



East Bay Innovation Academy

Special Board Meeting - July 16, 2018

Date and Time

Monday July 16, 2018 at 7:00 PM PDT

Location

Join from PC, Mac, Linux, iOS or Android: <https://zoom.us/j/9086460388> Or iPhone one-tap : US: +16465588656,,9086460388# or +16699006833,,9086460388# Or Telephone: Dial(for higher quality, dial a number based on your current location): US: +1 646 558 8656 or +1 669 900 6833 Meeting ID: 908 646 0388 International numbers available: <https://zoom.us/u/i6IUHGg>

Join from PC, Mac, Linux, iOS or Android: <https://zoom.us/j/9086460388>

Or iPhone one-tap :

US: +16465588656,,9086460388# or +16699006833,,9086460388#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 646 558 8656 or +1 669 900 6833

Meeting ID: 908 646 0388

International numbers available: <https://zoom.us/u/i6IUHGg>

Agenda

	Purpose	Presenter	Time
I. Opening Items			7:00 PM
A. Record Attendance and Guests		Rochelle Benning	1 m
B. Call the Meeting to Order		Rochelle Benning	1 m
C. Public Comment		Rochelle Benning	5 m
II. Finance and Development			7:07 PM
A. Review and Approve Contract for Student Support Services	Vote	Devin Krugman	2 m
III. Governance			7:09 PM
A. Review and Approve Executive Director Employment Contract	Vote	Rochelle Benning	5 m
B. GGA Facility Contract - 2018-2019 School Year	Vote	Michelle Cho	5 m
Provisional Approval of GGA contract draft.			

Cover Sheet

Review and Approve Contract for Student Support Services

Section: II. Finance and Development
Item: A. Review and Approve Contract for Student Support Services
Purpose: Vote
Submitted by:
Related Material: July 2018 - EBIA MOU.pdf

MEMORANDUM OF UNDERSTANDING

EAST BAY INNOVATION ACADEMY AND SENECA FAMILY OF AGENCIES FOR UNCONDITIONAL EDUCATION COACH

This Memorandum of Understanding (MOU) describes and confirms the expectations and responsibilities of Seneca Family of Agencies (“Seneca”) and East Bay Innovation Academy (“EBIA”) regarding provision of Unconditional Education Coaching services as described in this MOU.

I. TERM

The term of this MOU is July 1, 2018 through June 30, 2019, unless sooner terminated as provided herein.

II. SENECA RESPONSIBILITIES

Seneca agrees to provide the following services:

- 0.6 FTE Unconditional Education Coach: \$90,000/year

III. EBIA RESPONSIBILITIES

EBIA agrees to:

- Reimburse Seneca Family of Agencies \$90,000 over equal monthly installments for the 2018-2019 school year.
- Work in Collaboration with Seneca Family of Agencies to enhance the effectiveness of the services offered.

IV. INSURANCE

Seneca shall procure and maintain during the full term of this Agreement the following insurance amounts and coverage:

- Commercial General Liability Insurance, inclusive of sexual molestation and abuse coverage, with limits not less than \$1,000,000 (one million dollars) each occurrence Combined Single Limit for Bodily Injury and Property Damage, and \$3,000,000 (three million dollars) in the aggregate.
- Commercial Automobile Liability Insurance with limits not less than \$1,000,000 (one million dollars) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- Workers’ Compensation Insurance, with Employer’s Liability limits not less than \$1,000,000 (one million dollars) each accident.
- For maximum limits not met above, a \$5,000,000 Umbrella/Excess Liability policy is held in order to provide the additional layers of coverage.

For any claims related to the services, Seneca's Insurance shall be primary as respects EBIA, its subsidiaries, officials and employees. Any Insurance maintained by EBIA, its subsidiaries, officials and employees shall be excess of Seneca's Insurance and shall not contribute with It. With regards to Seneca's General Liability and Auto Liability, Seneca shall name EBIA, its directors, officers, employees, volunteers, authorizer, and agents as additional Insureds. With regards to Seneca's workers' compensation policy, it shall be endorsed with a Waiver of Subrogation Clause in favor of EBIA. Seneca shall produce a Certificate of Insurance and supporting documentation evidencing the above insurance requirements. EBIA shall be provided with advance notice of cancellation or diminishment of limits of liability.

Seneca shall indemnify, defend, and hold EBIA, its directors, officers, employees, volunteers, authorizers, and agents, harmless from all claims, demands, actions, suits, losses, injuries, expenses (Including attorneys' fees and court costs) arising out of or related to Seneca's use or occupancy of the

EBIA premises, or the conduct of its business on or off of the EBIA premises; provided, however, that Seneca shall have no obligation to indemnify, defend, or hold EBIA, its directors, employees, volunteers, authorizer, and agents, harmless from any claims, demands, actions, suits, losses, injuries, expenses (including attorneys' fees and court costs), arising out of or related to the negligent or willful conduct of EBIA, its directors, employees, volunteers, authorizer, and agents or other entity or person not subject to Seneca's control and supervision.

V. CRIMINAL BACKGROUND CHECKS

Seneca shall comply with the requirements of California Education Code section 45125.1, including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for Seneca's employees, prior to service with any CLCS student. Seneca hereby agrees that Seneca's employees shall not come in contact with CLCS students until CDOJ and FBI clearances are ascertained. Seneca shall certify in writing to the CLCS that none of its employees who may come into contact with CLCS students have been convicted of a violent or serious felony. Seneca shall also make a request for subsequent arrest service from the CDOJ as required by California Penal Code Section 11105.2. Seneca shall be responsible for the costs of the Fingerprinting clearances.

VI. TUBERCULOSIS TESTING

Seneca shall require all employees, agents or volunteers who will have prolonged contact with students to complete tuberculosis testing as described in EC 49406. The examination shall consist of an approved intradermal tuberculin test, which, if positive, shall be followed by an x-ray of the lungs. Thereafter, persons who are skin test negative shall be required to undergo the foregoing examination at least once every four years.

VII. TERMINATION

Either party may terminate this MOU with 30 days prior written notice. Alternatively, this MOU may be terminated immediately in writing by either party if there is a failure to comply with the terms and conditions.

VIII. PARTNERSHIP STAFFING

Our work as partners represents our shared commitment to improving educational opportunity for those who have traditionally be excluded. We recognize that our staff are our greatest asset in our ability to make a substantial contribution to the students, families, schools and communities we serve. To deliver the highest quality services to our school/district partners, we make a substantial upfront and ongoing investment to building the knowledge, skills, and professional practice of each of our staff. We have developed pipeline programs to identify, recruit and train talented individuals into areas facing critical staffing shortages across the state and operate our Institute for Advanced Practice to provide ongoing training on best practice in the fields of special education and mental health. We believe that this commitment to quality is, in part, what has drawn you to choose us as partners in this work.

To ensure our ongoing capacity to provide high quality services to our school/district partners, we rely on the retention of the staff in whom we have invested. As such, during the term of this Agreement and for one year following the termination of this Agreement, we ask that school/district partners not hire, nor solicit for hire, either directly or indirectly, any of Seneca's employees or contractors who have rendered services to the school on behalf of this Agreement. As your partners, Seneca will not solicit any staff member who is a collaborator under this agreement. On rare occasions it may be that Seneca and the District will agree to transfer the employment of a particular staff to the other entity. In this type of situation, the transfer will occur as an exception, and only through the development of a written agreement.

IX. MISCELLENEOUS

This MOU shall be governed by the laws of the State of California. This MOU may only be modified by a writing signed by all parties to this MOU. The individuals executing this MOU warrant and represent that they have the authority to do so.

IN WITNESS WHEREOF, the parties sign this MOU as set forth below:

Name: Janet Briggs
Title: Chief Financial Officer
Seneca Family of Agencies

Date

Name:
Title:
East Bay Innovation Academy

Date

Cover Sheet

Review and Approve Executive Director Employment Contract

Section: III. Governance
Item: A. Review and Approve Executive Director Employment Contract
Purpose: Vote
Submitted by:
Related Material:
July 2018 - Krugman, D Classified Employment Agreement 180711.pdf



AT-WILL EMPLOYMENT AGREEMENT
Between
EAST BAY INNOVATION ACADEMY & DEVIN KRUGMAN

THIS EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between the above-named employee ("Employee") and the Governing Board ("Board") of East Bay Innovation Academy ("EBIA"), a California nonprofit public benefit corporation operating public charter schools approved by the Oakland Unified School District ("District"). The Board desires to hire employees who will assist EBIA in implementing its purposes, policies, and procedures, and in achieving the goals and meeting the requirements of EBIA's charter. The parties recognize that EBIA is not governed by the provisions of the California Education Code, except as expressly set forth in the Charter Schools Act of 1992.

WHEREAS, EBIA and the Employee wish to enter into an employment relationship under the conditions set forth herein, the parties hereby agree as follows:

A. STATUTORY PROVISIONS RELATING TO CHARTER SCHOOL EMPLOYMENT

1. EBIA operates charter schools that have been established pursuant to the Charter Schools Act of 1992, Education Code section 47600, et seq., and which have been duly approved by the District, according to the laws of the State of California.
2. Pursuant to Education Code section 47604, EBIA has elected to be formed and to operate as a nonprofit public benefit corporation pursuant to the Non-profit Public Benefit Corporation Law of California (Part 2, commencing with section 5110 et seq. of the Corporations Code). As such, EBIA is considered a separate legal entity from the District, which granted the charters. The District shall not be liable for any debts and obligations of EBIA, and the employee signing below expressly recognizes that he/she is being employed by EBIA and not the District.
3. Pursuant to Education Code section 47610, EBIA must comply with all of the provisions set forth in its operative charters, but is otherwise exempt from the laws governing school districts except as specified in Education Code section 47610.
4. EBIA shall be deemed the exclusive public school employer of the employees at EBIA for purposes of Government Code section 3540.1.

B. EMPLOYMENT TERMS AND CONDITIONS

1. Duties

The Employee shall work in the position of Head of School. The Employee will perform such duties as EBIA may reasonably assign and the Employee will abide by all EBIA policies and procedures as adopted and amended from time to time. The Employee further agrees to abide by the provisions of EBIA's charter. A copy of the job description for the above position is attached hereto as **Attachment A** and incorporated



by reference herein. These duties may be amended from time to time in the sole discretion of EBIA.

2. Work Schedule

This position begins July 1, 2018 and is a year-round position. The minimum on-site obligations for this full-time position shall be the hours the school site is open to students, unless other arrangements are made. While the Employee shall be available on-site during this time period, the duties of this exempt position may require work on weekends, as well as before and after the regular work year or hours of the work day.

Subject to the at-will nature of employment as defined in Section C below, workdays for Employee shall be consistent with the applicable calendar of workdays for this position, which includes every weekday unless designated as holiday or paid time off in section 4, below.

The Employee will not render services in person or by electronic means, paid or otherwise, for any other person or entity during contracted work hours with EBIA.

3. Compensation

The annual compensation for this position shall be \$128,750, to be paid twice monthly, subject to all regular withholdings. The Employee's compensation may be prorated depending on whether the Employee remains employed, or in active work status, for the entire year. As an exempt employee, the Employee shall not be eligible to earn overtime.

The Head of School will participate in the EBIA Annual Incentive Plan (AIP).

Year 1: Head of School AIP bonus range is 6%-9% of base salary, based on attainment of established performance metrics, which will be annually drafted by the employee and annually approved by the EBIA Board.

Year 2: Head of School AIP bonus range is 8%-12% of base salary, based on attainment of established performance metrics, which will be annually drafted by the employee and annually approved by the EBIA Board.

Year 3 and all subsequent years: Head of School AIP bonus range is 12%-16% of base salary, based on attainment of established performance metrics, which will be annually drafted by the employee and annually approved by the EBIA Board.

Performance against the requirements of this agreement will be reviewed annually with a committee designated by the Board of Directors.



The implementation of the EBIA Annual Incentive Plan is dependent on budget constraints in any given year.

4. **Holidays/Paid Time Off**

Employee receives twelve (12) national/California holidays (currently New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, July 4, Labor Day, Veteran's Day, Thanksgiving and the day after, Christmas Eve and Day). No additional day is taken for holidays that fall during designated school breaks.

There will be an additional five (5) school site closure days per year, during school breaks, which will be paid days off for Employee. In addition, Employee accrues fifteen (15) days of Paid Time Off (PTO) per year (accrued monthly) and five (5) days of Sick Leave each year (front-loaded at the beginning of the fiscal year, July 1, and pro-rated for new hires). Employee may carry-over PTO year-to-year up to a cap of twenty-three (23) days, and carry-over Sick Leave year-to-year up to a cap of thirty (30) days. For purposes of carry-over, the year begins July 1.

All PTO must be requested and approved via the official EBIA process. PTO use is subject to EBIA approval, based on coverage and mission needs. Sick-Leave is not paid out upon separation, but may be transferred to subsequent employers or STRS where applicable.

5. **Employee Benefits**

Full-time Employees shall be entitled to participate in designated employee benefit programs and plans established by EBIA (subject to program and eligibility requirements) for the benefit of its employees, which from time to time may be modified by EBIA in its sole discretion.

6. **Performance Evaluation**

The Employee shall receive periodic performance reviews conducted by his/her supervisor. At a minimum, performance evaluations will be conducted annually, on or about the anniversary date of employment with EBIA. The frequency of performance evaluations may vary depending upon length of service, job position, past performance, changes in job duties, or recurring performance problems. Failure to evaluate the Employee shall not prevent EBIA from disciplining or dismissing the Employee at-will in accordance with this Agreement.

7. **Employee Rights**

Employment rights and benefits for employment at EBIA shall only be as specified in this Agreement, EBIA's charters, the Charter Schools Act, and EBIA's Employee Handbook, which EBIA may amend and modify from time to time. Employment rights and benefits may be affected by other applicable agreements or directives or advisories from the California Department of Education or the State Board of Education. During the term of this Agreement, the Employee shall not acquire or accrue tenure, or any employment rights with EBIA.

8. **Licensure**

The Employee understands that employment is contingent upon verification and maintenance of any applicable licensure and/or credentials.

9. **Child Abuse and Neglect Reporting**

3400 Malcolm Ave × Oakland, CA 94605 × Phone: 510-577-9557 × E-Mail: info@eastbayia.org × Web: www.eastbayia.org



California Penal Code section 11166 requires any child care custodian who has knowledge of, or observes, a child in his/her professional capacity or within the scope of his/her employment whom he/she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within thirty-six (36) hours of receiving the information concerning the incident. By executing this Agreement, the Employee acknowledges he/she is a child care custodian and is certifying that he/she has knowledge of California Penal Code section 11166 and will comply with its provisions.

10. Fingerprinting/TB Clearance

Fingerprint clearance for the Employee will be acquired through submitting the Employee's fingerprints to the California Department of Justice. The Employee will be required to assume the cost of all fees related to the fingerprinting process. The Employee will be required to submit evidence from a licensed physician and/or licensed entity that the Employee was found to be free from tuberculosis risk factors, or active tuberculosis if risk factors were identified. Both clearances must be in place prior to the first day of service.

11. Conflicts of Interest

The Employee understands that, while employed at EBIA, he/she will have access to confidential and proprietary information. The Employee therefore shall not maintain employment or contracts for employment, or engage in any consultant or independent contractor relationship, with any other agency or school that will in any way conflict with his/her employment with EBIA.

12. Assignment of Inventions Agreements

The Employee shall at all times be subject to and bound by the Agreement to Assign Inventions, attached hereto as **Attachment B**, which is attached and incorporated herein by reference.

C. EMPLOYMENT AT-WILL

EBIA may terminate this Agreement and the Employee's employment at any time with or without cause, with or without advance notice, and at EBIA's sole and unreviewable discretion. Either party may immediately terminate this Agreement and the Employee's employment upon written notice to the other party.

The Employee also may be demoted or disciplined and the terms of his/her employment may be altered at any time, with or without cause, at the discretion of EBIA. No one other than the Board has the authority to alter this arrangement, to enter into an agreement for employment for a specified period of time, or to make any agreement contrary to the terms of this Agreement, and any such agreement must be in writing and must be signed by the Board and by the affected employee and must specifically state the intention to alter this "at-will" relationship.

In the event of charter revocation or non-renewal, all contractual obligations under this Agreement cease immediately upon the effective date of revocation or non-renewal.

D. GENERAL PROVISIONS



1. **Waiver of Breach**

The waiver by either party, or the failure of either party to claim a breach of any provision of this Agreement, will not operate or be construed as a waiver of any subsequent breach.

2. **Assignment**

The rights and obligations of the respective parties under the Agreement will inure to the benefit of and will be binding upon the heirs, legal representatives, successors and assigns of the parties hereto; provided, however, that this Agreement will not be assignable by either party without prior written consent of the other party.



3. Governing Law

This Agreement will be governed by, construed, and enforced in accordance with the laws of the State of California.

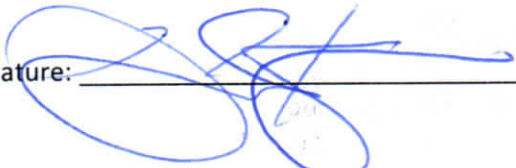
4. Partial Invalidity

If any provision of this Agreement is found to be invalid or unenforceable by any court, the remaining provisions hereof will remain in effect unless such partial invalidity or unenforceability would defeat an essential business purpose of the Agreement.

E. ACCEPTANCE OF EMPLOYMENT

By signing below, the Employee declares as follows:

1. I have read this Agreement and accept employment with EBIA on the terms specified herein.
2. All information I have provided to EBIA related to my employment is true and accurate.
3. A copy of the job description is attached hereto.
4. This is the entire agreement between EBIA and me regarding the terms and conditions of my employment. This is a final and complete agreement and there are no other agreements, oral or written, express or implied, concerning the subject matter of this Agreement.

Employee Signature:  _____ Date: 7/11/18

EBIA Approval:

Date: _____ Board President Signature: _____
Rochelle Benning

This Employment Agreement is subject to ratification and approval by the EBIA Board.



Attachment A

Job Description

Head of School

Serve as the source of strategy, design and innovation for EBIA's programs. Lead, manage and oversee all functions of EBIA, including establishing a sustaining education program to ensure academic performance of students, develop strategies and relationships needed to develop and replicate EBIA's educational model, recruit and hire key staff members, develop strategic partnerships with education and business organizations to move the mission of the school forward, evangelize and fundraise for EBIA in support of building upon and expanding EBIA's programs, work in partnership with EBIA's board to establish financial budgets and forecasts to ensure fiscal solvency of the organization. Manage and direct the school site and provide a strategic vision and plan for future facility needs.

General Administrative Duties

- Understand, promote and support the mission, vision and guiding principles of EBIA Charter School.
- Ensure effective and frequent communications systems across multiple stakeholder groups.
- Seek input from staff, parents, students and Board of Directors on the school's functioning through formal and informal structures in order to make positive changes over time while maintaining program continuity and comprehensiveness.
- Develop a sense of community while respecting and responding appropriately to the strengths and needs of staff. Act as a liaison, when necessary and appropriate, between parents and staff.
- Demonstrate excitement about learning and excitement about engaging children in learning. Attempt to know every student attending the school and uphold high expectations for students.
- Be available to parents on a regular basis. Keep parents informed of and involved in policy changes at the school. Encourage parent support and cooperation and enlist their efforts to sustain well-kept school structure.
- Ensure that all school staff understand, promote and support the mission, vision and guiding principles of EBIA Charter School.
- Serve as primary liaison to the Board and to the larger community

School Culture and Climate

- Ensure a positive and inclusive school climate is created, embracing EBIA's innovator norms.
- Ensure that systematic interventions occur whenever students are struggling; monitor quality and effectiveness of interventions to ensure they are rigorous, disciplined, and high-impact.

Academics

- Oversee the alignment of the Design Thinking, Project Based Learning, and Blended Learning models to ensure teachers understand and experience the EBIA approach as a cohesive approach; oversee the development of the EBIA Essentials of Effective Instruction to define excellent instruction and progression towards excellent instruction.
- Manage the setting of clear, measurable, motivating goals at the beginning of the year for every

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grade/subject and every class; ensure the team is bought into the goals and feels motivated by and accountable to them; keep goals front and center and regularly assess student progress toward them.

- Plan and develop the instructional program in partnership with the EBIA Directors and staff.
- Help facilitate regular data inquiry cycles with teaching teams to ensure all students are making adequate progress towards mastery of standards.
- Oversee the management of the assessment system to ensure that teachers are using data to drive instruction and differentiate instruction; support teachers in developing strategic individualized learning plans.

Supervision and Staffing

- Facilitate the identification of clear learning goals for teachers and the creation and execution of development plans using a range of coaching strategies to improve teacher effectiveness.
- Ensure that teachers receive hands-on coaching and help them master the EBIA Essentials of Effective Instruction.
- Accurately identify and prioritize professional development needs through careful analysis of student data, teacher growth areas and school goals; maximize the impact of formal PD time and ensure that all sessions are thoroughly and thoughtfully planned, engaging and actionable
- Hire and supervise school leadership team and other staff positions as needed. Ensure a comprehensive and thoughtful supervision process is established and continually work to help all staff reach goals and improve their performance; evaluate all staff using strategic evaluation tools and processes.

Operations and Finance

- Develop and administer the budget as approved by the Board of Directors in accordance with generally accepted accounting principles.
- Oversee all operational aspects of the school; establish and maintain efficient and effective systems and procedures. Ensure all District, County and State accountability requirements are met.
- Manage all outreach, marketing, and admissions to ensure that enrollment targets are met.
- Assist in fundraising efforts to ensure that the organization's fundraising goals are met.
- Other duties as assigned by the Board of Directors.



Attachment B

AGREEMENT TO ASSIGN INVENTIONS

While providing services to EBIA (together with its affiliates and subsidiaries, "EBIA"), your services may include, in part, the development of new products. To protect EBIA's ownership of these products and services, EBIA requires that you read and sign this Agreement. If you have any questions about this Agreement, or do not understand any part of it, please discuss your questions or concerns with your counsel before signing this Agreement.

1. **Assignment of Inventions.** I understand and agree that all Inventions (as defined below) that I develop, in whole or in part, will be the sole and exclusive property of EBIA, and I hereby assign all of my right, title and interest in and to any and all inventions, original works of authorship, curriculum, discoveries, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice during the period of my contract with EBIA ("Inventions") to EBIA, and I further agree to take all steps necessary to assist EBIA with applications, registrations, and other proper documentation to secure the assignment and protection of those rights.

I further understand and agree that this Agreement does not apply to any invention that I develop entirely on my own time without using EBIA's equipment, supplies, facilities, or trade secret information, except for those inventions that either:

(a) Relate at the time of conception or reduction to practice of the invention to EBIA's business, or actual or demonstrably anticipated research or development of EBIA; or

(b) Result from any work performed by me for EBIA.

2. **Disclosure of Inventions.** I agree to make prompt and full disclosure to EBIA of all Inventions made by me during the term of my employment, whether made solely or jointly with others. All information disclosed by me to EBIA that is outside the scope of this Agreement shall be received and held by EBIA in confidence. Such disclosure by me shall be made so that EBIA can determine whether or not rights to such Invention are EBIA's property.

3. **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions and other business information made by me in the form of notes, sketches, drawings and other notations, which may be specified by EBIA. These records are the sole and exclusive property of EBIA.

4. **Inventions or Information Retained as Employee Property.** Attached as Exhibit 1 to this Agreement, and incorporated herein by this reference, is a list of all Inventions that belonged to me prior to my contract with EBIA (collectively referred to as "Prior Inventions") and that relate to the business of EBIA or its actual or demonstrably anticipated research or development, the ownership of which is not assigned to EBIA hereunder. If no such list is attached, I represent that there are no such Prior Inventions. I represent that there are no other Inventions retained by me, except as disclosed.



5. **Incorporation of Employee’s Inventions or Information.** If, during the course of my employment with EBIA, I incorporate into EBIA’s products or information, processes, technology, or devices a prior invention or idea owned by me or in which I have an interest, then I hereby grant to EBIA a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such prior invention or information as part of, or in connection with, EBIA’s products, processes, technology, devices, or information. If EBIA sells such prior invention or information as part of, or in connection with, EBIA’s products, processes, technology, devices, or information, EBIA will negotiate in good faith with the employee to determine a fair license fee for use of such prior invention.

6. **Intellectual Property Rights in Works of Authorship.** I acknowledge and agree that any intellectual property rights which qualify as works of authorship belong to EBIA and are “works made for hire” within the definition of Section 101 of the United States Copyright Act, Title 17, United States Code.

AGREED TO AND ACCEPTED BY:

Dated: 7/11/18 _____ 

Exhibit 1 Inventions or Information Retained as Employee Property

- 1. _____
- 2. _____
- 3. _____

Please add additional information/lines as needed

[Faint, illegible text]

Cover Sheet

GGA Facility Contract - 2018-2019 School Year

Section: III. Governance
Item: B. GGA Facility Contract - 2018-2019 School Year
Purpose: Vote
Submitted by:
Related Material: July 2018 - GGA_EBIA draft received 2018.06.12.pdf

USE AGREEMENT

THIS USE AGREEMENT made this ____ day of July, 2018, is between GOLDEN GATE ACADEMY, an entity held by the NORTHERN CALIFORNIA CONFERENCE OF SEVENTH-DAY, a California non-profit religious corporation, hereinafter called "Licensor", and EAST BAY INNOVATION ACADEMY, a 501(c)(3) tax-exempt organization, hereinafter called "Licensee". Licensor hereby grants to Licensee the use of a portion of their facility, located at 3800 Mountain Blvd., Oakland, CA 94619-1630, upon the following terms and conditions:

I. RECITALS

Licensor is the sole owner of the premises described below herein, and agrees to grant and license the use of the premises to a suitable Licensee for the purpose for which it is intended.

Licensee agrees to use the premises as a place of conducting an educational program.

Licensee agrees to conduct itself in compliance with all known local, state and federal laws governing all aspects of Licensee's business operations including, but not limited to regulations for worker's health and safety, hazardous material use, manufacturing processes, and product sales.

As of the date of this agreement, the premises herein have not been inspected by a Certified Access Specialist.

The parties agree to enter into this Agreement defining their rights, duties and liabilities relating to the premises.

II. TERM

The term of this Agreement shall commence on the ____ day of August, 2018, and terminate on the 5th day of July, 2018. **The agreement shall not be terminable by either party with thirty (30) days written notice except in the event of a Default, and after compliance with Article IX.** No part of this provision is meant to alter the terms of this Agreement under Articles XIII and XIV that deal with the remedies of the parties in case of breach or default.

III. USE COST

Licensee agrees to pay real property taxes and current year installments of assessments which encumber the premises, if any, which occur as a result of Licensee's activities and use of the property, and further agrees to purchase and maintain liability and comprehensive insurance coverage for the premises. The specific requirements as to these elements of additional use costs are delineated in Article IX.

Licensee may pay the Use Cost by check made payable to "Golden Gate Academy" or such other payee as Licensor may designate in writing.

The Licensee shall pay to the Licensor in legal tender at the address specified herein, or furnished pursuant hereto, during the term of this Agreement, a sum of Twenty-four Thousand Eight Hundred Eighty-nine Dollars (\$26,889.00) per month payable as arranged with the Licensor.

Any alterations, additions, changes, or modifications to said building or property, shall be with the express written consent of the Licensor and at the expense of the Licensee. In the event of any additions, alterations, changes or modifications all specifications and adjustments to use cost shall be mutually agreed upon by both parties.

IV. USE OF PREMISES

The premises shall be used as a place of conducting an educational program and for other purposes related thereto. The specific use of the premises (approximately _____ sq. ft.) shall be listed as follows:

- A. OPERATIONAL HOURS are Monday through Thursday, 7:00 a.m. - 6:00 p.m., Friday 7 a.m. - 5 p.m. Gate to be opened at 7:00 a.m. and locked by 6:00 p.m. All Licensee's staff will be off premises by 6:00 p.m. unless Licensor is notified.
- B. Licensee may use the school buildings listed in Exhibit A attached hereto, and which shall be incorporated as if fully set forth herein. Licensee may use the school campus in conjunction and cooperation with Licensor and other authorized users of the premises whose use may overlap with Licensee's use of the premises. Licensor agrees to provide Licensee with at least thirty (30) days written notice of any use of the premises by any other authorized user during the operational hours, and Licensee agrees to provide Licensor with a schedule of expected use of the premises during the term of this Agreement and at least thirty (30) days written notice of any changes to the use of the premises.

- C. Licensee shall use existing equipment located in classrooms including but not limited to, desks, chairs, blackboard, and the like. Licensee is responsible for providing other required equipment as needed. Licensee and Licensor shall work together to coordinate sharing of equipment on the premises.
- D. Licensee may use the premises for ten (10) evening or Sunday events subject to Licensor's consent and at least thirty (30) days written notice. Current rental rates will be charged for any additional evening or Sunday events.

V. PROHIBITED USES

Licensee shall not commit or permit the commission of any acts on the premises nor use or permit the use of the premises in any way that:

- A. Will increase the existing rates for or cause cancellation of any fire, casualty, liability, or other insurance policy insuring the building or its contents;
- B. Violates or conflicts with any law, statute, ordinance, or governmental rule or regulation, whether now in force or hereinafter enacted, governing the premises or the building;
- C. Obstructs or interferes with the rights of other parties or occupants of the building or injures or annoys them; or
- D. Constitutes the commission of waste on the premises or the commission or maintenance of a nuisance as defined by the laws of the State of California.

VI. ALTERATIONS, ADDITIONS, AND IMPROVEMENTS

No portion of the building or property shall be altered by Licensee without the prior written consent of the Licensor. Any alterations, additions or improvements so approved shall be performed in a workmanlike manner and shall not weaken or impair the structural strength or lessen the value of the building or the premises or change the purposes for which the building, or any part thereof, may be used. Where alterations, additions, or improvements are agreed to by the Licensor, Licensee agrees to file all plans and specifications with and receive approval from all governmental departments or authorities having jurisdiction and any public utility company having an interest therein, and all work shall be done in accordance with requirements of local regulations. All such improvements, alterations, or additions shall be at the expense of the Licensee unless otherwise agreed to in writing and shall become part of the demised premises and the sole property of the Licensor, except that all moveable trade fixtures installed by the Licensee shall be and remain the property of the Licensee.

VII. MAINTENANCE AND REPAIRS

Licensee shall use all reasonable precaution to prevent waste, damage, or injury to the demised building and property. In the event of damage, waste or injury to said property by Licensee, Licensee shall, at its own cost and expense, repair, replace, or restore to a good, safe and substantial condition the building, property and any improvements, additions, and alterations thereto.

The Licensee covenants to maintain the premises clean and in good order, free from waste materials or rubbish caused by or resulting from his business.

The Licensor agrees to be responsible for structural damage to the premises caused by natural events (i.e. earthquake, windstorm, etc.), except as is covered by insurance. Licensor also covenants to keep the lawns, trees, vines, bushes and hedges of the demised premises cut, watered and trimmed, during the term of this Agreement.

VIII. ENVIRONMENTAL COMPLIANCE

Licensee shall conduct all of its activities on the Property in compliance with, and shall not cause or permit the Property to be in violation, as a result of Licensee or its agents' activities, of any federal, state or local laws, statutes, ordinances, orders, guidelines, rules or regulations relating to health and safety, industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, air, soil and ground water conditions. Licensee hereby covenants and agrees that neither it nor any agent, servant, or employee, shall use, generate, manufacture, handle, store, treat, discharge, release, bury or dispose of on, under or about the Property, or transport to or from the Property, any Hazardous Substance. Without limiting the generality of the foregoing, provisions of this subsection, Licensee agrees

at all times to comply fully and in a timely manner with, and to cause all of its employees, agents, contractors, subcontractors and any other persons associated with Licensee's use of the athletic field occupying or present on the Property to so comply with, all federal, state and local laws, statutes, ordinances, orders, guidelines, rules and regulations applicable to underground storage tanks or to the use, generation, manufacture, handling, storage, treatment, discharge, release, burial or disposal of any Hazardous Substance now or hereafter located or present on, under or about the Property, or the transportation to or from the Property of any Hazardous Substance. Licensor shall bear all costs associated with such compliance required for remedial or removal action taken in response to any Hazardous Substance which is located or present on, under or about the Property, or which is the result of any action taken by Licensor.

If the presence, release, threat of release, placement on, under or about the Property, or the use, generation, manufacture, storage, treatment, discharge, release, burial or disposal on, under or about the Property, or transportation to or from the Property, of any Hazardous Substance caused by Licensee or its agents: (i) gives rise to liability, costs or damages (including, but not limited to, a response action, remedial action, or removal action) under RCRA, CERCLA, the State Toxic Substances Laws, or any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decision of a state or federal court, (ii) causes or threatens to cause a significant public health effect, or (iii) pollutes or threatens to pollute the environment, Licensee shall promptly take any and all response, remedial and removal action necessary to clean up the Property and any other affected property and mitigate exposure to liability arising from the Hazardous Substance, whether or not required by law or by any governmental entity. Licensee shall comply with all federal, state or local laws, ordinances and regulations relating to any such response, remedial or removal action, caused by Licensee.

Licensee shall indemnify, defend with counsel selected by Licensor, protect and hold harmless Licensor, its directors, officers, employees, agents, assigns and any successor or successors to Licensor's interest under the Agreement from and against all claims, actual damages (including but not limited to special and consequential damages), punitive damages, injuries, costs, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including but not limited to attorneys', engineers', consultants' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the Property used by Licensee or its agents, or any indemnified party at any time directly or indirectly arising from or attributable to (i) any breach by Licensee of any of its agreements, warranties or representations set forth in this Agreement, or (ii) any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan concerning any Hazardous Substance on, under or about the Property, undertaken by the Licensee or its agents, regardless of whether undertaken due to governmental action. To the fullest extent permitted by law, the foregoing indemnification shall apply regardless of the fault, active or passive negligence, breach of warranty or contract of Licensor. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify Licensor from any liability pursuant to such section.

Licensee shall promptly give Licensor (i) a copy of any notice, correspondence or information it receives from any federal, state or other government authority regarding Hazardous Substances on, under or about the Property or Hazardous Substances which affect or may affect the Property, or regarding any actions instituted, completed or threatened by any such governmental authority concerning Hazardous Substances which affect or may affect the Property, (ii) written notice of any knowledge or information Licensee obtains regarding Hazardous Substances on, under or about the Property or expenses or losses incurred or expected to be incurred by Licensee, third party or any government agency to study, assess, contain or remove any Hazardous Substances on, under, about or near the Property for which expense or loss Licensee may be liable or for which a lien may be imposed on the Property, (iii) written notice of any knowledge or information Licensee obtains regarding the release or discovery of Hazardous Substances on, under or about the Property or on other sites owned, occupied or operated by Licensee or by any person for whose conduct Licensor is or may be responsible, or whose liability may result in a lien on or otherwise affect the Property, (iv) written notice of all claims made or threatened by any third party against Licensee or the property relating to damage, contribution, cost recovery compensation, loss of injury resulting from any Hazardous Substance, and (v) written notice of Licensee's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property to be classified as "border-zone property" under the provisions of California Health and Safety Code Sections 25220 et

seq. or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any of the statutes cited in herein of this Agreement or any regulation adopted pursuant thereto.

Without Licensor's prior written consent, which shall not be unreasonably withheld or delayed, Licensee shall not take any remedial action in response to the presence of any Hazardous Substance on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any claims referred to in this Agreement, which remedial action, settlement, consent or compromise might, in Licensor's reasonable judgment, impose a risk of liability on Licensor; provided, however, that Licensor's prior consent shall not be necessary in the event that the presence of any Hazardous Substance on, under or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not possible to obtain Licensor's consent before taking such action, provided that in such event Licensee shall notify Licensor as soon as practicable of any action so taken, Licensor agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, or (ii) Licensee establishes to the reasonable satisfaction of Licensor that there is no reasonable alternative to such remedial action.

IX. INSURANCE

Licensee shall at their own expense obtain and maintain, for the Term of the Agreement, the following insurance:

- A. **Property Insurance.** Licensee shall maintain property insurance on all of Licensee's personal property, Trade Fixtures, inventory, Licensee alterations and utility installations on the Premises, such insurance shall be at full replacement coverage and proceeds from such insurance shall be used to repair or replace the property described hereinabove. Licensor is in no way responsible for any damage or loss of Licensee's personal property.
- B. **Commercial General Liability Insurance.** Licensee shall maintain Commercial General Liability insurance against claims for bodily injury, personal and advertising injury and property damage based upon or arising out of Licensee's use, occupancy and maintenance of the Premises. Such coverage shall be written on an occurrence form with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The policy shall include contractual liability coverage and be endorsed to name the Northern California Conference of Seventh-day Adventists as an additional insured..
- C. **Automobile Liability Insurance.** Licensee shall maintain Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per accident for all owned, non-owned and hired automobiles.
- D. **Workers' Compensation.** Licensee shall maintain Workers' Compensation insurance with statutory limits and Employer's Liability coverage with limits of not less than \$1,000,000 per accident or disease.
- E. Licensee shall provide any other insurance as necessary to protect Licensor against insurable hazards as are commonly insured against for the type of business activity that Licensee will conduct.
- F. All insurance, as required by this paragraph 3, shall be carried in favor of the Licensor and Licensee as their respective interests may appear. All insurance shall be purchased and maintained from and with responsible companies, and certificates of insurance evidencing the coverage and limits required under this Agreement shall be delivered to Licensor upon occupation of the Premises and on the first of January of each year during the contract period.

X. Addresses for Notice Purposes

Notice provided in accordance with Agreement shall be delivered to the parties at the following addresses:

- A. If to Licensee: East Bay Innovation Academy
Attn: _____
3400 Malcolm Ave.
Oakland, CA 94605
- B. If to Licensor: Golden Gate Academy
Attn: _____
3800 Mountain Blvd
Oakland, CA 94619

XI. UNLAWFUL OR DANGEROUS ACTIVITY

Licensee shall not occupy or use all or any part of the premises for any unlawful, disreputable or ultra-hazardous business purpose or activity, nor operate or conduct its business in a manner which is found by a court of competent jurisdiction to be a "nuisance". A violation of this article shall constitute a breach of this Agreement.

XI. INDEMNITY

The Licensee shall indemnify the Licensor against all expenses, liabilities, and claims of every kind, including but not limited to reasonable attorney's fees, by or on behalf of any person or entity arising out of either (1) a failure by Licensee to perform any of the terms or conditions of this Agreement; (2) any injury or damage happening on or about the Premises; (3) failure to comply with any law of any governmental authority; or (4) any mechanics lien or security interest filed against the demised premises or equipment, materials, or alterations of building or improvements thereon, the filing of which is caused by Licensee or its agents. Said indemnification is limited to injury or damage attributable to Licensee or its agents' use of the premises. In addition to the indemnification obligations of Licensee, the Licensor shall indemnify the Licensee against all expenses, liabilities, and claims of every kind, including but not limited to reasonable attorney's fees, by or on behalf of any person or entity arising out of either (1) a failure by Licensor to perform any of the terms or conditions of this Agreement; (2) any injury or damage happening on or about the Premises that is attributable to Licensor or its agents' use of the Premises; (3) failure of Licensor to comply with any law of any governmental authority; or (4) any mechanics lien or security interest filed against the demised Premises or equipment, materials, or alterations of building or improvements thereon, the filing of which is caused by Licensor or its agents. Said indemnification is limited to injury or damage attributable to Licensor or its agents' use of the Premises. Licensor shall further indemnify, defend with counsel selected by Licensee, protect and hold harmless Licensee, its directors, officers, employees, agents, assigns and any successor or successors to Licensee's interest under the Agreement from and against all claims, actual damages (including but not limited to special and consequential damages), punitive damages, injuries, costs, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including but not limited to attorneys', engineers', consultants' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the Property used by Licensee or its agents, or any indemnified party at any time directly or indirectly arising from or attributable to (i) any breach by Licensor of any of its agreements, warranties or representations set forth in this Agreement, or (ii) any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan concerning any Hazardous Substance on, under or about the Property, undertaken by the Licensor or its agents, regardless of whether undertaken due to governmental action. To the fullest extent permitted by law, the foregoing indemnification shall apply regardless of the fault, active or passive negligence, breach of warranty or contract of Licensee. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify Licensee from any liability pursuant to such section.

XII. DISPUTE RESOLUTION

The parties agree that compliance with this paragraph 7 shall be required before either party may invoke the remedies for default set forth in the Agreement or paragraph 9 of this Addendum. The party initiating the dispute resolution process shall prepare and send to the other party a written notice of dispute including a statement of the facts of the dispute and the specific resolution sought by the party. Within fifteen (15) days of such written notice of dispute, an authorized employee representative from each party shall meet in an attempt to resolve the dispute through informal negotiations. Both parties agree to meet in-person through their designated employee representatives in a good-faith attempt to resolve the dispute. If such initial meeting between the parties does not resolve the dispute, each party shall designate a member of its respective Board to meet with the foregoing designated employee representatives in an attempt to resolve the dispute through an in-person meeting to be held within fifteen (15) days following the initial meeting. In the event that such informal negotiations do not resolve the dispute, the parties may select a neutral third-party mediator to resolve the dispute through a formal mediation process. If the parties mutually agree to resolve the dispute through a formal mediation process, such mediation shall occur within thirty (30) days of the meeting between the designated employee representatives and the representatives of the respective Boards, unless extended by mutual agreement of the parties. The parties shall share the cost of the mediator and participate in the mediation in good faith. An award of reasonable attorneys' fees shall be denied to any party which does not first request mediation and, if the parties mutually agree to mediation, participate in the mediation in accordance with this paragraph prior to the filing of such a lawsuit. This paragraph shall survive termination of the Agreement with respect to any dispute arising from a cause of action which accrued prior to such termination.

XIII. DEFAULT AND BREACH

Any one of the following events shall constitute a default of this Agreement by Licensee;

- A. Voluntary or involuntary bankruptcy on the part of the Licensee;
- B. Failure by Licensee to pay the use cost when said use cost shall become due, and the Licensee shall not make payment within thirty (30) days after written notice thereof by the Licensor to the Licensee;
- C. Failure of the Licensee to perform or comply with any of the conditions of this Agreement and if the nonperformance or noncompliance shall continue for a period of thirty (30) days after written notice thereof by the Licensor to the Licensee; and
- D. the Premises by the Licensee.

This section shall not be construed as a limitation on Licensor to declare a default.

XIV. REMEDIES ON DEFAULT

In the event of default by Licensee on any of the following, The exercise of any remedies for the default shall be subject to Article XII. The rights of the Licensor shall be, in addition to other statutory, common law, and case law rights;

- A. The Licensor shall have the right to cancel and terminate this Agreement;
- B. The Licensor may elect, but shall not be obligated, to make any payment required of Licensee herein or comply with any agreement, term, or condition required hereby to be performed by the Licensee, and the Licensor shall then have the right to enter the Premises for the purposes of correcting any such default, but any expenditure for the correction by the Licensor shall not be deemed to waive or release the default of the Licensee or the right of the Licensor to take any action as may be otherwise permissible hereunder in the case of any default;
- C. The Licensor may reenter the Premises immediately and remove the property and personnel of the Licensee and store the property in a public warehouse or at a place selected by the Licensor at the expense of the Licensee. On termination, the Licensor may recover from the Licensee all damages resulting from the breach, including the cost of reasonable attorney's fees; and
- D. After reentry, the Licensor may relet the premises or any part thereof for any term and may make alterations and repairs to the premises at the Licensees expense.
- E. Licensor shall not acquire access, title or possession of any personal property or equipment of Licensee except pursuant to a lawful court order or judgment rendered against Licensee in favor of Licensor. In the event that a default by Licensor remains unsecured after reasonable time for cure and subject to compliance of Article XII, Licensee shall have right to damages, specific performance, and injunctive relief, as well as the right to cure the default at the Licensor's expense.

XV. ACCESS TO PREMISES

The Licensor shall have unlimited access to the demised premises during the duration of this Agreement. The Licensor shall coordinate with Licensee when accessing the Premises in order to minimize disruption to Licensee's educational program; provided, however, that the Licensor shall not be required to coordinate with Licensee before accessing the Premises in the event of emergency or imminent threat to health or safety of the occupants of the Premises. The Licensee shall permit the Licensor or its agents to enter the Premises at all reasonable hours to inspect the premises or make repairs that the Licensee may neglect or refuse to make in accordance with the provisions of this Agreement, and also to show the premises to prospective Licensees.

XVI. REPRESENTATIONS BY LICENSOR

Licensee has had adequate time and opportunity to inspect the premises herein described. Having taken the time to inspect the same the Licensee accepts the buildings and improvements and any equipment as is. Except as agreed to in writing and attached hereto, the Licensee agrees that no representations, statements, or warranties expressed or implied, have been made by or on behalf of the Licensor in respect thereto, and the Licensor shall in no event be liable for any latent defects, unless such defects make the Premises unable to be occupied.

XVII. ASSIGNMENT, MORTGAGE, OR LEASE

Neither the Licensee nor its successors or assigns shall assign, mortgage, pledge, or encumber this Agreement in whole or in part. Neither the Licensee nor its successors or assigns shall attempt to sublet the Premises, or permit the said premises to be used or occupied by others, nor shall this Agreement be assigned or transferred by operation of law without the prior consent in writing of the Licensor and Licensor may refuse such consent for any reason. If this Agreement is assigned or transferred, or if all or any part of the Premises is occupied by anyone other than the Licensee, without prior consent of the Licensor in writing, the Licensor may, after default by the Licensee collect use cost from the assignee, transferee, or occupant, and apply the net amount collected to the use cost reserved herein, but no such assignment, occupancy, or collection shall be deemed a waiver of any agreement or condition hereof. The Licensee shall continue to be liable hereunder in accordance with the terms and conditions of this Agreement and shall not be released from the performance of the terms and conditions hereof.

XVIII. SURRENDER OF PREMISES

The Licensee shall, on the last day of the term of this Agreement, or on earlier termination and forfeiture of this Agreement, peaceably and quietly surrender and deliver the Premises to the Licensor, free of all encumbrances caused by Licensee or its agents, in good condition and repair, ordinary wear and tear excepted, and free of any hazardous materials, "hazardous substances," or "toxic substances" as those terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; the Hazardous Materials transportation Act; the Resource Conservation and Recovery Act and/or the California Health and Safety Code, and in regulations promulgated pursuant thereto. Any property of the Licensee must be removed by the last day of the term (or sooner if an earlier termination has occurred), and if not removed at the termination or default, Licensee shall be liable for double the monthly use cost, prorated to a daily amount, for such time as Licensee's property remains on the premises, up to a maximum of thirty days after which the property shall be deemed abandoned and become the property of Licensor without any payment or offset thereof. In the alternative, Licensor may elect to remove such property from the Premises and store it, all at the risk and expense of Licensee. In any event, Licensor shall take no action with respect to Licensee's personal property which is in contravention of the laws of California.

XVIII. CONDEMNATION

If the whole of the Premises or such portion thereof, as will make the Premises unsuitable for the purpose herein used, is condemned for any public use or purpose by any legally constituted authority, then in either of such events, this Agreement shall cease from the time when possession is taken by such public authority and use cost shall be prorated to the date of surrender of possession. Such termination shall be without prejudice to the rights of either Licensor or Licensee to recover compensation from the condemning authority for any loss or damage for such condemnation. Neither the Licensor nor the Licensee shall have any rights in or to any award made to the other by the condemning authority. Licensee agrees to hold Licensor harmless and indemnify Licensor for any condemnation proceeding, whether formal or informal, inverse or otherwise.

XIX. NOTICE

Whenever this Agreement provides that notice, demand, request or other recommendation shall or may be given to either of the parties by the other, such notice, demand, request, or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless served by mailing such notice by certified mail, postage prepaid, return receipt requested, to the address listed in this Agreement or to any other address as either party may designate by notice given to the other by certified mail. Any such notice, demand, request, or other communication shall be deemed to have been given at the time it is duly deposited or registered at any United States Post Office or any branch office or three (3) days prior to actual receipt, whichever shall be later.

XX. CONSTRUCTION AND INTERPRETATION

In construing this Agreement, the following rules shall apply:

- A. Feminine or neuter pronouns shall be substituted for those masculine in form, and vice versa; and plural shall be substituted for singular and singular for plural in any place in which the text so requires.
- B. The covenants, terms, conditions, provisions, and undertakings in this Agreement or in any renewals thereof shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the respective parties hereto, as if they were in every case named and expressed; and wherever references is made to either of the parties hereto, it shall be held to include and apply also to the heirs, executors, administrators, successors, and assigns of such party, as if in each and every case so expressed.
- C. The specified remedies to which the Licensor may resort under the terms of this Agreement are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the Licensor may be lawfully entitled in case of any breach or threatened by the Licensee by any provision or provisions of this Agreement.
- D. This Agreement contains the entire Agreement between the parties and shall not be modified, altered, amended, or changed, in any manner except by an instrument in writing executed by the parties. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be effected thereby and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- E. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- F. Should a legal action be commenced to interpret or enforce the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs of suit.

XXI. CORPORATE AUTHORITY

- A. Any individual signing this Agreement on behalf of the Golden Gate Academy represents and warrants that he or she has the full authority to sign this Agreement on behalf of the Golden Gate Academy and the authority to bind the Golden Gate Academy to the terms of this Agreement as voted in the Golden Gate Academy Reorganization Committee meeting on June 13, 2017.
- B. Any individual signing this Agreement on behalf of the Northern California Conference of Seventh-day Adventists represents and warrants that he or she has the full authority to sign this Agreement and bind the corporation to the terms of this Agreement.
- C. Any individual signing this Agreement represents and warrants that he or she has the full authority to sign this Agreement and the authority to bind the Licensee to the terms of this Agreement.

