

Ground Lease Mortgage

Ground Lessor's Estoppel Certificate

December 9<sup>th</sup>, 2016

Gibraltar Private Bank & Trust Company  
55 Alhambra Plaza  
Coral Gables, Florida 33134

Re: Ground leased property located in Doral, Florida and commonly known as 6700 N.W. 104<sup>th</sup> Avenue, Doral, Florida 33178 (the "Property") and as more particularly described on Exhibit "A" attached hereto any by this reference made a part hereof.

Ladies and Gentlemen:

The undersigned, City of Doral ("Lessor"), as lessor under that certain ground lease ("Lease"), dated November 1, 2012, between Lessor and Doral Preparatory Charter School Developer, LLC, a Florida limited liability company("Lessee"), as lessee, covering the Property, warrants, represents and certifies to Gibraltar Private Bank & Trust Company and each subsequent owner of the mortgage loan secured by Lessee's leasehold interest in the Property (collectively or individually, "Lender") as follows, as of the date of this Ground Lessor's Estoppel Certificate ("Certificate"):

1. The date the term of the Lease commenced on Date School receives CO, and expires on 99 Years from Commencement Date. That the Lessee accepted possession of the Leased premises on 6700 NW 104<sup>th</sup> Ave Doral, Florida 33178.
2. The current fixed rent under the Lease is \$1.00 per annum, payable in Single installments, and has been paid in full through \_\_\_\_\_, \_\_\_\_\_.

Any rent and any additional rent or other charges under the Lease have been paid in advance of the dates on which payment is due? Please list  
N/A

Has there been any prepaid rent? No. If so, the amount of any prepaid rent:  
0

Is there any credit due to the Lessee? No.  
If so explain \_\_\_\_\_.

No additional rent or charge (including taxes, maintenance, operating expenses or otherwise) that has been billed to Lessee by Lessor is overdue. There are no provisions for, and Lessor has no rights with respect to, increasing the rent, except as expressly set

forth in the Lease. The amount of the security deposit presently held by Lessor under the Lease is \$   0  .

3. All conditions precedent to the effectiveness of the Lease have been fully satisfied and the Lease is in full force and effect. A list of all the documents constituting the Lease is attached as Exhibit A. The Lease has not been assigned, modified, supplemented or amended in any way, except as described on Exhibit A. There are no other agreements concerning the Property, whether oral or written, between Lessee and Lessor. Attached to this Certificate are true, correct and complete copies of all documents constituting the Lease.
4. Lessor has not delivered or received any notices of default under the Lease; to the best of the Lessor's knowledge, there is no default by Lessee or Lessor under the Lease, nor has any event or omission occurred which, with the giving of notice or the lapse of time, or both, would constitute a default.
5. Lessor is the record and beneficial owner of the Property. Lessor has not subordinated its interest in the Lease to any mortgage, lien or other encumbrance on the fee. Lessor has not assigned, conveyed, transferred, sold encumbered or mortgaged its interest in the Lease or the Property.
6. No third party has any option or preferential right to purchase all or any part of the Property.
7. Lessor has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against Lessor's interest in the Property.
8. Lessor has not received written notice that it is in violation of any governmental law or regulation applicable to its interest in the Property and has no reason to believe that there are grounds for any claim of any such violation.
9. Neither Lessee nor any affiliate of Lessee has any direct or indirect ownership interest in Lessor or any affiliate of Lessor.
10. No union of the interests of Lessor and Lessee will result in a merger of the Lease into any superior leasehold interest or the fee interest in the Property.
11. Lessor acknowledges that Lender's address for notice and other purposes under the Lease is as follows:

Gibraltar Private Bank & Trust Company  
55 Alhambra Plaza  
Coral Gables, Florida 33134  
Attn: Andrés Pino, Vice President

12. Lessor and the person or persons executing this Certificate on behalf of Lessor have the power and authority to execute this Certificate.
13. Lessor consents to the execution and delivery by Lessee to Lender of a Florida Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement covering Lessee's leasehold interest in and to the Property and the recording of same in the Public Records of Miami-Dade County, Florida. Lessor also consents to the execution and delivery by Lessee, and the filing and/or recording in the appropriate public records, of such additional documents and instruments as Lender may deem necessary or desirable to establish, perfect and maintain a first priority lien upon and against Lessee's leasehold interests in the Property, including, but not limited to, Uniform Commercial Code financing statements to be filed in the Public Records of Miami-Dade County Florida and with the Secured Transaction Registry in Tallahassee, Florida and such other documents, instruments and agreements as Lender may deem necessary or desirable in connection with the creation, grant, maintenance, renewal, extension, modification or enforcement of the lien.
14. Lessor acknowledges that Lender is the Leasehold Mortgagee under the Lease and is entitled to the benefit of all protections granted to the Leasehold Mortgagee under the Lease without the need for providing any separate notice under the Lease.

Lender and its successors and assigns may rely upon the truth and accuracy of the certifications contained in this Certificate, and this Certificate will be binding upon Lessor and its successors and assigns, and inure to the benefit of Lender and its successors and assigns. This Certificate may not be deemed to alter or modify any of the terms and conditions of the Lease. Lessor recognizes that Gibraltar Private Bank & Trust Company is relying on this Certificate in making a loan to the Lessee.

CITY OF DORAL

By: \_\_\_\_\_ . (EDUWAW)  
Name: EDUARDO A. ROSAS  
Title: CM



**EXHIBIT "A"**  
**(COPY OF GROUND LEASE)**

## LEASE

THIS LEASE AGREEMENT (the "Lease") is made and entered into this 1<sup>st</sup> day of November, 2012 (the "Effective Date"), at Miami, Florida by and between City of Doral (hereinafter referred to as "CITY") and Doral Preparatory Charter School Developer, LLC (hereinafter referred to as "COMPANY").

### **ARTICLE 1 LEASED LAND**

1.01 CITY for and in consideration of the rents, covenant, and conditions herein contained to be kept, performed, and observed by COMPANY, does hereby lease and demise to COMPANY and COMPANY does hereby rent and accept from CITY, the real property referred to as "Leased Land" described as follows:

See Exhibit "A" attached hereto and made a part hereof.

### **ARTICLE 2 CONSTRUCTION OF LEASED LAND**

2.01. This Lease is made with the understanding and agreement that COMPANY, at its sole cost and expense, will construct and equip a charter school to be known as the Doral Preparatory Academy Charter School (the "Charter School") on the Leased Land in accordance with the terms of this Lease (the "Improvements"). COMPANY shall apply for and obtain site plan approval from the City's Planning and Zoning Department. As part of the site plan application, COMPANY shall submit such drawings, analysis and/or reports reasonably necessary for the approval of the Charter School.

COMPANY shall construct upon the Leased Land the Improvements and cause the Improvements to be equipped all in accordance with plans and specifications (the "Plans and Specifications"), attached as Exhibit "B" hereto and made a part hereof; which Plans and Specifications shall be in form and content acceptable to CITY and satisfies all requirements of the Charter<sup>1</sup> and shall comply with all applicable laws, codes, rules and regulations of all governmental authority to operate a Charter School. COMPANY shall be responsible for obtaining site plan approval, building permits and all other approvals and permits required for

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<sup>1</sup> Charter shall mean that certain contract to be entered into between the Company and Miami Dade Public Schools.

the construction and operation of the Improvements as a charter school (collectively the "Permits"). Also, COMPANY shall determine that the Plans and Specifications fully comply with all building, fire, health and sanitary codes and regulations, restrictions, covenants, agreements and any other regulations relative to the construction and operation of the Improvements as a charter school.

The City's Building Department (the "Department") shall have the right to review and approve the Plans and Specifications including, without limitation, mechanical, electrical and engineering drawings at every stage of preparation, including without limitation, all preliminary, final plans and change orders relating to the Improvements. Department shall not withhold or delay its approval of such Plans and Specifications unreasonably, provided COMPANY'S documentation is sufficiently detailed and informative so as to permit Department to undertake a thorough review of such Plans and Specifications. The approval by Department of any Plans and Specifications, if given, shall not (i) imply Department's approval of the structural, electrical, engineering or any other designs as to quality or fitness of any material or device used; (ii) imply that such Plans and Specifications are in accordance with any Federal, State, county and local statutes, codes, laws, rules, regulations, ordinances, orders and standards (the "Public Laws") (it being agreed that such compliance is solely COMPANY'S responsibility); (iii) release COMPANY of the responsibility to construct structurally sound improvements which are free of defects; (iv) impose any liability on the CITY; or (v) serve as a waiver of any right of the CITY. Notwithstanding the foregoing, neither this Lease nor the rights afforded to the CITY hereunder shall have any limiting affect upon the Department which shall process all Plans and Permits in accordance with their standard review practices free from any implications based upon this Lease or otherwise with respect to this transaction.

2.02 CITY agrees to waive all of the CITY'S development fees for the construction of the Charter School including, but not limited to impact fees, inspection fees, building permit fees, application fees, etc.

2.03 COMPANY shall construct all Improvements with diligence and continuity and in a first class, good and workmanlike manner and COMPANY shall (i) comply with all Public Laws; (ii) provide CITY with such assurance as CITY may reasonably require, and in form and substance satisfactory to the City in its reasonable discretion, to guarantee that, once commenced, sufficient funds will be available to cause completion of all proposed Improvements; and (iii) indemnify, defend and hold harmless the CITY from and against all loss, cost or damage, without limitation, attorney's fees, costs and expenses, including such fees, costs and expenses incurred at all trial and appellate court levels (whether suit be brought or not), on account of COMPANY'S construction of said Improvements, or any injury to person or property occasioned thereby. In addition, COMPANY agrees to indemnify and hold the CITY harmless from and against any and all bills, invoices, costs and/or expenses for labor performed and equipment, fixtures and materials furnished to COMPANY and from and against any and all other related liens, bills or claims therefor or against the Leased Land, and from and against all losses, damages, costs, expenses, suits and claims whatsoever in connection with the construction of the Improvements. COMPANY shall fully pay for the costs of the construction of the Improvements so that the Leased Land shall at all times be free of liens for labor and materials supplied or claimed to have been supplied. COMPANY hereby acknowledges that it

has no right to cause, create or permit the establishment of a claim of lien against the Leased Land.

Notwithstanding anything to the contrary (a) construction of the Charter School shall be deemed completed when the CITY'S building official issues a final certificate of occupancy ("CO") for the Charter School (except that completion of minor punch-list items of decoration and detail shall not be required prior to the CO), such that all of the Improvements are usable for their intended purposes; (b) all approvals and authorizations required by Public Laws applicable to the construction of the Improvements for the use of the Improvements for their intended purpose have been obtained and evidence thereof satisfactory to the CITY has been delivered by COMPANY to CITY, including, without limitation, the issuance of a final certificate of occupancy/completion by the applicable governmental authorities; (c) COMPANY has delivered to CITY as-built plans for the Improvements, properly certified to CITY; (d) all guarantees and warranties of material, equipment and workmanship from manufacturers and suppliers issued in favor of COMPANY have been assigned and delivered to CITY; and (e) all landscaping (sod) has been installed and the Land and Improvements (collectively, the "Site") are free from dirt, rubbish and debris and otherwise in a clean condition as reasonably determined by CITY. COMPANY shall complete all punch list items within 60 days following the CO.

### **ARTICLE 3 TERM AND RENT**

3.01 (a) The term of this Lease (the "Term") shall commence on the date the Charter School receives the CO and end 99 full consecutive Lease Years (as defined below) from the Commencement Date (as defined below). If a CO is not obtained within twenty-four (24) months from the issuance of a building permit, this Lease shall automatically terminate and be of no further force and effect, unless extended by mutual agreement of the parties.

(b) As used in this Lease, the term "Lease Year" means a period of twelve (12) full, consecutive calendar months. The first Lease Year shall begin on the Commencement Date, if such date falls on the first day of the month. Otherwise, the first Lease Year shall begin on the first day of the first month following the Commencement Date. Each succeeding Lease Year shall commence upon the anniversary of the first Lease Year Rent.

3.02 Payment of the rent due under this Lease shall commence on the date on which the Charter School receives the CO (the "Commencement Date"). Provided that at all times during the Term of this Lease, the Leased Land is used exclusively for the operation of the Charter School, COMPANY shall pay to CITY basic fixed rental in the amount of Twelve Dollars (\$12.00) ("Basic Rental") per year payable in twelve (12) equal monthly installments of One Dollar (\$1.00) plus sales tax, if applicable, which Basic Rental shall be paid in advance and shall be due on the first day of each full calendar month during the Term after the Commence Date.



3.03 All rent shall be payable to CITY in person or at the address first above stated or at such other address as CITY may specify to COMPANY in writing, without demand and without setoff or deduction, except as expressly provided herein.

3.04 COMPANY and CITY acknowledge that certain obligations under various sections of this Lease commence prior to the Commencement Date (e.g., construction, indemnities, liability and insurance) and agree that this is a binding and enforceable Lease as of the Effective Date.

3.05 COMPANY shall apply for a building permit within 24 months from the Effective Date as that term is defined in the first paragraph of this Lease. This 24 month period may be extended for an additional 12 months with the approval of the City Council.

#### **ARTICLE 4 TAXES AND ASSESSMENTS**

4.01 Unless CITY can legally waive, COMPANY shall pay and discharge all taxes, general and special assessments, improvements, including road, sidewalk and sewer and other charges of every description, including any payment in lieu of taxes charges imposed by the CITY, which during the Term of this Lease may be levied on or assessed against the Lease Land for which CITY or COMPANY may become liable in relation thereto.

4.02 COMPANY agrees to and shall protect and hold harmless CITY and the Leased Land from liability for any and all such taxes, assessments, and charges, together with any interest, penalties, or other sums thereby imposed, and from any sale or other proceeding to enforce payment thereof.

4.03 COMPANY agrees to and shall pay all such taxes, assessments, and charges within sixty (60) days after COMPANY receives written notice of such taxes, assessments and/or charges thereof and gives written notice of each such payment to CITY within five (5) business days after such payment is made.

4.04 CITY shall have the privilege, acting in the name of the COMPANY, before delinquency occurs, of protesting, contesting, objecting to, or opposing the legality or amount of any such taxes, assessments, or public charges to be paid by COMPANY hereunder. If COMPANY shall, in good faith, deem the same to be illegal or excessive, and in the event of any such contest, it may to the extent provided by law defer payment of any such tax, assessment, fee, or charge so long as the legality or the amount thereof is so contested in good faith; provided, however, that if at any time payment of the whole or any part thereof shall become necessary in order to prevent the termination, by sale or otherwise, of the right of redemption of any property affected thereby, or to prevent eviction of either CITY or COMPANY because of nonpayment thereof, CITY or COMPANY as the case may be shall pay or properly bond the same in order to prevent such termination of the right of redemption or such eviction. Any such

contest, whether before or after payment, may be made in the name of CITY or COMPANY, or both.

## ARTICLE 5 INSURANCE

5.01 At the time of the Effective Date, COMPANY agrees to and shall obtain the insurance required below written with permitted insurance companies reasonably satisfactory to the City and having a policyholder rating of at least "A-" and a financial size category of at least "Class XII" as rated in the most recent edition of "Best's Key Rating Guide" for insurance companies and authorized to engage in the business of insurance in the State of Florida. Said policies shall be maintained throughout the term of this Lease:

(a) All risks casualty and hazard insurance for the Leased Land and the Improvements, including but not limited to, insurance against fire, flood, lightning, windstorms, hail, explosions, vandalism and malicious mischief, for the highest insurable value available not to be less the full replacement value of the Improvements and all fixtures and equipment, with a deductible not to exceed the amount of \$5,000.00.

(b) Comprehensive public liability insurance in the minimum amount of Five Million Dollars (\$5,000,000.00) for loss from an accident resulting in bodily injury to or death of persons, and Five Million Dollars (\$5,000,000.00) for loss from an accident resulting in damage to or destruction of property, with a deductible not to exceed the amount of \$1,000,000.

(c) Insurance of contents against loss or damage by fire, water, lightning, windstorm, hail, explosion, aircraft, smoke, vandalism, malicious mischief, vehicle damage and such other risks as are or shall customarily be insured against for similar uses with respect to all equipment, fixtures, personal property and any other property owned by the COMPANY and kept on the Leased Land.

(d) Workers' Compensation insurance in the greater of the statutory amount or amount or One Million Dollars (\$1,000,000.00) covering all persons who will perform construction of the Improvements. The Workers' Compensation Policy shall include a waiver of subrogation in favor of CITY.

(e) At all times during construction, repairs or alterations (including construction of the Improvements), COMPANY shall maintain Builders Risk Insurance in such amounts and in such form and content as may be reasonably required by the CITY.

(f) Such other insurance in such amounts and in such form and content as may be reasonably required by the CITY.

(g) The City shall have the right to reasonably increase the insurance limits from time to time hereunder so as to provide adequate protection during the term of the Lease.

5.02 All the foregoing described insurance maintain by COMPANY shall name the CITY as additional insured, and shall include an effective waiver by the issuer of all rights of subrogation against any name insured or such insured's interest in the Leased Land or any income derived therefrom. Except as expressly set forth herein, if despite a parties best efforts it cannot find an insurance company meeting the criteria in Article 5.02 that will give the waiver at reasonable commercial rates, then it shall give notice to the other party within thirty (30) days after the Effective Date. If the other party also cannot find an insurance company, then both parties shall be released from their obligation to obtain the waiver.

5.03 All insurance maintained by COMPANY shall provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the CITY, any mortgagee, any subtenant or occupant of the Leased Land or any other person.

5.04 At the time of the Effective Date, COMPANY shall give CITY written notice thereof together with a certified copy of the appropriate policies.

5.05 Proof must also be given by COMPANY to CITY that each of the policies provided for in this Article expressly provides that the policy shall not be cancelled or altered without thirty (30) days' prior written notice to the CITY.

5.06 If COMPANY at any time during the Term hereof should fail to secure or maintain the foregoing insurance, the CITY shall be permitted to obtain such insurance in COMPANY'S name or as the agent of COMPANY and shall be compensated by COMPANY for the cost of the insurance premiums.

5.07 Proceeds from any such policy or policies under 5.01(a) shall be payable to COMPANY, who shall use such proceeds to make repairs as provided in Article 5.08 of this Lease or to pay or indemnify CITY.

5.08 If the Leased Land and/or Improvements shall be damaged or destroyed by fire, flood, or other casualty, COMPANY shall give immediate written notice thereof to CITY, this Lease shall not terminate, and COMPANY shall, at its sole cost and risk, proceed forthwith to rebuild or repair the Improvements to substantially the same condition in which they existed prior to such damage provided that the Charter is not lost as a result thereof. If the Improvements are to be rebuilt or repaired and are untenable in whole or in part following such damage, the rent payable hereunder during the period in which they are untenable shall be adjusted equitably in proportion to the degree of such interference. The CITY shall make all Article 5.01(a) insurance proceeds available to COMPANY for use in the restoration and reconstruction subject to all restrictions of the insurer as to disbursement of funds. If COMPANY fails to rebuild or repair the Improvements and obtain a final CO therefor within twenty-four (24) months of the casualty, the CITY shall have the right to terminate the Lease.

**ARTICLE 6**  
**USE RIGHT TO TERMINATE**

6.01 Except as provided below, the Leased Land and the Improvements shall be used exclusively for the development, construction, management and operation of the Charter School, with a maximum of 900 students and other uses normally incident thereto which may include, specifically, pre-school and after-school care, after school and weekend classes and programming, camps (including summer camps) and lectures and workshops for parents and educators, however, in the event the State of Florida decreases student funding for the Charter School by more than 25% of the per student funding in effect on the Commencement Date or after the conclusion of the 4<sup>th</sup> full year of operation of the Charter School and despite the best efforts of COMPANY and the Charter School, student enrollment has been less than 25% below the maximum student capacity beginning after the fourth (4<sup>th</sup>) year of operation of the Charter School, COMPANY shall have the right but not the obligation to convert the Leased Land to a private school, any other school approved by Miami-Dade County School Board or any other approved use for the Lease Land under the then existing Zoning Code unless CITY agrees to pay COMPANY the deficiency in student funding. In such event, CITY agrees to fully cooperate and assist COMPANY, at no cost or expense to CITY, in obtaining permits, authority, or any other necessary requirements, including but not limited to zoning change, to convert the Charter School to an alternate use allowed in this Section 6.01. Notwithstanding the above, CITY reserves the right to approve, disapprove or modify any applications dealing with any quasi-judicial approval requested by the COMPANY to a third party.

6.02 Subject to the terms and conditions set forth herein, it is expressly understood and agreed that any and all buildings, improvements, fixtures, machinery, and fixed equipment of whatsoever nature at any time constructed, placed, or maintained upon any part of the Leased Land by COMPANY shall be and remain the property of COMPANY, or its assigns or sublessees, as their interests may appear, until the expiration of the Term hereof, unless this Lease shall be sooner terminated as herein provided, but shall not be removed from the Leased Land unless replaced by items of equal value and function.

6.03 In the event COMPANY decides to sell the Charter School in an arm's length transaction to a third party (the "Third Party Offeror"), COMPANY shall give either CITY or School Board the right of first refusal on the same terms and conditions as the third party offer (the "Third Party Offer"). The right of first refusal shall be exercised by the CITY or School Board within 60 days from receiving the Third Party Offer from the Company otherwise COMPANY may go forward with the sale to the Third Party Offeror.

6.04 The Charter School will have a multi-purpose area which may be used by the CITY with prior written notice to COMPANY and provided the City's use of the multi-purpose area does not interfere with the operation of the Charter School.

the original Plans and Specifications, the revisions must be approved by the Department. All such restoration shall be performed by COMPANY in accordance with the requirements set forth herein for the construction of the Improvements.

The CITY shall not be liable for any inconvenience or annoyance to the COMPANY or injury to COMPANY'S operations resulting in any way from such casualty damage or repair thereof, unless such casualty damage or repair is caused by the gross negligence, willful misconduct or intentional act of CITY, its agents, officers, employees, contractors, vendors or invitees.

9.02 If the building or improvements are damaged or destroyed, and either (i) such damage or destruction occurs during the last four (4) years of the term of this Lease or (ii) more than 50% of the gross floor area of the Improvements is damaged, or (iii) COMPANY does not elect to restore the building or improvements under this Lease, then, either party may elect to terminate this Lease by written notice to the other within ninety (90) days after the occurrence of such damage or destruction. In the event of termination under this Section 9.02 the insurance proceeds shall be applied as follows:

- (i) First to satisfy the unpaid principal balance, any accrued and unpaid interest and any and all other obligations secured by a Leasehold Mortgage, as defined in Section 13 hereof;
- (ii) Second, to pay the cost of debris removal from the Lease Land and restoration of the Lease Land to unimproved condition;
- (iii) The balance of the proceeds, if any, shall be applied first to pay to the COMPANY the undepreciated costs of the Improvements based on straight line depreciation of the Improvements over the term of this Lease and the balance shall be paid to the CITY.

Upon termination of this Lease under the provisions of this Section 9.02, the CITY and COMPANY shall each be released from any further obligations hereunder accruing after the effective date of termination, except only for those specific obligations that are expressly intended to survive or that were incurred prior to the date of such termination.

## **ARTICLE 10 INDEMNIFICATION**

10.01 COMPANY will indemnify, defend and hold the CITY harmless from and against any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses not covered by insurance payable to them, including reasonable attorney's fees, costs and expenses at all trial and appellate levels (whether suit be brought or not), which may be imposed upon or incurred by or asserted against any of them by reason on any of the following occurring during the Term of this Lease:

**ARTICLE 7  
EASEMENTS**

7.01 CITY and COMPANY agree that in the event the CITY or other public authority or utility company shall reasonably request the execution and delivery of grants of easement in, over, under or through the Leased Land for the purpose of installation, maintaining, repairing or replacing utility facilities such as water, gas, electricity, telephone, storm, sanitary sewer, cable TV, internet services, or any other necessary or desirable service or facility to or for the benefit of the Leased Land, then both parties will execute, acknowledge and deliver such instruments or documents as may be reasonably required upon approval by the City Council and in a form acceptable to the City Attorney. In no event shall COMPANY grant any use rights to the Leased Land or any other manner encumber the Leased Land without the prior consent of the CITY. Said consent not to be unreasonably withheld, conditioned or delayed.

**ARTICLE 8  
COMPLIANCE WITH LAW**

8.01 COMPANY shall at its sole cost and expense, comply with all Public Laws, which may be applicable to the construction, use or occupancy of the Improvements to be constructed on the Lease Land (the "Leased Premises"); to the extent that such compliance requires repair, replacement or modification of the Leased Premises, COMPANY shall be required to make the repairs, alterations or modifications as required to comply with Public Laws; provided, however, that COMPANY shall not make any structural alterations to the Leased Premises, without the prior written consent of the Department, whose consent shall not be unreasonably withheld, conditioned or delayed and shall be granted or denied within twenty-one (21) business days after receipt of any and all documentation reasonably required by CITY. Failure to respond within the twenty-one (21) days shall be deemed consent by the Department. COMPANY represents and warrants that the Leased Premises shall be in compliance with all Public Laws, including, without limitation, the American with Disabilities Act, 42 U.S.C. Section 12101, and shall indemnify, defend and hold the CITY free and harmless from and against any and all claims, losses, damages or liability arising from or in connection with COMPANY'S failure to comply with any of the foregoing.

**ARTICLE 9  
DAMAGE OR DESTRUCTION OF IMPROVEMENTS**

9.01 Except as provided in Section 9.02 below, if the building or improvements are damaged or otherwise destroyed and COMPANY elects to restore them, this Lease shall continue in full force and effect. Any restoration of the building or improvements shall be in accordance with and in compliance with all applicable laws and in substantial compliance with the original Plans and Specifications. In the event COMPANY desires to make any changes to

(a) Any work or thing done for COMPANY'S account in, on or about the Leased Land, the Improvements or any part thereof;

(b) Any use, occupation or operations of the Leased Land or the Improvements, or any part thereof, by or on behalf of COMPANY;

(c) Any negligence of COMPANY or any agent, contractor, employee, licensee or invitee of COMPANY;

(d) Any accident, injury or death to any person (including workmen) or loss of or damage to property occurring in or on the Leased Land or the Improvements or any part thereof, during construction of the Improvements; unless such damage is caused solely by CITY'S (including its agents, officers, employees, contractors, vendors or invites) gross negligence willful misconduct or intentional act; and

(e) Any failure on the part of COMPANY to perform or comply with any of the agreements, terms or conditions contained in this Lease on its part to be performed or complied with.

(f) Any violation of applicable federal, state or local laws and regulations, including environmental laws and the Americans with Disabilities Act.

In the event that any action or proceeding shall be brought against the CITY by reason of any claim covered by this section, COMPANY, upon written notice from the CITY, will at COMPANY'S sole cost and expense, resist and defend the same by counsel acceptable by COMPANY.

## ARTICLE 11 CONDEMNATION

11.01 If during the Term of this Lease or any extension or renewal thereof, all, or materially all, of the Leased Land should be taken for any public or quasi-public use under any public law or by right or eminent domain, or should be sold to the condemning authority under threat of condemnation, this Lease shall terminate and the Rent shall be abated during the unexpired portion of the Term of this Lease, effective as of the date of the taking of the Leased Land by the condemning authority. Materially all of the Leased Land shall be if the portion not effected (which must comprise at least 75% of the square footage of the Leased Premises cannot be reconstructed in the same manner and for the same purposes within nine (9) months from the date of taking, unless otherwise agreed to by the parties.

11.02 If less than all, or materially all, of the Leased Land shall be taken for any public or quasi-public use under any public law or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation and the remainder of the Leased Land is adequate for the continuance of the permitted use, this Lease shall not terminate but shall remain in full force and effect with respect to the portion of the Leased Land not so taken or condemned.

11.03 Any damages award for taking of the Leased Land by condemnation or eminent domain shall be apportioned as follows:

a) The CITY shall have the right to receive directly in its entirety the portion of the award which represents the value of the Leased Land taken.

b) COMPANY's Mortgagee, if any at the time of such taking, and if not COMPANY, shall have the right to receive directly from the condemning authority that portion of the award which represents the value of the Improvements as such portion of the award shall have been fixed and determined by the court or other lawful authority so authorized to make that determination.

11.04 In the event of taking less than all of the Leased Land, COMPANY shall within ninety (90) days from date of receipt of COMPANY'S portion of the condemnation award and continuously thereafter with all due diligence, at its sole cost and expense, commence and complete restoration of the remaining portion of the Improvements to a suitable and practical conditions upon the remaining land and effect whatever restoration shall be required to restore the remainder of the Lease Land to substantially the former condition. In such event, the Rent shall be equitably adjusted and the award shall be paid first to COMPANY as necessary to restore the Improvements; second to COMPANY and/or its lender, to compensate equitably for any resultant reduction in the rental under the Leased Premises, and the balance to the CITY. If such restoration shall not be completed within twenty-four (24) months of the taking, then the CITY shall have the right to terminate the Lease.

#### **ARTICLE 12 ASSIGNMENT**

12.01 Except an assignment by COMPANY to an entity controlled by Luis Machado, COMPANY shall not have the right to assign this Lease without the prior written consent of the CITY. Said consent not to be unreasonably withheld, conditioned or delayed. COMPANY covenants and agrees that any assignment of this Lease entered into by COMPANY shall be in writing and shall provide that the assignment is subject to this Lease and that the assignee shall abide by and comply with all provisions of this Lease.

12.02 CITY may assign this Lease without the prior written consent of COMPANY. CITY shall give prior written notice to COMPANY of such assignment.

#### **ARTICLE 13 MORTGAGE OF LEASED LAND**

13.01 CITY authorizes COMPANY as the lessee under this Lease to pledge, mortgage or encumber its leasehold interest to a Leasehold Mortgagee, as defined in Section 13.02 below, subject to the terms and conditions herein set forth. Any such pledge, mortgage or encumbrance, as the same may be extended, modified, amended or replaced, is herein referred to as a "Leasehold Mortgage." The right to place a Leasehold Mortgage is subject to COMPANY not being in default under this Lease. Any Leasehold Mortgage shall by its terms be made expressly subject to all of the provisions, covenants, conditions, exceptions and reservations contained



herein. The Leasehold Mortgage documents shall expressly require the Leasehold Mortgagee to notify the CITY upon the occurrence of any default under the Leasehold Mortgage. The CITY shall have the right to recapture this Lease, in the event that foreclosure proceedings are commenced.

13.02 The only Leasehold Mortgages authorized under this Lease are those securing a loan from an institutional lender, including without limitation any state or federally chartered bank, savings and loan association, commercial bank, insurance company, pension fund or other similar institutional entity, for the purpose of financing or refinancing the construction of the Improvements and **which are self-amortizing over a period of time expiring prior to the expiration of the Term hereof.**

13.03 In connection with the Leasehold Mortgage, COMPANY hereby requests and CITY hereby agrees to give written notice to COMPANY'S Mortgagee of any default of COMPANY under this Lease prior to pursuing any remedies CITY may have under this Lease, and to allow COMPANY'S Mortgagee thirty (30) days after receipt of such notice in which to cure the default of COMPANY provided such default is curable within the thirty (30) day period otherwise curing shall commence within this period and proceed diligently and in good faith until cured. In consideration of the foregoing, COMPANY'S Mortgagee agrees to give written notice to CITY of any default by COMPANY under the Leasehold Mortgage prior to taking action against COMPANY for such default and CITY shall have thirty (30) days thereafter (at their option, and without any obligation) in which to cure such default provided such default is curable within the thirty (30) day period otherwise curing shall commence within this period and proceed diligently and in good faith until cured. COMPANY shall also obtain a clause in the Leasehold Mortgage providing that COMPANY'S Mortgagee will accept CITY'S performance of COMPANY'S obligations under the Leasehold Mortgage in lieu of COMPANY'S performance thereof.

13.04 Other than the Leasehold Mortgage, COMPANY shall not, without the prior written consent of CITY, perform any act or execute any instrument the result of which may create or be the basis or foundation for any lien, charge, order or encumbrance upon any interest of CITY in any portion of the Leased Land, including, without limitation, the Leased Premises.

#### **ARTICLE 14 MECHANICS' AND MATERIALMEN'S LIENS**

14.01 COMPANY shall not do or suffer anything to be done whereby the Leased Land, the Improvements or any portion thereof may be encumbered by any mechanic's lien. If any mechanic's lien or notice of claim thereof is filed against the Leased Land with respect to work, labor or materials furnished to COMPANY or anyone claiming under COMPANY, COMPANY shall within thirty (30) days of receiving notice of such lien or claim remove or bond off any mechanics', materialmen's or other lien filed or claimed against any or all of the Leased Land and/or the Improvements or any equipment, furnishing or furniture therein by reason or labor or materials provided for or at the request of COMPANY, any of its contractors or subcontractors

(other than labor or materials provided by CITY) or otherwise arising out of COMPANY's use or occupancy of the Leased Land and indemnify and hold harmless CITY against and from any and all liability or expenses incurred by CITY on account of any such lien or claim.

14.02 If COMPANY fails to remove the lien, CITY after giving notice to COMPANY, may do so and recover any and all costs from COMPANY.

## **ARTICLE 15 DEFAULT AND REMEDIES**

15.01 (a) Except as otherwise set forth herein, if COMPANY shall allow the Rent to be in arrears more than ten (10) days after written notice of such delinquency, or shall remain in default under any other condition of this Lease for a period of thirty (30) days after written notice from CITY provided such default is curable within the thirty (30) days period otherwise curing shall commence within this period and proceed diligently and in good faith until cured or should COMPANY file a voluntary petition in bankruptcy or be adjudicated a bankrupt or insolvent, or file any petition or answer seeking any reorganization, composition, readjustment or similar relief under any present or future bankruptcy or other applicable law, or seek or consent to or acquiesce in the appointment of any trustee, receiver, or liquidator of COMPANY for all or any substantial part of its properties or should any other person than COMPANY secure possession of the Leased Land, or any part thereof, by reason of any receivership, bankruptcy proceedings, or other operation of law in any manner whatsoever, CITY may at its option upon notice to COMPANY, terminate this Lease, then, and in any such event, and during the continuance of any or all of the above-described Events of Default, CITY may terminate this Lease; and all rights of COMPANY hereunder shall immediately terminate.

(b) Upon any such termination of this Lease, COMPANY shall quit and peacefully surrender the Leased Land and all Improvements thereon and equipment, furnishings and fixtures therein to CITY and CITY upon and at any time after such termination may upon written notice to COMPANY, re-enter and repossess the Leased Land and Improvements, by proper legal proceedings, without being liable to any prosecution therefor.

(c) After any such termination of this Lease, CITY may relet the Leased Land or any part thereof, in the name of CITY or otherwise, for such term or terms and on such conditions as CITY in its discretion may determine, and may collect and receive the rents therefor.

(d) CITY shall have all rights and remedies given to it by law or equity.

(e) All remedies given to CITY herein and all rights and remedies to it at law or in equity shall be cumulative and concurrent.

(f) In the event CITY remains in default under this Lease for thirty (30) days after written notice from COMPANY and provided said default is curable within the thirty (30) days otherwise curing shall commence within this period and proceed diligently and in good faith until cured, then COMPANY shall have the right to either terminate this Lease or seek specific enforcement thereof.

## **ARTICLE 16**

### **ACCESS TO LEASED LAND**

16.01 At all times hereunder, subject to prior written notice, CITY, its agents or representatives may enter upon the Leased Land at all reasonable times to inspect the Leased Land provided such entry does not unreasonably interfere with COMPANY'S use of the Lease Land and provided COMPANY's representative accompanies such inspection.

## **ARTICLE 17**

### **TITLE TO IMPROVEMENTS**

17.01 Title to all buildings, improvements and appurtenances thereto, as well as all alterations, changes and additions thereto and all equipment, fixtures and machinery therein contained and all furniture and furnishings of the COMPANY, if any, therein, when made, erected, constructed, installed or placed upon, under or above the Leased Land shall be and remain in COMPANY until the expiration of the Term hereof, unless this Lease shall be sooner terminated as herein provided, and upon such expiration or sooner termination title to all such buildings and improvements and all equipment, fixtures and machinery and all furnishings and furniture therein contained as are then remaining on, under or above the Leased Land shall become automatically vested in the CITY.

## **ARTICLE 18**

### **QUIET ENJOYMENT AND SURRENDER**

18.01 Provided COMPANY is not in default under the terms of this Lease, CITY shall on the Effective Date of this lease, place COMPANY in quiet possession lawfully claiming possession during the Term of this Lease.

18.02 CITY covenants that the Leased Land are not subject to any lien, claim, or encumbrance, except as hereinafter set forth and that CITY is not in default or arrears in the making of any payment or the performance of any obligation relating to the Leased Land.

18.03 CITY covenants that it has the right to enter into this Lease and that all required legalities have been complied with. CITY also covenants that the person signing on behalf of the CITY has full power and authority to do so.

#### **ARTICLE 19 ESTOPPEL CERTIFICATE**

19.01 COMPANY and/or CITY as the case may be shall from time to time, within thirty (30) days after being requested to do so by either party or any mortgagee, execute, acknowledge and deliver to the other party an instrument in recordable form certifying that (i) this Lease is unmodified and in full force and effect (or, if there has been any modification thereof, that it is in full force and effect as so modified, stating therein the nature of such modifications); (ii) as to the dates to which the rent and any additional rent and other charges arising hereunder have been paid in advance of the dates on which payment thereof is due hereunder, if any; (iii) as to the amount of any prepaid rent or any credit due to COMPANY hereunder; (iv) that COMPANY has accepted possession of the Leased Land, and the date on which the Term commenced; (v) as to whether, to the best knowledge, information and belief of the signer of such certificate, CITY or COMPANY as the case may be is in default in the performance of any of its obligations hereunder (and if so, specifying the nature of each such default); (vi) and as to any other fact or condition reasonably requested by CITY or COMPANY or any mortgagee or prospective mortgagee of the Leased Land, or any interest therein, or any assignee or prospective assignee of any interest of CITY or COMPANY under this Lease and acknowledging and agreeing that any statement contained in any such certificate may be relied upon by the appropriate party.

#### **ARTICLE 20 NET LEASE**

20.01 This Lease shall be deemed and construed to be a net lease and except as herein otherwise expressly provided, CITY shall receive all rent and all other payments hereunder to be made by COMPANY free from any charges, assessments, impositions, expenses or deductions of any and every kind or nature whatsoever except as otherwise herein expressly provided.

#### **ARTICLE 21 MISCELLANEOUS**

21.01 Whenever, by the Terms of this Lease, notice or demand (each a "Notice") shall or may be given either to COMPANY or CITY such notice or demand shall be in writing and shall be hand delivered, sent by certified, return receipt requested, or sent by a national overnight courier service such as FedEx, to the following addresses, or such other addresses as either party shall advise the other of, by written notice given in accordance with this Article:

- (a) If intended to COMPANY  
addressed to COMPANY AT:

Luis Machado  
305 Alcazar Avenue, Suite 3  
Coral Gables, FL 33134

(b) If intended to CITY  
addressed to CITY:

CITY OF DORAL  
8401 NW 53 Terrace  
Doral, FL 33166

21.02 This Lease shall be binding upon and inured to the benefits of the parties hereto and their respective heirs, personal representatives, legal representatives, successors, and assigns when permitted by this Lease.

21.03 This Lease shall be construed under and in accordance with the laws of the State of Florida, without regards to principles of conflicts of law. Any suit, action or proceeding brought under this Lease shall be commenced and maintain (in addition to any other court of competent jurisdiction) in any State of Federal Court in Miami-Dade County, Florida, and each party consents, agrees and waives all objections to such jurisdiction and venue.

21.04 In case of any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this lease agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

21.05 This Lease constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter within it.

21.06 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the party against whom enforcement is sought.

21.07 The rights and remedies provided by this Lease are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are limited to those rights and remedies set forth herein and the parties hereto irrevocably waive any further rights which may be available at law, in equity or by statute.

21.08 No Waiver by the parties hercof of any default or breach of any term, condition, or covenant of this lease shall be deemed to be a waiver of any other breach of the same or any other term, condition, or covenant contained herein.

21.09 In the event of any litigation between the parties under this Lease, the prevailing party shall be entitled to reasonable attorneys' fees. Wherever provision is made in this Lease for "attorneys' fees," such term shall be deemed to include reasonable attorneys' fees and court costs, whether or not litigation is commenced, including those for appellate and bankruptcy proceedings and for paralegals and similar persons.

21.10 Time is of the essence as to all terms in this Lease.

21.11 Each party has participated fully in the negotiations and preparation of this Lease with full benefit of counsel. Accordingly, this Lease shall not be more strictly construed against either party.

## **ARTICLE 22 ENVIRONMENTAL MATTERS**

22.01 CITY represents and warrants to the COMPANY that CITY has had an environmental site assessment made of the Leased Land and, except as disclosed in such assessment, based on such assessment, has no actual knowledge of any contamination or existence of hazardous or toxic substances in or on the Leased Land. COMPANY represents and warrants that COMPANY, its agents, employees, contractors, licensees and/or invitees, shall not a) unlawfully use or employ the Leased Land or any of the facilities thereon to handle, transport, store, treat or dispose of any hazardous material or substance; b) use, maintain, generate, store, treat or dispose of any hazardous material in violation of any applicable environmental law, and c) knowingly conduct any activity on the Leased Land in violation of any applicable environmental laws. COMPANY will conduct any activity on, or relating to the Leased Land, and the operation of the Improvements in full compliance with all environmental laws and all terms, conditions and requirements of any and all permits, licenses, consents, approvals and authorizations of any federal, state or local regulatory agencies or authorities. COMPANY shall be responsible for and hereby indemnifies the CITY from and against any penalty, fine, loss, liability, claims or expense, including, without limitation, engineering and attorney's fees, arising out of or relating to the breach of this Article and any cleanup work, inquiry or enforcement proceeding in connection therewith. COMPAN's indemnity obligation under this Article 22 shall survive the expiration, cancellation or termination of this Lease.

22.02 **RADON GAS.** The following notification is provided under Section 404.056(6), Florida Statutes: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

**ARTICLE 23  
RENEWAL OF CHARTER**


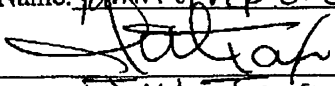
23.01 Both the COMPANY and CITY shall use their good faith efforts to seek the renewal of the Charter throughout the Term hereof.

**ARTICLE 24  
PROTECTION FROM PERSONAL LIABILITY**

24.01 No obligation or liability of any kind or nature whatsoever incurred by or asserted against the CITY in connection with this Lease, or arising out of the parties' actions in connection therewith, shall in any manner whatsoever be a personal obligation or liability of any employee, attorney or elected or appointed official of the CITY.

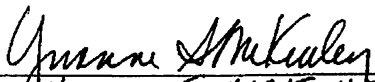
IN WITNESS WHEREOF, the undersigned CITY and COMPANY hereto execute this Lease as of the day and year first above written.

Witnesses:

  
Print Name: YAMIL REYNOLDO PEREIRA  
  
Print Name: J.M. TAXIS

CITY:

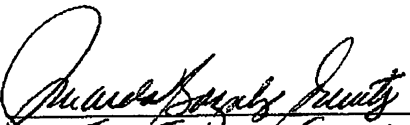

CITY OF DORAL

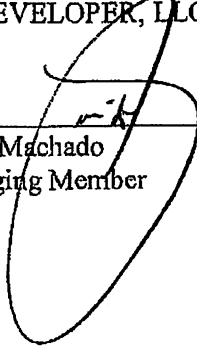
By:   
Name: YVONNE S. MCKINLEY  
Title: CITY MANAGER

Authorized to execute pursuant to City of Doral minutes  
Doral Resolution No. \_\_\_\_\_

COMPANY:

DORAL PREPARATORY CHARTER  
SCHOOL DEVELOPER, LLC

  
Print Name: JUNIA GONZALEZ BENITEZ  
  
Print Name: MELISSA MEDINA

By:   
Name: Luis Machado  
Title: Managing Member