

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

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

- 1) EXECUTE A LEASE AGREEMENT ("LEASE AGREEMENT") BETWEEN KIPP MIAMI, INC., A FLORIDA NOT FOR PROFIT CORPORATION D/B/A KIPP MIAMI SUNRISE ACADEMY ("KIPP MIAMI"), AND THE SCHOOL BOARD, FOR USE OF CLASSROOM AND ANCILLARY SPACE AT POINCIANA PARK ELEMENTARY SCHOOL ("SCHOOL"), LOCATED AT 6745 N.W. 23 AVENUE, UNINCORPORATED MIAMI-DADE COUNTY, FLORIDA 33147, FOR THE OPERATION OF A COLLEGE-PREPARATORY PUBLIC CHARTER SCHOOL. THE TERM OF THE LEASE AGREEMENT SHALL BE FOR A ONE YEAR INITIAL PERIOD, WITH KIPP MIAMI TO HAVE FOUR ADDITIONAL ONE-YEAR EXTENSION PERIODS AT ITS SOLE OPTION; AND
- 2) FINALIZE NEGOTIATIONS AND EXECUTE ANY OTHER DOCUMENTS OR AGREEMENTS NECESSARY TO EFFECTUATE THE LEASE AGREEMENT, AND TO EXECUTE AMENDMENTS TO THE LEASE AGREEMENT WITHIN THE AUTHORITY GRANTED TO THE SUPERINTENDENT BY THE SCHOOL BOARD; AND
- 3) GRANT OR DENY ANY APPROVALS REQUIRED UNDER THE LEASE AGREEMENT, INCLUDING, WITHOUT LIMITATION, AUTHORIZING CONSTRUCTION, ALTERATIONS OR MODIFICATIONS WITHIN THE DEMISED PREMISES OR SCHOOL, INCLUDING ADDITIONAL MAINTENANCE ACTIVITIES, REDUCING THE AREA OCCUPIED BY KIPP MIAMI IN ANY AMOUNT, INCREASING THE AREA OCCUPIED BY KIPP MIAMI UP TO FIFTY PERCENT OF THE ENTIRE SCHOOL, CANCELING OR TERMINATING THE LEASE AGREEMENT, AND PLACING KIPP MIAMI IN DEFAULT, AS MAY BE APPLICABLE

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Background

The School Board ("Board"), at its October 11, 2017 meeting, authorized the Superintendent to establish a Collaborative Charter School Partnership ("CCSP") with the Knowledge is Power Program ("KIPP"), which is a national non-profit network of college-preparatory public charter schools serving elementary, middle, and high school students. The CCSP seeks to provide additional educational choices for students who reside in Miami-Dade County's high-needs Liberty City community, and to offer nationally-recognized professional development and other best practices to Liberty City educators, school leaders, and community stakeholders/organizations.

KIPP Miami, Inc., a Florida not-for-profit corporation d/b/a KIPP Miami Sunrise Academy ("KIPP Miami"), was recently formed for the purpose of establishing and operating public charter schools in Miami-Dade County, Florida, as part of KIPP's national network. In order to successfully replicate the KIPP model and educational program, KIPP has approached the District with a request to utilize a District facility for the operation of the KIPP Miami charter school, at a rental rate of \$1 per year. District staff, in collaboration with representatives of KIPP Miami, have identified classroom, office and ancillary space within the Board-owned Poinciana Park Elementary School facility, located at 6745 N.W. 23 Avenue, unincorporated Miami-Dade County, Florida 33147 ("School") for this purpose.

Lease Agreement

The Deputy Superintendent/Chief Operating Officer, School Operations, recommends entering into a lease agreement ("Lease Agreement") with KIPP Miami for this purpose. Accordingly, it is recommended that the Board authorize entering into a Lease Agreement with KIPP Miami, under, substantially, the following terms and conditions:

- KIPP Miami shall lease a portion of the School consisting of approximately 17,088 square feet of classrooms and ancillary building space, and use of playfield, drop-off area and parking ("Demised Premises") (see Exhibit "A");
- KIPP Miami shall have exclusive use of the classrooms and ancillary space within the School, and non-exclusive use of the playfield area, dining area and School parking lot;
- KIPP Miami may use the classroom and ancillary building space solely for educational purposes, and the playfield and parking lot solely for recreational and parking purposes;
- an initial lease term of one year, with four (4) one-year extension periods, at KIPP Miami's sole option;
- rent at \$1 per year, with KIPP Miami to reimburse the Board for its proportionate share of operating expenses for the School, which includes, but is not limited to, routine building and grounds maintenance, custodial/janitorial services, trash pick-up, utilities and property insurance;

- KIPP Miami shall accept the Demised Premises in its "as is, where is" condition and basis with all faults as of the effective date of the Lease Agreement, with no representations or warranties by the Board as to the physical condition or usability of the Demised Premises for any specific use or purpose;
- in the event KIPP Miami seeks to expand or decrease the Demised Premises, KIPP Miami shall notify the Board in writing, for review and consideration by the Superintendent. The Superintendent shall have the full authority, in his sole discretion, to (1) reduce the area of the Demised Premises in any amount; and (2) increase the area of the Demised Premises leased to KIPP Miami up to fifty percent (50%) of the square footage of the entire School, over the initial lease period and any extensions thereto. Any proposed increase to the Demised Premises in excess of 50%, shall be subject to and require Board approval in its sole discretion. Such modification to the Demised Premises shall be accomplished via an amendment to the Lease Agreement, with the amount of Operating Expenses and all appropriate exhibits to the Lease Agreement to be adjusted prospectively, accordingly;
- KIPP Miami shall have the right, subject to prior written notice to and approval of the Board or designee, to make certain interior improvements within the Demised Premises at KIPP Miami's sole cost and expense, including any and all fees and the District's Construction Management services;
- in addition to damage and destruction of the Demised Premises, KIPP Miami may cancel the Lease Agreement without penalty, in the event of any of the following occurrences: (1) 90 days advance notice, and (2) in the event of default by the Board, which default is not cured;
- in addition to damage and destruction, the District may cancel the Lease Agreement without penalty, in the event of any of the following occurrences: (1) at will with 30 days advance notice unless this District standard provision is waived by the Superintendent, and (2) in the event of default by KIPP Miami, which default is not cured;
- KIPP Miami may, if agreed to by the School administrator, use Board-owned furniture, fixtures and equipment ("FF&E") located within the Demised Premises, subject to an inventory to be conducted jointly by the School administrator and KIPP Miami, which inventory shall become an exhibit to the Lease Agreement. KIPP Miami shall replace or provide compensation to the Board for any damaged or missing items at the then current cost;
- KIPP Miami shall surrender the Demised Premises to the Board, at the expiration, termination or cancellation of the Lease Agreement in as good condition as existed on the effective date of the Lease Agreement, ordinary wear and tear excepted. Any improvements constructed within the Demised Premises pursuant to the Lease Agreement shall be removed and the area restored to the same or better condition as previously existed, at KIPP Miami's sole cost and expense, unless the Board, at its sole option, chooses to keep the improvements;

- in the event of damage or destruction of all or portions of the Demised Premises, other than damage or destruction caused by KIPP Miami, the Board or KIPP Miami may, at their sole option, cancel the Lease Agreement. If neither party elects to cancel the Lease Agreement, the Board shall repair or replace the damaged facilities, at the Board's expense;
- damage or destruction of all or portions of the Demised Premises caused by KIPP Miami, shall be repaired by KIPP Miami at its sole cost and expense;
- KIPP Miami may not assign or sublet any portion of the Demised Premises;
- if there is a requirement for infrastructure improvements or other regulatory compliance due to KIPP Miami's lease, use or occupancy of the Demised Premises, KIPP Miami shall be responsible for fulfilling the applicable requirements, at its sole cost and expense. Non-compliance shall be deemed a material breach of the Lease Agreement;
- KIPP Miami shall be allowed to erect identification signage at the Demised Premises, subject to District approval;
- KIPP Miami 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 Premises or the School, as a result of the leasing, use or occupancy of the Demised Premises by KIPP Miami;
- KIPP Miami shall comply with all School and District safety and security criteria, and shall at all times retain responsibility for providing supervision and security of the Demised Premises, and of its students, staff, invitees and visitors occupying or using the Demised Premises;
- KIPP Miami acknowledges and agrees that its use of the Demised Premises shall not unreasonably disrupt nor interfere with any of the District's educational activities or operations at the School, and agrees to work closely with the School Administrator to minimize any impact on District operations;
- KIPP Miami 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, Worker's Compensation Insurance, and Property Insurance covering KIPP Miami's contents, or as may be amended from time to time;
- KIPP Miami shall indemnify and hold the Board harmless against any 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 KIPP Miami's acts

in connection with its activity under this Lease Agreement or by others on behalf of KIPP Miami, whether or not due to or caused in part by the negligence or other culpability of the Board, excluding only the sole negligence or culpability of the Board;

- in addition to the above, KIPP Miami 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 KIPP Miami's acts in connection with its activity under the Lease Agreement;
- KIPP Miami 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;
- in the event of any litigation between the parties under the Lease Agreement, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels;
- for purposes of the Lease Agreement, the Superintendent of Schools or his/her designee shall be the party designated by the Board to grant or deny any and all approvals under the Lease Agreement relating to operational issues; and
- in addition to the above, the Superintendent of Schools shall also be the party designated by the Board to execute amendments to this Agreement within the authority granted to the Superintendent by the Board, ~~decrease the area of the Demised Premises in any amount; increase the area of the Demised Premises~~ leased to KIPP Miami up to fifty percent (50%) of the square footage of the entire School, over the initial lease period and any extensions thereto, and to grant or deny any approvals required by the Lease Agreement, including authorizing construction within the Demised Premises, placing KIPP Miami in default, and canceling or terminating the Lease Agreement.

The proposed Lease Agreement 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 proposed Lease Agreement in its final form shall be made available for inspection and review by the public prior to the Board meeting.

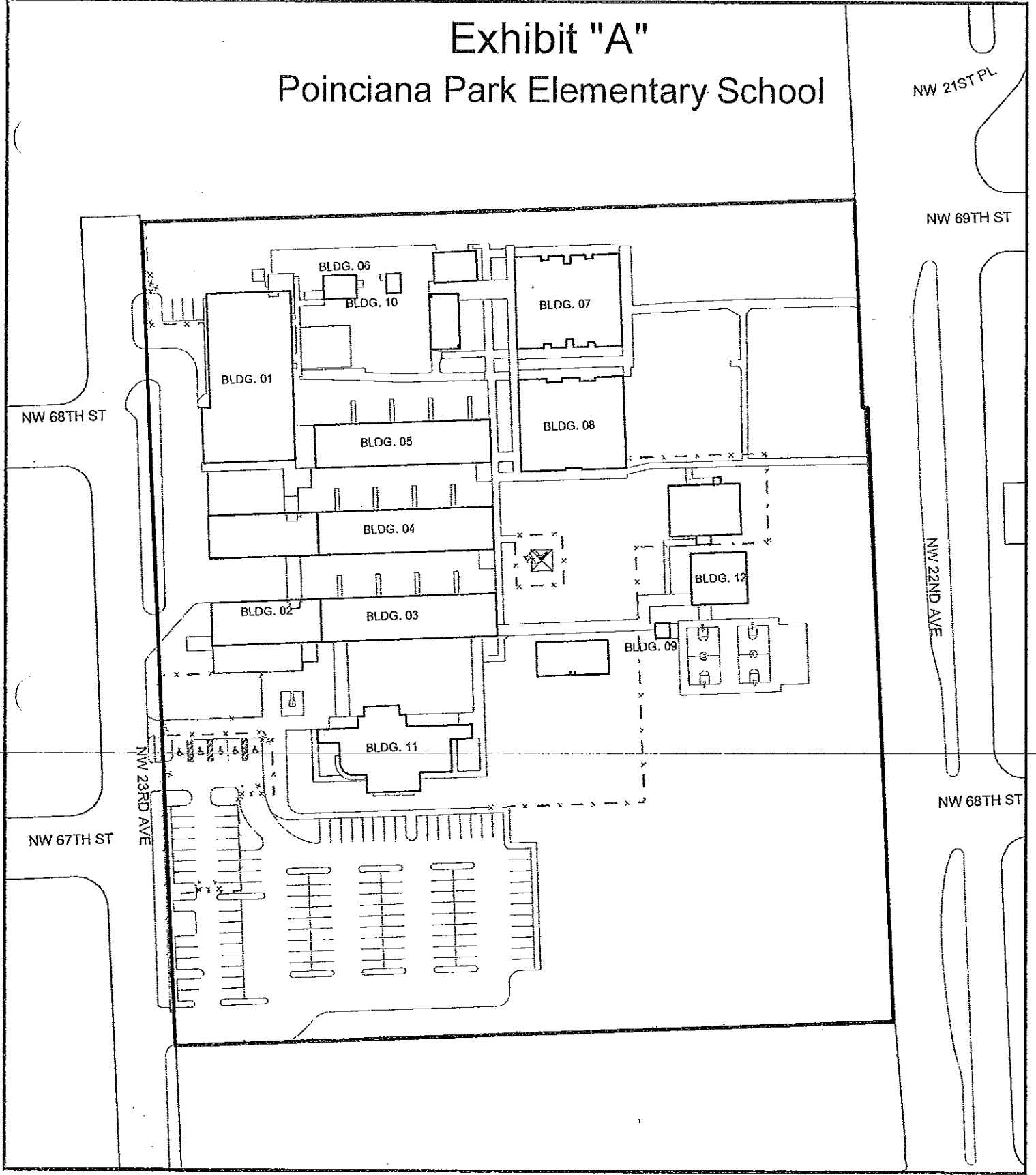
RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to:

1. execute a lease agreement ("Lease Agreement") between KIPP Miami, Inc., a Florida not for profit corporation d/b/a KIPP Miami Sunrise Academy ("KIPP Miami"), and the School Board, for use of classroom and ancillary space at Poinciana Park Elementary School ("School"), located at 6745 N.W. 23 Avenue, unincorporated Miami-Dade County, Florida 33147, for the operation of a college-preparatory public charter school. The term of the Lease Agreement shall be for a one year initial period, with KIPP Miami to have four additional one-year extension periods at its sole option, all under, substantially, the terms and conditions noted above; and
2. finalize negotiations and execute any other documents or agreements necessary to effectuate the Lease Agreement, and to execute amendments to the Lease Agreement within the authority granted to the Superintendent by the School Board; and
3. grant or deny any approvals required under the Lease Agreement, including, without limitation, authorizing construction, alterations or modifications within the Demised Premises or School, including additional maintenance activities, reducing the area occupied by KIPP Miami in any amount, increasing the area occupied by KIPP Miami up to fifty percent of the entire School, canceling or terminating the Lease Agreement, and placing KIPP Miami in default, as may be applicable.

MCA:mca

Exhibit "A"

Poinciana Park Elementary School



NW 21ST PL

NW 69TH ST

NW 68TH ST

NW 22ND AVE

NW 68TH ST

NW 67TH ST

NW 23RD AVE



Not to scale

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement"), 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 "LESSOR"), and KIPP MIAMI, INC., a Florida not-for-profit corporation d/b/a KIPP Miami Sunrise Academy (the "LESSEE"). The LESSOR and LESSEE are sometimes referred to in this Agreement individually as "Party" and collectively as the "Parties".

WITNESSETH

WHEREAS, the LESSOR owns and has under its jurisdiction certain real property known as Poinciana Park Elementary School, located at 6745 N.W. 23 Avenue, Miami-Dade County, Florida, more particularly described under Folio # 30-3115-000-0140 ("School"); and

WHEREAS, the LESSOR, at its _____, 20__ meeting, authorized a charter school management agreement with LESSEE, operating as KIPP Miami Public Schools ("Charter School"), to provide administrative and operational services ("Management Agreement"); and

WHEREAS, LESSEE is desirous of leasing from LESSOR and LESSOR is desirous of leasing to LESSEE classroom, office and other ancillary space within the School, as more particularly described below, for the operation of the Charter School, under the terms and conditions as set forth below; and

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

WHEREAS, LESSEE has authorized all signatories to this Agreement, at a meeting duly noticed, held on _____ in accordance with its By-Laws and regulations and at which meeting a quorum was present, to execute this Agreement 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 Parties agree that the above recitals are true and correct and are incorporated herein

by reference.

II.

DEMISED PREMISES AND EXPANSION OR REDUCTION OF USE

Effective with the Commencement Date (as defined below) of this Agreement, LESSEE shall lease from LESSOR a portion of the School consisting of approximately 17,088 square feet of classroom and ancillary building space, and approximately 160,246.50 square feet of playfield (including the playground apparatus adjacent to Building 04), drop-off area and parking, and as more particularly described in **Exhibit "A"** attached hereto and made a part hereof (the "**DEMISED PREMISES**") In addition and in conformance with Article XXXII, LESSEE shall have the right to access other portions of the School for the specific and limited purpose of gaining ingress to and egress from the DEMISED PREMISES.

Except as otherwise provided for in this Agreement, the Parties agree that LESSEE shall have exclusive use of classroom and ancillary space within the School, comprising 11,921 square feet. Furthermore, LESSEE shall have exclusive use of the drop-off area located on the west side of the School, as shown on Exhibit "A", for parent and bus drop off and pick up, and for LESSEE'S Point of Entrance (as hereinafter defined).

LESSEE shall have non-exclusive use of the School parking lot, on a first-come first-served basis, with the exception of the parking spaces reserved for School or Miami-Dade County Public Schools ("**District**") staff, as designated by the District Administrator. The Parties further acknowledge and agree that use of the dining area, located in Rooms 001,001A, 001B, 002, 002A and 002B in Building 01, and comprising 4,834 square feet ("**Dining Area**"), the playfield area, comprising approximately 92,673 square feet ("**Playfield**") and the playground apparatus adjacent to Building 05, comprising 1,492.50 square feet ("**Playground**"), all as set forth in Exhibit "A", shall be non-exclusive and shall be shared between the Parties in conformance with the use schedule outlined in Article V of this Agreement. Notwithstanding the foregoing, the Parties acknowledge and agree that LESSEE shall have exclusive use of the restrooms located in Rooms 012B and 012D of Building 05, and comprising 333 square feet ("**Dining Area Restrooms**") during its period of use of the Dining Area, as outlined in Article V of this Agreement, with the LESSOR to have exclusive use of the Dining Area Restrooms at all other times.

LESSEE may, from time to time, request an expansion of or decrease to its area of occupancy within the School as required for LESSEE'S operations. In such event, LESSEE shall notify LESSOR, pursuant to Article XXIX hereof, of the requested additional or reduced area LESSEE proposes to use and occupy, at least one hundred and twenty (120) days prior to the

effective date of such proposed modification, for review and consideration by the Superintendent of Schools (the "**Superintendent**"). The Superintendent has the full authority, in his sole discretion, to (1) reduce the area of the DEMISED PREMISES leased to LESSEE in any amount; and (2) increase the area of the DEMISED PREMISES leased to LESSEE up to fifty percent (50%) of the square footage of the entire School ("**Maximum Approved Increase**"), over the Initial Lease Period (as hereinafter defined) and any extensions thereto pursuant to Article XVI hereof. Any proposed increase to the DEMISED PREMISES in excess of the Maximum Approved Increase, shall be subject to, and require approval by The School Board of Miami-Dade County, Florida ("**School Board**"), in its sole discretion and in compliance with all applicable laws, including without limitation, Section 1013.15(1), Florida Statutes. In the event the request for modification of the DEMISED PREMISES is approved by the Superintendent or the School Board, as set forth above, the Parties agree that any change to the DEMISED PREMISES shall be accomplished through an amendment to this Agreement, in conformance with the provisions of Article XXIII, except that for any modification approved by the Superintendent as permitted herein, such modification shall be accomplished by an amendment to this Agreement, executed by both Parties, which amendment shall not require further approval by the School Board. In the event of a dispute between the LESSOR and the LESSEE as to any issue relating to the Maximum Approved Increase, the decision of the Superintendent shall be deemed final.

~~Subsequent to such an amendment, Exhibit "A" shall be amended, and such amended Exhibit "A" shall thenceforth remain in effect until such time as it may be further amended.~~ LESSEE agrees and acknowledges that its use of additional or reduced space in the School shall be under the same terms and conditions of this Agreement, and the amount of Operating Expenses (as defined in Article IV below) by LESSEE shall be adjusted to reflect the amount of square footage being occupied, effective the date of said occupancy.

The Parties agree and acknowledge that each time the area occupied by LESSEE is adjusted, as provided for in this Article, the definition of DEMISED PREMISES shall automatically include the expanded or reduced premises, as amended.

III.

TERM

This Agreement shall be effective upon the date on which the last of the Parties initials or executes this Agreement (the "**Effective Date**"). The initial term of this Agreement shall be for a period of one (1) year commencing on July 1, 2018 (hereinafter referred to as the "**Commencement Date**") and ending at 11:59 pm on June 30, 2019, unless terminated sooner as

provided for in this Agreement ("Initial Lease Period"). The term of this Agreement may be extended at the sole option of LESSEE as provided in Article XVI herein.

IV.

RENT AND OPERATING EXPENSES

The annual rental rate shall be One Dollar (\$1.00) payable to LESSOR on the Commencement Date, and on July 1st of each year thereafter.

As further defined in Articles VIII, IX and XI, LESSEE agrees to pay to LESSOR, LESSEE'S proportionate share of operating expenses for the School, which includes, but is not limited to, routine building and grounds maintenance, custodial and janitorial services, trash pick-up, utilities and LESSOR'S property insurance ("Operating Expenses"). LESSEE'S proportionate share of Operating Expenses shall be based on LESSEE'S usage of classroom and office space at the School 100% of the time (11,921sq. ft.), and LESSEE'S usage of the Dining Area and Dining Area Restrooms 50% of the time (5,167sq. ft.).

The amount of Operating Expenses for the Initial Lease Period shall be based on actual fiscal year 2016-2017 expenses, in the amount of \$6.27 per square foot, for a total of \$90,943.22 annually. Accordingly, starting on the Commencement Date, LESSEE shall pay LESSOR the amount of \$7,578.60 on a monthly basis, as LESSEE'S Operating Expenses, and on the first day of each month for the Initial Lease Period. Effective July 1, 2019 and on July 1st of each year thereafter (if applicable), the amount of Operating Expenses shall be based upon the preceding year's reported actual cost per square foot for these services at the School. At such time as LESSOR establishes LESSEE'S actual proportionate share of Operating Expenses, an adjustment will be made to LESSEE'S next monthly installment of Operating Expenses to LESSOR to rectify any over or under payment of same, as described hereinbelow.

On an annual basis, LESSOR shall determine the difference, if any, between the amount of Operating Expenses collected from LESSEE and the actual amount incurred by LESSOR for such expenses during the preceding year, and LESSOR shall use this data to establish LESSEE'S Operating Expenses for the next subsequent year's term. In the event of an underpayment by LESSEE for the preceding year, LESSOR shall forward an invoice for the amount of underpayment to LESSEE ("Underpayment Amount"), along with a report reflecting the actual amounts paid by LESSOR. LESSEE shall make payment of the Underpayment Amount to LESSOR within sixty (60) days of receipt of the invoice from LESSOR. In the event of an overpayment by LESSEE ("Overpayment"), LESSOR shall forward a credit statement for the amount of Overpayment to LESSEE, and the amount of LESSEE'S next monthly payment(s) of

Operating Expenses shall be reduced by the amount of the credit statement.

Notwithstanding any other provision of the Agreement, the Parties agree that the services provided by the LESSOR as part of the Operating Expenses may be deleted, increased or otherwise modified, by mutual agreement of the Parties, in which event, the amount of Operating Expenses shall be modified to reflect the change in services provided.

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 and Sustainability
Attention: Executive Director
1450 N.E. 2nd Avenue, Room 525
Miami, Florida 33132**

If LESSEE fails to pay Operating Expenses or the Underpayment Amount on or before the 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, for each and every month that the past due amount(s) remains unpaid. Failure of LESSEE to make timely payments, pay the past due amount(s) and/or pay the late fees shall constitute a material breach under this Agreement, and may result, at the LESSOR'S sole option, in the termination of this Agreement, in accordance with Article XVIII of this Agreement.

V.

USE OF DEMISED PREMISES

The classroom and ancillary building space within the DEMISED PREMISES as identified in Exhibit "A" shall be used solely by LESSEE, its students, faculty and staff for educational purposes, and the playfield and parking lot shall be used non-exclusively, solely by LESSEE for parking and recreational purposes, and for no other purpose. Use of the DEMISED PREMISES for any other purpose shall constitute a material breach under this Agreement.

LESSEE covenants and agrees to accept the DEMISED PREMISES in its "as-is", "where-is" condition and basis with all faults as of the Commencement Date of this Agreement, subject to all easements, covenants and other encumbrances and limitations of record. LESSOR makes no representations or warranties of any type or nature whatsoever, either expressed or implied, as to the usefulness, physical condition or appropriateness of the DEMISED PREMISES for LESSEE'S operations or any specific use. LESSEE, by executing

this Agreement, acknowledges and agrees that the LESSOR has made no representations whatsoever regarding the DEMISED PREMISES, including with respect to its environmental condition. LESSEE represents that it is relying and will continue to rely solely on its own investigations of the DEMISED PREMISES in its decision to lease it, and LESSEE further acknowledges and agrees that the LESSOR shall not indemnify the LESSEE in any way with respect to the DEMISED PREMISES.

In the same fashion, LESSEE shall accept any additional permanent or ancillary space and/or parking spaces it may occupy within the School throughout the term of this Agreement in the condition it is in at the time of such occupancy. The provisions of this Paragraph shall survive the expiration or the earlier termination or cancellation of this Agreement.

Other than the Playfield, parking lot, Dining Area, Dining Area Restrooms and any other common areas within the School, the LESSEE shall have full control, custody, right and use of the DEMISED PREMISES throughout the term of this Agreement. The Parties acknowledge and agree that the Dining Area and associated Dining Area Restrooms shall be utilized by LESSEE in accordance with the schedule of use to be established by the District School Administrator prior to the start of LESSOR'S 2018-2019 school year, as established on an annual basis in the LESSOR'S official Elementary and Secondary School Calendar ("**School Calendar**"), with the LESSOR to have exclusive use of the Dining Area and associated Dining Area Restrooms at all other times. The Dining Area Schedule may be subsequently modified from time to time throughout the term of this Agreement, by mutual agreement of the Parties, or their designees, provided such modifications to the Dining Area Schedule do not conflict with or negatively impact the operations of the School. The Parties further acknowledge and agree that prior to the start of each school year, as defined by the School Calendar, or as soon thereafter as possible, the LESSEE and the District School Administrator, or their designees, shall establish a mutually agreeable schedule for each Party's use of the Playfield and the Playground, which may be modified from time to time throughout the school year by mutual agreement of the Parties, or their designees, provided such modifications do not conflict with or negatively impact the operations of the School. LESSOR shall have the exclusive right to use and occupy all portions of the School not part of the DEMISED PREMISES at all times throughout the term of this Agreement. LESSEE acknowledges and agrees that LESSEE'S hours of operation shall not exceed those of the School, which, as of the Effective Date of this Agreement, are 6:30 a.m. to 6:30 p.m., Monday through Friday. LESSEE further acknowledges and agrees that LESSEE'S period of use shall not include Saturdays, Sundays and Holidays, and LESSEE shall not have access to or use of the

DEMISED PREMISES during such periods that the School is closed, as established on an annual basis in the School Calendar.

In the event LESSEE seeks to use the DEMISED PREMISES on days when the School would otherwise be closed (e.g. Saturdays, Sundays, Holidays, etc.), the LESSEE shall provide the District School Administrator with a written request at least ten (10) business days in advance, listing the days the LESSEE would like use of the DEMISED PREMISES, for review and approval. In such event, the LESSEE shall reimburse the LESSOR for operating costs borne by the LESSOR to keep the School open on such days, including, but not necessarily limited to, utilities and custodial/janitorial staff and services. In addition, in the event the LESSEE seeks to use any other portion of the School not a part of the DEMISED PREMISES, on a one-time or short-term basis, the LESSEE shall request such use through the District School Administrator, subject to compliance with LESSOR'S Policies and District procedures.

LESSEE may, with the approval of the District School Administrator and at LESSEE'S sole cost and expense, re-key the locks within the DEMISED PREMISES, with the exception of the parking lot, Dining Area, Dining Area Restrooms and other common areas, in which event LESSEE shall immediately provide LESSOR with a full set of keys to same. At the expiration, termination or cancelation of this Agreement, LESSEE shall be required, at LESSOR'S sole option, to re-key locks changed by LESSEE, if any, back to the School's key system, at LESSEE'S expense.

The sale or consumption of alcoholic beverages on the DEMISED PREMISES is expressly prohibited. In addition, use of the DEMISED PREMISES for carnivals, fairs, exhibits, 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 LESSOR'S Policies, COUNTY, STATE, or FEDERAL GOVERNMENT upon the DEMISED PREMISES.

VI.

IMPROVEMENTS

The LESSEE, with prior written Notice to and approval of the LESSOR or its designee, such approval to be issued at the sole discretion of the LESSOR or its designee, and in accordance with Article XXXII hereof, may construct interior improvements within the DEMISED PREMISES, at LESSEE'S sole cost and expense (all such improvements are collectively referred to herein as the "Work"). Notwithstanding the foregoing, LESSEE acknowledges and

agrees that construction of improvements or modifications to any other portions of the DEMISED PREMISES or School, including without limitation, the School parking lots, playfield or open areas, or other exterior common areas, may not take place without an amendment to this Agreement in full compliance with Section 1013.15(1), F.S., specifically modifying the description and use of the DEMISED PREMISES.

LESSEE further acknowledges and agrees that as a condition precedent to commencing any Work within the DEMISED PREMISES, LESSEE shall prepay to the LESSOR Five Percent (5%) of the estimated cost of the Work for project management related tasks, including serving as the liaison between the LESSOR and LESSEE for any design and construction activities within the DEMISED PREMISES. In that capacity, LESSOR shall assist LESSEE in preconstruction services, jurisdictional plan review, and other services required to facilitate the Work. Within ten (10) days of the Commencement Date of this Agreement, LESSEE shall provide LESSOR with sufficient documentation to assess the cost of the Work. Additionally, LESSEE shall be responsible for all costs associated with design and construction of the Work, including permits and any and all fees. LESSEE shall provide funding to LESSOR in the full amount charged for these services, prior to issuance by LESSOR of construction permits.

Prior to commencement of construction of any Work by the LESSEE or its contractors at the DEMISED PREMISES, the LESSEE shall submit plans and specifications, as required by the LESSOR, for review and approval. The Parties agree that the Work shall be performed in accordance with plans approved by LESSOR or its designee, which LESSOR may approve or disapprove at its sole authority and discretion. 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 the Work. Any and all warranties between LESSEE and its architect/engineer of record shall flow to the LESSOR in the event of errors and omissions, and the LESSOR shall be named as Third Party Beneficiary thereof. 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, 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. LESSEE'S contractors must be pre-qualified by the LESSOR, in accordance with District and School Board Policies before commencing the

Work or any construction activities on the DEMISED PREMISES or any other portion of the School.

The LESSOR'S Building Department shall be the entity responsible for reviewing and approving all construction documents, issuing permits for construction and providing final acceptance of the Work. The Work shall commence only after issuance of proper permits, in conformance with the requirements of the LESSOR'S Building Department or other appropriate jurisdictional governmental entity, and shall at all times be in compliance with all applicable laws, rules and regulations, as provided under Article XXXII of this Agreement, including, without limitation, the Florida Building Code, the Americans with Disabilities Act, the Jessica Lunsford Act, the State Requirements for Educational Facilities, and the District criteria and standards, as the same may be amended from time to time. All permits shall be properly closed by LESSEE upon completion of the Work, and evidence of same, satisfactory to LESSOR, shall be provided without demand. All Work shall be limited to those areas designated in the plans, and LESSEE shall have no authority to access any other portions of the School not then a part of the DEMISED PREMISES, except as otherwise provided for in this Agreement or as authorized in writing by the LESSOR, or its designee, in its sole discretion and on an as-needed basis.

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. LESSEE and its contractors shall take all necessary safety precautions during the Work, secure all construction areas by appropriate construction fencing or barricades, and coordinate on an ongoing basis with the District School Administrator and assigned District Project Manager to ensure the safety of the LESSOR'S students, staff, visitors, invitees and the public at all times. In addition, LESSEE and its contractors shall work closely with the District School Administrator and assigned District Project Manager to ensure the Work does not interfere with or disrupt School or District operations. LESSEE shall make every reasonable effort to ensure that construction related activities to be performed within the DEMISED PREMISES are conducted during other than School hours, and LESSEE'S activities shall neither unreasonably disrupt nor interfere with the School's daily operations. Subject to compliance with the provisions of the Jessica Lunsford Act, in the event that such activities must be conducted during School hours, or in the event LESSEE requires access to the DEMISED PREMISES for any other reason, LESSEE shall first secure the approval of the District School Administrator.

Prior to the commencement of the Work, LESSEE shall provide the LESSOR, or its designee, with a schedule for the commencement and completion of the Work. If the LESSOR, or its designee, requests that LESSEE cease any work within the DEMISED PREMISES due to unreasonable interference or violation of any applicable rules and regulations or the LESSOR'S criteria, then LESSEE shall immediately discontinue its activities at the DEMISED PREMISES, 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 LESSEE to continue.

LESSEE shall cause each and every of its contractors and subcontractors performing any work within the DEMISED PREMISES to indemnify, defend and hold harmless the LESSOR, its employees and representatives from any and all liability, damages and claims. In addition, as a pre-condition to commencing the Work, LESSEE shall require LESSEE'S contractor(s) 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 LESSEE'S contractors and subcontractors, in an amount not less than \$1 million combined single limit per occurrence for bodily injury and property damage, (3) Workers' Compensation Insurance for all employees of LESSEE'S contractors and subcontractors, as required by Florida Statutes, and (4) Property Insurance. "The School Board of Miami-Dade County, Florida and its members, officers and employees" shall be an additional insured on all liability coverages except Workers' Compensation Insurance. LESSEE'S contractors and subcontractors shall maintain such insurance at all times while conducting construction related activities throughout the term of this Agreement.

The LESSEE covenants and agrees that it shall indemnify, hold harmless and defend 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 LESSEE within the DEMISED PREMISES or elsewhere on the School campus. In addition, LESSEE shall cause each and every of its contractors and subcontractors performing work at the DEMISED PREMISES (hereinafter collectively referred to as "Lessee's Contractors", and individually as the "Lessee's Contractor") to further covenant and agree, at Lessee's 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, resulting from, or incidental to the Lessee's

Contractors performance under any contract by and between LESSEE and/or its assigns and any and all contractors and subcontractors. This provision shall survive the expiration, cancellation or early termination of this Agreement. Furthermore, LESSEE and/or its assigns shall cause the indemnification provision and the duty to defend provision in its Contract with Lessee's Contractors to survive the cancellation, early termination or expiration of any and all contracts by and between LESSEE and/or its assigns and any Lessee's Contractors.

If, as a result of LESSEE'S actions in the performance of the Work, or failure to act, portions of the School 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 such action. LESSEE shall complete the necessary repairs within thirty (30) days of receipt of written notice from the LESSOR. In the event that LESSEE is unable to complete the repair work within said thirty (30) day period, 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 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 LESSEE'S sole cost and expense. 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 LESSEE to substantiate the nature and completeness of the work. In the alternative, the LESSOR may instead place LESSEE in default under this Agreement.

Notwithstanding the foregoing, in the event of damage to the School site caused by 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, at the LESSOR'S sole discretion, complete the necessary repairs, at LESSEE'S sole cost and expense.

Prior to the start of any construction activities at the School, and irrespective of LESSEE'S estimate of the cost of construction of the Work, 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 Agreement.

LESSEE shall not permit any liens to be filed or attached to the School for any reason whatsoever, including, but not limited to, as a result of the Work performed by LESSEE pursuant to this Agreement. In the event that any such lien is recorded in the official records of Miami-Dade County, Florida, 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. In the event a notice of violation is issued by any jurisdictional agency relating to the Work, said notice of violation shall be the sole responsibility of LESSEE, and LESSEE shall cure said violation(s) within thirty (30) days of receipt thereof, at LESSEE'S sole cost and expense. Should LESSEE fail to comply with this requirement, then LESSOR may, by its own effort, cause such lien or other violations to be removed of record and cured. 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.

It is expressly understood by the Parties that LESSEE shall not commence any of the Work or construction activities within the DEMISED PREMISES or at or about the School site until LESSOR, or its designee, has received all items stipulated in this Agreement and has notified LESSEE, in writing, as to the approved date for the start of the Work.

At the completion of the Work, the LESSEE shall secure an inspection of the Work from LESSOR'S designee, verifying that the Work on the DEMISED PREMISES has been satisfactorily and properly completed, and shall not release the Lessee's Contractors from their contractual obligations or make final payment to the Lessee's Contractors until the LESSOR'S designee attests to the satisfactory completion of the Work. In addition, the LESSEE agrees that the LESSEE or the Lessee's Contractors shall restore the DEMISED PREMISES 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 Work, without demand and at no cost to the LESSOR.

Notwithstanding the above, LESSEE may request that LESSOR make certain improvements, alterations or repairs within the DEMISED PREMISES, provided that LESSEE deposits with LESSOR funds in an amount equal to the estimated cost thereof. In such event, LESSEE shall submit a written request to LESSOR setting forth the requested improvements,

which LESSOR, in its sole authority, may or may not choose to pursue. LESSOR shall, prior to the initiation of any improvements, provide the LESSEE with a cost estimate for the requested improvements, and LESSEE shall provide upfront funds equal to the amount of such cost estimate. The Parties agree that LESSOR shall not commence any work until LESSOR has received written approval from LESSEE as to the cost of improvements and the upfront funds.

VII.

SUPERVISION AND SECURITY

The LESSEE shall comply with all School safety and security criteria, and provide proper supervision and security in its use of the DEMISED PREMISES and maintain the DEMISED PREMISES safe and secure at all times. LESSEE acknowledges and agrees that LESSEE, its students, staff, invitees and visitors shall gain entrance to the School exclusively through a lockable gate located outside of Building 01 and immediately adjacent to LESSEE'S drop-off area, as shown in Exhibit "A" ("Lessee's Point of Entrance"). In that regard, a member of LESSEE'S staff shall be stationed at Lessee's Point of Entrance on all days that LESSEE occupies and uses the DEMISED PREMISES, for a period no less than 6:30 a.m. to 8:00 a.m., and 4:00 p.m. to 7:00 p.m., or as otherwise modified at the request of LESSEE and subject to approval of the District School Administrator. In addition, LESSEE shall, at LESSEE'S sole cost and expense, install, maintain and operate an electronic notification system at Lessee's Point of Entrance, which will serve to notify LESSEE'S staff within Building 01, Room 010 (or at a location as otherwise determined by LESSEE) when LESSEE'S students, staff, parents, invitees or visitors need to enter the School, provided that at LESSEE's option and at LESSEE's sole cost and expense, LESSEE may request that LESSOR install the electronic notification system. Such request and the funding for such request shall comply with the ultimate paragraph in Article VI above. LESSEE acknowledges and agrees that LESSEE'S Point of Entrance shall remain locked at all times, except when attended by a member of LESSEE'S staff.

LESSEE further acknowledges and agrees that, in the event that LESSEE occupies and uses the DEMISED PREMISES during other than the School's hours of operation, as provided for under Article V hereof, LESSEE shall make any and all provisions which may be required to supervise its operations and provide security for LESSEE'S students, staff and invitees, at LESSEE'S sole cost and expense.

The LESSEE shall secure and lock all doors and gates within the DEMISED PREMISES at the completion of LESSEE'S daily use of the DEMISED PREMISES. LESSEE acknowledges and agrees that the District School Administrator shall have overall responsibility for any School

site operational issues, including without limitation, building security and safety, and LESSEE shall comply with all such requirements and coordinate with the District School Administrator on an ongoing basis to assure the safety of the District's students, staff, visitors, invitees and the public at all times. In addition, LESSEE acknowledges and agrees that LESSEE'S use of the DEMISED PREMISES shall not unreasonably disrupt nor interfere with any of the District's educational activities or operations at the School, and agrees to work closely with the District School Administrator to minimize any impact on District operations.

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 PREMISES 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 Agreement. LESSEE'S failure to comply with the Supervision and Security provisions may, at LESSOR'S sole option, be deemed a default under the Agreement.

VIII.

MAINTENANCE AND CUSTODIAL SERVICES

LESSOR shall provide all routine maintenance and repairs of the DEMISED PREMISES, including, but not limited to, interior light bulb and ballast replacement, air conditioning filter cleaning and/or replacement, routine electrical and plumbing repairs, and shall also provide routine care of landscaped areas, parking lots and walking surfaces. In addition, LESSOR shall provide all routine custodial or janitorial services to the DEMISED PREMISES, unless LESSOR'S responsibilities are otherwise modified, as provided for in Article IV of this Agreement. All such maintenance and custodial/janitorial services will be provided in compliance with the LESSOR'S standards, operating procedures and frequency of service. LESSEE shall reimburse LESSOR for LESSEE'S proportionate share of the cost of these services, as a portion of the Operating Expenses, as outlined in Article IV of this Agreement.

Additionally, LESSEE may request that LESSOR provide additional maintenance in the form of interior painting, installation of fixtures or technology in classrooms and other cosmetic improvements ("**Additional Maintenance**"), which LESSOR, in its sole authority, may or may not choose to pursue. LESSOR shall, prior to the initiation of any Additional Maintenance,

provide the LESSEE with a cost estimate for the requested work, and LESSEE shall provide upfront funds equal to the amount of such cost estimate. The Parties agree that LESSOR shall not commence any work until LESSOR has received written approval from LESSEE as to the cost of the work and the upfront funds. LESSEE acknowledges and agrees that Additional Maintenance shall not be included in Operating Expenses, as outlined in Article IV of this Agreement.

IX.

INSURANCE

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

A. Workers' Compensation/Employer's Liability Insurance.

Such insurance shall be no more restrictive than that provided by the Standard Workers' Compensation Policy, as filed for use in Florida by the National Board on Compensation Insurance, without restrictive endorsements. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One: "Statutory"

Part Two: \$ 1,000,000 Each Accident

\$ 1,000,000 Disease - Policy Limit

\$ 1,000,000 Disease - Each Employee

B. Commercial General Liability Insurance

Such insurance shall be no more restrictive than that provided by the most recent version of standard Commercial General Liability Form (ISO Form CG 00 01) without any restrictive endorsements. The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

\$ 2,000,000 General Aggregate

\$ 2,000,000 Products/Completed Operations Aggregate

\$ 1,000,000 Personal and Advertising Injury

\$ 1,000,000 Each Occurrence

LESSEE shall name the LESSOR as an additional insured on a form no more restrictive than the CG20 10.

C. Automobile Liability Insurance

Such insurance shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of the

Agreement. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

\$ 1,000,000 Each Occurrence - Bodily Injury and Property

D. Property Insurance covering LESSEE'S contents within the DEMISED PREMISES.

"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. Proof of coverage shall be provided to the LESSOR on an original certificate of insurance endorsed to reflect a minimum thirty (30) day advanced notice of cancellation. The certificate of insurance shall be delivered to the LESSOR on or before the Effective Date of this Agreement, and shall remain in full force and effect during the term of this Agreement, and the LESSEE shall furnish the LESSOR evidence of renewals of such insurance policies no less than thirty (30) days prior to the expiration of the then current policies.

LESSOR shall provide property insurance covering the DEMISED PREMISES and LESSOR'S contents thereon, and LESSEE shall reimburse LESSOR for LESSEE'S proportionate share of the cost of same, as a portion of the Operating Expenses, as outlined in Article IV of this Agreement.

X.

FURNITURE, FIXTURES AND EQUIPMENT

LESSEE may, if agreed to by the District School Administrator, use any furniture, fixtures and equipment ("FF&E") owned by the LESSOR located within the DEMISED PREMISES as of the Commencement Date of this Agreement, subject to an inventory to be conducted jointly by LESSEE and the District School Administrator, prior to the Commencement Date, which inventory shall become **Exhibit "B"** of the Agreement. All FF&E is made available in its "as-is", "where-is" condition and basis with all faults, and LESSOR makes no representations or warranties whatsoever, and LESSEE assumes all risks related thereto. Prior to the commencement of each school year, or more often at the request of either Party, the inventory must be updated based on a joint assessment by the LESSEE and the District School Administrator, and if there are any changes to the inventory, Exhibit "B" will be modified accordingly and made a part of this Agreement, and shall remain in effect until such time as it may be further amended. Should any FF&E be damaged or missing, LESSEE shall be responsible for replacing or repairing same, or reimbursing LESSOR for the cost to repair or replace such damaged or missing item, at the sole

option of LESSOR, and at the then current cost.

Upon the termination, expiration or cancellation of the Agreement, all FF&E listed on Exhibit "B" shall be surrendered by LESSEE to LESSOR in accordance with Article XXII of this Agreement, and any damaged or missing items shall be replaced, repaired or paid for as stipulated above.

XI.

UTILITIES AND OTHER SERVICES

The LESSOR shall establish and pay all utility accounts serving the DEMISED PREMISES including electricity, water, sewer, solid waste disposal, storm water and trash collection. LESSEE shall reimburse LESSOR for LESSEE'S proportionate share of the cost of these services, as a portion of the Operating Expenses, as outlined in Article IV of the Agreement.

XII.

INDEMNIFICATION AND HOLD HARMLESS

LESSEE does hereby agree to indemnify and hold harmless the LESSOR, its members, officers and employees, from and against any and all 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 or incidental to the performance of the Agreement by or on behalf of LESSEE, whether or not due to or caused in part by the negligence or other culpability of the LESSOR, excluding only the sole negligence or culpability 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, resulting from or incidental to performance under this Agreement. Further, LESSEE shall indemnify LESSOR against any successful Claims Bill imposed on the LESSOR related to LESSEE'S actions under this Agreement, and shall make payment under any such successful claim.

The LESSOR does hereby agree to indemnify and hold harmless the LESSEE, to the extent of the monetary limitations included within Florida Statutes, Section 768.28, subject to the provisions in this act whereby the LESSOR shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the LESSOR arising out of the same incident or occurrence, exceeds the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses

and causes of action which may arise as a result of the negligence of the LESSOR. However, nothing herein shall be deemed to indemnify the LESSEE from any liability or claim arising out of the negligent performance or failure of performance of the LESSEE or as a result of the negligence of any unrelated third party.

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

XIII.

NO LIABILITY FOR PERSONAL PROPERTY

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. LESSEE hereby waives all rights of subrogation under any policy or policies it may carry on property placed or moved on the DEMISED PREMISES.

XIV.

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 PREMISES 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 Agreement.

XV.

ASSIGNMENT AND SUBLETTING

LESSEE shall not, at any time during the term of this Agreement, sublet in part or whole the DEMISED PREMISES, or assign, transfer, mortgage, pledge, hypothecate or otherwise dispose of its interest in this Agreement or any portion or part thereof, or allow any other individual or entity to operate or manage the DEMISED PREMISES, or permit the DEMISED PREMISES to be occupied by other persons, firms, corporations, or governmental units. Any assignment, sublet or otherwise, shall constitute a material breach under this Agreement, and

may result, at LESSOR'S sole option, in the termination of this Agreement, as outlined in Article XVIII of this Agreement.

XVI.

EXTENSION OF AGREEMENT

The term of this Agreement may be extended at the sole option of LESSEE for four (4) additional periods of one (1) year each, under the same terms and conditions contained in this Agreement, provided LESSEE gives written Notice to the LESSOR, as set forth in Article XXIX, at least one hundred twenty (120) days prior to the expiration of the then current term, and LESSEE is not in default in performance of the obligations set forth in this Agreement. The Parties acknowledge and agree that any such extension of the term is subject to that certain Charter Contract by and between The School Board of Miami-Dade County, Florida, approved by the School Board on _____ ("Charter Contract") being in effect at the time such extension is requested by LESSEE, and on the anniversary of the Commencement Date of this Agreement. All extensions of the term shall be accomplished through the execution by the Parties of an amendment to this Agreement.

XVII.

CANCELLATION

In addition to the provisions of Article XXX, the LESSEE shall have the right to cancel the Agreement, 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 XVIII of this Agreement.

In addition to the provisions of Article XXX, the LESSOR shall have the right to cancel this Agreement, without penalty, in the event of any of the following occurrences: (1) at will, by giving LESSEE a minimum of thirty (30) days advance written notice, unless this District standard provision is waived by the Superintendent; and (2) in the event the LESSEE is in default of any of the terms and conditions of this Agreement, which default is not cured within the applicable time frames, as set forth in Article XVIII of this Agreement.

In the event of cancellation by either Party, the LESSEE shall surrender and vacate the DEMISED PREMISES in compliance with Article XXII of this Agreement.

XVIII.

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 Agreement. 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 fifteen (15) days from receipt of notice from LESSOR to cure such material breach. In the event the LESSEE fails to cure the material breach within fifteen (15) days after receiving written notice, the LESSOR shall have the right to cancel this Agreement, without penalty, upon ten (10) days additional written notice to LESSEE. The following shall constitute a material breach on the part of LESSEE; provided that in the event of a material breach under (7) below, LESSEE shall have ten (10) days from receipt of notice from LESSOR to cure such material breach: (1) failure to operate LESSEE'S Charter School on the DEMISED PREMISES for more than one-hundred twenty (120) consecutive days after the Commencement Date of this Agreement, (2) failure to comply with the Jessica Lunsford Act, (3) failure to comply with Article XXI of this Agreement regarding infrastructure improvements and regulatory compliance, (4) failure to pay taxes or special assessments as outlined in Article XXI of this Agreement, (5) in the event the tax-exempt status of the DEMISED PREMISES or School is rescinded or is at risk of being rescinded, as outlined in Article XXXIX(K) of this Agreement, (6) assignment or sublet of the DEMISED PREMISES, (7) failure to pay Operating Expenses, the Underpayment Amount or any other expenses to LESSOR as provided for in Article IV of this Agreement, (8) use of the DEMISED PREMISES for any reason not provided for in Article V of this Agreement, and (9) cancelation or termination of the Charter Contract.

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 Agreement. 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 Agreement, 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

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enumerated below), LESSOR shall have ten (10) days from receipt of notice from LESSEE to cure such material breach. In the event the LESSOR fails to cure the material breach within ten (10) days after receiving written notice, the LESSEE shall have the right to cancel this Agreement, 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 Charter School at the DEMISED PREMISES.

XIX.

PEACEFUL POSSESSION

Subject to the terms, conditions and covenants of this Agreement, LESSEE shall and may peaceably have, hold and enjoy the above described DEMISED PREMISES, without hindrance or interference by the LESSOR.

XX.

LESSOR'S RIGHT OF ENTRY

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

XXI.

TAXES AND REGULATORY COMPLIANCE

LESSEE shall be responsible for collection and payment of any taxes, fees or other assessments, including but not limited to sales tax, ad valorem tax, all licenses, permits or other taxes which may be imposed on the School or DEMISED PREMISES, as a result of the leasing, use and occupancy of the DEMISED PREMISES by LESSEE.

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

Non-compliance with the provisions of this Article XXI shall be deemed a material breach of this Agreement.

XXII.

SURRENDER OF PREMISES

Except as otherwise provided in this Agreement, LESSEE agrees, at the expiration, termination or cancellation of this Agreement or any extension thereof, to promptly and peacefully surrender and deliver possession of the DEMISED PREMISES to LESSOR in good order and repair and in as good condition as existed on the Commencement Date of this Agreement, 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 LESSEE'S personal property and other items belonging to LESSEE from the DEMISED PREMISES. In addition, LESSEE shall be required, at LESSOR'S sole option, to re-key locks changed by LESSEE, if any, back to the School's key system, and to remove any improvements, facilities or signage constructed or installed by LESSEE under this Agreement, and to restore the DEMISED PREMISES to the same or better condition as existed before the Commencement Date of this Agreement. In the event LESSOR elects to retain any or all improvements constructed or installed by LESSEE, LESSEE agrees to convey title to the improvements to LESSOR, without compensation or remuneration to the LESSEE or any other parties.

LESSEE shall surrender all LESSOR-owned FF&E, in conformance with the provisions of Article X, and shall promptly return all keys and other items belonging to LESSOR and shall coordinate with the LESSOR to ensure a proper and timely surrender of the DEMISED PREMISES. Any of LESSEE'S personal property not removed within ten (10) days after expiration, termination or cancellation of this Agreement shall be considered abandoned.

XXIII.

AMENDMENTS

In addition to the requirements set forth elsewhere in this Agreement, LESSOR and LESSEE, by mutual agreement, shall have the right, but not the obligation, to amend this Agreement, which shall be accomplished through the execution by the Parties of an amendment to this Agreement duly approved by the School Board in compliance with all applicable laws, including, without limitation, Section 1013.15(1), F.S. Such amendments shall be effective only when signed by LESSOR and LESSEE and shall be incorporated as part of this Agreement.

XXIV.

NON-DISCRIMINATION

LESSOR and LESSEE 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 PREMISES. It is expressly understood that upon a determination by a court of competent jurisdiction that discrimination in the use of the DEMISED PREMISES by a Party hereto has occurred, such event shall be treated as a Default hereunder.

XXV.

LEGAL FEES AND COURT COSTS

In the event of any litigation between the Parties under this Agreement, each Party shall be responsible for its own attorney's fees and court costs through trials and appellate levels. The provisions of this paragraph shall survive the expiration or early termination or cancellation of this Agreement.

XXVI.

CONSTRUCTION OF AGREEMENT

This Agreement 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.

XXVII.

SEVERABILITY

In the event any paragraph, clause or sentence of this Agreement 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 Agreement and the balance of the Agreement shall not be affected by any deletion, provided to do so would not render interpretation of the Agreement provisions ambiguous or a nullity.

XXVIII.

WAIVER

No waiver of any provision shall be deemed to have been made unless such waiver is in writing and signed by LESSOR or LESSEE. The failure of any Party to insist upon strict performance of any of the covenants, provisions or conditions of this Agreement 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.

XXIX.

NOTICE AND GENERAL CONDITIONS

A. All notices or communications under this Agreement by either Party to the other ("Notice") 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 LESSEE:

Gabriella DiFilippo
c/o KIPP New Jersey
60 Park Place, #802
Newark, NJ 07102
Email: gdifilippo@kippnj.org

With a copy to:

Leah Sandback
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

B. For purposes of this Agreement, the Superintendent of Schools or designee shall be the party designated by the LESSOR to grant or deny any and all approvals under this Agreement relating to operational issues.

C. In addition to the above, the Superintendent of Schools shall also be the party designated by the LESSOR to execute amendments to this Agreement within the authority granted him by the School Board, increase or decrease the area of the DEMISED PREMISES (as set forth and limited under Article II), and to grant or deny any approvals required under this Agreement, including authorizing construction within the DEMISED PREMISES, placing the LESSEE in default, and canceling or terminating the Agreement as provided herein.

D. As further detailed in Article XXXVII, prior to commencement of this Agreement, 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 Agreement, and that the party signing this Agreement is fully authorized and has the legal capacity to do so, on behalf of the LESSEE.

E. Except as otherwise provided in this Agreement, 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 Agreement 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 Agreement shall be defined as calendar day, unless otherwise provided. Counsel for LESSOR and Counsel for LESSEE may deliver Notice on behalf of 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.

XXX.

DAMAGE AND DESTRUCTION

Other than damage or destruction caused by LESSEE, in the event the DEMISED PREMISES should be destroyed or so damaged by fire, windstorm or other casualty, in whole or in part, to the extent the DEMISED PREMISES are rendered untenable or unfit for the purposes intended, LESSEE may cancel this Agreement with thirty (30) days advance written notice to LESSOR. If LESSEE fails to cancel this Agreement, LESSOR may, at LESSOR'S sole option, either cancel this Agreement by giving written notice to the LESSEE, or repair or replace the damaged/destroyed facilities, at LESSOR'S expense. If LESSOR opts to repair or replace the damaged/destroyed facilities, then LESSOR 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 LESSEE may, at its sole option, place the LESSOR in default.

Any damage or destruction sustained to all or portions of the DEMISED PREMISES or School site as a result of LESSEE'S actions shall be repaired by LESSEE, at LESSEE'S sole cost and expense. In that event, 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 LESSOR may, at its sole option, place the LESSEE in default.

LESSOR and LESSEE agree that in the event of cancellation of the Agreement due to damage or destruction, LESSEE shall surrender the DEMISED PREMISES to LESSOR in compliance with Article XXII of the Agreement.

XXXI.

HAZARDOUS MATERIALS

For purposes of this Agreement, 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 PREMISES, or arising from LESSEE'S use or occupancy of the DEMISED PREMISES, 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 PREMISES. The term "**Hazardous Substances Discharge**" shall mean any deposit, spill, discharge, or other release of Hazardous Substance that occurs during the term, at or from the DEMISED PREMISES (unless caused solely by LESSOR), or that arises at any time from LESSEE'S use or occupancy of the DEMISED PREMISES.

LESSEE shall not cause or permit to occur: (a) any violation of any Environmental Law on the DEMISED PREMISES 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 PREMISES, or the transportation to or from the DEMISED PREMISES of any Hazardous Substance.

LESSEE shall, at LESSEE'S expense, comply with all applicable Environmental Laws with respect to the DEMISED PREMISES and School. LESSEE shall, at 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 the DEMISED PREMISES during the term of this Agreement. If any governmental authority requires any clean-up or clean-up measures because of any Hazardous Substances Discharge demonstrated to have been caused by LESSEE with respect to the DEMISED PREMISES or caused by the LESSEE elsewhere on the School site, then LESSEE shall, at 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. LESSEE shall promptly notify LESSOR of any notices or communications received from any jurisdictional entity in relation to any environmental issues on the DEMISED PREMISES or elsewhere on the School site, and shall promptly provide LESSOR with all information reasonably requested by LESSOR regarding LESSEE'S use, generation, storage, transportation or disposal of Hazardous Substances in or at the DEMISED PREMISES.

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

XXXII.

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

LESSEE shall comply with all applicable laws, rules, regulations, ordinances and codes of all governmental authorities, including, without limitation, School Board Policies, 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.

XXXIII.

SUBORDINATION

This Agreement 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, the DEMISED PREMISES or the School, 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, LESSEE shall execute, within thirty (30) calendar days of request, any certificate that LESSOR may request.

XXXIV.

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

This Agreement shall be subject to Florida's Public Records Laws, Chapter 119, Florida Statutes. 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 Agreement. 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 Agreement 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 Agreement and following the expiration or early termination or cancellation of this Agreement 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 Agreement, 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 Agreement, 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 Agreement, 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-PREMISES.

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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-995-1128, pr@dadeschools.net, and 1450 NE 2 Avenue, Miami, Florida 33132.

XXXV.

SIGNAGE

LESSEE shall be permitted to install identification signage on the exterior of the School and within the DEMISED PREMISES, subject to the express prior written approval of LESSOR, or its designee. In addition, such signage, if approved, shall be installed in conformance with all rules and regulations governing public schools, and at LESSEE'S sole cost and expense. Any identification signage erected by LESSEE shall include the following: "a Miami-Dade County Public Schools Managed Charter School".

Upon the termination, expiration or cancellation of this Agreement, LESSEE shall remove, at LESSEE'S expense, from the DEMISED PREMISES or School any signage erected by

LESSEE, and restore the area to the same or better condition as existed prior to LESSEE'S installation of the signage.

XXXVI.

USE OF SCHOOL AS A REVENUE GENERATOR

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, relating to the DEMISED PREMISES and School site, including, without limitation, third party advertising, installation of wireless telecommunications facilities and/or other similar endeavors, provided such endeavors do not unreasonably interfere with LESSEE'S rights to peaceful enjoyment of the DEMISED PREMISES.

XXXVII.

REPRESENTATIONS

A. 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 Agreement, and LESSEE shall provide evidence of same to LESSOR prior to the Effective Date of this Agreement and annually thereafter, as required by the LESSOR. LESSEE has full power to execute, deliver, and perform its obligations under this Agreement. The execution and delivery of this Agreement, and the performance by LESSEE of its obligations under this Agreement, 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.

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

XXXVIII.

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 Agreement. 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 Agreement.

XXXIX.

MISCELLANEOUS PROVISIONS

- A. RECORDATION: This Agreement shall not be recorded by either Party.
- B. EMINENT DOMAIN: If the DEMISED PREMISES or any part of the School are taken in the exercise of the power of eminent domain, this Agreement shall terminate on the date title vests in the taking authority. Operating Expenses will be prorated to the date of termination. 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 Agreement.
- 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 AGREEMENT OR LESSEE'S USE OR OCCUPATION OF THE DEMISED PREMISES.
- F. HEADINGS FOR CONVENIENCE ONLY: The descriptive headings in this Agreement are for convenience only and shall not control nor affect the meaning or construction of any of the provisions of this Agreement.
- G. BROKERS: LESSEE represents that there are no brokers, salesmen or finders involved in the transaction contemplated by this Agreement. 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 LESSEE ("Indemnitor"), and in consideration of the mutual promises contained in this Agreement, 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 of this Agreement.

- H. PROMOTION: Other than activities undertaken to promote LESSEE'S program, LESSEE shall not be permitted to use the DEMISED PREMISES or School for any type of promotion or advertising of any kind or nature whatsoever.
- I. USE APPROVALS: LESSEE shall be responsible for determining and securing, at its sole cost and expense, all federal, state, county, municipal and/or other permits, licenses, use approvals, occupational licenses, certificates or approvals needed, if any, for the operation of LESSEE'S program at the DEMISED PREMISES, prior to the Commencement Date of the Agreement.
- J. COUNTERPARTS: This Agreement may be signed 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 Agreement.
- K. TAX-EXEMPT STATUS: In addition to the provisions of Article XXI of this Agreement, the LESSEE acknowledges and agrees that in the event the tax-exempt status of the DEMISED PREMISES 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, 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 Agreement, and may result, at the LESSOR'S sole option, in the termination of this Agreement for cause, as outlined in Article XVII of this Agreement. Payment of any taxes so imposed shall be remitted to the LESSOR within ten (10) days of receipt of notice, without demand.
- L. REGULATORY AUTHORITY: It is expressly understood by the Parties that notwithstanding any provisions of this Agreement 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 Agreement be obligated to grant any approvals of applications under present or future laws of whatever nature applicable to the foregoing.

M. SOVEREIGN IMMUNITY: No provision contained in this Agreement shall be deemed a waiver of the LESSOR'S sovereign immunity.

XL.

ENTIRE AGREEMENT

This Agreement and all Exhibits attached hereto, as those Exhibits may be substituted from time to time as provided for herein, constitute the entire agreement between the Parties and supersedes all previous negotiations, and it may be modified only by an agreement in writing signed by LESSOR and LESSEE.

[INDIVIDUAL SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the LESSOR and the LESSEE have caused this Agreement to

Lease Agreement/KIPP Miami/Poinciana Park Elementary School/FINAL 11.20.17

be executed by their respective and duly authorized officers the day and year first written above.

WITNESSES AS TO 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 TREASURY
MANAGEMENT ISSUES**

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

Office of Treasury Management
Date: _____

School Board Attorney
Date: _____

WITNESSES AS TO LESSEE:

Print Name: _____

Print Name: _____

LESSEE:

KIPP MIAMI, Inc., a Florida not-for-profit
corporation d/b/a KIPP Miami Sunrise
Academy

By: _____

Name: _____

Title: _____

Date: _____

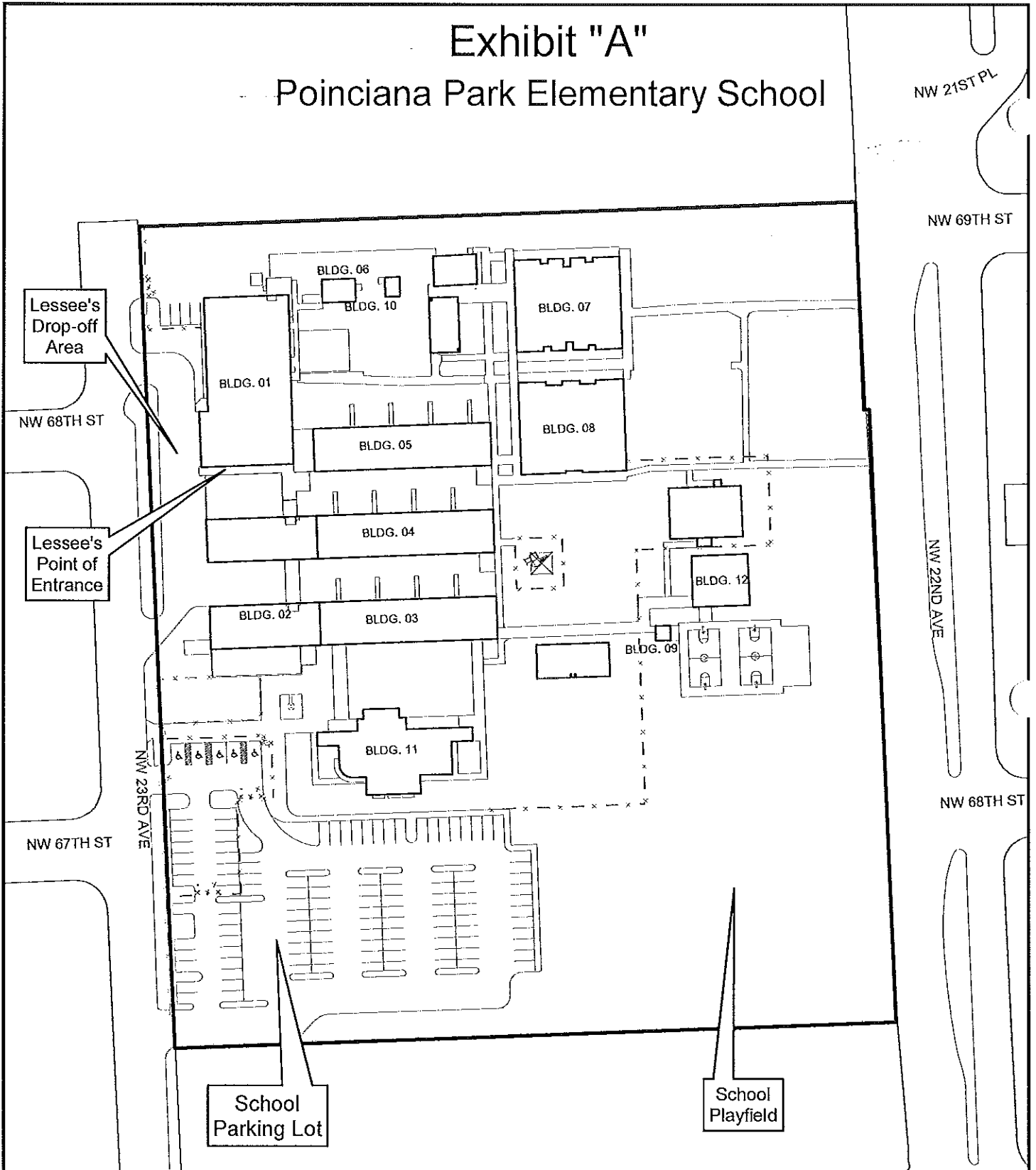
EXHIBIT "A"
TO
LEASE AGREEMENT

DEMISED PREMISES

[consisting of 3 pages, including this title page]

Exhibit "A"

Poinciana Park Elementary School



NW 21ST PL

NW 69TH ST

Lessee's Drop-off Area

NW 68TH ST

Lessee's Point of Entrance

NW 22ND AVE

School Parking Lot

School Playfield

NW 68TH ST

NW 67TH ST

NW 23RD AVE

N



Not to scale

EXHIBIT "A"
(Continued)

POINCIANA PARK ELEMENTARY SCHOOL
6745 N.W. 23 AVENUE
MIAMI, FLORIDA 33147

DEMISED PREMISES

LIST OF ROOMS:

Building 01: Rooms 010 and 011 (1,324 sf)

Building 01 (Dining Area): Rooms 001, 001A, 001B, 002, 002A and 002B (4,834 sf)

Building 04 (1st Floor): Rooms 007, 007A, 007B and 009 (2,249 sf)

Building 04 (2nd Floor): Rooms 029 and 030 (1,504 sf)

Building 05 (1st Floor): Rooms 012, 012A, 013, 013A, 014, 014A, 015 and 015A (2,986 sf)

Building 05 (2nd Floor): Entire floor consisting of Rooms 029A, 029B, 029C, 031, 032, 034 and 035 (3,828 sf)

Building 05 (Dining Area Restrooms): Rooms 012B and 012D (333 sf)

Notes:

- (1) The room numbers listed herein correspond to the room numbers shown in LESSOR'S FISH drawings for Poinciana Park Elementary School, dated October 3, 2013.
- (2) The DEMISED PREMISES consists of 17,088 square feet of classroom and ancillary building space. The Superintendent has the full authority, in his sole discretion, to (1) reduce the area of the DEMISED PREMISES leased to LESSEE in any amount; and (2) increase the area of the DEMISED PREMISES leased to LESSEE up to fifty percent (50%) of the square footage of the entire School, over the Initial Lease Period and any extensions thereto pursuant to Article XVI hereof.

OTHER:

LESSEE shall have exclusive use of the drop-off area located on the west side of the School for parent and bus drop off and pick up (approximately 8,193 sf), and LESSEE'S Point of Entrance.

LESSEE shall have non-exclusive use of portions of the School parking lot in accordance with Articles II and V of the Agreement (approximately 57,888 sf)

LESSEE shall have non-exclusive use of the Playfield (approximately 92,673 sf) and the Playground (approximately 1,492.50 sf), in accordance with Articles II and V of the Agreement.

Total square footage of DEMISED PREMISES: 160,246.50

EXHIBIT "B"
TO
LEASE AGREEMENT

INVENTORY OF FURNITURE, FIXTURES & EQUIPMENT

[to be attached upon completion]

[consisting of ____ pages, including this title page]