

PROMISSORY NOTE

PRINCIPAL AMOUNT: \$1,000,000.00

December 20, 2022

FOR VALUE RECEIVED, the undersigned, **GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC**, a California limited liability company ("**Borrower**"), promises to pay to the order of **PACIFIC CHARTER SCHOOL DEVELOPMENT, INC.**, a California nonprofit public benefit corporation (together with any future holders of this Note, collectively, "**Lender**"), or its assigns, the principal amount of the Loan made by Lender to Borrower pursuant to the Loan Agreement referred to below on the maturity date provided for in the Loan Agreement. Borrower promises to pay interest on the unpaid principal amount of the Loan on the dates and at the rate or rates provided for in the Loan Agreement and, upon default, on demand from time to time, on any overdue principal for each day from the due date thereof (by acceleration or otherwise) until such sum is paid in full, at the rate set forth in Section 1 of the Loan Agreement (in addition to any fee due pursuant to Section 4(b) of the Loan Agreement). All payments hereunder shall be made payable to Pacific Charter School Development, Inc., 600 Wilshire Blvd., Suite 200, Los Angeles, CA 90017, Attention: CEO, or at such other place as the holder of this note may designate by written notice to Borrower, in lawful money of the United States of America without setoff, counterclaim, withholding or deduction of any kind whatsoever.

1. **Loan Agreement.** This note is the Note referred to in, and is entitled to the benefits of, the Loan Agreement dated as of the date hereof, between Borrower and Lender (as the same may be amended from time to time, the "**Loan Agreement**"). The Loan Agreement, among other things, contains provisions for the prepayment hereof and the acceleration of the maturity hereof upon the happening of certain stated events. All capitalized terms not otherwise defined herein have the meanings set forth in the Loan Agreement.

2. **Waiver.** Except as provided herein, Borrower, for itself and its legal representatives, successor and assigns and any endorsers, guarantors and sureties of this Note expressly waives presentment, protest, demand, notice of dishonor, notice of nonpayment, notice of maturity, notice of protect, presentment for the purpose of accelerating maturity and diligence in collection. The pleading of any statute of limitations as a defense to any demand against the makers, endorsers, guarantors and sureties is expressly waived by each and all of said parties.

3. **ACCELERATION.** UPON THE OCCURRENCE OF AN EVENT OF DEFAULT UNDER THE LOAN AGREEMENT, THE UNPAID PRINCIPAL BALANCE OF THIS NOTE AND ANY ACCRUED BUT UNPAID INTEREST SHALL THEREUPON BE IMMEDIATELY DUE AND PAYABLE AT THE OPTION OF LENDER, WITHOUT FURTHER PRESENTMENT, DEMAND, PROTEST OR NOTICE OF PROTEST OF ANY KIND, ALL OF WHICH ARE HEREBY EXPRESSLY WAIVED.

Borrower agrees to pay reasonable costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by Lender in connection with or related to any action taken to collect this Note, whether or not suit is brought.

4. **Release.** This Note shall be the joint and several obligations of Borrower and all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns. No release of any person liable for the indebtedness evidenced hereby, and no release of any security for the indebtedness evidenced by this Note, or any portion thereof, and no extension, alteration, amendment, subordination or waiver of any provision of this Note or of any other Loan Document made by agreement between Lender and any other person or party shall release, discharge, modify, change or affect the liability of Borrower or any other person now or hereafter liable under this Note or under such other Loan Document. The remedies provided Lender in this Note and the other Loan Documents shall be cumulative and

concurrent, and shall be in addition to every other right or remedy now or hereafter provided by law or equity. Such remedies may be pursued singly, successively or together against Borrower or any other security interests at the option of Lender.

5. **Governing Law and Venue.** This Note shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of law. The Lender and Borrower further agree that upon an Event of Default or dispute, this Note and Loan Agreement shall be enforced in accordance with the judicial reference procedures set forth in Section 7 and they do hereby submit to venue in Los Angeles County.

6. **Procedures for Judicial Reference.** In the event Borrower disputes Lender's determination that an Event of Default has occurred under Section 13 of the Loan Agreement (each, a "Dispute"), such Dispute shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure Sections 638, et seq., as follows:

(a) The referee shall be a retired California state court judge or an attorney licensed to practice law in the State of California with at least ten (10) years' experience practicing commercial real estate law. Neither Lender nor Borrower shall seek to appoint a referee that may be disqualified pursuant to California Code of Civil Procedure Section 641 or 641.2 without the prior written consent of both Lender and Borrower.

(b) If Lender and Borrower are unable to agree upon a referee within ten (10) calendar days after Borrower serves a written notice of intent for judicial reference upon Lender, then the referee will be selected by the court in accordance with California Code of Civil Procedure Section 640(b).

(c) The referee shall conduct the proceedings in accordance with the California Code of Civil Procedure, the Rules of Court, and California Evidence Code, except as otherwise specifically agreed by the parties and approved by the referee and shall issue a reasoned written opinion reflecting the referee's findings and decision. The decision of the referee shall be entered as a judgment in the court in accordance with the provisions of California Code of Civil Procedure Sections 644 and 645. The decision of the referee shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the superior court.

(d) During the pendency of any Dispute which is submitted to judicial reference in accordance with the Note or Loan Agreement, Borrower shall bear the cost of the fees charged and costs incurred by the referee in performing the services described in this Section 29. The compensation of the referee shall not exceed the prevailing rate for like services. The prevailing party shall be entitled to reasonable court costs and legal fees, including customary attorney fees, expert witness fees, paralegal fees, the fees of the referee and other reasonable costs and disbursements charged to the prevailing party by its counsel, in such amount as is determined by the referee.

(e) NOTICE: YOU ARE AGREEING TO HAVE ANY "DISPUTE" AS DEFINED IN SECTION 29 OF THE LOAN AGREEMENT AND ANY LENDER DISPUTE IDENTIFIED IN SECTION 29.(f) OF THE LOAN AGREEMENT DECIDED BY A NEUTRAL PARTY AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE SUCH DISPUTE LITIGATED IN A COURT OR JURY TRIAL. YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL. IF YOU REFUSE TO SUBMIT TO JUDICIAL REFERENCE AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO SUBMIT TO JUDICIAL REFERENCE UNDER THE AUTHORITY OF THE APPLICABLE PROVISIONS OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THE PROVISIONS OF SECTION 29 OF THE LOAN AGREEMENT IS VOLUNTARY.

7. **Notices.** Any notices respecting this Note shall be delivered in accordance with the notice provisions of the Loan Agreement, the terms of which are incorporated herein by this reference.

8. **Rights of Endorsee.** Borrower agrees that the rights granted to Lender pursuant to this Note shall accrue to any endorsee of this Note who is lawfully in possession of this Note.

9. **Invalidity.** In the event any one or more of the provisions contained in this Note or any other Loan Document shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Note or such other Loan Document, but this Note and the other Loan Documents shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

10. **Recourse.** This note is recourse to Borrower. Borrower's liability under this Note is not limited by any security interests provided by Borrower to Lender to secure the indebtedness evidenced under this Note and the other Loan Documents.

11. **Savings Clause.** Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the obligations hereunder, including all charges or fees in connection therewith deemed in the nature of interest under applicable law, shall not exceed the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to Lender which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow (the "**Highest Lawful Rate**"). If the rate of interest (determined without regard to the preceding sentence) under this Note at any time exceeds the Highest Lawful Rate, the outstanding amount of the Loan made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Note had at all times been in effect. In addition, if when the Loan made hereunder is repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Note had at all times been in effect, then to the extent permitted by law, Borrower shall pay to Lender an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of Lender and Borrower to conform strictly to any applicable usury laws. Accordingly, if any Lender contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender's option be applied to the outstanding amount of the Loan made hereunder or be refunded to Borrower.

PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE AND THE LOAN AGREEMENT.

THIS INSTRUMENT IS SUBJECT TO A PARTICIPATION AGREEMENT DATED AS OF DECEMBER 20, 2022 BY AND AMONG PACIFIC CHARTER SCHOOL DEVELOPMENT, INC. AND [CSGF LLC] ("CSGF") PURSUANT TO WHICH CSGF AGREES TO PURCHASE A 50% INTEREST IN THE LOAN AS OF THE CLOSING DATE.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the undersigned has caused this Note to be executed as of the date and year first above written.

BORROWER

GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC

By: The Golden Charter Academy, its sole member and manager

By: _____

Name: Robert D. Golden Sr.

Its: President & CEO

**** DRAFT ONLY ****
THE LOAN IS SUBJECT TO FURTHER CHANGE.
THIS DOES NOT CONSTITUTE A COMMITMENT TO LEND

LOAN AGREEMENT

THIS LOAN AGREEMENT (this “**Loan Agreement**”, or “**Agreement**”) is made as of December 20, 2022, by and among **PACIFIC CHARTER SCHOOL DEVELOPMENT, INC.**, a California nonprofit public benefit corporation (“**Lender**”), and **GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC**, a California limited liability company (“**Borrower**”).

RECITALS:

A. Borrower entered into that Commercial Property Purchase Agreement and Joint Escrow Instructions dated as of September 24, 2020 as subsequently modified and amended from time to time, by and between Robert Golden, Sr. as subsequently assigned to Golden Charter Academy pursuant to that certain Addendum No. 2 and subsequently assigned to Borrower pursuant to that certain Addendum No. 5 (“**Buyer**”), and Kou Yang and Tong Her (collectively, “**Seller**”) for the acquisition of that certain property commonly known as 741 W. Belmont Ave., Fresno, CA 93728-2805, as more particularly described in Exhibit A (“**Property**”), for the acquisition, predevelopment and construction of a 26,000 square foot facility that will house a public charter school operated by Borrower (“**School**”) and will serve, at capacity, 480 students in grades TK-8 (the “**Project**”).

B. To facilitate Borrower’s completion of the Project, Borrower has requested Lender make an acquisition loan to Borrower in the aggregate maximum principal amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00)(the “**Loan**”) the proceeds of which are to be used solely to fund the Project and related costs.

C. The Loan shall be evidenced by (i) a certain Promissory Note dated as of the date of this Agreement, made by Borrower and payable to the order of Lender in the original principal amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00)(the “**Note**”); (ii) a first priority Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing granted by Borrower to Lender of even date herewith, as the same may be further amended, modified or supplemented from time to time (“**Deed of Trust**”); (iii) a Repayment Guaranty made by The Golden Charter Academy for the benefit of Lender (“**Guaranty**”); (iv) an Environmental Indemnification and Release Agreement; and (v) any other instruments or documents evidencing or documenting the lending relationship between Borrower and Lender are referred to herein as a “**Loan Document**” and collectively as the “**Loan Documents**”. The payment of the Note, any the interest due thereunder and any other sums payable under the Loan Documents is referred to in this Agreement collectively as the “**Indebtedness**.”

D. Independent from the Loan, Borrower previously engaged Pacific Charter School Development, Inc. pursuant to that certain Project Management Agreement dated August 1, 2022 (“**Project Management Agreement**”) to provide project management services for the Project.

E. Following (i) Borrower’s acquisition of the Property, and (ii) Borrower’s payment of Project costs, as reasonably approved by Lender, in an amount not less than TWO HUNDRED EIGHTY-FOUR THOUSAND AND NO/100 DOLLARS (\$284,000.00)(“**Required Borrower Predevelopment Equity**”), Lender shall then issue a predevelopment loan to Borrower in an amount not to exceed ONE MILLION ONE HUNDRED THOUSAND AND NO/1000 DOLLARS (\$1,000,000.00) (“**Predevelopment Loan**”); provided that, Lender shall not be obligated to issue the Predevelopment Loan

unless and until Borrower has provided Lender with evidence satisfactory to Lender that the Required Borrower Predevelopment Equity has been expended and no default is then occurring and ongoing which, after all applicable cure periods, would constitute an Event of Default under any of the Loan Documents.

F. It is a condition of making the Loan that Borrower enter into and be bound by this Agreement and the other Loan Documents.

AGREEMENTS

NOW, THEREFORE, in consideration of the Recitals set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.** Terms appearing as initially capitalized terms and not otherwise expressly defined in this Agreement have the respective meanings given to them in this Agreement.

“**Business Day**” means any day other than a Saturday, Sunday, or legal holiday on which banks are authorized or required to close in Los Angeles, California.

“**Closing**” has the meaning set forth in Section 4 of this Agreement.

“**Closing Date**” has the meaning set forth in Section 4 of this Agreement.

“**Code**” means the Internal Revenue Code of 1986, as amended, and any corresponding provision or provisions of prior or succeeding law.

“**Default Rate**” means a rate equal to five percent (5%) per annum above the Interest Rate or the maximum amount allowed by law, whichever is less.

“**Guarantor**” means The Golden Charter Academy

“**Event of Default**” has the meanings set forth in Section 13 of this Agreement.

“**Improvements**” means any and all improvements, structures, or buildings, and all replacements and alterations thereof or thereto, whether now or hereafter located upon the Property, including all plant equipment, apparatus, machinery, and fixtures of every kind and nature whatsoever forming a part of such improvements, structures, or buildings.

“**Interest Holdback**” has the meaning set forth in Section 7(i) of this Agreement.

“**Interest Rate**” means an annual rate equal to two percent (2%) of the outstanding Loan balance.

“**Lender Expenses**” means, collectively, all costs and expenses incurred by or on behalf of Lender on account of or in connection with the administration and collection of the Loan and Loan Documents and/or the operation, oversight, and management of the investment and business activities of the Lender in connection with the Loan.

“**Loan Proceeds**” means the proceeds of the Loan.

“**Maturity Date**” means, December 20, 2024.

“**Person**” means any individual, general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, foreign trust or foreign business

organization, and the heirs, executors, administrators, legal representatives, successors, and assigns of such Person where the context so permits.

“**Project**” has the meaning set forth in the Recitals to this Agreement.

“**Project Management Agreement**” has the meaning set forth in the Recitals to this Agreement.

“**Title Company**” means Fidelity National Title

“**Title Insurance Policy**” means ALTA lender’s extended coverage policy of title insurance issued by a title insurance company acceptable to Lender in the full amount of the Loan insuring that the Deed of Trust, as of the Closing Date, is a valid first priority lien on the fee simple interest in the Property, including such other items or endorsements as may be approved or requested by Lender in writing.

2. **Incorporation of Recitals.** The foregoing Recitals are hereby incorporated into and made a part of this Agreement.

3. **Conditions Precedent.** The making of the Loan to Borrower as of the date hereof shall be contingent on satisfaction of each of the following conditions precedent:

(a) **No Condemnation.** No proceedings to condemn any part of the Property shall have been threatened or commenced by any authority having the power of eminent domain.

(b) **Satisfaction of PSA Borrower Obligations.** Lender has received confirmation from Seller, the Title Company and Escrow, satisfactory to Lender in its sole discretion, that Borrower, as Buyer, has satisfied all of its requirements and obligations under the PSA, and that Seller, Buyer, Escrow and the Title Company are each ready to imminently close the related acquisition transaction for the Property.

(c) **Lender’s Title Policy.** Lender has received confirmation from the Title Company that it will issue the Title Insurance Policy substantially in the form attached hereto as Exhibit B.

(d) **Project Timeline.** Lender’s determination of the Project timeline, including but not limited to the timeline for major construction timeline milestones.

(e) **Required Borrower Acquisition Equity.** Prior to the Closing Date, Borrower has provided Lender with evidence satisfactory to Lender that it has wired to Escrow and Escrow has received, inclusive of all prior Buyer funds released in accordance with the PSA, not less than TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) to apply towards Borrower’s acquisition of the Property (the “**Required Borrower Acquisition Equity**”).

(f) **Loan Fees and Transaction Expenses.** On the Closing Date Borrower has provided Lender with evidence satisfactory to Lender that it has wired to Escrow and Escrow has received, (A) an origination fee equal to one percent (0.5%) of the Loan, totaling an amount of Five Thousand and No/100 Dollars (\$5,000.00) to the Lender; (B) an amount equal to all Lender Expenses through the Closing Date; and (C) an amount equal to all of Buyer’s closing costs related the acquisition of the Property pursuant to the PSA.

(g) **Closing Conditions.** Borrower’s satisfaction of all other applicable closing terms and conditions set forth in this Agreement, as determined by Lender in its reasonable discretion.

4. **Closing Date.** The closing of the Loan (the “Closing”) shall occur on December 20, 2022 (the “Closing Date”).

5. **Closing Documents.** On or prior to the Closing Date, Borrower shall deliver to Lender an original of each of the following documents, all executed in the manner indicated therein, and all in form and substance acceptable to Lender in its sole discretion:

- (a) Note;
- (b) Loan Agreement;
- (c) Deed of Trust;
- (d) Guaranty;
- (e) Environmental Indemnification and Release Agreement;
- (f) Certificate of Borrower Resolution;
- (g) Borrower’s General Certificate and Agreement; and
- (h) Such other documents as Lender may reasonably require.

6. **Other Materials.** Not later than three (3) Business Days prior to the Closing Date, Borrower, at its sole cost and expense, shall deliver or cause to be delivered to Lender the following documents and other materials, in form and substance satisfactory to Lender:

- (a) Record Searches. *Reserved.*
- (b) Survey. *Reserved.*
- (c) Organizational Documents. Copies of the following:

(i) Incorporation. For Borrower, Articles of Organization or equivalent document, certified by the California Secretary of State and certified as current by an authorized officer as of a date within thirty (30) calendar days prior to the Closing Date; and for Guarantor, Articles of Incorporation or equivalent document, certified by the California Secretary of State and certified as current by an authorized officer as of a date within thirty (30) calendar days prior to the Closing Date;

(ii) Good Standing. Certificate of Good Standing or equivalent document for Guarantor, certified by the California Secretary of State as of a date within thirty (30) calendar days prior to the Closing Date;

(iii) Resolution. Transaction resolution, certified by an authorized officer as of a date within thirty (30) days prior to the Closing Date, authorizing the transactions contemplated by this Agreement;

(iv) Certification. Borrower certificate indicating the validity of each of the forgoing Organizational Documents as well as those officers who are authorized to execute and deliver the applicable documents required hereunder, certified by an authorized officer as of a date within thirty (30) days prior to the Closing Date; and

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(v) Other. Such other organizational documents as may be reasonably required by Lender.

(d) Insurance Policies. The Title Insurance Policy and prepaid policies for Borrower, property damage insurance, workers' compensation insurance, property manager's insurance or fidelity bond, if applicable, and such other insurance coverage as Lender may reasonably require, all of which insurance policies except workers' compensation insurance and excess liability coverage shall name the Lender as loss payee or additional insured with no other loss payees or additional insureds except as may be approved in advance by Lender, and shall otherwise be in form, amount and content and with companies reasonably satisfactory to Lender. Without limiting the foregoing, the Borrower shall provide policies of insurance satisfying the requirements set forth in this Agreement.

(e) Environmental Report. A copy of that certain Phase I Environmental Site Assessment for the Property, dated and prepared by ALTA Environmental (the "**Environmental Report**") indicating that the Property is free of any hazardous materials and not otherwise subject to any environmental claims, together with a reliance letter in form and substance reasonably acceptable to Lender.

(f) Zoning Compliance, Availability of Utilities, Permits. ~~Reserved. Borrower shall have furnished to Lender satisfactory evidence of: (i) permitted zoning of the Property for the contemplated use of the Property following completion of construction, and compliance with all applicable zoning laws, ordinances, codes, rules and regulations beyond any possible appeal period and without the need for any special exceptions or approvals by any zoning or other board or body.~~

7. Terms and Conditions of the Loan. The Loan shall be subject to the following terms and conditions:

(a) Loan Construction and Security. The Loan shall be evidenced by the Note, this Agreement, secured against the Property by the Deed of Trust and further secured by a Repayment Guaranty provided by Guarantor.

(b) Loan Amount. The Loan shall be in an aggregate principal amount of One Million and No/100 Dollars (\$1,000,000.00).

(c) Disbursements. Lender shall disburse all Loan Proceeds on the Closing Date to facilitate Borrower's the acquisition of the Property.

(d) Purpose and Documents Evidencing Loan.

(i) Purpose of Loan. In accordance with this Agreement, the Loan Proceeds shall be used solely to (A) finance and/or reimburse the hard and soft costs incurred and to be incurred in connection with the predevelopment and construction of the Project, (B) pay Loan transaction costs and fees approved by the Lender or as otherwise set forth in this Agreement or in the other Loan Documents, and (C) to provide financing to the Borrower following completion of construction until such time that all Indebtedness is repaid or the Maturity Date, whichever is earlier. Borrower agrees that the Loan Proceeds without the contribution of the Borrower Equity Funds and additional capital are not sufficient to complete the Project.

(ii) Loan Documents. The Loan shall be evidenced by and the following documents:

(A) Note;

- (B) Loan Agreement;
- (C) Deed of Trust;
- (D) Guaranty;
- (E) Environmental Indemnification and Release Agreement;
- (F) Certificate of Borrower Resolution;
- (G) Borrower's General Certificate and Agreement; and
- (H) such other documents as Lender may reasonably require.

Borrower shall be responsible for paying all obligations related to the filing of the instruments to secure the Loan.

(e) Interest and Payments.

(i) Interest shall accrue on the Note at the Interest Rate on the outstanding principal balance of the Note; provided, however, if any payment of principal or interest due thereunder is not received by Lender within five calendar (5) days when due, including, but not limited to, when due upon acceleration, Borrower immediately shall pay to Lender a late charge equal to five percent (5%) of such overdue amount and the aggregate unpaid amount shall bear interest from the due date until paid at the Default Rate. To the extent that an Event of Default continues and there is an interest rate adjustment that would have applied had there been no Event of Default, the increase of five percent (5%) shall apply and accrue (if unpaid) until either the outstanding balance of the Loan, together with all interest accrued thereon, is paid in full or until the Event of Default is cured. Interest shall at all times be payable in arrears. Lender will calculate interest on the basis of a 360-day year consisting of twelve (12) thirty (30)-day months.

(ii) From the Closing Date through the Maturity Date, Borrower unconditionally promises to pay Lender:

(A) Interest-only monthly installments on the outstanding principal balance of the Loan, due on the first (1st) day of the first month following the Closing Date and continuing on the first day of each succeeding month thereafter; provided, however, that the first such installment of interest shall also include interest accruing from the Closing Date through and including the last day of the month in which the Closing Date occurs; and

(iii) All payments shall be applied first to late charges and other costs and fees payable hereunder, if any, then to accrued and unpaid interest and then in reduction of the principal amount of the Loan.

(iv) All principal and interest shall be payable in lawful money of the United States of America. Payment shall be deemed made at the time Lender receives such payment.

(f) Prepayment. The Loan may be prepaid in whole or in part, without prepayment penalty or charge. Any partial prepayments shall not relieve Borrower of the obligation to pay periodic installments of principal and/or interest as and when the same would otherwise fall due. Any Loan amounts repaid or prepaid may not be re-borrowed.

Commented [MBR1]: Will Golden be using an interest reserve?

(g) Interest Holdback.

(i) On the Closing Date, \$_____ of the Loan Proceeds shall be held from disbursement (the “**Interest Holdback**”) subject to the provisions of this Section 7(i). Interest shall not accrue on the Interest Holdback until such time as any portions thereof are applied or advanced by Lender as provided below. The amount of the Interest Holdback is that amount which Lender reasonably believes it enough to pay all interest due under the Loan from the Closing Date through the Term Loan Conversion Date.

(ii) Lender shall apply the Interest Holdback to monthly interest due under the Note and pursuant to Section 7(f) from the Closing Date through the Term Loan Conversion Date or the depletion of the Interest Holdback, whichever is earlier; provided, however, Lender shall not be required to apply the Interest Holdback if there is any outstanding Event of Default.

(iii) Notwithstanding anything to the contrary in this Section 7(i) or elsewhere in this Agreement, upon any Event of Default, Lender may in its sole and absolute discretion use the Interest Holdback (or any portion thereof) for any purpose relating to the Loan, including but not limited to (i) repayment of any of the Indebtedness; provided, however, that such application of funds shall not cure or be deemed to cure any Event of Default; (ii) reimbursement of Lender for all losses and Lender Expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; or (iii) payment of any amount expended in exercising all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents.

(iv) Upon depletion of the Interest Holdback, Borrower shall timely pay all outstanding, remaining and future obligations pursuant to and in accordance with the Note and all other Loan Documents as they become due and payable.]

8. **Affirmative Covenants.** To help assure payment of the amounts due under the Loan, Borrower and Guarantor, as applicable, covenants and agrees as follows:

(a) **Environmental Barriers.** Borrower shall comply with the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and similar state and local laws and implementing regulations and rules, all as they may be amended and supplemented from time to time.

(b) **Lead-Based Paint.** Borrower shall comply with the provisions of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and implementing regulations (24 CFR Part 35) and rules, all as they may be amended and supplemented from time to time. Borrower shall also engage a licensed certified lead abatement contractor prior to any renovation or demolition work with the potential to disturb lead-containing paint.

(c) **Financial Covenants.** Borrower and Guarantor, as applicable, shall maintain or cause to be maintained the following covenants and ratios (the “**Financial Covenants**”), compliance with which shall be tested on an annual basis based on Borrower and Guarantor’s audited annual financial statements, at the end of each fiscal year beginning at the end of each party’s 2022 fiscal year:

(i) Guarantor shall be required to maintain a minimum Quick Ratio of not less than 1.00:1.00. For purposes hereof, the Guarantor’s “Quick Ratio” shall be determined by dividing (A) the sum of its cash, cash equivalents, marketable securities and accounts receivable, by (B) the sum of all of its current Liabilities. “Liabilities” shall mean liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise.

(ii) Borrower and Guarantor shall be required to maintain a minimum Current Ratio of not less than 1.05:1.00. For purposes hereof, the Guarantor's "Current Ratio" shall be determined by dividing (A) the sum of all of its current assets, by (B) the sum of all of its current liabilities.

(iii) Guarantor shall be required to maintain a positive net cash flow at the end of each fiscal year.

(iv) Guarantor's ratio of total debt to net assets shall not exceed 3.5:1

(v) Guarantor shall be required to maintain a minimum Debt Service Coverage Ratio of not less than 1.1 to 1.00 for all Project Debt. For the purposes hereof, the Guarantor's "Debt Service Coverage Ratio" shall be determined by dividing Guarantor's net operating income (defined as net income plus depreciation, amortization and interest) by all Project-related debt.

(vi) All computations of the covenants and ratios specified herein shall be certified by Borrower as being true and correct, calculated in accordance with GAAP, consistently applied and measured at the end of each of Borrower's fiscal years, respectively, which such certification will be included in an annual certificate of performance in form and content acceptable to Lender. Lender reserves the right, in its sole discretion, and at Borrower's expense, to perform an audit of the foregoing Financial Covenants, and Borrower shall cooperate with such audit.

(d) Existence. Borrower and Guarantor shall each preserve, renew, and keep in full force and effect its corporate existence, privileges, licenses, permits, franchises and insurance coverage; comply with all laws and regulations applicable to it; and obtain and maintain in full force and effect all authorizations, consents, approvals, exemptions, franchises, permits, and licenses of, and filings with, governments or governmental or administrative bodies or agencies necessary to maintain the existence of the School and its approved and authorized charter and for the performance of any act, the carrying on of any activity, or the entering into of any transaction by the Borrower or Guarantor.

(e) Filings. Borrower and Guarantor shall file or cause to be filed all Federal, state, and local tax or information returns required to be filed by it, and pay and discharge or cause to be paid and discharged promptly any taxes, assessments, and governmental charges or levies imposed upon them or upon their income or profits, or upon any of its property or upon any part thereof, before the same shall become in default, as well as all lawful claims for labor, materials and supplies, or otherwise which, if unpaid, might become a lien or charge upon its property, or any part thereof.

(f) Cooperation. Borrower and Guarantor shall cooperate fully with Lender's advisors and shall grant Lender and its representatives and advisors reasonable access to the personnel, books and records of Borrower relating to the Project and the Property and shall permit Lender, to inspect the Property at any time and from time to time upon reasonable prior notice, to the extent permitted by law.

(g) Use of Proceeds. Borrower shall utilize the Loan Proceeds only for the purposes specified in Section 7(d)(i) of this Agreement.

(h) Management. Borrower shall notify Lender in writing of any change in Borrower's or Guarantor's officers, board of directors, or board of trustees, as applicable, and/or Borrower's senior management, within ten (10) calendar days of any such change. For purposes hereof, "senior management" includes, without limitation, the positions of Executive Director, President, Chief Executive Officer, Chief Financial Officer, and Chief Operating Officer, Principal, Vice Principal.

(i) **UCC Filings.** Borrower and Guarantor each hereby irrevocably authorizes Lender at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that contain any other information required by part 5 of Division 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment. Borrower and Guarantor each also ratifies its authorization for Lender to have filed in any Uniform Commercial Code jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

(j) **Organizational Change.** Borrower shall not reorganize itself under the laws of any jurisdiction other than the jurisdiction in which it is incorporated as of the date hereof without the prior written consent of Lender.

(k) **Tax Status.** Borrower shall maintain its status as a disregarded entity of a tax-exempt nonprofit organization under Section 501(c)(3) of the Code.

(l) **Additional Debt.** Borrower shall provide notice to Lender in each instance, before it shall (i) create, incur, assume or suffer to exist any indebtedness, or in any manner become liable directly or indirectly with respect to any indebtedness, except for amounts owing to Lender; (ii) enter into any commitments for money to be borrowed; or (iii) guarantee or become obligated to pay the obligations of any other person, whether direct or indirect.

9. **Negative Covenants.** Without Lender's prior written consent (which may be given or withheld in Lender's sole and absolute discretion), neither Borrower nor Guarantor shall:

(a) **Transfers.** Convey, transfer or encumber, or permit the conveyance, transfer or encumbrance of, any part of the Property, except as may be required to secure tax-exempt bonding financing, to be used to repay all then outstanding Indebtedness and related costs, expenses and fees.

(b) **Dissolution.** Liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution).

(c) **Control of Borrower.** Suffer or permit (i) any sale, assignment, or other change or transfer of legal or equitable control of Borrower, or (ii) the issuance, sale, merger, consolidation, transfer, pledge, assignment, or disposition of any ownership interest in Borrower.

10. **Project Management.** Borrower acknowledges and agrees that project management services shall be provided by Lender pursuant to the terms of the Project Management Agreement. Notwithstanding any terms in the Project Management Agreement, this Agreement or any Loan Document to the contrary, (a) Lender's obligations, liabilities and responsibility for project management are as set forth and limited in that Project Management Agreement, as modified or amended from time to time, and in no event shall the Lender be deemed to have assumed, and Borrower hereby waives and releases Lender from, any additional obligation or liability under this Agreement or any Loan Document for any action undertaken by the Lender in its capacity as project manager pursuant to the Project Management Agreement, and (b) Lender's obligations, liabilities and responsibility as a Lender are as forth and limited in this Agreement and the Loan Documents, and in no event shall the Lender be deemed to have assumed, and Borrower hereby waives and releases Lender from, any additional obligation or liability under the Project Management Agreement for any action undertaken by the Lender in its capacity as lender pursuant to this Agreement or any other of the Loan Documents.

11. **Conflicts.** Borrower further agrees that no person who is an employee, agent, consultant, officer or elected or appointed official of Borrower shall obtain a financial interest or benefit from a Loan-

assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for such person or for any other person with whom such person has a family or business relationship; and (b) in addition to and not in limitation of clause (a) above, no person who is an employee, agent, consultant, officer or elected or appointed official of Borrower and who exercises or has exercised any functions or responsibilities with respect to activities assisted with Loan Proceeds, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, shall obtain a financial interest or benefit from a Loan-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for such person or for any other person with whom such person has a family or business relationship. Borrower shall take all reasonable steps to ensure that the provisions of this Section 11 are adhered to and observed.

12. **Records and Reports.**

(a) **Audits.** The Property and the equipment, buildings, plans, specifications, offices, apparatus, devices, books of account, contracts, records, documents and other papers relating thereto which are owned or leased by Borrower, as the case may be, and the records and books of account relating to and owned by Borrower or Guarantor shall at all times be maintained in reasonable condition for proper audit, and shall be subject to examination, inspection and copying by Lender and its agents, accountants, attorneys and representatives, at any time as Lender reasonably requires, to the extent permitted by law, and Borrower and Guarantor shall permit Lender and its agents, accountants, attorneys and representatives to discuss Borrower, the School or Guarantor's affairs, finances and accounts with Borrower, to the extent permitted by law. Lender shall have the right to share any information obtained thereby with others in the ongoing course of its ownership or sale, if any, of the Loan, or any interest therein.

(b) **Financial Reports.** Borrower shall at its own cost and expense, deliver to Lender in form and content satisfactory to the Lender each of the following:

(i) **Quarterly Financial Statements.** As soon as available, but in no event later than forty-five (45) days after the end of each quarter of each fiscal year commencing with the July 1, 2022 fiscal year, Borrower shall deliver financial statements on a consolidated basis and a stand-alone basis for the School to Lender, including a balance sheet, statement of profit and loss and cash flow statement, for the prior quarter then ended;

(ii) **Audited Annual Financial Statements.** As soon as available, but in no event later than one hundred eighty (180) days after the end of each fiscal year in which any amount of the Loan is outstanding to Borrower, Borrower shall provide a balance sheet on a consolidated basis and a stand-alone basis for the School as of the end of such fiscal year, and the related statements of income and expenses and changes in financial position, which shall be in reasonable detail, and shall be certified by independent certified public accountants selected by the Borrower and approved by Lender, such approval not to be unreasonably withheld, and shall be accompanied by an opinion of such independent certified public accountants, which opinion shall state that such financial statements fairly present the financial position of the School and Borrower, as applicable, for the period then ended and have been prepared in accordance with generally-accepted accounting principles consistently applied, and that the examination by such accountants has been made in accordance with generally-accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances.

(iii) **Attendance Reporting.** Within thirty (30) days of fiscal year end, Borrower shall provide copies of the School's P-1, P-2 and P-Final reports as submitted to the California Department of Education describing its historical school attendance.

(iv) Annual Fundraising and Repayment Plan. As soon as available, but in no event later than forty-five (45) days after the end of each fiscal year in which any amount of the Loan is outstanding to Borrower, Borrower shall provide an updated fundraising and Loan repayment plan that will demonstrate full Loan repayment on or prior to the Maturity Date.

(v) Other Information. Such other financial information with respect to Borrower, the School, Guarantor or the Property as Lender may reasonably request from time to time.

13. **Events of Default**. Each of the following shall constitute an “**Event of Default**” with respect to the Loan, as indicated below:

(a) Certain Defaults. If (i) a default occurs in any payment when due of any principal, interest or any other sum due under the Note, any other Loan Document, whether due at the Maturity Date, by reason of acceleration or otherwise, (ii) a default occurs in the due observance or performance of any covenant or agreement on the part of Borrower or Guarantor contained in any Loan Document, or (iii) any warranty or representation made in any Loan Document is determined to have been false or misleading when made;

(b) Notices. If Borrower fails to do any of the following:

(i) to give Lender prompt notice of:

(A) Any proceeding instituted or threatened against the Borrower in or before any court or any governmental or administrative body or agency, which proceeding could have a material adverse effect upon the operations of Borrower or the operations, assets, or properties of Borrower or any investigation, adverse regulatory action, or proposed action by any governmental body or agency against the Borrower;

(B) Any change in circumstances that would cause the Loan no longer to serve the purposes stated in Section 7(e)(i);

(C) Any threatened termination, revocation, suspension, or denial of or challenge to either the tax-exempt status or nonprofit corporate status of Guarantor or Borrower by any governmental authority;

(D) Any Event of Default or other event that, with notice or lapse of time or both, would constitute an Event of Default; or

(E) Any change to Borrower’s status as disregarded entity of an exempt organization under Section 501(c)(3) of the Code.

(c) *Reserved*

(d) Court Appointment. If by the order of a court of competent jurisdiction, a trustee, receiver or liquidator of any collateral or any part thereof or interest therein, of Guarantor or of Borrower, shall be appointed;

(e) Insolvency. If Borrower or Guarantor shall file a petition in bankruptcy or for an arrangement or reorganization pursuant to the Federal Bankruptcy Code or any similar law, federal or state, or if, by decree of a court of competent jurisdiction, Borrower shall be adjudicated bankrupt, or be declared insolvent, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to

pay its debts generally as they become due, or shall consent to the appointment of a receiver or receivers of any security property or any part hereof or interest therein;

(f) Creditor Action. If any creditor of Borrower or Guarantor shall file a petition in bankruptcy against, or for reorganization of, Borrower pursuant to the Federal Bankruptcy Code or any similar law, federal or state;

(g) Judgment. If final judgment for the payment of money of \$250,000 or more shall be rendered against Borrower or Guarantor and it shall not discharge or bond the same or cause it to be discharged or bonded, or shall not appeal therefrom or from the order, decree or process upon which or pursuant to which said judgment was granted, based or entered, and secure a stay of execution pending such appeal.

(h) Default under Other Material Agreements. If a default occurs under the Project Management Agreement or any material agreement affecting the financial condition of Borrower; specifically, including, but not limited to, all covenants, certificates and agreements entered into by Borrower, Guarantor, or the School in connection with or relation to this Loan;

(i) Adverse Proceedings. Existence or change in status of any pending litigation or administrative proceedings or investigations against or affecting Borrower or Guarantor, which, if determined adversely to such party, would have a materially adverse effect upon the Borrower or the Project;

(j) Financial Condition.

(i) Material adverse change in the financial condition of Borrower or Guarantor; or

(ii) If Lender in its good faith believes the prospect of payment of the Note is substantially impaired due to acts or events bearing upon the financial condition or results of operations of the Borrower;

(k) Funding Status. Non-receipt of any state or federal funding committed for the School or Guarantor, as reflected in any financial statement provided by or on behalf of Borrower or Guarantor to Lender, likely to have a materially adverse effect on the Project or on Borrower's compliance with any financial covenants in the Loan Documents;

(l) School Charter. Any governmental or regulatory entity revokes, repeals, or amends the charter for the School; provided, however, any such amendment which does not impair the School's ability to continue in the ordinary course of the business or the Borrower's ability to perform its obligations under the Loan Documents will not constitute an Event of Default.

14. **Remedies**. Upon the occurrence of an Event of Default, Lender shall have the remedies described below, as applicable, and those remedies available under the terms of the other Loan Documents:

(a) Acceleration. Without notice or demand, declare the entire unpaid principal amount of the Note, together with any interest accrued thereon, immediately due and payable and proceed with any rights and remedies set forth in the Note, and/or one or more other Loan Documents or any combination thereof.

(b) Judicial Relief. Lender may proceed by suit or suits, at law or in equity, to enforce the payment of the Indebtedness. This remedy shall be cumulative of any other remedies available to the Lender under this Agreement or the other Loan Documents. Proceeding with a request or receiving a judgment for legal relief shall not be or be deemed to be an election of remedies or bar any available remedy of the Lender.

(c) Lender Cure. Use and apply any monies deposited by Borrower with Lender, regardless of the purpose for which the same were deposited, to cure any such Event of Default or to repay any indebtedness under the Loan Documents which is due and owing to Lender, and otherwise take such actions as Lender determines to be necessary or appropriate in order to cure any other Event of Default pursuant to the rights and powers afforded to Lender under the provisions of any of the Loan Documents, or by applicable law.

(d) UCC Rights of Enforcement. Lender may exercise its rights of enforcement under the Uniform Commercial Code.

(e) Other. Exercise such other rights or remedies as may be available to Lender hereunder, at law or in equity.

(f) No Stay; Exemption/Moratorium. Except as set forth below, Borrower shall not at any time insist upon, plead or in any manner whatsoever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of pledged security, if any, wherever enacted, whether now or at any time hereafter in force, which may affect the covenants and terms of performance of this Agreement, nor claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the pledged security, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction, and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Lender, and shall suffer and permit the execution of every power as though no such law or laws had been made or enacted. Borrower for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the pledged security or any part thereof marshalled upon any foreclosure hereof.

(g) Cumulative Remedies. No remedy conferred herein or in any other Loan Document upon or reserved to Lender is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity or by statute. No delay or omission of Lender in exercising any right or power accruing upon any Event of Default shall impair any such rights or power, or shall be construed to be a waiver of any such Event of Default or any acquiescence therein; and every power and remedy given by this Agreement to Lender may be exercised from time to time as often as may be deemed expedient by Lender. Nothing in this Agreement or in the Notes shall affect the obligation of the Borrower to pay the principal of, and interest on, the Note in the manner and at the time and place therein respectively expressed.

(h) Default Cure Period. Except for certain Events of Default described in the last sentence below, Lender shall not exercise any remedy under the Loan Documents under which a default has occurred unless such default has not been cured to the reasonable satisfaction of Lender: (i) within any applicable cure period specified in the Loan Documents, or, otherwise, (ii) within twenty (20) days after Borrower has knowledge of the occurrence of the default if no cure period is specified in the Loan Documents. This Section 14(j) shall not apply to any of the Events of Default described in any of Sections 14(d), (e) or (f) of this Agreement, for which there shall be no cure period.

15. *Reserved*

16. **Insurance.**

(a) Borrower shall, at its expense, provide or cause to be provided at all times during the Loan term the following policies of insurance:

(i) Commercial general liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. Such coverage shall include but shall not be limited to broad form contractual liability, products and completed operations liability, independent contractor's liability, and cross liability protection.

(ii) Workers' compensation insurance as required by the California Labor Code and employer's liability insurance in an amount of not less than \$1,000,000 per accident or occupational illness and \$1,000,000 in aggregate..

(iii) Professional liability insurance coverage of at least \$2,000,000 for each claim, incident, or occurrence, and at least \$2,000,000 annual aggregate coverage.

(iv) Property insurance insuring against and covering (i) the building and all other improvements in, on, or to the Property (including, but not limited to, fixtures and improvements that may be made by or on behalf of Borrower), and (ii) trade fixtures, merchandise, and other personal property from time to time in, on, or upon the Property. Such policies shall include coverage in an amount not less than the greater of (i) the value of the Loan and (ii) one hundred percent (100%) of the actual replacement cost of the insured property from time to time during the term of this Agreement.

(b) The following insurance endorsements shall be required:

(i) **Additional Insured.** On Borrower's Property, Builder's Risk and CGL insurance policies Lender, its Board of Directors, and its officers, employees, and agents shall be named as additional insureds. **The policies must be endorsed to provide that any failure to comply with the reporting provisions of the policy shall not affect coverage to Lender, its Board of Directors, or its officers, employees, or agents. The CGL additional insured endorsement must provide additional insured status until all Indebtedness is repaid in full.**

(ii) **Cancellation.** On each of Borrower's insurance policies it shall obtain an endorsement which provides that Lender is entitled to 30 days prior written notice of cancellation or nonrenewal of the policy, or reduction in coverage, by certified mail, return receipt requested; if Borrower's insurance company does not provide this notice, Borrower shall provide Lender with copies of any written notice of cancellation within two (2) business days of receipt thereof.

(iii) **Primary.** On each of Borrower's insurance policies it shall obtain an endorsement which provides that the insurance afforded by the respective policy is primary to any insurance or self-insurance of Lender, its Board of Directors, officers, directors, employees, or agents with respect to operations of the insured. Any insurance maintained by the Lender, its Board of Directors or its officers, employees, or agents shall be in excess of the Borrower's insurance and shall not contribute to it.

(iv) **Waiver of Subrogation.** On each of Borrower's insurance policies it shall obtain an endorsement which provides that the insurer will waive its right of subrogation against Lender, its Board of Directors and its officers, directors, employees and agents with respect to any losses paid under

Commented [SJK2]: Is this provided by insurance companies?

Commented [MBR3R2]: Golden will need to check with their insurance provider. This issue has never been raised by other clients.

the terms of the respective policy which arise from work performed by Borrower in relation to this Agreement.

(v) Severability of Interest. On each of Borrower's insurance policies it shall obtain an endorsement which provides that the Borrower's insurance shall apply separately to Lender, its Board of Directors, officers, employees, and agents against whom a claim is made or suit is brought, except with respect to the limits of Borrower's liability.

(c) Borrower shall pay or cause to be paid as and when the same become due and payable the premiums for all insurance policies that Borrower is required to maintain hereunder. All such policies shall be non-assessable and shall contain such expiration dates as Lender may reasonably require. Borrower shall deliver to Lender concurrently herewith insurance certificates setting forth in reasonable detail the terms of all insurance policies that Borrower is required to maintain hereunder, together with true and complete copies of such policies. Borrower shall deliver to Lender, concurrently with each change in or renewal of any such insurance policy, a certificate with respect to such changed insurance policy certified by the insurance broker that procured or placed such policies, in the same form and containing the same information as the initial certificates required to be delivered by Borrower pursuant to this subparagraph and a certificate of Borrower certifying that all of the insurance policies maintained by Borrower pursuant hereto comply in all respects with the requirements of this Agreement, that all premiums then due thereon have been paid to the applicable insurers and that the same are in full force and effect.

(d) All insurers shall be authorized to issue insurance in the jurisdiction in which the Property is located and all insurers and reinsurers shall have the A.M. Best rating of "A-V" or better or otherwise be issued through CharterSAFE, a joint powers authority.

(e) In the event of a casualty loss:

(i) Borrower shall give immediate written notice to the insurance carrier and to Lender. If at any time during the occurrence or existence of a casualty loss an Event of Default shall exist and be continuing hereunder, Borrower hereby agrees that it authorizes and appoints, without any further action required, Lender as attorney in fact for Borrower to make proof of loss, to adjust and compromise any claims under policies of property damage insurance, to appear in and prosecute any action arising from such property damage insurance policies, to collect and receive the proceeds of property damage insurance, and to deduct from such proceeds Lender Expenses incurred in the collection of such proceeds. This power of attorney shall be coupled with an interest and therefore is irrevocable. However, nothing contained in this Section shall require Lender to incur any expense or take any action. Lender may, at its sole option, (A) hold the balance of such proceeds to be used to reimburse Borrower for the cost of restoring and repairing the Property to the equivalent of its original condition or to a condition approved by Lender (the "**Restoration**"), or (B) apply the balance of such proceeds to the payment of the Indebtedness, whether or not then due. To the extent Lender determines to apply insurance proceeds to Restoration, Lender shall do so in accordance with Lender's then-current policies relating to the restoration of casualty damage on similar properties.

(ii) Lender shall not exercise its option to apply insurance proceeds to the payment of the Indebtedness if all of the following conditions are met: (A) no Event of Default (or any event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing; (B) Lender determines, in its reasonable discretion, that there will be sufficient funds to complete the Restoration; (D) Borrower continues to satisfy the Financial Covenants required under this Agreement.

(f) Borrower shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Agreement unless Lender has approved the insurance company and the form and content of the insurance policy, including, without limitation, the naming thereon of Lender as a named insured. Borrower shall immediately notify Lender whenever any such separate insurance is taken out and shall promptly deliver to Lender the policy or policies or certificates of such insurance.

(g) During the continuation of an Event of Default, Lender may require that (i) Borrower deposit with Lender one-twelfth (1/12) of the annual premiums for insurance required under this Agreement, and Borrower shall accordingly make such deposits, and (ii) Borrower also deposit with Lender a sum of money which, together with the aforesaid monthly installments, will be sufficient to pay the insurance premiums for such insurance at least thirty (30) days before such payments are first due. If the amount of any such insurance premiums are not ascertainable at the time any such deposit is required to be made, the deposit shall be made on the basis of Lender's estimate thereof, and when such insurance premiums are fixed for the then-current year, Borrower shall promptly deposit any deficiency with the Lender.

All funds so deposited, until so applied, shall be held by the Lender without interest (except to the extent required under applicable laws), and may be commingled with other funds of the Lender so long as an Event of Default shall exist and be continuing hereunder; *provided* that if Borrower shall have supplied, in the manner set forth in the next sentence, the instructions, information and documents necessary for the Lender to make an effective application and payment of such funds, all funds so deposited shall be applied to the payment of insurance premiums in the order determined by Lender and in accordance with instructions to be furnished to Lender by Borrower. Borrower shall, at least thirty (30) days before the date on which any such insurance premiums first become payable, furnish the Lender with bills and instructions for the payment of such insurance premiums and/or such other documents as are necessary for the payment of the same. If Borrower has not complied with any of the foregoing, Lender may apply funds so deposited or deduct from the outstanding balance of the Loan in the order determined by Lender.

Upon any assignment of this Agreement by Lender, Lender shall have the right to pay over the unapplied balance of any amounts deposited pursuant to this Section, if any, to the assignee (or to a successor depository designated by such assignee) with an agreement to use the amounts transferred for the purposes required by this Section, and Lender shall thereupon be completely released from all liability with respect thereto. This provision shall apply to every transfer of such deposits to a new assignee (or a successor depository). When the Loan has been paid in full and all other obligations of Borrower under the Loan Documents have been performed and observed in full, Lender shall, and at any prior time Lender at its election may, pay over the unapplied balance of the deposits, if any, to the Borrower property or its designee and no other person shall have any right or claim thereto.

17. **No Personal Liability.** No member, officer, agent or employee of Lender, or its successors and assignees, shall be liable personally concerning any matters arising out of or in connection with the undertakings or obligations set forth in this Agreement.

18. **Entire Agreement; Amendment.** This Agreement and the other Loan Documents contain the entire agreement of the parties hereto with respect to the transactions contemplated hereby. This Agreement shall not be altered or amended without the prior written approval of all parties hereto.

19. **Notices.** Any notice, demand, request or other communication that any party may desire or may be required to give to any other party hereunder or under any Loan Document shall be given in writing, at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic

communication, whether by email or telecopier, together with confirmation of transmission; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested.

If to Borrower: _____

If to Lender: Pacific Charter School Development, Inc.
Attn: CEO, CFO or General Counsel
600 Wilshire Blvd., Suite 200
Los Angeles, CA 90210
Email: john@pacificcharter.org

Such addresses may be changed by notice to the other parties given in the same manner as herein provided. Any notice, demand, request or other communication sent pursuant to either subsection (a) or (b) above shall be served and effective upon such personal service or upon confirmation of transmission by such electronic means, provided that any communication sent by email shall not be effective until the recipient has acknowledged receipt of the substantive content of the email (i.e., an automatic reply does not suffice). Any notice, demand, request or other communication sent pursuant to subsection (c) above shall be deemed served and effective one (1) Business Day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (d) above shall be deemed served and effective three (3) Business Days after proper deposit with the United States Postal Service. A failure by Lender to deliver copies of notices to any party's counsel shall not in any way impair or diminish Lender's rights and remedies under this Agreement.

20. **Successors.** This Agreement shall bind, and its benefits shall inure to, the parties hereto, their legal representatives, successors in office or interest, and assigns; provided, however, that Borrower may not assign any of its interest, rights or obligations under this Agreement without the prior written approval of an authorized officer of Lender, which may be withheld or conditioned in Lender's sole discretion.

21. **Publicity.** Lender and each of its members reserve the right to publicize this Agreement and the making of the Loan subject to the consent of Borrower, which shall not be unreasonably withheld. Borrower shall notify Lender immediately of any formal publicity in connection with the School or the Property that is arranged or promoted by Borrower or any other party in connection with either Loan or its effects on the Project, the Property or Borrower. Formal publicity includes but is not limited to participation in news conferences and media events. The use of Lender's name in any signage is subject to Lender's prior written consent.

22. **Survival.**

(a) **Obligations.** Borrower's obligations as set forth in this Agreement shall survive the Closing Date, and Borrower shall continue to cooperate with Lender and furnish any documents, materials or showings required thereafter. In the event of a conflict between the terms and provisions of this Agreement and those of the other Loan Documents, the more restrictive terms and provisions shall control. The provisions of this Agreement shall remain in effect for the period ending on the date on which all payment and other obligations of Borrower under the Loan Documents have been fully satisfied.

(b) **Representations and Warranties.** All representations and warranties made by Borrower in this Agreement and in the other Loan Documents shall survive the execution and delivery of

this Agreement and the making of the Loan hereunder until payment of the obligations and Indebtedness and shall be deemed made and reaffirmed by Borrower at the time of the making of each disbursement under the Loan, and the provisions of Section 29 hereof shall survive payment of the obligations.

23. **Construction of Agreement.**

(a) **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement, or the application thereof to any circumstance, shall, at any time or to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application thereof to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, condition and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(b) **Gender.** The use of the plural in this Agreement shall include the singular, the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

(c) **Captions.** The captions used in this Agreement are inserted only as a matter of convenience and only for reference and in no way define, limit or describe the scope or the intent of any provision of this Agreement.

24. **Counterparts.** This Agreement may be executed in counterparts, and each counterpart shall, for all purposes for which an original of this Agreement must be produced or exhibited, be the Agreement, but all such counterparts shall constitute one and the same agreement.

25. **Non-Liability of Lender.** In no event shall Lender be liable to Borrower for consequential or incidental damages, including, without limitation, lost profits, whatever the nature of the breach by Lender of its obligations under this Agreement or the Loan Documents or in connection herewith, and Borrower waives all claims for consequential and incidental damages and for all damages described in Section 26 hereof.

26. **Funding.** The parties acknowledge that the Loan is to be funded with monies provided by Lender, and that Lender is under no obligation to disburse such funds unless and until all necessary preconditions to disbursement set forth herein and in the other Loan Documents shall have been satisfied to the satisfaction of Lender, and that if all conditions precedent to funding are not satisfied, significant time delays might occur in the funding of such monies by Lender. Without limiting the generality of Section 25 of this Agreement, in no event shall Lender be liable to Borrower for any damages whatsoever which might result in whole or in part from any such delays in funding any Loan Proceeds.

27. **Indemnification of Lender.** Borrower hereby agrees to indemnify Lender and defend and save it harmless from and against any and all claims, actions, damages, costs, liabilities and expenses, including, without limitation, attorneys' fees, incurred by Lender in connection with the Property or the Project or occasioned wholly or in part by any act or omission of Borrower, its officers, directors, partners, managers, members, agents, contractors, employees or tenants, unless caused by Lender's gross negligence or willful misconduct. Without limiting the generality of the foregoing, in case Lender shall, without fault on its part, be made a party to any litigation commenced by or against Borrower, then Borrower shall protect and hold Lender harmless and shall pay all costs, expenses and attorneys' fees incurred or paid by Lender in connection with such litigation. The obligations of Borrower under this Section 27 shall survive the making and repayment of the Loan.

28. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of law. The

Lender and Borrower further agree that upon an Event of Default, this Agreement may be enforced in accordance with Section 29 and they do hereby submit to venue in Fresno County.

29. **Procedures for Judicial Reference.** In the event Borrower disputes Lender's determination that an Event of Default has occurred under Section 13 hereof (with the exception of Borrower's failure to (a) procure and maintain the insurance policies provided in Section 16 or (b) cause any lien of the character in Section 8(e) to be discharged in and when required thereunder) (each, a "Dispute"), such Dispute shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure Sections 638, et seq., as follows:

(a) The referee shall be a retired California state court judge or an attorney licensed to practice law in the State of California with at least ten (10) years' experience practicing commercial real estate law. Neither Lender nor Borrower shall seek to appoint a referee that may be disqualified pursuant to California Code of Civil Procedure Section 641 or 641.2 without the prior written consent of both Lender and Borrower.

(b) If Lender and Borrower are unable to agree upon a referee within ten (10) calendar days after Borrower serves a written notice of intent for judicial reference upon Lender, then the referee will be selected by the court in accordance with California Code of Civil Procedure Section 640(b).

(c) The referee shall conduct the proceedings in accordance with the California Code of Civil Procedure, the Rules of Court, and California Evidence Code, except as otherwise specifically agreed by the parties and approved by the referee and shall issue a reasoned written opinion reflecting the referee's findings and decision. The decision of the referee shall be entered as a judgment in the court in accordance with the provisions of California Code of Civil Procedure Sections 644 and 645. The decision of the referee shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the superior court.

(d) During the pendency of any Dispute which is submitted to judicial reference in accordance with the Note or Loan Agreement, Borrower shall bear the cost of the fees charged and costs incurred by the referee in performing the services described in this Section 29. The compensation of the referee shall not exceed the prevailing rate for like services. The prevailing party shall be entitled to reasonable court costs and legal fees, including customary attorney fees, expert witness fees, paralegal fees, the fees of the referee and other reasonable costs and disbursements charged to the prevailing party by its counsel, in such amount as is determined by the referee.

(e) NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY "DISPUTE" AS DEFINED IN THIS SECTION 29 AND ANY LENDER DISPUTE IDENTIFIED IN SECTION 29.(f) DECIDED BY A NEUTRAL PARTY AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE SUCH DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL. IF YOU REFUSE TO SUBMIT TO JUDICIAL REFERENCE AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO SUBMIT TO JUDICIAL REFERENCE UNDER THE AUTHORITY OF THE APPLICABLE PROVISIONS OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THE PROVISIONS OF THIS SECTION 29 IS VOLUNTARY.

THE UNDERSIGNED HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT ANY "DISPUTE" AS DEFINED IN THIS SECTION 29 TO A NEUTRAL DECISION MAKER.

Lender's Initials: _____

Borrower's Initials: _____

(f) Lender's Default. In the event Borrower alleges a default by Lender under the Note or this Agreement and Lender disputes Borrower's determination that such default has occurred, such dispute shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure Sections 638, et seq. and in the manner set forth in Section 29 of this Agreement.

30. **Severability.** If any provision of this Agreement shall for any reason be held to be illegal, invalid, or unenforceable, no other provision of this Agreement shall be affected thereby, but this Agreement shall be construed as if such illegal, invalid, or unenforceable provision had never been contained herein.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

LENDER

**PACIFIC CHARTER SCHOOL
DEVELOPMENT, INC.**

By: _____
Name: Scarlet Sy
Its: Chief Financial Officer

BORROWER

**GOLDEN OPPORTUNITY LEGACY
DEVELOPMENT LLC**

By: The Golden Charter Academy, its sole member
and manager

By: _____
Name: Robert D. Golden Sr.
Its: President & CEO

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EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
TITLE POLICY PRO FORMA

REPAYMENT GUARANTY

This REPAYMENT GUARANTY (“**Guaranty**”) is executed as of December 20, 2022 by **The Golden Charter Academy**, a California nonprofit public benefit corporation (“**Guarantor**”), for the benefit of **Pacific Charter School Development, Inc.**, a California nonprofit public benefit corporation, (“**Lender**”).

RECITALS

A. Pursuant to that certain Promissory Note, dated of even date herewith, executed by **[LLC NAME]**, a California limited liability company (“**Borrower**”), and payable to the order of Lender in the original principal amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) (together with all renewals, modifications, increases and extensions thereof, the “**Note**”), Borrower has become indebted, and may from time to time be further indebted, to Lender with respect to a loan (“**Loan**”) which is further evidenced, secured or governed by other instruments and documents executed in connection with the Loan (collectively, the “**Loan Documents**”).

B. The Loan is being advanced to Borrower for the purpose of providing funds to facilitate Borrower’s acquisition of certain real property commonly known as 741 W. Belmont Ave., Fresno, CA 93728-2805, upon which Guarantor intends to operate a public charter school.

C. Lender is not willing to make the Loan, or otherwise extend credit, to Borrower unless Guarantor consents to the applicable affirmative and negative covenants as set forth in the Loan Agreement and unconditionally guarantees payments, subject to the limitations set forth in this Guaranty, that may become due to Lender under each of the Guaranteed Obligations (as herein defined).

D. Guarantor will directly benefit from Lender’s making the Loan to Borrower.

NOW, THEREFORE, as an inducement to Lender to make the Loan to Borrower and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Guarantor does hereby agree as follows:

ARTICLE 1

NATURE AND SCOPE OF GUARANTY

1.1 **Repayment Guaranty.** Guarantor hereby unconditionally and irrevocably guarantees to Lender the full and punctual payment of the Loan, and unconditionally agrees to pay Lender all present and future amounts owed to Lender under each and all of the Loan Documents as and when the same shall be due and payable, whether by lapse of time, by acceleration of maturity or otherwise (the “**Guaranteed Obligations**”). The Guaranteed Obligations shall include, without limitation, any and all obligations, indebtedness, or liabilities of any kind or character owed by Borrower to Lender arising under, pursuant to or in connection with any of the Loan Documents whether for principal, interest (including any interest which, but for the application of the provisions of the United States Bankruptcy Code, would have accrued on such amounts), premium, reimbursement obligations, fees, costs, expenses (including attorneys’ fees), or indemnity obligations, whether heretofore, now, or hereafter made, incurred, or created, whether voluntarily or involuntarily made, incurred, or created, whether secured or unsecured (and if secured, regardless of the nature or extent of the security), whether absolute or contingent, liquidated or unliquidated, determined or indeterminate, whether Borrower is liable individually or jointly with others, and whether recovery is or hereafter becomes barred by any statute of limitations or

otherwise becomes unenforceable for any reason whatsoever, including any act or failure to act by Lender.

1.2 **Nature of Guaranty.** Guarantor hereby irrevocably and unconditionally covenants and agrees that it is liable for the Guaranteed Obligations as a primary obligor. This Guaranty is an irrevocable, absolute, continuing guaranty of payment and performance and not a guaranty of collection. This Guaranty may not be revoked by Guarantor and shall continue to be effective with respect to any Guaranteed Obligations arising or created after any attempted revocation by a Guarantor and after (if Guarantor is a natural person) a Guarantor's death (in which event this Guaranty shall be binding upon such Guarantor's estate and such Guarantor's legal representatives and heirs). The fact that at any time or from time to time the Guaranteed Obligations may be increased or reduced shall not release or discharge the obligation of Guarantor to Lender with respect to the Guaranteed Obligations. This Guaranty may be enforced by Lender and any subsequent holder of the Note and shall not be discharged by the assignment or negotiation of all or part of the Note.

1.3 **Guaranteed Obligations Not Reduced by Offset.** The Guaranteed Obligations and the liabilities and obligations of Guarantor to Lender hereunder, shall not be reduced, discharged or released because or by reason of any existing or future offset, claim or defense of Borrower, or any other party, against Lender or against payment of the Guaranteed Obligations, whether such offset, claim or defense arises in connection with the Guaranteed Obligations (or the transactions creating the Guaranteed Obligations) or otherwise.

1.4 **Payment By Guarantor.** If all or any part of the Guaranteed Obligations shall not be punctually paid when due, whether at demand, maturity, acceleration or otherwise, Guarantor shall, immediately upon demand by Lender, and without presentment, protest, notice of protest, notice of non-payment, notice of intention to accelerate the maturity, notice of acceleration of the maturity, or any other notice whatsoever, pay in lawful money of the United States of America, the amount due on the Guaranteed Obligations to Lender at Lender's address as set forth herein. Such demand(s) may be made at any time coincident with or after the time for payment of all or part of the Guaranteed Obligations, and may be made from time to time with respect to the same or different items of Guaranteed Obligations. Such demand shall be deemed made, given and received in accordance with the notice provisions hereof.

1.5 **No Duty To Pursue Others.** It shall not be necessary for Lender (and Guarantor hereby waives any rights which Guarantor may have to require Lender), in order to enforce the obligations of Guarantor hereunder, first to (i) institute suit or exhaust its remedies against Borrower or others liable on the Loan or the Guaranteed Obligations or any other person in accordance with the Loan Documents, (ii) enforce Lender's rights against any collateral which shall ever have been given to secure the Loan, (iii) enforce Lender's rights against any other guarantor (including, without limitation, any or all of the other entities or persons that are a Guarantor under this Guaranty) of the Guaranteed Obligations, (iv) join Borrower or any others liable on the Guaranteed Obligations in any action seeking to enforce this Guaranty, (v) exhaust any remedies available to Lender against any collateral which shall ever have been given to secure the Loan, or (vi) resort to any other means of obtaining payment of the Guaranteed Obligations. Lender shall not be required to mitigate damages or take any other action to reduce, collect or enforce the Guaranteed Obligations.

1.6 **Waivers.** Guarantor agrees to the provisions of the Loan Documents, and hereby waives notice of (i) any additional loans or advances made by Lender to Borrower, (ii) acceptance of this Guaranty, (iii) any amendment or extension of the Note or of any other Loan Documents,

(iv) the execution and delivery by Borrower and Lender of any other loan or credit agreement or of Borrower's execution and delivery of any promissory notes or other documents arising under or related to the Loan Documents (v) (vi) Lender's transfer or disposition of the Guaranteed Obligations, or any part thereof, (vii), (viii).

1.7 **Payment of Expenses.** In the event that Guarantor should breach or fail to timely perform any provisions of this Guaranty, Guarantor shall, immediately upon demand by Lender, pay Lender all costs and expenses (including court costs and attorneys' fees) incurred by Lender in the enforcement hereof or the preservation of Lender's rights hereunder. The covenant contained in this Section shall survive the payment and performance of the Guaranteed Obligations.

1.8 **Effect of Bankruptcy.** In the event that, pursuant to any insolvency, bankruptcy, reorganization, receivership or other debtor relief law, or any judgment, order or decision thereunder, Lender must rescind or restore any payment, or any part thereof, received by Lender in satisfaction of the Guaranteed Obligations, as set forth herein, any prior release or discharge from the terms of this Guaranty given to Guarantor by Lender shall be without effect, and this Guaranty shall remain in full force and effect. It is the intention of Borrower and Guarantor that Guarantor's obligations hereunder shall not be discharged except by Guarantor's performance of such obligations and then only to the extent of such performance.

1.9 **Waiver of Subrogation, Reimbursement and Contribution.** Notwithstanding anything to the contrary contained in this Guaranty, until the Guaranteed Obligations have been completed and repaid in full to Lender, Guarantor hereby unconditionally and irrevocably waives, releases and abrogates any and all rights it may now or hereafter have under any agreement, at law or in equity (including, without limitation, any law subrogating the Guarantor to the rights of Lender), to assert any claim against or seek contribution, indemnification or any other form of reimbursement from Borrower or any other party liable for payment of any or all of the Guaranteed Obligations for any payment made by Guarantor under or in connection with this Guaranty or otherwise until the Guaranteed Obligations have been paid in full.

1.10 **Borrower.** The term "**Borrower**" as used herein shall include any new or successor corporation, association, partnership (general or limited), joint venture, trust or other individual or organization formed as a result of any merger, reorganization, sale, transfer, devise, gift or bequest of Borrower or any interest in Borrower.

1.11 **Indemnity.** Guarantor shall, individually, jointly, and severally (if applicable), indemnify, defend and hold harmless Lender and its successors and assigns from and against the following (which may be referred to herein as "**Indemnified Matters**"): any and all liabilities, obligations, claims, demands, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements), imposed upon or incurred by or asserted against Lender and/or its successors and assigns by reason of any matter comprising, related to or resulting from any of the Guaranteed Obligations.

1.12 **Indemnification Procedures.**

1.12.1 If any action shall be brought against Lender based upon any of the matters for which Lender is indemnified hereunder, Lender shall notify Guarantor in writing thereof and Guarantor shall promptly assume the defense thereof, including, without limitation, the employment of counsel acceptable to Lender; provided, however, that any failure of Lender to notify Guarantor of such matter shall not impair or reduce the obligations of Guarantor hereunder. In the event Guarantor shall fail to discharge or undertake to defend Lender against any claim, loss

or liability for which Lender is indemnified hereunder, Lender may, at its sole option and election, defend or settle such claim, loss or liability. The liability of Guarantor to Lender hereunder shall be conclusively established by such settlement, provided such settlement is made in good faith, the amount of such liability to include both the settlement consideration and the costs and expenses, including, without limitation, attorneys' fees and disbursements, incurred by Lender in effecting such settlement. In such event, such settlement consideration, costs and expenses shall be included in the Indemnified Matters and Guarantor shall pay the same as hereinafter provided. Lender's good faith in any such settlement shall be conclusively established if the settlement is made on the advice of independent legal counsel for Lender.

1.12.2 Guarantor shall not, without the prior written consent of Lender: (i) settle or compromise any action, suit, proceeding or claim or consent to the entry of any judgment that does not include as an unconditional term thereof the delivery by the claimant or plaintiff to Lender of a full and complete written release of Lender (in form, scope and substance satisfactory to Lender in its sole discretion) from all liability in respect of such action, suit, proceeding or claim and a dismissal with prejudice of such action, suit, proceeding or claim; or (ii) settle or compromise any action, suit, proceeding or claim in any manner that may adversely affect Lender or obligate Lender to pay any sum or perform any obligation as determined by Lender in its sole discretion.

1.12.3 All amounts owed by Guarantor to Lender that are Indemnified Matters shall be immediately reimbursable to Lender when and as such Guaranteed Obligations are incurred by Lender and, in the event of any litigation, claim or other proceeding, without any requirement of waiting for the ultimate outcome of such litigation, claim or other proceeding, and Guarantor shall pay to Lender any and all amounts owed by Guarantor to Lender that are Indemnified Matters within ten (10) days after written notice from Lender itemizing the amounts thereof incurred to the date of such notice. In addition to any other remedy available for the failure of Guarantor to periodically pay such amounts owed by Guarantor to Lender that are Indemnified Matters, such amounts, if not paid within said ten-day period, shall bear interest at the Default Rate (as defined in the Note).

ARTICLE 2

EVENTS AND CIRCUMSTANCES NOT REDUCING OR DISCHARGING GUARANTOR'S OBLIGATIONS

Guarantor hereby consents and agrees that Guarantor's obligations under this Guaranty shall not be released, diminished, impaired, reduced or adversely affected by any of the following, and waives any common law, equitable, statutory or other rights (including without limitation rights to notice) which Guarantor might otherwise have as a result of or in connection with any of the following:

2.1 **Modifications.** Any renewal, extension, increase, modification, alteration or rearrangement of all or any part of the Guaranteed Obligations, the Note, the other Loan Documents, or any other document, instrument, contract or understanding between Borrower and Lender, or any other parties, pertaining to the Guaranteed Obligations.

2.2 **Adjustment.** Any adjustment, indulgence, forbearance or compromise that might be granted or given by Lender to Borrower or Guarantor after notice to Guarantor.

2.3 **Condition of Borrower or Any Guarantor.** The insolvency, bankruptcy, arrangement, adjustment, composition, liquidation, disability, dissolution or lack of power of

Borrower, any Guarantor or any other party at any time liable for the payment of all or part of the Guaranteed Obligations; or any dissolution of Borrower or any Guarantor, or any sale, lease or transfer of any or all of the assets of Borrower or Guarantor, or any changes in the shareholders, partners or members of Borrower or any Guarantor; or any reorganization of Borrower or any Guarantor.

2.4 **Invalidity of Guaranteed Obligations.** The invalidity, illegality or unenforceability of all or any part of the Guaranteed Obligations, or any document or agreement executed in connection with the Guaranteed Obligations, for any reason whatsoever, including without limitation the fact that (i) the act of creating the Guaranteed Obligations or any part thereof is ultra vires, (ii) the officers or representatives executing the Note or the other Loan Documents or otherwise creating the Guaranteed Obligations acted in excess of their authority, (iii) the Borrower has valid defenses, claims or offsets (whether at law, in equity or by agreement) which render the Guaranteed Obligations wholly or partially uncollectible from Borrower; provided that such defenses, claims or offsets are not the result of Lender's gross negligence or willful misconduct, (vi) or (vii) the Note or any of the other Loan Documents have been forged or otherwise are irregular or not genuine or authentic, it being agreed that Guarantor shall remain liable hereon regardless of whether Borrower or any other person be found not liable on the Guaranteed Obligations or any part thereof for any reason.

Commented [SJK1]: This section is problematic. You are asking GCS to agree that, for example, even if the guaranteed amount exceeds that allowed by law, they are still bound by it? Even though it's illegal? Or if the loan is determined to be invalid/void, such that PCSD has no claim to repayment under law, GCS still owes the money?

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2.5 **Release of Obligors.** Any full or partial release of the liability of Borrower on the Guaranteed Obligations, or any part thereof, or of any co-guarantors, or any other person or entity now or hereafter liable, whether directly or indirectly, jointly, severally, or jointly and severally, to pay, perform, guarantee or assure the payment of the Guaranteed Obligations, or any part thereof, it being recognized, acknowledged and agreed by Guarantor that Guarantor may be required to pay the Guaranteed Obligations in full without assistance or support of any other party, and Guarantor has not been induced to enter into this Guaranty on the basis of a contemplation, belief, understanding or agreement that other parties will be liable to pay or perform the Guaranteed Obligations, or that Lender will look to other parties to pay or perform the Guaranteed Obligations.

2.6 **Other Collateral.** The taking or accepting of any other security, collateral or guaranty, or other assurance of payment, for all or any part of the Guaranteed Obligations by Lender.

2.7 **Release of Collateral.** Any release, surrender, exchange, subordination, deterioration, waste, loss or impairment (including without limitation negligent, willful, unreasonable or unjustifiable impairment) of any collateral, property or security at any time existing in connection with, or assuring or securing payment of, all or any part of the Guaranteed Obligations.

2.9 **Unenforceability.** The fact that any collateral, security, security interest or lien contemplated or intended to be given, created or granted as security for the repayment of the Guaranteed Obligations, or any part thereof, shall not be properly perfected or created, or shall prove to be unenforceable or subordinate to any other security interest or lien, it being recognized and agreed by Guarantor that Guarantor is not entering into this Guaranty in reliance on, or in contemplation of the benefits of, the validity, enforceability, collectability or value of any of the collateral for the Guaranteed Obligations.

2.10 **Offset.** The Note, the Guaranteed Obligations and the liabilities and obligations of Guarantor to Lender hereunder shall not be reduced, discharged or released because of or by reason of any existing or future right of offset, claim or defense of Borrower against Lender, or any

other party, or against payment of the Guaranteed Obligations, whether such right of offset, claim or defense arises in connection with the Guaranteed Obligations (or the transactions creating the Guaranteed Obligations) or otherwise.

2.11 **Merger.** The reorganization, merger or consolidation of Borrower into or with any other corporation or entity.

2.12 **Preference.** Any payment by Borrower to Lender is held to constitute a preference under bankruptcy laws, or for any reason Lender is required to refund such payment or pay such amount to Borrower or someone else.

2.13 **Other Actions Taken or Omitted.** Any other action taken or omitted to be taken with respect to the Loan Documents, the Guaranteed Obligations, or the security and collateral therefor, whether or not such action or omission prejudices any Guarantor or increases the likelihood that any Guarantor will be required to pay the Guaranteed Obligations pursuant to the terms hereof, it is the unambiguous and unequivocal intention of Guarantor that Guarantor shall be obligated to pay the Guaranteed Obligations when due which obligation shall be deemed satisfied only upon the full and final payment and satisfaction of the Guaranteed Obligations.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

To induce Lender to enter into the Loan Documents and extend credit to Borrower, Guarantor represents and warrants to Lender as follows:

3.1 **Benefit.** Guarantor is an affiliate of Borrower, and has received, or will receive, direct or indirect benefit from the making of this Guaranty with respect to the Guaranteed Obligations.

3.2 **Familiarity and Reliance.** Guarantor is familiar with, and has independently reviewed books and records regarding, the financial condition of the Borrower and is familiar with the value of any and all collateral intended to be created as security for the payment of the Note or Guaranteed Obligations; however, Guarantor is not relying on such financial condition or the collateral as an inducement to enter into this Guaranty.

3.3 **No Representation By Lender.** Neither Lender nor any other party has made any representation, warranty or statement to Guarantor in order to induce the Guarantor to execute this Guaranty.

3.4 **Guarantor's Condition.** As of the date hereof, and after giving effect to this Guaranty and the contingent obligation evidenced hereby, Guarantor is, and will be, solvent, and has and will have assets which, fairly valued, exceed its obligations, liabilities (including contingent liabilities) and debts, and has and will have property and assets sufficient to satisfy and repay its obligations and liabilities. In support of the foregoing, Guarantor acknowledges and agrees to comply with and provide, as applicable, each of the following (in accordance with GAAP consistently applied) to Lender from time to time:

- a. **Affirmative Covenants.** Guarantor hereby consents to the applicable affirmative covenants set forth in Sections 8(c)-(f),(g)(h) and (i) of the Loan Agreement, as the same may be modified or amended from time to time by Borrower and Lender.

- b. Negative Covenants. Guarantor hereby consents to the applicable negative covenants set forth in Section 9 of the Loan Agreement, as the same may be modified or amended from time to time by Borrower and Lender.
- c. Reporting Requirements. Guarantor hereby consents to the applicable reporting requirements set forth in Section 12 of the Loan Agreement, as the same may be modified or amended from time to time by Borrower and Lender.

3.5 **Legality**. The execution, delivery and performance by Guarantor of this Guaranty and the consummation of the transactions contemplated hereunder do not, and will not, contravene or conflict with any law, statute or regulation whatsoever to which Guarantor is subject or constitute a default (or an event which with notice or lapse of time or both would constitute a default) under, or result in the breach of, any indenture, mortgage, deed of trust, charge, lien, or any contract, agreement or other instrument to which Guarantor is a party or which may be applicable to Guarantor. This Guaranty is a legal and binding obligation of Guarantor and is enforceable in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to the enforcement of creditors' rights.

3.6 **Survival**. All representations and warranties made by Guarantor herein shall survive the execution hereof.

ARTICLE 4

SUBORDINATION OF CERTAIN INDEBTEDNESS

4.1 **Subordination of All Guarantor Claims**. As used herein, the term "**Guarantor Claims**" shall mean all debts and liabilities of Borrower to Guarantor, whether such debts and liabilities now exist or are hereafter incurred or arise, or whether the obligations of Borrower thereon be direct, contingent, primary, secondary, several, joint and several, or otherwise, and irrespective of whether such debts or liabilities be evidenced by note, contract, open account, or otherwise, and irrespective of the person or persons in whose favor such debts or liabilities may, at their inception, have been, or may hereafter be created, or the manner in which they have been or may hereafter be acquired by Guarantor. The Guarantor Claims shall include without limitation all rights and claims of Guarantor against Borrower (arising as a result of subrogation or otherwise) as a result of Guarantor's payment of all or a portion of the Guaranteed Obligations. Upon the occurrence of an Event of Default or the occurrence of an event which would, with the giving of notice or the passage of time, or both, constitute an Event of Default, Guarantor shall not receive or collect, directly or indirectly, from Borrower or any other party any amount upon the Guarantor Claims.

4.2 **Claims in Bankruptcy**. In the event of receivership, bankruptcy, reorganization, arrangement, debtor's relief, or other insolvency proceedings involving Guarantor as debtor, Lender shall have the right to prove its claim in any such proceeding so as to establish its rights hereunder and receive directly from the receiver, trustee or other court custodian dividends and payments which would otherwise be payable upon Guarantor Claims. Guarantor hereby assigns such dividends and payments to Lender. Should Lender receive, for application upon the Guaranteed Obligations, any such dividend or payment which is otherwise payable to Guarantor, and which, as between Borrower and Guarantor, shall constitute a credit upon the Guarantor Claims, then upon payment to Lender in full of the Guaranteed Obligations, Guarantor shall become subrogated to the rights of Lender to the extent that such payments to Lender on the

Guarantor Claims have contributed toward the liquidation of the Guaranteed Obligations, and such subrogation shall be with respect to that proportion of the Guaranteed Obligations which would have been unpaid if Lender had not received dividends or payments upon the Guarantor Claims.

4.3 **Payments Held in Trust.** In the event that, notwithstanding anything to the contrary in this Guaranty, Guarantor should receive any funds, payment, claim or distribution which is prohibited by this Guaranty, Guarantor agrees to hold in trust for Lender an amount equal to the amount of all funds, payments, claims or distributions so received, and agrees that it shall have absolutely no dominion over the amount of such funds, payments, claims or distributions so received except to pay them promptly to Lender, and Guarantor covenants promptly to pay the same to Lender.

4.4 **Liens Subordinate.** Guarantor agrees that any liens, security interests, judgment liens, charges or other encumbrances upon Borrower's assets securing payment of the Guarantor Claims shall be and remain inferior and subordinate to any liens, security interests, judgment liens, charges or other encumbrances upon Borrower's assets securing payment of the Guaranteed Obligations, regardless of whether such encumbrances in favor of a Guarantor or Lender presently exist or are hereafter created or attach. Without the prior written consent of Lender, Guarantor shall not (i) exercise or enforce any creditor's right it may have against Borrower, or (ii) foreclose, repossess, sequester or otherwise take steps or institute any action or proceedings (judicial or otherwise, including without limitation the commencement of, or joinder in, any liquidation, bankruptcy, rearrangement, debtor's relief or insolvency proceeding) to enforce any liens, mortgages, deeds of trust, security interests, collateral rights, judgments or other encumbrances on assets of Borrower held by Guarantor.

ARTICLE 5

MISCELLANEOUS

5.1 **Waiver.** No failure to exercise, and no delay in exercising, on the part of Lender, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. The rights of Lender hereunder shall be in addition to all other rights provided by law. No modification or waiver of any provision of this Guaranty, nor consent to departure therefrom, shall be effective unless in writing and no such consent or waiver shall extend beyond the particular case and purpose involved. No notice or demand given in any case shall constitute a waiver of the right to take other action in the same, similar or other instances without such notice or demand.

5.2 **Notices.** All notices given hereunder shall be in writing and shall be either hand delivered or mailed, by registered U.S. mail, Return Receipt Requested, first class postage prepaid, to the parties at their respective addresses below or at such other address for any party as such party may designate by notice to the other parties hereto:

To Lender:

Pacific Charter School Development, Inc.
600 Wilshire Blvd, Suite 200
Los Angeles, CA 90017
Attn: CEO, CFO, COO or General Counsel

To Guarantor:

The Golden Charter Academy

Attention: Robert D. Golden Sr.

5.3 **Governing Law and Venue.** This Guaranty shall be governed by and construed in accordance with the laws of the State of California and the parties do hereby submit to venue in Los Angeles County.

5.4 **Invalid Provisions.** If any provision of this Guaranty is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Guaranty, such provision shall be fully severable and this Guaranty shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Guaranty, and the remaining provisions of this Guaranty shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Guaranty, unless such continued effectiveness of this Guaranty, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

5.5 **Amendments.** This Guaranty may be amended only by an instrument in writing executed by the party or an authorized representative of the party against whom such amendment is sought to be enforced.

5.6 **Parties Bound; Assignment; Joint and Several.** This Guaranty shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives; provided, however, that Guarantor may not, without the prior written consent of Lender, assign any of its rights, powers, duties or obligations hereunder. If Guarantor or Guarantor consists of more than one person or party, the obligations and liabilities of each such person or party shall be joint and several.

5.7 **Headings.** Section headings are for convenience of reference only and shall in no way affect the interpretation of this Guaranty.

5.8 **Recitals.** The recital and introductory paragraphs hereof are a part hereof, form a basis for this Guaranty and shall be considered prima facie evidence of the facts and documents referred to therein.

5.9 **Counterparts.** This Guaranty may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Guaranty to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

5.10 **Rights and Remedies.** If Guarantor becomes liable for any indebtedness owing by Borrower to Lender, by endorsement or otherwise, other than under this Guaranty, such liability shall not be in any manner impaired or affected hereby and the rights of Lender hereunder shall be

cumulative of any and all other rights that Lender may ever have against Guarantor. The exercise by Lender of any right or remedy hereunder or under any other instrument, or at law or in equity, shall not preclude the concurrent or subsequent exercise of any other right or remedy.

5.11 **Other Defined Terms.** Any capitalized term utilized herein shall have the meaning as specified in the Note, unless such term is otherwise specifically defined herein.

5.12 **Entirety.** THIS GUARANTY EMBODIES THE FINAL, ENTIRE AGREEMENT OF GUARANTOR AND LENDER WITH RESPECT TO GUARANTOR'S GUARANTY OF THE GUARANTEED OBLIGATIONS AND SUPERSEDES ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF. THIS GUARANTY IS INTENDED BY GUARANTOR AND LENDER AS A FINAL AND COMPLETE EXPRESSION OF THE TERMS OF THE GUARANTY, AND NO COURSE OF DEALING BETWEEN GUARANTOR AND LENDER, NO COURSE OF PERFORMANCE, NO TRADE PRACTICES, AND NO EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OR OTHER EXTRINSIC EVIDENCE OF ANY NATURE SHALL BE USED TO CONTRADICT, VARY, SUPPLEMENT OR MODIFY ANY TERM OF THIS GUARANTY AGREEMENT. THERE ARE NO ORAL AGREEMENTS BETWEEN GUARANTOR AND LENDER.

5.13 **Procedures for Judicial Reference.** In the event Guarantor disputes Lender's enforcement of any provision of this Guaranty (each, a "Dispute"), such Dispute shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure Sections 638, et seq., as follows:

(a) The referee shall be a retired California state court judge or an attorney licensed to practice law in the State of California with at least ten (10) years' experience practicing commercial real estate law. Neither Lender nor Guarantor shall seek to appoint a referee that may be disqualified pursuant to California Code of Civil Procedure Section 641 or 641.2 without the prior written consent of both Lender and Guarantor.

(b) If Lender and Guarantor are unable to agree upon a referee within ten (10) calendar days after Guarantor serves a written notice of intent for judicial reference upon Lender, then the referee will be selected by the court in accordance with California Code of Civil Procedure Section 640(b).

(c) The referee shall conduct the proceedings in accordance with the California Code of Civil Procedure, the Rules of Court, and California Evidence Code, except as otherwise specifically agreed by the parties and approved by the referee and shall issue a reasoned written opinion reflecting the referee's findings and decision. The decision of the referee shall be entered as a judgment in the court in accordance with the provisions of California Code of Civil Procedure Sections 644 and 645. The decision of the referee shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the superior court.

(d) During the pendency of any Dispute which is submitted to judicial reference in accordance with the Note or Loan Agreement, Guarantor shall bear the cost of the fees charged and costs incurred by the referee in performing the services described in this Section 29. The compensation of the referee shall not exceed the prevailing rate for like services. The

prevailing party shall be entitled to reasonable court costs and legal fees, including customary attorney fees, expert witness fees, paralegal fees, the fees of the referee and other reasonable costs and disbursements charged to the prevailing party by its counsel, in such amount as is determined by the referee.

(e) NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY "DISPUTE" AS DEFINED IN THIS SECTION 5.13 AND ANY LENDER DISPUTE IDENTIFIED IN SECTION 15.(f) DECIDED BY A NEUTRAL PARTY AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE SUCH DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL. IF YOU REFUSE TO SUBMIT TO JUDICIAL REFERENCE AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO SUBMIT TO JUDICIAL REFERENCE UNDER THE AUTHORITY OF THE APPLICABLE PROVISIONS OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THE PROVISIONS OF THIS SECTION 15 IS VOLUNTARY.

THE UNDERSIGNED HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT ANY "DISPUTE" AS DEFINED IN THIS SECTION 15 TO A NEUTRAL DECISION MAKER.

Lender's Initials: _____ Guarantor's Initials: _____

(f) Lender's Default. In the event Guarantor alleges a default by Lender under this Guaranty and Lender disputes Guarantor's determination that such default has occurred, such dispute shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure Sections 638, et seq. and in the manner set forth in Section 15 of this Guaranty.

5.14 **Reinstatement in Certain Circumstances.** If at any time any payment of the principal of or interest under the Note or any other amount payable by the Borrower under the Loan Documents is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Borrower or otherwise, the Guarantor's obligations hereunder with respect to such payment shall be reinstated as though such payment has been due but not made at such time.

5.15 **Special State Provisions.** To the extent permitted by law, Guarantor hereby also waives and agrees not to assert or take advantage of:

Without limiting the generality of the foregoing or any other provision hereof, Guarantor expressly waives any and all benefits which might otherwise be available to Guarantor under California Civil Code Sections 2809, 2810, 2819, 2839, 2845, 2849, 2850, 2899 and 3433 and California Code of Civil Procedure Sections 580a, 580b, 580d and 726, or any of such sections.

Without limiting the generality of the foregoing or any other provision of this Guaranty, Guarantor hereby expressly waives any and all benefits under California Civil Code Sections 2787 thru and including 2856.

5.16 **Unsecured Guaranty.** This Guaranty is unsecured.

5.17 **Termination of Guaranty**. This Guaranty shall terminate and be of no further force or effect only upon the repayment of all outstanding principal and interest and any other sums due and owing under the Loan.

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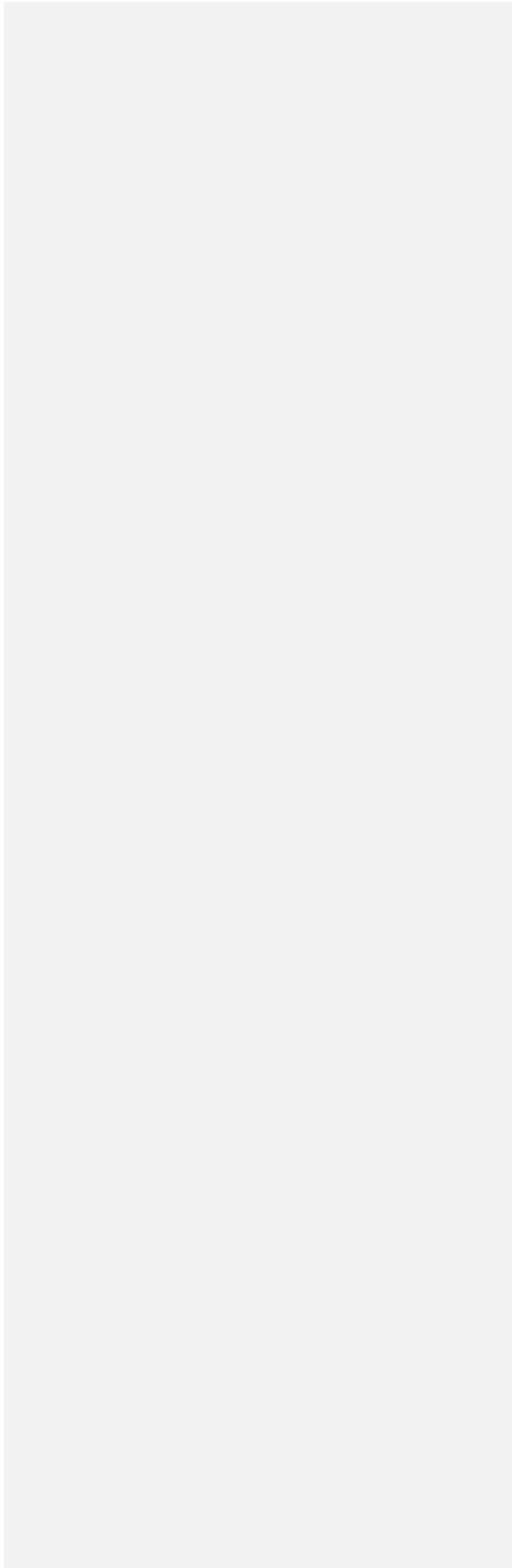
IN WITNESS WHEREOF, this Guaranty has been duly executed by Guarantor as of the day and year first above written.

GUARANTOR:

THE GOLDEN CHARTER ACADEMY
a California nonprofit public benefit corporation

By: _____
Name: Robert D. Golden Sr.
Its: President & CEO

[Signature Page to Guaranty]



RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Pacific Charter School Development, Inc.
600 Wilshire Blvd., Suite 200
Los Angeles, CA 90017
Attn: General Counsel

THIS SPACE ABOVE FOR RECORDER'S USE

**DEED OF TRUST
WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THE PARTIES TO THIS DEED OF TRUST WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust"), made as of December 20, 2022, are **GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC**, a California limited liability company ("Trustor"), **FIDELITY NATIONAL TITLE COMPANY**, a California limited liability company ("Trustee"), and **PACIFIC CHARTER SCHOOL DEVELOPMENT, INC.**, a California nonprofit public benefit corporation ("Beneficiary").

ARTICLE 1. GRANT IN TRUST

- 1.1 **GRANT.** For the purposes of and upon the terms and conditions in this Deed of Trust, Trustor irrevocably grants, conveys and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all of its fee simple interest in that real property located in the City of Fresno, County of Fresno, State of California, described on Exhibit A attached hereto, together with all right, title, interest, and privileges of Trustor in and to all streets, ways, roads, and alleys used in connection with or pertaining to such real property, all licenses, all development rights or credits, air rights, water, water rights and water stock related to the real property, and all minerals, oil and gas, and other hydrocarbon substances in, on or under the real property, and all appurtenances, easements, rights and rights of way appurtenant or related thereto; all buildings, other improvements and fixtures now or hereafter located on the real property, including, but not limited to, all apparatus, equipment, and appliances used in the operation or occupancy of the real property, it being intended by the parties that all such items shall be conclusively considered to be a part of the real property, whether or not attached or affixed to the real property (the "Improvements"); all interest or estate which Trustor may hereafter acquire in the property described above, and all additions and accretions thereto, and the proceeds of any of the foregoing; (all of the foregoing being collectively referred to as the "Subject Property"). The listing of specific rights or property shall not be interpreted as a limit of general terms.
- 1.2 **ADDRESS.** The address and common reference of the Subject Property includes: 741 W. Belmont Ave., Fresno, CA 93728-2805. However, neither the failure to designate an address nor any inaccuracy in the address designated shall affect the validity or priority of the lien of this Deed of Trust on the Subject Property as described on Exhibit A.

ARTICLE 2. OBLIGATIONS SECURED

- 2.1 **OBLIGATIONS SECURED.** Trustor makes this Deed of Trust for the purpose of securing the following obligations (“Secured Obligations”):
- (a) Payment to Beneficiary of all sums at any time owing under that certain Promissory Note (the “Note”) of even date herewith, in the aggregate principal amount of One Million and No/100 Dollars (\$1,000,000.00) executed by Trustor, as Borrower, and payable to the order of Beneficiary, as Lender; and
 - (b) Payment and performance of all covenants and obligations of Trustor under that certain Loan Agreement (“Loan Agreement”) of even date herewith executed by and between Trustor, as Borrower, and Beneficiary, as Lender; and
 - (c) Payment and performance of all covenants and obligations of Trustor under this Deed of Trust; and
 - (d) Payment and performance of all covenants and obligations, if any, of any rider attached as an Exhibit to this Deed of Trust; and
 - (e) Payment and performance of all future advances and other obligations that the then record owner of all or part of the Subject Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when such future advance or obligation is evidenced by a writing executed by such record owner and Beneficiary which recites that it is secured by this Deed of Trust; and
 - (f) All modifications, extensions and renewals of any of the obligations secured hereby, however evidenced, including, without limitation: (i) modifications of the required principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly; or (ii) modifications, extensions or renewals at a different rate of interest whether or not in the case of a note, the modification, extension or renewal is evidenced by a new or additional promissory note or Note.
- 2.2 **OBLIGATIONS.** The term “obligations” is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges, prepayment charges (if any), late charges, Lender Expenses (as defined in the Loan Agreement) and all other loan fees at any time accruing or assessed on any of the Secured Obligations.
- 2.3 **INCORPORATION.** All terms of the Secured Obligations and the documents evidencing such obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Subject Property shall be deemed to have notice of the terms of the Secured Obligations and to have notice, if provided therein, that: (a) the Note may permit borrowing and repayment of interest only for a period of time so that repayments shall not reduce the amounts of the Secured Obligations.

ARTICLE 3. ASSIGNMENT OF LEASES AND RENTS

- 3.1 **ASSIGNMENT.** Trustor hereby irrevocably assigns to Beneficiary all of Trustor’s right, title and interest in, to and under: (a) all leases and subleases of the Subject Property where Trustor is the Lessor or Sublessor or any portion thereof, which leases as of the date hereof are unrecorded, and all other agreements of any kind relating to the use or occupancy of the Subject Property or any

portion thereof, whether now existing or entered into after the date hereof (“Leases”); and (b) the rents, revenue, income, issues, deposits and profits of the Subject Property, including, without limitation, all amounts payable and all rights and benefits accruing to Trustor under the Leases (“Payments”). The term “Leases” shall also include all guarantees of and security for the lessees’ performance thereunder, and all amendments, extensions, renewals or modifications thereto which are permitted hereunder. This is a present and absolute assignment, not an assignment for security purposes only, and Beneficiary’s right to the Leases and Payments is not contingent upon, and may be exercised without possession of, the Subject Property.

- 3.2 **GRANT OF LICENSE.** Beneficiary confers upon Trustor a license (“License”) to collect and retain the Payments as they become due and payable, until the occurrence of a Default (as hereinafter defined). Upon a Default, the License shall be automatically revoked and Beneficiary may collect and apply the Payments pursuant to Section 6.4 without notice and without taking possession of the Subject Property. Trustor hereby irrevocably authorizes and directs the lessees under the Leases to rely upon and comply with any notice or demand by Beneficiary for the payment to Beneficiary of any rental or other sums which may at any time become due under the Leases, or for the performance of any of the lessees’ undertakings under the Leases, and the lessees shall have no right or duty to inquire as to whether any Default has actually occurred or is then existing hereunder. Trustor hereby relieves the lessees from any liability to Trustor by reason of relying upon and complying with any such notice or demand by Beneficiary.
- 3.3 **EFFECT OF ASSIGNMENT.** The foregoing irrevocable assignment shall not cause Beneficiary to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Subject Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; or (c) responsible or liable for any waste committed on the Subject Property by the lessees under any of the Leases or any other parties; for any dangerous or defective condition of the Subject Property except to the extent such dangerous or defective condition is the result of willful or negligent actions of Beneficiary; or for any negligence in the management, upkeep, repair or control of the Subject Property resulting in loss or injury or death to any lessee, licensee, employee, invitee or other person except to the extent such dangerous or defective condition is the result of willful or negligent actions of Beneficiary. Beneficiary and Trustee shall not directly or indirectly be liable to Trustor or any other person as a consequence of: (i) the exercise or failure to exercise by Beneficiary or Trustee, or any of their respective employees, agents, contractors or subcontractors, any of the rights, remedies or powers granted to Beneficiary or Trustee hereunder; or (ii) the failure or refusal of Beneficiary to perform or discharge any obligation, duty or liability of Trustor arising under the Leases.
- 3.4 **REPRESENTATIONS AND WARRANTIES.** Trustor represents and warrants that: (a) the Schedule of Leases attached hereto as Schedule 1 is, as of the date hereof, a true, accurate and complete list of all Leases; (b) all existing Leases are in full force and effect and are enforceable in accordance with their respective terms, and no breach or default on the part of Trustor, or event which would constitute a breach or default on the part of Trustor after notice or the passage of time, or both, exists under any existing Leases on the part of any party; and (c) none of the lessor’s interests under any of the Leases has been transferred or assigned.
- 3.5 **COVENANTS.** Trustor covenants and agrees at Trustor’s sole cost and expense to: (a) perform the obligations of lessor contained in the Leases and enforce by all available remedies performance by the lessees of the obligations of the lessees contained in the Leases; (b) give Beneficiary prompt written notice of any default which occurs with respect to any of the Leases, whether the default be that of the lessee or of the lessor; (c) exercise Trustor’s best efforts to keep all portions of the

Subject Property that are capable of being leased at all times at rentals not less than the fair market rental value, unless otherwise agreed by Beneficiary; (d) deliver to Beneficiary fully executed, counterpart copies of each and every Lease if requested to do so; and (e) execute and record such additional assignments of any Lease or specific subordinations (or subordination, attornment and non-disturbance agreements executed by the lessor and lessee) of any Lease to the Deed of Trust, in form and substance acceptable to Beneficiary, as Beneficiary may request prior to the execution and delivery of this Deed of Trust. Trustor shall not, without Beneficiary's prior written consent or as otherwise permitted by any provision of the Loan Documents: (i) execute any assignment relating to any of the Leases; or (ii) subordinate or agree to subordinate any of the Leases to any other deed of trust or encumbrance. Any such attempted action in violation of the provisions of this Section 3.5 shall be null and void.

- 3.6 **ESTOPPEL CERTIFICATES.** If required prior to the execution and delivery of this Deed of Trust by written request by Beneficiary, Trustor shall deliver to Beneficiary and to any party designated by Beneficiary estoppel certificates executed by Trustor and by each of the lessees, in recordable form, certifying (if such be the case): (a) that the foregoing assignment and the Leases are in full force and effect; (b) the date of each lessee's most recent payment of rent; (c) that there are no defenses or offsets outstanding, or stating those claimed by Trustor or lessees under the foregoing assignment or the Leases, as the case may be; and (d) any other information reasonably requested by Beneficiary.

ARTICLE 4. SECURITY AGREEMENT AND FIXTURE FILING

- 4.1 **SECURITY INTEREST.** Trustor hereby grants and assigns to Beneficiary as of the "Effective Date" (defined in the Note) a security interest, to secure payment and performance of all of the Secured Obligations, in all of the following described personal property in which Trustor now or at any time hereafter has any interest (collectively, the "Collateral"):

All goods, building and other materials, supplies, inventory, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property and embedded software included therein and supporting information, wherever situated, which are or are to be incorporated into, used in connection with, or appropriated for use on (i) the real property described on Exhibit A attached hereto and incorporated by reference herein or (ii) any existing or future improvements on the real property (which real property and improvements are collectively referred to herein as the "Subject Property"); together with all rents and security deposits derived from the Subject Property; all inventory, accounts, cash receipts, deposit accounts, accounts receivable, contract rights, licenses, agreements, general intangibles, payment intangibles, software, chattel paper (whether electronic or tangible), instruments, documents, promissory notes, drafts, letters of credit, letter of credit rights, supporting obligations, insurance policies, insurance and condemnation awards and proceeds, proceeds of the sale of promissory notes, any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the ownership, management, leasing, operation, sale or disposition of the Subject Property or any business now or hereafter conducted thereon by Trustor; all development rights and credits, and any and all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Subject Property; all water and water rights, wells and well rights, canals and canal rights, ditches and ditch rights, springs and spring rights, and reservoirs and reservoir rights appurtenant to or associated with the Subject

Property, whether decreed or undecreed, tributary, non-tributary or not non-tributary, surface or underground or appropriated or unappropriated, and all shares of stock in water, ditch, lateral and canal companies, well permits and all other evidences of any of such rights; all deposits or other security now or hereafter made with or given to utility companies by Trustor with respect to the Subject Property; all advance payments of insurance premiums made by Trustor with respect to the Subject Property; all plans, drawings and specifications relating to the Subject Property; all loan funds held by Beneficiary, whether or not disbursed; all funds deposited with Beneficiary pursuant to any loan agreement; all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Subject Property or any portion thereof; together with all replacements and proceeds of, and additions and accessions to, any of the foregoing; together with all books, records and files relating to any of the foregoing.

As to all of the above-described personal property which is or which hereafter becomes a “fixture” under applicable law, this Deed of Trust constitutes a fixture filing under the California Uniform Commercial Code, as amended or recodified from time to time (“UCC”), and is acknowledged and agreed to be a “construction mortgage” under the UCC.

- 4.2 **REPRESENTATIONS AND WARRANTIES.** Trustor represents and warrants that: (a) Trustor has, or will have, good title to, or a fee simple interest in the Collateral; (b) Trustor’s principal place of business is located at the address shown in Section 7.11; and (c) Trustor’s legal name is exactly as set forth on the first page of this Deed of Trust and all of Trustor’s organizational documents or agreements delivered to Beneficiary are complete and accurate in every respect.
- 4.3 **COVENANTS.** Trustor agrees: (a) to execute and deliver such documents as Beneficiary deems necessary, in its reasonable discretion, to create, perfect and continue the security interests contemplated hereby; (b) not to change its name, and as applicable, its chief executive office, its principal residence or the jurisdiction in which it is organized and/or registered without giving Beneficiary prior written notice thereof; (c) to cooperate with Beneficiary in perfecting all security interests granted herein and in obtaining such agreements from third parties as Beneficiary deems necessary in its reasonable discretion, proper or convenient in connection with the preservation, perfection or enforcement of any of its rights hereunder; and (d) with prior notice to Trustor, that Beneficiary is authorized to file financing statements in the name of Trustor to perfect Beneficiary’s security interest in Collateral.
- 4.4 **RIGHTS OF BENEFICIARY.** In addition to Beneficiary’s rights as a “Secured Party” under the UCC, Beneficiary may, but shall not be obligated to, at any time without notice and at the expense of Trustor: (a) give notice to any person of Beneficiary’s rights hereunder and enforce such rights at law or in equity; (b) insure, protect, defend and preserve the Collateral or any rights or interests of Beneficiary therein; (c) inspect the Collateral; and (d) endorse, collect and receive any right to payment of money owing to Trustor under or from the Collateral upon the revocation of the License in compliance with Section 3.2 hereof. Notwithstanding the above, in no event shall Beneficiary be deemed to have accepted any property other than cash in satisfaction of any obligation of Trustor to Beneficiary unless Beneficiary shall make an express written election of said remedy under UCC § 9620, or other applicable law.

4.5 **RIGHTS OF BENEFICIARY ON DEFAULT.** Upon the occurrence of a Default (hereinafter defined) under this Deed of Trust and subject to applicable cure periods, then in addition to all of Beneficiary's rights as a "Secured Party" under the UCC or otherwise at law:

- (a) Beneficiary may (i) upon written notice, require Trustor to assemble any or all of the Collateral capable of assembly and make it available to Beneficiary at a place designated by Beneficiary; (ii) without prior notice, enter upon the Subject Property or other place where any of the Collateral may be located and take possession of, collect, sell, lease, license and dispose of any or all of the Collateral, and store the same at locations acceptable to Beneficiary at Trustor's expense; (iii) sell, assign and deliver at any place or in any lawful manner all or any part of the Collateral and bid and become the purchaser at any such sales;
- (b) Beneficiary may, for the account of Trustor and at Trustor's expense: (i) operate, use, consume, sell, lease, license or dispose of the Collateral as Beneficiary deems appropriate for the purpose of performing any or all of the Secured Obligations; (ii) enter into any agreement, compromise, or settlement, including insurance claims, which Beneficiary may deem desirable or proper with respect to any of the Collateral; and (iii) endorse and deliver evidences of title for, and receive, enforce and collect by legal action or otherwise, all indebtedness and obligations now or hereafter owing to Trustor in connection with or on account of any or all of the Collateral; and
- (c) In disposing of Collateral hereunder, Beneficiary may disclaim all warranties of title, possession, quiet enjoyment and the like. Any proceeds of any disposition of any Collateral may be applied by Beneficiary to the payment of expenses incurred by Beneficiary in connection with the foregoing, including reasonable attorneys' fees, and the balance of such proceeds may be applied by Beneficiary toward the payment of the Secured Obligations in such order of application as Beneficiary may from time to time elect.

Notwithstanding any other provision hereof, Beneficiary shall not be deemed to have accepted any property other than cash in satisfaction of any obligation of Trustor to Beneficiary unless Trustor shall make an express written election of said remedy under UCC § 9620, or other applicable law. Trustor agrees that Beneficiary shall have no obligation to process or prepare any Collateral for sale or other disposition.

4.6 **POWER OF ATTORNEY.** Trustor hereby irrevocably appoints Beneficiary as Trustor's attorney-in-fact (such agency being coupled with an interest), and as such attorney-in-fact Beneficiary may, without the obligation to do so, in Beneficiary's name, or in the name of Trustor, prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve any of Beneficiary's security interests and rights in or to any of the Collateral, and, upon a Default hereunder, take any other action required of Trustor; provided, however, that Beneficiary as such attorney-in-fact shall be accountable only for such funds as are actually received by Beneficiary.

4.7 **POSSESSION AND USE OF COLLATERAL.** Except as otherwise provided in this Section or the note, Loan Agreement, or any other loan related documents (collectively the "Loan Documents"), so long as no Default exists under this Deed of Trust or any of the Loan Documents, Trustor may possess, use, move, transfer or dispose of any of the Collateral in the ordinary course of Trustor's business and in accordance with the Note and Loan Agreement, provided that, Trustor may not, without with prior written consent of Beneficiary, lease any portion of the Subject Property to any party or permit usage of any portion of the Subject Property for any purpose other

than the operation of public charter school controlled by Borrower and reasonably ancillary activities, including use by the public as allowed by the Civic Center Act (California Education Code Section 38130 et seq.).

ARTICLE 5. RIGHTS AND DUTIES OF THE PARTIES

- 5.1 **TITLE.** Trustor represents and warrants that, except as disclosed to Beneficiary in a writing which refers to this warranty, Trustor lawfully holds and possesses fee simple title to the Subject Property without limitation on the right to encumber, and that this Deed of Trust is a first lien on the Subject Property.
- 5.2 **TAXES AND ASSESSMENTS.** Subject to Trustor's rights to contest payment of taxes and any extensions filed for and received, Trustor shall pay prior to delinquency all taxes, assessments, levies and charges imposed by any public or quasi-public authority or utility company which are or which may become a lien upon or cause a loss in value of the Subject Property or any interest therein. Trustor shall also pay prior to delinquency and expiration of any extensions filed for and received, all taxes, assessments, levies and charges imposed by any public authority upon Beneficiary by reason of its interest in any Secured Obligation or in the Subject Property, or by reason of any payment made to Beneficiary pursuant to any Secured Obligation; provided, however, Trustor shall have no obligation to pay taxes which may be imposed from time to time upon Beneficiary and which are measured by and imposed upon Beneficiary's net income.
- 5.3 **TAX AND INSURANCE IMPOUNDS.** At any time following the occurrence of a Default, at Beneficiary's option and upon its demand, Trustor, shall, until all Secured Obligations have been paid in full, pay to Beneficiary annually an amount demonstrated by Beneficiary to be equal to: (a) all taxes, assessments, levies and charges imposed by any public or quasi-public authority or utility company which are or may become a lien upon the Subject Property or Collateral and will become due for the tax year during which such payment is so directed; and (b) premiums for fire, hazard and insurance required or requested pursuant to the Loan Documents when same are next due. If Beneficiary determines that any amounts paid by Trustor are insufficient for the payment in full of such taxes, assessments, levies, charges and/or insurance premiums, Beneficiary shall notify Trustor of the increased amounts required to pay all amounts when due or before delinquency, whereupon Trustor shall pay to Beneficiary within thirty (30) days thereafter the additional amount as stated and demonstrated in Beneficiary's notice. All sums so paid shall not bear interest, except to the extent and in any minimum amount required by law; and Beneficiary shall, unless Trustor is otherwise in Default hereunder or under any Loan Document, apply said funds to the payment of, or at the sole option of Beneficiary release said funds to Trustor for the application to and payment of, such sums, taxes, assessments, levies, charges, and insurance premiums. Upon Default by Trustor hereunder or under any Secured Obligation, Beneficiary may apply all or any part of said sums to any Secured Obligation and/or to cure such Default, in which event Trustor shall be required to restore all amounts so applied, as well as to cure any other events or conditions of Default not cured by such application. Upon assignment of this Deed of Trust, Beneficiary shall have the right to assign all amounts collected and in its possession to its assignee whereupon Beneficiary and the Trustee shall be released from all liability with respect thereto. Within thirty five (35) days following full repayment of the Secured Obligations or at such earlier time as Beneficiary may elect, the balance of all amounts collected and in Beneficiary's possession, including amounts collected under Section 3.2, shall be paid to Trustor and no other party shall have any right or claim thereto.
- 5.4 **PERFORMANCE OF SECURED OBLIGATIONS.** Trustor shall promptly pay and perform each Secured Obligation when due.

5.5 **LIENS, ENCUMBRANCES AND CHARGES.** Trustor shall immediately discharge when due or before delinquency any lien not approved by Beneficiary in writing that has or may attain priority over this Deed of Trust. Trustor shall pay or cause to be paid when due or before delinquency all obligations secured by or which may become liens and encumbrances which shall now or hereafter encumber or appear to encumber all or any part of the Subject Property or Collateral, or any interest therein, whether senior or subordinate hereto.

5.6 **DAMAGES; INSURANCE AND CONDEMNATION PROCEEDS.**

(a) The following (whether now existing or hereafter arising) are all absolutely and irrevocably assigned by Trustor to Beneficiary and, at the request of Beneficiary, shall be paid to Beneficiary: (i) all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Subject Property or Collateral; (ii) all other claims and awards for damages to, or decrease in value of, all or any part of, or any interest in, the Subject Property or Collateral; (iii) all proceeds of any insurance policies (whether or not expressly required by Beneficiary to be maintained by Trustor, including, but not limited to, earthquake insurance and terrorism insurance, if any) payable by reason of loss sustained to all or any part of the Subject Property or Collateral, to be used in a manner consistent with the Loan Agreement; and (iv) all interest which may accrue on any of the foregoing. Subject to applicable law and the Loan Agreement, and without regard to any requirement contained in Section 5.7(d), Beneficiary may at its discretion apply all or any of the proceeds it receives to its expenses in settling, prosecuting or defending any claim and may apply the balance to the Secured Obligations, and/or Beneficiary may release all or any part of the proceeds to Trustor upon any conditions Beneficiary may impose. Beneficiary may commence, appear in, defend or prosecute any assigned claim or action and may adjust, compromise, settle and collect all claims and awards assigned to Beneficiary; provided, however, in no event shall Beneficiary be responsible for any failure to collect any claim or award, regardless of the cause of the failure, including, without limitation, any malfeasance or nonfeasance by Beneficiary or its employees or agents.

5.7 **MAINTENANCE AND PRESERVATION OF THE SUBJECT PROPERTY.** Trustor covenants: (a) to insure the Subject Property and Collateral against such risks as Beneficiary may require and, at Beneficiary's request, to provide evidence of such insurance to Beneficiary, and to comply with the requirements of any insurance companies providing such insurance; (b) to keep the Subject Property and Collateral in good condition and repair; (c) not to remove or demolish the Subject Property or Collateral or any part thereof, not to alter, restore or add to the Subject Property or Collateral and not to initiate or acquiesce in any change in any zoning or other land classification which affects the Subject Property without Beneficiary's prior written consent; (d) where financially feasible, to complete or restore promptly and in good and workmanlike manner the Subject Property and Collateral, or any part thereof which may be damaged or destroyed, without regard to whether Beneficiary elects to require that insurance proceeds be used to reduce the Secured Obligations as provided in Section 5.6; (e) to comply with all laws, ordinances, regulations and standards, and all covenants, conditions, restrictions and equitable servitudes, whether public or private, of every kind and character which affect the Subject Property or Collateral and which Trustor knows or should reasonably know pertain to acts committed or conditions existing thereon, including, without limitation, any work, alteration, improvement or demolition mandated by such laws, covenants or requirements; (f) not to commit or permit waste of the Subject Property or Collateral; and (g) to do all other acts which from the character or use of the Subject Property or Collateral may be reasonably necessary to maintain and preserve its value.

Commented [SJK1]: Won't this be happening during the pendency of the loan?

Commented [MBR2R1]: Perhaps. This just requires PCSD's prior written consent prior to any of these actions occurring.

Commented [SJK3]: Won't this be happening during the pendency of the loan?

5.8 **DEFENSE AND NOTICE OF LOSSES, CLAIMS AND ACTIONS.** At Trustor's sole expense, Trustor shall protect, preserve and defend the Subject Property and Collateral and fee simple title to and right of possession of the Subject Property and Collateral, the security hereof and the rights and powers of Beneficiary and Trustee hereunder against all adverse claims. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding, of the occurrence of any damage to the Subject Property or Collateral and of any condemnation offer or action.

5.9 **ACCEPTANCE OF TRUST; POWERS AND DUTIES OF TRUSTEE.**

- (a) Trustee accepts this trust when this Deed of Trust is recorded. Except as may be required by applicable law, Trustee or Beneficiary may from time to time at the applicant's expense apply to any court of competent jurisdiction for aid and direction in the execution of the trust hereunder and the enforcement of the rights and remedies available hereunder, and may obtain orders or decrees directing or confirming or approving acts in the execution of said trust and the enforcement of said remedies.
- (b) Trustee shall not be required to take any action toward the execution and enforcement of the trust hereby created or to institute, appear in, or defend any action, suit, or other proceeding in connection therewith where, in his opinion, such action would be likely to involve him in expense or liability, unless requested so to do by a written instrument signed by Beneficiary and, if Trustee so requests, unless Trustee is tendered security and indemnity satisfactory to Trustee against any and all cost, expense, and liability arising therefrom. Trustee shall not be responsible for the execution, acknowledgment, or validity of the Loan Documents, or for the proper authorization thereof, or for the sufficiency of the lien and security interest purported to be created hereby, and Trustee makes no representation in respect thereof or in respect of the rights, remedies, and recourses of Beneficiary.
- (c) With the approval of Beneficiary, Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for Beneficiary) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Loan Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his agents or attorneys, (iii) to select and employ, in and about the execution of his duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith, and (iv) any and all other lawful action as Beneficiary may instruct Trustee to take to protect or enforce Beneficiary's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Subject Property for debts contracted for or liability or damages incurred in the management or operation of the Subject Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of

Trustee's services hereunder as shall be rendered. **TRUSTOR WILL, FROM TIME TO TIME, PAY THE REASONABLE COMPENSATION DUE TO TRUSTEE HEREUNDER AND REIMBURSE TRUSTEE FOR, AND INDEMNIFY AND HOLD HARMLESS TRUSTEE AGAINST, ANY AND ALL LIABILITY AND EXPENSES WHICH MAY BE INCURRED BY TRUSTEE IN THE PERFORMANCE OF TRUSTEE'S DUTIES EXCEPT TO THE EXTENT SUCH LIABILITY AND EXPENSE ARISES FROM THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF BENEFICIARY.**

- (d) All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.
- (e) Should any deed, conveyance, or instrument of any nature be required from Trustor by any Trustee or substitute Trustee to more fully and certainly vest in and confirm to the Trustee or substitute Trustee such estates, rights, powers, and duties, then, upon request by the Trustee or substitute Trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Trustor.
- (f) By accepting or approving anything required to be observed, performed, or fulfilled or to be given to Trustee pursuant to the Loan Documents, including without limitation, any deed, conveyance, instrument, officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Trustee shall not be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness, or legal effect of the same, or of any term, provision, or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or affirmation with respect thereto by Trustee.

5.10 **COMPENSATION; EXCULPATION; INDEMNIFICATION.**

- (a) Trustor shall pay Trustee's fees and reimburse Trustee for reasonable expenses in the administration of this trust, including attorneys' fees. Trustor shall pay to Beneficiary reasonable compensation for services rendered concerning this Deed of Trust, including without limit any statement of amounts owing under any Secured Obligation. Beneficiary shall not directly or indirectly be liable to Trustor or any other person as a consequence of (i) the exercise of the rights, remedies or powers granted to Beneficiary in this Deed of Trust; (ii) the failure or refusal of Beneficiary to perform or discharge any obligation or liability of Trustor under any agreement related to the Subject Property or Collateral or under this Deed of Trust; or (iii) any loss sustained by Trustor or any third party resulting from Beneficiary's failure (whether by malfeasance, nonfeasance or refusal to act) to lease the Subject Property after a Default (hereinafter defined) or from any other act or omission (regardless of whether same constitutes negligence) of Beneficiary in managing the Subject Property after a Default unless the loss is caused by the gross negligence or willful misconduct of Beneficiary and no such liability shall be asserted against or imposed upon Beneficiary, and all such liability is hereby expressly waived and released by Trustor.
- (b) **TRUSTOR INDEMNIFIES TRUSTEE AND BENEFICIARY AGAINST, AND HOLDS TRUSTEE AND BENEFICIARY HARMLESS FROM, ALL LOSSES,**

DAMAGES, LIABILITIES, CLAIMS, CAUSES OF ACTION, JUDGMENTS, COURT COSTS, ATTORNEYS' FEES AND OTHER LEGAL EXPENSES, COST OF EVIDENCE OF TITLE, COST OF EVIDENCE OF VALUE, AND OTHER EXPENSES WHICH EITHER MAY SUFFER OR INCUR: (i) BY REASON OF THIS DEED OF TRUST; (ii) BY REASON OF THE EXECUTION OF THIS DEED OF TRUST OR IN PERFORMANCE OF ANY ACT REQUIRED OR PERMITTED HEREUNDER OR BY LAW; (iii) AS A RESULT OF ANY FAILURE OF TRUSTOR TO PERFORM TRUSTOR'S OBLIGATIONS; OR (iv) BY REASON OF ANY ALLEGED OBLIGATION OR UNDERTAKING ON BENEFICIARY'S PART TO PERFORM OR DISCHARGE ANY OF THE REPRESENTATIONS, WARRANTIES, CONDITIONS, COVENANTS OR OTHER OBLIGATIONS CONTAINED IN ANY OTHER DOCUMENT RELATED TO THE SUBJECT PROPERTY. THE ABOVE OBLIGATION OF TRUSTOR TO INDEMNIFY AND HOLD HARMLESS TRUSTEE AND BENEFICIARY SHALL SURVIVE THE RELEASE AND CANCELLATION OF THE SECURED OBLIGATIONS AND THE RELEASE AND RECONVEYANCE OR PARTIAL RELEASE AND RECONVEYANCE OF THIS DEED OF TRUST; PROVIDED, HOWEVER, TRUSTOR SHALL NOT BE OBLIGATED TO INDEMNIFY AND HOLD BENEFICIARY AND TRUSTEE HARMLESS FOR ANY LOSSES, DAMAGES, LIABILITIES, CLAIMS, CAUSES OF ACTION, OR JUDGMENTS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE BENEFICIARY OR TRUSTEE.

(c) Trustor shall pay all amounts and indebtedness arising under this Section 5.10 immediately upon demand by Trustee or Beneficiary together with interest thereon from the date the indebtedness arises at the rate of interest then applicable to the principal balance of the Note as specified therein.

5.11 **SUBSTITUTION OF TRUSTEES.** From time to time, by a writing, signed and acknowledged by Beneficiary and recorded in the Office of the Recorder of the County in which the Subject Property is situated, Beneficiary may appoint another trustee to act in the place and stead of Trustee or any successor. Such writing shall set forth any information required by law. The recordation of such instrument of substitution shall discharge Trustee herein named and shall appoint the new trustee as the trustee hereunder with the same effect as if originally named Trustee herein. A signed writing recorded pursuant to the provisions of this Section 5.11 shall be conclusive proof of the proper substitution of such new Trustee.

5.12 **DUE ON SALE OR ENCUMBRANCE.** If Trustor's interest in the Subject Property or any portion thereof shall be sold, transferred (including, without limitation, through sale or transfer of a majority or controlling interest of the corporate stock or general partnership interests or limited liability company interests of Trustor but not including lease of the Subject Property), mortgaged, assigned, or further encumbered, whether directly or indirectly, whether voluntarily, involuntarily or by operation of law, without the prior written consent of Beneficiary, **THEN** Beneficiary, in its sole discretion, may declare all Secured Obligations immediately due and payable; provided that this provision shall not apply to any sale, transfer, or assignment to a person that controls, is controlled by, or is under common control with Trustor.

5.13 **RELEASES, EXTENSIONS, MODIFICATIONS AND ADDITIONAL SECURITY.** With notice to but without the consent, approval or agreement of any persons or entities having any interest at any time in the Subject Property and Collateral or in any manner obligated under the Secured Obligations ("Interested Parties"), Beneficiary may, from time to time, release any person

or entity from liability for the payment or performance of any Secured Obligation, take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Secured Obligation, or accept additional security or release all or a portion of the Subject Property and Collateral and other security for the Secured Obligations. None of the foregoing actions shall release or reduce the personal liability of any of said Interested Parties, or release or impair the priority of the lien of and security interests created by this Deed of Trust upon the Subject Property and Collateral beyond the extent of such a release or waiver by Beneficiary.

- 5.14 **RECONVEYANCE.** Upon Beneficiary's written request, and upon surrender to Trustee for cancellation of this Deed of Trust or a certified copy thereof and any note, instrument, or instruments setting forth all obligations secured hereby, Trustee shall reconvey, without warranty, the Subject Property or that portion thereof then held hereunder. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto" and the recitals of any matters or facts in any reconveyance executed hereunder shall be conclusive proof of the truthfulness thereof. Neither Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Subject Property has been fully reconveyed, the last such reconveyance shall operate as a reassignment of all future rents, issues and profits of the Subject Property to the person or persons legally entitled thereto.
- 5.15 **SUBROGATION.** Beneficiary shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Beneficiary pursuant to the Loan Documents or by the proceeds of any loan secured by this Deed of Trust.
- 5.16 **RIGHT OF INSPECTION.** Upon 3 days prior notice (which may or may not be in writing) to Beneficiary, its agents and employees, may enter the Subject Property at any reasonable time, subject to Trustor's security and safety protocols and outside of regular school hours (except in case of emergency) for the purpose of inspecting the Subject Property and Collateral and ascertaining Trustor's compliance with the terms hereof. Nothing contained herein shall interfere with Beneficiary's inspection rights under any other Loan Documents.

ARTICLE 6. DEFAULT PROVISIONS

- 6.1 **DEFAULT.** For all purposes hereof, the term "Default" shall mean (a) at Beneficiary's option, the failure of Trustor to make any payment of principal or interest due under the Note or Loan Agreement or to pay any other amount due hereunder or under the Note or Loan Agreement when the same is due and payable, whether at maturity, by acceleration or otherwise; (b) the failure of Trustor to perform any non-monetary obligation hereunder, or the failure to be true of any representation or warranty of Trustor contained herein and the continuance of such failure for thirty (30) days after written notice, or within any longer grace period, if any, allowed in the Note for such failure; or (c) the existence of any Event of Default as defined in the Loan Agreement subject to any and all cure periods thereunder.
- 6.2 **RIGHTS AND REMEDIES.** At any time after Default, subject to applicable cure periods, Beneficiary and Trustee shall each have all the following rights and remedies:
- (a) With notice, to declare all Secured Obligations immediately due and payable;
 - (b) With notice, and without releasing Trustor from any Secured Obligation, and without becoming a mortgagee in possession, to cure any breach or Default of Trustor and, in connection therewith, to enter upon the Subject Property and do such acts and things as

Beneficiary or Trustee deem reasonably necessary or desirable to protect the security hereof, including, without limitation: (i) to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee under this Deed of Trust; (ii) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of either Beneficiary or Trustee, is or may be senior in priority to this Deed of Trust, the judgment of Beneficiary or Trustee being conclusive as between the parties hereto; (iii) to obtain insurance; (iv) to pay any premiums or charges with respect to insurance required to be carried under this Deed of Trust; or (v) to employ counsel, accountants, contractors and other appropriate persons.

- (c) To the extent permitted by law, to commence and maintain an action or actions in any court of competent jurisdiction to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Trustor hereunder, and to the extent permitted by law, Trustor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Trustor waives the defense of laches and any applicable statute of limitations;
- (d) To apply to a court of competent jurisdiction for and obtain appointment of a receiver of the Subject Property as a matter of strict right and without regard to the adequacy of the security for the repayment of the Secured Obligations, the existence of a declaration that the Secured Obligations are immediately due and payable, or the filing of a notice of default, and Trustor hereby consents to such appointment;
- (e) To enter upon, possess, manage and operate the Subject Property or any part thereof, to take and possess all documents, books, records, papers and accounts of Trustor or the then owner of the Subject Property, to make, terminate, enforce or modify Leases of the Subject Property upon such terms and conditions as Beneficiary deems proper, to make repairs, alterations and improvements to the Subject Property as necessary, in Trustee's or Beneficiary's sole judgment, to protect or enhance the security hereof;
- (f) To execute a written notice of such Default and of its election to cause the Subject Property to be sold to satisfy the Secured Obligations. As a condition precedent to any such sale, Trustee shall give and record such notice as the law then requires. When the minimum period of time required by law after such notice has elapsed, Trustee, without notice to or demand upon Trustor except as required by law, shall sell the Subject Property at the time and place of sale fixed by it in the notice of sale, at one or several sales, either as a whole or in separate parcels and in such manner and order, all as Beneficiary in its sole discretion may determine, at public auction to the highest bidder for cash, in lawful money of the United States, payable at time of sale. Neither Trustor nor any other person or entity other than Beneficiary shall have the right to direct the order in which the Subject Property is sold. Subject to requirements and limits imposed by law, Trustee may from time to time postpone sale of all or any portion of the Subject Property by public announcement at such time and place of sale. Trustee shall deliver to the purchaser at such sale a deed conveying the Subject Property or portion thereof so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustee, Trustor or Beneficiary may purchase at the sale;

- (g) To resort to and realize upon the security hereunder and any other security now or later held by Beneficiary concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both, and to apply the proceeds received upon the Secured Obligations all in such order and manner as Trustee and Beneficiary, or either of them, determine in their sole discretion.
- (h) Upon sale of the Subject Property at any judicial or non-judicial foreclosure, Beneficiary may credit bid (as determined by Beneficiary in its sole and absolute discretion) all or any portion of the Secured Obligations. In determining such credit bid, Beneficiary may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Subject Property as such appraisals may be discounted or adjusted by Beneficiary in its sole and absolute underwriting discretion; (ii) expenses and costs incurred by Beneficiary with respect to the Subject Property prior to foreclosure; (iii) expenses and costs which Beneficiary anticipates will be incurred with respect to the Subject Property after foreclosure, but prior to resale, including, without limitation, costs of structural reports and other due diligence, costs to carry the Subject Property prior to resale, costs of resale (e.g. commissions, reasonable attorneys' fees, and taxes), costs of any hazardous materials clean-up and monitoring, costs of deferred maintenance, repair, refurbishment and retrofit, costs of defending or settling litigation affecting the Subject Property, and lost opportunity costs (if any), including the time value of money during any anticipated holding period by Beneficiary; (iv) declining trends in real property values generally and with respect to properties similar to the Subject Property; (v) anticipated discounts upon resale of the Subject Property as a distressed or foreclosed property; (vi) the fact of additional collateral (if any), for the Secured Obligations; and (vii) such other factors or matters that Beneficiary reasonably deems appropriate. In regard to the above, Trustor acknowledges and agrees that: (w) Beneficiary is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (x) this Section does not impose upon Beneficiary any additional obligations that are not imposed by law at the time the credit bid is made; (y) the amount of Beneficiary's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between Trustor and Beneficiary; and (z) Beneficiary's credit bid may be reasonably higher or lower than any appraised value of the Subject Property.

6.3 **APPLICATION OF FORECLOSURE SALE PROCEEDS.** After deducting all costs, fees and expenses of Trustee, and of this trust, including, without limitation, cost of evidence of title and attorneys' fees in connection with sale and costs and expenses of sale and of any judicial proceeding wherein such sale may be made, Trustee shall apply all proceeds of any foreclosure sale: (a) to payment of all sums expended by Beneficiary under the terms hereof and not then repaid, with accrued interest at the rate of interest specified in the Note to be applicable on or after maturity or acceleration of the Note; (b) to payment of all other Secured Obligations; and (c) the remainder, if any, to the person or persons legally entitled thereto.

6.4 **APPLICATION OF OTHER SUMS.** All sums received by Beneficiary under Section 6.2 or Section 3.2, less all costs and expenses incurred by Beneficiary or any receiver under Section 6.2 or Section 3.2, including, without limitation, attorneys' fees, shall be applied in payment of the Secured Obligations in such order as Beneficiary shall determine in its sole discretion; provided, however, Beneficiary shall have no liability for funds not actually received by Beneficiary.

6.5 **NO CURE OR WAIVER.** Neither Beneficiary's nor Trustee's nor any receiver's entry upon and taking possession of all or any part of the Subject Property and Collateral, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or

proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise or failure to exercise of any other right or remedy by Beneficiary or Trustee or any receiver shall cure or waive any breach, Default or notice of default under this Deed of Trust, or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed and Trustor has cured all other defaults), or impair the status of the security, or prejudice Beneficiary or Trustee in the exercise of any right or remedy, or be construed as an affirmation by Beneficiary of any tenancy, lease or option or a subordination of the lien of or security interests created by this Deed of Trust.

- 6.6 **PAYMENT OF COSTS, EXPENSES AND ATTORNEYS' FEES.** Trustor agrees to pay to Beneficiary immediately and without demand all costs and expenses incurred by Trustee and Beneficiary pursuant to Section 6.2 (including, without limitation, court costs and reasonable attorneys' fees, whether incurred in litigation or not) with interest from the date of expenditure until said sums have been paid at the rate of interest then applicable to the principal balance of the Note as specified therein. In addition, Trustor shall pay to Trustee all Trustee's fees hereunder and shall reimburse Trustee for all expenses incurred in the administration of this trust, including, without limitation, any reasonable attorneys' fees.
- 6.7 **POWER TO FILE NOTICES AND CURE DEFAULTS.** Trustor hereby irrevocably appoints Beneficiary and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, (a) to execute and/or record any notices of completion, cessation of labor, or any other notices that Beneficiary deems appropriate to protect Beneficiary's interest, (b) upon the issuance of a deed pursuant to the foreclosure of the lien of this Deed of Trust or the delivery of a deed in lieu of foreclosure, to execute all instruments of assignment or further assurance with respect to the Subject Property and Collateral, Leases and Payments in favor of the grantee of any such deed, as may be necessary or desirable for such purpose, (c) with notice to Trustor to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve Beneficiary's security interests and rights in or to any of the Subject Property and Collateral, and (d) upon the occurrence of an event, act or omission which, with notice or passage of time or both, would constitute a Default, Beneficiary may with notice to Trustor perform any obligation of Trustor hereunder; provided, however, that: (i) Beneficiary as such attorney-in-fact shall only be accountable for such funds as are actually received by Beneficiary; and (ii) Beneficiary shall not be liable to Trustor or any other person or entity for any failure to act (whether such failure constitutes negligence) by Beneficiary under this Section.

ARTICLE 7. MISCELLANEOUS PROVISIONS

- 7.1 **ADDITIONAL PROVISIONS.** The Loan Documents contain or incorporate by reference the entire agreement of the parties with respect to matters contemplated herein and supersede all prior negotiations. The Loan Documents grant further rights to Beneficiary and contain further agreements and affirmative and negative covenants as well as notice and cure periods by Trustor which apply to this Deed of Trust and to the Subject Property and Collateral and such further rights and agreements are incorporated herein by this reference.
- 7.2 **MERGER.** No merger shall occur as a result of Beneficiary's acquiring any other estate in, or any other lien on, the Subject Property unless Beneficiary consents to a merger in writing.
- 7.3 **OBLIGATIONS OF TRUSTOR, JOINT AND SEVERAL.** If more than one person has executed this Deed of Trust as "Trustor", the obligations of all such persons hereunder shall be joint and several.

- 7.4 **[RESERVED]**.
- 7.5 **WAIVER OF MARSHALLING RIGHTS.** To the extent permitted by law, trustor, for itself and for all parties claiming through or under Trustor, and for all parties who may acquire a lien on or interest in the Subject Property and Collateral, hereby waives all rights to have the Subject Property and Collateral and/or any other property, which is now or later may be security for any Secured Obligation (“Other Property”) marshalled upon any foreclosure of the lien of this Deed of Trust or on a foreclosure of any other lien or security interest against any security for any of the Secured Obligations. Beneficiary shall have the right to sell, and any court in which foreclosure proceedings may be brought shall have the right to order a sale of, the Subject Property and any or all of the Collateral or Other Property as a whole or in separate parcels, in any order that Beneficiary may designate.
- 7.6 **RULES OF CONSTRUCTION.** When the identity of the parties or other circumstances make it appropriate the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. The term “Subject Property” and “Collateral” means all and any part of the Subject Property and Collateral, respectively, and any interest in the Subject Property and Collateral, respectively.
- 7.7 **SUCCESSORS IN INTEREST.** The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto; provided, however, that this Section 7.7 does not waive or modify the provisions of Section 5.12.
- 7.8 **EXECUTION IN COUNTERPARTS.** To facilitate execution, this document may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single document. It shall not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, and the respective acknowledgments of, each of the parties hereto. Any signature or acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures or acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature or acknowledgment pages.
- 7.9 **CALIFORNIA LAW.** This Deed of Trust shall be construed in accordance with the laws of the State of California, except to the extent that federal laws preempt the laws of the State of California.
- 7.10 **INCORPORATION.** Exhibit A as attached are incorporated into this Deed of Trust by this reference.
- 7.11 **NOTICES.** Any notice, demand, request or other communication that any party may desire or may be required to give to any other party hereunder or under any Loan Document shall be given in writing, at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communication, whether by email or telecopier, together with confirmation of transmission; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested.

If to Borrower: Golden Opportunity Legacy Development LLC

Email: _____

If to Lender:

Pacific Charter School Development, Inc.
Attn: CEO, CFO or General Counsel
600 Wilshire Blvd., Suite 200
Los Angeles, CA 90210
Email: john@pacificcharter.org

Such addresses may be changed by notice to the other parties given in the same manner as herein provided. Any notice, demand, request or other communication sent pursuant to either subsection (a) or (b) above shall be served and effective upon such personal service or upon confirmation of transmission by such electronic means, provided that any communication sent by email shall not be effective until the recipient has acknowledged receipt of the substantive content of the email (i.e., an automatic reply does not suffice). Any notice, demand, request or other communication sent pursuant to subsection (c) above shall be deemed served and effective one (1) Business Day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (d) above shall be deemed served and effective three (3) Business Days after proper deposit with the United States Postal Service. A failure by Lender to deliver copies of notices to any party's counsel shall not in any way impair or diminish Lender's rights and remedies under this Agreement.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year set forth above.

TRUSTOR:

**GOLDEN OPPORTUNITY LEGACY DEVELOPMENT
LLC**

By: The Golden Charter Academy, its sole member and
manager

By: _____
Name: Robert D. Golden Sr.
Its: President & CEO

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Legal Description

EXHIBIT A

1

SCHEDULE 1

LEASES

None.

SCHEDULE
1

4. Deed of Trust_Golden Charter

Environmental Indemnification and Release Agreement

This Environmental Indemnification and Release Agreement (this "Agreement") is made as of December 20, 2022, by **GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC**, a California limited liability company ("Borrower"), **THE GOLDEN CHARTER ACADEMY**, a California nonprofit public benefit corporation ("Guarantor") (Borrower and Guarantor are collectively referred to herein as "Indemnitors," and Borrower and Guarantor are individually referred to herein as an "Indemnitor"), jointly and severally, to and for the benefit of **PACIFIC CHARTER SCHOOL DEVELOPMENT, INC.**, a California nonprofit public benefit corporation (together with its successors and assigns, "Lender").

Recitals

Borrower has requested that Lender make a loan (the "Loan") to Borrower evidenced by a Promissory Note of even date herewith made by Borrower payable to the order of Lender in the principal face amount of One Million and No/100 Dollars (\$1,000,000.00), which Loan is secured by a Deed of Trust, with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Mortgage") of even date herewith encumbering certain real and personal property as therein described (collectively, the "Property"), including the land described in Exhibit A which is attached hereto and made a part hereof. Guarantor is the holder of a direct or indirect beneficial interest in Borrower, the extension of the Loan to Borrower is of substantial benefit to Guarantor and, therefore, Indemnitors desire to indemnify Lender with respect to Hazardous Materials (as defined below) on, in, under or affecting the Property as set forth herein. As a condition precedent to making the Loan, Lender has required that Indemnitors execute and deliver this Agreement to Lender. Indemnitors and Lender intend for this Agreement to serve as Lender's written demand and Indemnitors' response concerning the environmental condition of the Property as required by California Code of Civil Procedure ("CCP") Section 726.5. The term "Loan Documents" is used herein as defined in the Mortgage. This Agreement is one of the Loan Documents, but this Agreement is not secured by the Mortgage.

Agreements

Section 1 Definitions.

As used in this Agreement, the terms defined in the preamble and in the recitals hereto shall have the respective meanings specified therein, and the following additional terms shall have the meanings specified:

"At" or "at," when used with respect to the Property or any property adjacent to the Property, means "on, at, in, under, above or about."

"Environmental Claim" means any complaint, action, notice, order, claim, investigation, judicial or administrative proceeding or action, or other similar claims or communications from any Person (defined below) involving or alleging any non-compliance with any Environmental Requirement (defined below) or the existence of any unsafe or hazardous condition resulting from or related to the Release (defined below) of any Hazardous Material (defined below).

"Environmental Law" means any and all applicable federal, state or local laws, statutes, ordinances, rules, regulations, orders, principles of common law, judgments, permits, licenses or determinations of any judicial or regulatory authority, now or hereafter in effect, imposing liability, establishing standards of conduct or otherwise relating to protection of the environment (including natural resources, surface water, groundwater, soils, and indoor and ambient air), health and safety, land use matters or the presence,

generation, treatment, storage, disposal, Release or threatened Release, transport or handling of any Hazardous Material.

"Environmental Requirement" means any Environmental Law, or any other applicable agreement or restriction (including any condition or requirement imposed by any third party or insurance or surety company), now or hereafter in effect, which relates to any matters addressed by any Environmental Law, Hazardous Material, or the prevention of any unsafe or hazardous condition resulting from or related to the Release of any Hazardous Material.

"Hazardous Material" means any substance, material, element, compound, waste or chemical, whether solid, liquid or gaseous, which is defined, listed, classified or otherwise regulated in any way under any Environmental Laws, or any other such substances or conditions (including mold and other mycotoxins or fungi) which may create any unsafe or hazardous condition or pose any threat to health and safety.

"Indemnified Party" means and includes Lender, any Persons owned or controlled by, owning or controlling, or under common control or affiliated with Lender, any participants in the Loan, the directors, officers, partners, employees and agents of Lender and/or such Persons, and the successors and assigns of each of the foregoing Persons.

"Person" means an individual, a corporation, a partnership, a joint venture, a limited liability company, a trust, an unincorporated association, any governmental authority or any other entity.

"Release" means the presence of or any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, seeping, migrating, dumping or disposing of any Hazardous Material (including the abandonment or discarding of barrels, drums, tanks, and other similar containers, containing any Hazardous Material) into the indoor or outdoor environment.

"Transition Date" means the earlier of the following two dates: (a) the date on which the indebtedness and obligations secured by the Mortgage have been paid, performed and finally discharged in full (without possibility for disgorgement), and the Mortgage has been reconveyed; or (b) the date on which the lien of the Mortgage is fully and finally foreclosed or a conveyance by deed in lieu of such foreclosure is fully and finally effective and possession of the Property has been given to and accepted by Lender or any other purchaser or grantee free of occupancy and claims to occupancy by Borrower and its heirs, devisees, representatives, successors and assigns; provided that, if such payment, performance, release, foreclosure or conveyance is challenged, in bankruptcy proceedings or otherwise, the Transition Date shall be deemed not to have occurred until such challenge is validly released, dismissed with prejudice or otherwise barred by law from further assertion.

Section 2 Representations and Warranties.

Except as explicitly set forth in any previous environmental report provided to Lender, Indemnitors, after appropriate due inquiry and investigation in accordance with good commercial or customary practices, including an investigation into the previous uses and ownership of the Property, hereby represent and warrant to, and covenant with, Lender, without regard to whether Lender has or hereafter obtains any knowledge or information related to these matters, as follows:

(a) Use of the Property. During the period of Borrower's ownership or operation of the Property, and, to the best of Indemnitors' knowledge, during the period prior to Borrower's ownership or operation of the Property, (i) the Property has not been used as a treatment, storage or disposal site for any Hazardous Material, for any other waste disposal activities, for industrial or manufacturing purposes or for any other use which could give rise to the Release of any Hazardous Material at the Property or which could

create any unsafe or hazardous condition resulting from or related to the Release of any Hazardous Material, and to the best of Indemnitors' knowledge, no such use on any adjacent property has occurred at any time prior to the date hereof; (ii) there has been no Release at or from the Property or, to the best of Indemnitors' knowledge, at or from any disposal or treatment facility which received Hazardous Materials generated by Borrower or at the Property; and (iii) no active, inactive or abandoned under-ground or above-ground storage tanks or similar containers, or any groundwater or monitoring wells of any kind, are or have been located at the Property.

(b) Environmental Claims. No Environmental Claim has been asserted against Borrower or with respect to the Property. Indemnitors do not have knowledge of any threatened or pending Environmental Claim against Borrower, the Property or any facility that may have received Hazardous Material generated by Borrower or at the Property. To the best of Indemnitors' knowledge, no Environmental Claim has been filed against any adjacent property.

(c) Compliance with Laws. During the period of Borrower's ownership or operation of the Property, and, to the best of Indemnitors' knowledge, during the period prior to Borrower's ownership or operation of the Property, the past and present conditions, uses and activities at the Property have complied with all Environmental Requirements. Borrower holds and has held all licenses, permits and approvals required by any governmental authority under any Environmental Requirement in connection with the ownership or operation of the business at the Property and has timely prepared, submitted and made all filings, reports, plans and notifications required under any Environmental Requirement. Borrower has furnished to Lender a copy of all reports, permits, assessments, investigations, correspondence and other documents and information in Borrower's possession which relate to environmental conditions at the Property and any other matters addressed by or relating to compliance with any Environmental Requirement.

(d) Environmental Insurance. Borrower has never applied for and been denied environmental impairment liability insurance coverage relating to the Property. Borrower has furnished to Lender a copy of all such environmental insurance policies, and all applications (whether denied, accepted or pending), related to Borrower or the Property. At Lender's request, Borrower shall cause Lender to be named as an additional insured on any such policy currently in effect.

Section 3 Covenants and Agreements.

(a) Compliance with Environmental Requirements. Indemnitors will not cause, commit, permit or allow to continue: (i) any non-compliance with any Environmental Requirement by Borrower, any tenant or any other Person, by or with respect to the Property or any use of or condition or activity at the Property; (ii) the generation, storage or use of any Hazardous Material at the Property, except for Hazardous Materials that are commonly legally used, stored or generated (and in such amounts commonly legally used, stored or generated) as a consequence of using the Property for its permitted business purposes, but only so long as the use, storage or generation of such Hazardous Materials is in full compliance with all Environmental Requirements; (iii) the treatment, disposal or unauthorized Release of any Hazardous Material at the Property in any manner; (iv) the installation of any above-ground or below-ground storage tanks or other containers containing Hazardous Materials at the Property; (v) any other activity which could create any unsafe or hazardous condition resulting from or related to Hazardous Materials at the Property; or (vi) the attachment of any environmental lien to the Property. Indemnitors acknowledges that Hazardous Materials may permanently and materially impair the value and use of the Property and shall perform all actions necessary to protect the fair market value of the Property from impairment as a result of Hazardous Materials.

(b) Notice to Lender. If, at any time, either Indemnitor becomes aware, or has reasonable cause to believe, that any Release or threatened Release of any Hazardous Material has occurred or will occur at the Property, or if either Indemnitor identifies or otherwise becomes aware of any noncompliance or alleged non-compliance with any Environmental Requirement by Borrower or at the Property, any threatened or pending Environmental Claim related to the Property or any event or condition which could result in an Environmental Claim, such Indemnitor shall notify Lender immediately in writing of such circumstance and shall include a full description of all relevant information. The Indemnitor providing such notification shall, upon receipt, promptly deliver to Lender a copy of any report, audit, summary or investigation, of any kind or character, whether prepared by or on behalf of such Indemnitor or by any other Person, related to environmental conditions at the Property or the compliance status of the Property with respect to any Environmental Requirement.

(c) Site Assessments and Information. If Lender shall ever have reason to believe that any Release or threatened Release of a Hazardous Material or any non-compliance with any Environmental Requirement has occurred with respect to the Property, or if any Environmental Claim is made or threatened with respect to the Property, or if an Event of Default (as defined in the Mortgage) occurs, or following the completion of any corrective action pursuant to Subsection (d) of Section 3, Indemnitors shall, within thirty (30) days of written request by Lender and at Indemnitors' expense, provide to Lender an environmental site assessment and compliance audit of the Property which addresses such conditions. Such environmental site assessment and compliance audit shall be performed to the reasonable satisfaction of Lender, in accordance with good environmental engineering practices and by a consulting firm reasonably acceptable to Lender. Each report shall be addressed to Lender. A copy of each report and all supporting documents shall be promptly furnished to Lender.

(d) Response to Releases, Non-Compliance and Environmental Claims. Indemnitors shall, in compliance with all Environmental Requirements, promptly undertake and complete any and all investigations, testing, or abatement, clean up, remediation, response or other corrective action necessary or recommended to: (i) remove, remediate, clean up or abate any Release or threatened Release of any Hazardous Material at or from the Property; (ii) correct any non-compliance with any Environmental Requirement by Borrower or at the Property; (iii) address any unsafe or hazardous condition at the Property resulting from or related to any Hazardous Material; or (iv) make an appropriate response to any threatened or pending Environmental Claim related to Borrower or the Property. Any report or other document prepared in response to any of these events shall be addressed to Lender. A copy of any such report or other document (and all supporting documents) shall be promptly furnished to Lender. If requested by Lender, Indemnitors shall provide to Lender, within thirty (30) days of Lender's request, a bond, letter of credit or other financial assurance evidencing to Lender's satisfaction that all necessary funds are readily available to pay the costs and expenses of the required actions and to discharge any liens established against the Property.

(e) Lender's Rights. Lender shall have the right, but not the obligation, without limitation of Lender's rights under the other Loan Documents, and at Indemnitors' sole risk and expense, to enter onto the Property and/or to take, or cause to be taken, such actions as Lender deems necessary or advisable to investigate, clean up, remediate or otherwise respond to, address or correct any of the issues addressed in this Agreement. Without limiting the generality of the foregoing, Indemnitors agree that Lender will have the same right, power and authority to enter and inspect the Property as is granted to the secured lender under Section 2929.5 of the California Civil Code, and that Lender will have the right to appoint a receiver to enforce this right to enter and inspect the Property to the extent such authority is provided under California law, including the authority given to the secured lender under CCP Section 564(c). Indemnitors shall reimburse Lender on demand for the costs of taking any action permitted under this Subsection (e). Lender agrees, however, that, except in the case of an emergency, Lender will take such action only after written notice to Indemnitors of the circumstances and the failure by Indemnitors, within a reasonable

period of time following receipt of such notice, to commence or diligently pursue to completion the appropriate corrective action. Lender owes no duty of care to protect either Indemnitor or any other Person against, or to inform Borrower or any other Person of, any Hazardous Material or other environmental condition affecting the Property.

Section 4 Indemnification.

(a) Indemnified Matters. Indemnitors hereby jointly and severally agree to protect, indemnify, defend, release and hold each Indemnified Party harmless from and against, and reimburse each Indemnified Party on demand for, any and all losses, costs, liabilities (including strict liabilities), claims (including Environmental Claims), damages, expenses (including reasonable attorneys' fees incurred in connection with enforcing this provision), penalties or fines of any kind whatsoever paid, incurred or suffered by, or asserted against, any Indemnified Party by any Person in connection with, arising out of or resulting in any way whatsoever from:

(i) the presence, Release or threatened Release of any Hazardous Material at or from the Property, on or before the Transition Date; or

(ii) the breach of any representation, warranty, covenant or agreement contained in this Agreement because of any act, omission, event or condition existing or occurring on or before the Transition Date; or

(iii) any violation or potential violation, on or before the Transition Date, of any Environmental Requirement in effect on or before the Transition Date, regardless of whether any act, omission, event or circumstance giving rise to the violation constituted a violation at the time of the occurrence or inception of such act, omission, event or circumstance; or

(iv) any Environmental Claim related to any, act, omission, event or condition existing or occurring in connection with the use or occupancy of the Property at any time on or before the Transition Date; or

(v) the filing or imposition of any environmental lien against the Property;

and regardless of whether any matter set forth in the foregoing Subsections (i) through (v) was caused by Borrower, a prior owner of the Property, or any other Person whatsoever. Such indemnity shall not apply, however, to a particular Indemnified Party to the extent that the subject of the indemnification is or was caused by or arises out of the sole or gross negligence or willful misconduct of that particular Indemnified Party. Borrower and Lender intend that to the extent any matters indemnified hereunder are not recoverable under CCP Section 736(a), such matters shall be recoverable under the law of the State of California other than CCP Section 736, as provided in CCP Section 736(d).

(b) Defense of Claims. Upon demand by an Indemnified Party, Indemnitors shall diligently defend any Environmental Claim which relates to the Property or is threatened or commenced against such Indemnified Party, all at Indemnitors' own cost and expense and by counsel to be approved by Lender in the exercise of its reasonable judgment. In the alternative, Lender may elect, at any time and for any reason, to conduct its own defense through counsel selected by Lender and at the sole cost and expense of Indemnitors.

Section 5 Release.

Indemnitors hereby release and forever discharge, and covenant not to sue, each Indemnified Party from any and all claims, injuries, demands, costs, penalties, attorneys' fees, costs of litigation and causes of action of any kind whatsoever, now or hereafter in existence, known or unknown, which Indemnitors may have against any Indemnified Party and which are related to events, omissions or circumstances arising from or related to the Property or matters addressed in this Agreement, including any actions taken pursuant to Subsection (e) of Section 3 or any events described in Subsection (a) of Section 4. The release set forth in this Section 5 shall not apply, however, to a particular Indemnified Party to the extent that the subject of the release is or was caused by or arises out of the sole or gross negligence or willful misconduct of that particular Indemnified Party.

Section 6 Notices.

All notices, requests, consents, demands and other communications required or which any party desires to give hereunder or under any other Loan Document shall be in writing and, unless otherwise specifically provided in such other Loan Document, shall be deemed sufficiently given or furnished if delivered by personal delivery, by nationally recognized overnight courier service or by certified United States mail, postage prepaid, addressed to the party to whom directed at the addresses specified at the end of this Agreement (unless changed by similar notice in writing given by the particular party whose address is to be changed). Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of courier or mail, as of the date of first attempted delivery at the address and in the manner provided herein; provided that no notice of change of address shall be effective except upon actual receipt. Notwithstanding the foregoing, service of a notice or communication required by any applicable statute shall be considered complete when the requirements of that statute are met. This Section shall not be construed in any way to affect or impair any waiver of notice or demand provided in any Loan Document or to require giving of notice or demand to or upon any Person in any situation or for any reason.

Section 7 Miscellaneous.

(a) Consideration. Indemnitors acknowledge that Lender has relied and will rely on the representations, warranties, covenants and agreements herein in closing and funding the Loan, and that the execution and delivery of this Agreement is an essential condition but for which Lender would not close or fund the Loan.

(b) Survival. The representations, warranties, covenants and agreements in this Agreement shall be binding upon Indemnitors and their successors, assigns and legal representatives and shall inure to the benefit of Lender and its successors, assigns and legal representatives and participants in the Loan; and shall not terminate on the Transition Date or upon the release, foreclosure or other termination of the Mortgage, but will survive the Transition Date, the payment in full of the indebtedness secured by the Mortgage, foreclosure of the Mortgage or conveyance in lieu of foreclosure, the release or termination of the Mortgage and any or all of the other Loan Documents, any investigation by or on behalf of Lender, any bankruptcy or other debtor relief proceeding, or any other event whatsoever.

(c) Rights Cumulative. Lender's rights under this Agreement shall be in addition to all rights of Lender under the other Loan Documents or at law or in equity, and payments by Indemnitors under this Agreement shall not reduce Indemnitors' obligations and liabilities under any of the other Loan Documents. The liability of Indemnitors or any other Person under this Agreement shall not be limited or impaired in any way by any provision in the other Loan Documents or applicable law limiting Indemnitors' or such other Person's liability or Lender's recourse or rights to a deficiency judgment. The liability of such other Person, if applicable, under this Agreement shall not be limited or impaired in any way by any change,

extension, release, inaccuracy, breach or failure to perform by any party under the Loan Documents, such other Person's liability hereunder being direct and primary and not as a guarantor or surety.

(d) Rights Under Environmental Requirements and Other Rights. Nothing in this Agreement or in any other Loan Document shall limit or impair any claims, rights or remedies of Lender or any other Indemnified Party against Indemnitors or any other Person under any Environmental Requirement or otherwise at law or in equity, including any claims for fraud, misrepresentation, waste or breach of contract other than this Agreement, and any rights of contribution or indemnification. In addition to any other rights or remedies Lender may have under this Agreement or the other Loan Documents, at law or in equity, upon any breach or default by Indemnitors under this Agreement, Lender may pursue any remedies available to it under CCP Sections 726.5 and 736. Without limiting any of the remedies provided herein or in the other Loan Documents, Indemnitors acknowledge and agree that the provisions of this Agreement are environmental provisions, as that term is defined in CCP Section 736(f)(2), made by Indemnitors relating to the real property security, and that Indemnitors' failure to comply with the terms of this Agreement is a breach of contract such that Lender shall have the remedies provided under CCP Section 736 for the recovery of damages and for the enforcement thereof. Pursuant to CCP Section 736, Lender's action for the recovery of damages or enforcement of this Agreement shall not constitute an action within the meaning of CCP Section 726(a) or constitute a money judgment for a deficiency or a deficiency judgment within the meaning of CCP Sections 580a, 580b, or 726(b).

(e) No Waiver. No delay or omission by Lender to exercise any right under this Agreement shall impair any such right nor shall it be construed to be a waiver thereof. No waiver of any single breach or default under this Agreement shall be deemed a waiver of any other breach or default. Any waiver, consent or approval under this Agreement must be in writing to be effective.

(f) Invalid Provisions. A determination that any provision of this Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision and a determination that the application of any provision of this Agreement to any Person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other Persons or circumstances.

(g) Construction. Whenever in this Agreement the singular number is used, the same shall include plural where appropriate, and vice versa; and words of any gender in this Agreement shall include each other gender where appropriate. The headings in this Agreement are for convenience only and shall be disregarded in the interpretation hereof. The words "include" and "including" shall be interpreted as if followed by the words "without limitation."

(h) Applicable Law; Forum. This Agreement is performable in Los Angeles County, California, and the laws of the State of California (without regard to its conflicts of law principles) and applicable United States federal law shall govern the rights and duties of the parties hereto and the validity, enforcement and interpretation hereof. Indemnitors hereby irrevocably submit generally and unconditionally for themselves and in respect of their property to the jurisdiction of any state court or any United States federal court, sitting in the State of California and to the jurisdiction of any state court or any United States federal court, sitting in the state in which any of the Property is located, over any suit, action or proceeding arising out of or relating to this Agreement or the Loan. Indemnitors hereby irrevocably waive, to the fullest extent permitted by law, any objection that Indemnitors may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Indemnitors hereby agree and consent that, in addition to any methods of service of process provided for under applicable law, all service of process in any such suit, action or proceeding in any state court or any United States federal court sitting in the state(s) specified above may be made by certified or registered mail, return receipt requested, directed to Indemnitors at the address for notice set forth next to each

Indemnitor's signature below, or at a subsequent address of which Lender received actual notice from an Indemnitor providing such a subsequent address in accordance with the Loan Documents, and service so made shall be complete five (5) days after the same shall have been so mailed. Nothing herein shall affect the right of Lender to serve process in any manner permitted by law or limit the right of Lender to bring proceedings against Indemnitors in any other court or jurisdiction.

(i) Counterparts; Modification. This Agreement has been executed in a number of identical counterparts, each of which shall be deemed an original for all purposes and all of which constitute, collectively, one agreement. This Agreement may be amended only by an instrument in writing intended for that purpose executed jointly by an authorized representative of each party hereto.

IN WITNESS WHEREOF, Borrower and Lender have caused this Agreement to be executed as of the date first written above.

INDEMNITORS:

The address of Borrower is:

**GOLDEN OPPORTUNITY LEGACY
DEVELOPMENT LLC**
c/o The Golden Charter Academy

Attention: Robert D. Golden Sr.

Borrower:

GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC,
a California limited liability company

By: The Golden Charter Academy, its sole member and manager

By: _____

Name: Robert D. Golden Sr.

Its: President & CEO

The address of Guarantor is:

The Golden Charter Academy

Attention: Robert D. Golden Sr.

Guarantor:

THE GOLDEN CHARTER ACADEMY,
a California nonprofit public benefit corporation

By: _____

Name: Robert D. Golden Sr.

Title: President & CEO

The address of Lender is:

Pacific Charter School Development, Inc.
600 Wilshire Blvd., Suite 200
Los Angeles, CA 90017
Attention: General Counsel

Lender:

PACIFIC CHARTER SCHOOL
DEVELOPMENT, INC.,
a California nonprofit public benefit corporation

By: _____
Name: Scarlet Sy
Title: CFO

EXHIBIT A

(Description of Land)

[TO BE INSERTED]

**CERTIFICATE
OF
RESOLUTION
OF
THE GOLDEN CHARTER ACADEMY
a California nonprofit public benefit corporation**

December __, 2022

The undersigned secretary of **THE GOLDEN CHARTER ACADEMY**, a California nonprofit public benefit corporation (the “**Corporation**”) hereby certifies that the following statements are true and correct and, where resolved, comprise a true copy of the resolutions duly approved by the Corporation.

At a meeting of the Directors of the Corporation duly called and held at which a quorum was present and voting, the following resolutions were adopted:

WHEREAS, the Corporation is a California corporation duly organized, validly existing and in good standing under the laws of the State of California, is duly qualified to conduct its business in the State of California and has full power and authority to act as the manager of the Borrower (as defined below). The Corporation is not in violation of its organizational documents.

WHEREAS, the Corporation is the sole member of Golden Opportunity Legacy Development LLC , a California limited liability company (the “**Borrower**”), intends to acquire certain real property located at 741 W. Belmont Ave., Fresno, CA 93728-2805 (the “**Property**”) pursuant to that Commercial Property Purchase Agreement and Joint Escrow Instructions dated as of September 24, 2020 as subsequently modified and amended from time to time, by and between Robert Golden, Sr. as assigned to Golden Charter Academy pursuant to that certain Addendum No. 2 and subsequently assigned to Borrower pursuant to that certain Addendum No. 5, as Buyer, and Kou Yang and Tong Her, collectively, as Seller.

WHEREAS, Pacific Charter School Development, Inc. (the “**Lender**”) has agreed to provide an acquisition loan (the “**Loan**”) to the Borrower in the amount of \$1,000,000.00 for the purpose of providing financing to facilitate Borrower’s acquisition of the Property (the “**Loan**”); and in connection with the Loan, the Borrower is required to execute and deliver various agreements and documents binding the Borrower to the terms and provisions of the Loan (the “**Loan Documents**”), which Loan Documents will include, without limitation, a Loan Agreement, Promissory Note, Deed of Trust, Repayment Guaranty, Environmental Indemnification and Release Agreement and a Closing Compliance Certificate.

WHEREAS, the Repayment Guaranty will bind and be executed by the Corporation for the benefit of Lender, and the Environmental Indemnification and Release Agreement will bind and be executed by the Borrower and Corporation for the benefit of Lender.

NOW, THEREFORE, BE IT RESOLVED, the board of directors of the Corporation have determined that it is in the best interests of the Corporation, as the sole member of the Borrower, that the Borrower shall obtain the Loan upon the terms and provisions of the Loan Documents and such other terms as are customary in similar commercial loan transactions as determined by the Authorized Officer in their sole discretion, to execute and deliver the Loan Documents, and to otherwise bind the Borrower and Corporation to all of the obligations thereunder of Borrower and Guarantor, each as defined therein, respectively.

RESOLVED FURTHER, that the Corporation hereby authorizes the following named officer of the Corporation (“**Authorized Officer**”):

<u>Name</u>	<u>Position</u>	<u>Signature</u>
Robert D. Golden Sr.	President & CEO	X_____

(a) to execute and deliver, on behalf of the Borrower, as [manager], all documents and instruments necessary to obtain the Loan from Lender, (b) to execute and deliver, on behalf of the Borrower, as its [manager], the Loan Documents and any and all other documents and instruments required to be executed and delivered by the Lender in connection with the Loan, (c) to execute and deliver, on behalf of the Corporation, the Repayment Guaranty and Environmental Indemnification and Release Agreement as required to be executed and delivered by the Lender in connection with the Loan (d) to otherwise take all necessary legal and administrative actions as may be required or necessary for Borrower to obtain the Loan and to bind the Borrower and Corporation to the terms of the Loan Documents.

RESOLVED FURTHER, that all actions heretofore taken by the Authorized Officer, the Secretary, or any other officer of the Corporation, in connection with or otherwise in contemplation of the foregoing transaction be, and they hereby are, ratified, confirmed and approved as the acts and deeds of the Corporation acting as the manager of Borrower and of the Corporation.

RESOLVED FURTHER, that the foregoing resolutions shall remain in full force and effect, and Lender shall be entitled to rely upon the same until written notice of the modification, rescission or revocation of the same, in whole or in part, shall be delivered to Lender; provided, however, that such revocation shall not affect the validity of any action previously taken, the Loan, the Loan Documents, or the validity of the Repayment Guaranty.

[signature on following page.]

IN WITNESS WHEREOF, the undersigned has executed this Certificate effective as of the date set forth above.

Name: _____, Secretary

**CERTIFICATE OF BORROWING AUTHORIZATION
OF SOLE MEMBER
OF
GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC,
a California limited liability company**

December __, 2022

The undersigned (the “**Sole Member**”), the sole member and Sole Member of **GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC**, a California limited liability company (the “**Company**”) hereby certifies that the following statements are true and correct and, where resolved, comprise a true copy of the resolutions duly approved by the Company:

WHEREAS, the Company intends to acquire certain real property located at 741 W. Belmont Ave., Fresno, CA 93728-2805 (the “**Property**”) pursuant to that Commercial Property Purchase Agreement and Joint Escrow Instructions dated as of September 24, 2020 as subsequently modified and amended from time to time, by and between Robert Golden, Sr. as assigned to Golden Charter Academy pursuant to that certain Addendum No. 2 and subsequently assigned to Borrower pursuant to that certain Addendum No. 5, as Buyer, and Kou Yang and Tong Her, collectively, as Seller.

WHEREAS, the Company is a California limited liability company duly organized, validly existing and in good standing under the laws of the State of California, is duly qualified to conduct its business in the State of California, and has full power and authority to accept the Loan (defined below); and the Company is not in violation of its Articles of Organization or its Operating Agreement.

WHEREAS, Pacific Charter School Development, Inc. (the “**Lender**”) has agreed to provide a loan (the “**Loan**”) to the Company in the amount of \$1,000,000.00 for the purpose of providing financing to facilitate Borrower’s acquisition of the Property (the “**Loan**”); and in connection with the Loan, the Company is required to execute and deliver various agreements and documents binding the Company to the respective terms and provisions of the Loan (the “**Loan Documents**”), which Loan Documents will include, without limitation, a Loan Agreement, Promissory Note, Deed of Trust, Repayment Guaranty, Environmental Indemnification and Release Agreement and a Closing Compliance Certificate.

NOW, THEREFORE, BE IT RESOLVED, the Sole Member of the Company has determined that it is in the best interests of the Company to obtain the Loan upon the terms and provisions of the Loan Documents and such other terms as are customary in similar commercial loan transactions as determined by the President & CEO in their sole discretion, to execute and deliver the Loan Documents, and to otherwise bind the Company to all of the obligations thereunder of Borrower as defined therein.

RESOLVED FURTHER, that the Company hereby authorizes the President & CEO to (a) to execute and deliver, on behalf of the Company, all documents and instruments necessary to obtain the aforesaid Loan from Lender, (b) to execute and deliver, on behalf of the Company, the Loan Documents and any and all other documents and instruments required to be executed and delivered by the Lender in connection with the Loan, and (c) to otherwise take all necessary legal and administrative actions as may be required or necessary to obtain the Loan and to bind the Company to the terms of the Loan Documents.

RESOLVED FURTHER, that all actions heretofore taken by the Sole Member of the Company or the President & CEO in connection with or otherwise in contemplation of the acquisition on the Property and

the foregoing loan transaction be, and they hereby are, ratified, confirmed and approved as the acts and deeds of the Company.

RESOLVED FURTHER, that the foregoing resolutions shall remain in full force and effect, and Lender shall be entitled to rely upon the same until written notice of the modification, rescission or revocation of the same, in whole or in part, shall be delivered to Lender; provided, however, that such revocation shall not affect the validity of any action previously taken, the validity of the Loan or of any of the Loan Documents.

IN WITNESS WHEREOF, the undersigned has executed this Certificate effective as of the date set forth above.

SOLE MEMBER:

GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC

By: The Golden Charter Academy, its sole member and manager

By: _____

Name: Robert D. Golden Sr.

Its: President & CEO

CLOSING COMPLIANCE CERTIFICATE

Acquisition Loan

(741 W. Belmont Ave., Fresno, CA 93728-2805)

December 20, 2022

The undersigned, with respect to (i) that certain limited liability company engaged in business under the firm name and style of **GOLDEN OPPORTUNITY LEGACY DEVELOPMENT LLC**, a California limited liability company (“**Borrower**”), pursuant to that certain Operating Agreement (the “**Operating Agreement**”) dated December __, 2022, and (ii) **THE GOLDEN CHARTER ACADEMY**, a nonprofit public benefit corporation (“**Guarantor**” and “**Manager**”) pursuant to those certain Articles of Incorporation dated _____ and Bylaws dated _____ (“**Bylaws**”), does hereby represent, warrant and certify to **PACIFIC CHARTER SCHOOL DEVELOPMENT, IN.** (“**Lender**”) that:

1. The undersigned is the sole member of Borrower.
2. The undersigned, as the Guarantor and sole member of the Borrower, has the full power and authority on behalf of Borrower and Guarantor to enter into, on behalf of Borrower and Guarantor, a \$1,000,000.00 acquisition loan transaction with Lender (“Loan”) and in connection with such Loan to:
 - (a) execute the note, loan agreement, deed of trust, environmental indemnity and release, repayment guaranty, drafts, certificates or give agreements of the type in furtherance thereof and/or as evidence thereof;
 - (b) execute and deliver this certificate to Lender; and
 - (c) accept or direct delivery to Lender of any monies or other property of Borrower held by Lender.
3. All consents and approvals, if any, required to be obtained from any third party pursuant to applicable law or any contractual agreement or understanding, in order to permit or authorize the Borrower to enter into and perform all obligations of the Borrower under or with respect to the Loan, have been obtained and are in full force and effect.
4. A true and correct copy of the Operating Agreement of Borrower is attached hereto as Exhibit A, which is made a part hereof.
5. A true and correct certified copy of the Articles and copy of the Bylaws of Guarantor/Manager is attached hereto as Exhibit B, which is made a part hereof.
6. Attached hereto as Exhibit C is a true, correct and complete copy of the Certificate of Resolution of The Golden Charter Academy, as certified by the undersigned.
7. The Operating Agreement (a) is in full force and effect, (b) has not been modified or amended and (c) constitutes the entire Operating Agreement between the parties thereto with respect to the matters set forth therein.

8. The Articles and Bylaws (a) are in full force and effect, (b) have not been modified or amended and (c) constitute the entire agreement between the parties thereto with respect to the matters set forth therein.
9. Lender shall be entitled to act in reliance upon the matters herein contained without further inquiry of any kind, notwithstanding anything contained in the Operating Agreement, the Articles and Bylaws or any other agreements or documents.
10. The undersigned approves the Loan to be made by Lender to Borrower, in the amount not to exceed \$1,000,000.00.

This certificate is made as of date set forth above with the knowledge that Lender is relying on the facts represented.

Guarantor and Manager:

THE GOLDEN CHARTER ACADEMY
a California nonprofit public benefit corporation,

By: _____

Name: Robert D. Golden Sr.

Its: President & CEO

EXHIBIT A
OPERATING AGREEMENT

[See Attached]

EXHIBIT B
ARTICLES AND BYLAWS

[See Attached]

EXHIBIT C
CERTIFICATE OF RESOLUTION OF THE GOLDEN CHARTER ACADEMY