

## PROPERTY MANAGEMENT AGREEMENT

THIS PROPERTY MANAGEMENT AGREEMENT (“**Agreement**”) is made and entered into as of December 13, 2022 (the “**Effective Date**”) by and between Scuola Vita Nuova Charter School, a \_\_\_\_\_ (“**Owner**”), and MC REALTY GROUP, LLC, a Missouri limited liability company (“**Manager**”).

### RECITALS:

WHEREAS, Owner owns certain real property with improvements there on more particularly described in Exhibit A (the “**Property**”).

WHEREAS, Owner desires to employ Manager as the exclusive property manager for the Property during the term of this Agreement, and Manager desires to accept such responsibilities and duties, in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Owner and Manager agree as follows:

### ARTICLE I TERM

**1.1 Term.** The initial term of this Agreement shall begin at 12:00 a.m. (midnight) on February 1, 2023 (“**Commencement Date**”) and end at 11:59 p.m. on January 31, 2026 (“**Initial Term**”), unless sooner terminated in accordance with this Agreement. Upon the expiration of the Initial Term, this Agreement shall automatically be renewed and extended for successive one (1) year terms (the Initial Term and annual successive one (1) year terms are collectively referred to herein as the “**Term**”), at the rate of compensation set forth in Exhibit B as such exhibit may be mutually amended or revised.

### ARTICLE II APPOINTMENT AND RESPONSIBILITIES OF MANAGER

**2.1 Appointment.** Owner hereby appoints and engages Manager as the exclusive property manager for the Property, and Manager hereby accepts such appointment and engagement. Manager, on behalf of Owner, shall implement, or cause to be implemented, the decisions of Owner and shall conduct the ordinary and usual business affairs of Owner for the Property as provided for in this Agreement.

**2.2 Personnel.** Manager shall hire, supervise, and discharge all employees and personnel necessary for the management of the Property. All matters pertaining to the selection, direction, employment, supervision, compensation, promotion and discharge of such personnel are the sole responsibility of Manager. All such personnel shall be the employees or independent contractors of Manager (or an affiliate of Manager) not of Owner.

**2.3 Schedule of Personnel and Reimbursement.** Manager shall provide to Owner a schedule of personnel (“**Property Personnel**”) in substantially the format of Exhibit C, attached hereto and made a part hereof, to be subject to Manager's exclusive control and employed in the management of the Property.

**2.4 Books and Records.** Manager shall maintain at its principal office, or at the Property, complete and separate books, records, and documents relating to the management of the Property, including, without limitation, all contracts, leases, amendments, extensions and other agreements relating to contracts and leases, files, correspondence with tenants and prospective tenants, computations of rental adjustments, maintenance and preventive maintenance programs, schedules and logs, tenant finish, construction and capital improvement records, inventories of personal property and equipment, correspondence with vendors, job descriptions, correspondence with federal, state, county, and municipal authorities, brochures, and accounts held or maintained by Manager (collectively, “**Books and Records**”). Owner shall have the right to examine, audit, and make copies of Books and

Records, which may be available at Manager's principal office, at the Property, or stored electronically, as the case may be, upon reasonable notice and during normal business hours, at Owner's sole cost. Manager, at its election, may electronically store invoices, records, and statements, and may bill and pay bills electronically; in such event, Manager will not be required to maintain and/or store "hardcopies" of the foregoing information stored electronically.

**2.5 Leases and Agreements Affecting Property.** Consistent with the duties conferred on the Manager herein, Manager shall, as reasonably practicable, at Owner's expense:

(a) perform all of Owner's obligations as (i) landlord under the current premises leases affecting the Property ("**Leases**"), and (ii) as a party to all other Property Documents (as more specifically set forth in subparagraph (c) below) directly affecting the management of the Property;

(b) enforce all obligations of the tenants (collectively the "**Tenants**") under, and pursuant to the requirements of the Leases; and

(c) enforce all obligations of other third parties under other Property Documents directly affecting the management of the Property, which include but are not all of those Property Documents limited to,

#### DOCUMENT LIST

(all of which are collectively referred to as the "**Property Documents**") Owner agrees to provide such agreements to Manager on or before the date of this Agreement. Notwithstanding anything to the contrary, unless and until Owner provides Manager with a copy (such copy may be in electronic form) of each of the documents that Owner desires Manager to enforce, such document shall not be a part of the Property Documents.

**2.6 Collection.** [Intentionally Left Blank]

**2.7 Contracts and Supplies.**

(a) Manager shall enter into contracts with independent contractors, suppliers, and vendors on behalf of Owner as Owner's Agent, which contracts (i) are required in the ordinary business of managing and operating the Property, and (ii) may include, without limitation, contracts for electricity, gas, water, telephone, cleaning, elevator maintenance and repair, fire monitoring, landscaping, security, maintenance, pest control and other services as set forth in the Approved Budget (as defined below). Owner agrees that Manager will utilize Manager's standard service contracts unless Owner, or an independent contractor, supplier, or vendor, require Manager to utilize another contract form. To the extent agreed to by the independent contractor, supplier, or vendor, all such contracts shall: (i) be signed by Manager as agent for Owner; (ii) include a provision for cancellation thereof by Owner or Manager upon not less than thirty (30) days' prior written notice, without penalty or premium, unless such provision is waived by Owner; and (iii) require that all contractors provide written evidence of the insurance set forth below in a format required by Manager unless waived by Owner. Notwithstanding the above, if any such service contract provides for an aggregate cost in excess of \$5,000, or is not terminable at any time upon not more than thirty (30) days' prior written notice, Manager shall submit such contract to Owner for prior written approval before Manager shall be authorized to execute or renew such contract, provided that the foregoing requirement shall not apply when such contract was specifically identified in the Approved Budget or in the event that an emergency exists. Owner reserves the right to require Manager to bid out any service contract every three years (or annually) to as many as three providers in accordance with the bid requirements set forth in Section 2.9(c).

(b) Manager shall coordinate the purchase of all supplies, tools, and equipment that are necessary and proper to manage and operate the Property and to make all expenditures for such supplies, tools, and equipment in accordance with the Approved Budget. Manager shall use commercially reasonable efforts to secure

for the benefit of Owner any discount, rebate, commission, or other consideration available in connection with any purchase or agreement entered into hereunder.

(c) Manager shall not enter into any contract, agreement or other arrangement for the furnishing of goods or services to Owner or to the Property with any officer, employee, principal, shareholder or affiliate of Manager, unless such relationship has first been disclosed to and approved by Owner. An entity shall be deemed an “affiliate” of Manager if it controls, is controlled by, or is under common control with Manager or any officer, employee, principal or shareholder of Manager holds a position of similar authority with such entity.

## **2.8 Repairs and Maintenance.**

(a) Manager shall, at Owner’s expense, perform or cause to be performed all necessary or desirable repairs, maintenance, cleaning, painting and decorating, alterations, replacements and improvements in and to the Property as are customarily made in connection with the operation of properties of the kind, size, and quality of the Property, including the administration of a preventative maintenance program for all mechanical, electrical and plumbing systems and equipment; provided, however, in the absence of Owner’s approval, Manager shall not make alterations, additions or improvements that are not set forth within the Approved Budget. Notwithstanding the foregoing, Manager may, without Owner’s prior approval and without regard to the Approved Budget, make emergency repairs: (i) involving conditions presenting a danger to life or property; (ii) that are immediately necessary for the preservation or the safety of the Property or the Tenants; or (iii) that are required to avoid the suspension of any necessary service to the Property; provided, however, that Manager shall give written notice to Owner of any such emergency repairs for which prior approval is not required as soon as practicable following the date such emergency repair is made.

(b) Manager does not assume and is given no responsibility for the Property’s compliance with any laws, ordinances, rules, regulations, along with any applicable building costs, statutes and any requirements of all Federal, state, and municipal governments, or any other body exercising functions similar to those of any of the foregoing that may be applicable to the Property and its operation (collectively “**Laws**”), except to notify Owner promptly of any complaints, warnings, notices, or summonses received by Manager relating to such matters. Owner represents that to the best of Owner’s knowledge the Property complies with all applicable legal requirements. Owner authorizes Manager to disclose the ownership of the Property to any governmental officials having authority to enforce legal requirements with respect to the Property. With respect to the foregoing matters set forth in this Section 2.8(b), and in addition to any indemnities provided by Sections 2.17(b) and 7.2 below, Owner agrees to defend, indemnify and save harmless Manager, and Manager’s officers, directors, members, partners, shareholders, employees and agents, along with their successors and assigns (collectively, the “**Manager Indemnified Parties**”), from and against any all loss, liability, cost or damages that any one or all of the Manager Indemnified Parties may incur as a result of Owner’s violation of any of the Laws, except to the extent any violation of the foregoing is caused by Manager’s negligence or willful misconduct.

## **2.9 Capital Improvements.**

(a) In accordance with the Approved Budget, or upon written request of Owner, Manager shall, at Owner’s expense, make, or cause to be made, all required capital improvements, replacements or repairs to the Property.

(b) With respect to the purchase and installation of any capital item or the making of any capital repair, Manager shall recommend that Owner purchase such items or make such repairs in the Approved Budget submitted by Manager to Owner pursuant to Section 5.1 and at such other times as Manager determines such purchase or repair is necessary or desirable. Owner may arrange to purchase and install such capital item or make such capital repair itself or may authorize Manager to do so, subject to the terms of this Agreement.

(c) Unless Owner specifically waives such requirements, all new and replacement capital items and all capital repairs, in each case in excess of \$25,000, shall be awarded on the basis of competitive bidding, solicited in the following manner: (i) a minimum of two (2) written bids will be obtained for each purchase or repair in excess of \$25,000 and a minimum of three (3) written bids will be obtained for each purchase

or repair in excess of \$50,000; (ii) each bid shall be solicited on a form prepared by Manager and approved by Owner to ensure uniformity in bid quotes; (iii) Manager shall provide Owner with bid responses accompanied by Manager's recommendations regarding the recommended bid; and (iv) Owner shall be free to accept or reject any and all bids. Solicitation of bids by the Manager may be made in any commercially reasonable manner, such manner to include but not be limited to, telephone, electronic mail and newspaper or trade journal advertising, provided that Owner agrees to reimburse Manager for the actual costs incurred by Manager to solicit bids pursuant to the requirements of this Subsection, if any. Owner will communicate to Manager in writing its acceptance or rejection of bids within a reasonable amount of time. Owner may pay for capital expenses from its own resources or may authorize payment by Manager out of the Operating Account.

**2.10 Payment of Bills Related to Property** [Intentionally Left Blank]

**2.11 Compliance with Laws.** Notwithstanding Section 2.8(b), subsequent to the Manager's appointment pursuant to this Agreement, Manager shall take commercially reasonable measures to ensure that (i) the services provided by or through Manager its employees, contractors and/or agents, and (ii) any future improvements or structural changes to the Property, will comply with all Laws reasonably known to Manager, provided that any costs associated with such monitoring and compliance shall be at Owner's expense, and provided further that the foregoing compliance requirement shall not make Manager liable for any improvements or structural changes made to the Property that are not provided by or through Manager its employees, contractors and/or agents.

**2.12 Compliance with Property Documents.** Manager shall familiarize itself with all Property Documents (herein defined) directly affecting the management of the Property and which have been provided by Owner to Manager. "**Property Documents**" (as defined in 2.5(c)) shall also include all leases, recorded covenants, conditions and restrictions, restrictive agreements and other similar documents directly affecting the management of the Property, all insurance requirements and any other document provided by Owner to Manager relating to the Property. Manager shall use commercially reasonable efforts to comply with all Property Documents and use commercially reasonable efforts to avoid causing Owner or the Property to be in violation of the Property Documents.

**2.13 License.** Manager shall obtain and maintain any licenses, permits or other governmental consents required in order for Manager to operate its business and perform its duties hereunder at Manager's sole cost and expense, but all licenses, permits or other governmental consents required in connection with the Property shall be at Owner's expense.

**2.14 Notices of Default and Violations.** Manager shall notify (which notice shall be accompanied by copies of any supporting documentation) of any (i) notice of violation of any Laws received by Manager, (ii) defect in or repair requirement of the Property known to Manager, (iii) notice received by Manager concerning the use or release of Hazardous Materials (defined below) at the Property, and (iv) notice received by Manager alleging a default by Owner or Manager under the Leases, a service, supply or labor contract, a ground lease, a mortgage or any other agreement directly affecting the management of the Property.

**2.15 Notices of Claim of Injury or Damage.** Manager shall report to Owner all accidents, claims for damages relating to the ownership, operation, or maintenance of the Property, and any damage or destruction to the Property, and shall prepare for approval by Owner all reports required by an insurance company in connection with any such accident, claim, damage or destruction. Manager is authorized to settle any claim against an insurance company not exceeding \$2,500.00 arising out of any property policy and, in connection with such claim, to execute proofs of loss and adjustments of loss and to collect and receipt for loss proceeds. If a claim against an insurance company exceeds \$2,500.00, Manager shall take no action with respect to the settlement thereof without the prior approval of Owner.

**2.16 Leasing.** Manager shall not be entitled to any commission or other compensation in connection with the leasing of the Property, including, without limitation, lease extensions or expansions. Manager agrees to assist and cooperate with any leasing agent employed by Owner to lease premises located at the Property.

## **2.17 Hazardous Materials.**

(a) Owner represents to its best knowledge and information that there are no Hazardous Materials in, on, or about the Property. Manager agrees to notify Owner if it becomes aware of any violation of any laws regarding hazardous materials, hazardous substance, any pollutants, mold, or contaminants as such are defined in federal, state, or local law (“**Hazardous Materials**”). Owner acknowledges that Manager is not an environmental engineer or consultant and does not have any special knowledge of any Laws regarding Hazardous Materials; that Manager’s duties under this Section 2.17 are limited to the quality of reasonable commercial care and diligence customarily applied to property managers; and that Manager shall have no liability with respect to the presence of Hazardous Materials in or about the Property or for the Property’s compliance with Hazardous Materials laws. Therefore, with respect to any environmental conditions or issues pertaining to Hazardous Materials at the Property, Owner agrees that Manager and Manager’s officers, directors, members, partners, shareholders, employees, and agents are not and shall not: (i) be deemed “operators” of the Property or of any tenant operations therein or thereon; or (ii) “generators” or “transporters” (or have any comparable legal status) for purposes of any Laws regarding Hazardous Materials. Furthermore, unless agreed to in a separate written document signed by Owner and Manager, Manager shall not be responsible for the storage, transportation, disposal, abatement, cleanup, or removal of Hazardous Materials on, in or at the Property. Owner agrees to notify Manager if Owner becomes aware of the presence of any Hazardous Materials on, in, or at the Property, and Owner and Manager shall cooperate in creating and implementing a response to the presence of such Hazardous Materials, including how and when to notify existing and potential tenants. In the event that Manager is required by any Laws to notify existing and potential tenants of the presence of such Hazardous Materials, Owner authorizes Manager to disclose such information to such parties. In the event that such disclosure is not required by any Laws, Manager shall not disclose such information without the prior approval of Owner.

(b) Notwithstanding anything set forth to the contrary in this Agreement, or any expiration or termination of this Agreement, Owner shall indemnify, defend, hold and save the Manager Indemnified Parties free and harmless from and against any and all claims, demands, causes of action, suits, liabilities, damages, losses, judgments, costs and expenses of any kind or nature whatsoever (including reasonable attorneys’ fees and costs), which any one or all of the Manager Indemnified Parties may suffer or incur with respect to, the presence or removal of, or failure to remove, Hazardous Materials generated, used, released, stored or disposed of by anyone or for any other reason existing in or about the Property.

**2.18 Duty of Care.** Manager acknowledges that it has the duty to use reasonable care, in the performance of its work hereunder for the benefit of Owner. In this regard, notwithstanding anything to the contrary herein, Owner acknowledges that no obligation of Manager set forth in this Agreement shall make Manager liable for any damages suffered by Owner as a result of any breach or other failure to perform committed by any architect, contractor, construction manager or other party engaged to work at the Property or provide services or equipment related to the Property.

**2.19 Limitations.** Notwithstanding anything to the contrary, Manager will not provide Owner with any legal advice, tax advice or any such other professional services outside the scope of commercial property management services. Any legal, tax or other professional services shall be obtained by Owner in its sole discretion.

## **ARTICLE III OWNER’S EXPENSES**

**3.1 Expenses.** All reasonable and associated expenses incurred by Manager in the performance of its obligations under this Agreement that are described as reimbursable in this Agreement shall be reimbursed by Owner as direct building operating expenses. Per the approved Annual Budget, all maintenance and operating expenses, including expenses of repairs, replacements, public services, utilities, taxes, sewer, water, license and inspection fees including supplemental preventive maintenance and service software, insurance, legal, accounting, lease administration license fees, copying costs, messenger and overnight delivery charges, telephone and cell phone charges, uniform costs, signage costs, costs of supplies, and such other similar costs and charges, reasonably incurred by Manager in connection with the management and operation of the Property, and annual audit expenses all constitute expenses to be paid by Manager, on behalf of Owner and at Owner’s expense, in accordance with

ARTICLE VI, from the Operating Account (defined below). All such expenses and reimbursables shall be paid by Manager with funds drawn from the Operating Account.

**3.2 Employees' Salaries.** Owner agrees to reimburse Manager for the gross cost of the salaries, wages and other compensation of the Property Personnel specifically identified on Exhibit C (attached hereto) at such compensation levels as are provided for on Exhibit C ("**Employees' Salaries**"), and such reimbursement shall include, but not limited to, associated payroll taxes, insurance, workers' compensation, life, disability, medical and health insurance, pension plans, retirement plans, accrued vacation and customary severance pay, if any, due to such employees upon termination and any and all costs related to any claims by terminated employees, including, but not limited to, reasonable legal fees (with Owner's prior consent), social security taxes, F.I.C.A., unemployment and other employment taxes, and other benefits afforded Manager's employees.

**3.3 Management Office.** If Manager deems it necessary and with approval by Owner, Owner shall provide adequate space at the Property for a management office. Owner shall pay all expenses related to such office, including, but not limited to, furnishings, equipment, computers, postage and office supplies, electricity, internet, connectivity, and other utilities, and telephone.

#### **ARTICLE IV MANAGER'S EXPENSES**

**4.1 Expenses.** Manager shall pay all expenses that are expressly payable by Manager or not reimbursable hereunder, including, without limitation, the following: (a) costs of the insurance required to be carried by Manager pursuant to Section 7.2; (b) cost of gross salary and wages, payroll taxes, insurance, workers' compensation, and other benefits of Manager's Property Personnel not identified in Exhibit C; (c) training expenses, unless approved by Owner; and (d) employment fees, unless approved by Owner.

**4.2 Advances.** Manager shall not be obligated to make any advance to or for the account of Owner, or to pay any sum with respect to the operation or maintenance of the Property, from Manager's own funds.

#### **ARTICLE V BUDGETS AND REPORTS**

**5.1 Annual Budget.** Within sixty (60) days following the Commencement Date, Manager shall prepare and provide for Owner's written or electronic approval a proposed annual budget covering the period from the Commencement Date through the end of the then-current calendar year. Thereafter, at least ninety (90) days prior to the beginning of each calendar year during the Term, Manager shall prepare and submit to Owner for Owner's written or electronic approval a proposed annual budget for the upcoming calendar year of operation of the Property. Manager shall submit the annual budget in a form reasonably acceptable to Owner. The annual budget submitted by Manager and approved (written or electronic) by Owner shall be referred to herein as the "**Approved Budget.**" No changes shall be made to the Approved Budget or any line item therein without Owner's prior written approval. Owner may require the Approved Budget to be re-forecast from time to time, but not more than one (1) time per calendar quarter during the Term.

**5.2 Reports.** On or before the 15th of each month, Manager shall prepare and submit to Owner the reports which shall include balance sheet, general ledger, income statement with variance notes, rent roll, aged delinquencies, cash receipts, receivables ledger, check register, bank reconciliation, management fee calculation and bank statement which are industry standard operating reports for commercial real estate properties or other reports as required by Owner. Within thirty (30) days of the end of each calendar quarter during the Term, Manager shall furnish to Owner a quarterly statement of actual Operating Expenses for each such quarter and year to date an annualized statement of actual Operating Expenses. Within ninety (90) days after the end of each calendar year during the Term, Manager shall furnish to Owner an annual statement of actual Operating Expenses for the preceding calendar year. The format of all such reports shall be subject to the reasonable approval of Owner.

**ARTICLE VI  
BANK ACCOUNTS AND DISBURSEMENT OF FUNDS**

- 6.1 Operating Accounts.** [Intentionally Left Blank]
- 6.2 Security Deposit Account.** [Intentionally Left Blank]
- 6.3 Maintenance of Accounts.** [Intentionally Left Blank]
- 6.4 Shortfall.** [Intentionally Left Blank]

**ARTICLE VII  
INSURANCE AND INDEMNIFICATION**

**7.1 Owner Insurance.** Owner shall, at all times during the Term, carry a policy or policies of commercial general liability insurance and special form causes of loss insurance, all in such forms and amounts and with such deductibles and self-insured retentions as Owner reasonably deems appropriate.

**7.2 Manager Insurance.** Manager, at its expense, shall maintain and keep in force, the following insurance in the following minimum amounts:

(a) **Commercial General Liability:** This insurance shall be written in comprehensive form and shall protect against all claims for bodily injury and property damage arising out of any act or omission of Manager or its agents, employees, or subcontractors. The liability limits shall be not less than:

General Aggregate	\$2,000,000
Products/Completed Operations	\$2,000,000
Each Occurrence	\$1,000,000
Fire Damage	\$ 50,000
Medical Expense	\$ 5,000;

(b) **Workers' compensation insurance:** Shall cover all employees of Manager employed on or about the Property, in an amount sufficient to provide the statutory benefits as required by the laws of the jurisdiction in which the Property is located;

(c) **Employer's Liability:**

Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by Disease	\$1,000,000 policy limit
Bodily Injury by Disease	\$1,000,000 each employee;

(d) **Umbrella or Excess Liability Insurance:** To be provided over the primary general liability, automobile liability and employers' liability insurance policies. The liability limits shall be not less than:

Occurrence	\$2,000,000 (minimum)
Aggregate	\$2,000,000(minimum);

(e) Dishonest/Fidelity Insurance: Covering all employees and officers. Amount to be sufficient to protect Owner and Tenants but not less than \$100,000

(f) Employment Practices Liability: Covering all of Manager's employees with a \$1,000,000 per claim limit, with a maximum retention of \$25,000. Manager shall have the right to elect not to carry the insurance, in which event Manager shall self-insure for this liability;

(g) Professional Liability: Covering all of Manger's employees' errors and omissions with a \$1,000,000 per claim limit;

(h) Commercial Automobile Liability: This insurance shall be written in comprehensive form and shall protect against all claims for injuries to members of the public, employees and damage to property of others arising from the use of motor vehicles, and shall cover operations on or off the site of all motor vehicles, whether they are owned, non-owned, or hired. The liability limits shall be not less than: \$1,000,000 Combined Single Limit (each accident);

(i) Waiver of Subrogation. All insurance policies shall include a waiver of any right of subrogation of the insurers against the Owner and all mortgagees of the Owner, as allowed by law. The general and automobile liability policies required herein shall name the Owner as an additional insured. However, Manager shall be the only party permitted to initiate or file a claim against such insurance, with respect to work performed under this Agreement, unless Manager receives a written request from Owner to indemnify and/or hold it harmless. If Manager fails to respond in writing to such a request with its position within twenty (20) days, and if the response is unsatisfactory to Owner, the Owner retains the right to file or initiate a claim directly with the insurance carrier.

**7.3 Contractor's Insurance.** Unless the Owner agrees otherwise, the Manager shall require that all contractors performing work at the Property shall maintain insurance coverage at such contractors' expense. At a minimum, such insurance shall include the following:

(a) Workers Compensation Insurance as required by law with Employers Liability Limits of not less than \$500,000 for bodily injury limits per accident, \$500,000 for bodily injury by disease each employee, and \$500,000 for bodily injury by disease per policy;

(b) Employer's Liability Insurance in the minimum amount of \$1,000,000.00;

(c) Commercial General Liability Insurance with limits of \$1,000,000 for each occurrence, \$1,000,000 products and completed operations aggregate, \$1,000,000 general aggregate, \$1,000,000 personal injury and advertising injury. This coverage will respond to any allegation, claim, loss, damage, demand or judgment, or other causes of action to the extent caused by Contractor's work done at the Property.;

(d) Comprehensive Automobile Liability Insurance in the minimum amount of \$1,000,000. This coverage will respond to any allegation, claim, loss, damage, demand or judgment, or other cause of action arising out of ownership, maintenance or use of an owned, hired, or non-owned vehicle to the extent caused by the Contractor, its employees or agents;

(e) Third Party Fidelity Bond coverage on a blanket basis covering Contractor and all those of its employees who have access to or are responsible for the handling of Agent's or Owner's funds, in an amount as Agent or Owner shall reasonably request, having such deductible as shall be determined from time to time by Agent or Owner, and naming Owner as a loss payee;

(f) Non-occupational and Disability Insurance, if required by the State where the Property is located;



(g) In the event that Contractor is to park motor vehicles as part of the Services herein, Garage Keepers Legal Liability Insurance in an amount of not less than \$1,000,000 (with commercially reasonable deductibles);

(h) In the event Contractor is to operate a parking garage as part of the Services herein, Garage Liability Insurance in an amount of not less than \$1,000,000 combined single limit; and

(i) Umbrella/Excess Liability: \$5,000,000. This coverage shall be excess of the Employers Liability, Commercial General Liability and Auto Liability policies.

(j) Such additional coverage as Owner may reasonably direct.

(k) Each contractor's respective insurance carriers shall waive all rights of subrogation against Owner and Manager with respect to losses payable under such policies. Manager shall obtain insurance certificates, naming Owner as an additional insured, from each contractor as required under Section 7.3.

**7.4 Certificates of Insurance.** If any contracts or Leases require that such party maintain any insurance coverage, Manager shall obtain insurance certificates annually, or more frequently as required pursuant to the applicable Leases or contracts, from each such party and review the certificates for compliance with such Leases or contract terms.

**7.5 Cooperation with Insurance Carriers.** Manager shall cooperate with and provide reasonable access to the Property to agents of any and all insurance companies who may, from time to time, be involved with the issuance of insurance policies or with inspections of the Property in connection with insurance policies then in force. Manager agrees to use all commercially reasonable efforts to comply with any and all requirements of such insurance companies or their agents, and agrees to exercise due care not to use the Property or permit the same to be used for any purpose which would make void or voidable any such insurance policies, and shall not keep or knowingly allow to be kept on the Property any material, machinery, equipment, substance or other things which may make void or voidable any such insurance policies.

**7.6 Claims.** Manager shall investigate and report to the Owner and the applicable insurer all known claims, actions, or proceedings relating to the ownership, operation, and maintenance of the Property and any damage or destruction to the Property of which Manager becomes aware.

**7.7 Compliance With Insurance Policies.** Manager shall use commercially reasonable efforts to comply with any insurance policy held by Owner and of which Manager has received any written notice or record with respect to the Property so as to avoid any loss insured thereunder from being uncollectible.

**7.8 Indemnification.**

(a) Manager shall indemnify, defend and hold Owner, and their respective shareholders, members, officers, directors, employees, affiliates, agents, successors, representatives and assigns (“**Owner Indemnitees**”) harmless from and against any and all claims, liabilities, losses, damages, causes of action, and expenses (including court costs and reasonable attorney’s fees) arising from (1) Manager’s occupation of the Property, use of the Property, conduct of its business, or any other activity permitted or suffered by Manager in and about the Property, (2) any default, breach, violation or nonperformance of this Agreement or any of its terms, covenants, and conditions by Manager, and (3) any act, omission or negligence of Manager, or any officer, agent, employee, guest, customer, subcontractor, assignee, or invitee of Manager, including any act, omission, or negligence resulting in injury or death. In connection with the foregoing, Manager upon notice from Owner shall defend any claim at Manager’s expense by counsel reasonably satisfactory to Owner. Manager, as a material part of the consideration to Owner, hereby assumes all risk of damage to the Manager's property or injury to Manager's employees or agents in upon, or about the Property, from any cause other than Owner’s negligence or misconduct; and Manager hereby waives all claims in respect thereof against Owner. Manager shall give prompt notice to Owner in case of casualty or accidents in or about the Property. Additionally, except to the extent set forth in Sections 2.8(b) and 2.17(b), Manager shall indemnify and hold Owner harmless from and against any penalty,

damage, or charge incurred or imposed by reason of Manager's, or any of Manager's officers, agents, guests, customers, subcontractors, assignees, or invitees, violation of law, statute, ordinance, or governmental rule, regulation or requirement now or hereafter in force.

(b) Except as expressly provided in this Agreement to the contrary, Owner shall not be liable to Manager, its agents, servants, employees, contractors, customers or invitees for any damage to person or property caused by any act, omission or neglect of Manager, its agents, servants or employees or of any other manager of the Property or of such manager's agents, servants, employees, contractors, customers or invitees.

(c) Owner and its agents and employees shall not be liable to Manager for any injury to person or damage to property caused by the Property becoming out of repair or by defect or failure of any structural element of the Property or of any equipment, pipes or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Property (except where due to Owner's negligent failure to make repairs required to be made hereunder, after the expiration of a reasonable time after written notice to Owner of the need for such repairs).

(d) Owner shall defend and indemnify any one or all of the Manager Indemnified Parties, and hold them harmless from and against, any and all liability, loss, damage and expense, including attorneys' fees, arising directly or indirectly from third party claims against any one or all of the Manager Indemnified Parties under this Agreement, or damages incurred by any one or all of the Manager Indemnified Parties as a result of the negligence of actions of Owner, except to the extent such loss, damage, or expense is the result of Manager's negligence or failure to perform its obligations under this Agreement.

(e) It is expressly understood and agreed that the foregoing provisions of this ARTICLE VII, and Sections 2.8(b) and 2.17(b) shall survive any expiration or termination of this Agreement to the extent the circumstances creating a liability covered hereby arose prior to such expiration or termination.

## **ARTICLE VIII TERM OF AGREEMENT**

**8.1 Termination Without Cause.** Notwithstanding the stated Initial Term or Term above, either Owner or Manager may terminate this Agreement without cause at any time upon thirty (30) days' prior written notice to the other party.

**8.2 Termination For Cause.** Notwithstanding the stated Initial Term or Term above, this Agreement may be terminated by either party hereto for cause. The termination shall be effective immediately upon delivery of written notice to Owner or Manager by the other party, as the case may be. As used herein, "for cause" shall mean and refer to:

(a) The default by either party in the performance of any of its material obligations hereunder without attempting to diligently and continuously commence curing such default within ten (10) days of receipt by the non performing party of notice of such default (or if such default is of a nature that it cannot be cured within ten (10) days, then the Agreement may be terminated if the non-performing party shall fail to commence the curing of such default within such ten (10) day period or shall thereafter fail to prosecute the curing thereof to completion with due diligence); or

(b) If Manager or Owner shall file a voluntary petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, liquidation, dissolution or similar relief for itself under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or under any regulation promulgated thereunder; or

(c) If a court of competent jurisdiction shall enter an order, judgment, or decree approving a petition filed against Manager or Owner seeking any reorganization, arrangement, composition, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future

applicable federal, state or other statute or law relating to bankruptcy, insolvency, or other relief for debtors, and such party shall acquiesce in the entry of such order, judgment, or decree or such order, judgment or decree shall remain un-vacated and un-stayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or any trustee, receiver, conservator, or liquidator of such party or of all or any substantial part of such party's property shall be appointed without the consent or acquiescence of such party and such appointment shall remain un-vacated and un-stayed for an aggregate of sixty (60) days (whether or not consecutive); or

(d) If Manager or Owner shall become insolvent or admit in writing its inability to pay its debts as they mature or is generally not paying its debts as they mature or makes an assignment for the benefit of creditors; or

(e) Owner sells, transfers or otherwise conveys its interest in the Property, or upon termination of Owner's right to collect the rents from the Property by foreclosure, transfer in lieu thereof or other exercise of a lender's remedies.

**8.3 Duties Upon Termination.** Upon termination of this Agreement for any reason, Manager shall cooperate with Owner to accomplish an orderly transfer of the operation and management of the Property to a party designated by Owner and deliver to Owner (and to any other party as designated by Owner) the following with respect to the Property:

(a) A final accounting, reflecting the balance of income and expenses on the Property as of the date of termination to be delivered within thirty (30) days after such termination;

(b) Any balance or monies of Owner and tenant security deposits held by Manager with respect to the Property to be delivered upon such termination;

(c) All original books and records, contracts, leases, receipts for deposits, unpaid bills, on and offsite inventory, data for all information related to the Property in Manager's computer database (or computer diskettes which may be accessed without the use of a special codeword or password) and other papers or documents which pertain to the Property to be delivered upon the termination;

(d) All payments, invoices, notices or other communication or delivery received by Manager with respect to the Property.

**8.4 Owner's Duties Upon Termination.** Owner shall assume: (a) all obligations and commitments for goods and services authorized herein and made prior to termination; and (b) responsibility for payment of all unpaid bills approved or authorized by Owner and received by Owner.

**8.5 Manager's Compensation Upon Termination.** Notwithstanding anything to the contrary herein, in the event of expiration or termination of this Agreement for any reason, Manager shall be entitled to receive all compensation and reimbursement due through the date of such expiration or termination.

**8.6 Obligations of Parties Generally.** Upon any termination of this Agreement, the obligations of the parties hereto shall thereafter cease with respect to the Property, except that neither Owner nor Manager shall be relieved of its obligations hereunder through the date of termination or to the extent any such obligations survive the termination in accordance with the terms hereof (e.g. indemnification). Moreover, the termination of this Agreement shall be without prejudice to any other right or remedy that either party hereto may have pursuant to this Agreement, at law or in equity.

## **ARTICLE IX COMPENSATION**

**9.1 Management Fee.** Owner agrees to pay Manager a management fee ("**Management Fee**") during the term hereof per the attached Exhibit B. Manager agrees to accept such Management Fee as compensation for the

services to be rendered hereunder. The Management Fee shall be payable monthly. If more than one property is listed on the attached Exhibit A, each property will be billed separately. In the event the Commencement Date, or expiration or termination date, occurs on a day other than on the first or last day of a month, respectively, the Management Fee shall be prorated.

**9.2 Management Fee Adjustment.** The Management Fee shall be increased, but not decreased, on the first day of the third (3<sup>rd</sup>) anniversary of the Effective Date, and each anniversary date thereafter (each an "Adjustment Date") by an amount equal to the increase in the Consumer Price Index. "Consumer Price Index" shall mean the Consumer Price Index published by the United States Bureau of Labor Statistics for Urban Wage Earners and Clerical Workers (CPI-W): US City Average [1982-84=100]. In order to determine the increase in the Consumer Price Index, the monthly index number for the calendar month two months prior to the Commencement Date shall be compared with the monthly index number of the calendar month two months prior to the first Adjustment Date when it becomes available (for example; Commencement Date of February, Index Month would be the prior December), and the monthly index number of the calendar month two months prior to the second Adjustment Date when it becomes available, and so on. The adjustment in the management fee will be retroactive to each Adjustment Date as necessary.

## **ARTICLE X NOTICES**

**10.1 Notices.** Whenever any notice, demand or request is required or permitted under this Agreement, such notice, demand or request shall be in writing and shall be deemed to have been properly given if addressed as set forth below and: (a) if hand delivered, when delivered; (b) if mailed by United States Registered or Certified Mail (postage prepaid, return receipt requested, addressed as set forth below) upon receipt or refusal of receipt; (c) if by a nationally recognized overnight delivery service (e.g., Federal Express, UPS Next Day Air, or other reliable express courier service from whom proof of delivery is available), on the next business day after delivery to such express courier service; (d) if sent via facsimile, on the day of transmission (as confirmed by the sender's facsimile equipment); and (e) if sent via electronic mail, on the day of transmission (as confirmed by either a response from receiving party or certificate of receipt):

If to Manager:                   MC Realty Group, LLC  
  114 W. 11<sup>th</sup> Street, Suite 200  
  Kansas City, Missouri 64105  
  Attn: Todd Smith  
  Facsimile No.: (816) 499-8342  
  E-Mail: [ctsmith@mcrealtyus.com](mailto:ctsmith@mcrealtyus.com)

with a copy to:                 DST Realty, Inc.  
  1055 Broadway Blvd, 8<sup>th</sup> Floor  
  Kansas City, Missouri 64105  
  Attn: Christopher J. Lemke  
  Facsimile No.: (816) 435-6403  
  E-Mail: [CJLemke@sscinc.com](mailto:CJLemke@sscinc.com)

If to Owner:

Attn:

Owner and Manager may at any time designate changes to their respective notice addresses, effective five (5) days after the delivery of written notice thereof.

## **ARTICLE XI MISCELLANEOUS**

**11.1 Entire Agreement.** This Agreement (together with the attached Exhibit(s)) is the entire agreement between the parties with respect to the subject matter hereof, and it is a complete integration of any and all representations and agreements existing between Owner and Manager and supersedes all prior oral or written representations and agreements between them. Neither party shall be deemed to be the drafter of this Agreement, and therefore no presumption for or against the drafter shall be applicable in interpreting or enforcing this Agreement. The parties acknowledge that their respective legal counsel participated in the preparation of this Agreement.

**11.2 Modification.** No modification, change, or amendment of this Agreement shall be binding unless in writing and signed by both parties.

**11.3 Severability.** If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

**11.4 No Waiver.** The failure of Owner or Manager to seek redress for violation, or to insist upon the strict performance of any covenant, agreement, provision or condition of this Agreement shall not constitute a waiver thereof, and Owner and Manager shall have all remedies provided herein and by applicable law with respect to the same or any subsequent act which would have originally constituted a violation. No waiver of any provision hereof shall be binding unless in writing and signed by the party waiving such provision.

**11.5 Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the state where the Property is located, and the parties hereto submit to personal jurisdiction in such state for the enforcement of the provisions of this Agreement and waive any and all rights to object to such jurisdiction for purposes of litigation to enforce this Agreement. Venue shall be in the state court where the Property is located.

**11.6 Authority Limited.** Neither Owner nor Manager shall have the power to bind or obligate the other except as expressly set forth in this Agreement.

**11.7 Relationship; Limited Agency.** Nothing herein contained shall constitute or be construed to be or create a partnership or joint venture between Owner and Manager and Manager is and shall remain an independent contractor in connection herewith. Manager shall act solely as the agent of Owner in the performance of its duties and obligations under this Agreement with respect to the Property. Nothing herein shall deprive or otherwise affect the right of either party to own, invest in, manage, or operate property, or to conduct business activities which are competitive with the business of the Property.

**11.8 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may not be assigned without Owner's prior written consent. This Agreement may be assigned by Owner with thirty (30) days prior written notice to Manager.

**11.9 Attorneys' Fees.** In the event of any controversy, claim or litigation between Owner and Manager arising out of or relating to the Property or this Agreement, the prevailing party shall be entitled to reasonable costs and expenses, including, without limitation, attorneys' fees and expert witness fees, as fixed by a court of competent jurisdiction, from the non-prevailing party.

**11.10 No Third-Party Beneficiaries.** This Agreement is intended for the exclusive benefit of the parties hereto and, except as otherwise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

**11.11 Rights Cumulative.** Except as otherwise expressly provided herein, no remedy conferred upon a party to this Agreement is intended to be exclusive of any other remedy provided or permitted herein or by law or in equity, but each shall be cumulative and shall be in addition to every other remedy provided herein or now or hereafter existing at law or in equity.

**11.12 Confidentiality.** Except to the extent necessary to carry out its obligations hereunder, Manager shall treat as confidential and shall not disclose any information with respect to the Property, without the prior written consent of Owner. Confidential information does not include information which: (a) is or becomes generally available to the public other than as a result of a disclosure by the receiving party in breach of this Agreement; (b) was available to the receiving party on a non-confidential basis prior to its disclosure by the other party; (c) must be disclosed pursuant to applicable law or regulation or in connection with the pursuit or defense of a claim; (d) is independently developed by the receiving party without the use of confidential information provided by the other party; (e) was available to Manager on a non-confidential basis prior to its disclosure by Owner; or (f) becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party, provided that such source is not known to the receiving party to be bound by a confidentiality agreement with the other party.

**11.13 Further Acts.** Owner and Manager shall execute such other documents and perform such other acts as may be reasonably necessary and/or helpful to carry out the purposes of this Agreement.

**11.14 Authority.** Each individual signing this Agreement on behalf of a legal entity represents that he or she holds the office and/or position in such legal entity respectively indicated hereinafter for him or her, and has full right and power and has been duly and legally authorized to act on behalf of such legal entity in executing and entering into this Agreement.

**11.15 Waiver of Jury Trial.** EACH PARTY HEREBY KNOWINGLY AND VOLUNTARILY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER PARTY IN CONNECTION WITH ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF OWNER AND MANAGER HEREUNDER, OWNER'S OWNERSHIP OR USE OF THE PROPERTY, AND/OR ANY CLAIMS OF INJURY OR DAMAGE. EACH PARTY HEREBY CONSENTS TO SERVICE OF PROCESS AND ANY PLEADING RELATING TO ANY SUCH ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM AT THE ADDRESS SET FORTH FOR SUCH PARTY IN ARTICLE X HEREOF; PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL BE CONSTRUED AS REQUIRING SUCH SERVICE AT SUCH ADDRESS.

**11.16 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original of this Agreement but all of which, taken together, shall constitute one and the same agreement. Signatures transmitted by facsimile or e-mail (via PDF format) shall be acceptable for purposes of execution of this Agreement.

**11.17 Headings.** All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

**11.18 Force Majeure.** Notwithstanding anything contained to the contrary, neither party hereto shall be required to perform any term, condition or covenant of this Agreement as long as such performance is delayed or prevented by Force Majeure, which shall mean Acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods and any other cause not reasonably within the control of such party and which, by the exercise of due diligence, such party is unable, wholly or in part, to prevent or overcome. Notwithstanding anything herein to the contrary, the foregoing shall not excuse either party from the payment of any monies due pursuant to the terms of this Agreement.

**[SIGNATURES BEGIN ON THE FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, Owner and Manager have caused this Agreement to be executed as of the Effective Date.

**OWNER:** \_\_\_\_\_,  
a \_\_\_\_\_  
  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MANAGER:** **MC REALTY GROUP, LLC**, a Missouri limited liability company

By: \_\_\_\_\_  
C. Todd Smith, Vice President

**EXHIBIT A**  
**Owner's Properties**

<b>Name of Property</b>	<b>Address</b>	<b>Square Footage</b>
Scuola Vita Nuova Charter School	535 Garfield Ave Kansas City, MO 64124	55,000

End of Page



**EXHIBIT B**  
**Management Fee**

The management fee calculation, to be provided on a monthly basis, shall be based upon:

- 1) The total monthly management fee for Operations/Property Management Services payable by Owner to Manager shall be equal to an annual amount of \$0.35 per square foot calculated on the total rentable square footage of the property and divided into twelve (12) equal monthly installments.
- 2) In addition, any maintenance technician assigned to the property would be billed back to the Owner based on the actual hours worked at the property. The current rate is \$55.00 per hour for an engineering tech, and \$45.00 per hour for a utility or grounds tech. These hours will be invoiced to the Owner on a monthly basis, and are subject to change.
- 3) Any other services requested will be negotiated on a case-by-case basis including fees for managing major repair and/or tenant finish projects as well as managing building/tenant card access systems.

**EXHIBIT C**  
**Staffing Plan**

Building Engineer – \_\_\_ hours per week at rate noted in Exhibit B.

Utility Person – \_\_\_ hours per week at rate noted in Exhibit B.

Day Matron – \_\_\_ hours per week at rate noted in Exhibit B.

Grounds Person – \_\_\_ hours per week at rate noted in Exhibit B.

Back-up Staff (emergencies, vacation/sick leave, etc.) as needed. Back-up staff will be at a similar rate as Building Engineer and Utility Person.

Note: The staffing plan is subject to change based on property demand, Owner requirements, efficiency adjustments, etc. Recommended changes to the staffing plan will be reviewed with and approved by the Owner before implementation.

A property manager will be assigned to oversee the general management of the property, handle tenant relations, and to report to the Owner.