

PRESCOTT UNIFIED SCHOOL DISTRICT LEASE AGREEMENT

THIS LEASE AGREEMENT, dated to be effective as of the 15th day of June, 2010, is by and between COMPASS POINTS INTERNATIONAL, INC., an Arizona Non-Profit Corporation doing business as NORTHPOINT ACADEMY, a public charter school of the State of Arizona, hereinafter referred to as the "Tenant," and the PRESCOTT UNIFIED SCHOOL DISTRICT NO.1, of Yavapai County, Arizona, a political subdivision of the State of Arizona, hereinafter referred to as the "District."

WHEREAS, The District owns improved real property located at **551 First Street** known as the Dexter Elementary School (the "Leased Premises"), all of which is not presently being utilized by the District for school purposes; and Tenant desires to rent the entire Leased Premises to be used for the purposes specified herein; and the District is willing to lease the Facilities to Tenant for such purposes at the District's customary fee of \$9,000 per month; and the District is authorized to enter into this lease of school buildings pursuant to A.R.S. §15-1105. The agreed upon sum includes all secured, attached and affixed items in the facility. Any removed items will result in the adjustment of the rent to offset the cost of replacement. The offset amount will be the agreed upon replacement value divided by 33 payments.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereby agree as follows:

1. **Term and Renewal.** The term of this Lease Agreement shall be from the effective date specified above through **June 14, 2013**, subject to earlier termination as provided in Section 7. Thereafter, this lease agreement is to be renewed annually on or before May 1 of the then current term for a period of three years with each full year each commencing on June 15th and ending on June 14th. Any renewal under this agreement shall be at a rate equal to the reasonable use fee (as set by the District Board pursuant to A.R.S. § 15-1105(D)) in effect at the time of the renewal. If the District decides to sell the Leased Premises, Northpoint Academy will have first right of refusal for the purchase of the Leased Premises.

2. **Consideration.**

2.1 **Rent.** Tenant shall make a first payment of \$9,818.18 per month on or before August 15th of 2010 in accordance with the charter/state equalization payment schedule. All supplemental payments of \$9,818.18 will be payable in advance on or before the first day of each month (excluding July), as and for rent, subject to annual adjustment as provided in Section 7.2. There will be a total of \$108,000.00 in payments made through 11 payments for each 12 month period.

2.2 **Sub-lease.** Any sub-lease agreements must be agreed upon in writing by the District and the sub-lease use must comply with the requirement of A.R.S. § 15-1105. If the District chooses to place programs or offices within the facility the district and tenant representatives will agree upon any rental costs as well as utility offsets prior to the placement of the office or program.

2.3 **Utilities.** Utilities will be transferred to tenant, to include but not limited to telephone, electric, trash, sewer, water, gas, and cable. Tenant is responsible for all utility charges it incurs under this lease. Utilities used by any sublet arrangements will become the responsibility of the District or other sublet party pursuant to the terms of the sub-lease agreement.

2.4 **Net Lease.** This Lease is a "net lease," and the District shall receive the rent free and clear of any and all deductions, setoffs, impositions, taxes, liens, charges or expenses of any nature whatsoever in connection with Tenant's occupation of the Facilities.

2.5 **Certificate of Occupancy.** The district is responsible for securing a certificate of occupancy, fire inspection clearance and county health department certificate prior to the date of lease approval.

2.6 **Furnishings.** Furnishings owned by the District are to be tagged, inventoried and agreed upon prior to the transfer of the facility to tenant. Tools and equipment necessary to maintain the building will be included in the "furnished" inventory- the District is responsible for the maintenance and replacement of these items in order for the tenant to maintain the building in a satisfactory manner.

2.7 **Program and Donated items.** Items previously donated to the Northpoint Academy program or purchased with grants awarded to the Northpoint Academy program are to remain with the program. Wilderness and fieldwork gear is to remain with the tenant. Greenhouse and water recovery system is to remain at the Leased Premises as per the intent of the donors.

3. **Use.**

3.1 **Permitted Use.** During the term of this Lease, Tenant shall be entitled to the exclusive use of the entire Leased Premises for the purpose of administration, instruction and student support for Northpoint Academy Programs. No portions of the sidewalks, entries, passageways, doors, aisles, elevators, vestibules, windows, ventilators, lighting fixtures or ways of access to the public utilities of the Leased Premises shall be obstructed, or caused to be obstructed, or caused to be used for any purpose other than ingress and egress. This lease is made pursuant to A.R.S. § 15-1105 and the facilities may only be used for educational purposes and will not affect the normal operations of a school within the school district.

3.2 **Equipment.** The Tenant must provide their own equipment such as telephones and computers. Air conditioning may be provided by the Tenant in rooms that do not have air conditioning. Tools and equipment necessary to maintain the building will be included in the "furnished" inventory- the district is responsible for the maintenance and replacement of these items in order for the tenant to maintain the building in a satisfactory manner Any remodeling needed for the Tenant's equipment must be in accordance with Section 4.4 and 4.5.

3.3 **Hazardous Substances.** Tenant shall not keep, store, sell or dispose of, on or about the Leased Premises, goods, merchandise or materials which are in any way explosive or hazardous; and no hazardous trade, business or occupation shall be carried on therein or thereon. No person shall erect any engine, motor or other machinery on the Leased Premises, or use any

gas, electricity, inflammable liquid or charcoal therein, without the prior written approval of the District. All electrical connections of any kind must be made by the District's electrician or representative. The known asbestos issues will be specifically listed as a hold harmless agreement within the lease.

3.4 **Keys.** The Leased Premises shall be re-keyed by the District prior to transfer of building to an entirely new set in order to ensure distribution of keys as the tenant sees fit

3.5 **Signage.** The District is responsible for the removal of its signage. The tenant is responsible for the placement of new signage. All guidelines will be mutually agreed upon by the district and the tenant.

3.6 **Personal Property.** The District shall not be liable for any loss or damage to properties of any kind that are shipped or otherwise delivered to the Leased Premises or stored in or on the Facilities. The District shall assume no responsibility for losses suffered by the Tenant, its agents, employees or invitees which are occasioned by theft, vandalism or the disappearance of equipment, articles or other personal property.

3.7 **District Regulations.** A copy of the portions of the Prescott Unified School District's "Rules, Regulations and Fees for Use of School Property" (the "**Regulations**") applicable to this Lease Agreement are attached hereto as Exhibit "A" and incorporated herein by reference. Except as otherwise expressly provided in this Lease Agreement, Tenant agrees to be bound by and comply with the Regulations as they may be amended from time to time by the District in its sole and absolute discretion.

3.8 **Inspection.** The District and its authorized representatives shall have the right to enter and inspect the Facilities upon notice to Tenant and at times so as not to interfere unreasonably with Tenant's use of the Facilities; provided, however, that the District or its agents may enter the Facilities at any time, without notice, in the event of an emergency.

4. **Maintenance.**

4.1 **Acceptance "AS IS".** The District shall turn over to Tenant the Facilities after having cleaned, inspected and repaired any existing damage so that the physical structure, including without limitation the air conditioning, heating and roof, are in serviceable condition. Current stains and related water damage will be assessed and possibly repaired/replaced by district. Prior to final lease signatures a facility walk-through will be made to document all concerns to the satisfaction of both parties. This walk-through will include representatives from both parties and any other appointed agents. Tenant agrees that, upon execution of the Lease, said cleaning, inspections and repairs shall be deemed completed and acceptable. If not addressed, it will be noted during the walk-through mentioned above. Tenant accepts the Facilities "**AS IS,**" and subject to all application zoning, and other laws, regulations and ordinances governing the use of the Facilities by Tenant.

4.2 **Fire and alarm systems.** Fire extinguishers, alarms, risers and related fire suppression items will remain the responsibility of the district including inspection, replacement

and service of said items. Alarm system is to remain in place with maintenance and service conducted by the district or their agent.

4.3 **Telephones, Wireless Systems and Cable service.** The telephone system and wiring is to remain at the facility. Maintenance of the system and the subsequent charges become the responsibility of tenant. The individual telephones are to be removed by the district. Any phone charges by a subtenant are to be paid by that party upon presentation of the bill. Wireless internet ports as currently in place, will remain in the facility. Servers, switches, computers, printers and related equipment will be removed by the district and may be replaced by the tenant as necessary. Cable service will be transferred to the tenant

4.4 **Thermostats.** Thermostatic controls are to remain in place but will be removed from the control grid upon date of transfer.

4.3 **Custodial Services and maintenance materials.** Tenant shall maintain the Facilities in a clean and safe condition and shall provide and pay for all custodial services and cleaning supplies related to the Facilities. The Facilities shall be cleaned to the same standards as other school properties owned by the District. Misc maintenance materials that are specific to the building will remain on site for the purpose of proper maintenance procedures (such as acoustic panels, fluorescent lights, AC filters, etc).

4.4 **Repairs.** Tenant shall maintain and make all non-structural repairs to the Facilities that cost less than Five Hundred Dollars (\$500.00), including without limitation repairs for damages caused by Tenant or others, including vandalism. In the event the District advances funds for repairs which are Tenant's responsibility or makes any such repairs, Tenant shall reimburse the District for all costs and expenses incurred within twenty (20) calendar days after receiving a written invoice therefore from the District. For maintenance costs that exceed Five Hundred Dollars (\$500.00) per incident, the total cost will be paid by the District unless the damage was caused by Tenant or its agents, employees or invitees. Tenant has no authority to, and shall not contract with any vendor or seek to obtain maintenance or repairs costing in excess of Five Hundred Dollars (\$500.00).

4.5 **Improvements.** Tenant agrees to submit written detailed plans and specifications to the District's Maintenance Department and obtain the District's written approval prior to commencement of any remodeling or improvements to the Facilities. Tenant shall be responsible for any and all costs of remodeling or improvements. Any mechanic's lien filed against the Facilities, the Leased Premises and/or the land upon which the Leased Premises is located, for work claimed to have been done for, or materials claimed to have been furnished to Tenant, shall be discharged by Tenant, by bond or otherwise, within ten (10) days after the filing thereof, at Tenant's sole cost and expense. All remodeling and improvements of the Facilities shall become a part of the Leased Premises and property of the District. A written agreement must be reached prior to the beginning of any improvements as to the transfer of those improvements if such is ever to occur.

4.6 **Restoration.** Any damage to any portion of the Facilities or the Leased Premises caused by Tenant, or its agents, employees or invitees, shall be paid for by Tenant. Upon the expiration or termination of this Lease, Tenant shall return the Facilities to the District

restored to their original condition, subject to any approved remodeling or improvements as provided in Section 4.5 hereof, reasonable wear and tear excepted.

4.7 **Exculpation.** The District shall not be liable to Tenant, and Tenant hereby waives any claim in connection with, or against any other persons whatsoever, for any damage occasioned by plumbing, gas, water, steam, sprinkler or other pipe or sewer system, or by the bursting, running, leaking of any tank, water stand, closet, waste or other pipes in the Facilities or at the Leased Premises, or for any damage occasioned by water being upon or coming through the roof. The District shall not be liable for, and Tenant hereby waives any claim in connection with, any failure to furnish, or any interruption of water, gas, electricity, hot or cold air, or sewer system, caused by fire, theft, vandalism, accident, riots, strikes, wars, labor disputes, equipment breakdown, or other casualties, including acts of God, to all or any part of the Facilities or the Leased Premises, or the making of any repairs or improvements for causes beyond the control of the District. Tenant recognizes that certain additions, replacements and repairs to the Leased Premises may be made from time to time or at the direction of the District, and agrees that such shall not entitle Tenant to any modification of the terms of this Lease, or alter the obligations of Tenant hereunder.

5. **Insurance.**

5.1 **Tenant.** Tenant shall hold District harmless from any or all loss or damages to any third person from any cause whatsoever during the term of this Lease, and in this connection, Tenant shall, at the expense of the Tenant, maintain general public liability insurance against claims for personal injury, death or property damage occurring in or about the Leased Premises, such insurance to afford protection of not less than \$2,000,000.00 in respect to injury or death of one or more persons, and \$2,000,000.00 property damage. Such policy or policies of insurance shall name District as an additional insured hereunder and Tenant shall furnish District with a copy of such policy or policies, or with a certificate of the company issuing such insurance, certifying that the same is in full force and effect at all times during the term of the Lease. All such insurance policies shall be in form, and issued by companies, reasonably satisfactory to the District. The Tenant shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of District employees or agents.

5.2 **District** The District shall maintain adequate insurance (which may include a bona fide self-insurance program) to cover any liability arising from the acts and omissions of District employees or agents. District shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of Tenant employees or agents. The District shall not be Liable to Tenant for injury or damage, however caused, to any property or person in or about the Leased Premises

5.3 **Notice.** Tenant must immediately report to the District any possible injury, loss or damage which may be covered by either party's insurance. By requiring the insurance in this Section, the District does not represent that coverage and limits will necessarily be adequate to protect Tenant's liability under the indemnities granted to the District in this Agreement.

6. **Assignment.**

6.1 **By Tenant.** Tenant may not assign, mortgage or encumber any interest herein, nor sublet the Leased Premises or any part thereof or any right or privilege appurtenant thereto, or permit any other person or group to occupy the Leased Premises or any portions thereof without a written agreement between the District and the Tenant.

6.2 **By the District .** The District shall have the right to transfer its fee estate in the Leased Premises and assign its interests in this Lease, in whole or in part, without limitation and without notice to or the consent of Tenant; provided, however, that any such transfer shall be subject to this Lease. Upon any such conveyance, the District shall automatically be relieved of any obligations under this Lease. The District shall also have the right to mortgage, hypothecate or otherwise pledge its interest in the Leased Premises and this Lease to the extent permissible by law.

7. **Termination.**

7.1 **Destruction of Facilities.** In the event any of the Facilities are substantially destroyed, the District reserves the right to immediately terminate this Agreement, without liability hereunder, upon written notice to Tenant. Tenant hereby waives any and all claims for damages in the event of such a termination.

7.2 **Fee Adjustments.** Rental amounts under this agreement shall not increase for the time of the lease. Any rental increases upon renewal shall be made pursuant to A.R.S. § 15-1105 (D) and the rates established under the fee schedule in effect 30 days prior to the conclusion of the lease will take effect on the first day of the new lease.

7.3 **Without Cause.** Either party may cancel this Agreement, at will and without cause, by giving the other at least three hundred and sixty five (365) days advance written notice to the governing board of the other party at the address listed below.

7.4 **With Cause.** Either party may terminate this Agreement for a material breach by the other if the breach remains uncured sixty (60) days after the breaching party has been given written notice specifying the breach by the terminating party.

7.5 **Continuing Obligations.** Upon any cancellation or termination of this Lease Agreement, Tenant shall immediately surrender and vacate the Leased Premises, and this Lease Agreement shall be of no further force and effect except that the obligations and rights of the parties regarding payments owed to and indemnification of the District by Tenant for the period this Lease Agreement was in effect, and the restoration of the Leased Facilities, shall survive.

7.6 **Re-leasing.** The District reserves the right to reoccupy or re-lease any portion of the Leased Premises which become vacant during the term of this Lease Agreement, or which are no longer subject to this Lease. If the District re-leases following Tenant's default, no refund will be due Tenant of any sums paid in advance.

7.8 **Abandoned Equipment.** Any equipment or effects of the Tenant remaining on the Facilities for more than ten (10) days after the expiration or termination of this Lease

Agreement shall be deemed abandoned and may be disposed of by the District as it deems advisable.

8. **Notices.** Any notice required or permitted under the terms of this Lease Agreement or otherwise shall be deemed sufficiently given or served if in writing and sent by certified mail, return receipt requested, postage prepaid, as follows:

As to Tenant:

Director of Northpoint Academy
P.O. Box 10245
Prescott, AZ 86301

As to District:

Prescott Unified School District No. 1
Attention: Director of Business Services
146 South Granite Street
Prescott, Arizona 86301

9. **Attorneys' Fees.** In the event of any action arising in connection with this Lease Agreement, the prevailing party shall be entitled to an award of its reasonable attorneys' fees.

10. **Covenants.** Tenant hereby represents and covenants to the District as follows:

10.1 **Good Standing.** Tenant is an Arizona Charter School, formed or residing in the State of Arizona in full compliance with its organizational documents (if applicable), qualified to do business in Arizona and in good standing under the Arizona law.

10.2 **Authorization and Enforceability.** The execution, delivery and performance of this Lease Agreement has been duly authorized by Tenant, and this Lease Agreement is fully enforceable against Tenant in accordance with its terms.

10.3 **Compliance with Law.** Tenant will conduct its business in full compliance with all applicable laws, regulations and ordinances, and shall permit all requested inspections of the Leased Premises by appropriate governmental agencies. Tenant and its employees will at all times have all insurance, licenses and permits legally required for the conduct of its business.

11. **Interpretation.**

11.1 **Approval.** This Lease Agreement shall not become effective until approved by the Governing Board of the District and the Governing Board of the Tenant. Any approvals required or permitted under the terms of this Lease must be in writing and signed on behalf of the District by its Assistant Superintendent of Business Services.

11.2 **Relationship of Parties.** The relationship of the parties hereto is solely that of landlord and tenant, and it is expressly understood and agreed that the District does not in any way nor for any purpose become a partner of Tenant or a joint venture with Tenant in the conduct of Tenant's business or otherwise. This Lease is not intended, and shall not be construed,

to create the relationship of agent, servant, employee, partnership, joint venture or association as between the District and Tenant.

11.3 **Entire Agreement.** This Lease Agreement, and the Regulations referred to in Section 3.7, contain the entire understanding between the parties with respect to the subjects hereof, and supersede all prior negotiations and agreements.

11.4 **Amendment.** Except as otherwise expressly provided herein, this lease agreement may be amended only by an instrument in writing signed by the parties.

11.5 **Headings.** Headings are for convenience and shall not affect interpretation.

11.6 **Number and Gender.** The terms of this Agreement shall apply to whatever number or gender is appropriate to Tenant.

11.7 **Severability.** If any provision of this Lease Agreement shall be declared invalid or unenforceable, that provision shall be deemed modified to the extent necessary to make it valid and enforceable, or if it cannot be so modified, then severed, and the modified or remaining provisions shall remain in full force and effect.

11.8 **Governing Law.** This Lease Agreement shall be governed by Arizona law.

11.9 **Counterparts.** This Lease Agreement may be executed in counterparts, which together shall constitute a single instrument.

11.10 **Waiver Not Continuing Waiver.** The waiver of any breach of this lease agreement shall not be deemed to amend this Lease Agreement and shall not constitute the waiver of any other or subsequent breach.

11.11. **Time is of the Essence.** TIME IS OF THE ESSENCE of this Lease Agreement and all covenants, provisions, and condition hereof shall bind to the heirs, executors, administrators, successors, permitted assigns and permitted sublessees of the Tenant, and the heirs, executors, administrators, successors, and assigns of the District.

ADDENDUM 1

1. **Non-discrimination:**

The parties agree to comply with Arizona Executive Order 99-4, prohibiting discrimination in employment by government contractors, to the extent applicable to this contract.

2. **Cancellation for Conflict of Interest:**

The parties agree that this contract may be cancelled for conflict of interest in accordance with A.R.S. §38-511.

3. Contract Claims and Controversies:

All contract claims and controversies arising under this contract shall be resolved pursuant to Arizona Revised Statutes.

4. Cancellation for Lack of Funding:

This contract may be cancelled without any further obligation on the part of Tenant or their affiliates, in the event that sufficient appropriated funding is unavailable to assure full performance of its terms. The District shall be notified in writing of such non-appropriation at the earliest opportunity.

5. Liability Insurance:

Tenant shall maintain adequate insurance to cover any liability arising from the acts and omissions of Northpoint Academy employees participating in the program. The tenant shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of Contracting Party employees or agents.

Contracting Party shall maintain adequate insurance (which may include a bona fide self-insurance program) to cover any liability arising from the acts and omissions of Contracting Party employees or agents. Contracting Party shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of Northpoint Academy employees or agents.

IN WITNESS HEREOF, the parties have executed this LEASE AGREEMENT as of the date specified above.

PRESCOTT UNIFIED SCHOOL
DISTRICT NO. 1 OF
YAVAPAI COUNTY, ARIZONA

COMPASS POINTS
INTERNATIONAL, INC. dba
NORTHPOINT ACADEMY

BY: _____
Director of Business Services

BY: _____
Director, Northpoint Academy