



**Maricopa County Community College District
Governing Board Agenda
December 11, 2015**

- vision** A Community of Colleges—Colleges for the Community—working collectively and responsibly to meet the life-long learning needs of our diverse students and communities.
- mission** The Maricopa Community Colleges provide access to higher education for diverse students and communities. We focus on learning through: University Transfer Education, General Education, Developmental Education, Workforce Development, Student Development Services, Continuing Education, Community Education, Civic Responsibility, and Global Engagement.

SPECIAL SESSION

3:15 p.m.

District Support Services Center | 2411 West 14th Street | Tempe, AZ 85281 | Governing Board Room—Second Floor

CALL TO ORDER

ACTION

1. BUSINESS SERVICES
 - 1.1 Take action on Ground Lease Agreement between MCCCDC and Hope College and Career Readiness Academy

ADJOURNMENT

ACTION ITEM

Governing Board Agenda

Meeting Date: December 11, 2015

Item Number	Item Title	Responsible Agents
1.1	Ground Lease Agreement between MCCCDC and the Hope College and Career Readiness Academy	Ms. Debra Thompson Dr. Shari Olson

Recommendation

It is recommended that the Governing Board authorize Maricopa County Community College District (MCCCDC) to enter into a long-term ground lease with the Hope College and Career Readiness Academy (HCCRA) for construction and operation of a charter school.

Justification

MCCCDC is the sponsor of a charter school, Hope College and Career Readiness Academy (HCCRA), as authorized by the Governing Board on March 24, 2015 and under Arizona Revised Statutes 15-183-C. Hope College and Career Readiness Academy will serve the large number of disconnected youth in Maricopa County. HCCRA is an Arizona not-for-profit corporation. As part of its efforts to support disconnected youth, HCCRA wishes to finance and construct a charter school facility on MCCCDC property, utilizing up to approximately 2.85 acres of land on the campus of South Mountain Community College (College).

HCCRA is seeking financing for the construction, most likely through bonds issued by the Industrial Development Authority of the City of Phoenix. The Maricopa County Regional School District (MCRSD) will be a guarantor on the financing with HCCRA. If HCCRA defaults on the financing, the lease will provide rights to the MCRSD as long as it is the guarantor, such as the right to cure the default and to take over the lease.

The proposed ground lease will be for an initial period of thirty-five years with the option of three ten-year renewal terms, subject to conditions. To ensure uses of the MCCCDC land are consistent with MCCCDC's and College's values, the ground lease limits HCCRA's use of the MCCCDC land to the construction and operation of a charter school and related activities. Additionally, it specifies that MCCCDC's obligations as the sponsor of Hope as a charter school are separate from its responsibilities as landlord under the ground lease. The ground lease will also provide that, upon its expiration or termination, subject only to the right of the MCRSD as guarantor to assume the obligations under the ground lease, MCCCDC will take title to the facility.

The ground lease rent will take into consideration the market value of the raw land, which is approximately \$8 per square foot, and will be based on the square footage of the floor plate of the charter school facility. Calculated using that valuation, the ground lease will specify an annual rent that HCCRA will be obligated to pay. However, the lease terms will require that HCCRA permit the College to use the facility's classrooms and laboratory space during the lease term and any renewals at mutually agreed upon times and dates in a frequency that will at least provide MCCCDC with a legal basis for it to waive rent. Specifically, the ground lease will state that MCCCDC will essentially waive the rent (through a credit against rent) that HCCRA owes under the ground lease in exchange for MCCCDC not being obligated to pay facilities use fees for using the facility. The intention is that monies do not exchange hands.

The parties intend to make this an arrangement in which any rent or other amounts owed by HCCRA to MCCCDC are equal to the rent or other amounts owed MCCCDC to HCCRA. There are significant educational benefits to this collaboration, including exposure of disconnected youth to college education and life.

Funding	Approvals/Certifications
<p><u>Source:</u> N/A</p> <p><u>Account Identification:</u> NA</p>	<p>Chancellor _____</p> <p>Academic & Student Affairs _____</p> <p>Business Services _____</p> <p>Human Resources _____ ITS _____</p> <p>Res Dev & Cmty Relations _____</p> <p>College President _____</p>

Ground Lease

between

Maricopa County Community College District,
a political subdivision of the State of Arizona,
for and on behalf of South Mountain Community College,
as Landlord,

and

Hope College and Career Readiness Academy,
an Arizona not-for-profit corporation,
as Tenant,

For certain real property
located at 6900 South 24th Street
Phoenix, Arizona 85042

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EXHIBITS

- A Legal Description of the Property
- B Legal Description of the Land
- C Memorandum of Lease

GROUND LEASE

PARTIES: Maricopa County Community College District, a political subdivision of the State of Arizona, for and on behalf of South Mountain Community College, ("Landlord"); and

Hope College and Career Readiness Academy, an Arizona not-for-profit corporation, ("Tenant")

EFFECTIVE DATE: _____, 2015 (the "Effective Date")

RECITALS:

A. Landlord owns the fee title to real property (the "Property") in the City of Phoenix, Maricopa County, Arizona, which is legally described on **Exhibit "A"** attached hereto and made a part hereof, and which is improved with a community college along with supporting structures, landscaping and parking areas known as "South Mountain Community College" (the "Community College").

B. Landlord has set aside a certain portion of the Property for the development by Tenant of a not-for-profit charter school facility and supporting landscaping (the "Land") comprising approximately 2.85 acres, which is legally described on **Exhibit "B"** attached hereto and made a part hereof. Landlord desires to lease the Land to Tenant for the sole purpose of constructing and operating thereon a not-for-profit charter school facility, related facilities and other on-site improvements (the "Improvements").

C. The Land and all appurtenances thereto and all Improvements now or hereafter located thereon are hereinafter referred to collectively as the "Premises."

NOW, THEREFORE, in consideration of the terms, covenants and conditions contained herein, the parties agree as follows:

AGREEMENTS:

1. **DEFINITIONS**

1.1. Additional Rent means any amounts payable to Landlord by Tenant in addition to the Base Rent (including, without limitation, any reimbursements and any taxes due and payable to Landlord).

1.2. Affiliate means any Person which, directly or indirectly (including through one or more intermediaries), controls or is controlled by or is under common control with any other Person, including any Subsidiary of a Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly (including through one or more intermediaries), of the power to direct or cause the

direction of the management and policies of such Person, through the ownership or control of voting securities, partnership interests or other equity interests or otherwise. Without limiting the generality of the foregoing, when used with respect to any corporation, the term "Affiliate" shall also include (i) any Person which owns, directly or indirectly (including through one or more intermediaries), Fifty Percent (50%) or more of any class of voting security or equity interests of such corporation, (ii) any Subsidiary of such corporation and (iii) any Subsidiary of a Person described in clause (i).

1.3. Alteration or Alterations means any construction, reconstruction, replacement, expansion, repair or alteration of the Premises, except such construction, reconstruction, replacement, expansion, repair or alteration which (i) relates to the original or initial construction of the Improvements, (ii) is less than \$50,000.00 (provided that such amount will be indexed to increase proportionately with the inflation rate on an annual basis), and (iii) is expensed rather than capitalized pursuant to generally accepted accounting principles. Notwithstanding the foregoing any construction, reconstruction, replacement, expansion, repair or alteration shall be considered an Alteration if it (a) includes any modification, alteration or change of any kind to all or any portion of the exterior of any building or buildings on the Premises, including, without limitation the charter school facility, or (b) would in any way lower the value of the Premises.

1.4. Base Rent means the Rent payable by Tenant to Landlord as provided in Section 4.1 hereof.

1.5. Building Plans means the final construction documents and the plans and specifications for the Improvements and which are approved by the Landlord pursuant to the provisions of Section 9 hereof.

1.6. Business Days means weekdays, Monday through Friday, but excluding legal holidays recognized by either the government of the United States or State of Arizona.

1.7. Calendar Days means each and every calendar day, Sunday through Saturday.

1.8. Certificate of Occupancy means a Certificate of Occupancy or equivalent evidence of completion of a building or similar improvement as issued by the City, which, among other things, enables such building to be serviced with utilities and occupied.

1.9. City means the City of Phoenix, State of Arizona.

1.10. Reserved.

1.11. Construction Completion Date shall mean, subject to extension pursuant to Section 9.2 or Section 17.4, _____ () months after the Construction Start Date (as defined in Section 1.13, below).

1.12. Construction License Parcel shall have the meaning set forth in Section 8.2 hereof.

1.13. Construction Start Date shall mean the date on which Tenant commences its initial construction of the Improvements.

1.14. Cost of Construction means all costs actually incurred by Tenant in connection with financing and constructing the Improvements, including but not limited to, the actual cost of all buildings, on-site improvements, off-site improvements (including traffic, street, and similar matters required by the City), public and private utilities, building equipment, all fees associated with utility connections with the City, insurance premiums during construction, permits, reports, finance costs, interest on construction financing, fees for development, environmental reports, architectural, engineering, legal and accounting services.

1.15. Default Rate means a per annum rate of interest of twelve percent (12.00%) or the maximum rate permitted by applicable law, whichever is less.

1.16. Governmental Authorities means the City and any other governmental authority or agency having jurisdiction over the Land, Premises, Improvements, or ownership, construction and operation thereof.

1.17. Reserved.

1.18. Improvements shall mean the charter school facility and related work, described in Section 3.1 hereof.

1.19. Landlord means the Person named as Landlord in this Lease or who is the owner of the Land from time to time and at the time of the termination of this Lease, whether named in this Lease as Landlord or having become the successor-in-interest of the named Landlord whether by assignment, foreclosure or other transfer, and whether by voluntary act or by operation of law.

1.20. Landlord's Consent Agreement means any written agreement entered into between Landlord and any Leasehold Mortgagee, which agreement may contain the written consent of Landlord to certain financing secured by Tenant's rights and interests under this Lease pursuant to a Leasehold Mortgage, and may contain other agreements between Landlord and such Leasehold Mortgagee.

1.21. Lease Term means the term of this Lease, initially to end on the last day of the calendar month in which occurs the day immediately preceding the thirty-fifth (35th) anniversary of the Effective Date, subject to extension pursuant to exercise of the Options.

1.22. Lease Year means the twelve-month period commencing on the Effective Date and ending on the day immediately preceding the first anniversary of the Effective Date, and each successive twelve-month period thereafter during the Lease Term.

1.23. Leasehold Financing Documents means, collectively, as to any Permitted Leasehold Financing, all other documents which evidence, guaranty, secure, or otherwise pertain to such Permitted Leasehold Financing.

1.24. Leasehold Mortgage means a mortgage, deed of trust, or other financing or security instrument or encumbrance recognized in the State of Arizona as a lien on the leasehold interest and other rights of the Tenant hereunder (and all documents executed in connection therewith and which are executed in favor of a Leasehold Mortgagee).

1.25. Leasehold Mortgage Transfer means any transfer of the Tenant's interest in this Lease by foreclosure, trustee's sale or other action or proceeding for the enforcement of a Leasehold Mortgage or by deed or assignment in lieu thereof, after a Leasehold Mortgage Transfer to a Leasehold Mortgagee, such Leasehold Mortgagee's successors and assigns, including the party(s) to any subsequent transfer of the Tenant's interest in this Lease by a Leasehold Mortgagee.

1.26. Leasehold Mortgagee means (i) a bona fide institution authorized under the laws of its state of organization or the State of Arizona to lend money on the security of an interest or interests in real property, including but not limited, federally or state chartered banks, savings and loan institutions, private mortgage companies, life insurance companies, trust companies, real estate investment trusts, mortgage trusts, pension and welfare or profit sharing funds or trusts, and like entities, and (ii) the mortgagee of a mortgage, beneficiary of a deed of trust, or other obligee of any indebtedness secured by a Leasehold Mortgage, including without limitation the holder of any purchase money Leasehold Mortgage or deed of trust, including any so-called "all-inclusive deed of trust."

1.27. Lien means a mechanic's, materialman's, contractor's, subcontractor's or similar lien or claim allowed by applicable law and arising pursuant to construction activities on or operation of the Premises, but excluding any Leasehold Mortgage.

1.28. Options means each option of Tenant to extend the Lease Term pursuant to Section 4 hereof.

1.29. Permitted Leasehold Financing means any financing secured by a Leasehold Mortgage that has either been (i) consented to in writing by Landlord, including any such financing consented to in a Landlord's Consent Agreement, or deemed consented to by Landlord pursuant to the terms of Section 13.4 hereof.

1.30. Permitted Use shall have the meaning set forth in Section 3.2 hereof.

1.31. Person or Persons means, unless otherwise defined in the Lease, any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other form of entity, and the term Subsidiary shall include corporations, partnerships, limited liability companies, business trusts or other legal entities with respect to which a Person owns, directly or indirectly (including through one or more

intermediaries) more than 50% of the voting stock or partnership, membership or other equity interest, respectively.

1.32. Premises, except when specifically provided to the contrary in this Lease, means the Tenant's leasehold estate in the Land and benefits and burdens upon or appurtenant to the Land, including, but not limited to, all right, title and interest related to the ownership of the Improvements from time to time constructed thereon, and all rights appurtenant thereto.

1.33. Recordation, Recording (or equivalent) means recordation in the Office of the Maricopa County Recorder, Arizona.

1.34. Rent means the Base Rent and all other sums payable by Tenant as provided in this Lease.

1.35. Sublease shall mean a lease of all or a portion of the Premises by Tenant to any Subtenant.

1.36. Subtenant shall mean a subtenant (or equivalent) of Tenant in the Premises.

1.37. Successors

a. Subject to the provisions of Section 13.2 and except as may otherwise be provided herein, each and every provision of this Lease shall bind and shall inure to the benefit of the parties hereto and their successors. The term "successors" is used herein in its broadest possible meaning and includes every Person acquiring or succeeding to any interest in this Lease or the Premises or of Landlord or Tenant (also known herein as the "Successor Tenant") herein, whether such succession results from the act of a party in interest, occurs by operation of law, or as the effect of the operation of law together with the act or omission of such party.

b. No successor to Landlord's interest shall be entitled to receive Rent payments until Tenant shall have been furnished with (1) a notice signed by the transferor of such interest setting forth the name and address of the Person entitled to receive Rent, and (2) a certified copy of the Recorded deed or other instrument by which such interest passed.

1.38. Tenant means the Person named as Tenant in this Lease or the Person who at the time in question is the successor in interest of Tenant, whether by assignment, foreclosure or other transfer, and whether by voluntary act or by operation of law, but not including any Person claiming under any transfer which is prohibited by this Lease without the consent of Landlord unless and until such transfer is approved by Landlord.

1.39. Tenant's Interest means (i) Tenant's leasehold estate in the Premises, including Tenant's possessory rights to the Premises during the lease Term, including all extensions and renewals available to Tenant pursuant to the terms of the Lease, as well as Tenant's easement interest in any easement benefiting the Premises and/or rights under any use

or similar agreements, and (ii) Tenant's fee interest in the Improvements. For purposes of any condemnation proceeding, the Tenant's fee interest in the Improvements shall be considered without regard to any termination of the Lease due to such condemnation. It is intended that Tenant's fee interest in the Improvements for purposes of any condemnation award shall be deemed to belong to Tenant notwithstanding any such termination of the Lease.

1.40. Title Exceptions shall mean those exceptions to title to the Land, consisting of: (a) any United States patent rights; (b) all matters of record; (c) any matters which would be disclosed by a survey of the Premises; (d) those additional title matters to which the Premises is from time to time subjected in accordance with the terms of this Lease; and (e) taxes not yet due and payable.

2. GRANTING CLAUSE, CONDITION AND MEMORANDUM OF LEASE

2.1. Granting Clause. Subject to the provisions hereof, Landlord hereby leases and demises the Premises to Tenant, and Tenant hereby leases and hires the Premises from Landlord, for the term of this Lease, at the rental specified, and on the conditions set forth herein, subject only to the Title Exceptions. The foregoing Recitals are incorporated herein by this reference.

E-MAIL REFERENCE 1.

2.2 Shared Use Agreement. As specified in Section 5.2 of this Lease, the parties shall enter into a shared use agreement relating to their joint use of the Charter School Facility (defined in Section 3.1). The shared used agreement shall, at a minimum, address the following matters:

a. Joint use governance (i) establishing an ongoing cooperative working relationship, (ii) coordinating and addressing issues related to authorized activities and joint use, and (iii) appointing representatives of the parties to the governance body and establishing meeting schedules;

b. Dispute resolution process;

c. Safety issues, including access management, security and emergency preparedness, and security personnel;

d. Required reporting of crimes or alleged crimes as required under the federal Clery Act; and

e. Management and distribution of keys or key cards for the Charter School Facility, including classrooms and laboratories.

2.3 Memorandum of Lease. This Lease shall not be recorded; however, to establish the status of Tenant's title and to establish the priority of this Lease as a condition of title, Landlord and Tenant agree to execute and acknowledge a short form Memorandum of this Lease in the form attached hereto as **Exhibit "C"** referencing the options to extend, subject to

any termination, which shall be recorded in the Office of Maricopa County Recorder, Arizona on the Effective Date or promptly thereafter. In the event of a discrepancy between the provisions of the Memorandum of Lease or this Lease, as it may be amended, supplemented, or restated, the provisions of this Lease shall prevail.

3. USE OF PREMISES; RESERVATION OF RIGHTS

3.1. Construction of Improvements. Subject to the terms and conditions of this Lease, Tenant may use the Land or any portion thereof for the construction of a not-for profit charter school facility (the "Charter School Facility") and the landscaping and utility facilities necessary and/or required to service such Charter School Facility (collectively, the "Improvements") substantially consistent with the Building Plans approved by Landlord in accordance with Section 9 hereof. As of the Effective Date, the Charter School Facility is anticipated to include eighteen (18) classrooms and two (2) science laboratories.

3.2. Permitted Uses on Premises.

a. Tenant accepts the Premises in the condition existing on the Effective Date.

b. Subject to the rights of any Leasehold Mortgagee set forth in this Lease or any Landlord's Consent Agreement, Tenant may use and permit the use of the Premises for the following uses and for no other use or purpose without the prior written consent of Landlord: a not-for-profit charter school facility and other related educational uses customarily appurtenant to such use and reasonably related to the mission of Tenant (collectively, the "Permitted Uses").

c. Notwithstanding anything to the contrary contained herein, Tenant shall not have any exclusive use rights, i.e., the exclusive right to perform, provide, operate or sell any particular service(s) or product(s), or any type(s) of services or products on the Premises or the Land.

d. Tenant shall comply with all applicable laws, regulations and rules relating to facilities in which a primary educational institution is operated.

3.3. Land Use and Title Matters. Tenant shall have the right to initiate, pursue and obtain any easements (including easements for utilities), use permits, variances, dedications and similar matters reasonably required in connection with development and operation of the Premises for the Permitted Uses ("Premises Matters"); provided that: (a) any easements or similar interests in the Land (or the Property) shall require the approval of Landlord's Governing Board based on the recommendation of Landlord's Associate Vice Chancellor of Facilities Planning and Development, and must be signed by Landlord; (b) to the extent Landlord is required to execute any other document for the Premises Matters, Landlord shall have the right of approval thereof, such approval to be at Landlord's sole and absolute discretion; and (c) Tenant shall not have the right, without the prior written approval of Landlord, to pursue any Premises Matters which would or do result in a zoning change or equivalent for the Premises,

impair any easements or other rights retained by Landlord hereunder, or interfere with any use or contemplated use of the Community College. Landlord shall, upon request of Tenant and subject to Landlord's approval thereof, execute, or join with Tenant in executing any documents (including applications, easements, dedications and similar matters) reasonably necessary to pursue, obtain or effectuate any Premises Matters (subject to the limitations set forth above), without cost or expense to Landlord. Any Premises Matters permitted by this Section 3.3 and recorded by or at the request of Tenant with the consent of Landlord against title to the Land or Premises shall thereafter be deemed a Title Exception. Landlord shall not initiate, grant or acquiesce to any encumbrance, right of way, Lien, or other matter affecting title to the Premises except as provided herein.

3.4. Lawful Compliance. Throughout the Lease Term and at no expense to Landlord, Tenant shall promptly comply or cause compliance with all laws and ordinances and the rules, regulations, orders and requirements of all Governmental Authorities which may be now or hereafter applicable to the Premises. Tenant shall have the right to contest by appropriate legal proceedings before any tribunal having jurisdiction, whether judicial or administrative, without cost or expense to Landlord, the validity or applicability of any law, ordinance, rule, regulation or requirement of the nature referred to herein. No abatement, diminution or reduction of the Rent or other charges required to be paid by Tenant under this Lease shall be claimed by or allowed to Tenant for any inconvenience, interruption, cessation, or loss of business or otherwise caused directly or indirectly by any present or future laws, rules, requirements, orders, directions, ordinances or regulations of any Governmental Authority whatsoever.

3.5. Landlord Approval of Placement of Antennas on Roof of the Improvements. Tenant, with prior written approval of Landlord, may erect, or cause or permit to be erected, or modify or change the location of, any antennas, satellite dishes, transmitters, or other electronic transmitters or receivers ("Antennas"), on the roof of the Improvements, which approval may be denied for any reason whatsoever, in the sole and absolute discretion of Landlord. Notwithstanding the foregoing, Landlord shall not unreasonably withhold its consent to Antennas that are solely for Tenant use in connection with the Permitted Uses.

3.6. Reserved.

3.7. Grant of License for Ingress and Egress. Tenant and Landlord hereby grant and convey to one another and their Successors, and each of them reserves unto itself, for the use and benefit of Tenant and Landlord, and their respective tenants, students, licensees, employees, agents and invitees, a non-exclusive license and right to common use for the purpose of ingress and egress by pedestrians, motor vehicles, trucks and equipment to and from public streets and highways, except as otherwise provided herein, over and across the portions of the Land and the Property that are from time to time used for ingress and egress (the "License for Ingress and Egress"). The grant of such license is for and during the entire term of this Ground Lease for the Land (including, without limitation, any renewal terms and extensions), until this Ground Lease is terminated. Notwithstanding the foregoing license, Landlord may move, modify, change or alter any portion or portions of the Property (excluding the Land) used for ingress and egress at any time or from time to time without the consent of Tenant provided such

movement, modification, change or alteration does not materially adversely affect Tenant's ingress and egress from public streets and highways to the Land. To the extent any lender of Tenant acquires Tenant's full interest in the Premises, and provided there are no defaults under this Ground Lease existing at the time of lender's acquisition of such interest or thereafter, the license granted in this Section 3.7 shall run to the benefit of Tenant's lender until this Ground Lease is terminated.

3.8 Grant of License for Walkway Areas. Tenant shall have a non-exclusive license to use, along with Landlord, the walkway areas within the Community College, which are designated from time to time by Landlord, for ingress and egress for pedestrian access, fire and safety personnel access and other related and similar uses. This license shall extend for joint use and benefit of Tenant's students, licensees, employees, agents, and guests, as well as invitees of both Tenant and Landlord during the Lease Term (or until any cancellation or earlier termination of the Lease). Landlord and Tenant further agree that Tenant shall be responsible for the payment of all costs related to construction, maintenance and repair of any such walkways within the Premises. Landlord and Tenant acknowledge and agree that any such walkways within the Premises shall be constructed by the general contractor constructing the Improvements in accordance with the provisions of Section 9 hereof, on such terms and conditions as are agreed upon by the Landlord and Tenant. To the extent any lender of Tenant acquires Tenant's full interest in the Premises, and provided there are no defaults under this Ground Lease existing at the time of lender's acquisition of such interest or thereafter, the license granted in this Section 3.8 shall run to the benefit of Tenant's lender until this Ground Lease is terminated.

3.9 Landlord's Regulations. While on Landlord's Property (including easements or licenses) other than the Premises, Tenant shall observe, and shall advise its members, officers, contractors, consultants, students, licensees, invitees and volunteers that they must observe, Landlord's administrative regulations relating to the use of Landlord's Property. Such regulations are available at:

<https://chancellor.maricopa.edu/public-stewardship/governance/administrative-regulations>

The regulations include, without limitation:

- a. No smoking

<https://chancellor.maricopa.edu/public-stewardship/governance/administrative-regulations/4-auxiliary-services/4.21-breathe-easy-tobacco-free-smoke-free>

<https://chancellor.maricopa.edu/public-stewardship/governance/administrative-regulations/4-auxiliary-services/4.12-smoke-free-tobacco-free-environment>

- b. No weapons

<https://chancellor.maricopa.edu/public-stewardship/governance/administrative-regulations/4-auxiliary-services/4.6-weapons-policy>

c. Parking and traffic

<https://chancellor.maricopa.edu/public-stewardship/governance/administrative-regulations/2-students/2.10-parking-and-traffic-regulations>

Landlord shall make Tenant aware of any proposed material changes or additions to the regulations in advance of the changes or additions taking effect.

3.10 Non-Exclusivity of License. Tenant agrees that the licenses set forth in Sections 3.7 and 3.8 above are non-exclusive to Tenant and that Landlord may grant further licenses to other parties (including, without limitation, other tenants of Landlord) for access, ingress and egress in Landlord's discretion; provided, however, that Landlord shall not grant any such licenses that unreasonably interfere with or burden Tenant's development and use of the Premises.

3.11 Landlord's Reservations.

a. General Entry. Landlord reserves to itself, its successors and assigns, the right, but not the duty, at all reasonable times and from time to time after twenty-four (24) hours' prior written notice, to enter upon the Premises and any portion thereof to determine to Landlord's satisfaction whether the terms, covenants and conditions of this Lease, including Tenant's performance obligations, are being kept and observed. For avoidance of doubt, this right extends to those instances in which Tenant is exclusively using the Charter School Facility. Landlord shall indemnify, defend and hold harmless Tenant and its respective members, agents, servants, contractors and employees for, from and against any personal injury, bodily injury or property damage incurred or sustained as a result of the exercise by Landlord of the rights reserved pursuant to this Section 3.11(a).

E-MAIL REFERENCE POINT 2.

b. First Responders. Tenant acknowledges that Landlord's certified police officers will be the first responders when someone calls for police assistance on the Premises. Tenant further acknowledges that the right to entry specified above does not apply to limit in any way the entry onto the Premises by Landlord's police officers in response to a call for police assistance.

E-MAIL REFERENCE POINT 3.

3.12 Hazardous Materials. Tenant shall not use nor permit the Premises to be used for the storage or disposal of any hazardous waste, toxic substances or related materials (hereinafter called "Hazardous Materials") or for any purpose involving the use of Hazardous Materials; provided, however, Tenant may use and store Hazardous Materials in amounts customarily used by other similarly situated educational institutions for instructional laboratory purposes. For the purposes of this Lease, Hazardous Materials shall include but not be limited to, substances defined as "hazardous substances", "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9061 et seq., Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et

seq., and The Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and all amendments thereto and the regulations adopted and publications promulgated pursuant to said laws. Tenant shall indemnify, defend and hold Landlord harmless for, from and against all liability, including all foreseeable and unforeseeable consequential damages, arising out of, or relating to, the use, generation, storage or disposal of Hazardous Materials, including, without limitation, the cost of any required or necessary repair, clean-up or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following transfer of title to the Premises, to the full extent that such action is attributable to, or relates to, the use, generation, storage or disposal of Hazardous Materials by Tenant or its employees, agents, contractors or subcontractors on the Premises or the Land subsequent to the Effective Date.

4. TERM

4.1 Rent Commencement Date. “Rent Commencement Date” means the later to occur of (i) the Construction Completion Date, or (ii) _____, 20__.

4.2 Term and Option Term. The Lease Term shall be thirty-five (35) years, commencing on the Effective Date and continuing until the last day of the calendar month in which occurs the day immediately preceding the 35th anniversary of the Effective Date, subject, however, to the extension rights and earlier termination as hereinafter provided. It is agreed that: (a) Tenant shall have the right to extend the Lease Term (the “Options”) for up to and including three (3) successive, consecutive ten (10) year periods (each being an “Option Term”) by written notice (an “Option Notice”) given by Tenant to Landlord not less than one hundred eighty (180) Calendar Days prior to the expiration of the then existing Lease Term or Option Term, provided that the Lease is, as of the date of delivery of the Option Notice, in full force and effect and Tenant is not, as of the date of delivery of the Option Notice, in default under the terms and conditions of this Lease and provided further that if Tenant is in default, as of the date of delivery of the Option Notice, subsequent cure of the default in accordance with the terms of this Lease shall make effective the exercise of the Option to extend the Lease Term.

5. RENT AND ADDITIONAL CONSIDERATION

5.1. Base Rent. Without deduction, offset or demand, except as expressly set forth herein, Tenant shall pay to Landlord the Base Rent set forth in this Section 5 at the address of _____, Attn: _____, or at such other place as Landlord may designate by notice to Tenant, in lawful money of the United States of America. The Base Rent, which shall be payable as provided below, shall be as follows:

a. beginning on the Rent Commencement Date, the Base Rent shall be \$8.00 per square foot based on the square footage of the Premises, which square footage shall be determined by a licensed architect selected by Landlord. The Base Rent shall be payable by Tenant to Landlord in equal monthly installments commencing on the Rent Commencement Date and on the first (1st) day of every calendar month thereafter throughout the Lease Term. In the event that the Rent Commencement Date commences on a day other than the first (1st) day of

a calendar month, a prorated amount of Base Rent shall be due upon the Rent Commencement Date and shall be calculated using a thirty (30) day month.

b. beginning on the first (1st) anniversary of the Effective Date, the Base Rent shall be increased annually by _____ percent (___%) of the prior year's Base Rent.

E-MAIL REFERENCE POINT 4.

5.2 Shared Use Agreement/Right of Offset. Within sixty (60) days after the Effective Date of this Lease, Landlord and Tenant shall enter into a shared use agreement whereby Landlord and its Affiliates shall be granted non-exclusive rights to use during the Lease Term the Charter School Facility's classrooms and science laboratories on a schedule mutually agreed upon by the parties in a frequency that shall, at a minimum, provide Landlord with a legal basis for effectively waiving rent. Such shared use agreement shall provide that the fees payable by Landlord for such shared use shall at all times be equal to the Base Rent due under this Lease and shall further provide that Landlord may offset the payment of such fees by the Base Rent due Landlord under this Lease. Likewise, and notwithstanding anything to the contrary contained herein, Tenant shall be permitted to offset from its monthly payment of Base Rent the amount payable by Landlord under the aforementioned shared use agreement. The parties may agree that security for the Premises will be most appropriately provided through an employee of Landlord. In that instance, Tenant shall reimburse Landlord on a monthly basis for the cost of the salary and benefits for that employee. The costs of the salary and benefits of Landlord's security employee shall not be used to offset Tenant's Base Rent.

5.3 Reserved

5.4. Late Charges and Default Rate. All past due installments of Base Rent or other payments as specified in this Lease shall bear interest at the Default Rate from the tenth (10th) Calendar Day following the date due until paid.

5.5. Rent Taxes. Tenant shall pay to Landlord at the same time as any Base Rent or other payment is made hereunder, an amount equal to all federal, state and local gross proceeds taxes, privilege taxes, sales taxes, value added taxes, or similar taxes ("Rent Taxes"), if any, now or hereafter levied or assessed upon such Base Rent or other payment, or the payment or receipt thereof, or which Landlord will be required to pay as a result of its receipt of Tenant's payment thereof, except that, notwithstanding any provision in this Lease to the contrary, Tenant shall not be obligated to pay to Landlord any amount on account of any net income, estate, inheritance, succession, or similar taxes, if any. To the extent that exemptions exist for the payment of the Rent Taxes, Landlord shall, at Tenant's written request, cooperate at no cost or expense to Landlord (including filing any necessary applications or obtaining any necessary confirmations) to enable Tenant to qualify for such exemption and payment reimbursement from taxing authorities for any such Rent Taxes improperly paid.

6. TAXES AND ASSESSMENTS

6.1. Real Property Taxes/Personal Property Taxes.

a. If applicable, Landlord shall use reasonable efforts to obtain a separate assessment for an assessor's tax parcel based upon the Land attributable to the Premises, including the Improvements to be constructed thereon, and to cause all bills for Taxes (defined below) payable by Tenant hereunder to be sent directly to Tenant, in which event, from and after the Rent Commencement Date, Tenant shall pay, or cause to be paid directly to the Appropriate Governmental Authorities, prior to delinquency (in installments if permitted by law, and only those installments attributable to the fiscal period during the Lease Term) all real property taxes and assessments, and improvement district assessments (collectively, "Taxes") (including any tax or excise which may hereafter be levied by any governmental authority in lieu of or as a substitute for ad valorem or real property taxes or assessments, either in whole or in part) which shall during the Lease Term, or any renewal thereof, be assessed against the Premises.

b. From and after the Rent Commencement Date, and throughout the Lease Term (as may be extended) Tenant shall pay (or cause to be paid) all Taxes of any nature levied, if any, against (a) any personal property, trade fixtures, or improvements belonging to Tenant and against (b) any of its concessionaires or other occupants in, on, or about the Premises if such taxes or assessments constitute a lien against the Premises.

c. In all events, Tenant shall provide Landlord with written evidence of payment of all Taxes due under this Section 6.1, which evidence of payment shall be provided to Landlord prior to the date any such Taxes are due. In the event the taxing authority will not agree to separately assess such tax parcel and the Improvements, then from after the Rent Commencement Date, Tenant shall pay to Landlord as Additional Rental a share of the taxes pursuant to Section 6.6 below.

6.2. Assessments. If applicable, Tenant may elect to pay any general or special assessments in full or to permit bonds to be issued with respect thereto so as to permit the same to be paid in installments with or without interest, or Tenant may, at its option, pay such assessments in any other manner permitted by law. Tenant shall, promptly after payment is made, furnish to Landlord evidence of such payment of such assessments or of bond payments with respect thereto.

6.3. Proration of Taxes and Assessments. Tenant's share of all Taxes and assessments during the first and last years of the Lease Term and any option periods, as the case may be, shall be determined by multiplying the total taxes for the Premises by a fraction whose denominator is the number of Calendar Days in the tax period and whose numerator is the number of Calendar Days in such period included in the applicable year or partial year of the Lease Term.

6.4. Contest by Tenant. Nothing herein contained shall be deemed to prevent the contest by Tenant in any manner permitted by law of the amount or validity of any taxes or assessments payable by Tenant hereunder. Landlord shall cooperate with Tenant in any

such contest; provided, however, that all taxes and assessments are paid when due and shall perform such acts and execute any legal documents incident thereto as may be requested by Tenant, but shall be held harmless by Tenant against any and all costs or expenses incident to such cooperation.

6.5. Refunds. Any refunds or rebates of amounts paid by Tenant pursuant to Sections 6 and 7 shall belong to Tenant, and Landlord shall aid Tenant in obtaining any such refund or rebate, provided that the cost of obtaining the same shall be paid by Tenant.

6.6 Tenant's Share of Taxes.

a. In the event the Premises are not separately assessed, Tenant's share of the total Taxes levied or assessed against or with respect to the Land shall be a fraction, the numerator of which is the square footage of the Land and the denominator of which is the square footage of the tax parcel which includes the Land (the "Tax Parcel"); provided, however, for purposes of determining Tenant's share of the Taxes, the Tax Parcel shall not include the square footage of any portion of the Tax Parcel that is exempt from Taxes.

b. In the event the Premises are not separately assessed, Tenant's share of the total Taxes levied or assessed against or with respect to the Improvements shall be determined as follows:

(i) If the Appropriate Governmental Authority allocates or provides a separate value for the Improvements, then Tenant's share of the Taxes for the Improvements shall be based on the value allocated by the Appropriate Governmental Authority to the Improvements; provided, however, if all other improvements within the Community College (excluding the Improvements) are exempt from Taxes, then Tenant shall pay the full cost of any Taxes relating to any improvements within the Community College; or

(ii) If the Appropriate Governmental Authority does not allocate a value to the Improvements from which the tax can be determined, then Tenant's share of any taxes levied or assessed with respect to the Improvements shall be a fraction, the numerator of which shall be the actual cost of the Improvements, and the denominator of which shall be the actual cost of all improvements within the Community College (including the Improvements) which are not exempt from Taxes.

If the Premises are not separately assessed, Tenant shall pay to Landlord, as Additional Rent, its share of any taxes by the later of: (a) fifteen (15) days after receipt of Landlord's request thereof and a copy of the applicable tax bill; and (b) fifteen (15) days prior to delinquency.

6.7 Exclusions. Tenant's obligation to pay taxes shall not include the following, however described: business or income taxes, business license fees levied or assessed against Landlord (except to the extent Tenant received a benefit from such business license(s)) or estate, succession, inheritance, transfer or similar taxes of or on Landlord. If, however, during the Lease Term, taxes are imposed, assessed or levied on the Rent payable hereunder in lieu of or in addition to all or part of any ad valorem real property taxes or personal property taxes that

Tenant would have been obligated to pay under the foregoing provisions, as distinguished from an income or franchise tax on Landlord's income or a license fee, Tenant shall pay such taxes as provided above for the payment of Taxes.

7. UTILITIES

7.1 Utilities. Tenant shall cause all water, sewage, natural gas, electricity, telecommunications, technology and other utility services supplied to and used for the Premises ("Utilities") to be separately metered and billed to Tenant. Tenant shall pay or cause to be paid all charges for Utilities related to its development, construction and operations. All such charges shall be paid before delinquency, and Landlord shall be held harmless by Tenant from any and all costs and expenses in connection therewith, including but not limited to, all required deposits. All costs of construction and providing such Utilities to the Premises shall be borne by Tenant.

7.2 Services. Tenant shall be solely responsible for procuring at its sole cost trash collection, recycling, landscaping, Hazardous Materials disposal, janitorial and any other services for the Premises.

8. LICENSES

8.1. The Parking License.

(a) Landlord hereby grants to Tenant a license (the "Parking License"), terminable as provided below, to park within the parking areas from time to time located on the Property, on a non-exclusive basis, and in common with others, together with pedestrian and vehicular access upon, over and across the driveways and parking areas from time to time located on the Property (the "Parking Area"). The Parking License is binding on Tenant and their respective legal representatives, successors and assigns, including any Successor Tenant. Tenant may assign the Parking License to its successors or assigns including any Successor Tenant without Landlord consent, provided that Landlord has approved such Successor Tenant in accordance with Section 13.2 or any other applicable provisions of this Lease. Tenant shall comply with Landlord's parking regulations and procedures at all times during the Lease Term.

(b) Landlord shall have the right, upon the prior written notice to Tenant, to reasonably relocate the Parking Area within the Property; provided, however, that the Parking Area shall not be relocated so as to unduly burden Tenant and the relocated Parking Area shall be reasonably similar, on the whole, (subject to the then-existing conditions at the Community College) in quality, utility, construction and proximity to the Premises as the original Parking Area. In the event that the Parking Area is relocated pursuant to this Section, then the rights and obligations of the parties under this Parking License shall exist only as so relocated from and after the date of such relocation. Landlord may not terminate the Parking License prior to termination of this Lease. Notwithstanding the foregoing, in the event any relocation of the Parking Area is on a temporary basis (for a period not greater than nine (9) months), then any such temporary relocation of the Parking Area shall be considered reasonable and acceptable

(regardless of any other requirements or conditions described above), provided that the number of parking spaces available to Tenant is substantially the same as previously made available to Tenant under the Parking License. Landlord must approve in writing any and all reserved, handicap and employee parking spaces. Tenant shall not charge for any parking within the Community College unless and until Landlord, in Landlord's sole discretion, elects to charge for parking within the Community College.

(c) Landlord and Tenant each waive all claims for recovery from the other party for any loss or damage to any of its property in the Parking Area to the extent insurable under a "causes of loss – special form" policy of insurance. In the event that this waiver would impair the insured's ability to collect under such policy or unreasonably increase the premiums for such policy, this mutual waiver shall be deemed not to apply unless the party to be benefited by such waiver timely pays such increase upon reasonable advance written notice thereof. Without limiting any release or waiver of liability contained elsewhere in this Agreement, Landlord and Tenant each covenant and agree to use any and all reasonable efforts to collect any amounts due or otherwise available to them under such insurance policies. The obligations in this paragraph shall survive termination of this Lease.

(d) Landlord and Tenant, respectively, each agrees, at its sole cost and expense, to indemnify, defend and hold the other party (the "Indemnitee") harmless for, from and against any claims, losses, liabilities, costs and expenses suffered or incurred by the Indemnitee and any actions or proceedings arising therefrom, by or on behalf of any person, to the extent arising from the indemnifying party's or its agents' or employees' negligent or wrongful acts in connection with the use or enjoyment of the license granted hereunder or any default by the indemnifying party under this Lease, except to the extent to which an Indemnitee has been reimbursed, or to the extent that payments have been made on Indemnitee's behalf, by an insurance carrier. The indemnifying party will not be obligated to indemnify the Indemnitee as to any loss, liability, cost or expense arising as a result of the negligent or wrongful act of the Indemnitee or the Indemnitee's agents or employees. In case any action or proceeding is brought against the Indemnitee by reason of any such claim, the indemnifying party, upon notice from Indemnitee, will defend such action or proceeding with attorneys reasonably satisfactory to the Indemnitee. If any loss, liability, cost or expense for which an indemnifying party has agreed to indemnify an Indemnitee under this Section 8.1 is fully covered by the Indemnifying party's insurance policies and the insurance carrier has accepted the defense of such claims, then the indemnifying party may satisfy its obligation under this section to the extent such loss, liability, cost or expense is covered by such insurance policy, by tendering the defense of such claim to the attorney selected by such insurance carrier. The obligations in this paragraph shall survive termination of this Lease.

(e) Landlord may, from time to time, and as often as may be reasonably necessary, and without limitation as to amount, designate any parking spaces and areas in the Parking Area as reserved for the use of employees or for use by handicapped individuals, and may cause such reserved areas to be identified and reserved and may enforce such parking reservations and restrictions in any manner permitted by

law; provided, however, that any such actions by Landlord shall not cause the amount of parking spaces within the Parking Area to decrease below the minimum parking spaces required by the City.

(f) Licenses created hereunder will not be presumed abandoned by non-use and the licenses and rights created hereunder will not terminate due to the occurrence of any damage or destruction of portions of the Property subject to a license or other right except as provided expressly herein.

8.2. License For Construction of Improvements. Effective as of the Construction Start Date, Landlord grants to Tenant, its agents, employees, contractors and invitees a temporary, non-exclusive license (the "Construction License") over those portions of the Property specifically designated and approved by Landlord that are not improved by buildings or other structures (the "Construction License Parcel") for the purpose of facilitating the construction of the Improvements on the Land, including, but not limited to, the storage of construction materials and construction equipment, access to and from the Construction License Parcel, and a temporary construction office. Tenant shall use commercially reasonable efforts to schedule its construction activities such that the construction shall not adversely affect the day-to-day operations of the Community College. Upon the completion of the construction of the Improvements, Tenant agrees to return the Construction License Parcel to Landlord in substantially the same condition as existed prior to commencement of construction. Notwithstanding anything to the contrary contained herein, Landlord and Landlord's agents, employees, contractors, licensees and grantees may use the Construction License Parcel for any use not inconsistent with Tenant's rights hereunder. The foregoing Construction License shall automatically expire upon the termination of this Lease or the issuance of a certificate of occupancy for the Improvements, whichever is earlier.

E-MAIL REFERENCE POINT 3.

8.3. Construction Indemnity. Tenant agrees to indemnify, defend and hold harmless Landlord for, from and against all loss, costs, damage, expenses, claims or liability, including without limitation, claims from mechanic's liens, arising from the actions or omissions of Tenant, its agents, servants, contractors and employees on or about the Construction License Parcel in connection with the construction of the Improvements; provided, however, that the foregoing shall not extend to any such loss, costs, damage, expense, claim or liability to the extent caused by Landlord, its agents, employees or contractors.

9. CONSTRUCTION OF IMPROVEMENTS

9.1. Commencement of Construction. Upon satisfaction of the requirements set forth in this Section 9, Tenant shall have the right to commence construction of the Improvements on the Land at any time deemed appropriate by Tenant.

9.2. Completion. From and after commencement of any construction on the Land, Tenant shall proceed diligently to "Completion" of the Improvements on or before the Construction Completion Date. "Completion" of the Improvements shall be deemed to have

occurred upon the issuance of a Certificate of Occupancy for the Improvements. All work shall be performed in a good and workmanlike manner, in substantial conformity with the Building Plans approved by Landlord, and shall comply with all applicable laws and requirements of Governmental Authorities. In the event Tenant fails to cause Completion of the Improvements on or before the Construction Completion Date plus ninety (90) days, Landlord shall have, in addition to all other remedies granted hereunder or at law or in equity, the right, but not the obligation to cause Completion of the Improvements. Landlord shall exercise such right by providing written notice to Tenant of its election to cause the Completion of the Improvements to occur. If Landlord makes such election, Tenant shall pay to Landlord all costs and expenses incurred by Landlord in effecting such remedy. Such payment shall be made by Tenant within thirty (30) days after receipt of information reasonably setting forth such costs, including without limitation invoices, sworn statements and lien waivers. In the event Landlord elects to cause Completion of the Improvements under the provisions of this Section 9.2, Tenant agrees to indemnify, defend and hold Landlord harmless for, from and against any and all Liens that may arise from the activities of Tenant on the Premises prior to such election by Landlord. The indemnity provisions set forth in this Section 9.2 shall survive any termination or other cancellation of this Lease.

9.3. Submission of Plans to Landlord. Before any construction is commenced on the Land and before any building materials have been delivered to the Land or the Construction License Parcel (as defined in Section 8.2) by Tenant or under Tenant's authority, Tenant shall comply with each of the following conditions or procure Landlord's written waiver of the condition or conditions:

(a) Tenant shall deliver to Landlord for Landlord's approval (such approval to not be unreasonably withheld) copies of all plans to be submitted to the City for the City's approval (collectively, the "Plans") for the construction of the Improvements prepared by an architect or engineer licensed to practice as such in the State of Arizona, including but not limited to preliminary grading and drainage plans, soil tests, utilities, sewer and service connections, locations of ingress and egress to and from public thoroughfares, curbs, gutters, lighting, designs and locations for outdoor signs, storage areas, and landscaping, all sufficient to enable potential contractors and subcontractors to make reasonably accurate bid estimates and to enable Landlord to make an informed judgment about the design and quality of construction and about any effect on Landlord's reversionary interest. All Improvements shall be constructed within the exterior property lines of the Land and comply with the setback requirements established by all applicable building and zoning codes. To the extent possible, all utilities on the Land shall be installed underground. All Improvements shall be esthetically consistent with the Community College facilities. Additionally, the classrooms and science laboratories of the Charter School Facility shall be required to meet Landlord's design requirements for higher education facilities and the emergency notification system shall be compatible and comparable to Landlord's emergency notification system. Notwithstanding anything to the contrary contained herein, and for the sake of clarity, Landlord's approval of the Plans, Final Plans or any Change Orders shall not be deemed a representation or warranty by Landlord that the Improvements will be suitable for

Tenant's Permitted Uses or that the Plans, Final Plans or Change Orders comply with applicable laws and requirements of Governmental Authorities.

Landlord shall not unreasonably withhold its approval of the Plans unless they fail to reflect the requirements of this Section. Approval or disapproval shall be communicated in the manner provided for notices, and disapproval shall be accompanied by written specifications of the grounds for disapproval; provided, however, if Landlord fails to disapprove the Plans in writing within fifteen (15) Business Days after delivery of the same to Landlord, the Plans shall be deemed approved by Landlord. Following Landlord's first or any subsequent disapproval, Tenant may submit to Landlord revised Plans, and if Landlord fails to disapprove such revised Plans within ten (10) Business Days after delivery of the same to Landlord, the revised Plans shall be deemed approved by Landlord. Tenant shall cause to be prepared final working plans and specifications substantially conforming to the Plans previously approved by Landlord, (the "Final Plans"). Tenant shall obtain Landlord's written approval (such approval to not be unreasonably withheld) of all the Final Plans prior to submitting them to the appropriate Governmental Authorities for final approval and issuance of a building permit; provided, however, if Landlord fails to disapprove the Final Plans in writing within fifteen (15) Business Days after delivery of the same to Landlord, the Final Plans shall be deemed approved by Landlord. Tenant shall deliver to Landlord one complete set of the Final Plans as approved by the Governmental Authorities. To the extent the Governmental Authorities condition their approval of the Building Plans upon Landlord, or any affiliate of Landlord, making changes or modifications to the Community College or to making any other improvements or changes to any other real property owned by Landlord, or any affiliate thereof (the "Landlord Modifications"), Tenant acknowledges that neither Landlord or its affiliates shall have any obligation to make or consent to such Landlord Modifications. To the extent any request for Landlord Modifications are submitted to Tenant by the Governmental Authorities, Tenant shall provide to Landlord a copy of such requested or required Landlord Modifications (the "Notice"). Landlord shall have fifteen (15) Business Days from receipt of the Notice within which to approve or disapprove the Landlord Modifications in its sole discretion. If Landlord fails to approve the Landlord Modifications in writing within the fifteen (15) Business Day period, they shall be deemed disapproved. Thereafter, Landlord and Tenant shall use their mutual best efforts to resolve all Landlord objections to the Landlord Modifications.

(b) Whenever Tenant submits to its contractor a "Change Order," as that term is commonly used in the Arizona construction industry, following the issuance of a building permit, Tenant also shall submit to Landlord a copy of the Change Order. Landlord shall have the right to approve or disapprove Change Orders that are not Minor Change Orders. Landlord shall have no right to disapprove any Minor Change Order. If Landlord fails to approve or disapprove a Change Order for which Landlord's approval is required within five (5) Business Days after delivery of the same to Landlord, such Change Order shall be conclusively deemed to be approved by Landlord. "Minor Change Order" shall mean a Change Order that (i) would not change the basic structure or character of the Improvements; and (ii) would not materially increase or decrease in any manner the size of the Improvements, or any component thereof, and (iii) would not

materially change the appearance of the exterior of the Improvements; and (iv) would not materially change or reduce the quality of the basic building systems, including the mechanical, electrical, sprinkler, plumbing, life-safety, heating, air conditioning and ventilation systems within the Improvements; and (v) does not result in costs of construction exceeding the construction completion and performance bonding limits therefore.

(c) Tenant shall notify Landlord of Tenant's intention to commence construction at least five (5) Calendar Days before commencement of any such work or delivery of any materials.

Landlord shall have the right to post and maintain on the Premises any notices of non-responsibility provided for under applicable law, and to inspect, or cause its employees or agents to inspect, the Premises in relation to the construction of the Improvements at all reasonable times.

(d) Tenant shall furnish Landlord with a true copy of Tenant's contract with a general contractor and evidence of the general contractor's financial condition, and copies of contracts and agreements with all architects, engineers, design professionals and other consultants retained by Tenant for the design and construction of the Improvements (the "Construction Contracts"). Tenant shall also provide Landlord labor and materials payment and performance bonds covering Tenant's general contractor, in the form of AIA A312-2010 and in an amount equal to the contract sum under the contract with Tenant's general contractor, which bonds shall list Landlord and Tenant as co-obligees. Each Construction Contract shall (i) give Landlord the right, but not the obligation, to cure all Tenant's default(s) and to assume Tenant's obligations and rights thereunder if Tenant should default, and (ii) provide that all Change Orders (other than Minor Change Orders) shall be subject to Landlord's prior written approval, in the manner provided in this Lease. Notwithstanding the foregoing, any cure rights of Landlord shall be subordinate or subject to any existing cure rights that Tenant's lender may have.

(e) Tenant shall provide Landlord with reasonably satisfactory evidence of the anticipated total Cost of Construction for the Improvements.

(f) Tenant shall deliver to Landlord evidence of its financial capability to complete the Improvements within the approved budget (i.e., in the form of a loan, equity, or a combination of both).

E-MAIL REFERENCE POINT 5.

(g) Tenant shall provide Landlord evidence that all of Tenant's contractors and subcontractors have insurance in amounts reasonably acceptable to Landlord. Further, Tenant shall provide Landlord evidence of Tenant's insurance required under Section 14.

9.4. Condition of Premises. Except as expressly set forth herein to the contrary, Tenant leases the Premises in its “as-is, where-is” condition and Landlord makes no covenants or warranties respecting the condition of the soil or subsoil or any other condition of the Premises and the Land. Landlord represents and warrants that, it has not received any written notice of the existence of any Hazardous Materials on or about the Premises or the Project in violation of the Environmental Laws, except as may otherwise have been disclosed to Tenant. Landlord hereby indemnifies and agrees to defend and hold harmless Tenant and Tenant’s officers, employees, agents and contractors for, from and against any and all claims, judgments, damages, penalties, suits, costs, expenses, liabilities, losses, settlements, attorney’s fees, and expert fees which may be directly incurred by Tenant as a result of the breach by Landlord of the foregoing representation or as a result of the violation of any Environmental Law by Landlord or Landlord’s officers, employees, agents or contractors.

9.5. Work/Lien Free Completion. All work shall be performed in a good and workmanlike manner, shall substantially comply with plans and specifications submitted to Landlord as required by this Lease, and shall comply with all applicable permits, laws, ordinances and regulations of the Governmental Authorities.

E-MAIL REFERENCE POINT 3.

Tenant shall pay or cause to be paid when due the total cost and expense of all work and construction on the Land related to the Improvements and other work performed by or at the direction or request of Tenant. No such payment shall be construed as Rent. Tenant shall not suffer or permit to be enforced against the Premises, the Land or any part thereof any Lien arising from any work or improvement, however it may arise. Tenant may in good faith and at Tenant’s own expense contest the validity of any such asserted Lien, claim or demand; provided, however, that it posts a bond for each asserted Lien in accordance with Arizona Revised Statutes Section 33-1004, or otherwise provides Landlord with indemnification and title endorsements, covering all issues and the cost of defense, with respect to such Lien, in a manner acceptable to Landlord, in its sole and absolute discretion. **Tenant shall indemnify, defend and hold harmless Landlord for, from and against all liability and loss of any type arising out of work performed on the Premises or Land, by, or under the authorization of, Tenant. Any indemnity provisions set forth in this Section 9 shall survive the termination or other cancellation of this Lease.**

If a final judgment has been rendered against Tenant by a court of competent jurisdiction for the foreclosure of a Lien claim, and if Tenant fails to stay the execution of the judgment by lawful means or to pay the judgment, Landlord shall have the right, but not the duty, to pay or otherwise discharge, stay, or prevent the execution of any such judgment or Lien or both. Tenant shall reimburse Landlord for any sums paid by Landlord under this paragraph, together with all Landlord’s reasonable attorneys’ fees and costs, plus interest on those sums, fees, and costs at the Default Rate from the date of payment until the date of reimbursement.

9.6. Reserved.

9.7 Americans With Disabilities Act. Tenant shall complete the construction of the Improvements in compliance with (a) all applicable building codes; (b) the

Americans With Disabilities Act of 1990, 42 U.S.C. 12101-12213, as amended (“ADA”) and (c) other applicable laws, including without limitation those laws relating to asbestos, soil, water drainage and ground water condition, as such matters in (a) – (c) are enforced, interpreted and applied to the Improvements as of the date of this Lease. In addition to the foregoing, Tenant will construct the Improvements in compliance with the ADA, as enforced, interpreted and applied to the Improvements and the Premises as of the date of issuance of a building permit therefore.

10. MAINTENANCE, REPAIRS, ALTERATIONS AND RECONSTRUCTION

10.1. Maintenance. Throughout the Lease Term, Tenant shall, at Tenant’s sole cost and expense, care for, maintain and repair the Premises, all Improvements, fixtures, and equipment and other improvements located thereof and all curbs, paving, sidewalks and landscaping located on the Premises, in good and safe order and condition and repair and in accordance with all applicable laws, rules, ordinances, orders and regulations of (i) Governmental Authorities having or claiming jurisdiction and all their respective departments, bureaus, and officials; (ii) the insurance underwriting board or insurance inspection bureau having or claiming jurisdiction over the Premises; and (iii) all insurance companies insuring all or any part of the Premises or the Improvements or both.

Tenant shall make all necessary repairs, interior and exterior, structural and nonstructural, ordinary and extraordinary, unforeseen and foreseen, to the Premises, the Improvements, fixtures and all equipment and other improvements thereon and all curbs, paving, sidewalks and landscaping located on the Premises. As used herein, the term “repairs” includes all necessary replacements, renewals, Alterations, additions and betterments, including painting and redecorating of the Premises to keep a good appearance comparable to the other buildings or structures on the Community College. All repairs shall be performed promptly in good and workmanlike manner in compliance with all applicable permits, authorizations, building and zoning laws and all other laws, ordinances, orders, rules, regulations and requirements of any applicable Governmental Authorities, any national or local board of fire underwriters, and all insurance companies insuring all or any part of the Premises of the Improvements, or both. The necessity for an adequacy of such repairs shall be measured by the standard which is appropriate for buildings of similar construction and class. Tenant shall keep and maintain all portions of the Premises and the sidewalks, curbs and other passageways located on the Premises in a clean and orderly condition, free of dirt, rubbish, and other obstructions. Tenant shall not permit or allow any waste, trash or debris to be stored upon the Premises except in customary receptacles in the ordinary course of business. Tenant assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Premises. Landlord shall not be required to maintain or make any repairs or Alterations in or to the Premises or any Improvements or any equipment or other improvements located on the Premises unless the need for such repair is caused by the gross negligence or intentional misconduct of Landlord, its agents, employees or contractors.

Nothing in this Section 10.1 defining the duty of maintenance shall be construed as limiting any right given elsewhere in this Lease to alter, modify, demolish, remove, or replace any Improvement, or as limiting provisions relating to condemnation or to damage or

destruction. No deprivation, impairment, or limitation of use resulting from any event or work contemplated by this Section 10.1 shall entitle Tenant to any offset, abatement, or reduction in Rent nor to any termination or extension of the Lease Term.

10.2. Alterations and Repairs. In the case of Alterations that are other than “Minor Alterations” as defined below, Tenant shall comply with the applicable provisions of Sections 9.3 and 9.5 and obtain Landlord’s consent to those matters described therein. All Alterations shall be prosecuted diligently to completion once commenced.

Landlord’s approval is not required for Tenant’s “Minor Alterations.” With respect to Alterations that are not Minor Alterations, Landlord shall grant its approval (or deemed approval) or disapproval in the same manner for the Plans pursuant to the second paragraph of Section 9.3(a). The term “Minor Alterations” means any one of the following types of Alterations, the cost of which does not exceed five percent (5%) of the then current fair market value of all the Improvements: (i) maintenance and repair (whether expensed or capitalized pursuant to generally accepted accounting principles), (ii) non-structural replacements of like kind, (iii) alterations, additions or other work required to (a) comply with any applicable laws, rules, regulations, codes or ordinances, (b) to comply with the terms of this Lease and (c) to restore and repair the Improvements in the event of casualty or condemnation, and (iv) internal and other similar improvements not visible from the exterior of the Premises; provided, however, such Alterations may not change the exterior appearance of the Premises or conflict with the design and appearance of any buildings or structures on the Community College.

10.3 Capital Improvements to Premises. Tenant hereby agrees to make all capital improvements that are necessary to maintain the Premises in a first-class and good condition.

11. DAMAGES OR DESTRUCTION

11.1. Insured Casualty. If any Improvements constituting a part of the Premises are damaged or destroyed by a casualty, then except as provided in Section 11.2, Tenant shall, at its sole cost and expense, regardless of whether the insurance proceeds are sufficient for the purpose, pursuant to plans approved by Landlord, in its reasonable discretion, (no approval to be required if Tenant restores the Improvements to substantially the same condition as existed prior to such casualty), restore, repair, replace, rebuild and alter the Improvements (collectively “Restoration” or “Restore the Premises”) to as good a condition as existed prior to such casualty. Such Restoration shall be commenced as soon as reasonably practicable after the casualty and prosecuted with reasonable diligence, and Landlord shall, to the extent reasonably necessary and provided that Landlord shall continue to have full and unrestricted access to all other portions of the Community College, grant to Tenant a construction and access license reasonably comparable to the Construction License on such land as may be reasonably available. Subject to the provisions of Section 11.2, all insurance proceeds shall be applied to the cost of Restoration and, if the proceeds are insufficient, Tenant shall pay the excess costs. Except as provided in Section 11.2, no destruction of or damage of the Premises shall terminate this Lease, or permit Tenant to surrender this Lease, or relieve Tenant from its liability hereunder (including, without

limitation Tenant's obligations to pay Base Rent in full and any Additional Rent), and Tenant waives any right now or hereafter conferred upon it, by statute or otherwise, to quit or surrender this Lease or the Premises or any part thereof or to any suspension, diminution, abatement or reduction of Rent on account of any such destruction or damage. If Landlord is able to exercise approval rights because the restoration is not substantially similar, then Landlord shall approve or disapprove the plans in accordance with time periods set forth in Section 9.3. Unless this Lease is terminated pursuant to the terms of this Section 11, Tenant shall continue to pay full Base Rent and any other Additional Rent as set forth in this Lease and Tenant shall not receive any abatement, discount or credit for the same in connection with such casualty.

11.2. Other Casualty. If any Improvements constituting at least fifty percent (50%) of the Premises are damaged or destroyed from any cause: (a) not required to be insured against under Section 14 (and for which cause Tenant has not elected on its own to maintain additional insurance); or (b) which occurs and involves an insured casualty during the last year of the Lease Term; or (c) which occurs and which Tenant is prevented within a reasonable time from conducting Restoration of the Improvements to substantially the same condition in which the same existed prior to such casualty because Tenant is unable to obtain the necessary governmental approvals needed to conduct such Restoration within a reasonable period of time following such casualty, notwithstanding Tenant's diligent efforts; then in any such event Tenant shall have the option not to proceed with the Restoration in its reasonable judgment, which option shall be exercised by notice to Landlord within thirty (30) days after the date of such damage or destruction in the case of a termination pursuant to clauses (a) or (b) above, or within thirty (30) days of Landlord's and Tenant's mutual good faith determination that Tenant will be unable to obtain the necessary governmental approvals in the case of a termination pursuant to clause (c) above. If Tenant so elects not to proceed with Restoration, this Lease shall be terminated as of the date Tenant notifies Landlord of such termination, provided that Tenant shall at its cost have previously complied with any and all requirements of Landlord and Governmental Authorities with respect to the removal, destruction or temporary repair of any damaged or destroyed Improvements, including, without limitation razing the Improvements and clearing the Premises of all debris (if so requested).

11.3. Termination. Notwithstanding any other provision of this Lease, if Tenant exercises the option in Section 11.2 not to proceed with a Restoration and terminates this Lease, Tenant shall (a) upon the effective termination of this Lease, deliver possession of the Premises to Landlord, together with a quitclaim deed, bill of sale or other documentation reasonably requested by Landlord so as to transfer to Landlord all right, title and interest of Tenant in and to the Premises, (b) deliver to Landlord all insurance proceeds received for such casualty (except to the extent such proceeds are attributable to Tenant's personal property), (c) deliver to Landlord at Tenant's expense, a condition of title report for the Premises, and (d) if requested by Landlord, resolve any title matters disclosed by such condition of title report to the extent not constituting Title Exceptions as of the Effective Date of this Lease (except to the extent caused by Landlord).

11.4. Lender Restoration Conditions. Notwithstanding any other terms in this Section 11 of the Lease, Landlord shall reasonably agree to the restoration conditions requested by any Leasehold Mortgagee without additional consideration from Tenant to Landlord (the restoration

conditions mutually agreed to between Landlord and Leasehold Mortgagee shall be referred to herein as the “Lender Restoration Conditions”). In the event any of the Lender Restoration Conditions are not satisfied and, consequently, any Leasehold Mortgagee elects to use or apply the insurance proceeds related to the damage, destruction or casualty for any purpose other than the Restoration of the Premises, then Tenant shall be excused from its obligations of Restoration under this Lease, subject to the terms, conditions and provision of Section 11.5 below. Notwithstanding anything to the contrary herein, unless Tenant terminates this Lease pursuant to Sections 11.2 and 11.3 herein, all obligations of Tenant to pay Rent, Additional Rent and any other amounts under this Lease shall continue in full force and effect. Such monetary payment obligations shall continue regardless of whether Tenant is required to perform the Restoration hereunder.

11.5. Razing the Premises in the Event of Lender’s Election Not to Restore. In the event Tenant is excused from its Restoration obligations pursuant to Section 11.4 above, then Tenant, within one hundred twenty days (120) after receipt of notice from Leasehold Mortgagee that it will not provide the insurance proceeds for Restoration shall provide written notice to Landlord (“Tenant’s Restoration Notice”) disclosing whether Tenant shall Restore the Premises. In the event Tenant does not timely provide Tenant’s Restoration Notice to Landlord, then Tenant shall be deemed to have elected to Restore the Premises. In the event Tenant timely elects not to perform the Restoration, then Tenant, pursuant to the written instruction of Landlord, shall either, (i) within twelve (12) months of the original damage, destruction or casualty, raze the Premises and the Improvements and clear the Premises of all debris (including the removal of all foundations) and hazardous conditions, and cause the Premises to be graded to the level thereof as of the date Landlord delivered possession of the Premises to Tenant, or (ii) maintain the Premises and the Improvements in their as-is condition. As described in Section 11.4 above, Tenant’s obligations to pay all Rent, Additional Rent and any other amounts under this Lease shall continue regardless of whether Tenant is required to raze the Premises and the Improvements.

12. OWNERSHIP OF IMPROVEMENTS

12.1. Ownership. All Improvements constructed on the Premises by Tenant as permitted by this Lease shall at all times be owned by Tenant until expiration of the Lease Term or sooner termination of this Lease, as provided for herein. Tenant shall not, however, remove any Improvements from the Premises nor commit or suffer any waste, damage, or modification of any Improvements on the Premises, except as permitted by this Lease. The parties covenant for themselves and all persons claiming under them that the Improvements are real property. Except as otherwise provided for below, all Improvements, fixtures, equipment and other personal property at any time constructed or located in, on or at the Premises or otherwise affixed to the Premises shall at all times during the Lease Term to and until the expiration or earlier termination thereof be exclusively owned by, and shall belong to, Tenant. All the benefits and burdens of ownership of the foregoing, including title, depreciation, tax credits, and all other items, shall be and remain in Tenant during the Lease Term to and until the expiration or earlier termination thereof. Notwithstanding the foregoing, any equipment or other personal property of Landlord located in, on or at the Premises or otherwise affixed to the Premises shall at all times be exclusively owned by, and shall belong to, Landlord.

12.2. Surrender of Ownership. Upon the expiration or sooner termination of this Lease, without cost to Landlord: (a) ownership and possession of the Premises shall be surrendered and delivered to Landlord in good condition and repair, reasonable wear and tear, casualty and condemnation excepted, (b) all Improvements constructed on the Premises shall become Landlord's property free and clear of all Liens and claims thereto created, caused or suffered by Tenant other than the Title Exceptions, and (c) Tenant shall indemnify, defend and hold harmless Landlord for, from and against all liability and loss arising from any such Liens and/or claims, and (d) Tenant promptly shall execute a quitclaim deed, bill of sale, or other instrument reasonably requested by Landlord to confirm ownership in and possession of the Improvements and equipment by Landlord.

13. ENCUMBRANCE; SUBORDINATION; ASSIGNMENT; SUBLETTING

13.1. Encumbrance of Fee Title. Landlord's prior consent shall be required to subordinate (e.g., subject) Landlord's fee title in the Land, the Premises or its reversionary interest in the Improvements (collectively, "Landlord's Interest") to a lien of an encumbrance, Leasehold Mortgage, deed or trust or other security instrument securing an obligation of Tenant.

13.2. Assignment, Subletting and Transfer.

a. Landlord's Consent Required. Except as may be provided in Section 13.4 herein, Tenant shall not (i) assign, (ii) sell, (iii) convey, (iv) sublease all or any portion of the Premises to any Person or affiliated group of Persons, or (v) otherwise transfer all or any parts of this Lease or the leasehold estate hereunder without Landlord's prior consent, which consent may be withheld in Landlord's absolute discretion. Any attempted assignment, sale, conveyance, sublease, or transfer, except pursuant to the terms of Section 13.4 below, shall be void ab initio, and shall constitute a breach of this Lease.

13.3. Reserved.

13.4. Permitted Leasehold Financing; Leasehold Mortgagee Protection Provisions.

a. Tenant's Encumbrance of Leasehold Interest to Secure Permitted Leasehold Financing. Tenant may, from time to time, place a Leasehold Mortgage securing Permitted Leasehold Financing on the Tenant's Interest as security for payment of any indebtedness and/or the performance of any obligation under such Permitted Leasehold Financing.

b. Permitted Leasehold Financing Requirements. Any Permitted Leasehold Financing and the Leasehold Mortgage securing such financing shall either be:

(1) consented to in writing by Landlord pursuant to a Landlord's Consent Agreement; or

(2) shall be deemed consented to by Landlord if the Leasehold Mortgage securing such financing specifically provides that in the event of a default by Tenant thereunder, Landlord shall have the right at its option (but shall not be required) to cure such

default, and no action shall be taken by the Leasehold Mortgagee to foreclose upon such Leasehold Mortgage until at least thirty (30) Calendar Days after the later of (i) Landlord's receipt of written notice from Leasehold Mortgagee of any default by Tenant, and (ii) the end of any applicable cure period of Tenant.

c. Leasehold Mortgage Transfers. Subject to any rights of Landlord to cure defaults under the Permitted Leasehold Financing, Leasehold Mortgagee may enforce all of its rights and remedies under its Leasehold Mortgage and acquire title to the leasehold estate and/or sell the leasehold estate pursuant to a foreclosure of such lien by power of sale, judicial foreclosure, or upon acquisition of the leasehold estate by deed in lieu of foreclosure or in any other lawful way. Pending any foreclosure of such lien or any deed in lieu of foreclosure, such Leasehold Mortgagee may take possession of and operate the Premises, perform all obligations performable by Tenant, and upon Leasehold Mortgagee becoming the transferee of the leasehold estate pursuant to any such foreclosure or deed in lieu of foreclosure, the Leasehold Mortgagee may, without further consent of Landlord, sell and assign the leasehold estate hereby created. Any Person acquiring such leasehold estate so sold and assigned by the Leasehold Mortgagee shall be liable to perform the obligations imposed on Tenant by this Lease only during the period such person has ownership of said leasehold estate or possession of the Premises subject thereto. The rights and privileges hereunder of any Leasehold Mortgagee shall be subject to the rights and privileges of any other Leasehold Mortgagee whose lien has priority over the lien of such Leasehold Mortgagee. Except as otherwise agreed in writing by Landlord, under no circumstances shall any lien created, caused, or suffered by Tenant or its Leasehold Mortgagee(s) attach to or affect Landlord's fee title, or expand the rights of a Leasehold Mortgagee or the Tenant or any successor to Tenant beyond those rights provided for in such Leasehold Mortgagee or to Tenant under this Lease.

d. Leasehold Mortgagee Notice and Cure Rights. Landlord shall send a copy of any notice of default or similar statement with respect to the Lease to each Leasehold Mortgagee at the same time such notice or statement is sent to Tenant, so long as such Leasehold Mortgagee has provided to Landlord its notice address in writing. From and after such notice has been given to a Leasehold Mortgagee, such Leasehold Mortgagee shall have the same period after the receipt of such notice for remedying or curing any default or acts or omissions which are the subject matter of such notice to cause the same to be remedied or cured as is given Tenant; provided, however, that if any default or acts or omissions which are the subject matter of such notice would give Landlord the right to terminate the Lease, Landlord shall not exercise any such right or make any such claim until Leasehold Mortgagee shall have had either thirty (30) days after its receipt of the notice to cure the default if the default is monetary, or a reasonable time for such Leasehold Mortgagee to cure the default if the default is non-monetary, including a reasonable time to gain possession of the Premises to effectuate such cure, if necessary. If a Leasehold Mortgagee is prohibited, by any process or injunction issued by any court or by any bankruptcy or insolvency proceeding involving Tenant or Landlord, from obtaining possession of the Premises in order to cure a non-monetary default by Tenant under the Lease which requires possession to cure, Landlord agrees that it will not terminate the Lease during such prohibition so long as such Leasehold Mortgagee timely cures any monetary defaults of Tenant under the Lease, and diligently and continuously pursues all steps necessary to secure the removal or lifting of such prohibition at the earliest feasible date. If any default or

acts or omissions which are the subject matter of such notice given by Landlord to a Leasehold Mortgagee are not susceptible to cure, Landlord agrees that it will not terminate the Lease solely because of any such “non-curable” default(s) so long as such Leasehold Mortgagee timely cures any monetary defaults of Tenant under the Lease and all other curable non-monetary defaults of Tenant under the Lease in accordance with the terms of this subsection.

e. Tenant’s Agreement Regarding Cure by Leasehold Mortgagee. Tenant hereby agrees that Landlord may accept any cure from any Leasehold Mortgagee pursuant to the terms of this section, and understands and acknowledges that Landlord’s acceptance of any such cure does not waive any rights of Landlord against Tenant for any remaining uncured defaults or future defaults under this Lease.

f. Landlord’s Notice and Remedies In the Event of Tenant’s Default Under Leasehold Mortgage. In the event Tenant encumbers the Premises with a Leasehold Mortgage, and the Leasehold Mortgagee gives Tenant a notice of any default that has occurred under any of the Leasehold Financing Documents (a “Loan Default”), including but not limited to any notice of the acceleration of the remaining principal balance of any Permitted Leasehold Financing (an “Acceleration”), Tenant shall promptly give a copy of such notice of such default to Landlord and Landlord shall have the right, but not the obligation, to cure such default on behalf of Tenant within the same cure period as is given to Tenant. Further, if any Loan Default occurs under any of the Leasehold Financing Documents that does not require notice from Leasehold Mortgagee to Tenant, Tenant shall promptly give Landlord notice of such Loan Default. Tenant agrees that Landlord shall thereafter be entitled (but not obligated), subject to the terms of the Leasehold Financing Documents and upon prior written notice to Tenant and Leasehold Mortgagee, to pay to Leasehold Mortgagee on Tenant’s behalf any regularly scheduled payments of principal and interest owed by Tenant under the Leasehold Financing Documents, as and when due, and tender any performance Landlord is able to tender on behalf of Tenant. Tenant agrees that any payments and the cost of any such performance made by Landlord pursuant to the immediately preceding sentence, shall be payable as Additional Rent by Tenant hereunder.

g. Landlord’s Notice and Remedies In the Acceleration. Upon the occurrence of any Acceleration pursuant to the terms of any Leasehold Financing Documents, but prior to the completion of any Leasehold Mortgage Transfer, Tenant agrees that if and only if agreed in writing by such Leasehold Mortgagee, Landlord shall have the right, but not the obligation, by written notice to Tenant and such Leasehold Mortgagee, delivered at any time within thirty (30) days following Landlord’s receipt of notice of the Acceleration, to acquire from such Leasehold Mortgagee the promissory note or other evidence of indebtedness pertaining to the Permitted Leasehold Financing and all other Leasehold Financing Documents (the “Loan Purchase”), pursuant to documents mutually acceptable to Landlord and such Leasehold Mortgagee (the “Loan Purchase Documents”) fully executed by Landlord and such Leasehold Mortgagee, and upon (i) the payment to Leasehold Mortgagee of an amount equal to the remaining principal balance of the Loan, all interest then due, prepayment premiums, yield maintenance premiums, defeasance premiums or costs, any attorneys’ fees or collection costs then incurred, and all attorneys’ fees and costs of Leasehold Mortgagee incurred with respect to the Loan Purchase Documents (the “Purchase Price”), and (ii) the payment in full to the Swap

Provider (as defined in any Leasehold Financing Documents) of any fees or costs and other amounts due, or which would become due because of or in connection with the Loan Purchase, under any Swap Contract (as defined in any Leasehold Financing Documents) (collectively, "Swap Related Payments") prior to or concurrent with the payment of the Purchase Price to Leasehold Mortgagee. Any such Loan Purchase shall be without representations or warranties of any kind other than unencumbered title and proper authority. Tenant further agrees that upon the occurrence of any Acceleration pursuant to the terms of any Leasehold Financing Documents, but prior to the completion of any Leasehold Mortgage Transfer, Landlord shall have the right, but not the obligation, (i) to pay such Leasehold Mortgagee all amounts outstanding under the applicable Leasehold Financing Documents, including the remaining principal balance of the applicable Permitted Leasehold Financing, and all interest then due, any prepayment premiums, yield maintenance premiums, defeasance premium or costs, and any attorneys' fees or collection costs then incurred, and (ii) pay the Swap Provider all Swap Related Payments. If Landlord either completes a Loan Purchase of all Permitted Leasehold Financing or pays in full all Permitted Leasehold Financing and all Swap Related Payments upon the terms described above, then Landlord's may elect to reacquire from Tenant for one dollar (\$1.00) Tenant's Interest. Said election shall be by written notice to Tenant delivered within thirty (30) days after Landlord completes a Loan Purchase of all Permitted Leasehold Financing or pays in full all Permitted Leasehold Financing, and pays all Swap Related Payments, upon the terms described above, or such election to reacquire Tenant's Interest shall be deemed waived. Upon Landlord's election of the option to reacquire Tenant's Interest, Tenant will thereupon immediately convey to Landlord all of Tenant's Interest in the Land and its fee interest in the Improvements without exceptions other than the Title Exceptions which encumber the Premises as of the Effective Date. The exercise of, or failure to exercise, the rights and options of Landlord set forth above shall not preclude Landlord from exercising the same or different rights and options in the event of a subsequent Acceleration. Any forbearance, indulgence, or other delay by Landlord in the exercise of any option shall not constitute a waiver of the right to exercise any option upon a subsequent Acceleration, whether similar or dissimilar to any prior Acceleration.

13.5. Cure of Defaults under Permitted Leasehold Financing by the Maricopa County Regional School District. Notwithstanding anything to the contrary contained herein, so long as Maricopa County Regional School District, a political subdivision of the State of Arizona (the "School District"), is the guarantor of any Leasehold Mortgage permitted hereunder, upon a default by Tenant under any such Leasehold Mortgage and a cure of the same by the School District, Tenant's Interest shall be automatically transferred to the School District, and the School District, as Successor Tenant, shall be subject to all rights and obligations of Tenant under this Lease.

13.6. Reserved.

14. INSURANCE

14.1. Property Insurance. Commencing on the Effective Date and continuing throughout the Lease Term, at Tenant's sole cost and expense, Tenant shall keep or cause to be kept all Improvements insured against loss or damage by fire and such other risks as are now or hereafter included in the so-called "causes of loss – special form" endorsement in common use

for commercial structures, including vandalism and malicious mischief. The amount of the insurance shall be sufficient to prevent either Landlord or Tenant from becoming a coinsurer under the provisions of the policies, but in no event shall the amount be less than ninety percent (90%) of the full replacement cost, excluding costs of replacing excavations and foundations, without deduction for depreciation. Full replacement cost shall be determined at reasonable intervals (but not more often than every two years, nor less often than once each five (5) years of the Lease Term) at the request of Landlord or Tenant by a qualified MAI appraiser designated by Landlord or Tenant and paid for by the requesting party, and the required insurance shall be adjusted to reflect the results of the appraisal. If Landlord requests an appraisal be performed under this Section 14, Landlord shall be responsible for the cost thereof. Failure by Landlord to request an appraisal shall not relieve Tenant of its obligations hereunder. Landlord shall not carry any insurance the effect of which would be to reduce the protection or payment to Tenant under any insurance that this Lease obligates Tenant to carry. If any dispute concerning whether the amount of insurance complies with the above cannot be resolved through mutual agreement of the parties, then Landlord and Tenant shall each select an MAI appraiser and such two MAI appraisers shall select a third MAI appraiser who will determine the full replacement cost of the Improvements. The cost of such appraisal shall be split equally by Landlord and Tenant. Tenant shall name Landlord as a co-loss payee as its interest may appear and may name the holder of any Leasehold Mortgage as a co-loss payee and additional insured.

14.2. Proceeds from Property Insurance. Landlord shall, at Tenant's cost and expense, cooperate fully with Tenant to obtain the largest possible proceeds, and all policies of property insurance required by Section 14.1 shall provide that the proceeds from such insurance shall be used and applied as provided in Section 11 hereof. All proceeds shall be adjusted, held and disbursed as provided in Section 11 hereof.

14.3. Liability Insurance. Commencing on the Effective Date and continuing throughout the Lease Term, at Tenant's sole cost and expense, Tenant shall maintain in force commercial general liability insurance providing coverage against claims and liability for personal injury, death and property damage occurring on, in or about the Premises. Such insurance shall afford minimum per occurrence limits of \$2,000,000 covering bodily injury and property damage, personal injury and advertising injury, and products and completed operations and must include a \$6,000,000 general aggregate limit. Said insurance shall contain broad form contractual liability coverage insuring Tenant's indemnity obligations under this Lease. The required limits of insurance may be satisfied by a policy of Excess Liability providing follow form coverage in excess of primary limits.

14.4. Additional Insurance. Tenant shall procure and keep in force the following additional coverage reasonably satisfactory to Landlord:

(a) Boiler and machinery insurance if at any one time or from time to time such equipment is located on the Premises.

(b) If Tenant commits, permits, or causes the conduct of any activity or the bringing or operation of any equipment on or about the Premises creating extraordinary hazards, Tenant shall, promptly on notice of demand from Landlord,

procure and maintain in force, during such activity or operation, insurance sufficient to cover the risks represented thereby. Landlord's demand for extraordinary hazard insurance shall not constitute a waiver of Landlord's right, if Landlord would otherwise have that right, to demand the removal, cessation, or abatement of such activity or operation.

(c) Workers' compensation and employers' liability insurance.

(d) Other insurance, such as flood insurance, in amounts from time to time reasonably required by Landlord, against other insurable risks, if at the time they are commonly insured against for premises similarly situated and containing comparable improvements. Landlord shall be added as an additional insured or, as applicable, a loss payee, to all such policies under the same terms and conditions as with the other insurance policies required hereunder.

Tenant may procure and maintain any insurance not required by this Lease, but all such insurance shall be subject to all other provisions of this Lease pertaining to insurance.

14.5. Policy Requirements. All insurance required by express provisions of this Lease shall be carried only with a responsible insurance company licensed to do business in the State of Arizona with a Best's rating of at least A-/IX or comparable rating. All such policies shall contain language to the effect that (i) any loss shall be payable notwithstanding any act or negligence of Landlord or Tenant that might otherwise result in a forfeiture of the insurance, (ii) the insurer waives the right of subrogation against Landlord and against Landlord's agents and representatives, and against Tenant and Tenant's agents and representatives, (iii) the policies are primary and non-contributory with any insurance that may be carried by Landlord or Tenant, and (iv) the policies cannot be cancelled or materially changed except after thirty (30) Calendar Days written notice by the insurer to the Landlord; provided however insurer may cancel a policy after ten (10) Calendar Days written notice in the event of non-payment of the policy premium; (v) a waiver of co-insurance penalties endorsement based upon additional insurance carried by or for the benefit of Tenant; and (vi) with respect to any Leasehold Mortgagee an endorsement waiving any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by Landlord or Tenant or any of the Landlord Parties or Tenant Parties. Each party, upon request of the other, shall promptly furnish the requesting party with certificates evidencing all insurance required to be maintained hereunder. Landlord and Tenant may obtain for its own account any insurance not required under this Lease. The general liability insurance and any other policies carried (or to be carried) by Tenant (or Tenant's contractors and subcontractors) hereunder shall name Landlord and such other parties as reasonably requested by Landlord as additional insured parties or, as applicable loss payee parties, under such policies. Tenant may provide insurance required hereunder by blanket insurance covering the Premises and any other location or locations of Tenant.

14.6. Failure to Maintain Insurance; Proof of Compliance. If Tenant fails or refuses to procure or to maintain insurance as required by this Lease or fails or refuses to furnish Landlord with required proof that the insurance has been obtained, is in force and has been paid for, Tenant shall be in Default under the terms of this Lease. Without liability, and

entirely at its own discretion, Landlord shall have the right, at Landlord's election and on five (5) Business Days prior written notice to Tenant, to procure and maintain such insurance on behalf of Tenant. If Landlord does elect to pay the premiums, the full amount of said premiums shall be due and payable by Tenant upon demand, together with interest at the Default Rate from the date paid by Landlord until repaid, and any failure by Tenant to pay such amount upon demand shall constitute a default under this Lease. Landlord shall give prompt notice of the payment of any of such premiums, stating the amounts paid and the name of the insurer or insurers.

14.7. Waiver of Claims. Landlord and Tenant agree that in the event of loss or damage to their respective properties or interest, such loss will be satisfied first by the insurance proceeds paid to the party suffering the loss, next by the party who failed to carry required insurance to the extent of the additional insurance proceeds that would have been paid to the party suffering the loss had the insurance required hereunder been carried by such party, and finally, by the party causing the loss or damage. Without limiting the waiver of subrogation required in Section 14.5, if and to the extent that applicable law permits a full waiver of claims between landlords and tenants in leases such as this Lease, then Landlord and Tenant waive all claims against the other and the Tenant Parties and the Landlord Parties, respectively, for any loss, damage or injury, notwithstanding the negligence of either party in causing a loss.

E-MAIL REFERENCE POINT 3.

15. INDEMNITY

Tenant shall indemnify, defend and hold Landlord harmless for, from and against any and all claims (including costs and attorneys' fees) brought by a Person who is not an Affiliate of Landlord and in any way arising from: (a) Tenant's use or occupancy of the Premises, (b) the conduct of Tenant's business thereon, (c) any activity, work or thing done, performed or suffered on or about the Property by Tenant, its agents, contractors, employees and invitees ("Tenant Parties"), (d) any breach or default on Tenant's part in the performance of any provision of this Lease, (e) any act or negligence of Tenant or any of the Tenant Parties, (f) any Leasehold Mortgage, and (g) any and all other claims of any kind concerning or arising from the Premises caused by Tenant or its agents, contractors or employees and from and against all costs, attorneys' fees, losses, expenses and liabilities reasonably incurred in connection with any such claims and any action or proceeding brought thereon; provided, that the foregoing shall exclude any claims and other liabilities to the extent directly caused by the gross negligence or intentional acts of Landlord and its agents, employees and invitees ("Landlord Parties").

16. CONDEMNATION

16.1. Total Taking. If at any time during the Term, as such term may be extended or renewed as set forth herein, all or substantially all of the Premises shall be taken for any public or quasi-public use under any statute or by right of eminent domain or by voluntary sale to the condemning authority either under a threat of or in lieu of condemnation (a "Taking") such that, in the commercially reasonable opinion of both Landlord and Tenant, the remaining Premises will not constitute a suitable and practical improvement from a utilitarian point of view for the purpose intended by this Lease (herein, such total or substantial Taking, a "Total

Taking”), this Lease shall terminate effective on the earlier of (a) the date the condemning authority takes possession of the condemned property, or (b) the date fee title to the condemned property vests in the condemning authority. Rent shall be apportioned as of the date of such termination by agreement between Landlord and Tenant. Landlord and Tenant acknowledge and agree that their respective portion of the Award, as defined in Section 16.3 below, shall be the sole remedy of either party and that no damages may be had against the other on account of a Taking.

16.2. Partial Taking. In the event of a Taking that is not a Total Taking (a “Partial Taking”), this Lease shall remain in effect and not be modified except that Tenant shall be entitled to an equitable abatement of Rent (to be agreed upon by Landlord and Tenant within twenty (20) Calendar Days of request by either party) and Tenant shall be excused from performing its obligations hereunder to the extent prevented from doing so by reason of such Partial Taking. In addition, Tenant shall promptly restore (subject to reasonable delays in settling the Award and events of Force Majeure) that portion of the Premises not so taken to a complete and architectural whole of the same general character as existed immediately prior to such Partial Taking, to the extent practicable under the circumstances.

16.3. Settlement of Award. In the event of a Taking, Landlord and Tenant shall petition the condemning authority for separate Awards for their respective interests as follows: (a) Tenant shall be entitled to any condemnation award or proceeds attributable to Tenant’s Interest, and (b) Landlord shall be entitled to any condemnation award or proceeds attributable to Landlord’s fee interest in the Premises subject to Tenant’s Interest (“Landlord’s Interest”). If separate Awards are not available, then the single Award shall be equitably and fairly apportioned between Landlord and Tenant based on Landlord’s Interest and Tenant’s Interest, respectively. Such apportionment shall be determined by Landlord and Tenant subject to the rights of any Leasehold Mortgagee, within twenty (20) Calendar Days of request by either party.

In the event of a Total Taking, Landlord and Tenant and any Leasehold Mortgagee to the extent of its rights and interests pursuant to their Leasehold Mortgage, may appear in any condemnation or eminent domain proceedings or negotiations in order to settle and adjust any award on account of such Taking (herein, net of settlement costs, the “Award” and, if issued separately for Landlord’s Interest and Tenant’s Interest, the “Landlord’s Award” and the “Tenant’s Award”, respectively). In the event of a Partial Taking, Tenant and Landlord shall settle and compromise the Award subject to the rights of any Leasehold Mortgagee pursuant to the terms of their Leasehold Mortgage. Any party having the right to approve the settlement of any Award shall not unreasonably withhold, delay or condition its approval and such approval shall be deemed granted if not denied within ten (10) Calendar Days after request.

17. DEFAULT; REMEDIES

17.1. Tenant Events of Default. Each of the following events shall be a default by Tenant and a breach of this Lease:

- (a) (i) The legal abandonment or surrender of the Premises, or (ii) failure or refusal to pay when due any installment of Rent, Additional Rent, Base Rent, or

of any other sum required by this Lease to be paid by Tenant in accordance with this Lease for a period of ten (10) Calendar Days after Landlord gives written notice thereof to Tenant, or (iii) failure or refusal to perform as required any other covenant or condition of this Lease for a period of thirty (30) Calendar Days after Landlord gives written notice thereof to Tenant.

(b) Subject to Section 9.5 and excluding any Leasehold Mortgage, the subjection of any right or interest of Tenant to attachment, execution, or other levy, or to seizure under legal process, if not released within thirty (30) Calendar Days.

(c) The appointment of a receiver to take possession of the Premises or of Tenant's operations on the Premises for any reason, including but not limited to, assignment for the benefit of creditors or voluntary or involuntary bankruptcy proceedings, but not including receivership (i) pursuant to administration of the estate of any deceased or incompetent Tenant or of any deceased or incompetent individual member of any Tenant, or (ii) pursuant to any Leasehold Mortgage permitted by provisions of this Lease, or (iii) instituted by Landlord, the event of default being not the appointment of a receiver at Landlord's instance but the event justifying the receivership, if any.

(d) An assignment by Tenant for the benefit of creditors or the filing of a voluntary petition or involuntary petition against Tenant under any law for the purpose of adjudicating Tenant as bankrupt; or for extending time for payment, adjustment, or satisfaction of Tenant's liabilities; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceeding, and all consequent orders, adjudications, custodians, and supervisions are dismissed, vacated, or otherwise permanently stayed or terminated within thirty (30) Calendar Days after the assignment, filing or other initial event.

(e) The cessation by Tenant of the operation of a not-for-profit charter school on the Premises for a period of thirty (30) consecutive days unless otherwise agreed to by Landlord and Tenant.

(f) In the event that Tenant does not cure the default within such ten (10) or thirty (30) Calendar Days (herein, a "Tenant Event Of Default" or "Event of Default"), Landlord shall have the right (but not the obligation) to cure such Tenant Event Of Default and Tenant shall properly reimburse Landlord for all reasonable, out-of-pocket expenses incurred by Landlord in connection with such cure, together with interest thereon at the Default Rate from the date incurred until paid in full. No such act shall constitute a waiver of default or render Landlord liable for any loss or damage resulting from any such act.

17.2. Remedies of Landlord. The following sets forth the remedies of the Landlord hereunder during the continuance of a Tenant Event of Default.

(a) As a precondition to pursuing any remedy for an alleged Tenant Event of Default, Landlord shall, before pursuing any remedy, give notice of default to Tenant and to a Leasehold Mortgagee (i) which has requested notice under this provision, and (ii) has provided its name and address to Landlord in a notice or notices from Tenant or the Leasehold Mortgagee stating that the notice was for the purpose of receiving notice under this provision and in accordance with Section 13.4 hereof. Each notice of default shall specify in detail the alleged Tenant Event of Default and the intended remedy.

(b) Subject to the provisions of Section 13.4, if the alleged Tenant Event of Default is nonpayment of Rent, taxes, or other sums to be paid by Tenant as provided in the section on Rent, or elsewhere in this Lease directed to be paid as Rent, Tenant shall have ten (10) Calendar Days after notice is given to cure the Tenant Event of Default. For the cure of any other Tenant Event of Default, Tenant shall promptly and diligently after the notice commence the cure and shall have thirty (30) Calendar Days after notice is given, to complete the cure, plus any additional period that is reasonably required for the curing of the default.

(c) After expiration of the applicable notice and time for curing a particular default, or before the expiration of that time in the event of emergency, Landlord may, at Landlord's election, make any payment required to be made by Tenant under this Lease or under any note secured by a Leasehold Mortgage, or perform or comply with any covenant or condition imposed on Tenant under this Lease or any such note secured by a Leasehold Mortgage, and the amount so paid plus the reasonable cost of any such performance or compliance, plus interest on such sum at the Default Rate from the date of payment, performance, or compliance (herein called "Act") shall be deemed to be Additional Rent payable by Tenant upon demand by Landlord. No such Act shall constitute a waiver of default or render Landlord liable for any loss or damage resulting from any such Act.

17.3. Landlord's Termination. If any default by Tenant shall continue uncured, following notice of default as required by this Lease, for the cure period applicable to the default under the applicable provision of this Lease, Landlord (cumulative with all other remedies hereunder, or at law or in equity) shall have the right to terminate this Lease by giving Tenant notice of termination except that Tenant shall remain liable for delinquent ad valorem taxes and assessments and obligations which ripen into a valid Lien against the Premises, each to the extent relating to matters or activities of Tenant occurring prior to such termination. On the giving of the notice, all Tenant's rights in the Premises and in all Improvements shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Premises and leave all Improvements in broom-clean condition, and Landlord may re-enter and take possession of the Premises and the Improvements and eject all parties in possession or eject some and not others or eject none, in its sole and absolute discretion. It is specifically understood and agreed that no provision of this Lease requires Landlord to pay any note or notes or any part of any note or notes, or any other indebtedness secured in whole or in part by any Leasehold Mortgage on the Premises or any Improvements thereon that is in compliance with Section 13 above (it being further understood Tenant shall remain liable for any lien or mortgage not in compliance with Section 13). Upon any such termination as set forth in this Section 17.3, Tenant shall promptly

deliver to Landlord all plans, reports, surveys, environmental and soil studies, surveys and other documentation relating to the development and construction of the Improvements.

17.4. Excuse for Non-Performance; Force Majeure. Any prevention, delay, nonperformance, or stoppage due to any of the following causes shall excuse nonperformance for a period equal to any such prevention, delay, nonperformance, or stoppage, except the obligations imposed by this Lease for the payment of Rent, taxes, insurance, or obligations to pay money that are treated as Additional Rent. The causes referred to above are strikes, lockouts, labor disputes, prolonged failure of power, inability to procure because a general shortage of fuel, labor or materials in the normal channels of trade, irresistible super-human cause, acts of public enemies of Arizona or of the United States, riots, insurrections, civil commotion, inability to obtain labor or materials or reasonable substitutes for either, governmental restrictions or regulations or controls or actions or failures to act (except those reasonably foreseeable and avoidable in connection with the uses contemplated by this Lease), acts (or delays in acts) of Landlord or its agents, casualties not contemplated by insurance provisions of this Lease, or other causes beyond the reasonable control of the party obligated to perform (all delays caused by the foregoing shall be referred to herein as "Force Majeure" delays); provided, however, in no event shall any of the foregoing be considered a Force Majeure delay if it was caused in full or in part by the negligence or intentional misconduct of Tenant.

17.5. Waiver. No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel, or otherwise. The subsequent acceptance of Rent pursuant to this Lease shall not constitute a waiver of any preceding default by Tenant other than default in the payment of the particular Rent payment so accepted, regardless of Landlord's knowledge of the preceding breach at the time of accepting Rent, nor shall acceptance of Rent, Additional Rent, or any other payment after termination constitute a reinstatement, extension, or renewal of this Lease or revocation of any notice or other act by Landlord.

18. RESERVED

19. MISCELLANEOUS PROVISIONS

19.1. Notices. As used in this Lease, notice includes but is not limited to the communications of notice, request, demand, approval, statement, report, acceptance, consent, waiver, and appointment. No notice of the exercise of any option or election is required unless the provisions giving the election or option expressly require notice. Unless the provisions of this Lease on Rent direct otherwise, Rent shall be sent in the manner provided for giving notice.

(a) All notices must be in writing; provided that no writing other than the check or other instrument representing the Rent payment itself need accompany the payment of Rent.

(b) Notice is considered given either (i) when delivered in person to the recipient named below, (ii) on the date of receipt, refusal or non-delivery indicated on the return receipt if deposited in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage and postal charges prepaid, (iii) on electronic confirmation of receipt if by facsimile, and (iv) on the date of delivery as set forth in the courier's delivery receipt addressed by name and address to the party or person intended as follows:

Notice to Landlord:

South Mountain Community College
c/o Maricopa County Community College District
7050 South 24th Street
Phoenix, Arizona 85042
Attn: Dr. Janet Ortega
Fax: _____

With a copy to:

Maricopa County Community College District
2411 West 14th Street
Tempe, Arizona 85281
Attn: Margaret E. McConnell
Fax: (480) 731-8890

Notice to Tenant:

Hope College and Career Readiness Academy
6900 South 24th Street
Phoenix, Arizona _____
Attn: Harry Garewel
Fax: _____

With a copy to:

Attn: _____
Fax: _____

(c) Either party may, by notice given at any time or from time to time require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

19.2. No Merger. If both Landlord's and Tenant's estates in the Land or the Improvements or both become vested in the same owner, this Lease shall nevertheless not be extinguished by application of the doctrine of merger except at the express election of the party holding such interests.

19.3. Estoppel Certificates. At any time, and from time to time, within ten (10) Business Days after notice of request by either party, the other party shall execute, acknowledge, and deliver to the requesting party, or to such other recipient as the notice shall direct, a statement certifying that this Lease is unmodified and in full force and effect, or, if there have been modifications, that it is in full force and effect as modified in the manner specified in the statement and whether the requesting party is not in default in performance of any covenant, agreement or condition contained in this Lease or, if so, specifying each such default of which such other party may have knowledge. The statement shall also state the dates to which the Rent and any other charges have been paid in advance and shall set forth such other factually correct information as may be reasonably requested. The statement shall be such that it can be relied on by any auditor, creditor, commercial bank, and investment banker of either party and by any prospective purchaser or encumbrancer of the Premises and Improvements or any of Tenant's or Landlord's interests under this Lease.

19.4. Deemed Estoppel. Either Party's failure to execute, acknowledge, and deliver, on request, the certified statement described above within the specified time shall constitute acknowledgment by such party to all Persons entitled to rely on the statement that this Lease is unmodified and in full force and effect and that the Rent and other charges have been duly and fully paid to and including the respective due dates immediately preceding the date of the notice of request and shall constitute a waiver, with respect to all Persons entitled to rely on the statement, of any defaults that may exist before the date of the notice.

19.5. No Joint Venture. Except as otherwise specifically provided, neither Landlord nor Tenant shall have any power or authority to bind the other, and the parties agree that they are not partners or joint venturers.

19.6. Captions. The captions of the various Sections and Paragraphs of this Lease are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Lease or any part or parts of this Lease.

19.7. Relationship of Parties. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of the computation of Base Rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant.

19.8. Successors and Assigns. Subject to the provisions of this Lease on assignment and subletting, each and all of the covenants and conditions of this Lease shall be

binding on and shall inure to the benefit of the heirs, successors, executors, administrators, assigns, and personal representatives of the respective parties.

19.9. No Third Party Beneficiaries. This Lease shall not confer any rights or remedies upon any Person other than the parties hereto and their respective permitted successors and assigns, and none of the provisions of this Lease shall benefit any other party, except to the extent intended to benefit a Leasehold Mortgagee.

19.10. Reasonable Consents. Unless specifically provided otherwise in this Lease, all consents and approvals required of the Landlord, or to be provided by the Landlord, shall not be unreasonably withheld, conditioned or delayed.

19.11. Incorporation of Prior Agreements. This Lease and the exhibits hereto contain all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and all preliminary negotiations, agreements or understandings pertaining to any such matter, except those contained herein, shall not be effective for any purpose; provided, however, that the Lease shall not supersede any Landlord's Consent Agreement.

19.12. Brokers. Tenant and Landlord each represent and warrant to the other that they have had no dealings with any real estate brokers or agents in connection with the negotiation of this Lease and that no other broker, agent or other person retained by either of them is entitled to a fee or commission in connection with the execution of this Lease. Each party hereby expressly agrees and covenants to defend, indemnify and hold harmless the other for, from and against any and all claims, threatened or asserted, by any broker, finder or agent claiming under or through such indemnifying party in connection with the negotiation and execution of this Lease.

19.13. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of Arizona.

19.14. Covenants Run With the Land. All of the covenants, agreements, conditions and restrictions set forth in this Lease are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of and enforceable by the parties hereto and their successors and assigns.

19.15. Quiet Enjoyment. Landlord covenants that so long as Landlord has not terminated this Lease on account of an Event of Default by Tenant, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the Term without molestation or disturbance by or from the Landlord or anyone claiming by or through the Landlord or having title to the Premises paramount to Landlord, and free of any encumbrances created or suffered by Landlord, except the Title Exceptions and restrictions self-imposed by Tenant.

E-MAIL REFERENCE POINT 6.

19.16. Charter Contract. The parties hereto acknowledge and agree that Landlord and Tenant have entered into that certain charter contract dated March 25, 2015 (the "Charter Contract"). Further, the parties hereto hereby acknowledge and agree that all rights and obligations set forth in the Charter Contract are separate and apart from the rights and obligations set forth in this Lease. Accordingly, no (i) default under the Charter Contract by either party, (ii) termination of the Charter Contract, or (iii) failure of either party to perform as required under the Charter Contract shall in any way relieve any party to this Lease from any obligations arising hereunder.

19.17. Invalidity If any of the provisions of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each provision of this Lease shall be valid and be enforced to the extent not prohibited by applicable law.

19.18. Counterparts. This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

20. EXPIRATION; TERMINATION

20.1. Surrender. Subject to the rights of any Leasehold Mortgagee set forth in this Lease and/or any Landlord's Consent Agreement, at the expiration or earlier termination of the term, Tenant shall surrender to Landlord the possession of the Premises. Removal of fixtures, trade fixtures, and improvements shall be as directed in provisions of this Lease on ownership of fixtures and trade fixtures at termination. Tenant shall leave the surrendered Premises and any other property in good and broom clean condition except as provided to the contrary in provisions of this Lease on maintenance and repair of Improvements. All property that Tenant is required to surrender shall become Landlord's property at termination of the Lease. All property that Tenant is not required to surrender but that Tenant does abandon shall, at Landlord's election, become Landlord's property at termination.

E-MAIL REFERENCE POINT 3.

20.2. Indemnification. If Tenant fails to surrender the Premises at the expiration or sooner termination of this Lease, Tenant shall indemnify, defend and hold harmless Landlord for, from and against all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding tenant founded on or resulting from Tenant's failure to surrender.

20.3. Termination. This Lease shall terminate without further notice at the expiration of the term as such term may be renewed or extended as set forth herein. Any holding over by Tenant after expiration shall not constitute a renewal or extension or give Tenant any rights in or to the Premises except as otherwise expressly provided in this Lease and Tenant acknowledges that it shall become a tenant at will, on a daily basis, with a Base Rent equal to two hundred percent (200%) of the annualized amount of the Base Rent in effect at the expiration of the Lease Term. To the extent that Landlord provides Tenant with its written

consent to remain in the Premises following the expiration of the Lease Term, Tenant shall be allowed to remain in the Premises on a month-to-month basis, provided that Tenant pays Landlord (in addition to all other amounts due hereunder) a Base Rent equal to two hundred percent (200%) of the annualized amount of the Base Rent in effect at the expiration of the Lease Term.

20.4. Quitclaim Deed. At the expiration of the Lease Term, as the same may be extended, or the earlier termination of the Lease subject to the rights of any Leasehold Mortgagee set forth in this Lease and/or any Landlord's Consent Agreement, Tenant shall execute, acknowledge and deliver to Landlord within five (5) Business Days after written demand from Landlord, any quitclaim deed or other document required by any reputable title company to remove the cloud of this Lease from the Premises.

21. SALE BY LANDLORD

Subject to the rights of any Leasehold Mortgagee set forth in this Lease and/or any Landlord's Consent Agreement, in the event of any sale of the Premises by Landlord, Landlord shall be, and is hereby, entirely freed and relieved of all liability under any and all of its covenants and unaccrued obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; provided that the purchaser, at such sale or any subsequent sale of the Premises, shall assume this Lease in writing and covenant to and with Tenant to carry out any and all of the covenants and obligations of Landlord under this Lease. Notwithstanding any other term or provision of this Lease to the contrary, the liability of Landlord for its obligations under this Lease is limited solely to Landlord's interest in the Property as the same may from time to time be encumbered, and no personal liability shall at any time be asserted or enforceable against any other assets of Landlord or against Landlord's partners or members or its or their respective partners, shareholders, members, directors, officers or managers on account of any Landlord's obligations or actions under this Lease.

22. POWER OF ATTORNEY

To the extent not prohibited by applicable law, if Tenant fails or neglects to cooperate or to execute, acknowledge, and deliver any required instrument or document under the terms of this Lease, including but not limited to any quitclaim deeds, warranty deeds, bills of sale, assignments, estoppel certificates or other certificates prepared by Landlord for execution and delivery by Tenant under the terms of this Lease (collectively the "Documents"), within ten (10) Business Days of the delivery of the same to Tenant by Landlord, Landlord, in addition to any other remedies, may execute and deliver, as the agent and attorney-in-fact of Tenant, any such Documents as may be desirable to Landlord. In consideration of Landlord entering into this Lease Agreement, Tenant irrevocably nominates, constitutes, and appoints Landlord as Tenant's proper and legal attorney-in-fact for the sole purpose of executing and delivering the Documents and Tenant does hereby ratify any and all acts that Landlord may do as attorney-in-fact of Tenant. Such appointment is coupled with an interest and therefore irrevocable.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Ground Lease as of the date first above written.

LANDLORD

Maricopa County Community College District,
a political subdivision of the State of Arizona, for
and on behalf of South Mountain Community College

By: _____
Name: _____
Its: _____

TENANT

Hope College and Career Readiness Academy, an
Arizona not-for-profit corporation

By: _____
Name: _____
Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B

LEGAL DESCRIPTION OF THE LAND

EXHIBIT C

When recorded, return to:

Margaret E. McConnell
Maricopa County Community College District
2411 West 14th Street
Tempe, Arizona 85281

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE ("Memorandum") is made as of _____, 2015 ("Effective Date"), by **MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT**, a political subdivision of the State of Arizona, for and on behalf of South Mountain Community College ("Landlord"), and **HOPE COLLEGE AND CAREER READINESS ACADEMY**, an Arizona not-for-profit corporation ("Tenant").

RECITALS

A. Landlord and Tenant entered into that certain Ground Lease of even date herewith ("Ground Lease"), pursuant to which Landlord leased to Tenant, and Tenant leased from Landlord, that certain real property more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein and certain licenses relating thereto ("Property").

B. Landlord and Tenant desire to execute this Memorandum to evidence, and provide constructive notice of Landlord's and Tenant's rights and obligations under, the Ground Lease to all third parties.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Term. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Property for a term of thirty-five (35) years commencing on the Effective Date (as defined in the Ground Lease) and subject to Tenant's option to extend for up to three (3) additional successive ten (10) year periods.

2. Successors and Assigns. This Memorandum and the Ground Lease shall bind and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

3. Governing Law. This Memorandum and the Ground Lease are governed

by Arizona law.

Executed as of the Effective Date.

LANDLORD

Maricopa County Community College District, a political subdivision of the State of Arizona, for and on behalf of South Mountain Community College

By: _____
Name: _____
Its: _____

TENANT

Hope College and Career Readiness Academy, an Arizona not-for-profit corporation

By: _____
Name: _____
Its: _____

STATE OF ARIZONA)
): ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____,
2015, by _____, of Hope College and Career Readiness
Academy, an Arizona not-for-profit corporation, who declared that he/she signed and
executed the foregoing instrument as the free and voluntary act and deed of Hope College
and Career Readiness Academy.

Notary Public in and for Said County and State

Exhibit "A"
Legal Description of the Land