

LEASE

THIS LEASE ("Lease") is made effective July 1, 2020, by and between COLORADO MOUNTAIN COLLEGE ("Landlord") and MOUNTAIN BOARD OF COOPERATIVE EDUCATION SERVICES ("Tenant"). The Landlord and Tenant are collectively referred to in this Lease as the "Parties".

BACKGROUND

A. Landlord is the owner of certain real property located at 27900 County Road 319, Buena Vista, CO 81211, known as Colorado Mountain College Buena Vista, legally described on Exhibit A attached hereto and incorporated by this reference (the "Property"), which is currently used by Landlord for educational purposes. The Property is twelve (12) acres, more or less, and includes a building which is 8,418 square feet, more or less (the "Building").

B. Tenant is a non-profit regional education collaborative representing four p-12 school districts, Leadville, Buena Vista, Fairplay, and Salida. Tenant desires to lease the Building for the purpose of its primary administrative offices, and for educational purposes, including but not limited to, offering professional development to teachers and staff.

C. The Parties desire to document a lease agreement for the use of the Building and approximately two (2) acres of land surrounding the same, pursuant to the terms and conditions stated herein.

D. The Building and approximately two (2) acres of land surrounding the same are not required by Landlord for its purposes for the foreseeable future.

ARTICLE 1 – BASIC LEASE PROVISIONS

1.1 **Lease of Building.** In consideration of the Tenant's payment of rent and of the promises, covenants, and conditions required of the Tenant by this Lease, the Landlord leases to the Tenant, and the Tenant leases from the Landlord, for the term and upon the conditions of this Lease, the Building and approximately two (2) acres of land surrounding the same, which together are depicted as the hash-marked area "Leased Premises" on Exhibit B attached hereto and incorporated herein by this reference (the Building and approximately 2 acres of land surrounding the same are hereinafter called the "Leased Premises").

Tenant understands and agrees that Landlord retains the exclusive right to use the remaining ten (10) acres of the Property, which are not included in this Lease.

1.2 **Use of the Leased Premises.**

(a) Tenant agrees to use the Leased Premises solely to further Tenant's educational mission and offerings and associated uses, and for no other use, in compliance with applicable covenants, and with local, state and federal laws including the Chaffee County

Land Use regulations and other land use laws regulating the use or occupancy of such real property or the activities conducted thereon.

(b) The Leased Premises shall not be used for any illegal purpose, nor for any commercial or residential purpose, nor in any manner so as to create any nuisance or trespass. Tenant shall not perform any acts or carry on any practices which may injure the Building or be a nuisance or menace to adjoining properties. Tenant shall refrain from storing any combustible or hazardous materials on the Leased Premises.

(c) Tenant shall obtain any and all necessary licenses or permits, required by law for Tenant's use of the Leased Premises. Tenant shall promptly comply with all laws, ordinances, rules, regulations, requirements, and directives of the federal, state, and municipal governments or public authorities and of all their departments, bureaus and subdivisions, applicable to and affecting the use and occupancy of the Building, and shall promptly comply with all orders, regulations, requirements and directives of all regulatory agencies and of any insurance companies which have issued or are about to issue policies of insurance covering the Leased Premises and its contents, for the prevention of fire or other casualty, damage or injury, all at Tenant's own cost and expense. Tenant shall not use the Leased Premises for any purposes deemed unlawful, disreputable, or hazardous. All uses of the Leased Premises shall be lawful uses permitted by applicable laws, ordinances and regulations. Compliance and all expenses of compliance with such laws, ordinances and regulations shall be the responsibility of Tenant.

(d) Tenant covenants and agrees that: (a) Tenant will keep the Building at a temperature compatible with comfortable occupancy and at all times sufficiently high to prevent freezing of fluids in pipes or fixtures; (b) any plumbing facilities will not be used for any other purpose than that for which they are designed, and no foreign substance of any kind will be deposited or discarded therein; (c) Tenant will not burn any trash or garbage of any kind in or about the Leased Premises; and (d) Tenant will keep the Leased Premises free from unsightly uses.

(e) Tenant shall not cause or permit any violation of the Americans with Disabilities Act (the "ADA") to occur on, or about the Premises by Tenant, its agents, employees, contractors or invitees.

(f) Landlord shall retain the right to utilize one or two classrooms during evening hours. Landlord shall schedule such use with Tenant.

1.3 **Term.** The term of this Lease shall be for a period of five (5) years, commencing July 1, 2020 (the "Commencement Date"). If Tenant continues to occupy the Leased Premises after the expiration of the five-year term hereof without written agreement of the Parties, such occupancy shall be construed to be a tenancy from month-to-month only, and such occupancy shall be subject to all of the terms and conditions of this Lease.

1.4 Surrender of Leased Premises.

(a) Upon the expiration or earlier termination of this Lease the Tenant shall surrender the Leased Premises to Landlord in good condition, ordinary wear and tear excepted, as determined by Landlord. Not later than the last day of the term of this Lease, the Tenant shall remove its personal property and fixtures from the Building, and shall surrender all keys for the Leased Premises to Landlord. The cost of such removal shall be borne by the Tenant, and the Tenant shall repair all injury or damage done to the Leased Premises in connection with the installation or removal of the Tenant's personal property and fixtures. All of the Tenant's fixtures that are so attached to the Leased Premises that cannot be removed without material injury to the Leased Premises shall at the Landlord's option, become the property of the Landlord upon installation and remain with the Leased Premises upon surrender, provided that Landlord, at its option, shall have the right to require Tenant to remove improvements designated by Landlord and restore the Leased Premises to its former condition. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this Lease. Upon termination, all Tenant's personal property shall be removed and the Leased Premises shall be left in a clean and orderly condition, free from trash, clutter and debris.

(b) The Landlord may retain or dispose of any personal property, fixtures, alterations, or improvements left remaining by the Tenant at or upon the Leased Premises following the expiration or earlier termination of this Lease, and the Landlord is not accountable to the Tenant for any damages for the loss or destruction thereof, or for any part of the proceeds of sale, if any, realized by the Landlord. The Tenant waives all claims against the Landlord for any damages suffered by the Tenant resulting from the Landlord's retention or disposition of such personal property, fixtures, alterations, or improvements. The Tenant shall be liable to the Landlord for the Landlord's costs for storing, removing and disposing of any such personal property, fixtures (including trade fixtures) or alterations.

1.5 Governmental Powers of the Landlord. Tenant acknowledges that throughout the term of this Lease the Landlord has, and shall continue to have, those governmental rights, powers, and authority provided by applicable law. Tenant further acknowledges that the provisions of this Lease do not limit or restrict such rights, powers, and authority of Landlord with respect to the Leased Premises when Landlord is acting in their governmental capacity.

1.6 Net Lease. This Lease is intended to be a net lease to the Landlord, who shall have no obligation of any kind to make any expenditures on the Leased Premises.

ARTICLE 2 – RENT AND SECURITY DEPOSIT

2.1 Rent.

(a) During the term of this Lease, Tenant agrees to pay Landlord \$1.00 annual rent.

(b) The first annual rental amount shall be due and payable on or before July 1, 2020. Thereafter, the annual rent shall be paid on or before July 1 of each subsequent year.

- (c) All payments due to Landlord under this Lease shall be made to:
Colorado Mountain College - Leadville
901 South Hwy 24
Leadville, CO 80461

or at such other place as the Landlord may hereafter designate by written notice provided to the Tenant in accordance with Section 10.2 of this Lease. Any check given to Landlord shall be received subject to collection, and the Tenant agrees to pay any charges, fees, or costs incurred by the Landlord for collection, include reasonable attorneys' fees.

2.2 Security Deposit. Upon signing this Lease, the Tenant shall pay the Landlord the sum of \$2,500.00 for a security deposit ("Security Deposit"). The Security Deposit shall be held by the Landlord as security for the faithful performance by the Tenant of all the terms and conditions of this Lease. The Landlord shall not be required to segregate the Tenant's Security Deposit from its other funds. In no event shall the Landlord be obligated to apply the Security Deposit to rent or other charges in arrears or to damages resulting for failure of the Tenant to perform the terms and conditions of this Lease. Application of the Security Deposit to the arrears of rental payments or damages shall be at the option of the Landlord. The Security Deposit shall be returned to the Tenant, without interest, within 60 days after this Lease expires or is terminated if not applied by the Landlord toward the payment of: (i) rent in arrears; (ii) damages suffered by the Landlord by reason of any breach of the terms and conditions of this Lease by the Tenant; or (iii) the expense of any cleaning that must be done if the Leased Premises is not left clean. In no event is the Security Deposit to be returned until the Tenant has vacated the Leased Premises and delivered possession (including the keys) to the Landlord.

ARTICLE 3 – LANDLORD’S DISCLAIMERS

3.1 "As Is" Condition of Leased Premises. The Leased Premises is leased "AS IS," "WHERE IS," and "WITH ALL FAULTS," and the Landlord does not warrant or make any representation, express or implied, relating to the MERCHANTABILITY, quantity, quality, condition, suitability or FITNESS FOR ANY PURPOSE WHATSOEVER of the Leased Premises or any portion thereof. Landlord has no liability whatsoever to undertake any repairs, alterations, removal, remedial actions, or other work of any kind with respect to any portion of the Leased Premises. Prior to signing this Lease, Tenant has satisfied itself that Tenant's intended use for the Lease Premises is in compliance with all applicable covenants, and all local, state and federal laws including Chaffee County Land Use regulations and other land use laws regulating the use or occupancy of the Leased Premises or the activities conducted thereon.

3.2 Landlord's Non-liability. As a material part of the consideration to be received by the Landlord under this Lease, the Tenant assumes all risk of damage to property or injury to persons in or upon the Leased Premises from any cause other than the Landlord's negligence or intentional act, and the Tenant waives all claims in respect thereof against the Landlord.

ARTICLE 4 – TENANT’S OBLIGATIONS

4.1 Taxes.

(a) As used in this Section, the term “Taxes” means all personal property and real property taxes levied, assessed or imposed by any taxing authority arising out of the Tenant’s occupancy and use of the Leased Premises pursuant to this Lease.

(b) The Parties acknowledge that Landlord is exempt from taxation and that if any taxes may be assessed due to Tenant’s occupancy, Tenant shall be responsible for prompt payment thereof.

4.2 Non-Discrimination; Compliance with Laws. The Tenant:

(a) shall not discriminate against any employee or applicant for employment to work at the Leased Premises because of race, color, creed, sex, sexual orientation, religion, national origin, or disability;

and

(d) shall comply with all applicable federal, state, and local laws, rules and regulations.

4.3 Improvements.

(a) As used in this Article 4, "Improvement" means any structural improvement or alterations made, or proposed to be made, to the Leased Premises.

(b) No Improvement may be made to the Leased Premises by the Tenant except under the following conditions:

(i) No Improvement may be undertaken until the Tenant has obtained approval of written plans and specifications for such Improvement from the Landlord. The written plans and specifications shall include detailed drawings, time frame for completion, purpose, construction costs, name of contractor, documentation of availability of specific funds and necessary permits. In connection therewith, the Landlord has the right to review and approve a proposed Improvement in its sole and absolute discretion.

(ii) The Tenant must obtain any jurisdictional approvals necessary or required.

(iii) An Improvement must be constructed under the supervision of an architect or engineer licensed in the State of Colorado, selected and paid by the Tenant.

(iv) All work done in connection with the construction of an Improvement must be done in a good and workmanlike manner and in material conformity with the plans and specifications that are approved by the Landlord, in full conformity with applicable codes and regulations, using all reasonable

safety precautions. All materials and fixtures used in any alterations undertaken by Tenant shall be new and of good quality.

- (v) Tenant acknowledges and agrees that it will, at its expense, remove any Improvements promptly upon expiration or termination of the Lease and restore the Leased Premises to its former condition.
- (vi) Tenant shall repair any and all damage resulting from Tenant's alterations, modifications, repairs or use of the Leased Premises.

4.4 Subleasing. The Leased Premises has been leased to the Tenant with the expectation that the Tenant shall lease the Leased Premises for the allowed uses described herein only. Accordingly, the Tenant may only sublease the Leased Premises or a portion of the Leased Premises with the Landlord's written consent, which shall be in Landlord's sole discretion.

4.5 Assignment. The Tenant may not assign or transfer any of its rights under this Lease without the prior written consent of the Landlord. If the Tenant attempts to make any assignment without the requisite consent of the Landlord, such assignment shall be void and, at the option of the Landlord, shall terminate this Lease. Any consent by the Landlord to any assignment of this Lease shall not be a waiver by the Landlord of the provisions of this Section as to subsequent transactions of the same or similar nature.

4.6 Permitted Sublessee/Assignee Must Agree to Observe and Perform Obligations of Underlying Lease and Must Maintain Insurance. It is agreed and understood that no sublease or assignment will be permitted unless the Sublessee/Assignee agrees to observe and perform every term, covenant, condition, and agreement of the Lease that Tenant is required to observe or perform, and the Sublessee/Assignee has and maintains in full force and effect liability insurance to protect Landlord from liability in such amounts, under such forms of policies, upon such terms, for such periods, and written by such companies or underwriters as the Landlord may require. Notwithstanding any assignment or sublease, Tenant shall remain fully liable on this Lease and shall not be released from performing any of the terms, covenants and conditions of this Lease.

4.7 Waste or Nuisance. The Tenant shall not commit any waste, any public or private nuisance, or any other act or thing prohibited by law.

4.8 Mechanic's Liens.

In connection with the construction of any Improvements, the Tenant shall cause the payment of all proper and valid invoices and charges of all contractors, subcontractors, suppliers, materialmen, and similar persons who furnish services or materials in connection with the construction process. If any person ever records a mechanic's lien to enforce any claim for services or materials alleged to have been provided in connection with the Leased Premises, the Tenant shall cause the same to be released of record within 60 days after the recordation thereof, and the Tenant shall be liable to satisfy and cause a discharge of any such mechanic's lien claim. Notwithstanding the foregoing, the Tenant may contest any such mechanic's lien claim, provided that the Tenant conducts such contest in a timely manner and with due diligence, and that the Tenant provides the Landlord with such security in connection therewith as the Landlord may reasonably require. In connection with

any such contest, the Landlord may join and participate in any such contest, at the Tenant's expense (with participation to include, without limitation, the execution and filing of pleadings and the provision and gathering of testimony and other evidence). If the Tenant loses any such contest, with all further rights of appeal having expired, the Tenant must satisfy the mechanic's lien claim in full prior to any foreclosure sale or other disposition of the Leased Premises which is made for the purpose of satisfying the claim.

(a) Prior to commencement of construction of any Improvements, the Tenant shall deliver notices to all contractors and subcontractors and post notices in accordance with Section 38-22-105, C.R.S. (as it may be amended or in accordance with similar statutes that may be substituted therefor in the future), in locations that shall be visible by persons performing any work, which notices shall state that the Landlord is not responsible for the payment of such work and setting forth such other information as may be reasonably required pursuant to such statutory provisions.

ARTICLE 5 – UTILITIES, TRASH REMOVAL, AND MAINTENANCE

5.1 Utilities. The Tenant shall pay for all utilities used or consumed by the Tenant at the Leased Premises, including but not limited to water, sewer, electricity, natural gas, trash removal (including arranging for a trash dumpster), phone service, cable television and internet service. All utilities shall be placed in Tenant's name. Landlord shall not be liable to the Tenant should the furnishing of any utilities be interrupted, nor shall any such interruption relieve the Tenant from the performance of any of the Tenant's covenants hereunder.

5.2 Repairs and Maintenance. During the term of this Lease, the Tenant shall maintain the Leased Premises and all improvements and other property thereupon in good condition, at Tenant's own expense, and shall make any and all proper or necessary repairs, and replacements to the Leased Premises inclusive of the Building, and shall keep the Leased Premises in compliance with all applicable laws, regulations and ordinances of public authorities, whether now in effect or hereafter adopted or issued; and, the Landlord shall in no event be liable for or called upon to make or do any repairs, alterations, replacement or maintenance in or upon the Leased Premises or any part or portion thereof. Tenant shall replace any broken windows or glass, shall keep all grass and weeds trimmed, shall promptly dispose of all trash and debris, and shall water and maintain the existing lawn area. Tenant shall also keep the Leased Premises, including all sidewalks, driveways and parking lots reasonably free from ice and snow and free from litter, dirt, debris and obstructions. Tenant's maintenance obligation shall include such repair, replacement and reconstruction as may be occasioned by damage resulting from unauthorized activity such as vandalism and burglary. If following notice from Landlord, Tenant fails to make any necessary repairs or perform any necessary maintenance for which Tenant is responsible, Landlord may have such repairs or maintenance performed and Landlord's costs of doing so shall be payable by Tenant upon written demand. Landlord shall have no obligation to repair, maintain, alter, replace, or modify the Leased Premises or any part thereof.

5.3 Inspection and Entry. The Landlord and the Landlord's authorized representatives may enter the Leased Premises at all times during reasonable business hours to inspect the Leased Premises, provided that reasonable advance notice is delivered to Tenant and provided further that

Landlord will not unreasonably interfere with Tenant's occupancy. If Tenant shall not be personally present to open and permit any entry into the Leased Premises at any time when for any reason of emergency an entry therein shall be necessary, Landlord or Landlord's authorized representatives may enter the same by such means as are necessary. Tenant shall not change the locks at the Leased Premises unless copies of the new keys are provided to Landlord, at Tenant's expense, at the time the locks are changed.

ARTICLE 6 – INSURANCE

6.1 Tenant's Insurance. Throughout the term of this Lease the Tenant shall, at its expense, carry and maintain the following insurance:

(a) General Liability. Throughout the term of this lease Tenant shall, at its expense, maintain commercial general liability insurance covering the Tenant's operations on the Leased Premises with minimum limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Colorado Mountain College, a Local College District and its affiliates shall be listed as an additional insured. The insurance shall include a provision that such insurance afforded by the policy for the benefit of the additional insureds shall be primary and non-contributory to any insurance or self-insurance maintained by the additional insureds. Waiver of Subrogation shall be issued in favor of Landlord.

(b) Leased Premises Insurance. Throughout the term of this Lease the Tenant shall, at its expense, carry and maintain all-risk property insurance covering the Building and Leased Premises on a replacement cost basis in the amount of 100% or more, at Landlord's election, of the replacement cost of the Building. Tenant's property insurance policy shall name Landlord as loss payee. Waiver of Subrogation shall be issued in favor of Landlord.

(c) Contents Insurance. Throughout the term of this Lease the Tenant shall, at its expense, carry and maintain in force, on all contents, fixtures, and equipment in the Leased Premises a policy or policies of insurance to the extent of at least of 100% of the insurable replacement value, the proceeds of which will, so long as this Lease is in effect, be used for the repair or replacement of the property so insured. The Contents insurance policy shall name Landlord as a loss payee. Waiver of Subrogation shall be issued in favor of Landlord.

(d) Worker's Compensation Insurance. Throughout the term of this Lease Tenant shall, at its expense, maintain Workers' Compensation / Employer's Liability insurance as required by Colorado law. Policy shall contain a Waiver of Subrogation in favor of Landlord.

(e) Additional Provisions.

- i. CMC requires insurance carriers be licensed to conduct business in the State of Colorado and a minimum A.M. Best Rating of A-.
- ii. Provide that the insurance cannot be cancelled or materially changed in the scope or amount of coverage unless 30 days' advance notice is given to the Landlord.

- iii. Prior to the commencement of this Lease, and on each subsequent renewal or replacement of the required insurance policies, the Tenant shall provide to the Landlord a certificate of insurance evidencing compliance with the requirements of this Section. All required insurance policies shall be renewed or replaced and maintained by the Tenant throughout the term of this Lease to assure continuous coverage.

ARTICLE 7 – DEFAULT

7.1 Default by Tenant. The occurrence of any one or more of the following events shall constitute a default and breach of the Lease by the Tenant:

- (a) The vacating or abandonment of the Leased Premises by the Tenant.
- (b) The failure by the Tenant to make any payment of rent, additional rent, or any other payment required to be made by the Tenant hereunder, as and when due, when such failure continues for a period of 10 days after service of written notice thereof by the Landlord to the Tenant.
- (c) The failure by the Tenant to observe or perform any of the other covenants, conditions, or provisions of this Lease to be observed or performed by the Tenant, or to obey rules promulgated by the Landlord, within 30 days after service of written notice thereof by the Landlord to the Tenant. In the case of a non-monetary default that is not capable of being corrected within 30 days, the Tenant shall not be default if it commences correcting the default within 30 days of service of a demand for compliance notice and thereafter corrects the default with due diligence.

7.2 Landlord's Remedies Upon Default. If the Tenant is in default under this Lease, the Landlord shall have all of the remedies provided for in such circumstances by Colorado law.

7.3 Default By Landlord. The Landlord shall be in default under this Lease if the Landlord fails to comply with any of the terms, provisions, or covenants of this Lease within 30 days following service of written notice thereof by the Tenant. In the case of a non-monetary default that is not capable of being corrected within 30 days, the Landlord shall not be default if the Landlord commences correcting the default within 30 days of receipt of notification thereof and thereafter corrects the default with due diligence.

7.4 Tenant's Remedies Upon Default. If the Landlord is in default under this Lease, the Tenant shall have all of the remedies provided for in such circumstances by Colorado law.

ARTICLE 8 – NONDISTURBANCE

8.1 Quiet Enjoyment. Subject to the terms and conditions of this Lease, the Landlord covenants that so long as there is no default (after notice and opportunity to cure have been given) in any of the covenants, conditions, or provisions of this Lease to be performed, observed, or kept

by the Tenant, the Tenant shall peaceably and quietly hold and enjoy the Leased Premises for the entire term of this Lease.

ARTICLE 9 – HAZARDOUS MATERIALS

9.1 Hazardous Materials -Defined. As used in this Section, the term "Hazardous Materials" means any chemical, material, substance or waste: (i) exposure to which is prohibited, limited, or regulated by any federal, state, county, regional or local authority, or other governmental authority of any nature; or (ii) that, even if not so regulated, may or could pose a hazard to the health or safety of the occupants of the Leased Premises including, without limitation, any petroleum, crude oil (any fraction thereof), natural gas, natural gas liquids, and those substances defined as "hazardous substances", "hazardous materials", "hazardous wastes" or other similar designations in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., and any other governmental statutes, laws, ordinances, rules, regulations, and precautions.

9.2 Hazardous Materials-Prohibited. The Tenant shall fully comply with all statutes, laws, ordinances, rules, regulations, and precautions now or hereafter mandated or advised by any federal, state, local, or other governmental agency with respect to the use, generation, storage, or disposal of Hazardous Materials. The Tenant shall not cause, or allow anyone else to cause, any Hazardous Materials to be used, generated, stored, or disposed of on or about the Leased Premises. If the Tenant is in breach of the covenants herein, after notice to the Tenant and the expiration of the earlier of:

- (a) the cure period provided in Section 7.1 (c);
- (b) the cure period permitted under applicable law, regulation, or order,

then the Landlord may, in its sole discretion, declare a default under this Lease and/or cause the Leased Premises to be freed from the Hazardous Material and the cost thereof shall be immediately be due and payable from the Tenant. To the extent permitted by law, Tenant hereby indemnifies and holds Landlord harmless from and against any and all claims, losses, damages, liabilities, fines, penalties, actions, causes of action, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, attorney's fees and consultant's fees), arising out of or relating to, directly or indirectly, in whole or in part, any failure of Tenant, its employees, agents, contractors, subcontractors, invitees, representatives or other such persons, to comply with the provisions of this Article 9. This agreement to indemnify and hold harmless shall be in addition to any other obligations or liabilities that Tenant may have to the Landlord at common law, or by statutes, or otherwise. Tenant shall notify the Landlord in writing immediately of any release or threatened release of any Hazardous Material on, in, under or about the Leased Premises. The obligations of the Tenant under this Article 9 shall survive the expiration or termination of this Lease and be fully enforceable thereafter, subject to any applicable statute of limitation.

ARTICLE 10 – MISCELLANEOUS

10.1 Attorney's Fees/Costs. If any action is brought in a court of law by either Party to this Lease concerning the enforcement, interpretation, or construction of this Lease, the prevailing Party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees, as well as costs, including expert witness' fees, incurred in the prosecution or defense of such action.

10.2 Indemnification of Landlord. Tenant hereby agrees to indemnify and hold harmless the Landlord, its board of trustees, officers, employees, agents, and assigns from and against all losses, claims and damages of any kind, including attorney's fees, brought by anyone, arising out of this Lease or out of Tenant's (or its contractors', agents', employees') use, occupancy of and/or operations on the Leased Premises, other than those resulting from the negligence or willful misconduct on the part of the Landlord, its board of trustees, officers, agents, employees, and assigns.

10.3 Notices. All notices required or permitted under this Lease must be given by registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial carrier delivery, or by teletypes or electronic mail directed as follows:

If to Landlord:
RACHEL POKRANDT
Vice President & Campus Dean - Leadville Campus
901 South Hwy 24
Leadville, CO 80461
719-486-4212
rpokrandt@coloradomtn.edu

With copies to:
MATT GIANNESCHI
Chief Operating Officer
Colorado Mountain College
802 Grand Avenue
Glenwood Springs, CO 81601
970-947-8321
mgianneschi@coloradomtn.edu

RICHARD GONZALES
General Counsel
Colorado Mountain College
802 Grand Avenue
Glenwood Springs, CO 81601
970-847-8428
rgonzales@coloradomtn.edu

If to Tenant:
Mountain BOCES

With a copy to:

Any notice delivered by mail in accordance with this Section shall be effective on the second business day after the same is deposited in any post office or postal box regularly maintained by the United States postal service. Any notice delivered by Electronic mail in accordance with this Section shall be effective upon receipt if concurrently with sending by electronic mail receipt is confirmed orally by telephone and a copy of said notice is sent by certified mail, return receipt requested, on the same day to that intended recipient. Any notice delivered by hand or commercial carrier shall be effective upon actual receipt. Either Party, by notice given as above, may change the address to which future notices may be sent.

10.4 Incorporation of Exhibits. All of the exhibits described in this Lease are attached hereto and incorporated into this Lease by reference.

10.5 Additional Instruments. The Parties shall deliver or caused to be delivered upon request such additional documents and instruments as may be required to accomplish the intent of this Lease.

10.6 Waiver. The failure of either Party to exercise any of its rights under this Agreement is not a waiver of those rights. A Party waives only those rights specified in writing and signed by the Party waiving such rights.

10.7 Time of the Essence. Time is of the essence under this Lease for the performance and observance of all obligations of the Landlord and the Tenant hereunder, and all provisions of this Lease shall be strictly construed.

10.8 Severability. If any provision of this Lease are held invalid or unenforceable, the remainder of this Lease shall not be affected thereby, it being the intent of the Parties that the provisions of this Lease shall be enforceable to the fullest extent permitted by law. There shall be substituted for any invalid or unenforceable provision a valid and enforceable provision as similar as possible to the invalid provision.

10.9 Integration. This Lease constitutes the entire agreement between the Parties with regard to the Leased Premises, and any extrinsic covenants, agreements, representations, warranties, conditions, or terms are superseded hereby and are no force or effect.

10.10 Brokerage Commission. The Landlord and the Tenant mutually warrant and represent to one another that neither of them has incurred any liability arising by, through, or under that Party for the payment of any brokerage fee or commission in connection with the transaction contemplated herein. If either of the Parties breaches the foregoing warranty and representation, it shall be liable to the other Party for any damage, liability, loss, claim or expense, including

attorneys' fees, suffered by the other Party because of such breach. The liable Party shall pay to the other Party such sums as are due and owing pursuant to the foregoing within 30 days after demand by the other Party.

10.11 Authority. The person signing this Lease for the Landlord represents and warrants to the Tenant that the Landlord has all inherent legal power and authority requisite to entering into this Lease; has taken all action necessary to authorize the execution of this Lease and to perform and satisfy the transactions and obligations contained herein; and has duly authorized the signatory to execute and deliver this Lease on behalf of the Landlord. The person signing this Lease for the Tenant represents and warrants to the Landlord that the Tenant has all inherent legal power and authority requisite to entering into this Lease; has taken all actions necessary to authorize the execution and delivery of this Lease and to perform and satisfy the transactions and obligations contained herein; and has duly authorized the signatory to execute and deliver this Lease on behalf of the Tenant.

10.12 Force Majeure Events. Except to the extent otherwise expressly provided by this Lease, if either the Landlord or the Tenant is delayed in the performance of any act required under this Lease by reason of strikes, boycotts, labor dispute, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, terrorism, sabotage, or any other circumstance for which such Party is not responsible or that is not in its power to control, the time for the performance of any such act shall be extended for a period equivalent to the period of such delay. Notwithstanding any indications to the contrary contained in the foregoing, Force Majeure Events do not include: (a) any financial incapability or burdens suffered by either Party; (b) the effect of laws and regulations or the application and enforcement of the same by any governmental entity, or (c) a failure of timely performance by an agent or contractor of either Party. The application of Force Majeure Events is subject to the express limitations thereon contained in the other provisions of this Lease.

10.13 Offset Statement. Within ten (10) days after request therefor by Landlord, or in the event that upon any sale, assignment or hypothecation of the Leased Premises and/or the land thereunder by Landlord, an offset statement shall be required from Tenant; Tenant agrees to deliver in recordable form a certificate to any proposed mortgagee or purchaser, or to Landlord, certifying (if such be the case) that this Lease is in full force and that there are no defenses or offsets thereto, or stating those claimed by Tenant.

10.14 Attornment. Tenant shall, in the event any proceedings are bought for the foreclosure of, or in the event of exercise of the power of, sale under any mortgage made by the Landlord covering the Leased Premises, attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease.

10.15 Subordination. Upon request of Landlord, Tenant will subordinate its right hereunder to the lien of any mortgage or mortgagees, or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the land and/or buildings hereafter placed upon the land of which the Leased Premises are a part, and to all advances made or hereafter to be made upon the security thereof; provided, however, that any subordination by Tenant of its rights under this Lease shall provide that, while Tenant is not in default under the terms of this Lease, he shall

be entitled to the use and possession and quiet enjoyment of the Leased Premises in accordance with the terms of this Lease.

10.16 Eminent Domain. In the event that the Leased Premises are taken in whole or in part by condemnation proceedings or eminent domain, or in the event that Landlord (and Tenant if necessary) shall convey all or a part of the Leased Premises in avoidance or in settlement of such condemnation proceedings or threat thereof (either of which is referred to hereinafter as “the taking”), Landlord and Tenant herein agree as follows: If such taking shall render the remainder of the Leased Premises for the use to which it has been put immediately prior to such taking, then at Tenant’s option, this Lease shall terminate. Such option must be exercised by written notice of termination given to Landlord no later than thirty (30) days after the date physical possession is taken by the condemning authority, failing which this Lease shall continue in full force and effect as to the remainder of the leased premises. All compensation awarded for any taking (or the proceeds of any private sale in lieu thereof) of the building or the appurtenant real property or any part thereof (including the leased premises and/or any common areas) shall be the sole property of Landlord, and Tenant hereby assigns its interest in any such award to Landlord. Provided, however, that Landlord shall have no interest in any separate award made to Tenant for Tenant’s personal property.

10.17 Recording. This Lease shall not be recorded.

10.18 "Day" Defined. Unless otherwise indicated, the term "day" means a calendar day (and not a business day).

10.19 Amendment. This Lease may not be modified except by a written Lease signed by both the Landlord and the Tenant. Oral modifications of this Lease are not permitted.

10.20 Captions. The headings of the sections and paragraphs contained in this Lease are for convenience only and do not define, limit, or construe the contents of the articles, sections and paragraphs.

10.21 Advances by Landlord for Tenant. If the Tenant fails to do anything required to be done by it under the terms of this Lease (other than a failure to make the payments to the Landlord herein required) the Landlord may, at its sole option, but without any obligation to do so, do or perform such act or thing on behalf of the Tenant, and in doing so the Landlord shall not be deemed to be a volunteer; provided, however, that before exercising its rights under this Section the Landlord must give notice to the Tenant, and afford the Tenant not less than 5 days from the giving of such notice within which to do or perform the act required by the Tenant. Upon notification to the Tenant of the costs incurred by the Landlord, the Tenant shall promptly pay to the Landlord the full amount of costs and/or expenses incurred by the Landlord pursuant to this Section, together with interest thereon at 12% per annum.

10.22 Governmental Immunity. In entering into this Lease the Landlord is relying on, and does not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended, or any other limitation, right,

immunity or protection otherwise available to the Landlord or the Tenant, their officers, or their employees.

10.23 No Adverse Construction Based On Authorship. Each of the Parties stipulate and agree that it had the opportunity to participate in the drafting of this Lease. This Lease is not to be construed against either Party by virtue of such Party having drafted this Lease.

10.24 Landlord's Consent. Except as otherwise expressly provided to the contrary in this Lease, wherever in this Lease some act requires the Landlord's prior consent, such consent shall not be unreasonably withheld by the Landlord.

10.25 Governing Laws; Venue; Waiver of Jury Trial. The laws of the State of Colorado shall govern the interpretation, validity, performance, and enforcement of this Lease. Any litigation brought to interpret or enforce this Lease shall be commenced in Chaffee County, Colorado. BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ACTION TO ENFORCE, INTERPRET, OR CONSTRUE THIS AGREEMENT.

10.26 No Partnership. The Landlord is not a partner, associate, or joint venturer of the Tenant in the conduct of the Tenant's business at the Leased Premises. The Tenant is an independent contractor without the right or authority to impose tort or contractual liability upon the Landlord.

10.27 Annual Appropriations. Notwithstanding anything herein contained to the contrary, the Landlord's financial obligations under this Lease are subject to an annual appropriation being made by the Colorado Mountain Local College District Board of Trustees in an amount sufficient to allow the Landlord to perform its obligations hereunder. If sufficient funds are not appropriated, this Lease may be terminated by either Party without penalty, unless Tenant elects to perform Landlord's obligations under this Lease. The Landlord's obligations under this Lease do not constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

10.28 Binding Effect. This Lease extends to and is binding upon the successors and permitted assigns of the respective Parties. The terms, covenants, agreements, and conditions in this Lease shall be construed as covenants running with the Leased Premises.

LANDLORD

TENANT

COLORADO MOUNTAIN COLLEGE

BOARD OF COOPERATIVE
EDUCATIONAL SERVICES

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A – LEGAL DESCRIPTION OF PROPERTY

PARCEL B-2 OF THE COLORADO MOUNTAIN COLLEGE FOUNDATION MINOR SUBDIVISION, AS SHOWN ON THE PLAT FILED OCTOBER 26, 2004, UNDER RECEPTION NO. 347098, IN THE TOWN OF BUENA VISTA, CHAFFEE COUNTY, STATE OF COLORADO.

EXHIBIT B – DEPICTION OF BUILDING AND APPROXIMATELY TWO (2) ACRES OF LAND SURROUNDING THE SAME (THE “LEASED PREMISES”)