

CHARTER SCHOOL LEASE AGREEMENT

This Lease Agreement ("the "Lease") is entered into by and between **the Saylor Family Trust, LLC** (hereinafter "Landlord") and **Albuquerque Collegiate Charter School**, a New Mexico Public Charter School (hereinafter "Tenant" or "School"). Landlord and Tenant are sometimes referred to herein each as "Party" and collectively as the "Parties."

1. PREMISES.

- A. Landlord does hereby lease to Tenant, and Tenant, subject to the terms and conditions of this Lease, does hereby take from Landlord, those certain premises to be built by Landlord to accommodate Tenant, located at 1720 Bridge Blvd SW, Suite 101 and 102 (+/-14,114 square feet see attached floor plan), Albuquerque, County of Bernalillo, state of New Mexico, on the property more particularly described on Exhibit A attached hereto with non-exclusive right to use the onsite parking ("Parking Lot"), (collectively the Building and Parking Lot are referred to as the "Premises").
- B. The lease is made with "Premises" to expand the existing Lease space to include. Suite 102 including the cost of improvements for Suite 102 amortized over five (5) years. This lease is also made with the understanding that should Suite 103 be needed for expansion of the School beyond as early at 2022-2023 school year Landlord shall make available that space to the School and negotiate in good faith as to the cost of the improvements required to expand into suite 103.
- C. Landlord shall cause to be built such improvements to Suite 101 and 102 as detailed by the plan drawings attached as Exhibit B to this Lease. The cost of these improvements shall be built into the lease rate and amortized over five (5) years. Should Tenant have the available and appropriate funds to do so and should the School choose to pay off these improvements sooner than the five (5) year amortization schedule the School shall be allowed to do so with no penalty.
- D. As they become available, Landlord shall deliver to Tenant the specific legal description of the Premises, site plan, specifications and design of the Facilities, and a construction schedule for the Facilities (collectively, the "Plans and Specifications") for approval by the School's Governing Council. Upon approval by Tenant, the specific legal description of the Premises shall be attached to this Lease as an exhibit. During the design and build of the Facilities and prior to approval by the Public School Facilities Authority, the Parties agree to meet on a regular basis and to use good faith efforts to seek consensus on issues related to construction of the Facilities in accordance with the Plans and Specifications. If consensus is not reached after reasonable time for consultation, either Party can request mediation, and both Parties shall attend a mediation conference in good

faith. Tenant shall use the Premises for the following purposes and for no other purposes whatsoever: operation of a public charter school or related general educational or office use. All of the foregoing shall be referred to herein as the "Tenant's Uses."

- E. Neither Landlord nor any agents or employees of Landlord have made any representations or promises with respect to the Premises, except as expressly set forth herein and as set forth in all exhibits and attachments to this Lease and the documents delivered in accordance with the terms of this Lease, including without limitation, the Plans and Specifications, and no rights, privileges, easements or licenses are acquired by Tenant, except as expressly set forth herein. The taking of possession of the Premises by Tenant shall be evidence that the Premises were on such date of possession in good, clean and tenantable condition and that the Tenant accepts the Premises "As Is" except (i) as outlined by Tenant at the time of such possession, (ii) as set forth in the warranties provided by third parties for the Facilities, and (iii) for Landlord's continuing maintenance and repair obligations expressly set forth in this Lease.

2. LEASE TERM.

- A. Initial Term. The "Lease Term" shall commence on the Move-In Date as defined below and shall continue thereafter for a period of 5 years, with 4 optional, 2-year renewal terms, following the Commencement Date, unless earlier terminated as hereinafter provided.
- B. Effective Date. The Effective Date, after which this Lease is valid and binding on the Parties, is the date this instrument is signed by the parties.
- C. Move-In Date. The Move-In Date, after which Rent shall be due, is the day Tenant takes control of the Premises following approval by the Public Schools Facility Authority and acceptance by Tenant of the Facilities upon substantial completion of construction and obtaining a permanent or temporary certificate of occupancy for educational occupancy. Such acceptance may be subject to customary "punch list" items that do not prevent the issuance of a permanent certificate of occupancy. At the Effective Date, the Move-In Date is contemplated as being July 15, 2020. If in Tenant's reasonable judgment the Premises will not be completed in accordance with State Building Requirements and the Plans and Specifications so that Tenant can occupy the Premises for Tenant's Uses on August 1, 2020 Tenant shall have the option to extend the Move-In Date by written notice to Landlord.
- D. Option To Extend Lease Term: The Option to Extend shall be contingent upon Tenant not being in default under the terms of this Lease at the time of the exercise of the option and at the commencement date for each option term. Tenant may negotiate a Tenant Improvement allowance during the option term. Tenant shall provide Landlord written notice not less than six (6) months prior to the expiration of the then-current Lease Term of its intent to exercise each option.

3. RENT.

- A. Tenant shall pay to Landlord during the Lease Term annual rent in monthly installments (hereinafter "Base Rent"). In Year One of this Lease, the lease rate for Suite 101 and Suite 102 shall be Thirteen Thousand Five Hundred Dollars per month beginning July 1, 2020 and a like amount each month thereafter until March 1, 2021 at which time the lease rate shall increase to \$30,916.67 for the period beginning March 1, 2021 through February of 28th 2023. Then beginning March 1, 2023 the lease payment shall be reduced to \$27,000.00 per month each and every month thereafter until paid in full. These monthly payments are inclusive of the cost of the improvements as referenced herein and paid per the following schedule:

July 1, 2020 through February 28, 2021 \$13,500.00/mo.

March 1, 2021 through February 28, 2023 \$30,916.67/mo.

March 1, 2023 through June 30, 2025 \$27,000.00/mo.

- B. If the laws of the state of New Mexico are changed such that the state of New Mexico ceases the practice of lease reimbursements or an alternative formula for payment of charter school leases, then paragraph A of this Section shall be read to conform to the new law and may be renegotiated to reflect changes in the laws or practice regarding charter schools.
- C. The monthly installments of Base Rent shall be due and payable in advance on the 15th day of each month. If any such Base Rent shall be payable for a fraction of a month, the amount payable shall be a pro rata share of the full month's Base Rent based on the actual number of days of the month involved. Should the Tenant fail within fifteen (15) days after the amount is due to pay any Base Rent due hereunder at the time and in the manner herein provided, a late fee of five percent (5%) of the amount then due will be added to the amount due which shall be immediately due and payable without any further notice or demand from Landlord. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent the Landlord from exercising any of the other rights and remedies granted hereunder.
- D. In addition to the Base Rent, and except as explicitly and specifically stated in this Lease, Tenant shall be responsible for the direct payment of all items identified under Services and Maintenance as obligations of Tenant. Unless otherwise negotiated between Landlord and Tenant, during the Lease Term Tenant will pay, when due, all charges of every nature, kind or description for utilities furnished to the Premises or chargeable against the Premises, including all charges for water, sewage, heat, gas, light, garbage, electricity, telephone or other public or private utility services.
- E. Additional Rent. Landlord will pay all Common Area Maintenance (CAM) in Year 1 and 2 of the lease. CAM includes the Tenant's pro rata share of property taxes, insurance, water, refuse, fire and extended coverage policy, security camera system

maintenance, sign maintenance, parking lot maintenance, roof, HVAC maintenance, electrical, property taxes, property insurance, and common area electrical for parking lots and signs. After Year 2 Tenant shall be fully responsible for the CAM for the space it occupies. The initial cost shall be \$2.35 per square foot per year paid 1/12th per month.

- F. Tenant agrees to pay to Landlord all state and local gross receipts and similar taxes now or hereafter required to be assessed and paid by Landlord in respect of Landlord's receipt of rent under this Lease, provided that Landlord shall pay all real estate taxes assessed against the Premises.

4. **SERVICES AND MAINTENANCE.**

- A. Tenant shall be responsible for interior maintenance costs of the Premises, including without limitation, janitorial services and cosmetic maintenance, glass and door glass replacement except as such items are the responsibility of the Landlord under this Lease.
- B. Heating and Air Conditioning, Plumbing, Electrical and Life Safety Systems. Landlord leases the Premises in an "as is" condition on the Move-In Date, subject to existing warranties, which Landlord shall be responsible for seeking coverage or reimbursement. Except as covered by such warranties and as to those items for which Landlord is responsible under the terms of this Lease, Tenant shall be responsible for the interior maintenance and maintenance of all exterior playground equipment and fence behind and to the south of Suite 101 and 102. Landlord will be responsible for the repair of the Building, plumbing, electrical mechanical, roof, and life safety systems, fire alarm systems within the Building. Landlord shall not at any time during the term of the lease be responsible for installation, ownership, repair or replacement of playground equipment owned by the school.
- C. Landlord shall be responsible for the warranties, maintenance service contracts, and replacement of the HVAC, landscaping, parking lot, plumbing, electrical and life safety systems outside of the Building, roof, exterior of the Building, and structural members of the Building, unless such maintenance or repairs are necessitated in part or in whole by the neglect, fault or omission of any duty by Tenant, its agents, servants, employees or invitees, in which case Landlord shall cause the necessary maintenance or repair to be performed and Tenant shall pay to Landlord within thirty (30) days following Landlord's demand the reasonable cost of such maintenance and repairs for covered by warranties or service contracts. Anything to the contrary in this Lease notwithstanding, Landlord shall be responsible for all costs of any kind necessary to maintain the Premises to the State Building Requirements. If Landlord fails to perform maintenance or make repairs in a timely manner of Tenant has provided written notice to Landlord for the need of the same, then Tenant shall have the right to cause the necessary maintenance or repair to be performed and to collect from Landlord the cost of such repair, including without limitation, by offsetting rent owed to Landlord in the amount of such repair or maintenance.

- D. All repairs and replacements made by Landlord shall be made and performed at such time and in such manner as agreed upon by Landlord and Tenant, by contractors or mechanics approved by Landlord, so that same shall be at least equal in quality, value, and utility to the original work or installation, and in accordance with all applicable building codes, laws and regulations of governmental authorities having jurisdiction over public schools and the Premises, and shall maintain such occupancy standards as are required for public schools.
- E. Keys and Locks. Landlord shall furnish Tenant with keys for the lock on each door entering the Premises. Additional keys will be furnished at a charge by Landlord on an order signed by Tenant or Tenant's authorized representative. All such keys shall remain the property of Landlord. No additional locks shall be allowed on any door of the Premises without Landlord's permission, and Tenant shall not make or permit to be made any duplicate keys except those furnished or allowed by Landlord. Upon termination of this Lease, Tenant shall return to Landlord all keys to the Premises and give to Landlord the explanation of the combination of all locks for safes, safe cabinets and vault doors, if any, in the Premises.
- F. Signage. Landlord will provide joint signage/marquee on the building, and a placard for Tenant on each pylon sign shall have the right to place its signage thereon. No signage shall be installed or modified without the Landlord's prior written approval of such signage.
- G. Landlord shall be responsible for acting with prudence and diligence in repairing and restoring utility services that are interrupted. Landlord shall be liable for the gross negligence and intentional acts or omissions of Landlord, its employees, agents and representatives, but shall not be responsible for any interruption of services that causes the Premises to be deemed unusable as a school out of control of Landlord or which interrupts or precludes the assignment of an E-Occupancy rating for the facility.
- H. During both the Initial Term and any Extended Term of this Lease, Landlord shall maintain the Property to all applicable state adequacy standards applicable to charter schools, at no additional cost to the School or the State of New Mexico as set forth in NMSA 1978, §22-8B-4.2(D)(2)(a) or a successor statute.

- 5. **ASSIGNMENT AND SUBLETTING.** Tenant shall not have the right to sublet or assign all or any part of the Premises or rights to use the access or Parking Lot Facilities without the prior written consent of the Landlord, which will not be unreasonably withheld. A name change by either party shall not be considered an assignment.

6. ALTERATIONS.

- A. Except as expressly described in this Lease, Tenant will not make any alterations of, or additions to, the Premises without the prior written approval of Landlord, which approval is not to be unreasonably withheld. Tenant may install Tenant's trade fixtures and may make other changes or alterations costing less than \$10,000

(ten thousand dollars) without Landlord's approval, but only if they are of a non-structural nature or they do not affect or involve Building systems.

- B. Tenant will not permit any mechanic's, laborer's or materialmen's liens to stand against the Premises and will, within thirty (30) days of notice thereof remove all such liens. Landlord may remove such liens and Tenant shall immediately reimburse Landlord upon demand for all costs and expenses, including attorney's fees, incurred by Landlord in removing such mechanic's, laborer's or materialmen's lien.

7. TENANT EQUIPMENT AND FURNISHINGS.

- A. Tenant shall not install or operate in the Premises equipment or other machinery which requires changes, replacements or additions to or in the use of the heating, air conditioning, electrical or plumbing systems of the Premises without first obtaining the prior written consent of the Landlord.
- B. Landlord shall have the right to limit the weight and prescribe the position of heavy equipment or fixtures, based on the structural integrity of the facilities. Any and all damage or injury to the Premises caused by moving the property of Tenant in or out of the Premises, or due to the same being on the Premises shall be repaired by and at the sole cost of Tenant.
- C. Any and all playground equipment shall be purchased directly, owned, and maintained by the School. Landlord shall pay to level and fence the playground area, and put in a walk path to the building from the playground. However, installation shall be done by an outside contractor selected by Tenant and paid by Tenant and Landlord shall not bear any responsibility for maintenance of nor any liability for any playground equipment. For the purposes of this section "playground equipment" means any equipment or area used for outdoor play or recreation, especially by children, and often containing recreational equipment such as slides and/or swings.

8. TENANT'S INSURANCE.

- A. Tenant shall procure and maintain policies of insurance, at its own cost and expense through the New Mexico Public Schools Insurance Authority for liability of Tenant and its "public employees" as defined in the Tort Claims Act (NMSA 1978, Section 41-4-1 et. seq.) in amounts prescribed by the Tort Claims Act, causing Landlord to be named as an additional insured on such policy of insurance but only in respect of liability arising out of Tenant's actions on the Premises. Certificates of Tenant's insurance policies shall be deposited with Landlord as requested by Landlord during the term of this Lease.
- B. Landlord shall carry its own general liability insurance in respect of liability related to or connected with the Premises for bodily injury to or personal injury to or death of any person or persons, or for damage to property in an amount of no less than legally required.

- C. Landlord shall carry a policy or policies of insurance, at its sole cost and expense, insuring Tenant, Landlord and Landlord's lender Wells Fargo Bank or subsequent lender, if any, against property loss, bodily injury or damage to the Premises in an amount equal to liability limits of no less than \$2,000,000 and the replacement cost thereof of any damage resulting from actions of Tenant, Tenant's students or parents, Tenant's employees, agents or other invitees of Tenant.
- D. Tenant shall, from the Rental Commencement Date, carry commercial tenant's property insurance, covering Landlord and Tenant against all risks of physical loss to the contents of the Premises, including without limitation, the furniture, fixtures and equipment, in an amount equal to full replacement cost.
- E. Tenant will not conduct or permit to be conducted any activity or place any equipment in or about the Premises, which will in any way increase the rate of fire insurance or other insurance on the Building; and if any increase in the rate of fire insurance or other insurance is stated by any insurance company or by the applicable insurance rating bureau to be due to activity or equipment of Tenant in or about the Premises, such statement shall be evidence that the increase in such rate is due to such activity or equipment, and as a result thereof, Tenant shall be liable for such increase and shall reimburse Landlord therefore.
- F. Tenant shall at all times maintain Worker's Compensation insurance covering its employees in and about the Premises as required by law and shall provide Landlord proof of such insurance upon request.
- G. If the Premises, or Tenant's personal property or fixtures in the Premises, shall be damaged or destroyed by a casualty required to be insured under the terms of this Lease, whether or not such damage or destruction is caused, or claimed to be caused, by the neglect or misconduct of Landlord or Tenant, or any of their respective officers, employees, agents, contractors, or invitees, neither Landlord, Tenant, nor their respective insurance companies shall have any right of action, by way of subrogation or otherwise, against Landlord or Tenant, or any of their officers, employees, agents, contractors, or invitees, arising from such damage or destruction, and each policy of insurance required by this Lease shall provide a waiver and release by the insurer of any such right.

9. RESPONSIBILITY FOR ACTIONS UNDER THE LEASE.

- A. Tenant shall be responsible for any and all claims by or on behalf of any person arising from conduct or management of or from any work or thing whatsoever done in or on the Premises by Tenant, its agents, contractors, servants, employees, invitees or licensees. If any action or proceeding is brought against Landlord by reason of any claim described in this Paragraph, Landlord shall have the right to make a claim against Tenant under this Paragraph.
- B. Landlord shall be responsible for any and all claims by or on behalf of any person arising from the conduct or management of or from any work or thing whatsoever

done in or on the Premises by Landlord, its agents, contractors, servants, employees, invitees or licensees. If any action or proceeding is brought against Tenant by reason of any claim described in this Paragraph, Tenant shall have the right to make a claim against Landlord under this Paragraph.

10. TERMINATION.

- A. Fire or Other Casualties. If the Premises is substantially damaged or destroyed by fire or other casualty, the Landlord shall have the right to terminate this Lease, provided it gives written notice thereof to the Tenant within 30 days after such damage or destruction. If a portion of the Premises is damaged by fire or other casualty, and Landlord shall restore the Premises, exclusive of any alterations or other changes made to the Premises at any time by or at the direction or request of Tenant, to as near the condition which existed immediately prior to such damage or destruction as reasonably possible and in any event sufficient to meet the requirements of NMSA 1978, Section 22-8B-4.2 or any successor statute. In the event Landlord so elects to restore the Premises, Rent shall abate during such period of time as the Premises are unusable in a reasonable manner based on Tenant's ability to utilize the remaining portion of the Premises; provided that if the remaining portion is not sufficient for the entirety of Tenant's student population (including without limitation it does not meet the State Building Requirements), then the entire Premises shall be deemed unsuitable. If the substantial destruction to the Premises cannot be substantially restored within one hundred eighty (180) days from the time of such damage or destruction or during the last twelve (12) months of the current lease term, then the Tenant or Landlord shall have the right to terminate this Lease. The Landlord shall not be responsible to the Tenant for damages to or destruction of any furniture, equipment, alterations or other changes made or installed in, on or about the Premises regardless of the cause or the damage or destruction unless caused by the gross negligence or intentional misconduct of Landlord, its employees, agents and representatives.
- B. Eminent Domain. If the entire Premises or substantially all of the Premises is permanently taken by eminent domain, this Lease shall automatically terminate as of the date of such taking. If any portion of the Premises is taken by eminent domain, Landlord shall also have the right to terminate this Lease by giving written notice thereof to Tenant within ninety (90) days after the date of taking. If only a portion of the Premises is taken by eminent domain and Landlord elects not to terminate this Lease, Landlord shall, at its expense, restore the Premises, exclusive of any improvements or other changes made to the Premises by Tenant, to as near the condition which existed immediately prior to the date of taking as reasonably possible. Rent shall abate during such period of time as the Premises are unusable in a reasonable manner based on Tenant's ability to utilize the remaining portion of the Premises and upon completion of restoration necessary adjustments shall be made in the Rent, or other costs to reflect a reduction in the size of the Premises. Tenant shall have the right to terminate this Lease within ninety (90) days after the date of taking by giving written notice thereof to Landlord, if the taking involved results in (i) Tenant not being able to reasonably utilize the remaining Premises for

Tenant's Uses or (ii) the remainder of the Premises is not suitable for Tenant's Uses for its entire student population (including without limitation it does not meet the State Building Requirements). Tenant shall have no right to any of the award or payment made in connection with such taking provided, however, that Tenant shall be entitled to recover any separate amount for Tenant fixtures and/or relocation costs provided under appropriate statutes, ordinances or regulations.

- C. Event of Non-Appropriation. Tenant's obligations under this Lease are subject to annual appropriation of funds for Tenant to pay Rent hereunder.
- i. An "Event of Non-Appropriation" shall have occurred: (a) if on June 30 of any year the New Mexico State Legislature has, on such date, failed, for any reason, to appropriate sufficient amounts authorized and directed to be used to pay Rent scheduled to be paid in the next ensuing fiscal year of the Tenant; (b) if the Public Education Department finds this instrument to be outside the allowable scope of Section 22-8B-4.2, or its successor statute; or (c) if Tenant's charter is not renewed or is otherwise revoked.
 - ii. Upon an Event of Non-Appropriation and any other provisions of this Lease to the contrary notwithstanding, Tenant shall have the right to terminate the Lease effective June 30 of the year when the Event of Non-Appropriation occurs. If reasonably feasible, Tenant shall give written notice of the Event of Non-Appropriation and Tenant's termination by April 1 of the year in which the Event of Non-Appropriation occurs; however, a failure to give such notice by April 1 shall not: (a) constitute an event of default; (b) prevent the Tenant from terminating the Lease; or (c) result in liability to Tenant hereunder.
 - iii. Upon the occurrence of an Event of Non-Appropriation resulting in a termination of this Lease, Tenant shall have the option through written notice to renew this Lease in yearly increments if the amounts held in reserve by the Tenant as of April 1 are sufficient to be meet the entire amount of Rent due hereunder for the next ensuing fiscal year.
 - iv. If the Event of Non-Appropriation would be cured by changing this instrument to one approved by the Public Education Department or the Public Schools Facilities Authority, as applicable, pursuant to Section 22-8B-4.2 of the Public School Code or its successor statute, the Parties shall have the option of agreeing to such instrument to cure the Event of Non-Appropriation as an alternative to terminating the Lease.
 - v. Tenant's obligations under the Lease shall be subject to a termination of this Lease upon the occurrence of an incurable Event of Non-Appropriation.
- D. Sale of Property. If Landlord should sell the property, then the subsequent property owner shall observe all provisions of this agreement. Default. If Tenant defaults as provided for in the Lease, after required notice and an opportunity to cure as set forth in this Lease, then Landlord, at Landlord's option, may terminate this lease at

the close of the fiscal year in which the default occurs. If Landlord defaults as provided for in the Lease, after required notice and an opportunity to cure as set forth in this Lease, then Tenant, at Tenant's option, may terminate this Lease immediately or up to the end of the fiscal year in which the default occurs.

11. TENANT'S DEFAULT. The occurrence of any of the following events shall constitute a default by Tenant under this Lease:

- A. If Tenant shall fail to pay any amounts to be paid by it hereunder, including but not limited to Base Rent and late charges and such default shall continue for a period of 30 days after Landlord has given Tenant written notice of such failure to pay.
- B. If Tenant fails to perform or observe any of Tenant's other obligations, covenants or agreements herein or hereunder, and such failure shall continue for a period of 30 days after Landlord has given Tenant written notice thereof, provided however, if the default cannot be reasonably cured within 30 days, Tenant shall have such additional time as is reasonably necessary to cure said default, provided Tenant acts diligently towards curing the default.
- C. The abandonment of the Premises by Tenant (other than the portion of Premises that may be assigned or sublet or a portion of the Premises that does not meet the State Building Requirements).
- D. Upon the occurrence of any of the foregoing defaults, Landlord may, but with no obligation to do so, immediately re-enter the Premises and remove all persons and property therefrom. Landlord shall have the right to keep this Lease in full force and effect, or, at its option, terminate this Lease as provided for under Termination. Tenant hereby expressly waives the service of any notice in writing of Landlord's intent to re-enter the Premises pursuant to this Section.
- E. Right to Cure Defaults. If Tenant defaults in the observance or performance of any of Tenant's covenants, agreements or obligations hereunder wherein the default can be cured by the expenditure of money, Landlord may, but without obligation, and without limiting any other remedies which it may have by reason of such default, cure the default, charge the cost thereof to Tenant and Tenant shall pay the same forthwith upon demand. If Landlord is required to commence a legal action to recover such sums from the Tenant, Landlord shall also have the right to recover all interest costs and attorney's fees in connection with such litigation.

12. LANDLORD'S DEFAULT. Landlord shall be in default hereunder if Landlord fails to perform any obligations hereunder and such failure shall continue for a period of thirty (45) days after Tenant has given Landlord written notice thereof, provided however, if the default cannot be reasonably cured within thirty (30) days, Landlord shall have such additional time as is reasonably necessary to cure said default, provided Landlord acts diligently towards curing the default. Upon a default, Tenant shall have all rights and remedies at law or in equity, and Tenant shall have the right to terminate as described in the Termination section.

13. YIELDING POSSESSION AT END OF TERM: HOLDING OVER.

- A. Tenant shall peaceably surrender and yield possession of the Premises to Landlord at the end of the Lease Term or earlier termination of the Tenant's right to occupy the Premises. Upon expiration or termination of the Lease Term, Tenant shall surrender to Landlord all keys to the Premises.
- B. After having obtained Landlord's prior express written consent to do so (which consent shall be in the discretion of Landlord), if Tenant holds possession of all or any part of the Premises after the expiration or termination of this Lease, Tenant will be a Tenant from month to month effective as of the date of such expiration or termination, at the same rate of Base Rent in effect for the Lease Year immediately prior to the expiration or termination of this Lease. Tenant will be bound by and obligated to abide by all of the provisions of this Agreement, subject to any conditions imposed by Landlord in consideration of having given its consent.
- C. If Tenant remains in possession of all or any portion of the Premises after the expiration or termination of this Lease or earlier termination of the Tenant's right to occupy the Premises without the requisite consent of Landlord, at Landlord's election, Landlord may take any action it deems appropriate to remove Tenant and its possessions from the Premises, and for so long as Landlord does not take such action Tenant will be a tenant at sufferance, subject to all the conditions, provisions and obligations of a Tenant under this Agreement, at the same rate of Base Rent in effect for the Lease Year immediately prior to the expiration or termination of this Lease or earlier termination of the Tenant's right to occupy the Premises, pro-rated on a daily basis until Landlord regains possession of the Premises in the condition provided for in this Agreement. No holding over, even with the consent of the Landlord and payment of Rent, will extend the Lease Term. In addition to the Rent, Tenant will pay Landlord all damages incurred or suffered by Landlord arising from any delay in surrendering the Premises to Landlord in the condition provided for in this Agreement, including but not limited to those incurred as a result of Landlord being unable to provide possession of the Premises to a new Tenant of the Premises as provided in a separate lease agreement.
- D. Acceptance by Landlord of Rent after the expiration or termination of this Lease or earlier termination of the Tenant's right to occupy the Premises shall not result in a renewal or reinstatement of the Lease Term.
- E. The foregoing provisions of this Section are in addition to and do not limit Landlord's right of re-entry or any other rights of Landlord stated elsewhere in this Agreement or provided by law.

14. CONTINUANCE OF AGREEMENT. This Agreement shall be binding upon and inure to the benefit of the parties hereto or their successors in interest and subject to the restrictions and limitations herein contained, their respective heirs, and assigns.

15. TENANT TO SURRENDER PREMISES IN GOOD CONDITION. Upon the expiration or termination of the Lease Term, Tenant shall at its expense:

- A. Remove Tenant's goods and effects and those of all persons claiming through Tenant.
- B. Quit and deliver up the Premises to Landlord peaceably and quietly in as good order and condition as the same were on the date the Lease Term commenced or were thereafter in place by Landlord, reasonable wear and tear accepted.
- C. After the expiration or termination of the Lease Term any property left in the Premises shall be deemed to have been abandoned and shall be deemed the property of Landlord to be disposed of as Landlord sees fit.

16. LANDLORD'S RIGHT TO ENTER PREMISES. Landlord, or its authorized agents or attorneys, may at any reasonable time upon prior notice, except in the event of an emergency (and without interfering with Tenant's use of the Premises) enter the Premises to inspect, make repairs and improvements and/or changes in the Premises or other premises in Building as Landlord may deem proper. Landlord's reserved rights hereunder shall include, without limitation, free unhampered and unobstructed access to Building airways, equipment ducts, under floor heater ducts, stairways, access panels and all cleaning and utility services. There shall be no diminution of rent or injury to business caused by Landlord's exercise of the rights reserved by Landlord in this Section.

17. LANDLORD'S CONSENT. Where Landlord's consent is required herein, it shall not be unreasonably withheld, conditioned or delayed.

18. LEASE TO BE SUBORDINATE. This Lease is subject and subordinate to all mortgages, deeds of trust, and restrictions which may now or hereafter affect the Property and to all renewals and extensions thereof; provided that Tenant shall be entitled to continue quiet enjoyment of the Premises if any mortgagee, deed of trust beneficiary or trustee becomes the landlord hereunder so long as Tenant is not in default hereunder, and upon such condition, Tenant agrees to attorn to any mortgagee or deed of trust beneficiary or trustee upon foreclosure, a trustee's sale or a deed in lieu of foreclosure. For confirmation of such subordination, Tenant shall execute promptly any subordination agreement requested by Landlord. Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's agent to execute any such subordination agreement or agreements for or on behalf of Tenant.

19. RUBBISH AND DEBRIS. No rubbish, trash, dirt, debris or objects of any kind shall be put outside or around Premises, except within designated dumpsters. Tenant shall cause Tenant's employees, students, agents and invitees to comply with this Section. In the event that Tenant generates excessive trash, which requires additional trash pick ups or installation of additional dumpsters, Tenant shall be responsible for such additional charges.

20. SEVERABILITY. The provisions of this Lease are expressly severable, and the unenforceability of any provision or provisions hereof shall not affect or impair the enforceability of any other provision or provisions.

21. HAZARDOUS SUBSTANCES.

- A. Tenant does not and shall not use or permit the use of the Premises for any purpose relating to the storage and use of Hazardous Materials not connected to Tenant's mission as a public charter school. Except as pertinent to Tenant's mission as a public charter school, Tenant shall not, in any event, generate, manufacture, produce, release, discharge or dispose of on, in or under the Premises or the Building, or transport to or from the Premises, any Hazardous Materials, or allow any other person or entity to do so. Landlord represents and warrants that to its knowledge there are no Hazardous Materials in or about the Premises or the Building as of the Move-In Date.
- B. Tenant shall comply with all local, state or federal laws, ordinances or regulations relating to Hazardous Materials and above ground and underground storage tanks on, in, under or about the Premises occurring for the first time after the Move-In Date.
- C. Tenant shall promptly notify Landlord should Tenant receive notice of or otherwise become aware of any pending or threatened environmental regulatory action against Tenant, the Premises or the Building; claims made or threatened by any third party relating to any loss or injury resulting from any Hazardous Material; or release or discharge or threatened release or discharge of any Hazardous Material in, on, under or about the Premises or the Building.
- D. Tenant shall promptly deliver to Landlord copies of any documents relating to any governmental proceeding relating to Hazardous Materials and all engineering reports, test reports and laboratory analysis concerning the Hazardous Materials to Landlord.
- E. Tenant shall promptly and thoroughly investigate suspected Hazardous Materials contamination of the Premises or the Building or the ground water of the Building, resulting from Tenant's use of the Premises.
- F. Landlord shall have the right, at Tenant's expense, to require an annual audit of Tenant's operation on the Premises to ensure compliance with environmental laws and regulations and this Section, if Tenant's use is found to be in violation of applicable environmental laws or regulations. Upon receipt of written notice from Landlord, Tenant shall promptly correct any violations and/or deficiencies cited in the audit.
- G. If a default occurs under this Lease, Landlord, at Tenant's expense, shall have the right to cause to be conducted an investigation of the Premises for Hazardous Materials and Tenant shall forthwith remove, repair, clean up or detoxify any Hazardous Materials from the Premises, the Building, or ground water resulting from Tenant's use, to make the Premises comply with applicable law.
- H. Should Landlord obtain information related to the use of Hazardous Materials on the Premises, Tenant shall permit Landlord or its agents to inspect the Premises at

any reasonable times and agree to fully cooperate with Landlord in determining compliance with this Section.

- I. "Hazardous Materials" shall mean any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, any substance defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "toxic substances", "contaminants" or "pollutants" under any applicable federal or state laws or regulations.

22. **BROKERAGE NONE**

23. **ESTOPPEL CERTIFICATE.** Tenant agrees that at any time and from time to time upon not less than five (5) days prior written notice by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing which:

- A. Certifies that this Lease is unmodified and in full force and effect if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications.
- B. States the dates to which the rent and other charges hereunder have been paid by Tenant.
- C. States whether or not, to the best knowledge of Tenant, Landlord is in default in the performance of any covenants, agreements or conditions contained in this Lease and if so, specifying each such default of which Tenant may have knowledge.
- D. Responds to such other matters as Landlord reasonably requests. Any such statement delivered pursuant hereto may be relied upon by any owner or prospective purchaser of the Property, any prospective mortgagee of the Property or Landlord's interest therein or any prospective assignee of any such mortgagee.

24. **WAIVER OF COVENANTS.** Failure of Landlord to insist, in any one or more instances, upon strict performance of any term, covenant or condition of this Lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such term, covenant, condition or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rents with knowledge of a breach in any of the terms, covenants and conditions of this Lease to be kept or performed by Tenant shall not be deemed a waiver of such breach, and Landlord shall not be deemed to have waived any provision of this Lease unless expressed in writing and signed by Landlord.

25. **NOTICES.** Any notice or demand which, under the terms of this Lease or under any statute must or may be given or made by the parties hereto, shall be in writing, and may be given or made by personal delivery or mailing the same by registered mail, addressed to the other party at the address provided on the Effective Date. Either party, however, may designate in writing such new or other address to which such notice or demand shall hereafter be so given, made or mailed. Notices delivered by electronic mail are valid only if acknowledged

by the person receiving the electronic mail, and if that person is the intended recipient of the notice.

26. **FORCE MAJEURE.** If Landlord or Tenant cannot perform any of their respective obligations under the terms of this Lease due to event(s) beyond their control, the time provided for performance of such obligations shall be extended by a period of time equal to the duration of such event(s). If either party to the Lease desires to invoke the provisions of this Paragraph, it shall provide written notice to the other party of the reasons for the delay and the invoking party shall use best reasonable efforts to mitigate the effects of such occurrence. As an alternative, the parties may mutually agree to cancel or amend this lease as a result of event(s) beyond their control. Event(s) beyond Landlord's or Tenant's control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood, or other casualty, shortages of labor and materials, weather conditions, government laws and regulation (new or amended), but shall in no event include defaults due to Landlord's or Tenant's failure to meet their respective monetary obligations hereunder.
27. **TIME.** It is understood and agreed between the parties hereto that time is of the essence in all of the terms and provisions of this Lease.
28. **ATTORNEY'S FEES.** If the Tenant defaults in the performance of any of the covenants of this Lease and by reason thereof the Landlord employs the services of an attorney to enforce performance of the covenants by the Tenant, to evict the Tenant, to collect moneys due from the Tenant, or to perform any service based upon said default, then in any of said events the Tenant does agree to pay a reasonable attorney's fee and all expenses and costs incurred by the Landlord pertaining thereto and in enforcement of any remedy available to the Landlord. In any proceeding brought by either Landlord or Tenant against the other relating to this Lease, a reasonable attorney's fee, costs and expenses shall be recovered in such proceeding by the successful party therein.
29. **REPRESENTATIONS.** This Lease, all exhibits, attachments and documents to be delivered in accordance with the terms of this Lease constitute the final agreement of the parties hereto and supersedes all negotiations, representations or agreements, whether written or oral, made prior to the execution hereof. Landlord makes no representations or warranties regarding the Premises or of Landlord's or Tenant's rights, obligations, or duties with respect thereto other than those expressly set forth in the foregoing described documents. By execution of this Lease, Tenant acknowledges that no representations or warranties have been made by Landlord (or Landlord's agents, representatives, or employees, or by anyone acting on behalf of Landlord or under contract with Landlord) upon which Tenant has relied in executing this Lease other than such representations or warranties that are expressly set forth in the documents described in this Paragraph.
30. **CAPTIONS.** The captions in this Lease are for convenience only and are not part of this Lease.

31. **LAWS AND JURISDICTION.** This Lease shall be construed according to the laws of the State of New Mexico. Any legal action filed by Landlord or Tenant to enforce the terms of this Lease shall be filed in the Second Judicial District Court of the State of New Mexico
32. **QUIET ENJOYMENT.** Tenant, upon paying the Rent and upon observing and keeping all of the covenants, agreements and provisions of this Lease on its part to be observed and kept, shall lawfully and quietly hold, occupy, and enjoy the Premises during the term of the Lease without hindrance or molestation.
33. **AMENDMENTS.** This Lease may be amended only by a writing executed by both parties hereto. This agreement and any and all attachments hereto shall replace any existing lease agreement after the date of execution. The existing Lease agreement shall govern and shall be in full force and effect until July 1, 2020 at which time, this lease agreement shall replace the existing lease agreement.

IN WITNESS WHEREOF, Landlord and Tenant respectfully have duly signed and sealed these presents as of the Effective Date.

FOR THE LANDLORD, **Rick Saylor, Managing Member, Saylor Family Trust, LLC**

By: _____
Rick Saylor
Date:

FOR THE TENANT, **Albuquerque Collegiate Charter School**

By: Jade Rivera
Jade Rivera
Founder
Date: 2/19/2020

By: Tom J. Garcia
Governing Council Chair
Date:

Exhibit A – Legal Description