEMISED AREA.

Additionally, the LESSEE agrees that each of its employees, representatives, agents,

subcontractors or suppliers who are permitted access on the DEMISED AREA or School site when students are present, who have direct contact with students or who have access to or control of school funds must meet level 2 screening requirements as described in the above-referenced Statutes and LESSOR'S Policies.

Pursuant to the 2007 amendments to the Jessica Lunsford Act enacted by the Florida Legislature, requirements for certain fingerprinting and criminal history checks shall be inapplicable to non-instructional contracted personnel who qualify for exemption from level 2 screening requirements as provided under § 1012.468, Fla. Stat. (2007). In addition, the provisions of § 1012.467, Fla. Stat. (2007) are incorporated herein by reference, and any provisions of this Ground Lease that may be inconsistent with, contrary to, or determined to be in conflict with § 1012.467, will be superseded by said Statute.

A non-instructional contractor who is exempt from the screening requirements set forth in § 1012.465, § 1012.468 or § 1012.467, Florida Statutes, is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under § 943.043 and the national sex offender public registry maintained by the United States Department of Justice. The LESSEE will not be charged for this search. Further, upon obtaining clearance by LESSOR, if LESSOR deems necessary, LESSOR will issue a photo identification badge which shall be worn by the individual at all times while on the DEMISED AREA or School site when students are present.

The LESSEE agrees to bear any and all costs associated with acquiring the required background screening - including any costs associated with fingerprinting and obtaining the required photo identification badge. The LESSEE agrees to require all its affected employees to sign a statement, as a condition of employment with the LESSEE in relation to performance under this Ground Lease, agreeing that the employee will abide by the heretofore described background screening requirements, and also agreeing that the employee will notify the LESSEE/Employer of any arrest(s) or conviction(s) of any offense enumerated in Board Policies 6320 and 8475 within 48 hours of its occurrence. The LESSEE agrees to provide the LESSOR with a list of all of its employees who have completed background screening as required by the above-referenced statutes and who meet the statutory requirements contained therein. The LESSEE agrees that it has an ongoing duty to maintain and update these lists as new employees are hired and in the event that any previously screened employee fails to meet the statutory standards. The LESSEE further agrees to notify the LESSOR immediately upon

becoming aware that one of its employees who was previously certified as completing the background check and meeting the statutory standards is subsequently arrested or convicted of any disqualifying offense. Failure by the LESSEE to notify the LESSOR of such arrest or conviction within 48 hours of being put on notice and within 5 business days of the occurrence of qualifying arrest or conviction, shall constitute grounds for the LESSOR, at its sole option, to place the LESSEE in default.

The Parties further agree that failure by the LESSEE to perform any of the duties described in this Article XXXIV shall constitute a material breach of the Ground Lease entitling the LESSOR, at its sole option, to place the LESSEE in default.

XXXV.

SIGNAGE

The LESSEE shall be permitted to erect identification, directional and informational signage at the DEMISED AREA, subject to the express prior written approval of the LESSOR, or its designee. In addition, such signage, if approved, shall be installed in conformance with all rules and regulations governing public schools, at the LESSEE'S sole cost and expense. Upon the termination, expiration or cancellation of this Ground Lease, the LESSEE shall remove, at the LESSEE'S expense, from the DEMISED AREA, any signage erected by the LESSEE, and restore the area to the same or better condition as existed prior to the LESSEE'S installation of the signage.

XXXVI.

REPRESENTATIONS

A. The LESSEE is duly organized, validly existing, and in good standing under the laws of the State of Florida and is duly qualified to transact business in the State of Florida. LESSEE'S corporate status shall remain active and in good standing throughout the term of this Ground Lease, and LESSEE shall provide evidence of same to LESSOR, prior to the Effective Date of this Ground Lease and periodically thereafter, as required by the LESSOR. LESSEE has full power to execute, deliver, and perform its obligations under this Ground Lease. The execution and delivery of this Ground Lease, and the performance by LESSEE of its obligations under this Ground Lease, have been duly authorized by all necessary action of LESSEE, and do not contravene or conflict with any provisions of LESSEE'S Articles of Incorporation and By-Laws, or any other agreement binding on LESSEE. The individual(s) executing this Agreement on behalf of LESSEE has/have full authority to do so; and, as of Effective Date, LESSEE is financially able to pay for all the costs which may be incurred in order to comply with all terms and conditions of this Ground Lease and

shall notify LESSOR of any change in its financial status which may prevent it from complying with all of its duties and obligations under this Ground Lease.

B. The Parties acknowledge and agree that ownership of the Modular Units shall at all times vest with the LESSEE, and LESSEE shall retain all liability and responsibility for the Modular Units, and LESSOR has no liability or responsibility thereto. LESSEE further acknowledges that LESSOR shall not provide any financing or in any way be a party to any financial relationship between LESSEE and the manufacturer or installer of the Modular Units. As further set forth in Article III of this Ground Lease, LESSEE shall, as a pre-condition of this Ground Lease, deposit in a Modular Units Removal Escrow Account, previously described in this Ground Lease, an amount sufficient to pay for the demolition and/or removal of the Modular Units and all other Work installed on the DEMISED AREA at the cancellation, termination or expiration of this Ground Lease.

C. LESSEE'S use of the DEMISED AREA shall be leasehold in nature, and the LESSOR shall at all times retain Fee Simple ownership of the DEMISED AREA and balance of the School campus.

XXXVII.

INTELLECTUAL PROPERTY RIGHTS

LESSEE shall indemnify and hold harmless the LESSOR from and against all liability of any nature or kind, including damages, costs and expenses (including reasonable attorney's fees and costs at the trial level and through all appeals) for or on account of any copyrighted, service marked, trademarked, patented or unpatented invention, process, article or work manufactured or used in the performance of this Ground Lease. If LESSEE uses any design, device, materials or works covered by letters, service mark, trademark, patent, copyright or any other intellectual property right, it is mutually agreed and understood without exceptions that the LESSEE shall be liable for all royalties or costs arising from the use of such design, device or materials in any way involved in the activities contemplated by this Ground Lease.

XXXVIII.

MISCELLANEOUS PROVISIONS

- A. RECORDATION: LESSOR, at LESSEE'S sole cost and expense, shall record in the Public Records of Miami-Dade County, Florida, a Memorandum of Ground Lease in the form attached hereto as Exhibit "E", which document shall be a Covenant Running With The Land.
- B. EMINENT DOMAIN: If the DEMISED AREA or any portion thereof is taken in the

exercise of the power of eminent domain, this Ground Lease shall terminate on the date title vests in the taking authority. The LESSEE may pursue all available remedies for the taking but will have no interest in the award made to the LESSOR

- C. RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.
- D. TIME IS OF THE ESSENCE: Time is of the essence in the performance of this Ground Lease.
- E. WAIVER OF TRIAL BY JURY: THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER WITH RESPECT TO ANY MATTER ARISING UNDER THIS GROUND LEASE.
- F. HEADINGS FOR CONVENIENCE ONLY: The descriptive headings in this Ground Lease are for convenience only and shall not control nor affect the meaning or construction of any of the provisions of this Ground Lease.
- G. DUE DILIGENCE: The Parties agree that effective with the Effective Date of this Ground Lease, the LESSEE shall have access to the DEMISED AREA for a period of time not to exceed thirty (30) calendar days, for the purpose of making appropriate engineering and boundary surveys, inspections, and other reasonably necessary investigations, at the LESSEE'S sole cost and expense, to determine the viability of the DEMISED AREA for the LESSEE'S intended use ("**Due Diligence Investigations**"). The Parties further acknowledge and agree that, in addition to the provisions of Article VI, in the event LESSEE determines that conditions revealed during the Due Diligence Investigations make the DEMISED AREA unsuitable for its intended use, then LESSEE may terminate this Ground Lease as provided for herein.

The LESSEE shall cause any entity completing the Due Diligence Investigations on the School site ("**Lessee's Vendor(s)**") to indemnify, defend and hold harmless the LESSOR, its employees and representatives from and against all claims, actions, loss, damages, injury, liabilities, cost or expense of whatsoever kind or nature including, but not by way of limitation, attorneys' fees and court costs, arising out of the Lessee's Vendor's actions or failure to act, arising or incidental to the Due Diligence Investigations at the

DEMISED AREA by or on behalf of the LESSEE. In addition, the LESSEE shall cause the Lessee's Vendors to further covenant and agree, at the Lessee's Vendor's own expense, and upon written request by the LESSOR, to defend any suit, action or demand brought against the LESSOR on any claim or demand arising out of, resulting from, or incidental to the Lessee's Vendor's performance under any contract by and between the LESSEE and/or its assigns and the Lessee's Vendors relating to the Due Diligence Investigations. This provision shall survive the expiration, cancellation or early termination of this Ground Lease.

In addition, on or before entering the School site or DEMISED AREA to conduct the Due Diligence Investigations, the Lessee's Vendors shall provide certificates of insurance to the LESSOR which evidence insurance coverages and limits meeting, at a minimum, the following requirements: (1) Commercial General Liability Insurance in an amount not less than \$1 Million combined single limit per occurrence for bodily injury and property damage, (2) Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the operations of the Lessee's Vendors, in an amount not less than \$1 million combined single limit per occurrence for bodily injury and property damage, and (3) Workers' Compensation Insurance for all employees of the Lessee's Vendor as required by Florida Statutes. "The School Board of Miami-Dade County, Florida and its members, officers and employees" shall be named as an additional insured on all liability coverages except Workers' Compensation insurance. The Lessee's Vendors shall maintain such insurance at all times while the Due Diligence Investigations are performed on the DEMISED AREA.

- H. BROKERS: The LESSEE represents that there are no brokers, salesmen or finders involved in the transaction contemplated by this Ground Lease. If any other claim for a brokerage fee or commission in connection with this transaction is made by any broker, salesman or finder claiming to have dealt by, through or on behalf of the LESSEE ("**Indemnitor**"), and in consideration of the mutual promises contained in this Ground Lease, Indemnitor shall indemnify, defend and hold harmless the LESSOR ("**Indemnitee**"), and Indemnitee's officers, directors, agents and representatives, from and against any and all liabilities, damages, claims, costs, fees and expenses whatsoever with respect to said claim for brokerage. The provisions of this Paragraph shall survive the expiration or earlier termination or cancellation of this Ground Lease.
- I. PROMOTION: The LESSEE shall not be permitted to use the DEMISED AREA or

School for promotion or advertising of any type or nature whatsoever.

- J. PUBLICATIONS: Any publication or literature issued by LESSEE announcing its program at the DEMISED AREA shall be approved in writing by the LESSOR, or its designee, prior to issuance or publication of same, which approval will not be unreasonable withheld or delayed.
- K. COUNTERPARTS: This Ground Lease may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one Ground Lease.
- L. TAX-EXEMPT STATUS: In addition to the provisions of Article XIX of this Ground Lease, the LESSEE acknowledges and agrees that in the event the tax-exempt status of the DEMISED AREA or School is rescinded or is at risk of being rescinded by Miami-Dade County or other appropriate jurisdictional governmental entity as a result of the use, occupancy or lease of same by the LESSEE or other third party, such rescission or potential rescission (as may be evidenced by a Notice of Proposed Property Taxes or any other official notice of any tax imposed by County, State or any other jurisdictional entity) shall constitute a material breach under this Ground Lease, and may result, at the LESSOR'S sole option, in the termination of this Ground Lease for cause, as outlined in Article XVI of this Ground Lease. Payment of any taxes so imposed shall be remitted to the LESSOR within ten (10) days of receipt of notice, without demand.
- M. FISCAL IMPACT: The Parties acknowledge and agree that this Ground Lease shall have no fiscal impact whatsoever on the LESSOR.
- N. SUPERVISION AND SECURITY: LESSEE shall at all times retain responsibility for providing supervision and security of the DEMISED AREA, and of its students, staff, invitees and visitors occupying or using the DEMISED AREA. LESSEE shall promptly notify the LESSOR or its designee of any and all notices or communications received by LESSEE from any jurisdictional entity, as well as provide notice to LESSOR of any incidents that occurred, in relation to any safety issues or law enforcement incidents on the DEMISED AREA or elsewhere on the School site. Thereafter, LESSEE shall provide the LESSOR with all information reasonably requested by the LESSOR, and shall cooperate with LESSOR in implementing any policies or procedures by LESSEE required to mitigate any further incidents in this regard. This representation by LESSEE shall constitute a material

inducement for LESSOR to enter into this Ground Lease. LESSEE's failure to comply with Supervision and Security provisions may, at LESSOR'S sole option, be deemed a default under the Ground Lease.

- O. EMERGENCY MANAGEMENT PLAN: As a precondition to occupancy of the Modular Units by LESSEE'S students, faculty, staff or invitees under the Ground Lease, LESSEE shall provide an Emergency Management Plan ("EMP") to LESSOR or its designee, for review and acceptance by LESSOR in its sole authority. The EMP shall include, but may not be limited to, protocols for Fire, Hurricane, Tornado, Floods, Bomb Scare, Hazardous Chemical release, Medical Emergencies, Pandemic/Epidemic, Evacuation, Police Activity as well as other emergencies typically contained in an EMP. LESSEE shall, on an annual basis or as otherwise requested by LESSOR or its designee, update the EMP and provide same to LESSOR.
- P. REGULATORY AUTHORITY: It is expressly understood by the Parties that notwithstanding any provisions of this Ground Lease to the contrary, LESSOR retains all of its regulatory authority as a School Board and School District under Florida law and shall in no way be estopped from withholding or refusing to issue any approvals of applications under present or future laws and regulations of whatever nature applicable to the LESSEE or be liable for the same. Furthermore, the School Board or the School District shall not, by virtue of this Ground Lease be obligated to grant any approvals of applications under present or future laws of whatever nature applicable to the foregoing.
- Q. SOVEREIGN IMMUNITY: No provision contained in this Ground Lease shall be deemed a waiver of the LESSOR'S sovereign immunity.

XXXIX.

ENTIRE AGREEMENT

This Ground Lease and all Exhibits attached hereto or to be attached pursuant to this Ground Lease, the District's solicitation and related documentation, and all representations contained in LESSEE'S Proposal, relating to the Qualifying Project only, constitute the entire agreement between the Parties and supersedes all previous negotiations, and it may be modified only by a written amendment mutually agreed to by the Parties. In the event of a conflict between this Ground Lease, the District's solicitation, and LESSEE'S Proposal relating to the Qualifying Project, the order of precedence shall be: this Ground Lease; the District's solicitation; LESSEE'S Proposal relating to the Qualifying Project only.

[INDIVIDUAL SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the LESSOR and LESSEE have caused this Ground Lease to be executed by their respective and duly authorized officers the day and year first written above.

WITNESSES AS TO THE LESSOR:

LESSOR:
THE SCHOOL BOARD OF MIAMI-DADE
COUNTY, FLORIDA

Print Name: _____

By: _____
Alberto M. Carvalho
Superintendent of Schools

Print Name: _____

Date: _____

**TO THE LESSOR: APPROVED AS TO RISK
MANAGEMENT ISSUES:**

RECOMMENDED:

Office of Risk and Benefits Management
Date: _____

Jaime G. Torrens
Chief Facilities Officer
Date: _____

**TO THE LESSOR: APPROVED AS TO
FINANCIAL SUFFICIENCY:**

**TO THE LESSOR: APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

Treasurer
Date: _____

School Board Attorney
Date: _____

WITNESSES AS TO THE LESSEE:

Print Name: _____

Print Name: _____

LESSEE:

THE MIAMI BOARDING SCHOOL, INC., a
Florida not for profit corporation, d/b/a THE
SEED SCHOOL OF MIAMI

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "A"
TO
GROUND LEASE AGREEMENT

LOCATION SKETCH

As a precondition to execution of this Ground Lease by LESSOR, LESSEE shall, at its sole cost and expense, provide LESSOR with a detailed location sketch depicting the area of the School site that LESSEE is requesting be used by LESSEE for the residential component of its boarding school

EXHIBIT "B"
TO
GROUND LEASE AGREEMENT

DEMISED AREA

LESSEE shall provide a signed and sealed survey with a legal description of the DEMISED AREA, as mutually agreed to by the Parties, certified to the LESSOR, which signed and sealed survey shall be attached to this Ground Lease as Exhibit "B".

EXHIBIT "C"
TO
GROUND LEASE AGREEMENT

CERTIFICATE OF OCCUPANCY, CERTIFICATE OF COMPLETION OR EQUIVALENT

[to be attached upon completion of the Work and issuance of same by LESSOR]

EXHIBIT "D"

TO

GROUND LEASE AGREEMENT

CONSTRUCTION AGREEMENT

A copy of the duly executed Construction Agreement shall be attached hereto at such time as it is finalized

EXHIBIT "E"
TO
GROUND LEASE AGREEMENT

MEMORANDUM OF LEASE

[Consisting of x pages, including this title page]