

ORIGINAL

LEASE AGREEMENT

THIS INDENTURE OF LEASE is dated August 10, 2009, but effective as of March 15, 2008, by and between the UNIVERSITY OF HAWAII, hereafter designated "Lessor," whose principal place of business and mailing address are 2444 Dole Street, Bachman Hall, Honolulu, Hawai'i, 96822, and KAWAIKINI NEW CENTURY PUBLIC CHARTER SCHOOL, whose mailing address is P. O. Box 662014, Lihu'e, Hawai'i, 96766, hereafter designated "Lessee".

WITNESSETH THAT:

WHEREAS Lessee plans to construct, maintain, and operate a proposed Hawaiian immersion K-12 school under a charter from the State of Hawai'i in accordance with chapter 302B, Hawai'i Revised Statutes (hereafter "Charter school"); and

WHEREAS, Lessee plans to obtain all of the approvals necessary to open as a State of Hawai'i authorized Charter school for the 2008-2009 school year, including, without limitation, obtaining any and all approvals required from the State of Hawai'i Charter School Review Panel (hereafter the "CSR"); and

WHEREAS, as a State of Hawai'i authorized Charter school, Lessee will be subject to the same standards of educational achievement, open-access, and organization accountability as the non-chartered public schools under the BOE's jurisdiction; and

WHEREAS, as a State of Hawai'i authorized Charter school, Lessee will have the following goals and objectives:

1. To create and implement an integrated K-12 Kaua'i-based curriculum.
2. To develop and foster a community of Hawaiian language speakers.
3. To improve and support the overall health of our learning community.
4. To engage parents and Kaua'i organizations in achieving a well-rounded Hawaiian education.
5. To prepare students with the skills and knowledge necessary for success in their academic and career pursuits.

WHEREAS, Lessor owns that certain property being used by the Kaua'i Community College (hereafter the "College"), being more specifically identified as follows:

1. Lots 445-A-1, as shown on Map 51, Land Court Application No. 1087, and as noted on Transfer Certificate of Title No. 157,535 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i (hereafter the "Land Court"), and also identified as Tax Map Key No. (4) 3-4-07:03, containing an area of approximately 98.749 acres (hereafter "Lot 445-A-1");
2. Lots 445-A-3, as shown on Map 51, Land Court Application No. 1087,

and as noted on Transfer Certificate of Title No. 157,537 filed in the Land Court, and also identified as Tax Map Key No. (4) 3-4-07:02, containing an area of approximately 39.939 acres (hereafter "Lot 445-A-3"); and

3. Lots 1408 and 1409, as shown on Map 118, Land Court Application No. 1087, and noted on Transfer Certificate of Title No. 157,536 filed in the Land Court, and also identified as Tax Map Key Nos. (4) 3-4-07:06 and (4) 3-4-07:01, containing areas of approximately 1.303 acres and 58.775 acres, respectively (hereafter "Lot 1408" and Lot 1409", respectively),

Lot 445-A-1, Lot 445-A-3, Lot 1408, and Lot 1409 together comprise the property occupied by the College (hereafter collectively the "Property") all of which are more particularly described in Exhibit A attached hereto and made a part hereof; and

WHEREAS, Lessee seeks to establish its Charter school on a portion of the Property that the College is presently using as part of its diversified agriculture program to cultivate diversified agricultural crops; and

WHEREAS, to accommodate the Charter school, Lessee plans to demolish and remove some existing under utilized structures, make infrastructure and other improvements, and assemble and install several portable classroom structures which shall accommodate classrooms, a multi-purpose facility, restrooms, and maintenance, administrative and office space; and

WHEREAS, Lessor is desirous of assisting Lessee in establishing its Charter school by allowing Lessee to use some of the Property for this purpose; and

WHEREAS, Lessor and Lessee believe that it will be mutually beneficial for Lessor to allow Lessee to use some of the land occupied by the College to establish Lessee's Charter school, subject to the terms and conditions contained herein; and

WHEREAS, at its meeting held on March 13, 2008, the Board of Regents of Lessor (Board of Regents) approved a twenty-five (25) year lease to Lessee for use as a Charter school, in accordance with a major term sheet attached to the request for action to the Board of Regents,

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

ARTICLE I

DEMISE

Section 1.1. Premises. Lessor, in consideration of the rent and covenants hereafter reserved and contained and on the part of Lessee to be paid, observed, and performed, does

Lease between the University of Hawai'i
And Kawaikini New Century Public Charter School

hereby demise and lease unto Lessee a certain portion of the Property, more specifically consisting of portions of Lot 445-A-1, Lot 445-A-3, and Lot 1409, containing a total area of approximately 9.293 acres as described in and shown on the map attached hereto as Exhibit B and made a part hereof (hereafter collectively referred to as the "Premises"), together with the non-exclusive right of access to the Premises.

Section 1.2. Lessor reservation. Lessor's lease of the Premises to Lessee herein is subject to: (a) Lessor's right to use the Premises and the Property for its own purposes and (b) Lessor's reservation of the right to grant easements, access, and other rights to others over and across the Premises and the Property in order for Lessor and others to whom Lessor may grant easements, access, or other rights, including, without limitation, the right to use the Premises or the Property or exercise any existing rights (such as access), with respect to the Premises or the Property; provided, however, that any such use or the exercise of any such rights, including access, by Lessor will not unreasonably delay or interfere with Lessee's use of the Premises.

Section 1.3. Lessee Acceptance of Premises. Lessee has examined and knows of the condition of the Premises and agrees that Lessor is leasing the Premises to Lessee on an "As Is With All Faults" basis, in its existing form, content, and state of condition. Lessee further agrees that Lessor shall not be liable for any latent, patent, or other defects in, on, or under the Premises, including pre-existing improvements, fixtures and appurtenances thereto. Lessee's taking possession of the Premises and all that may be part thereof shall be conclusive evidence as against Lessee that the Premises were in good and satisfactory condition when Lessee took possession of the same. Lessee agrees that Lessee is not relying on any representations or warranties of any kind whatsoever, express or implied, from Lessor or Lessor's agents, as to any matters concerning the Premises, including, without limitation:

1. Physical Condition. The quality, nature, adequacy, and physical condition and aspects of the Premises, including drainage, landscaping, and utility systems.
2. Soils. The quality, nature, adequacy and physical condition of soils, geology, potential for earth movement, and any groundwater.
3. Utilities. The existence, quality, nature, adequacy, and physical condition of utilities serving the Premises.
4. Development Potential. The development potential of the Premises and the use, habitability, merchantability, or fitness, suitability, value, or adequacy of the Premises for any particular purpose.
5. Zoning. The zoning or other legal status of the Premises or any other public or private restrictions on the use of the Premises.
6. Compliance. The compliance of the Premises or any operations thereon with any applicable codes, laws, statutes, rules, regulations, ordinances, covenants, conditions, and restrictions of any governmental, or quasi-governmental entity or of any other person or entity.

7. Hazardous Materials. Subject to the terms of Article VI (Hazardous Materials), the presence of Hazardous Materials (as defined in this Lease) on, under, or about the Premises or the Property.

8. Quality of Labor. The quality of labor and materials used in any improvements within or on the Premises or Property.

9. Other Documents. Any agreements affecting the Premises, including covenants, conditions, restrictions, and other matters or documents of record or of which Lessee has knowledge.

Section 1.4. Term. Contingent upon funding being available to Lessee, the term of this Lease and Lessee's obligations to pay the rent hereunder shall commence on March 15, 2008, and shall end on March 14, 2033, and be subject to renegotiation and increase at the tenth, fifteenth, and twentieth year of the Lease term, including, without limitation, the renegotiation, at the time of each reopening period of such other terms and conditions Lessor may require. If the parties are unable to reach agreement regarding the amount of rent or any other terms and conditions, Lessor may terminate this Lease upon one hundred eighty (180) days prior written notice to Lessee. Lessee may contest such termination by initiating the dispute resolution process described in Section 15.3 (Disputes subject to mediation) during said 180 day period. Reopening periods shall start as of the following dates: (1) March 14, 2018, (2) March 14, 2023, and (3) March 14, 2028.

1. Extension of Lease term. The parties may extend the term of the Lease beyond the expiration date (March 14, 2033), upon mutual agreement in writing by the parties, based upon the same terms and conditions as contained herein, as the same may be amended and in effect as of March 14, 2033, except as to rent, which shall be set by mutual written agreement of the parties and such other terms and conditions as Lessor may modify or require.

2. Lessor may terminate, without cause, upon one hundred eighty (180) days notice. Lessor may terminate this Lease, without cause, upon one hundred eighty (180) days prior written notice to Lessee as to all or any portion of the Premises.

3. Lessee may terminate, with cause, upon one hundred eighty (180) days notice. Lessee may terminate this Lease, with cause, upon one hundred eighty (180) days prior written notice to Lessor as to all or any portion of the Premises.

4. Completion of dispute resolution process required prior to exercise of termination right. Prior to the time that either Lessor or Lessee exercises any right of termination hereunder, Lessor and Lessee acknowledge and agree that Lessor and Lessee will complete and abide by the results of the dispute resolution process described in Section 15.3 (Dispute Resolution) herein.

5. Mutual termination. This Lease may also be terminated upon the mutual written agreement of the parties.

Section 1.5. Quiet Enjoyment. Upon observance and performance of the terms, covenants, and conditions herein contained and to be observed and performed by Lessee, Lessee shall peaceably hold and enjoy the Premises for the term and any extensions thereof without hindrance or interruption by Lessor or any other person lawfully or equitably claiming by, through, or under Lessor, except as herein otherwise expressly provided and subject to Lessor's reservations under this Lease.

Section 1.6. Possession. If Lessee, with Lessor's permission, enters into possession of the Premises prior to commencement of the Lease term, all of the terms, covenants, and conditions of this Lease shall apply during this prior period.

Section 1.7. Access to the Premises. Lessee shall have the right to use the existing roads within the Property for access to and from the Premises, with the understanding that: (1) Lessee shall use the portion of Lessor's roadway system leading to the Puhi Street intersection as Lessee's primary access to Kaumualii Highway, (2) Lessee shall contribute its pro rata share of the Maintenance Costs (as defined herein) applicable to the portion of Lessor's roadway system used by Lessee, and (3) abide and comply with such other terms and conditions that may be required by Lessor in connection with Lessee's use of Lessor's roadway system. If Lessor agrees to permit Lessee to use any of Lessor's Utility Services or Utility Equipment, Lessee agrees that such shared use shall be subject to the same conditions set forth herein with respect to Lessee's use of a portion of Lessor's roadway system, including payment of a pro rata portion of the applicable Maintenance Costs (as defined herein).

Section 1.8. Utility Connections. Lessee shall be responsible, at Lessee's sole cost and expense, for making arrangements for all of its own utilities and utility connections, including, without limitation, water, gas, heat, electricity, power, air conditioning, telephone, cable, internet, and other communications and telecommunication services and other services such as the handling of wastewater, sewage, and garbage (hereafter collectively the "Utility Services").

1. Lessee to pay charges. During the term of this Lease, Lessee shall be responsible for paying directly to the utility company or vendor providing such services, for all Utility Services furnished to the Premises and shall pay any and all charges and fees that may be associated with or assessed for such Utility Services, including, without limitation, any charges for any meters and the installation thereof.

2. Lessor approval. Lessee shall obtain Lessor's prior written approval for all Utility Services (which approval will not be unreasonably withheld) before commencing such Utility Services or starting any work to construct or install on, or to modify, any portion of the Premises to accommodate any Utility Services, including any related infrastructure, equipment, lines, facilities, circuits, pipelines, and appurtenances (hereafter collectively the "Utility Equipment"). Lessee shall submit to Lessor for Lessor's review, plans, drawings, specifications, schedules and cost estimates covering the Utility Services and Utility Equipment prior to the commencement of any Utility Services or the start of any construction or installation involving the Utility Services or the Utility Equipment. Any construction or installation of the Utility

Services and the Utility Equipment on the Premises, and any work by or for Lessee relating thereto, shall be governed by and subject to the requirements set forth in Article IV (Improvements).

3. Utility Service or Equipment Changes. Under this Lease, Lessee is not permitted to make any changes in the Utility Services or the Utility Equipment to or within the Premises without Lessor's prior written consent, which consent will not be unreasonably withheld. In granting such consent, Lessor may require or impose such additional conditions as Lessor deems appropriate.

4. Non-Liability for Interruption of Utility Services. Lessor shall under no circumstances be liable to Lessee in damages or otherwise for any failure to furnish or for interruption in any of the Utility Services or adverse impact on the Utility Equipment.

a. Lessee Not Relieved. No failure, delay, or interruption in any Utility Services, or any loss or damage sustained by reason of any defect, deficiency, or impairment of any of the Utility Services and/or the Utility Equipment shall relieve or be construed to relieve Lessee of any of its obligations hereunder, or shall be construed to be an eviction of Lessee, or shall constitute grounds for any diminution or abatement of the rents, fees, or charges provided for herein, or grounds for any claim by Lessee against Lessor for damages.

b. Waiver of Damages. Lessee hereby expressly waives, releases, and discharges Lessor and Lessor's agents (as defined herein) from any and all claims, demands, suits, actions, causes of action, judgments, orders, penalties, assessments, liabilities, losses, damages, costs, and expenses arising from: (1) any failure, delay, or interruption in any Utility Services, (2) any loss or damage sustained by reason of any defect, deficiency, or impairment of, or any damage to, any of the Utility Services or the Utility Equipment, or (3) any force majeure event (as defined in Article 15.12 (Force majeure) or any other cause beyond the control of Lessor.

c. Damage Repair. If any damage to any of the Utility Services and/or the Utility Equipment is caused by Lessee, Lessee's agents, or Lessee's contractors, vendors, or invitees, Lessee shall, at its sole cost and expense, repair, restore, or replace such Utility Services or Utility Equipment.

5. No sale. Lessee shall not allow any entity to use the Utility Services or the Utility Equipment, and shall not sell, purchase, lease, sublet, or trade for the same, without Lessor's prior written approval.

6. No Interference. Lessee shall ensure that all of the Utility Services and Utility Equipment do not interfere with any Utility Services and Utility Equipment used by Lessor. If Lessor determines that such interference exists and that Lessee is or has failed to correct such interference, Lessor may require Lessee to terminate or halt such Utility Services to the Premises and/or dismantle and remove, at Lessee's sole cost and expense, any and all of the Utility Equipment that Lessor deems necessary to eliminate such interference. All such Utility Services and Utility Equipment shall comply with all applicable municipal, state, and federal

rules and regulations, including without limitation, the Federal Communications Commission licensing regulations and the State Public Utilities Commission.

Section 1.9. Termination upon breach. Either party shall have the right to terminate this Lease upon the other party's breach or default under this Lease that remains uncured thirty (30) days after a party sends written notice to the other notifying the other party of such breach or default by giving the other party ninety (90) days prior written notice of such termination, whereupon this Lease shall terminate as fully and as completely on the date specified in said notice as if that were the termination date set forth in Section 1.3 herein.

ARTICLE II

RENT AND OTHER CHARGES

Section 2.1. Rent. In consideration of this Lease, Lessee agrees to pay Lessor as rent for the Premises the sum of FIVE HUNDRED AND NO/100 (\$500.00) DOLLARS in legal tender of the United States of America, payable monthly in advance on the first day of each month at 3-1901 Kaumuali'i Highway, Lihu'e, Hawai'i 96766, or at any other place Lessor in writing may designate, on the days and in the manner aforesaid without any deduction and without notice or demand; and that if any installment of rent shall not be paid within thirty (30) days of it being due, rent shall bear interest at the rate of twelve percent (12%) per annum from said date until paid.

Section 2.2. Taxes and Assessments. Lessee shall pay at least ten (10) days before the same becomes delinquent all taxes, rates, assessments, impositions, duties, charges, and other outgoings of every description to which the Premises or Lessor or Lessee in respect thereof may during said term become liable, whether the same are or shall be assessed to or be payable by law by either Lessor or Lessee.

Section 2.3. Utilities. Except as otherwise provided herein, Lessee shall, during the whole of said term, pay all charges, fees, and assessments relating to the Utility Services to the Premises or the Utility Equipment serving the Premises.

Section 2.4. Contribution to maintenance. Lessor may require Lessee to contribute on a pro-rata basis to the cost of maintaining, repairing, improving, and rebuilding those portions of the Property, including, without limitation, any improvements, roadways, Utility Services or Utility Equipment that Lessor permits Lessee to use (hereafter collectively "Maintenance Costs"), including, without limitation, the main access road from Kaumualii Highway to the Premises. Lessor will notify Lessee at least sixty (60) days in advance of any increase or change in the Maintenance Costs. For the five (5) years of the term of this Lease, the monthly Maintenance Costs payable by Lessee to Lessor shall be Three Hundred and No/100 Dollars (\$300.00). Lessor and Lessee agree that the amount and composition of the monthly Maintenance Costs payable by Lessee to Lessor shall be negotiated and agreed upon every five (5) years during the term of this Lease, provided, however, that in the event Lessor and Lessee are unable to agree, Lessor reserves the right to increase the Monthly Maintenance Costs payable by Lessee to Lessor by at least \$50 per month at the start of each year during the Lease term, unless the total Maintenance Costs expected to be incurred by Lessor during that year of the Lease term is anticipated to be higher than the \$50 per month increase, in Lease between the University of Hawai'i
And Kawaikini New Century Public Charter School

which case the increase in the monthly Maintenance Costs will reflect Lessee's pro rata share of the total Maintenance Costs.

Section 2.4. Conveyance Tax. If Lessee requires recordation of this Lease, Lessee forthwith shall reimburse to Lessor, upon Lessee's receipt of actual billing from Lessor therefor, any State of Hawai'i conveyance tax which shall be or become payable by Lessor or Lessee as a result of this Lease.

ARTICLE III

USE

Section 3.1. Use of Premises. The Premises will be occupied and used by Lessee solely as a public charter school. Lessee will not use or permit, or suffer the use of the Premises for any other business or purpose without the prior written consent of Lessor, which consent shall not be unreasonably held.

Section 3.2. Noninterference. Neither party shall unreasonably interfere with the operations of the other on and around the Premises. In the event that one party's activities do so interfere, that party shall, at its sole expense, take corrective action to eliminate any such interference. If the interference cannot be eliminated, then the party who is subject to the interference shall have the right to terminate this Lease.

Section 3.3 [Reserved]

Section 3.4. Observance of Laws. Lessee will at all times during the term of this Lease observe and comply with all applicable laws, statutes, ordinances, orders, directives, rules, and regulations, now or hereafter made by any governmental authority relating to the occupancy or use of the Premises or the conduct of any business therein (hereafter collectively the "Applicable Laws"). As part of Lessee's obligation herein, Lessee shall be solely responsible, at Lessee's cost and expense, to obtain all proper subdivision, land use, construction, and other approvals from the County of Kaua'i and all subdivision approvals from the Land Court, including, without limitation, preparing and submitting all necessary applications, petitions, and maps.

Section 3.5. Rules and Regulations. Lessor may from time to time adopt or amend such reasonable policies, procedures, rules, and regulations as Lessor deems necessary or desirable for the operation or use of the Premises,; PROVIDED, HOWEVER, that the policies, procedures, rules, and regulations shall not be inconsistent with the terms, conditions, and covenants of this Lease and to the extent that such policies, procedures, rules, and regulations are inconsistent with the terms, conditions, and covenants of this Lease, then the terms, conditions, and covenants of this Lease shall control. Lessee shall observe and comply with said policies, procedures, rules, and regulations. Lessor shall notify Lessee in writing of changes to said policies, procedures, rules, and regulations and Lessee shall observe and comply with any such changes.

Section 3.6. Waste, Nuisance or Unlawful Activity. Lessee agrees that it will not commit or permit any waste on the Premises, or maintain or permit to be maintained a nuisance thereon, or use or permit the Premises to be used in an unlawful manner.

Section 3.7. Subletting and Assignment. Lessee agrees that neither the Premises nor any part thereof nor any interest therein shall be sublet, mortgaged, assigned, or otherwise transferred, nor will Lessee part with the possession of the whole or any part thereof, without the consent in writing of Lessor first having been obtained, which consent shall not be unreasonably withheld.

Section 3.8. Liens. Except as otherwise expressly provided for herein, Lessee shall not commit or suffer any act or neglect whereby the Premises, or any part or parts thereof, or any Leasehold improvements, Existing structures, FFE, Lessee's FFE, the Utility Services, or the Utility Equipment at any time during the term hereof shall become subject to any attachment, lien, charge, or encumbrance whatsoever (hereafter collectively the "Liens"). Lessee shall take immediate action to discharge, eliminate, or remove the Liens, including, without limitation, bonding or posting other security until the discharge, elimination, or removal is finally determined and the Liens resolved and discharged. If Lessor determines that Lessee is not taking timely action or may be unsuccessful in its efforts to discharge, eliminate, or remove the Liens, Lessor may treat Lessee to be in breach or default of this Lease and Lessor may terminate this Lease.

ARTICLE IV

IMPROVEMENTS

Section 4.1. Lessee Improvement Plans.

1. Improvements at Lessee's cost. Lessee, at its own cost and expense, may renovate, upgrade, add, remodel and improve the Premises, by constructing, repairing, refurbishing, installing and otherwise providing leasehold improvements, including, without limitation, any and all building, structures, improvements, Utility Equipment, whether temporary or permanent in nature (hereafter collectively the "Leasehold improvements") and Lessee's fixtures, furniture, furnishings, equipment, finishes, partitions, and other personal property (hereafter collectively the "Lessee's FFE") which are necessary or desirable for the Lessee's operations on or within the Premises.

2. Lessee's Plans. All designs, plans, specifications, drawings, cost estimates, schedules, and timetables for and relating to the construction and installation of the Leasehold improvements and the Lessee's FFE on or at the Premises shall hereafter be collectively referred to as the "Lessee's Plans."

3. Properly licensed. The Lessee's Plans must be prepared by an architect or engineer properly licensed in the State of Hawai'i. All construction and installation of the Leasehold improvements and the Lessee's FFE must be performed by properly licensed contractors.

Section 4.2. Compliance with Development Standards. Lessee shall obtain Lessor's prior written approval for the Lessee's Plans, including any and all construction, repair, refurbishment, or installation of the Leasehold improvements on the Premises and all such Leasehold improvements must be of high quality, incorporate quality materials, be completed with first-class workmanship, and meet applicable county building standards and specifications, and except as otherwise stated herein, comply with all of Lessor's improvement guidelines and development standards that are applicable to the Premises, including, without limitation, the design guidelines for the Kauai Community College Campus established in the Long-Range Development Plan adopted by Lessor's Board of Regents (hereafter collectively the "Development Standards"), including any subsequent amendments adopted by Lessor, and any other design development guidelines which may be adopted by Lessor.

Section 4.3. Lessor's Approval. Lessor will not unreasonably withhold approval of the Lessee's Plans. Lessor may reasonably withhold such approval, including, without limitation, if, in the reasonable discretion of Lessor, such construction or installation will or appears to be:

1. Structurally unsafe. Structurally unsound or unsafe or hazardous for human use or occupancy.
2. Violation of agreement. In non-compliance with any requirement of this Lease.
3. Building code violation. In non-compliance with the building, electric, plumbing, health and fire codes of the County of Kaua'i or the State of Hawaii (if any).
4. Development Standards violation. In non-compliance with the Development Standards, including Lessor's requirements relating to the development of facilities.
5. Violation of federal requirements. In non-compliance with any federal laws, statutes, rules, regulations, orders, directives, or requirements.

Section 4.4. Completion of Construction.

1. In General. As part of Lessee's submittal of the Lessee's Plans to Lessor for review, Lessee shall designate a completion date for the construction and installation of the Leasehold improvements and the Lessee's FFE at or within the Premises.
2. Failure to Complete. Lessor may, at its sole discretion, approve an extension of the completion date for the construction and installation of the Leasehold improvements and the Lessee's FFE for reasonable delays deemed by Lessor to be outside of Lessee's control. Any such extensions must be granted in writing. If Lessee fails to completely construct and install the Leasehold improvements and the Lessee's FFE on or within the

Premises by the required deadlines, Lessor may, at its sole discretion, send written notice of breach or default under this Lease to Lessee. If Lessee fails to cure this breach or default as required under this Lease, Lessor may terminate this Lease or assess and collect from Lessee any and all charges related to breaches and defaults under this Lease, including such other charges as may be assessed under the provisions of Article X (Lessor Remedies) or resort to any other remedy available to Lessor or some combination of all remedies.

Section 4.5. Title. Title to any and all of the portable or temporary structures (hereafter collectively the "Temporary Structures") (except for those buildings and structures existing on the Premises at the commencement of this Lease which shall remain owned by Lessor; hereafter collectively the "Existing structures") and the Lessee's FFE constructed or installed by Lessee, at Lessee's sole cost and expense, shall remain in Lessee during the term of this Lease. At the expiration or termination of this Lease: (1) the title to any and all the Lessee's FFE shall vest in Lessee (unless Lessee is in breach or default of this Lease at the time of the expiration or termination of this Lease) and (2) title to all Temporary Structures owned by Lessee shall vest in Lessor (unless this Lease is terminated by mutual agreement between Lessor and Lessee prior to the expiration date of this Lease). Title to any Existing structures shall remain in Lessor at all times unless Lessor elects otherwise. If Lessee fails to remove the Lessee's FFE or any part thereof within (30) days after this Lease terminates or expires, Lessor may remove the same at the sole cost and expense of Lessee.

1. Termination by Lessor. If this Lease is terminated pursuant to Article X (Lessor Remedies) because Lessee is in breach or default of any of Lessee's obligations under this Lease, title to any and all of the Lessee's FFE and all Temporary Structures, shall at the option of Lessor, vest in Lessor. If Lessor opts not to take title to the Lessee's FFE and/or the Temporary Structures, Lessee shall, at its sole cost and expense, remove all of the Lessee's FFE and/or the Temporary Structures to which Lessor opts not to assume title.
2. Mutual Termination. If this Lease is terminated by mutual agreement between Lessor and Lessee, title to any and all of the Lessee's FFE and all Temporary Structures, shall vest in Lessee. If Lessee fails to remove the Temporary Structures and Lessee's FFE or any part thereof within (30) days after this Lease terminates or expires, Lessor may demolish and/or remove the same at the sole cost and expense of Lessee. If Lessee opts not to take title to the Lessee's FFE and/or the Temporary Structures, Lessor may require Lessee, at Lessee's sole cost and expense, to demolish and/or remove all of the Lessee's FFE and the Temporary Structures to which Lessee opts not to assume title.
3. No claim for Leasehold improvements. Lessor shall not be required to compensate Lessee for any of the Lessee's FFE or any Temporary Structures or Permanent Improvements (as hereafter defined), whether the

Lease expires or is sooner terminated by Lessor or mutual agreement between Lessor and Lessee. Lessee shall also not be entitled to any reimbursement for the Lessee's FFE regardless of whether or not the Lessee's FFE is removed.

4. Removal shall cause no damage. Upon earlier termination of this Lease by mutual agreement between Lessor and Lessee, to the extent that Lessee owns and is permitted to remove the Temporary Structures and/or the Lessee's FFE from the Premises, Lessee shall conduct and complete such removal in such a manner as to cause no damage to the Premises; and in the event of any such damage, Lessee shall, at its own cost and expense, repair the same, to Lessor's satisfaction. If Lessee fails to repair said damage, Lessor may, after thirty (30) days notice, repair the same at the expense of Lessee. Lessee shall immediately reimburse to Lessor any and all repair costs incurred by Lessor, upon demand from Lessor.
5. Permanent Improvements. Notwithstanding the provisions contained in this Section 4.5 (Title) herein, if Lessee were to construct and install any permanent buildings or structures or if any of the Existing structures or Temporary Structures were renovated or rebuilt to become permanent buildings or structures (hereafter collectively the "Permanent Improvements"), title to the Permanent Improvements would remain in Lessee and Lessee would have the sole responsibility to maintain keep in good order and repair the Permanent Improvements. Upon expiration or earlier termination of the Lease term, ownership of the Permanent Improvements, at the option of Lessor, shall vest in Lessor. If Lessor elects not to assume or take title to the Permanent Improvements, Lessor may require Lessee to demolish and/or remove the Permanent Improvements, at Lessee's sole cost and expense, within a reasonable time after the expiration or termination of this Lease term (not to exceed 120 days unless Lessor otherwise authorizes a longer period to complete said demolition and removal). In the event of a dispute as to whether buildings or structures constitute Permanent Improvements, Lessor's determination shall be final and binding upon Lessee.

Section 4.6. Leasehold Improvements and Personal Property.

1. Leasehold improvements. For purposes hereof, the term "Leasehold improvements", shall include Existing structures, Permanent Improvements, and Temporary Structures (Temporary Structures include, without limitation, the six (6) portable classroom structures that Lessee intends to initially construct and install within the Premises, as well as additional portable or temporary structures dependent on need (enrollment) and funding, which portable or temporary structures shall accommodate classrooms, a multi-purpose facility, restrooms, and maintenance, administrative and office space), provided, however, that

Lessee acknowledges and agrees that the Existing structures shall remain owned by Lessor at all times during this Lease (consistent with the terms of Section 4.5 (Title) herein), and that Lessee shall maintain the Existing structures and keep them good order and repair. Permanent Improvements are also included in this definition of "Leasehold improvements" and Lessee shall be responsible for maintaining and repairing the Permanent Improvements. Lessor may require that Lessee demolish and remove any Leasehold Improvements to which Lessor opts not to assume title, and such demolition and removal shall be governed by subsection 4.5.5 (Permanent Improvements).

2. Lessee's FFE. For purposes hereof, the term "Lessee's FFE" includes, without limitation, any and all of the following: (a) trade fixtures, (b) office and business furnishings, (c) decorations, (d) equipment, (e) signs, (f) furniture, (g) draperies, (h) movable display cases and shelving, (i) movable appliances and drinking fountains, (j) communication and telecommunication (telephone, radio, telegraph) instruments and antenna, (k) window air conditioning units, (l) portable heaters, and (m) other similar articles or chattels not firmly or permanently affixed to, on, or in the Premises, including the improvements thereon, purchased or installed by the Lessee. "Lessee's FFE" does not include the following: (a) walls, (b) partitions, (c) doors, (d) windows, (e) electrical and telecommunication wiring, service panels, conduits, service connections, receptacles or lighting fixtures attached to (e.g. track lighting) recessed/built-into walls, partitions, ceilings, or floors, (f) built-in cabinets and shelving tracks, (g) ventilation and air conditioning systems, (h) fire sprinkler and detection systems, (i) plumbing lines and fixtures, (j) interior finish to floors, walls, doors, windows, or ceilings, (k) wall or floor treatments or coverings that are affixed to the surface, and (l) carpeting which is glued, nailed, or in any other manner permanently affixed to the floor surface.

Section 4.7. Construction Program.

1. Overall Construction Program. Within thirty (30) days after the commencement of the Lease term, Lessee shall submit to Lessor a written description of the overall construction program for the Premises, including the construction and installation of the Leasehold improvements and the Lessee's FFE, and a time schedule therefor, all of which shall be subject to Lessor's prior written approval. The construction schedule shall include, at a minimum, the following milestones: (a) conceptual design, (b) design development, (c) construction documents, (d) plan check and review and verification of all required approvals, (e) bid, (f) construction, and (g) projected date of beneficial occupancy. Lessee shall comply with all of the requirements contained in this Section 4.7 (Construction Program) with respect to the construction and installation of the Leasehold improvements on any part of the Premises.

2. Construction Bond

- a. Premises at start of the Lease. Prior to commencing the construction or installation of the Leasehold improvements on or at the Premises, Lessee shall furnish to Lessor, at Lessee's sole cost and expense, a payment bond and a performance bond, each in the principal amount equal to the estimated total cost to complete the construction and installation of the Leasehold improvements on or at the Premises, which bonds shall be subject to Lessor's prior review and approval.
- b. General Terms. Each payment and performance bond shall be: (1) in substantially the same form as that used or required by Lessor, (2) issued by a surety company authorized and licensed to transact business in the State of Hawaii, (3) for the full appropriate amount as stated above, (4) issued in favor of Lessor and name Lessor as obligee, and (5) conditioned upon the full, faithful, and satisfactory performance by Lessee of its obligations to construct and install the Leasehold improvements on or at the Premises.

3. Lessor Approval of Leasehold Improvements. Prior to any work being done, Lessee shall obtain Lessor's written approval of the Lessee's Plans covering the portion of the Premises upon which such work is to be done, and shall obtain all governmental and other approvals required by law. The Lessee's Plans shall employ optimum essentials of aesthetics, quality of materials and equipment, convenience, function, and design and shall be consistent with and comply with the applicable Development Standards.

Lessee shall not install any antenna or aerial wires, or radio or television equipment, or any other type of telecommunication or other equipment without Lessor's prior written approval and upon such terms and conditions as Lessor may specify.

4. Plans and Specifications. Lessee shall, at its sole cost and expense, employ competent and properly licensed architects, engineers, and interior designers who will prepare the Lessee's Plans, including, without limitation, architectural, interior, exterior, and engineering designs, detailed plans, specifications, and cost estimates of all Leasehold improvements and the Lessee's FFE (for the Permanent Improvements) to be installed in or on the Premises. Lessee shall, at its sole cost and expense, and prior to the start of construction, obtain all necessary permits and governmental approvals. Lessee shall submit at least three (3) sets of the Lessee's Plans for Lessor's review and approval in accordance with a time schedule furnished by Lessee.

All of the Lessee's Plans shall be first submitted to Lessor for written approval before Lessee awards or lets any contract for the construction of the Leasehold improvements or enters into contracts for the purchase of any of the Lessee's FFE (for the Permanent Improvements) to be installed in or on the Premises.

With respect to the Lessee's Plans for any Lessee's FFE for any Leasehold improvements other than Permanent Improvements, Lessee shall submit to Lessor for approval an initial plan covering Lessee's FFE at the commencement of the Lease term and thereafter shall update such Lessee's FFE plan at least annually, at the direction and request of Lessor.

5. Adherence to the Lessee's Plans. No substantial change, addition, or alteration shall be made in the Lessee's Plans so approved without first obtaining Lessor's approval in writing. No Leasehold improvements, Permanent Improvements, or other improvements, or the Lessee's FFE (for the Permanent Improvements) shall be constructed or installed in or upon the Premises without Lessor's prior written consent and any conditions relating thereto imposed by Lessor shall become conditions hereof as if they had been originally stated in this Lease.
6. Future Work. After completion of the Leasehold improvements and installation of the Lessee's FFE as approved by Lessor, Lessee shall not make any structural alterations (including, without limitation, ceilings, walls, and floors) to any portion of the Premises without first obtaining Lessor's written consent; provided, however, that Lessee may make nonstructural alterations which Lessee deems necessary for Lessee's operations provided that Lessee reports to Lessor such nonstructural alterations and submits to Lessor the costs thereof.
7. Governmental Approvals. Lessee, at its sole cost and expense, shall also procure all governmental approvals and permits necessary for the construction of the Leasehold improvements and the installation of the Lessee's FFE at or upon the Premises.
8. Submittals Required Upon Completion. Upon completion of the construction and installation of the Leasehold improvements and the Lessee's FFE, Lessee shall, within thirty (30) days thereafter, furnish to Lessor, at no cost or expense to Lessor:
 - a. Certificate. A certificate certifying that the Leasehold improvements and the Lessee's FFE (for the Permanent Improvements) have been constructed and installed in accordance with the approved Lessee's Plans and in strict compliance with all

applicable laws, statutes, ordinances, rules, regulations, and orders;

- b. As-builts. Two complete sets of as-built drawings containing a separate stamp from Lessee's licensed architect or engineer after the date construction has been completed or accompanied by an attestation from both Lessee and either Lessee's architect or engineer that such submitted drawings constitute true and accurate representations of the as-built condition of the Leasehold improvements and the Lessee's FFE (for the Permanent Improvements), and one complete set in Computer Aided Design (CAD) format which complies with Lessor's current CAD standards. These drawings must include any applicable governmental approval or permit numbers, the Leasehold improvements and the Lessee's FFE constructed or installed by Lessee on or in the Premises, and the location and details of installation of all buildings, structures, improvements, Existing structures, Permanent Improvements, Utility Services, Utility Equipment, equipment, utility lines, and heating, ventilating, and air-conditioning ducts and related matters. Lessee shall keep said drawings current by updating the same in order to reflect thereon any changes or modifications which may be made in or to the Premises.

Section 4.8. Property of Lessee. All of the Lessee's FFE of any kind or description whatsoever on the Premises shall be at Lessee's sole risk, and Lessor shall not be liable for any damage done to or loss of any of Lessee's FFE or damage or loss suffered by the business or occupation of Lessee arising from any act or neglect of Lessee or any of Lessee's agents or of other persons, from: (a) bursting, overflowing, or leaking of water, gas, sewer, or steam pipes, (b) any fixtures, appliances, or devices connected to same, (c) electrical conduit, wires, fixtures, appliances, or devices, or (d) chemicals, bacteria or odors, or caused in any other manner whatsoever.

ARTICLE V MAINTENANCE, REPAIRS AND ALTERATIONS

Section 5.1. Lessee's Maintenance and Repair of the Premises. Lessee shall, at its sole cost and expense during the term of this Lease and any extensions thereof, keep the Premises, the Leasehold improvements (including the Permanent Improvements), the Existing structures, all furnishings, fixtures, and equipment furnished by the Lessor (hereafter "FFE"), the Lessee's FFE, the Utility Services, and the Utility Equipment in a good and safe condition, reasonable use and wear and tear and unavoidable casualty excepted. Lessee shall keep the areas immediately adjacent to the Premises, particularly those adjacent to the entrances and exits, clean, orderly, and free of obstructions. Lessee shall maintain, repair, and refurbish the Premises, the Leasehold improvements (including the Permanent Improvements), the Existing structures, the FFE, the Lessee's FFE, the Utility Services, and the Utility Equipment as necessary to keep and maintain

all of them in a first class condition. Lessee shall take the same good care of the Premises, the Leasehold improvements (including the Permanent Improvements), the Existing structures, the FFE, the Lessee's FFE, the Utility Services, and the Utility Equipment that would be taken by a reasonably prudent owner who desired to keep and maintain the same so that at the expiration or sooner termination of this Lease, the same will be in a condition substantially similar to that which existed at the commencement of this Lease, ordinary wear and tear excepted.

1. Preventative Maintenance. Lessee shall establish an adequate preventative maintenance plan that shall be subject to Lessor's periodic review and approval.
2. Maintenance. Lessee's maintenance and repair obligation hereunder shall include, without limitation, the interior and exterior cleaning of all windows, entrances and exits of the Premises, doors (exterior and interior) and the cleaning and repair of all floors, interior walls, ceilings, lighting, décor, the Leasehold improvements (including the Permanent Improvements), the Existing structures, the FFE, the Lessee's FFE, the Utility Services, and the Utility Equipment. Maintenance and repair of all glass, both exterior and interior, of the Premises is the sole responsibility of Lessee and any glass broken during the term of this Lease is to be promptly replaced by and at the expense of Lessee with glass of the same size, kind and quality.
3. Refurbishment. Refurbishing shall include, without limitation, all refinishing, repairs, replacement, redecorating and painting necessary to keep and maintain the Premises, the Leasehold improvements (including the Permanent Improvements), the Existing structures, the FFE, the Lessee's FFE, the Utility Services, and the Utility Equipment in a first class condition.
4. Failure to Comply. If Lessee fails to properly perform and complete its maintenance, repair, and refurbishment obligation hereunder, within a period of thirty (30) days after Lessee receives written notice from Lessor of such failure by Lessee, Lessor may, at its option, and in addition to all other remedies which may be available to Lessor, repair, replace, rebuild, redecorate, or paint any portion of the Premises, the Leasehold improvements (including the Permanent Improvements), the Existing structures, the FFE, the Lessee's FFE, the Utility Services, or the Utility Equipment included in said notice from Lessor to Lessee, and the cost thereof, plus fifteen per cent (15%) for administrative overhead, shall be paid by Lessee to Lessor upon demand from Lessor.
5. Damage Repair. Lessee shall suffer no strip or waste of the Premises, the Leasehold improvements (including the Permanent Improvements), the Existing structures, the FFE, the Lessee's FFE, the Utility Services, or the Utility Equipment and shall repair, replace, rebuild and paint all or any part of the same that may be damaged or destroyed by the acts or

omissions of Lessee, Lessee's agents, Lessee's contractors, vendors, invitees, or other persons. Any and all structural repairs, alterations, and additions to be made by Lessee to or on the Premises, the Leasehold improvements (including the Permanent Improvements), the Existing structures, the FFE, the Lessee's FFE, the Utility Services, and the Utility Equipment (more than \$3,000) shall be subject to the requirements of Article IV (Improvements) herein and all such work must receive Lessor's prior written consent.

Section 5.2. Lessor's Right of Entry. Lessor and its officers, employees, agents, representatives, contractors, and others acting for or on behalf of the Lessor (hereafter collectively the "Lessor's agents") shall have the right at all reasonable times (including regular business hours) with reasonable notice to enter upon all portions of the Premises for the purpose of: (1) inspecting the same and examining the condition thereof, (2) observing Lessee's performance of its obligations under this Lease, (3) to make any repairs Lessor deems necessary, such as situations where Lessee fails to effect required repairs or the repair work that are Lessee's obligation under this Lease, (4) to serve or post or keep posted on the Premises notices required by any applicable law, statute, rule, regulation, or order of any governmental authority, and (5) performing or completing any act or thing that Lessor may be obligated or have the right to do under this Lease or otherwise. Lessor also reserves the right, in cases of emergencies, as determined by Lessor, in Lessor's sole discretion, to enter the Premises and effect such repairs and implement such measures as Lessor deems necessary to address the emergency, mitigate the adverse conditions, or reduce the possibility of a larger casualty without the need to obtain a court order or other authorization, and Lessee hereby authorizes Lessor in such emergency situations, to enter the Premises, address such emergency, effect such repairs, and implement such measures as Lessor deems necessary.

1. Maintain Systems. Without limiting the generality of the foregoing, Lessor and Lessor's agents, shall have the right, for its own benefit, for the benefit of Lessee, or for access to other parts of the Property not otherwise conveniently accessible, to: (1) maintain existing and future utility, mechanical, electrical, and other systems if Lessor and Lessee share the use of any such systems, (2) to enter upon said Premises at all reasonable times to make such repairs, replacements, or alterations as may, in the opinion of Lessor, be necessary or desirable from time to time, and (3) complete construction and installation work over, in, or under the Premises. If Lessor performs work on the Premises that is primarily for the benefit of Lessor, Lessor shall use its best efforts to return the Premises to substantially the same condition as existed prior to Lessor's entry upon said Premises, except for any repairs, replacements, and alterations to the Premises primarily for the benefit of Lessee.
2. No Obligation to Construct or Repair. Nothing in this Section 5.2 (Rights of Entry Reserved) shall impose or shall be construed to impose upon Lessor any obligations to so construct or maintain, or to make repairs, replacements, additions, or alterations to the Premises, nor shall Lessor's

entry upon the Premises, or any portion thereof, create any liability on the part of Lessor for any failure to do so.

3. Showing the Premises. At any time, and from time to time, during ordinary business hours, Lessor, Lessor's agents, and Lessor's invitees, whether or not accompanied by interested parties, shall have the right to enter upon the Premises, or any portion thereof, for the purposes of exhibiting and viewing all parts of the same, and Lessee shall grant and allow such inspection and viewing without undue conditions, provided Lessor does not unreasonably interfere with the conduct of Lessee's business.
4. No Abatement. No abatement of rent, fees, or other charges shall be claimed by or allowed to Lessee by reason of Lessor's exercise of any or all of the rights contained in this Section 5.2 (Rights of Entry Reserved) herein; provided, however, that nothing in this section contained shall permit or be construed to permit Lessor to exercise any right of access or entry for any of the purposes denoted hereinabove, except at reasonable times and in such a manner as to not unreasonably interfere with or hinder Lessee's occupancy, use, and enjoyment of the Premises.

Section 5.3. Alterations. Lessee will not make any alterations or additions whatsoever to the Premises, the Leasehold improvements (including the Permanent Improvements), the Existing structures, the FFE, the Lessee's FFE, the Utility Services, or the Utility Equipment without first obtaining Lessor's prior written approval. Lessor may require Lessee to submit plans and specifications for any such alterations and additions. The plans for the construction or alteration of any building or other improvements on the Premises must conform to the Development Standards. Lessee shall submit all such plans to Lessor through its Office of Procurement and Real Property Management (hereafter "OPRPM") (whose contact information is set forth in Section 12.1 (Notice) herein) at the schematic design and preliminary design stages. Lessee shall not solicit bids for the construction or renovation of any Leasehold improvements (including the Permanent Improvements), the Existing structures, the Utility Services, or the Utility Equipment prior to obtaining the written approval of OPRPM regarding the final plans and specifications. Lessee shall also obtain the written approval of Lessor for any changes to the plans and specifications during the construction stage. All construction shall be in full compliance with all laws, statutes, ordinances, rules, and regulations of the federal, state and county governments applicable thereto and shall be at Lessee's sole cost and expense.

ARTICLE VI

HAZARDOUS MATERIALS

Section 6.1. Lessee's Covenants. Lessee shall not cause or permit the escape, disposal, or release of any Hazardous materials. Lessee shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the

Lease between the University of Hawai'i
And Kawaikini New Century Public Charter School

industry for the storage and use of such materials, nor allow to be brought onto the Premises any such Hazardous materials except to use in the ordinary course of Lessee's business, and then only after written notice is given to Lessor of the identity of such Hazardous materials and upon Lessor's written consent, which consent may be withheld at Lessor's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether there has been any release of Hazardous materials by Lessee, then the reasonable costs thereof shall be reimbursed by Lessee to Lessor upon demand as additional charges if such requirement applies to the Premises. In addition, Lessee shall execute affidavits, representations, and the like from time to time at Lessor's request concerning Lessee's best knowledge and belief regarding the presence of Hazardous materials on the Premises placed or released by Lessee.

Section 6.2. Lessee's responsibility. To the extent provided in Section 7.1 (Lessee Responsibility), Lessee shall be responsible for injury caused by Lessee's officers and employees in the course of their employment and resulting from the release of Hazardous materials on the Premises while Lessee is in possession of the Premises. Lessor and Lessee acknowledge and agree that the Lessee's ability and capability to meet Lessee's obligations under this Article VI (Hazardous materials), including, Sections 6.4 (Disposal and removal), 6.5 (Remediation), and 6.6 (Restoration and surrender), shall be subject to this Section 6.2 (Lessee's responsibility) and Section 7.1 (Lessee's Responsibility).

Section 6.3 Definitions. For the purpose of this Lease:

1. **"Hazardous materials"** means any substance, element, compound, mixture, or solution:
 - (a) Presence requires remediation. The presence of which requires investigation or remediation under any federal, state, or county law, statute, regulation, ordinance, order, action, policy, or common law;
 - (b) Defined as such in law. Which is now or at any time hereafter in effect becomes defined as a "hazardous waste," "hazardous substance," pollutant, or contaminant under any federal, state or county law, statute, regulation, rule, or ordinance or amendments thereto, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984, the Federal Insecticide, Fungicide and Rodenticide Act, as amended, the Hazardous Materials Transportation Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Safe Drinking Water Act, as the same may be amended from time to time, and any similar federal, State of Hawai'i (including without limitation Hawai'i Revised Statutes Chapters 128D and 342B through 342P, inclusive), and county laws and ordinances, and regulations

now or hereafter adopted, accomplished, and promulgated pursuant thereto; petroleum, fuel oil, sludge, crude oil or residue, trichloropropane;

- (c) Regulated by the government. Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Hawai‘i, or any political subdivision thereof; or
- (d) Poses a hazard. The presence of which on the Premises causes or threatens to cause a nuisance upon the Premises or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons, to property, or to the environment, on or about the Premises

2. **“Environmental Laws”** means all laws, statutes, regulations, rules, ordinances, codes, licenses, standards, directives, interpretations, permits, orders, approvals, plans, authorizations, concessions, franchises, conditions of approval, and similar items, of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states, and political subdivisions thereof and all applicable judicial, administrative, and regulatory orders, decrees, requirements, rulings, and judgments which now or in the future may relate or be applicable to the protection of human health or safety or to the environment, including, without limitation:

- (a) Reporting and remediation requirements. All requirements pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of Hazardous materials, chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials or wastes whether solid, liquid or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in nature;
- (b) Protection of health and safety requirements. All requirements pertaining to the protection of natural resources or of the health and safety of employees or the public; and
- (c) Applicable laws. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as

amended, the Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984, the Federal Insecticide, Fungicide and Rodenticide Act, as amended, the Hazardous Materials Transportation Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Safe Drinking Water Act, as the same may be amended from time to time, and any similar federal, State of Hawai'i (including without limitation Hawai'i Revised Statutes Chapters 128D and 342B through 342P, inclusive), and county laws and ordinances, and regulations now or hereafter adopted, accomplished, and promulgated pursuant thereto applying to the Premises or any portion thereof.

Section 6.4. Disposal and removal. Lessee shall cause any Hazardous materials to be removed from the Premises for disposal and to be transported from the Premises solely by duly licensed hazardous material transporters to duly licensed facilities for final disposal as required by all applicable Environmental Laws. Lessee shall provide or cause to be provided to Lessor copies of documentary proof, including manifests, receipts, or bills of lading, which reflect that said Hazardous materials have been properly removed and disposed of in accordance with all Environmental Laws.

Section 6.5. Remediation. In the event that any Hazardous materials are used, stored, treated, or disposed on the Premises or the Property, or handled, discharged, released, or determined to be present on or from the Premises or the Property, Lessee shall remediate the Premises and the Property of any Hazardous materials, and dispose/remove said Hazardous materials in accordance with paragraph 6.4 (Disposal/Removal) herein. This duty of Lessee to remediate includes strictly complying with all Environmental Laws and directives to remediate said Hazardous materials. This duty to remediate shall also include replacement of any materials, such as soils, so removed with material that is satisfactory to Lessor.

Section 6.6. Restoration and Surrender of Premises. Lessee hereby agrees to restore the Premises and the Property (to the extent used by Lessee), including the soil, water and structures on, in or under the Premises and the Property (to the extent used by Lessee) to the same or better condition in which it existed at the commencement of this Lease (as reasonably determined by Lessor), fair wear and tear to the Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, and the Utility Equipment, excepted. Lessee understands that the restoration obligation hereunder: (1) requires Lessee to remediate, clean-up, and remove any Hazardous materials from, within, or connected with any Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, and the Utility Equipment constructed or installed by Lessee under this Lease and (2) does not require Lessee to demolish and otherwise remove any Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, or the Utility Equipment constructed or installed by Lessee unless Lessor directs Lessee in writing to complete such removal. In the event Lessee fails to restore the Premises and the Property (to the extent used by Lessee) to the same or better condition as Lease between the University of Hawai'i
And Kawaikini New Century Public Charter School

required hereunder, as reasonably determined by Lessor, Lessee understands and agrees that Lessor may complete such restoration, at the cost and expense of Lessee, which amount Lessee shall pay to Lessor, plus fifteen per cent (15%) for administrative overhead, within a reasonable period of time, upon demand by Lessor.

ARTICLE VII

LESSEE RESPONSIBILITY AND INSURANCE

Section 7.1. Lessee Responsibility. Lessee shall be responsible for injury or damage caused by Lessee's officers and employees in the course of their employment to the extent that Lessee's liability for such damage or injury has been determined by a court or otherwise agreed to by Lessee. Lessee shall pay for such damage and injury to the extent permitted by law and provided that funds are appropriated, allotted, and otherwise properly made available for that purpose.

Section 7.2. Liability and Property Insurance. Lessee shall maintain liability insurance acceptable to Lessor in full force and effect throughout the term of this Lease. The policy or policies of insurance maintained by Lessee shall provide Combined Single Limit Coverage (bodily injury and property damage) in the minimum amount of \$5,000,000. This insurance will be provided by the State of Hawaii's Statewide Insurance Program administered through the Department of Accounting and General Services. Additionally, Lessee shall keep the Premises insured against loss by fire and other customary hazards, casualties and contingencies, for the full insurable value of all buildings, fixtures and improvements, including the Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, or the Utility Equipment within, on, or adjacent to the Premises and the Property.

Lessee agrees to deposit with Lessor, on or before the effective date of this Lease, letters of self-insurance, or other proper assurances of coverage, necessary to meet the requirements of this section and to keep such insurance in effect and the assurances therefor on deposit with Lessor during the entire term of this Lease.

Lessor shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of Lessor, the insurance provisions in this agreement do not provide adequate protection for Lessor, Lessor may require Lessee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. Lessor shall notify Lessee in writing of changes in the insurance requirements; and if Lessee does not deposit copies of acceptable insurance policies or certificates thereof with Lessor incorporating such changes within ninety (90) days of receipt of such notice, Lessee shall be in default of this Lease. Notwithstanding said policy or policies of insurance, Lessee shall be obligated for the full and total amount of damage, injury, or loss caused by negligence or neglect connected with this Lease, subject to Section 7.1 (Lessee Responsibility) herein.

Section 7.3. Lessee to purchase insurance. If Lessor requires Lessee to purchase insurance, Lessee shall procure and maintain, or cause to be procured and maintained, during the entire term of this Lease (or such other shorter time as Lessor may require), at no cost or expense to Lessor, the following insurance described in this paragraph, issued by an insurance company

Lease between the University of Hawai'i
And Kawaikini New Century Public Charter School

or companies licensed to do business in the State of Hawai'i and reasonably satisfactory to Lessor. Lessee shall procure and maintain at least the following:

A. Commercial General Liability. Commercial general liability insurance covering claims with respect to injuries or damages to persons or property sustained as a result of Lessee's activities within, on, or about the Premises and the Property, with minimum combined single limits of liability no less than the following:

Property damage per occurrence:	\$5,000,000.00
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Personal injury or death:

Per person per occurrence	\$5,000,000.00
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Per occurrence	\$5,000,000.00
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Products liability:

Per person per occurrence	\$5,000,000.00
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Per occurrence	\$5,000,000.00
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Such limits may be achieved through the use of umbrella liability insurance sufficient to meet the requirements of this paragraph for the Premises and the Property. Said policy or policies shall cover the Premises, the Property, and all of the Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, or the Utility Equipment within, on, or adjacent to the Premises and the Property.

B. Fire and Extended Coverage Insurance. Insurance against loss or damage by fire, including perils specified in the extended coverage endorsement, covering the the Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, or the Utility Equipment within, on, or adjacent to the Premises and the Property, in an amount equal to the replacement cost of the Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, or the Utility Equipment.

Lessee shall ensure that each insurance policy that Lessee is obligated to obtain under this Lease shall be subject to the following:

- (1) Notice of change. The insurer shall provide at least thirty (30) days prior written notice to Lessor of any cancellation, limitation in scope, material change, or non-renewal of any policy required under this Lease.
- (2) Insurance obtained by Lessor shall apply in excess of Lessee's insurance. Any insurance maintained by Lessor will apply in excess of, and not contribute with, insurance provided by Lessee under this Lease.
- (3) Lessor as additional insured. Lessee shall name Lessor as additional insured on the insurance policies for all insurance coverage that Lessee shall obtain pursuant to this Lease.

- (4) Waiver of subrogation endorsement. All insurance required under this Lease will contain a waiver of subrogation endorsement in favor of Lessor.
- (5) Lessor not required to pay premiums. Lessee shall be solely responsible for the costs of procuring and maintaining the insurance coverage described in this Lease and shall not charge Lessor or expect Lessor to pay any portion of the premiums or charges to obtain the insurance coverage required under this Lease.
- (6) Acceptable deductibles. The terms and amounts of any deductibles for the insurance policies required under this Lease must be reasonable and acceptable to Lessor based upon the type of insurance involved and the nature of Lessee's use of the Premises, the Property, and the Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, or the Utility Equipment, and Lessee's responsibility to maintain the Premises.

Lessee shall (a) deposit with Lessor, on or before the effective commencement date of this Lease, certificates of insurance necessary to satisfy Lessor that the insurance provisions of this Lease have been fully complied with and (b) keep such insurance in effect and the certificates therefore on deposit with Lessor during the entire term of this Lease.

Upon failure of Lessee to provide and maintain the insurance required herein after a ten (10) day prior written notice to comply from Lessor, Lessor may, but shall not be required to, itself procure such insurance at the cost and expense of Lessee, and Lessee shall be obligated to immediately reimburse Lessor for the cost thereof plus fifteen percent (15%) for administrative overhead. Any lapse in, or failure by Lessee to procure, maintain, and keep in full force and effect such insurance coverage as is required under this Lease, at any time during and throughout the term of this Lease, shall be a breach of this Lease and Lessor may terminate the rights of Lessee under this Lease.

ARTICLE VIII

PROPERTY OF LESSEE

Section 8.1. Property of Lessee. All personal property of any kind or description whatsoever on the Premises, including, without limitation, the Lessee's FFE, shall be at Lessee's sole risk, and Lessor shall not be liable for any damage done to or loss of such personal property or the Lessee's FFE, or damage or loss suffered by the business of Lessee arising from any cause whatsoever.

ARTICLE IX

CONDEMNATION

Section 9.1. Condemnation. In the event during the term of this Lease or any extensions thereof, the Premises or any part thereof shall be taken or condemned by any authority having the power of eminent domain, then and in such event, this Lease shall cease and terminate as of the date Lessee is required to vacate the Premises. All compensation and damages payable for or on account of the Premises, except for Leasehold improvements (including the Permanent Improvements), the Existing structures, the Utility Services, or the Utility Equipment constructed or owned by Lessee, shall be payable to and be the sole property of Lessor. Lessee shall be compensated for all Leasehold improvements (including the Permanent Improvements), the Existing structures, the Utility Services, or the Utility Equipment constructed or owned by Lessee in proportion to their ownership interests based on the number of years remaining on the Lease term, provided, however, that if Lessee is in breach or default of this Lease, Lessee shall not have the right to receive any compensation for any proportionate interest in the Leasehold improvements (including the Permanent Improvements), the Existing structures, the Utility Services, or the Utility Equipment constructed or owned by Lessee.

ARTICLE X

LESSOR REMEDIES

Section 10.1. Remedies on Lessee's Default. This Lease is upon the express condition that, if Lessee shall fail to pay the rent herein reserved or any part thereof as the same becomes due, or shall fail to faithfully observe and perform any other term, covenant, or condition of this Lease, or shall abandon the Premises, or shall suffer this Lease or any estate or interest hereunder be taken on execution, or shall suffer any mechanic's or materialmen's lien to attach to said Premises, and shall fail to secure the discharge or release thereof within a reasonable time after the entry of any judgment or order of a court of competent jurisdiction for the foreclosure or other endorsement of the lien, and the breach or default shall continue for a period of thirty (30) days after delivery of a written notice of any such breach or default by personal service, registered mail, or certified mail, then in that event, Lessor may at once re-enter the Premises and, upon or without the entry, at its option, terminate this Lease without any further service or notice or legal process, and may expel and remove from the Premises, Lessee and those claiming under Lessee and their effects and Lessor may store, remove, and dispose of any of Lessee's FFE or any other of Lessee's personal property, at Lessee's sole cost and expense, and may then or at any time before or thereafter bring an action for summary possession of said Premises, all without prejudice to any other remedy or right of action which Lessor may have for arrears of rent or other breach of contract; provided however, that if the nature of the default, other than non-payment of rent is such that the same cannot be reasonably cured within a thirty-day period, Lessee shall not be deemed to be in default if Lessee shall, within the period, commence a cure and thereafter diligently prosecute the same to completion, subject to Lessor's determination as to whether Lessee is diligently prosecuting the cure to completion.

Section 10.2. Nonwaiver. The acceptance or use by Lessor of improved space on the Premises in lieu of rent shall not be deemed to be a waiver by Lessor of any breach by Lessee of any covenant, term, or condition herein or of Lessor's right to re-enter for breach of any covenant, term, or condition. Moreover, no waiver by Lessor of any provision of this Lease shall be deemed to be a continuing waiver of that provision or of any other provision hereof, or of any subsequent breach by Lessee of the same or any other provision. Lessor's consent or approval to an act of Lessee shall not be deemed to render unnecessary the obtaining of Lessor's consent or approval for any subsequent act of Lessee, whether or not similar to the prior act consented to or approved.

ARTICLE XI

SURRENDER, HOLDING OVER

Section 11.1. Surrender of Premises. At the end of the term of this Lease or other earlier termination of this Lease, Lessee will peaceably deliver up to Lessor possession of the Premises together with all Leasehold improvements (including the Permanent Improvements), Existing structures, the Utility Services, and the Utility Equipment thereon by whomsoever made, except those Lessee's FFE that can be reasonably removed by Lessee, in good repair, order, and condition, reasonable wear and tear and unavoidable casualty excepted.

If Lessee fails to remove any and all of Lessee's FFE from the Premises, after ninety (90) days written notice by Lessor, Lessor may remove any and all Lessee's FFE from the Premises and either deem the Lessee's FFE abandoned and dispose of the Lessee's FFE or place the Lessee's FFE in storage at the cost and expense of Lessee, and Lessee does agree to pay all costs and expenses, plus a fifteen percent (15%) charge for administrative overhead, for disposal, removal, or storage of the Lessee's FFE.

Section 11.2. Holding Over. If Lessee shall remain in possession of the Premises after the expiration of the Lease term without executing or intending to execute a document extending or renewing this Lease, Lessee shall be deemed to occupy the Premises as a tenant from month to month at the rent herein reserved, subject to all the other terms, covenants, and conditions herein contained insofar as the same are applicable to a month-to-month tenancy and such other terms, covenants, and conditions that Lessor may require.

ARTICLE XII

NOTICE

Section 12.1. Notice. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party shall be addressed to the other party at the address set forth below. Either party may change its address set forth below by notifying the other party in writing of the change of

address. Notice shall be deemed communicated within forty-eight (48) hours from the time of mailing if mailed as provided in this paragraph.

To Lessor at: Director of Administrative Services Kauai
Community College
3-1901 Kaumuali'i Highway
Lihu'e, Hawai'i 96766

With Copy to: Office of Procurement and Real Property
Management University of Hawai 'i
1400 Lower Campus Road, Room 15
Honolulu, Hawai'i 96822

To Lessee at: Kawaikini New Century Public Charter School
PO Box 662014,
Lihu'e, Hawai'i 96766

ARTICLE XIII

STATUS OF LESSEE; PERIODIC REVIEW

Section 13.1. Lessee representations and covenants. Lessee hereby represents and warrants to Lessor that Lessee: (1) is a public charter school duly established under and validly existing in accordance with HRS chapter 302B, (2) has obtained all governmental and other approvals that are necessary for a public charter school to lease and operate from the Premises, including, without limitation, any approvals required from or the CSRP, (3) will ensure that Lessee maintains its status as an approved and validly existing public charter school under HRS chapter 302B, and (4) will notify Lessor immediately regarding any change in Lessee's status as an approved and validly existing public charter school under HRS chapter 302B. Lessee also represents and warrants that this Lease constitutes a legal, valid, and binding obligation enforceable against Lessee in accordance with its terms. If Lessor determines that any of Lessee's representations and warranties herein are untrue, false, incorrect, inaccurate, or misleading in any way, or if Lessee fails to maintain its status as an approved and validly existing public charter school under HRS chapter 302B, or fails to timely notify Lessor of a change in such status, Lessor may terminate this Lease upon thirty (30) days written notice.

Section 13.2. Periodic review. Lessor and Lessee agree that at least every three (3) years, or as such interval may be revised by mutual agreement between Lessor and Lessee, Lessor and Lessee will meet to evaluate the nature of the relationship between Lessor and Lessee, to determine whether the relationship should be modified (e.g., whether a laboratory school relationship (similar to the University Laboratory School located on Metcalf Street in Honolulu, Hawai'i should be established), to verify Lessee's status as an approved and validly existing public charter school under HRS chapter 302B, and to discuss, address, and try to resolve any issues and challenges that may have arisen during the term of this Lease.

Lease between the University of Hawai'i
And Kawaikini New Century Public Charter School

Section 13.3. Coordination. Lessee shall coordinate its use of the Premises with Lessor so that Lessor may evaluate potential impacts on Lessor's use of the Property. Lessee shall submit to Lessor Lessee's planned use, construction activities and schedule. Lessor will promptly notify Lessee of any concerns or issues that need to be resolved before Lessee proceeds with the scheduled construction activities. Lessor and Lessee will attempt to mutually resolve the concerns or issues.

Section 13.4. Cooperation. Lessee acknowledges that because of Lessee's use of the Premises and the Property and the construction activities of Lessee, Lessor and others may be required to then comply with certain governmental requirements, including being required to obtain additional approvals, permits, and consents. To the extent that such compliance and the obtaining of additional approvals, permits, and consents is required, Lessee agrees to cooperate with and assist Lessor and others in achieving such compliance and obtaining the necessary approvals, permits, and consents, including, without limitation, providing supporting justification, verification, and other information regarding the need for Lessee's program and facilities, any of Lessee's construction activities, and the schedule for construction, installation, opening, and operation.

Section 13.5. No unreasonable interference. Lessor agrees not to unreasonably interfere with Lessee's facilities, operations and activities in, on, or connected with the Premises. Lessee agrees that in Lessee's use of the Premises or the Property, Lessee agrees not to unreasonably interfere with the facilities, operations, and activities of Lessor.

ARTICLE XIV

LESSEE'S FINANCING; MORTGAGE

Section 14.1. Consent to Mortgage. Lessee may from time to time, with Lessor's prior written approval (which approval shall not be unreasonably withheld or delayed), assign this Lease by way of mortgage; subject to all terms, conditions, and covenants of this Lease, to an established lending institution approved by Lessor as mortgagee, provided that Lessee shall: (a) provide Lessor with a copy of such mortgage for review prior to execution and (b) concurrently with the execution of such mortgage, deposit an executed copy of such mortgage with Lessor.

1. No release of Lessee. Nothing contained in such mortgage shall release or be deemed to relieve Lessee from full and faithful observance and performance of any of the terms, conditions, and covenants herein contained or from any liability for the nonobservance or nonperformance thereof, nor be deemed to constitute a waiver of any rights of Lessor, and the terms, covenants and conditions of this Lease shall control in case of any conflict with the provisions of such mortgage.

2. Mortgagee may foreclose. The mortgagee or its assigns may enforce such mortgage and acquire title to the leasehold estate of Lessee in any lawful way, and pending foreclosure of such mortgage may take possession of and rent the Premises, and upon foreclosure thereof may without further consent of Lessor sell and assign the leasehold estate of Lessee by

assignment in which the assignee shall expressly assume and agree to observe and perform all the terms, conditions, covenants, duties, and obligations of Lessee contained in this Lease, and such assignee may make a purchase money mortgage of this Lease to any such established lending institution approved by Lessor, provided that upon execution of any such assignment or mortgage a true copy thereof shall be delivered promptly to Lessor and that no other or further assignment of this Lease for which any provision hereof requires the written consent of Lessor shall be made without such consent.

3. Assignee required to perform. Any person acquiring the leasehold estate of Lessee in consideration of the extinguishment of the debts secured by such mortgage or through foreclosure sale, judicial or otherwise, shall be liable to perform the terms, conditions, covenants, duties, and obligations of Lessee contained in this Lease from the time such person acquires the leasehold estate of Lessee.

4. No additional liability. Lessor shall not unreasonably withhold or delay Lessor's approval of Lessee's request to mortgage Lessee's interest in or under this Lease, provided, however, that Lessor receives prior written notice of Lessee's intent to mortgage Lessee's interest in or under this Lease and that the terms and conditions of such mortgage:

- a. Not inconsistent with Lease. Are not contrary to, or inconsistent or in conflict with, the terms of this Lease;
- b. Applicable to Lessee's business. Are applicable to Lessee's business in the Premises or Lessee's or its officers' or employees' use of the Premises, the Property, or other areas that Lessee or its officers or employees are permitted to use in connection with this Lease;
- c. Not inconsistent with Applicable Laws. Do not require Lessee to take any action inconsistent with Applicable Laws;
- d. No indemnity. Do not require Lessor to indemnify, defend, or hold harmless mortgagee, lender, or any assignee thereof, Lessee, or any other party or entity in any way or manner.
- e. No additional liability. Do not impose or potentially impose any material additional cost, expense, or liability upon Lessor; and
- f. No waiver. Do not require Lessor to waive or release any rights, powers, authorities, or claims that Lessor may have or acquire.

Section 14.2. Protection of Mortgage. During the continuance in effect of any authorized mortgage of this Lease, Lessor will not terminate this Lease because of any default on the part of Lessee to observe or perform any of the terms, conditions, covenants, duties or obligations of Lessee contained in this Lease if the mortgagee or its assigns, within one hundred twenty (120) days after Lessor has mailed to the mortgagee or its assigns at the last known

address thereof a written notice of its intention to terminate the interest of Lessee under this Lease for such cause, shall cure such default, if the same can be cured by the payment of money, or, if such is not the case, shall undertake in writing to perform and shall thereafter perform all the terms, conditions, covenants, duties or obligations of Lessee contained in this Lease capable of performance by the mortgagee or its assigns until such time as this Lease shall be sold upon foreclosure of such mortgage.

1. Mortgagee compliance with conditions. In case of such undertaking, Lessor will not so terminate this Lease within such further time as may be required by the mortgagee to complete foreclosure of such mortgage or other remedy thereunder, provided:

a. Remedy pursued promptly. Such remedy is pursued promptly and completed with due diligence; and

b. All rent and charges paid. All rent and other charges accruing hereunder are paid as the same become due.

Upon foreclosure sale of this Lease, the time for performance of any term, condition, covenant, duty, or obligation of Lessee then in default hereunder other than payment of money shall be extended by the time reasonably necessary to complete such performance with due diligence.

2. Cure and discharge of lien. Any default consisting of Lessee's failure promptly to discharge any lien, charge, or encumbrance against the Premises junior in priority to such mortgage shall be deemed to be duly cured if such mortgage shall be foreclosed by appropriate action instituted within such 120-day period and thereafter prosecuted in diligent and timely manner.

3. No merger. Ownership by the same person of Lessor's and Lessee's interest in this Lease shall not effect the merger thereof without the prior written consent of any mortgagee to such merger.

ARTICLE XV

GENERAL

Section 15.1. Time is of the Essence. Time is of the essence in all provisions of this Lease.

Section 15.2. Hawai'i Law; Venue. This Lease shall be construed, interpreted, and governed by the laws of the State of Hawai'i. The venue for any mediation with respect to this Lease shall be- within the County of Kauai.

Section 15.3. Disputes Subject to Mediation. If a dispute arises out of or is related to this Lease, or the breach thereof, and if the dispute cannot be resolved through negotiation between the staffs of Lessor and Lessee, the dispute will be submitted to the Lessor's Chancellor of

Lease between the University of Hawai'i
And Kawaikini New Century Public Charter School

Kaua'i Community College (hereafter "Lessor's Chancellor") and the Lessee's President for joint resolution. If the dispute cannot be resolved between the Lessor's Chancellor and Lessee's President, the dispute will be submitted to the Lessor's President and the Lessee's Local School Board Chair (hereafter "Lessee's Board Chair") for joint resolution. If the Lessor's President and Lessee's Board Chair are unable to mutually resolve the dispute, the parties agree to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to some other dispute resolution procedure. If the dispute is not fully resolved after such mediation, the parties will submit the dispute to the Governor for resolution.

Section 15.4. Exhibits - Incorporation in Lease. All exhibits referred to are attached to this Lease and hereby are deemed incorporated by reference.

Section 15.5. Singular and Plural. When required by the context of this Lease, the singular shall include the plural.

Section 15.6. Headings. The article and paragraph headings herein are inserted only for convenience and reference and shall in no way define, describe, or limit the scope or intent of any provision of this Lease.

Section 15.7. Successor and Assigns. The term "Lessor" as used herein shall include Lessor, its successors and assigns, and the term "Lessee" as used herein shall include Lessee and its permitted successors and assigns.

Section 15.8. Partial Invalidity. If any term, provision, covenant, or condition of this Lease should be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Lease shall continue in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

Section 15.9. Entire Agreement; Modification. This Lease contains all the agreements of the parties and cannot be amended or modified except by a written agreement signed by both parties.

Section 15.10. Counterparts; facsimile signatures. This Lease may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing, and delivery of this instrument, duplicate unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document. The submission of a signature page transmitted by facsimile (or similar electronic transmission facility) shall be considered as an "original" signature page for purposes of this Lease.

Section 15.11. Approvals. Lessor and Lessee agree that whenever each receives a request for action or approval from the other party, Lessor and Lessee, respectively, will act upon or respond to said request within a reasonable amount of time.

Section 15.12. Force Majeure.

a. No liability. Neither Lessor nor Lessee shall be liable to the other party on account of any loss or damage resulting from any delay, interruption, or failure to perform all or any part of such party's obligations under this Lease if such delay, interruption, or failure to perform is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the respective parties.

b. Definition. "Force majeure events" include the following events that are not within the reasonable control of the parties and that prevent or delay the party's performance of its obligations:

(1) Laws. Present or future laws, statutes, rules, requirements, orders, directives, rulings, ordinances, or regulations of the United States of America, or of the State of Hawaii, or any county or municipal governments, or of any other government or lawful authority whatsoever that are enacted, adopted, or implemented subsequent to the date of this Lease; or other acts of superior government authority;

(2) War and terrorism. War, war-like conditions, hostilities, acts of terrorism, acts of the public enemy, sabotage, rebellion, riots, looting, military mobilization, and blockades;

(3) Transportation delays. Embargoes or other transportation delays or any act or thing resulting therefrom;

(4) Rationing. Priorities, rationing, or curtailments;

(5) Labor related issues. Strikes, boycotts, picketing, slowdowns, work stoppages, or other labor disputes or troubles;

(6) Shortages. Shortage of labor or materials, or inability to secure fuel, materials, supplies, or power due to shortages thereof;

(7) Acts of God. Acts of God, severe weather conditions, rainstorms, floods, earth movements, tsunamis, high winds, hurricanes, typhoons, tornadoes, or fires;

(8) Health related emergencies. Epidemics, quarantines, or other national or regional health related emergencies; or

(9) Other causes. Any other causes or casualties beyond the control of Lessor or Lessee.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Lessor and Lessee have caused this instrument to be duly executed on the day, month, and year first above written.

LESSOR:

UNIVERSITY OF HAWAI'I, a body corporate

APPROVED AS TO FORM:

Office of the University General Counsel:

By _____

Its _____

Associate General Counsel

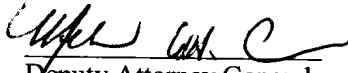
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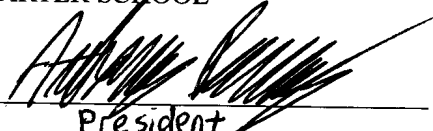
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LESSEE:

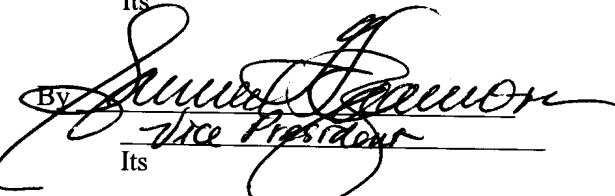
KAWAIKINI NEW CENTURY PUBLIC CHARTER SCHOOL

APPROVED AS TO FORM:


Deputy Attorney General

By 
President

Its _____

By 
Vice President

Its _____

IN WITNESS WHEREOF, Lessor and Lessee have caused this instrument to be duly executed on the day, month, and year first above written.

LESSOR:

UNIVERSITY OF HAWAI'I, a body corporate

APPROVED AS TO FORM:

Office of the University General Counsel:

B. F. Metz
Associate General Counsel

By Howard S. Todo
Howard S. Todo
Its V.P. Budget & Finance/CFO

By Duff Zwald
Duff Zwald, Director
Its Office of Procurement and Real Property Management

LESSEE:

KAWAIKINI NEW CENTURY PUBLIC CHARTER SCHOOL

APPROVED AS TO FORM:

Deputy Attorney General

By _____
Its _____

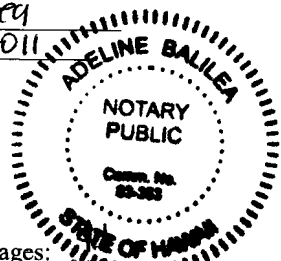
By _____
Its _____

STATE OF HAWAI'I)
) SS.
COUNTY OF KAUAI)

On this 31st day of August 2009, before me appeared Anthony James Perry and Samuel Lee Ching Kaauwaa, to me personally known, who being by me duly sworn, did say that they are President and Vice President, respectively, of KAWAIKINI NEW CENTURY PUBLIC CHARTER SCHOOL, and that said instrument was signed in behalf of said KAWAIKINI NEW CENTURY PUBLIC CHARTER SCHOOL by authority of its Board of Directors, and said President and Vice President acknowledged said instrument to be the free act and deed of said KAWAIKINI NEW CENTURY PUBLIC CHARTER SCHOOL

Adeline

Notary Public, State of Hawai'i
Print Name Adeline Balilea
My commission expires: 7/06/2011



Notary Seal Affixed:

NOTARY CERTIFICATION
Doc. Date: 8/31/09 # Pages: 1
Notary Name: Adeline Balilea

Doc. Description
Lease Agreement
Adeline 8/31/09
Notary Signature Date

STATE OF HAWAI'I)
)SS.
CITY AND COUNTY OF HONOLULU)

On this 28th day of August, 2009, before me appeared Howard S. Tolo, to me personally known, who being by me duly sworn, did say that he is V.P. Budget & Finance / CFO of the University of Hawai'i, a body corporate, and that said instrument was signed in behalf of said University by authority of its Board of Regents, and said Howard S. Tolo acknowledged said instrument to be the free act and deed of said University.

Valerie S. Nomura

Notary Public, First Circuit
State of Hawai'i

My Commission Expires 3-12-2013

NOTARY CERTIFICATION

Doc. Date: 8/28/09 # Pages: 40

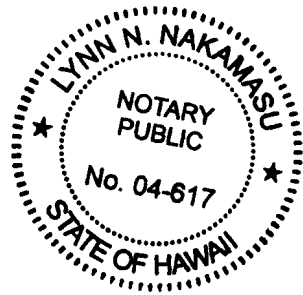
Notary Name: Valerie S. Nomura 1st Circuit

Doc. Description: Lease Agreement

Valerie S. Nomura 8/28/09
Notary Signature Date

STATE OF HAWAI'I)
)SS.
CITY AND COUNTY OF HONOLULU)

On this 27th day of August 2009, before me appeared Duff Zwald,
to me personally known, who being by me duly sworn, did say that he is the
Director, OPRAN of the University of Hawai'i, a body corporate, and that said instrument
was signed in behalf of said University by authority of its Board of Regents, and said
Duff Zwald acknowledged said instrument to be the free act and deed of said University.



Lynn N. Nakamasu
Notary Public, First Circuit
State of Hawai'i

My Commission Expires 10/31/2012

NOTARY CERTIFICATION

Doc. Date: 8/10/09 # Pages: 40
Notary Name: Lynn N. Nakamasu 1st Circuit
Doc. Description: Lease Agreement

Lynn N. Nakamasu 8/10/09
Notary Signature Date

EXHIBIT "A"

PARCEL FIRST:

All that certain parcel of land, situate at Lihue, Puna, Kauai, State of Hawaii, being Lot 445-A-1, area 98.749 acres, as shown on Map 51, Land Court Application No. 1087, said Lot being the premises described in Certificate of Title No. 157,535.

SUBJECT, HOWEVER, to the following:

1. Easement U as shown on Map 51 for roadway purposes in favor of the owner or owners of Exclusion 1, as mentioned in Certificate of Title No. 157,535.
2. Easement 72 as shown on Map 51 as designated for ditch purposes.
3. Easement 73 as shown on Map 51 designated for electrical and pipeline purposes.
4. Easement 74 as shown on Map 51 designated for ditch purposes.

PARCEL SECOND:

All of that certain parcel of land situate at Lihue, District of Lihue, Island and County of Kauai, State of Hawaii, described as follows:

LOT 445-A-3, area 39.939 acres, as shown on Map 51, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1087 of Grove Farm Company, Incorporated;

Being land(s) described in Transfer Certificate of Title No. 157,537 issued to Grove Farm Company, Incorporated, a Hawaii corporation.

SUBJECT, HOWEVER, to the following:

1. Designation of Easement "81", as shown on Map 51, as set forth by Land Court Order No. 37170, filed March 29, 1973.
2. Designation of Easement "82", as shown on Map 51, as set forth by Land Court Order No. 37170, filed March 29, 1973.
3. Unrecorded Lease dated January 31, 1992, by and between GROVE FARM COMPANY, INCORPORATED, a Hawaii corporation, "Lessor," and 'AHA PUNANA LEO, a Hawaii corporation, "Lessee;" leasing and demising a portion of the land described herein being two former camp houses containing a combined floor area of

approximately 1,840 square feet and an associated yard area of approximately 15,710 square feet, for a term of two years commencing on February 1, 1992.

PARCEL THIRD:

All that certain parcel of land, situate at Lihue, Puna, Kauai, State of Hawaii, previously being designated as Lot 445-A-2, area 60.189 acres, as shown on Map 51, Land Court Application No. 1087, said lot being the premises described in Certificate of Title No. 157,536 and now known as Lots 1408 and 1409, as shown on Map 118, Land Court Application No. 1087, and noted on Transfer Certificate of Title No. 157,536, filed in said Land Court, and also identified as Tax Map Key Nos. (4) 3-4-007:006 and (4) 3-4-007:001, containing areas of approximately 1.303 acres and 58.775 acres, respectively.

SUBJECT, HOWEVER, to the following:

1. Easement U as shown on Map 51 for roadway purposes in favor of the owner or owners of Exclusion 1, as mentioned in Certificate of Title No. 157,536.
2. Easement 75 as shown on Map 51 as designated for ditch purposes.
3. Easement 76 as shown on Map 51 designated for pipeline and electrical purposes.
4. Easement 77 as shown on Map 51 designated for pipeline purposes;
5. Easement 78 as shown on Map 51 for designated for electrical purposes;
6. Easement 79 as shown on Map 51 designated for pipeline purposes;
7. Easement 80 as shown on Map 51 designated for ditch purposes;
8. Easement 90 as shown on Map 65 designated for roadway or farm utility purposes.

NOTE: Lot 445-A-2 will have access over Lot 445-A-3 to Kauai Belt Road (Kaumualii Highway), a public roadway, as set forth in Land Court Order No. 37170, filed March 29, 1973.

End of EXHIBIT "A"