

**FIRST FLIGHT CHILD DEVELOPMENT CENTER
OPERATION AND MANAGEMENT AGREEMENT**

This FIRST FLIGHT CHILD DEVELOPMENT CENTER OPERATION AND MANAGEMENT AGREEMENT (this “**Agreement**”) is made and entered into as of _____, 2021 at Los Angeles, California by and between the **CITY OF LOS ANGELES**, a municipal corporation, (hereinafter referred to as “**City**”), acting by order of and through its Board of Airport Commissioners (hereinafter referred to as “**Board**”) of the Department of Airports (hereinafter referred to as “**Department**” or “**LAWA**”), and **LA PETITE ACADEMY, INC.**, a wholly owned subsidiary of Learning Care Group (MI) Inc., (hereinafter referred to as “**Operator**”).

RECITALS

A. LAWA, as a proprietary department of the City, operates Los Angeles International Airport (“**LAX**”) and Van Nuys Airport (“**VNY**”) located in the City of Los Angeles, California;

B. LAWA is the owner of that certain building (the “**Building**”) and related real property and improvements located at 9320 Lincoln Boulevard, Los Angeles, CA 90045 in Los Angeles, California (collectively, the “**Facilities**”), commonly known as “First Flight Child Development Center”;

C. Operator is presently engaged and experienced in the management, operation, and supervision of childcare centers comparable in size, location, and quality to the Facilities;

D. LAWA desires to have on-site childcare services for its employees and tenants working at LAX and therefore issued that certain Request for Proposals for Childcare Center Operation and Management, Release Date January 27, 2021 (the “**RFP**”), and Operator presented a proposal dated March 10, 2021 (the “**Operator’s Proposal**”); and

E. Pursuant to the RFP, LAWA desires to retain Operator as LAWA’s exclusive agent to provide certain management and operating services at the Facilities, and Operator desires to provide the same, all as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the foregoing recitals (which are incorporated herein by this reference), the covenants and conditions hereinafter contained to be kept and performed, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

ARTICLE 1. BASIC TERMS

1.1 **Term.** The term of this Agreement shall be for a period of three (3 years) (the

“Term”), commencing upon City’s issuance of a Notice to Proceed (“Commencement Date”) by LAWA’s Chief Executive Officer or authorized designee (collectively, the “Chief Executive Officer ”), which shall occur only after approval by the Board of Airport Commissioners and by the City Council, and expiring three (3) years thereafter (“Expiration Date”), unless sooner terminated as provided herein. There shall be two (2) one-year extension options, which shall be exercised by mutual written agreement of the parties at least six (6) months prior to the Expiration Date, and such written agreement shall include the terms and conditions applicable to each option period.

1.2 **Appointment.** LAWA hereby appoints Operator to provide, as an independent contractor, the services, products and work (collectively, sometimes referred to herein as the “Services”) described in this Agreement and in the exhibits attached to this Agreement for the Term stated in Section 1.1 above. LAWA hereby authorizes Operator to exercise such powers and to take such actions with respect to the Facilities as may be necessary for the performance of Operator’s obligations under this Agreement. Operator hereby accepts such appointment and expressly understands and agrees that the Scope of Services attached hereto as Exhibit A, the Budget attached hereto as Exhibit B, City’s RFP (including all of its attachments, forms, plans, specifications and any addenda thereto) attached hereto as Exhibit C-1, Operator’s Proposal (including the proposal documents and administrative requirements) attached hereto as Exhibit C-2, and Business and Operations Plan attached hereto as Exhibit D, which is intentionally omitted, shall constitute and are hereby incorporated and made a part of this Agreement. Operator and City hereby expressly covenant and agree to carry out and fully perform each and all of the provisions of said documents upon its part to be performed to the extent that such documents are not inconsistent with the provisions of this Agreement. Except as specifically set forth in or inconsistent with this Agreement, Operator acknowledges that this Agreement is based upon the performance requirements contained in the bid documents issued by City and Operator’s Proposal. If there is a conflict between this Agreement (including the Scope of Services) and the RFP or the Operator’s Proposal, this Agreement shall control. Operator shall engage in the management, operation, and supervision of the Facilities in an efficient manner, in good faith and diligence in accordance with the National Association for the Education of Young Children [“NAEYC”] accreditation standards, all federal, state, and local directives related to the COVID-19 pandemic, and all other sound, reasonable, prudent industry practices, and Operator shall use and maintain the Facilities in the best interest of LAWA (the “Operating Standard”).

1.3 **Bank and Bank Account.** Operator shall designate a financial institution, the deposits of which are insured by the FDIC (the “Bank”) in which on behalf of Operator and at Operator’s expense, Operator shall open one or more management accounts (collectively, the “Bank Account”) into which all tuition and other revenues from the Facilities shall be deposited pursuant to Section 3.1 and from which Operator is authorized to prepare drafts to pay all approved and authorized expenses for the Facilities, as set forth herein.

1.4 **Notices.**

1.4.1 Notice to Operator. Written notices to Operator hereunder shall be sent to the Chief Marketing Officer, with a copy to the General Counsel, shall be given by personal delivery, registered or certified mail, postage prepaid, or by nationally recognized overnight courier, and shall be addressed as follows:

La Petite Academy, Inc.
c/o Learning Care Group
21333 Haggerty Rd., Suite 200
Novi, MI 48375
Attn: Chief Marketing Officer

La Petite Academy, Inc.
c/o Learning Care Group
21333 Haggerty Rd., Suite 200
Novi, MI 48375
Attn: General Counsel

or to such other address as Operator may designate by written notice to City.

1.4.2 Notice to City. Written notices to City hereunder shall be sent to the Chief Executive Officer, with a copy to the City Attorney of the City of Los Angeles, shall be given by personal delivery, registered or certified mail, postage prepaid, or by nationally recognized overnight courier, and shall be addressed as follows:

Attn: Verneiza Benwikere, Contract Administrator
LAWA Human Resources
1 World Way
Los Angeles, CA 90045

City Attorney
1 World Way
Post Office Box 92216
Los Angeles, CA 90009-2216

1.4.3 Effect of Notice by Chief Executive Officer. The execution of any such notice by the Chief Executive Officer shall be as effective as to Operator as if it were executed by the Board, or by resolution or order of said Board, and Operator shall not question the authority of the Chief Executive Officer to execute any such notice.

1.4.4 Manner of Giving Notice. All such notices, except as otherwise provided herein, may either be delivered personally to Chief Executive Officer with a copy to the Office of

the City Attorney, Airport Division, in the one case, or to Operator in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail. Such notice may also be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery by such courier.

1.5 Notice and Cooperation. Operator and LAWA shall give notice to each other of all relevant information involving the other and relating to the Facilities of which they obtain knowledge (to the extent not subject to confidentiality requirements), including without limitation, the receipt of any governmental or third-party notice of violation, or the commencement of any action, suit or proceeding against Operator or against LAWA with respect to the operations of the Facilities or otherwise affecting the management of the Facilities as provided for in this Agreement promptly after obtaining knowledge of same. Operator and LAWA each shall reasonably cooperate with the other, and, during the term of this Agreement, shall cause all of their respective employees and other representatives to reasonably cooperate in connection with the prosecution or defense of all such legal proceedings. Upon LAWA's request, appropriate representatives of Operator shall meet with LAWA at the Facilities, or other locations requested by LAWA, to discuss the management, operation and budgeting of the Facilities and shall from time to time be available by telephone or online to discuss such matters.

1.6 Rights Regarding the Facilities. Notwithstanding any other provision of this Agreement, Operator acknowledges and agrees that the rights granted to Operator with respect to the Facilities shall be limited to that of a revocable nonexclusive right of entry for the purpose of performing Operator's obligations under this Agreement, which right of entry may be terminated by the Chief Executive Officer in accordance with the terms of this Agreement. Operator shall not use the Facilities for any use other than as expressly authorized in this Agreement or otherwise expressly authorized by the Chief Executive Officer in writing. Nothing in this Agreement shall be construed as granting to Operator a possessory interest in the Facilities. Operator acknowledges that without providing prior notice City may enter the Facilities during regular business hours (or at any time in case of emergency) however when in the Facilities, City shall comply with child care licensing rules and regulations as they may apply to the Facilities, and with such other reasonable requests made by Operator intended for the health and protection of the Facilities' occupants.

1.7 Condition of Facilities. Except as specifically set forth in this Agreement, Operator shall accept the Facilities in their "AS-IS, WHERE-IS" condition and "WITH ALL FAULTS" as of the date on which City delivers the Facilities to Operator, and except as otherwise stated in this Agreement, City shall not thereafter be obligated to provide or pay for any improvement work or services related to the improvement of the Facilities. Operator also acknowledges that except as specifically set forth in this Agreement, neither City, nor any of City's agents and representatives, has made any oral or written representations or warranties of any kind

whatsoever, express or implied, as to any matters concerning the Facilities. Operator acknowledges and agrees that Operator has performed its own due diligence on all matters relating to the Facilities, including, without limitation, all technical, operational and construction matters. Operator's use of or reliance on any such information shall be at its sole risk, and City shall have no liability arising therefrom.

ARTICLE 2. DUTIES OF OPERATOR

2.1 **General Duties.** Operator shall operate and maintain the Facilities consistent with the Operating Standard and the Approved Budget. Subject to any exceptions otherwise set forth in this Agreement, if any, Operator shall comply with LAWA's reasonable instructions regarding maximum tuition fees for each Fiscal Year (as defined in Section 2.2(a) below). No consent by LAWA to Operator's recommendations or actions shall relieve Operator of its obligations hereunder.

2.2 **Budgets.** Budgets for the management and operation of the Facilities shall be implemented, as follows:

(a) Operator acknowledges that City will have a fiscal year beginning on July 1 and ending the following June 30 (each a "**Fiscal Year**"). Prior to the execution of this Agreement, Operator shall prepare and deliver to LAWA a proposed budget for the period commencing on the effective date of this Agreement and ending on June 30, 2022; provided, however, that upon the reasonable agreement of the parties such proposed budget shall be prepared for the entire Term including all extension options. Such proposed budget shall be in a format substantially in the form attached to this Agreement (the "**Approved Budget Format**"), and shall set forth, in reasonable detail and on a monthly basis, an itemized statement of the estimated disbursements for such period, including but not limited to all normal operating costs, expenses relating to non-capital improvements, legal and accounting fees, advertising and marketing costs, insurance premiums, employee salaries and similar items, and the estimated income for such period based on a schedule of tuition rates charged, as approved by LAWA, in effect for such period (the "**Tuition Schedule**"). The Operator shall cooperate with the LAWA to review and modify the proposed budget, as may reasonably be required by LAWA, and the parties shall act diligently and in good faith to cause the proposed budget, as so modified, to be approved in a reasonable timeframe prior to the start of the next fiscal year. Upon LAWA's approval, the proposed budget shall become the Approved Budget (the "**Approved Budget**").

(b) As to all future Approved Budgets, at least ninety (90) days prior to the commencement of each Fiscal Year, so long as this Agreement is in effect, Operator shall prepare and deliver to LAWA a proposed budget which, after approval by LAWA, shall be deemed the Approved Budget for such Fiscal Year. Each proposed budget shall be in the Approved Budget Format.

(c) If, after the approval by LAWA of any Approved Budget, Operator believes it is desirable to change the Tuition Schedule, Operator shall provide written notice to LAWA of the changes sought. All such changes shall require the specific written approval of LAWA prior to implementation. In the event that LAWA disapproves any proposed budget submitted by Operator during the term of this Agreement, then such budget shall be resubmitted by Operator within ten (10) days of receipt of LAWA's written notice containing specific objections thereto.

(d) If LAWA has not approved a proposed budget for the Facilities in accordance with the terms hereof prior to the first day of the Fiscal Year to which such proposed annual budget is to apply, Operator shall operate the Facilities from the first day of such Fiscal Year through the date on which LAWA approves such proposed annual budget for the Facilities in accordance with the terms most recently approved by LAWA. For purposes of the preceding sentence, the annual Budget most recently approved by LAWA shall not include capital items and nonrecurring expenditures which were approved solely for a preceding year, but Operator may, for any fiscal year, seek approval from LAWA for any capital items or nonrecurring expenditures.

2.3 Maintenance and Repair of the Premises. Operator shall, at Operator's expense, keep and maintain the interior of the Building and improvements consisting of landscaping, the playground, and playground equipment (collectively, the "**Premises**") in good repair and in a safe, clean, and orderly condition and appearance at all times. In addition, Operator shall, at Operator's own expense, promptly and adequately repair all damage to the Premises that result from Operator's use and occupancy of the Premises (e.g., fixing a leaky faucet, clearing a clogged sink, installing and maintaining telecommunications cabling and wiring, painting the interior walls) and replace or repair all damaged, broken, or worn fixtures and appurtenances, except for damage caused by ordinary wear and tear beyond the reasonable control of Operator; provided however, that if Operator fails to make such repairs, LAWA may, but need not, make such repairs and replacements, and Operator shall pay LAWA the cost thereof. Operator shall keep a record of all maintenance and repair actions undertaken with respect to the Premises during the term of this Agreement, including the nature of such matter requiring maintenance and repair, the date such maintenance and repair action was undertaken, the cost of such maintenance and repair action, any receipts and invoices or contracts for costs and expenses incurred in connection with such maintenance and repair action (collectively, "**Operator's Maintenance Records**"). Upon any request of the Chief Executive Officer, in connection with the annual update of the Annual Budget, Operator shall deliver to City an annual maintenance report with a copy of Operator's Maintenance Records for the Fiscal Year just ended. Operator may, but is not obligated to, submit work orders to LAWA for ordinary and routine repairs of plumbing, painting, electrical, and flooring, and LAWA shall endeavor, but is not obligated, to make such repairs. LAWA reserves the right, in LAWA's sole discretion, to charge Operator, or to waive charges, for such repairs.

2.3.1 **Additions and Alterations.** Operator may not make any improvements, alterations, additions or changes to the Premises or any mechanical, plumbing or HVAC facilities or systems pertaining to the Building (collectively, the “Alterations”) without first procuring the prior written consent of LAWA to such Alterations, which consent shall be requested by Operator not less than thirty (30) days prior to the commencement thereof, and which consent shall not be unreasonably withheld by LAWA, provided it shall be deemed reasonable for LAWA to withhold its consent to any Alteration which adversely affects the structural portions or the systems or equipment of the Building or is visible from the exterior of the Building.

2.4 **Contracts with Third Parties.** Within the constraints of the Approved Budget, Operator shall have the authority to select, negotiate, engage and supervise contracts for such supplies, services and other purchases as may be necessary in the normal and ordinary course of operating and managing the Facilities (the “Third-Party Contracts”). Operator shall monitor all independent contractors, consultants, suppliers, and entities retained by Operator for the purpose of providing the Services under this Agreement, or for any other activity within the scope of this Agreement. Operator shall require any contractor performing (i) a public works contract, as defined in the California Public Contract Code Section 1101, to post, prior to the commencement of work, a payment bond, if applicable, pursuant to California Civil Code Section 9550 and/or (ii) construction services to post a performance bond, if applicable, pursuant to City of Los Angeles Administrative Code Section 10.15 (g) and (j). Any contracts not terminable by Operator with thirty (30) day notice shall require the approval of LAWA.

2.5 **Purchases.** Subject to the terms of this subsection 2.5, Operator shall arrange for, and shall have the authority to arrange for, the purchase (or when applicable, lease) of all reasonable inventories, provisions, supplies and operating equipment reasonably necessary or desirable for the maintenance and operation of the Facilities, subject to the constraints if the Approved Budget, or otherwise specifically approved by LAWA in writing.

2.6 **Capital Expenses.** Operator has no obligation to make capital improvements to the Building and all expenses related to any capital improvements to the Building shall be paid by LAWA. For clarification, the parties agree and acknowledge that LAWA shall pay for: (i) repairs or maintenance to the exterior and structural components of the Building, (ii) the HVAC system of the Building, (iii) improvements or changes to the mechanical, electrical, or plumbing systems pertaining to the Facilities that are not ordinary and routine repair and maintenance under Section 2.3 of this Agreement, (iv) fire suppression systems, and (v) other expenses determined to be a capital expense pursuant to generally accepted accounting principles (GAAP).

2.7 **Security.** To the extent required and provided for under the Approved Budget, Operator shall contract for security services for the Facilities as recommended by Operator and approved by LAWA from time to time.

2.8 **Real and Personal Property Taxes.** Operator understands that LAWA is a

municipal corporation under the laws of the State of California, and therefore LAWA's real and personal property may be exempt from certain state and local property taxation. Accordingly, Operator shall not pay, or include in any proposed budget, any real estate taxes, personal property taxes, improvement assessments, or similar tax or assessment which might otherwise become a lien against any portion of the Property, except as specifically directed in writing by LAWA, and LAWA shall hold harmless and hereby releases Operator from and against any claim, lien, suit or other liability resulting from the failure by Operator to collect or remit any such tax except as specifically authorized and directed by LAWA. In the event that the Facilities is subject to any claim, billing, assessment or other assertion of liability for such taxation, LAWA shall be solely responsible for the payment or appeal or contestation thereof, provided that such bills or notices as Operator may receive directly shall be provided to LAWA by Operator with reasonable diligence.

2.8.1 Taxes and Other Charges for Which Tenant is Directly Responsible.

2.8.1.1 Notwithstanding Section 2.8 above, Operator acknowledges that Operator shall be liable for and shall pay prior to delinquency taxes levied against Operator's equipment, furniture, fixtures and any other personal property located in or about the Facilities. If any such taxes on Operator's equipment, furniture, fixtures and any other personal property are levied against City or City's property or if the assessed value of City's property is increased by the inclusion therein of a value placed upon such equipment, furniture, fixtures or any other person property and if City pays the taxes based upon such increased assessment, which City shall have the right to do regardless of the validity thereof but only under proper protest, Operator shall, upon demand, repay to City the taxes so levied against City or the proportion of such taxes resulting from such increase in the assessment, as the case may be. In accordance with California Revenue and Taxation Code Section 107.6(a), City states that by Operator's executing this Agreement and accepting the benefits thereof, a property interest may be created known as a "possessory interest" that is subject to property taxation, which possessory interest tax shall be included as part of tax expenses for which Operator shall be liable for herein. The taxes herein shall be referred to as "**Tax Expenses.**"

2.8.1.2 Notwithstanding any contrary provision herein, Operator shall pay prior to delinquency any (i) sales tax, service tax, transfer tax or value added tax, or any other applicable tax on the Services herein and (ii) taxes assessed upon this transaction or any document to which Operator is a party creating or transferring an interest in the Facilities.

2.9 **Licenses and Permits.** Operator shall obtain and keep in full force and effect, at Operator's expense, all licenses, permits or other governmental authorizations as may be necessary for the maintenance, operation, management, servicing or occupancy of the Facilities. Fees and other incidental costs required to be paid for the issuance of any such licenses, permits and approvals shall be paid for by Operator. Operator shall maintain original licenses, permits and approvals at the Facilities and shall provide to LAWA a copy of all initial or renewal license

applications relating to such approvals that are applied for after the date of this Agreement. All such licenses, permits and other instruments shall be obtained in Operator's name or its Affiliates.

2.10 Compliance with Laws. Except where otherwise the obligation of City as set forth in this Agreement, Operator shall (and shall cause Operator's employees, contractors, subcontractors, representatives, and agents (individually, an "**Operator Party**" and collectively, the "**Operator Parties**")), at Operator's sole cost and expense, to fully and faithfully observe and comply with: (a) all municipal, state and federal laws, statutes, codes, rules, regulations, ordinances, requirements, and orders (collectively, "**Laws**"), now in force or which may hereafter be in force pertaining to Operator's responsibilities and performance under this Agreement, including but not limited to, performance of the Services and Operator's access or use of the Facilities (including without limitation, (i) all safety, security and operations directives of City, including by the Chief Executive Officer, which now exist or may hereafter be promulgated from time to time governing conduct on and operations at the Airports, (ii) the Americans With Disabilities Act and its regulations, except to the extent that such compliance requires structural changes to the Facilities unless such changes are alterations or improvements made by Operator pursuant to this Agreement, (iii) any and all valid and applicable requirements of all duly-constituted public authorities (including, without limitation, the Department of Transportation, the Department of Homeland Security, the Federal Aviation Administration, and the Transportation Security Administration ["**TSA**"]), (iv) all federal and state statutes and regulations protecting personally identifiable information and prohibiting unfair, misleading or fraudulent business practices, including but not limited to, California Civil Code Sections 1798, et. seq., California Civil Code Sections 11750, et. seq., and California Business and Professions Code Sections 17200 et. seq., and (v) all terms of any insurance policy covering Operator or covering or applicable to the Facilities or any part thereof, all requirements of the issuer of the policy, and all orders, rules, regulations and other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) applicable to or affecting the Facilities or any part thereof or any use or condition of the Facilities or any part thereof); and (b) the rules and regulations described in Section 14.13 below. As used in this Agreement, "**Laws**" shall include all present and future federal, state and local statutes, ordinances and regulations and City ordinances applicable to Operator or the management, operation or use of the Facilities by Operator.

2.11 Disclosure/Press Releases. Operator shall not issue any press releases regarding the Facilities or cause the publicity of LAWA's retention of Operator or other events or conditions regarding the Facilities or Operator's involvement therewith, or any occurrence thereon, without LAWA's prior written consent.

2.12 Independent Contractor; Operator's Employees. Operator represents and warrants that it is fully experienced and properly qualified to perform its obligations under this Agreement and also that it is properly licensed, equipped, organized and financed to perform its obligations under this Agreement. In performing its obligations under this Agreement, Operator is acting as an independent contractor. This Agreement does not establish any employer-

employee, joint venture or agency relationship between City and Operator or any of Operator's subcontractors. City shall in no way be imputed an employer with respect to Operator's or its subcontractor's employees. All employment arrangements and labor and supply agreements with Operator's employees, agents and subcontractor are, therefore, solely and exclusively Operator's obligations and liabilities (or its subcontractor's), and City shall have no obligations or liability with respect thereto. Operator shall pay its employees and to the extent that Operator retains any subcontractor, then Operator shall ensure that every subcontractor is paid all wages, salaries and other amounts due to such subcontractor. Operator shall comply (and shall cause its subcontractors to comply) with all applicable Laws relating to employment of its employees. Operator shall be responsible for, and shall ensure that each subcontractor shall be responsible for, all reports, payment and other obligations respecting their respective employees, including without limitation those related to social security, income tax withholding, unemployment compensation, worker's compensation and employee benefit plans. Operator hereby agrees to indemnify, defend, and hold City, the Board, Chief Executive Officer and their respective members, officers, directors, employees, agents, advisors, attorneys, and representatives (collectively, "**City Agents**") harmless from and against any Claims of whatever nature that arise in connection with any such employees, employment arrangements (including but not limited to, hiring, termination, wage and hour, benefits, leaves of absence, workplace safety, employer liability, discrimination and harassment claims, privacy concerns, and any disciplinary actions) or labor and supply agreements relating to Operator or its subcontractors. The indemnity obligation of Operator under this Section 2.12 shall survive the expiration or termination of this Agreement.

2.13 Staffing and Personnel. To the extent that Operator's personnel, Operator's subcontractors and/or such subcontractor's personnel are identified in the Operator's Proposal, Operator covenants to City that as of the Commencement Date, such team is the same team that will be included to provide the Services under this Agreement (the "**Contract Team**"). Operator agrees to provide to City reasonable notification of changes to the Contract Team. Except as otherwise specifically authorized in this Agreement, Operator shall not subcontract for the performance of any of the Services to be provided by Operator under this Agreement without the Chief Executive Officer's prior written consent, which consent may be granted or denied in the Chief Executive Officer's reasonable discretion.

2.14 Intellectual Property Ownership and Rights.

(a) Ownership. All Work Products originated and prepared by Operator or its subcontractor of any tier under this Agreement shall be and remain the property of the Operator or its subcontractor; provided, however, the City may use such Work Products for its use in any manner it reasonably deems appropriate; provided, however, that any use unintended under this Agreement, or modification or alteration of the Work Products without the direct involvement of the Operator shall be without Liability to Operator. Work Products are all works, tangible or not, created under this Agreement for the City including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases,

schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property therein. This paragraph shall survive expiration or termination of this Agreement.

(b) Obligations on Subcontractor - Intentionally Omitted.

(c) Use of Work Products by Third Parties. Except where required by law or as reasonably necessary to perform its obligations under this Agreement, Operator shall not make available, provide or disclose any Work Product to any third party without prior written consent of the City.

(d) No Transfer of Intellectual Property. Nothing herein may be construed to transfer to the City any ownership, interest or right in any of the Operator's intellectual property, trade secrets or know-how.

(e) Non-Infringement Warranty. Operator hereby represents and warrants that performance of all obligations under this Agreement does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, right of publicity and proprietary information. This section shall survive expiration or termination of this Agreement.

(f) Indemnification of Third-Party Intellectual Property Infringement Claims. Operator will defend at its expense and hold harmless in any infringement claim, demand, proceeding, suit or action ("**Action**" hereinafter) against the City, its commissioners, officers, directors, agents, employees, or affiliates ("**City Defendants**") for any infringement or violation, actual or alleged, direct or contributory, intentional or otherwise, of any intellectual property rights, including patents, copyrights, trade secrets, trademarks, service marks, ideas, concepts, themes, methods, algorithms and other proprietary information or rights (collectively "**Intellectual Property Rights**" hereinafter), on or in any design, medium, matter, plant, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by the Operator in performing the work under this Agreement. Operator also shall indemnify the City against any loss, cost, expense, liability, and damages awarded against the City or settlement as a consequence of such Action. Under no circumstances is Operator liable under this sub-section to defend and hold the City harmless, where the City licenses or sublicenses for profit any of the intellectual property rights in the Work Product to a third-party whose use of the intellectual property gives rise to the alleged infringement and whose use is not in any way part of the intended use for the benefit of the City under this Agreement.

(g) In Operator's defense of the City Defendants, negotiation, compromise, and settlement of any such infringement Action, the City shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals there from, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

(h) Where any Work Product furnished by Operator is in a form of software or firmware (“Vehicle”), and if any part of the such Vehicle (a) becomes the subject of an Action, (b) is adjudicated as infringing a third party’s Intellectual Property right, or (c) has its use enjoined or license terminated; Operator shall, with the City’s consent, do one of the following immediately. Operator shall at its expense either:

- 1) procure for the City the right to continue using said part of the Vehicle; OR
- 2) replace the Vehicle with a functionally equivalent, non-infringing product.

Exercise of any of the above-mentioned options shall not cause undue business interruption to the City or diminish the intended benefits and use of the Work Product by the City under the specifications herein.

(i) Rights and remedies available to the City hereinabove shall survive the expiration or other termination of this agreement. Further, the rights and remedies are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States, the State of California, and the City of Los Angeles. This Paragraph shall survive the expiration or other termination of this Agreement.

(j) Operator’s Trade Secrets. Trade Secrets, as used in this Agreement, are defined in California Government Code Section 6254.7 and California Evidence Code Section 1061(a)(1) and may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

Operator hereby stipulates that City is not nor expected to be in possession of any of Operator’s Trade Secrets. In the unlikely event that Operator reveals any of its Trade Secrets to City and so notifies City in writing, then City agrees to notify Operator of any request made pursuant to the California Public Records Act, Cal. Gov. Code, § 6250 et seq., (“CPRA”) that includes Operator's Trade Secrets. City may disclose any of Operator's Trade Secrets if Operator does not object in writing to the City after ten (10) days from the notice mailing date by the City to Operator of the CPRA request.

(l) Unless expressly stated otherwise, for all pre-existing third-party and Operator’s intellectual property (if any), including software, required to operate or use any Work Product delivered by Operator, Operator hereby grants and will cause others to grant City (including its agents and operators) a royalty-paid, perpetual, irrevocable license to use such pre-existing intellectual property internally by the City (including its agents and operators).

2.15 Revenue Collection and Control. Operator shall be fully and solely responsible for the collection, safekeeping and deposit of all Gross Revenue (as defined below)

collected from patrons and users of the Facilities. Operator shall charge and collect from all persons utilizing the Facilities the applicable fees and charges established (from time to time) for such use. The term “**Gross Revenue**” means all charges, fees and other revenues collected or received by Operator (or its subcontractors) of every kind and character (including, without limitation, payment by cash, check, credit or debit card, P2P (point-to-point) or other electronic transfer) involving payment in exchange for the use of the Facilities or for any other service provided at or in connection with the Facilities. Operator shall timely provide to City the reports regarding Gross Revenue as described in the in this Agreement. All such reports relating to the collection of Gross Revenue shall be accurate and complete in all respects. The Chief Executive Officer shall have the right to reasonably change or modify such reporting requirements from time to time in the Chief Executive Officer’s sole and absolute discretion.

2.16 **Credit and Debit Cards.** Operator shall perform the functions and responsibilities as the Merchant of Record for the processing of all debit and credit card transactions for patrons of the Facilities. Operator shall provide and maintain the credit and debit card processing system equipment and contract with a reputable credit and debit card processor for the provision of credit and debit card processing services. Before Operator accepts any debit and credit card payments from patrons of the Facilities, Operator shall install and operate under P2PE (point-to-point encryption) with respect to all credit and debit card processing system equipment servicing the Facilities. Operator shall be responsible to operate the credit and debit card processing system in accordance with reasonable operating procedures and directives to the extent established or provided by the Chief Executive Officer from time to time.

2.17 **Business and Operations Plan – Intentionally Omitted.**

2.18 **Monthly and Bi-Annual Reports.** Operator shall submit the following reports to LAWA:

2.18.1 Monthly Budget-to-Actual Reports. In addition to Operator’s obligation in Section 2.2 above, Operator shall, no later than twenty-five (25) days following the end of each month, submit to LAWA a detailed monthly report of the actual income and expenses for the previous month.

2.18.2 Monthly Status Report. Monthly Status Reports shall describe key issues and events at the Childcare Center, which includes, but are not limited to the following:

2.18.2.1 Enrollment Summary by classroom assignment, sponsorship status, and number of days in attendance. This report should also include full-time equivalency of part-time students.

2.18.2.2 Transition Summary detailing the movement of

individual students into and out of each classroom.

2.18.2.3 Detailed Waiting List with students' names, including sponsorship status, classroom to be assigned, anticipated number of days in attendance, and date student was added to Wait List.

2.18.2.4 Wait List Status Change Report detailing the movement of individual students onto and off of Wait List, including dates and reasons for movement.

2.18.2.5 Staffing changes, including termination and re-assignment of individual staff members within the Childcare Center.

2.18.2.6 Center activities and special events for the upcoming month.

2.18.2.7 Parent issues and concerns, including complaints and removal of students from the Childcare Center.

2.18.2.8 Parent meetings and activities for upcoming month.

2.18.2.9 Facility maintenance, including requests made, date of original requests, and progress reports.

2.18.2.10 Licensing and regulatory activity, including notification of site visits and other events.

2.18.2.11 Pending issues.

2.18.3 Bi-Annual Report. Operator shall provide to LAWA in the calendar months of January and June throughout the term of this Agreement a Detailed Enrollment List with students' names separated by classroom assignment, and listing sponsorship status and number of days in attendance per week for each student.

2.19 **City Property; Operator Property.**

2.19.1 City Provided Property. Attached to this Agreement as **Exhibit E** is a description, as of the Commencement Date, of certain improvements, fixtures, equipment, systems and other property owned by City that City is making available for exclusive use by Operator in connection with the performance of Operator's services under this Agreement (the "**City Provided Property**"). Operator acknowledges that, prior to the Commencement Date, Operator has been given the opportunity to inspect the City Provided Property. Except as expressly otherwise agreed

in writing by the Parties, Operator acknowledges that the City Provided Property is in good operating condition and state of repair as of the date that the same is being made available to Operator for its exclusive use.

2.19.2 Operator Property. Operator acknowledges that, pursuant to the terms of this Agreement, Operator shall be responsible for providing or procuring on behalf of Operator certain improvements, fixtures, equipment, systems and other property which are intended to be made available for use by Operator in connection with the performance of Operator's services under this Agreement (the "Operator Property"). Operator acknowledges and agrees that any and all Operator Property shall remain the property of Operator. Operator agrees that the Operator Property shall meet the applicable Operating Standards as may be now or hereafter be reasonably designated by City in writing, copies of originals and/or any amendments which shall be provided by City to the Operator at least thirty (30) days in advance of becoming operative. Operator hereby represents and warrants to City that any and all Operator Property (i) shall conform to the specifications required under this Agreement (including, without limitation, any and all criteria and all representations and assurances provided by Operator in Operator's Proposal), and (ii) is merchantable and fit for its intended use, (iii) is free from defects. In the event of a breach of any of the foregoing representations and warranties, Operator shall promptly cure such breach, and in the event that Operator fails to promptly cure such breach, City shall have the right to remove and replace such defective Operator Property at Operator's expense.

2.19.2.1 Removal of Operator Property. Upon the expiration or earlier termination of this Agreement, Operator Property shall be removed from the Premises, provided however, that removal of affixed Operator Property shall be mutually agreed upon by the parties.

2.19.3 Operator Responsible for Damage to City Property. At all times during the Term, Operator shall maintain and keep the City Property (defined below) in good repair and condition. Notwithstanding any other provision of this Agreement, if any of the property of City (including, without limitation, the City Property) is lost, damaged or destroyed as the result of the negligence or misconduct of Operator or any Operator Party, then Operator shall be liable to City for the cost of the repair, replacement or restoration of such lost, damaged or destroyed property. The term "City Property" shall mean the City Provided Property.

2.19.4 Return of City Property. Upon the expiration or earlier termination of this Agreement, Operator shall surrender and turn over to City all City Property, and Operator shall at any time upon request by City take all necessary and appropriate actions, as requested by City, to document and confirm City's ownership of and right, title and interest in the City Property.

2.20 Insurance and Indemnification.

2.20.1 Operator's Insurance. Operator shall procure at its expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on Insurance, Exhibit F, attached hereto and incorporated herein by reference, and City shall

maintain all other required insurance not specific in Exhibit F. The specified insurance shall also, either by provisions in the policies, by City's own endorsement form or by other endorsement attached to such policies, include and insure City, City Agents, and their successors and assigns, as additional insureds, against the areas of risk described on Exhibit F with respect to acts or omissions of Operator or any of the Operator Parties in their respective operations, use, and/or occupancy of the Facilities or other related functions performed by or on behalf of Operator or any of the Operator Parties in, on or about the Airports.

2.20.1.2 Each specified insurance policy (other than Workers' Compensation and Employers' Liability and fire and extended coverages) shall contain a Severability of Interest (Cross Liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this agreement with the City of Los Angeles." With respect to Workers' Compensation, Operator shall by specific endorsement, waive its right of subrogation against City, City Agents and their successors and assigns.

2.20.1.3 All such insurance shall be primary and noncontributing with any other insurance held by City where liability arises out of or results from the acts or omissions of Operator or any of the Operator Parties. Such policies may provide for such reasonable deductibles and retentions as are acceptable to the Chief Executive Officer based upon the nature of Operator's operations and the type of insurance involved.

2.20.1.4 City shall have no liability for any premiums charged for such coverage(s). The inclusion of City and City Agents, their successors and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venturer with Operator in Operator's operations at the Airports. In the event Operator fails to furnish City evidence of insurance and maintain the insurance as required, City, upon ten (10) business days prior written notice to comply, may (but shall not be required to) procure such insurance at the cost and expense of Operator, and Operator agrees to promptly reimburse City for the cost thereof plus three percent (3%) for administrative overhead. Payment shall be made within thirty (30) days of invoice date.

2.20.1.5 At least ten (10) business days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be provided to the City in accordance with the notice requirements of this Agreement. If such coverage is canceled or reduced, Operator shall, within fifteen (15) business days of such cancellation of coverage, file with City evidence that the required insurance has been reinstated or provided through another insurance company or companies.

2.20.1.6 Operator shall provide proof of all specified insurance and related requirements to City either by use of City's own endorsement form(s), by broker's letter acceptable

to the Chief Executive Officer in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the Chief Executive Officer. The documents evidencing all specified coverages shall be produced to the City in duplicate and shall be procured and approved in strict accordance with the provisions in Sections 11.47 through 11.56 of the City of Los Angeles' Administrative Code prior to Operator entering upon the Facilities. The documents shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, shall bear the signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least ten (10) days prior to the effective date thereof. City reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

2.20.1.7 City and Operator agree that the insurance policy limits specified herein may be reviewed for adequacy annually throughout the term of this Agreement by the Chief Executive Officer.

2.20.1.8 Submission of insurance from a non-California admitted carrier is subject to the provisions of California Insurance Code Sections 1760 through 1780, and any other regulations or directives from the State Department of Insurance or other regulatory board or agency. Operator agrees, except where exempted, to provide City proof of said insurance by and through a surplus line broker licensed by the State of California.

2.20.1.9 Unless damage or destruction is caused by City, to the fullest extent permitted by law, Operator, on behalf of Operator and its insurers, hereby waives, releases and discharges City and all City Agents from all Claims arising out of damage to or destruction of Operator's property located on or about the Facilities, and any loss of use or business interruption, caused by any casualty, and Operator will look only to Operator's insurance coverage (regardless whether Operator maintains any such coverage) in the event of any such Claim. Any property insurance which Operator maintains must permit or include a waiver of subrogation in favor of City and all City Agents.

2.20.1.10 City's establishment of minimum insurance requirements for Operator in this Agreement is not a representation by City that such limits are sufficient and does not limit Operator's liability under this Agreement in any manner.

2.20.2 City Held Harmless. In addition to the requirements of Section 2.20 (Insurance) above, to the fullest extent permitted by law, Operator shall indemnify, defend (with counsel satisfactory to City), keep and hold City, City Agents and their successors and assigns harmless from and against any and all actions, causes of action, charges, claims, costs, damages, demands, expenses (including attorneys' fees, costs of court and expenses incurred), fines, judgments, liabilities, liens, losses, or penalties of every kind and nature whatsoever (collectively,

“**Claims**”) arising out of or in connection with (i) the entry upon, use or occupancy of the Premises or Facilities or the performance of this Agreement by Operator or any of the Operator Parties, (ii) any acts or omissions of Operator or any of the Operator Parties, (iii) any default in the performance of Operator’s obligations under this Agreement and (iv) any violation of any of the requirements, ordinances, statutes, regulations or other laws, including, without limitation, any environmental laws, any acts, omissions or negligence of Operator or of any person claiming by, through or under Operator, or of the contractors, agents, servants, employees, invitees, guests or licensees of Operator or any such person, in, on or about the Facilities. The foregoing defense, indemnification and hold harmless obligations of Operator shall include, without limitation, all Claims claimed by anyone (including Operator and the Operator Parties) by reason of injury to, or death of, any person(s) (including Operator and the Operator Parties), all Claims for damage to, or destruction of, any property (including property of Operator and the Operator Parties) and all Claims for any and all other losses founded upon or alleged to arise out of, pertain to, or relate to Operator’s and/or the Operator Parties’ performance of this Agreement. The foregoing defense, indemnification and hold harmless obligations of Operator shall apply to all Claims; provided, however, that where such Claim arises from or relates to Operator’s performance of a “Construction Contract” as defined by California Civil Code section 2783, this paragraph shall not be construed to require Operator to indemnify or hold City harmless to the extent such Claim is caused by City’s sole negligence, willful misconduct or active negligence; and provided, further, that where such Claim arises from Operator’s design professional services as defined by California Civil Code section 2782.8, Operator’s indemnity obligations shall be limited to Claims arising out of, pertaining to, or relating to Operator’s negligence, recklessness or willful misconduct in the performance of such services.

Additionally, Operator agrees to protect, defend, indemnify, keep and hold harmless City and City Agents, from and against any and all Claims arising out of any threatened, alleged or actual claim that any end product provided to the City by Operator or the Operator’s Proposal, infringes any party’s invention (patentable or not), patent, trademark, service marks, trade dress, copyright, trade secret, proprietary right, moral right, privacy, *sui generis* right, or other intellectual property rights, including, ideas, concepts, themes, processes, methods, algorithms, other proprietary information or intangible rights (herein referred to collectively as “**Intellectual Property Rights**”). Operator further agrees to, and shall, pay all damages, settlements, expenses and costs, including costs of investigation, court costs and attorney’s fees, and all other costs and damages sustained or incurred by City arising out of, or relating to, the matters set forth above in this paragraph.

Should Operator reasonably believe that (1) any of the Work Products allegedly or actually infringes or is likely to infringe on any third-party Intellectual Property Rights, or (2) any of the licenses procured on behalf of the City under this Agreement is to expire, to be terminated or enjoined sooner than the term procured for, Operator shall promptly notify City of such alleged, actual or potential infringement or license status. Upon City’s request, Operator shall, at Operator’s own expense: (i) procure for the City the right or license to continue using the

intellectual property at issue; or (ii) replace the intellectual property at issue with a functionally equivalent, non-infringing product, if practicable. Exercise of the foregoing options shall not cause undue business interruption to the City or its agents/consultants, or diminish the intended benefits and use of the Work Products by the City or its agents/consultants under the specifications herein.

In addition, Operator agrees to defend, indemnify and hold harmless City and City Agents from and against any and all Claims, made by anyone arising out of any allegations in connection with Operator's use of any of its employees and/or subcontractors and/or consultants working under this Agreement or in connection with Operator's Proposal, including but not limited to allegations for tortious interference with contractual relations, aiding and abetting, unjust enrichment, and violations of any party's Intellectual Property Rights. Operator agrees to, and shall, pay all such damages, settlements, expenses and costs, including costs of investigation, court costs and attorney's fees, and all other costs and damages sustained or incurred by City.

In Operator's defense of City under this Section, City shall retain discretion in and control of the litigation, negotiation, compromise, settlement and appeals therefrom, as required by the Los Angeles City Charter (particularly Article II, Sections 271, 272 and 273 thereof).

The provisions of this Section 2.20.2 shall survive the expiration or termination of this Agreement. Further, the rights and remedies are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

2.20.2.1 Notice of Claims. Operator shall promptly notify City of any Claims or potential Claims asserted against City or any City Agents for which Operator may be liable under Section 2.20.2 and shall deliver to City complete copies of any summons or other process, pleadings, notices or demands of any Claim.

2.21 Assignment; Subcontractors.

2.21.1 Assignment. Operator shall not, in any manner, directly or indirectly, by operation of law or otherwise, assign, transfer, hypothecate or encumber this Agreement or any portion thereof or any interest therein, in whole or in part or any rights or obligations appurtenant thereto (herein, a "Transfer"), without the prior written consent of the Board, which may be granted, denied or conditioned in the Board's sole and absolute discretion. Any such Transfer by Operator without the written consent of the Board is a violation of this Agreement and shall be voidable at City's option and shall confer no right, title, or interest in or to this Agreement upon any such transferee. Consent to one Transfer shall not be deemed to constitute consent to any subsequent Transfer.

2.21.2 Operator Change of Ownership. For purposes of this Agreement, the term "Transfer" shall include, but not be limited to, the following: (i) if Operator is a joint venture, a

limited liability company, or a partnership, the transfer of fifty percent (50%) or more of the interest or membership in the joint venture, the limited liability company, or the partnership; (ii) if Operator is a corporation, any cumulative or aggregate sale, transfer, assignment, or hypothecation of fifty percent (50%) or more of the voting shares of Operator; (iii) the dissolution by any means of Operator; and, (iv) a change in Operator's business or corporate structure, either in one (1) transaction or a series of transactions resulting in the transfer of fifty percent (50%) of more of the ownership or controlling interests of Operator on a cumulative basis.

2.21.3 Subcontractors. Notwithstanding the definition of "Transfer" set forth in Sections 2.21.1 and 2.21.2 above, Operator may, with the prior written approval of the Chief Executive Officer (which approval may be given or withheld in the Chief Executive Officer's sole and absolute discretion), which shall not be unreasonably delayed, denied or conditioned, enter into subcontracts for certain aspects of the services to be provided by Operator pursuant to this Agreement; and in such event, the entering into of any such subcontract with such subcontractor as so approved by the Chief Executive Officer shall not be considered a "Transfer" requiring the consent of the Board under this Section 2.21.

2.21.4 Operator Name Change. In the event that Operator desires to change its entity name or business name (i.e., a mere change of name not involving a Transfer within the meaning of this Section 2.21) with respect to the performance of this Agreement at the Facilities, then such name change by Operator may be made with the approval of the Chief Executive Officer, and in the event that the Chief Executive Officer approves such name change, then no approval of the Board shall be required.

ARTICLE 3. COMPENSATION AND EXPENSES

3.1 **Gross Revenue**. Gross Revenue collected by Operator for the use of the Facilities or for any other service provided at or in connection with the Facilities shall be Operator's entire and only compensation during the Term of this Agreement. Operator hereby agrees and acknowledges that City shall have no obligation whatsoever to compensate Operator for Operator's operation of the Facilities.

3.2 **No Rent Charges**. Notwithstanding any contrary provision in this Agreement, for the rights granted in Section 2.2 above, Operator shall not be obligated to pay base, gross and/or additional rent for Operator's use of the Facilities and/or Childcare Center during the Term of this Agreement.

3.3 **Operator to Pay Direct Expenses**. During the Term of this Agreement, Operator shall pay the Direct Expenses (defined herein) in accordance with processes set forth in the Annual Budget submitted by Operator and approved by LAWA. "Direct Expenses" shall mean "Operating Expenses" as set forth in Section 3.3.1 and "Tax Expenses" as set forth in Section 2.8.1.1.

3.3.1 “**Operating Expenses**” shall mean all expenses, costs and amounts of every kind and nature which Operator pays or accrues during any Fiscal Year because of or in connection with Operator’s management, maintenance, security, or operation of the Facilities, or any portion thereof. Without limiting the generality of the foregoing, Operating Expenses shall specifically include any and all of the following:

(a) the cost of water, sewer, gas and electricity in accordance with Section 3.3.1.1 below;

(b) the cost of internet, wi-fi, phone, computers, cabling and installation of cabling;

(c) the cost of licenses, certificates, permits and inspections and the cost of contesting any governmental enactments which may affect Operating Expenses;

(d) the costs of all insurance in such amounts as required by City;

(e) the cost of landscaping, custodial services, and trash removal;

(f) fees and other costs, including management fees, consulting fees, legal fees and accounting fees, of all contractors and consultant in connection with the management, operation, or security of the Facilities, and employer’s Social Security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages, salaries, compensation and benefits;

(g) wages, salaries, insurance and other compensation and benefits, including taxes levied thereon, of all Operator personnel, employees, and support staff (both onsite and working remotely or in regional office(s)) engaged (whether fully or partially) in the operation, maintenance and security of the Facilities;

(h) the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Facilities, or any portion thereof

3.3.1.1 Monthly Utility Fee. Pursuant to Section 3.3.1(a) above, Operator shall obtain in its own name and pay directly all charges for water, sewer, gas, and electricity consumption (the “**Monthly Utility Fee**”), such charges are estimated not to exceed \$7,500.00 per month. In the event that the Monthly Utility Fee exceeds \$7,500.00 per month, upon providing written notification and verification to LAWA, Operator may increase its tuition rates to offset the higher than estimated Monthly Utility Fee, provided, however, tuition rate increases under this Section 3.3.1.1 are limited to no more than 5% annually unless mutually agreed upon by the parties.

3.3.1.2 Notwithstanding anything to the contrary in the Agreement, LAWA will provide at LAWA's cost and expense the following items:

- (a) pest control services;
- (b) commercial trash container services;
- (c) maintenance and repair of the parking lot.

ARTICLE 4. ADDITIONAL PROVISIONS GOVERNING OPERATOR'S ACTIVITIES

4.1 Limitations on Use of Airport.

4.1.1 Intentionally Omitted.

4.1.2 Intentionally Omitted.

4.1.3 Intentionally Omitted.

4.1.4 Intentionally Omitted.

4.1.5 Operator is prohibited from installing or using any wireless workstations, access control equipment, wireless internet servers, application or system software such as transceivers, modems, or other interface units that access frequencies from 2.0 Gigahertz to 6.0 Gigahertz, inclusive, without first obtaining approval from the Executive Director.

4.1.6 Intentionally Omitted.

4.2 Late Charge and Interest for Delinquent Payment.

4.2.1 Operator hereby acknowledges that late payment by Operator of compensation, fees and charges provided herein will cause City to incur costs not contemplated by this Agreement, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any amount due City is not received by City within 10 business days after such amount shall be due, then, without any requirement for notice to Operator, Operator shall immediately pay to City a one-time late charge equal to three percent (3%) of such overdue amount or \$200, whichever is lesser. The parties agree that such late charge represents a fair and reasonable estimate of the costs the City will incur by reason of such late payment. Acceptance of such late charge by City shall in no event constitute a waiver of Operator's default or breach with respect to such overdue amount, nor prevent the exercise of any other rights and remedies granted herein.

4.2.2 Any monetary payment due City hereunder shall bear interest from the date when due. The interest rate shall be three percent (3%) per annum, compounded monthly, but shall not exceed the maximum rate allowed by law. The interest that applies shall be in addition to the late charge.

4.3 Termination.

4.3.1 Termination for Convenience. In the event that the Chief Executive Officer or Operator, in his or her sole and absolute discretion, at any time determines that efficient or convenient operations at the Facilities and/or the Airports require the termination of this Agreement, City and/or Operator shall have the absolute right to terminate this Agreement (a “**Termination for Convenience**”), upon not less than ninety (90) days’ prior written notice to the non-terminating party (a “**Convenience Termination Notice**”). The Convenience Termination Notice shall set forth the effective date of such termination (“**Convenience Termination Date**”). On or before the Convenience Termination Date, Operator and City shall comply with its obligations to be performed in connection with the termination of this Agreement as set forth in this Agreement (including, without limitation, Operator’s obligations set forth in Section 4.11 below). In the event of a Termination for Convenience, Operator shall have no right to receive any compensation or remuneration in connection with a Termination for Convenience by City other than revenue, cash flow and profit generated by Operator as a result of providing the Services at the Premises and those costs incurred by Operator prior to the Convenience Termination Date; provided, however, City shall not be obligated to compensate Operator for Direct Expenses in accordance with Section 3.3 above. Operator’s right to receive any compensation whatsoever shall terminate as of the Convenience Termination Date, except to the extent that City agrees in writing to extend Operator’s compensation beyond such date. Operator has absolutely no right to claim any damage, loss, offset or other compensation in connection with the termination of this Agreement, and Operator hereby waives any and all claims in connection therewith.

4.3.2 Termination for Cause. In the event that Operator or City fails to perform any of its duties or obligations under this Agreement, and the defaulting party fails to cure within ten (10) business days after written notice from the non-defaulting party of such default, then the non-defaulting party may immediately terminate this Agreement and all rights of the defaulting party hereunder by giving written notice of such election to terminate this Agreement by reason of such default; provided, however, that, if such default does not relate to the failure of Operator to pay money to City or to perform childcare-related services and if such default cannot be cured within such ten (10) business days period following written notice despite reasonable diligence, then City will not terminate this Agreement so long as Operator diligently proceeds to cure and actually completes such cure within thirty (30) days following such written notice of default. Such right of either party to terminate this Agreement for cause shall be in addition to (and not in limitation of) any and all other rights and remedies available to the non-defaulting party at law or in equity in connection with such default. Operator and City acknowledges that events of default

giving rise to the non-defaulting party's right to terminate this Agreement, include, but are not limited to the following:

(a) The failure of Operator to duly and punctually collect Gross Revenue, or to make any other payments or remittances to its subcontractors or to City required under this Agreement when due.

(b) The failure of Operator to perform the Services, or City to repair and maintain the Building or Facilities, in the manner required by this Agreement (including, without limitation, the requirements set forth in the Scope of Services).

(c) The failure of Operator to maintain the quality of services to the satisfaction of the Chief Executive Officer, or of City to repair and maintain the Building or Facilities as required by this Agreement.

(d) The happening of any act which results in the suspension or revocation of the rights, powers, licenses, permits and authorities necessary for Operator or City to conduct, manage and operate the Facilities as provided herein.

(e) The transfer of the interest of Operator under this Agreement by voluntary or involuntary assignment, operation of law, or otherwise, to any other person, firm or corporation, in violation of the terms of this Agreement.

(f) Any change in the ownership or control of Operator in violation of the terms of this Agreement.

(g) The failure of Operator or City to keep, perform or observe any material promise, covenant, condition or agreement set forth in this Agreement on its part to be kept, performed or observed.

(h) The levy of any attachment or execution, or the appointment of any receiver, or the execution of any other process of any court of competent jurisdiction which does or as a direct consequence of such process will interfere with Operator's or City's management and operation of the Facilities or the performance of any of Operator's or City's other obligations under this Agreement, and which attachment, execution, receivership, or other process of such court is not vacated, dismissed, or set aside within a period of thirty (30) days.

(i) Operator or City shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws or under any other laws or statute of the United States, or of any state law, or consent to the appointment of

a receiver, trustee, or liquidator of all or substantially all of its property.

(j) The filing of a voluntary petition in bankruptcy by Operator or City, the filing by Operator of a voluntary petition for an arrangement or assignment for the benefit of creditors, the filing by or against Operator or City of a petition, voluntary or involuntary, for reorganization, or the filing of an involuntary petition by the creditors of Operator or City, which involuntary petition remains undischarged for a period of thirty (30) days.

(k) Cessation or deterioration of any of Operator's or City's services hereunder for a period which, in the reasonable opinion of the Chief Executive Officer or Operator, adversely affects the operation of the public services required to be performed by Operator under this Agreement.

(l) Any lien is filed against the Facilities because of any act or omission of Operator.

4.3.3 Operator's Obligations Upon Termination. Upon the expiration or earlier termination of this Agreement, Operator shall vacate the Facilities and deliver the Facilities to City in an orderly manner and in good condition and state of repair, ordinary wear and tear excepted. Operator shall remove Operator's property from the Facilities. Operator shall reasonably cooperate with City and any succeeding operator with respect to the Facilities to ensure an effective and efficient transition of operations. Without limiting the generality of the foregoing, Operator shall comply with any and all reasonable transition plans and directives that the Chief Executive Officer may issue in connection with such expiration or termination.

4.4 **Performance Guarantee – Intentionally Omitted.**

4.5 **Audits and Recordkeeping.**

4.5.1 City, or its duly authorized representatives, shall, at all reasonable times, have the right of access to and the right to examine and audit all records of Operator pertaining to the operation of its business at the Facilities under this Agreement for the purpose of ascertaining the correctness of said accounting, including, without limitation, those relating to Gross Revenue collected by Operator and Operator's Maintenance Records. Operator hereby authorizes its officers, agents and employees to disclose to City any and all information pertaining to its operations at the Facilities under the license rights herein granted, including all account books, ledgers, journals, accounts, records and things done or performed by Operator in connection therewith during the term of this Agreement. Such books, ledgers, journals, accounts, and records necessary to conduct the audit must be made available to City in the greater Los Angeles metropolitan area at Operator's expense, within thirty (30) days of Operator's receipt of written notice from City.

4.5.2 It is agreed that examinations of the books, ledgers, journals and accounts of Operator at the Facilities will be conducted in accordance with generally accepted auditing

standards applicable to the circumstances and that as such, said examinations do not require a detailed audit of all transactions. Testing and sampling methods may be used in verifying reports submitted by Operator. Deficiencies ascertained by the use of such testing and sampling methods by applying the percentages of error obtained from such testing and sampling to the entire period of reporting under examination will be binding upon Operator and to that end shall be admissible in court to prove any amounts due City from Operator. In the event there is any net deficiency in the amount of five percent (5%) or greater of the compensation payable to City hereunder, Operator agrees to pay City for the cost of the audit as well as any other deficiencies, payments and liquidated damages due under this or any other provision of this Agreement.

4.5.3 City's right to access such records and information shall survive two (2) years beyond the expiration or early termination of this Agreement. Operator shall retain all records and other information necessary to perform an audit as described above for a minimum of five (5) years.

4.6 **Cross Default.** A material default or breach of the terms of any other license, permit, contract other agreement held or entered into by Operator with City shall constitute a material breach of the terms of this Agreement and shall give City the right to terminate this Agreement for cause in accordance with the procedures set forth herein.

4.7 **Attorneys' Fees.** Except as specifically set forth in this Agreement, both parties agree that in any action to enforce the terms of this Agreement, each party will be responsible for its own costs and attorney's fees.

4.8 **Hazardous and Other Regulated Substances – Intentionally Omitted.**

4.9 **Airfield Security – Intentionally Omitted.**

4.10 **No Alterations Without Approval.** Operator shall not make any improvements or alterations to the Facilities (“Alterations”) without the prior written approval of the Chief Executive Officer and without first complying with City's Construction Approval Process and the Design and Construction Handbook, which shall not be unreasonably delayed, denied or conditioned. Any unauthorized Alterations made by Operator shall be removed at Operator's sole cost and expense and any damage to such Facilities shall be promptly repaired, and if not removed and repaired within thirty (30) business days of demand from City, City may remove such Alterations and restore such Facilities at Operator's sole cost and expense.

4.11 **No Liens.** Operator shall pay when due all claims for labor or materials furnished or alleged to have been furnished to or for Operator at, on, about, or for use in the Facilities or any portion thereof. Operator shall keep the Facilities free and clear of all mechanics' liens and all other liens from any work undertaken by or on behalf of Operator or any Operator Party. Operator shall give City immediate written notice of any lien filed against the Facilities related to or arising

from the activities of Operator or any Operator Party.

4.12 Environmentally Favorable Operations. Operator acknowledges that its operation of its activities under this Agreement will be subject to all the City Department of Airport's policies, guidelines and requirements regarding environmentally favorable construction, use and/or operations practices, as such may be promulgated, revised and amended from time-to-time.

ARTICLE 5. PHYSICAL SECURITY, CYBERSECURITY AND DATA PROTECTION

5.1 Operator, including its subcontractor, is solely responsible for all physical security and cybersecurity of the computer systems which are hosted within Operator's or subcontractor's data centers or cloud environments. The Operator, including its subcontractors, will be responsible for maintaining the protection of DATA within its control and in accordance with the agreed upon standards during its performance of this Agreement. Operator shall protect, using means and technology standards then prevalent in the child care industry, DATA, whether City-provided or consumer-provided, including but not limited to customer lists, license plate recognition, and customer credit card or consumer data acquired in the course and scope of this Agreement. DATA shall include data of all kinds and formats, standard or native, raw or processed or derived, individual or aggregate, discrete or continuous, personally identifiable (i.e., PII) or anonymized, as well as metadata.

5.2 Operator shall employ, and shall cause its subcontractor to employ, physical security practices and protocols per then-current prevailing child care industry standards for protection of physical facilities that house its systems related to the Services provided to City under this Agreement.

5.3 Operator shall have, and shall cause its subcontractors to have, data protection protocols consistent with then-current prevailing standards in the child care industry, (1) that protect data against unauthorized or unlawful access, transfer, processing, copying or alteration, (2) that protect against accidental access, loss, damage, processing, use, transfer or destruction and (3) that promptly detect, report and remedy any breach of data ("**Data Incident and Response Protocols**"). In addition, Operator undertakes, and shall cause its subcontractors to undertake, to review Data Incident and Response Protocols to ensure they are fit for the purposes. To the extent that any cloud services are provided by a subcontractor, Operator shall provide a copy of such subcontractor's annual independent audit security related reports as related to the scope of Services. No less frequently than annually, Operator shall cause an independent auditor to perform an audit on Services, which (1) assesses security controls in the cloud information system, (2) determines the extent to which security controls are implemented correctly, operating as intended, and producing the desired outcome with respect to the security requirements for the system, (3) evaluates Operator's Data Incident and Response Protocols for suspected or actual breach incidents, and/or (4) includes the verification of compliance with regulation and security policy. Such audits shall be conducted using applicable auditing standards as well as prevailing industry

standards on information security management, including without limitation those of the National Institute of Standards and Technology, International Organization for Standardization and International Electrotechnical Commission. City shall be provided a copy of the independent audit reports. Additionally, City reserves the right to, no more frequently than annually: request Operator to provide responses to a security questionnaire pertaining to Operator's Services provided hereunder.

5.4 Operator shall notify, and will cause its subcontractors to notify, City within one (1) business day of discovering suspected or actual security breach of (1) its systems used in the provision of Services, (2) the physical facilities containing such systems, or (3) any DATA, including without limitation, PII, and Confidential Information, stored on Operator's systems used in the provision of Services. For the purpose of this Agreement, "PII" is defined as information that can be used to identify, contact, or locate a natural person, including without limitation, natural person's name, Internet Protocol (IP) address, email address, postal address, telephone number, account numbers, date of birth, driver's license or other government-issued identification card numbers and social security numbers, or any other information that is linked or linkable to an individual.

In addition, written confirmation of any such security breach must be sent within five (5) business days of discovery or notification of the actual breach or suspected breach. City has the right to request a questionnaire regarding Operator's Data Incident and Response Protocols for suspected and actual breach incidents. Upon such request by City, Operator shall promptly provide such reasonable information as may be requested.

5.5 Upon City's reasonable determination that any unauthorized use or security breach of PII has occurred, Operator shall, and cause its subcontractors to, fully cooperate with City, its agents and law enforcement, in rectifying any unauthorized use or breach, including notifying all affected clients for which Operator has provided or is providing Services at the Premises. City and its authorized agents reserve the right to participate in any investigation. To the extent that the breach was caused by Operator or its subcontractors and not by the City, Operator will bear all reasonable costs and expenses for mitigation actions incurred as a result of security breach primarily caused directly or indirectly by Operator or its subcontractors, including but not limited to, the administrative cost of opening and closing accounts, notices, print and mailing, and obtaining credit monitoring services and identity theft insurance for Operator's customers whose PII has or may have been compromised. If City is subject to liability for any security breach not caused by City, then Operator shall fully indemnify and hold harmless City and City Agents and defend against any resulting action. Operator's responsibilities under this subsection are cumulative to its legal obligations under applicable foreign, federal, state and local laws and regulations pertaining to breach notification and remedies.

5.6 Operator acknowledges that City could be subject to certain obligations, if applicable to the cloud services, to identify patterns, practices, and specific forms of activity that

indicate the possible existence of identity theft (defined as fraud committed using the identifying information of another person), pursuant to Section 114 of the Fair and Accurate Credit Transactions Act of 2003 and its implementing regulations promulgated by the Office of the Comptroller of the Currency, 12 C.F.R. Part 41. Operator, to the extent that it holds or otherwise has access to DATA stored as part of the Services that is subject to the Fair and Accurate Credit Transactions Act, agrees to, and causes its subcontractors to, establish, maintain and update reasonably effective policies and procedures to detect, prevent, and mitigate the risk of identity theft, and to notify and report to City immediately upon request, any instances where Operator or its subcontractor detect potential identity theft. Operator further agrees to immediately report to City any confirmed instances of identity theft. In furtherance thereof, if applicable, Operator agrees to be guided by the examples of identity theft “Red Flags” (defined as a pattern, practice, or specific activity that indicates the possible existence of identity theft) set forth in Supplement A to Appendix J to 12 C.F.R. Part 41. Upon request by City, Operator agrees to confirm in writing and, when specified, demonstrate to City its compliance with the requirements of this Section.

5.7 To minimize service interruption and preserve DATA integrity, Operator shall have in place, and shall cause its subcontractors to have the same, protocols and procedures on periodic data and system backups and disaster recovery per then-current prevailing industry standards and practices in providing cloud services and maintaining the systems used in the providing of Services to City.

5.8 In performing this Agreement, Operator could be in a position to obtain PII. Under no circumstances shall Operator process more PII than required to perform its obligations under this Agreement in accordance with applicable law. All collection, receipt, processing, storage, sharing, use and exploitation of PII by Operator shall comply with all applicable privacy laws, domestic and foreign, including without limitation the California Consumer Privacy Act of 2018, and any amendments thereto, California Civil Code Section 1798 et seq., and EU General Data Protection Regulation.

5.9 Operator shall, in accordance with any applicable Laws, post or provide any notices to patrons or users of the Facilities and procure authorization for capturing, collecting, sharing and/or transmitting any PII, as such may be required (including, but not limited to, authorization for capturing vehicle license plate information).

5.10 The parties hereby agree that the collection, receipt, processing, storage, sharing, and use of customer credit card and debit card data is included in and part of the Services. Accordingly, Operator shall comply with the Payment Card Industry (PCI) Data Security Standard Requirements and Security Assessment Procedures (“PCI Standards”) (as promulgated and amended by the PCI Security Standard Council amended from time to time) in connection with the services provided by Operator to City under this Agreement.

5.11 In performing this Agreement, Operator and/or affiliates, shall not collect, receive, process,

store, share use or exploit any Facilities user's Protected Health Information ("PHI") as defined in 45 C.F.R. §160.103.

ARTICLE 6. CITY ADMINISTRATIVE REQUIREMENTS

6.1 Nondiscrimination and Equal Employment Practices/Affirmative Action Program.

6.1.1 Federal Non-Discrimination Provisions.

6.1.1.1 Operator for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on said property described in this Agreement, for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Operator shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

6.1.1.2 Operator for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant that: (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Operator shall use the Facilities in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

6.1.1.3 Operator assures that it will comply with pertinent statutes, Executive Orders, and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates Operator or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for

another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property.

6.1.1.4 Operator shall furnish its services on a reasonable and not unjustly discriminatory basis to all users, and charge reasonable and not unjustly discriminatory prices for each unit or service, provided that Operator may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

6.1.1.5 Operator agrees that it shall insert the provisions found in Subsections 6.1.1.3 and 6.1.1.4 above in any assignment, license, transfer or sublicense by which said Operator grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the Facilities.

6.2 Municipal Non-Discrimination Provisions. Unless otherwise exempt, this Agreement is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

6.2.1 Non-Discrimination in Use of Airport. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, gender identity, gender expression, physical handicap, marital status, domestic partner status, or medical condition in the Agreement, transfer, use, occupancy, tenure, or enjoyment of the Facilities or any operations or activities conducted at the Facilities. Nor shall Operator or any person claiming under or through Operator establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Facilities. Any assignment or transfer which may be permitted under this Agreement shall also be subject to all non-discrimination clauses contained in Section 6.2.

6.2.2 Non-Discrimination in Employment. Operator shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and City. In performing this Agreement, Operator shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.

6.2.3 Equal Employment Practices. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Agreement by reference and will be known as the "Equal Employment Practices" provision of this Agreement.

6.2.4 Affirmative Action Program. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Agreement by reference and will be known as the “Affirmative Action Program” provision of this Agreement.

6.2.5 Equal Benefits Ordinance. The requirements of Section 10.8.2.1, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Agreement by reference.

6.3 Living Wage Ordinance. Operator, and any subcontractor of Operator, shall comply with the Living Wage Ordinance (“LWO”), LAAC Section 10.37 et seq., as amended from time to time. Operator further agrees that it shall comply with federal law proscribing retaliation for union organizing.

6.4 Alternative Fuel Vehicle Requirement Program (LAX Only). Operator shall comply with the provisions of the Alternative Fuel Vehicle Requirement Program. The rules, regulations, and requirements of the Alternative Fuel Vehicle Program incorporated and made a part of this Agreement by reference.

6.5 Business Tax Registration. For the duration of this Agreement, Operator shall maintain valid Business Tax Registration Certificate(s), or a Business Tax Exemption Number, as required by City's Business Tax Ordinance Section 21.00 et seq. of the Los Angeles Municipal Code (“LAMC”), and shall not allow the Certificate to lapse or be revoked or suspended.

6.6 Child Support Assignment Orders. Operator shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b), Operator shall fully comply with all applicable State and Federal employment reporting requirements. Failure to comply with all applicable reporting requirements or to implement all lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of Operator to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by Operator under this Agreement. Failure of Operator or principal owner to cure the default within ninety (90) days of the notice of default will subject this Agreement to termination for breach. Any subcontract entered into by Operator for work to be performed under this Agreement must include an identical provision.

6.7 Contractor Responsibility Program. Operator shall comply with LAWA’s Contractor Responsibility Program, pursuant to Board Resolution No. 21601 (effective August 23, 2011), as amended from time to time.

6.8 First Source Hiring Program for Airport Employers. Operator shall comply with the provisions of the First Source Hiring Program adopted by the Board. The rules, regulations,

requirements, and penalties of the First Source Hiring Program are incorporated and made a part of this Agreement by reference. Operator shall be an “Airport Employer” under the First Source Hiring Program.

6.9 Municipal Lobbying Ordinance. Contractor shall comply with the provisions of the City of Los Angeles Municipal Lobbying Ordinance throughout the term of this Contract.

6.10 Compliance with Los Angeles City Charter Section 470(c)(12).

6.10.1 Operator, its subcontractors and their respective principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Operator is required to provide and update certain information to the City as specified by law. Any contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with a subcontractor expected to receive at least \$100,000 for performance under this contract:

“Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles contract # _____. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to contractor names and addresses of the subcontractor’s principals and contact information and shall update that information if it changes during the twelve (12) month time period. Subcontractor’s information included must be provided to contractor within five (5) business days. Failure to comply may result in termination of contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission’s website at <http://ethics.lacity.org/> or by calling 213-978-1960.”

6.10.2 Operator, its subcontractors and their respective principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

ARTICLE 7. OTHER PROVISIONS

7.1 Waiver. The waiver by either party of any breach of any term, covenant, or

condition herein contained shall not be deemed to be a waiver of any other term, covenant, or condition, or of any subsequent breach of the same term, covenant, or condition. The subsequent acceptance of any payment hereunder by City shall not be deemed to be a waiver of any preceding breach by Operator of any term, covenant, or condition of this Agreement, regardless of City's knowledge of such preceding breach at the time of acceptance of such payment.

7.2 City's Right to Contract with Others Regarding Agreement Rights. Except during the term of this Agreement and until such time as it may be terminated, the rights granted hereunder by this Agreement are not exclusive in nature, and City specifically reserves the right to enter into similar additional agreements at the Airport.

7.3 Fair Meaning. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either City or Operator.

7.3 Section Headings. The section headings appearing herein are for the convenience of City and Operator, and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

7.4 Void Provisions. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement, and all such other provisions shall remain in full force and effect.

7.5 Two Constructions. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

7.6 Laws of California. This Agreement shall be construed and enforced in accordance with the laws of the State of California and venue shall lie in the appropriate court located in Los Angeles County, California.

7.7 Gender. The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

7.8 Time. Time shall be of the essence in complying with the terms, conditions, and provisions of this Agreement.

7.9 Integration Clause. The parties agree that there are no representations, inducements, promises, or agreements, orally or otherwise, that have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement, or promise not contained in this Agreement will be valid or binding. In the event that any provisions of the RFP or Operator's Proposal are expressly referenced in this Agreement as

being incorporated herein by such reference, then in the event of a conflict between such incorporated provisions and the other terms of this Agreement, the other terms of this Agreement shall control.

7.10 Amendment of Agreement. No alteration, modification or variation of the terms of this Agreement shall be valid unless made in writing as an amendment to this Agreement and signed by the parties hereto.

7.11 Force Majeure. Except as otherwise provided in this Agreement, whenever a day is established in this Agreement on which, or a period of time, including a reasonable period of time, is designated within which, either party hereto is required to do or complete any act, matter or thing, the time for the doing or completion thereof may be extended by a period of time equal to the number of days on or during which such party is prevented from the doing or completion of such act, matter or thing because of an act of God (e.g., pandemic (other than the currently known effects of the existing COVID-19 pandemic), earthquake, fire or flood) or by the act of public enemies of this state or of the United States (e.g., war, terrorism, riot or insurrection) (herein, an event of “**Force Majeure**”). If Operator or City shall claim a delay due to Force Majeure, the party claiming a Force Majeure event must notify the other party in writing within five (5) business day of the party obtaining knowledge of the claimed event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming Force Majeure and the anticipated delay in performance to the extent such anticipated delay is known at the time such notice is required. If a party fails to provide such notice within said five (5) business day period, then no Force Majeure delay shall be deemed to have occurred. Delays due to events of Force Majeure shall only be recognized to the extent that such event actually prevents or delays the performance by such party.

7.12 City Approvals. Following the execution and delivery of this Agreement, whenever this Agreement calls for a matter to be approved or disapproved by or on behalf of City, then the written approval, disapproval, or consent of the Chief Executive Officer within the legal authority of the Chief Executive Officer, subject to the approval of the Office of the City Attorney as to form, shall constitute the approval, disapproval, or consent of City; provided, however, if the approval or consent by City is in excess of the Chief Executive Officer’s legal authority, then such matter shall be approved by the Board (as opposed to the City Council). Following the execution and delivery of this Agreement, whenever this Agreement calls for a right to be exercised by or on behalf of City, then the written exercise of such right by the Chief Executive Officer within the legal authority of the Chief Executive Officer, subject to the approval of the Office of the City Attorney as to form, shall constitute the exercise of such right by City; provided, however, if the exercise of such right by City is in excess of the Chief Executive Officer’s legal authority, then such matter shall be approved by the Board (as opposed to the City Council). Except as otherwise expressly set forth in this Agreement, with respect to any matter that is subject to the approval or consent of the Chief Executive Officer or the Board, such approval or consent may be given or withheld in the Chief Executive Officer’s or the Board’s sole and absolute discretion. Any approvals or consents required from or given by City under this Agreement shall be approvals of

the City of Los Angeles Department of Airports acting as the owner and operator of the Airport, and shall not relate to, constitute a waiver of, supersede or otherwise limit or affect the rights or prerogatives of the City of Los Angeles as a government, including the right to grant or deny any permits required for construction or maintenance of the Facilities and the right to enact, amend or repeal laws and ordinances, including, without limitation, those relating to zoning, land use, and building and safety. No approval or consent on behalf of City will be deemed binding upon City unless approved in writing as to form by the City Attorney.

7.13 Ordinance and Los Angeles Administrative Code Language Governs. Ordinance and code exhibits are provided as a convenience to the parties only. In the event of a discrepancy between the exhibits and the applicable ordinance and/or code language, or amendments thereto, the language of the ordinance and/or code shall govern.

7.14 Amendments to Ordinances and Codes. The obligation to comply with any ordinances and codes which have been incorporated into this Agreement by reference, shall extend to any amendments which may be made to those ordinances and codes during the term of this Agreement.

7.15 Days. Unless otherwise specified, "days" shall mean calendar days.

7.16 Deprivation of Operator's Rights. City shall not be liable to Operator for any diminution or deprivation of Operator's rights under this Agreement which may result from Operator's obligation to comply with any and all applicable laws, rules, regulations, restrictions, ordinances, statutes, and/or orders of any federal, state and/or local government authority and/or court hereunder on account of the exercise of any such authority as is provided in this Section, nor shall Operator be entitled to terminate the whole or any portion of the Agreement by reason thereof.

7.17 Representations of Operator. Operator hereby makes the following representations and warranties, each of which is material and being relied upon by City, is true in all respects as of the date of this Agreement, and shall survive the expiration or termination of the Agreement. Operator shall re-certify such representations to City periodically, upon City's written request.

7.17.1 Operator is duly organized, validly existing and in good standing under the laws of the state of its organization, and is qualified to do business in the state of California, and the persons executing this Agreement on behalf of Operator have the full right and authority to execute this Agreement on behalf of Operator and to bind Operator without the consent or approval of any other person or entity. Operator has full power, capacity, authority and legal right to execute and deliver this Agreement and to perform all of its obligations hereunder. This Agreement is a legal, valid and binding obligation of Operator, enforceable in accordance with its terms.

7.17.2 Operator represents as of the date of this Agreement that the representations, warranties, covenants and assurances of Operator contained in Operator's proposal and in any

financial statement or other materials provided by Operator to the City are true, correct and complete, and shall be deemed restated in full in this Agreement.

7.18 Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than City and Operator, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement.

7.19 Anti-trust Claims. Operator understands that it may be subject to California Government Code Sections 4550–4554. If applicable, the Operator offers and agrees that it will assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act or under the Cartwright Act, arising from purchases of goods, services, or materials by the Operator. Such assignment is made and becomes effective at the time the City tenders final payment to the Operator.

7.20 Electronic Signature This Agreement and any other document necessary for the consummation of the transaction contemplated by this Agreement may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Agreement had been delivered that had been signed using a handwritten signature. All parties to this Agreement (i) agree that an electronic signature, whether digital or encrypted, of a party to this Agreement is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature. If this Agreement has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 (“E-SIGN”) and the California Uniform Electronic Transactions Act (“UETA”) (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

7.21 City Not In Breach Under no circumstances shall City be deemed to be in default

or breach of this Agreement unless City fails within a reasonable time to perform a material obligation required to be performed by City following receipt of written notice from Operator of such alleged default or breach by City, which notice shall be specifically identified as a “Notice of Default” and shall specifically state in detail the nature of such alleged default or breach.

[Remainder of Page Intentionally Omitted; Signature Page Follows]

IN WITNESS WHEREOF, City has caused this Agreement to be executed on its behalf by Chief Executive Officer and Operator has caused the same to be executed by its duly authorized officers, all as of the day and year first hereinabove written. Each individual who executes this Contract on behalf of a party represents that he/she/they is duly authorized to execute this Contract and contractually bind the party, and is operating within the scope of his/her/their authority.

APPROVED AS TO FORM:
Michael N. Feuer, City Attorney

CITY OF LOS ANGELES

Date: _____

By _____

Justin Erbacci
Chief Executive Officer

Link Nguyen

Deputy City Attorney

By _____

Tatiana Starostina
Chief Financial Officer

ATTEST:

**LA PETITE ACADEMY, INC., a wholly
owned subsidiary of Learning Care Group
(MI) Inc.**

By *Daniel S. Follis*
Signature (Secretary Officer)

DANIEL S. FOLLIS
Print Name

Sean Sondreal
Signature

SEAN SONDREAL
Print Name

CHIEF MARKETING OFFICER
Print Title