

DISTRICT OFFICE LEASE



July 16, 2013

TO: BOARD OF TRUSTEES
of Valencia College

FROM: SANFORD C. SHUGART
President

RE: Lease Agreement with Valencia College Foundation for Administrative Offices

The Valencia College Foundation has purchased a 57,000 sq. ft. building in Metrowest, close to the West Campus, to be leased to the College for its educational use. The College has purchased a parcel of vacant land adjacent to this building, a portion of which will be used to construct parking for the building, as reflected in a parking lot easement agreement between the College and Foundation.

Term: Sixty (60) years, 6/1/2013 – 6/30/2072 (or 60 years from rent commencement date).

Rent: \$459,527.00 per year, reflecting a 6.75% return on the Foundation's initial cost basis; adjustable on an annual basis to reflect additions to the Foundation's cost basis. Commences upon occupancy.

Renovations: Foundation will be responsible for structural and infrastructure improvements, and College will be responsible for all other alterations and improvements, as well as association fees, utilities, maintenance, repairs and liability/property insurance.

College Purchase Rights: College may purchase outright after 7 years, for price equal to Foundation's cost basis.

Right of First Refusal: Foundation may not sell the building to a third party without first notifying College of such intention; College is granted a right of first refusal to purchase building for price equal to Foundation's cost basis.

RECOMMENDED ACTION:

The President recommends that the District Board of Trustees of Valencia College authorizes the College to enter into the Lease Agreement as proposed.



President

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "**Lease**"), is made as of the ____ day of _____, 2013, between **VALENCIA COLLEGE FOUNDATION, INC.**, a non-profit corporation and direct-support organization existing under the laws of Florida (the "**Landlord**"), and the **DISTRICT BOARD OF TRUSTEES OF VALENCIA COLLEGE, FLORIDA**, a political subdivision of the State of Florida (the "**Tenant**") (collectively, the "**Parties**").

WITNESSETH:

WHEREAS, Landlord purchased the property described herein as reflected in that certain Special Warranty Deed recorded on September 5, 2012, in Official Records Book 10436, Page 7489, of the Public Records of Orange County, Florida.

WHEREAS, Landlord is a direct-support organization established pursuant to Section 1004.71, Florida Statutes, and has authority under such statute to own and hold the property for the benefit of Tenant; and

WHEREAS, that for and in consideration of the covenants herein contained on the part of the Tenant to be kept and performed, the Landlord does hereby demise and lease to the Tenant the real property described in **Exhibit "A"**, attached hereto and made a part hereof, situated at 1768 Park Center Drive, Orlando, Florida 32835, located in the City of Orlando, Orange County, Florida (the "**Land**"), together with the building constructed on the Land (the "**Building**") and any and all other improvements, additions, structures and appurtenances, now existing or hereafter erected, constructed or situated upon the Land (collectively, the "**Improvements**") (the Land, Building and Improvements shall be referred to herein collectively as the "**Premises**" or the "**Property**"). The Building contains approximately 57,680 square feet of rentable space; and

WHEREAS, Tenant may, from time to time, permit Landlord to occupy space within the Building on terms and conditions mutually agreeable to both Parties; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **RECITALS.** The above recitals are true and correct and incorporated herein by this reference.

2. **TERM.**

(a) The term of this Lease is for sixty (60) years, commencing on June 1, 2013 (the "**Commencement Date**") and expiring on the date which is sixty (60) years after the Rent Commencement Date (the "**Expiration Date**"), unless sooner terminated in accordance with the express terms and provisions of this Lease (including, without limitation, the provisions of Section 22 hereof).

(b) So long as Tenant shall not be in default under the terms of this Lease, Tenant shall have the option to extend the term of this Lease (a) for ten (10) years upon written notice to Landlord of Tenant's intention to extend the Lease at least sixty (60) days prior to the expiration of the current lease term, or (b) at such times during the Term of the Lease as Tenant has completed plans and specifications for the construction of additional improvements upon the Property, thus allowing Tenant to remain in compliance with Section 1013.16, Florida Statutes, which requires a lease on real property, by a college to be for a period of not less than forty (40) years or the life expectancy of the permanent facilities constructed thereon, whichever is longer. Tenant shall exercise the option to extend pursuant to this subparagraph (b) by notifying Landlord in writing of its intention to extend the Term of the Lease, whereupon if Tenant is not in default, Landlord and Tenant shall enter into an amendment to the Lease, within ten (10) days of such notice, extending the Term of the Lease for the appropriate time period to allow Tenant to comply with the requirement outlined above upon the same terms and conditions set forth in this Lease.

3. RENT.

(a) Commencing on May 1, 2014, unless delayed in accordance with the provisions hereof (the "**Rent Commencement Date**"), and continuing each calendar year thereafter during the Term of this Lease (the "**Rent Period**"), Tenant shall pay to Landlord rent (the "**Rent**") equal to \$459,527.00 per annum, subject to adjustment in accordance with subparagraph (b) below. Payment of Rent shall be made in advance for each twelve (12) month period (on a calendar year basis) during the Rent Period (prorated for the initial year of the Rent Period and the final year of the Rent Period), and shall be paid in two (2) equal installments semi-annually on January 1 and July 1 of each year during the Rent Period. Notwithstanding anything contained herein to the contrary, in the event that the Property is not available for occupancy by Tenant by May 1, 2014, then the Rent Commencement Date shall be deferred day-by-day for each day that Tenant is unable to occupy the Property due to Landlord's failure to substantially complete the Landlord's Work.

(b) It is the intent of the Parties that Rent be calculated based on a 6.75% capitalization rate (the "**Cap Rate**") as applied to the total amount of funds expended by Landlord in connection with the acquisition and overhead of the Property (including without limitation, purchase price, due diligence, legal fees and costs, and closing costs), the costs incurred to complete Landlord's Work as more specifically set forth in Section 11 of this Lease, and any costs incurred by Landlord to complete additional improvements to the Property during the Term (the "**Cost Basis**"). By way of example, if the Cost Basis of the Property as of the Rent Commencement Date is \$ 6,807,318.00, the Rent payable by Tenant shall be equal to \$459,527.00 per annum. No later than January 1 of the year following the Rent Commencement Date and continuing each January 1 thereafter during the Term, the Parties shall review the Cost Basis of the Property and determine if Rent shall be adjusted for the then-current year to reflect any additional improvements or costs incurred by Landlord not previously included in the Cost Basis.

4. USE OF PREMISES AND QUIET ENJOYMENT. Possession of the Property shall be delivered to Tenant no later than the Rent Commencement Date. Tenant, upon prompt payment of Rent and performance of the terms and conditions of this Lease, shall have the

peaceable and quiet use, occupancy and possession of the Premises without let, hindrance, eviction, molestation or interruption for the purpose of using the same for educational, and related office and administrative purposes.

5. **INSURANCE.**

(a) **Liability Insurance.** Commencing on September 3, 2013, and thereafter during the Term of this Lease, Tenant shall keep in full force and effect at Tenant's sole expense a policy or policies of general liability coverage insuring Tenant with respect to claims, suits or proceedings brought against Tenant during the Term of this Lease arising solely by reason of personal injury(ies), including death, suffered or alleged to have been suffered by person(s) other than employees of Tenant and Landlord injured in the scope of their employment, and/or by reason of damage to or destruction of property or loss of use theory. Sovereign immunity is not waived and the limits of sovereign immunity as set forth in Section 768.28, Florida Statutes, are expressly preserved in claims, suits or proceedings governed thereby. The limits of liability for any claim, suit or proceeding not governed by Section 768.28, Florida Statutes, shall in no event be greater than the limit of coverage established by the Florida College Risk Management Consortium (Consortium) Plan Document for Florida Colleges then in effect. Tenant shall be allowed a commercially reasonable deductible on such insurance. Tenant shall name Landlord as a loss payee, or an additional insured if permitted by the Consortium, and will furnish Landlord with certificates or other acceptable evidence that all such insurance is in effect.

(b) **Property Insurance.** At all times during the Term of this Lease, Tenant shall keep in full force and effect at Tenant's sole expense, a policy or policies covering property damage to the Building, Improvements and any other personal property owned by the Tenant (collectively, the "**Insured Property**"). Coverage shall extend to insure for all risks of physical loss or damage occurring (including fire, extended coverage, hurricane, and windstorm damage) during the Term of this Lease only to the Insured Property of every kind and description. Tenant shall be allowed a commercially reasonable deductible on such insurance. The amount of coverage for the Insured Property shall be in an amount not less than one hundred percent (100%) of the full insurable value thereof. Tenant shall furnish Landlord with certificates or other acceptable evidence that all such insurance, covering real and personal property loss or damage, is in effect. Landlord shall have no responsibility for such Tenant's insurance nor shall Landlord be liable for any damage to or destruction of Tenant's personal property.

6. **UTILITIES.** Tenant shall pay for any and all required installation and other charges incurred in Tenant's use of utilities, including, but not limited to, those for electricity, water, gas, garbage collection, sewer, telephone service and similar utilities and charges.

7. **COMPLIANCE WITH LAW.** Tenant shall at all times during the Term promptly comply with all lawful requirements of any public authority imposed by reason of Tenant's occupancy. Landlord shall promptly comply with any such requirements if they are not made necessary by reason of Tenant's occupancy. Compliance shall not be required of either party under the terms of this Section so long as the validity thereof is contested by the affected party in good faith.

8. **TAXES, ASSESSMENTS, AND DUES.** Tenant shall pay for all dues and assessments (whether regular or special) levied by any property owners' association having jurisdiction over the Premises, and to the extent the Building and Premises are not exempt from ad valorem real property taxes, Tenant shall pay all real estate taxes, assessments for improvements and other charges against the Premises which may be imposed by any governmental body against the demised Premises. Tenant may defer paying any such tax, assessment, or dues so long as the validity of the amount thereof is being contested in good faith.

9. **MAINTENANCE AND REPAIRS.** As of the Rent Commencement Date, and by taking occupancy of the Premises, Tenant shall be deemed to have examined the Premises and acknowledged that the same are in good repair and working order and clean, safe and tenantable condition. Tenant shall prevent waste and maintain the Premises in good order throughout the Term of this Lease, normal wear and tear excepted. Tenant, at Tenant's sole cost and expense, shall maintain the interior and exterior portions of the Premises including, without limitation, the heating, cooling, electrical and plumbing systems in good order and repair, reasonable wear and tear excepted, and shall make all needed repairs to the Premises. Tenant, at its sole cost and expense, during the Term of this Lease shall also maintain (i) the structural portions of the Premises, (ii) the landscaping within Property, and (iii) the parking lot located on the Property described in **Exhibit "A"** attached hereto. Tenant shall also supply janitorial and pest control services to the Premises. All Maintenance and Repairs performed by Tenant shall be performed in accordance with the State Requirements for Educational Facilities.

At all times during the Term of this Lease and upon reasonable notice to Tenant, Landlord may enter the Premises during reasonable hours to inspect or to make repairs, alterations or improvements (structural or otherwise) to the Premises. If Tenant fails to promptly make any repairs or maintenance required by this Section, Landlord may perform the same on Tenant's behalf, after providing written notice to Tenant, and Tenant shall reimburse Landlord on demand for all costs and expenses so incurred. Upon termination of this Lease in any manner, Tenant shall peaceably and quietly leave, surrender and yield to Landlord the Premises in as good order and repair as the Premises existed upon the Rent Commencement Date, reasonable wear and tear excepted, and shall surrender all keys to the Premises to Landlord.

10. **PARKING.** Landlord shall provide, for the nonexclusive use of Landlord and Tenant herein and their agents, employees and invitees, a parking area as shown and delineated upon the plans of said Building by which said Building has been built. Tenant shall maintain the parking area in good repair. Tenant shall provide parking spaces for use associated with the Building in accordance with the Parking Lot Easement Agreement set forth in **Exhibit "B"** attached hereto and made a part hereof.

11. **ALTERATIONS, ADDITIONS AND IMPROVEMENTS.**

(a) Landlord and Tenant shall mutually agree upon the scope of structural and infrastructure improvements to the Building (including, without limitation, modifications to the roof and building envelope, air conditioning systems, lobbies and elevators, plumbing, electrical, restrooms, windows, landscaping, parking lot, exterior dumpster, fire alarm/protection, and structural reinforcements) (collectively, the "**Landlord's Work**"), all of which shall be constructed and installed by Landlord. A detailed listing and description of Landlord's Work

shall be specifically set forth in an amendment to this Lease executed by both Parties. The estimated costs of construction and installation of Landlord's Work shall be set forth in a budget to be approved by the Parties (the "**Budget**"), which Budget shall be specifically set forth in an amendment to this Lease executed by both Parties. The Parties' execution of an amendment to this Lease incorporating the approved scope of Landlord's Work and Budget shall be a condition precedent to Landlord's obligation to commence Landlord's Work. Landlord shall be responsible for paying all costs of the construction and installation of Landlord's Work, which total costs incurred shall be included in Landlord's Cost Basis for the Property. The substantial completion of Landlord's Work, in all material respects such that Tenant is able to occupy the Property and use the same for its intended use, shall be a condition precedent to Tenant's obligation to accept possession of the Property.

(b) Tenant may at any time during the Term, at its own expense, make any alterations, additions or improvements in and to the Premises. Alterations shall be performed in a workmanlike manner and shall be done in accordance with applicable laws including, without limitation, the state's requirements for educational facilities.

(c) All alterations, additions and improvements on or in the Premises as of the Commencement Date, and that may be erected or installed during the Term, shall become part of the Premises and the sole property of the Landlord, except that all movable trade fixtures shall be and remain the property of Tenant.

(d) Pursuant to Section 713.10, Florida Statutes, the Parties acknowledge and agree that the interest of Landlord shall not be subject to liens for improvements made by the Tenant. The Parties acknowledge that the Tenant is a political subdivision of the State of Florida and as such the interest of the Tenant is not subject to liens for improvements. Tenant shall not create or permit to remain, and if and only to the extent required by law, shall promptly discharge or bond (within thirty (30) days after service of notice thereof), at its sole cost and expense, any lien, encumbrance or charge upon the Premises, or any part thereof, or upon Tenant's rights under this Lease that arise from the use or occupancy of the Premises by Tenant or by reason of any labor, service, or material furnished or claimed to have been furnished to or for the benefit of Tenant or by reason of any construction, repair, or demolition by or at the direction of Tenant.

12. **INDEMNITY.**

(a) **By Landlord.** Landlord shall defend, indemnify and hold Tenant harmless of and from any and all losses, damages, claims, costs and expenses including reasonable attorneys' fees for pre-trial, trial, appellate and administrative proceedings arising out of any claim asserted by any person against Tenant for loss of or damage or injury to person or property caused by any negligent or wrongful act or omission of Landlord.

(b) **By Tenant.** The Parties recognize and acknowledge that Tenant is a political subdivision of the State of Florida. Tenant does not have authority to waive the state's immunity by contract. Sovereign immunity is within the sole province of the Florida legislature. Tenant shall be liable for its own wrongful acts or negligence pursuant to the statutory limits of Section 768.28, Florida Statutes. Within the limits of its statutory and legal liability as a political

subdivision of the State of Florida, and if and to the extent allowed by law, Tenant acknowledges and agrees to indemnify, defend, and hold Landlord harmless from and against liabilities, claims, losses and expenses, including attorneys' fees, which are caused by the negligent or wrongful act or omission of any employee of the Tenant while acting within the scope of the employee's office or employment. Nothing herein shall be construed as consent by Tenant, as a political subdivision of the State of Florida, to be sued by third parties in any matter arising out of any contract. Landlord will not be responsible for money or personal property of any kind lost or stolen on the Property nor for damage to Tenant's personal property caused by a casualty to the Property or improvements thereon.

13. **CASUALTY.** If the Premises shall be destroyed or damaged by any casualty, Tenant shall either (i) restore, repair or rebuild the Building and Improvements or other improvements on the Property, or (ii) retain the proceeds of those insurance policies described in Section 5 above and proceed with the exercise of Tenant's Purchase Option (as defined herein) in which event the purchase price shall be equal to the Landlord's Cost Basis as of the date immediately prior to the casualty.

As used herein "casualty" means fire, flood, storm or other act of God, regardless of whether reasonably foreseeable; riot, civil commotion, war, or other act of a public enemy; theft, vandalism or other criminal or tortious act of a third party; or structural failure from any cause. Landlord shall not be responsible for money or personal property of any kind lost or stolen on the Premises nor for damage to Tenant's property caused by a casualty to the Premises.

14. **CONDEMNATION.** If the whole of the Premises is condemned or taken by any legally constituted authority for any public use or purpose, this Lease shall terminate as of the date of such condemnation or taking and the Rent shall be accounted for as between the Landlord and the Tenant as of that date; PROVIDED HOWEVER, such termination shall be without prejudice to the rights of either the Landlord or the Tenant to recover compensation and damage caused by the condemnation or taking.

If only a portion of the Premises is condemned or taken by any legally constituted authority for any public use or purpose, the Rent payable hereunder shall abate in proportion to the degree of interference with Tenant's use of the Premises and the Tenant shall have the option of terminating the Lease upon ninety (90) days' written notice to the Landlord; PROVIDED HOWEVER, such abatement of Rent shall be without prejudice to the rights of either the Landlord or the Tenant to recover compensation and damage caused by the condemnation or taking.

15. **ASSIGNMENT AND SUBLETTING.** Tenant shall not, without the prior written consent of the Landlord, which shall not be unreasonably withheld or delayed, assign this Lease or any interest hereunder and shall not, without the prior written consent of the Landlord, which shall not be unreasonably withheld or delayed, sublet the Premises or any part thereof or permit the use of the Premises by any party other than the Tenant.

16. **DEFAULT.** If Tenant shall default in the payment of Rent herein reserved, and fails to cure said default within thirty (30) days after written notice thereof from the Landlord, or if the Tenant defaults in the performance of any of the terms or provisions of this Lease other than the

provision requiring the payment of Rent and fails to cure such default within thirty (30) days after written notice thereof from the Landlord, then Landlord, at its option, may unless such termination or other action is prohibited by law at once terminate this Lease by written notice to the Tenant, reenter the Premises, re-possess itself, remove all persons and effects from the Premises and pursue such remedies as may be available to it under Florida law. Notwithstanding anything in this Lease to the contrary, if Tenant cannot reasonably cure a default within thirty (30) days, Tenant shall have the right to cure it as long as it begins to cure within thirty (30) days and continually works to complete the cure within a reasonable period of time. If Landlord shall default in the performance of any of the terms or provisions of this Lease and fails to cure such default within thirty (30) days after written notice thereof from the Tenant, then Tenant, at its option, may terminate this Lease by written notice to the Landlord. Notwithstanding anything in this Lease to the contrary, if Landlord cannot reasonably cure a default within thirty (30) days, Landlord shall have the right to cure it as long as it begins to cure within thirty (30) days and continually works to complete the cure within a reasonable period of time. If the default is not cured by Landlord within a reasonable period of time, the Tenant may terminate as set forth herein, or may cure said default itself and deduct the cost thereof including a reasonable attorney's fee from the Rent due hereunder.

17. **LANDLORD WAIVER OF LIEN RIGHTS.** Landlord hereby waives any and all rights that it may now or hereafter have to any lien and/or security interest in any personal property of Tenant, including, without limitation, goods, inventory, equipment, fixtures, and all other tangible and intangible personal property owned by Tenant and all insurance proceeds of or relating to any of the foregoing, and all proceeds therefrom, including, without limitation, Landlord's statutory landlord's lien.

18. **RIGHTS CUMULATIVE.** The rights of the Parties under this Lease shall be cumulative and the failure of either party to exercise any power of enforcement of this Lease or any right to insist upon strict compliance shall not constitute a waiver of that party's right to demand exact compliance with the terms hereof.

19. **TIME IS OF THE ESSENCE.** It is understood and agreed between the Parties hereto that time is of the essence of this Lease and applies to all terms and conditions contained herein.

20. **RADON GAS.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

21. **NOTICE.** Any notice or demand required under this Lease or by law shall be in writing and shall be deemed delivered and effective three (3) days after having been sent by hand delivery, sent by commercial overnight delivery service, or mailed by U. S. mail, certified or registered return receipt requested and addressed to the Parties at the addresses set forth below. Such addresses may be changed by written notice to the other party. Counsel for the Parties set forth herein may deliver or receive notice on behalf of the Parties.

Tenant
President
Valencia College
P.O. Box 3028
Orlando, Florida 32802

Landlord
President
Valencia College Foundation, Inc.
P.O. Box 3028
Orlando, Florida 32802

Nothing herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

22. **RIGHT OF TERMINATION BY TENANT.** This Lease may be terminated by Tenant upon twenty-four (24) months prior written notice to Landlord (the “**Termination Notice Requirement**”). Notwithstanding the foregoing Termination Notice Requirement or anything contained herein to the contrary, it is expressly understood by the Parties that Tenant's performance and obligations to pay Rent as and when due hereunder and to provide insurance under this Lease is contingent upon an annual appropriation by the Florida State Legislature. If, at any time during the Term, annual appropriations to Tenant are either unavailable or insufficient to satisfy the Rent or insurance requirements and obligations of Tenant hereunder, Tenant shall provide Landlord with immediate written notice of the same whereupon either party hereto shall have the right to terminate this Lease upon written notice to the other party and Tenant shall not be bound by the 24-months Termination Notice Requirement. Additionally, nothing contained in this Lease shall require the Tenant to violate the restrictions and limitations placed upon it as a political subdivision of the State of Florida.

23. **HOLDOVER; MONTH TO MONTH TENANCY.** If Tenant remains in possession of the Premises after the expiration of the Term or termination of this Lease, then such continued possession shall, if Rent is paid in equal monthly installments, in advance, by the Tenant and accepted by the Landlord, create a month-to-month tenancy at will on the terms herein specified, and said tenancy shall be terminable at any time by either party upon at least fifteen (15) days' prior written notice to the other party. If, however, Tenant remains in possession of the Premises after the expiration of the Term or termination of this Lease without Landlord's written consent, then Landlord, in addition to all available remedies at law and in equity, shall be entitled to collect 150% of the Rent payable by Tenant hereunder.

24. **RIGHT TO PURCHASE; RIGHT OF FIRST REFUSAL.**

(a) **Right to Purchase.** For good and valuable consideration hereby acknowledged, Landlord grants to Tenant the exclusive right to purchase (the “**Purchase Option**”) the Property, as may be improved from time to time, for a purchase price equal to the Landlord's Cost Basis as of the date that Tenant delivers to Landlord written notice of its election to exercise the Purchase Option (the “**Option Price**”). The Parties agree that Tenant shall be eligible to exercise its Purchase Option during the Option Term (as defined herein). For purposes hereof, the “**Option Term**” shall refer to the period commencing on January 1, 2020 and expiring on the earlier to occur of (i) May 31, 2073, or (iii) the sale of the Property to a third-party pursuant to the Right of First Refusal (as defined herein). The purchase of the Property, pursuant to the Purchase Option, shall be consummated within thirty (30) days after Landlord's receipt of written notice from Tenant exercising the Purchase Option, or such other date as mutually agreed to by the Parties in writing. Landlord, as seller, and Tenant, as buyer, shall each be responsible for those closing

costs typically borne by a seller and buyer, respectively, for real estate transactions in Orange County, Florida.

(b) Right of First Refusal. Landlord agrees that it will not convey any interests, rights, or title (excepting utility and other routine easements) in and to the Property to any third party without first notifying Tenant in writing (the “**ROFR Notice**”) of all material terms of Landlord’s offer, or such offer that Landlord has received and is willing to accept, whereupon Tenant shall have a period of thirty (30) days after receipt of the ROFR Notice to exercise its right to purchase the Property, upon written notice to Landlord of such election within said 30-day period, at a purchase price equal to the Landlord’s Cost Basis as of the date of the ROFR Notice (the “**Right of First Refusal**”). The purchase of the Property, pursuant to the Right of First Refusal, shall be consummated within thirty (30) days after Landlord’s receipt of written notice from Tenant exercising its Right of First Refusal, or such other date as mutually agreed to by the Parties in writing. Landlord, as seller, and Tenant, as buyer, shall each be responsible for those closing costs typically borne by a seller and buyer, respectively, for real estate transactions in Orange County, Florida. If Tenant declines the Right of First Refusal or fails to respond within such 30-day period, Landlord shall be free to convey the Property to the prospective buyer in accordance with the terms set forth in the ROFR Notice. In the event Tenant fails to close as and when required hereunder, the Right of First Refusal shall immediately cease to be of any further force or effect.

(c) Memorandum of Purchase Option and Right of First Refusal. At Tenant’s option, the parties shall execute and record in the Public Records of Orange County, Florida, a memorandum, in such form as mutually agreed upon by the parties, placing third-parties on notice of the rights of Tenant set forth in this Section 24.

25. EXECUTION OF COUNTERPARTS. This Lease may be executed in any number of counterparts, each one of which shall be deemed to be an original and all of which taken together shall be deemed to be one and the same instrument.

26. ENTIRE AGREEMENT AND WAIVER. This Lease contains the entire agreement of the Parties hereto as of the date hereof and shall be binding upon and inure to the benefit of the Parties, their successors, assigns and personal representatives. No waiver of any covenant or condition of this Lease by either party shall be deemed to imply or constitute a further waiver of same or of any other covenant or condition of this Lease. No modification, amendment, release, discharge or waiver of any provisions hereof shall be of any force, effect or value unless in writing signed by the party to be charged.

27. SEVERABILITY. If any clause or provision of this Lease shall be invalid or void for any reason, such invalid or void clause or provisions shall not affect the whole of this instrument but the balance of the provisions hereof shall remain in full force and effect in a manner that would most closely include the intent of the offending provision and not be invalid or void.

28. COVENANTS. All covenants, conditions, provisions and obligations contained herein or implied by law shall attach, bind and inure to the benefit of Landlord and Tenant and their respective heirs, successors, assigns and legal representatives except as otherwise provided herein.

29. **HEADINGS.** The headings contained in this Lease are for the convenience of reference only and shall in no manner limit or otherwise affect or be used in the construction of any of the terms or provisions hereof.

30. **GOVERNING LAW.** This Lease shall be construed both as to meaning and effect under the laws of the State of Florida. This Lease is expressly made subject to those laws contained in Florida Statutes Title XLVIII K-20 Education Code, and the Florida State Board of Education Administrative Rules Chapter 6A-14 insofar as the rights, powers, privileges, immunities and limitations shall apply to the Tenant.

31. **THIRD PARTY OBLIGATIONS.** This Lease is made solely for the benefit of the Landlord and Tenant named herein, and is not intended to create third party beneficiaries.

32. **BROKERAGE.** The Parties each represent and warrant to each other that neither has employed a broker in connection with this transaction. In the event there is a claim against either party hereto with respect to any broker whatsoever other than as set forth in this paragraph, the party whose action gives rise to the claim for commission shall indemnify the other party against any liability, damage, cost or fee in connection with such claim, including, without limitation, attorneys' fees and costs.

[SIGNATURE PAGE FOLLOWS NEXT]

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed in their names on the day and year appearing below their respective signatures.

WITNESSES:

(Witness #1 Signature)

(Witness #2 Signature)

WITNESSES:

(Witness #1 Signature)

Witness #2 Signature)

LANDLORD:

**VALENCIA COLLEGE
FOUNDATION, INC.**

By: _____
President

Date: _____

TENANT:

**DISTRICT BOARD OF TRUSTEES OF
VALENCIA COLLEGE FLORIDA**

By: _____
President

Date: _____

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1:

Lot 7, a Replat of Lot 2, a Replat of Tract 9, METROWEST, according to the Plat thereof, as recorded in Plat Book 21, Pages 135 through 137, inclusive, of the Public Records of Orange County, Florida.

Parcel 2:

Easement Rights for the benefit of Parcel 1, created by that certain Master Declaration of Protective Covenants for Metrowest, recorded in Official Records Book 3759, Page 2756; as amended, of the Public Records of Orange County, Florida.

Parcel 3:

Easement Rights for the benefit of Parcel 1, created by that certain parking easement, as recorded in Official Records Book 8469, Page 176, as amended, of the Public Records of Orange County, Florida.

Parcel 4:

Easement Rights for the benefit of Parcel 1, created by that certain Temporary Parking Easement, recorded in Official Records Book 8469, Page 185, of the Public Records of Orange County, Florida.

Parcel ID #36-22-28-5621-00-070

EXHIBIT "B"

Parking Lot Easement Agreement