Original

LEASE AND PURCHASE OPTION AGREEMENT

This Lease and Purchase Option Agreement (this "Agreement" or this "Lease") is entered into this _______ day of July, 2022 by and between the COUNTY OF APPOMATTOX, VIRGINIA ("Owner") and the APPOMATTOX CHRISTIAN ACADEMY ("ACA") upon the following terms and conditions:

LEASE

THAT for and in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Leased Premises. The Owner owns the real property in Appomattox County, 1. Virginia, as more specifically defined as the real property designated as 189 Price Lane and identified as Tax Parcel # 64A2 A 8616.05 and as depicted on Exhibit A. consisting of approximately 16.054 acres of land, together with all buildings and other improvements thereon and all rights, easements and appurtenances thereunto belonging or appertaining (the "Property"). The Property is also the location of the former Carver-Price High School. The Owner hereby lets, grants. demises, and leases to ACA, and ACA hereby leases and takes from the Owner, for the term and upon the conditions hereinafter set forth, that portion of the Property (the "Premises" or the "Leased Premises") consisting of the entire Property other than (a) that portion of the Property which is leased to and occupied by Carver-Price Legacy Museum as set forth on attached Exhibit B (the "Carver-Price Museum Space") in accordance with the terms set forth in a Lease Agreement dated as of August 1, 2021 by and between Owner and Carver-Price Legacy Museum (the "Carver-Price Legacy Museum Lease") and (b) that portion of the Property which is leased to and occupied by Central Virginia Community College as set forth on attached Exhibit B (the "CVCC Space") in accordance with the terms set forth in a Deed of Lease dated April 18, 2007, by and between Owner and Central Virginia Community College, as amended by a First Amendment to Deed of Lease dated May 25, 2018 (the "CVCC Lease", and together with the Carver-Price Legacy Museum Lease, the "Existing Leases").

The parties also agree that the Board Room utilized by the Appomattox Board of Supervisors, the School Maintenance Shop and the Alternative Education Cottage shall continue their current uses until such time as ACA purchases the Property.

2. <u>Term.</u> The term of this Lease shall be five (5) years, commencing on that date (the "Lease Commencement Date") which is the later of August 1, 2022 or the date on which the Appomattox County Board of Supervisors approves this Lease, and expiring on the fifth (5th) anniversary of the Lease Commencement Date, unless earlier terminated pursuant to any other provision of this Lease (the date on which the term of this Lease ends being referred to as the "Lease Termination Date"); provided, however, that the Lease Commencement Date will not be later than

- October 1, 2022 unless approved in writing by ACA.
- 3. Rent. ACA shall pay to the Owner a total rental amount of TEN DOLLARS (\$10.00) as rent for the term of this lease.
- 4. <u>Use of Leased Premises</u>. ACA may use the Leased Premises as a school, cultural arts center, vocational training facilities, meeting facility, events center, community center, and/or for other substantially similar events and activities.
- 5. <u>Due Diligence</u>. ACA shall have a period of three (3) months to perform reasonable due diligence on the Leased Premises during normal business hours. The Owner and its officers and employees shall provide information and reasonably cooperate with ACA in connection with any reasonable request by ACA related to ACA's due diligence of the Premises. ACA may at its sole discretion terminate this Agreement if it determines that the Premises is not suitable for the uses intended by ACA during said tree (3) month period.
- 6. <u>Inspection and Condition of the Leased Premises</u>. Subject to the Due Diligence, ACA acknowledges that ACA has inspected the Premises and that they are in acceptable condition to ACA. Therefore, ACA waives any right ACA may have arising from the condition of the Premises to either terminate this Agreement or claim damages against the Owner. ACA hereby accepts the Premises in an "as is" condition and acknowledges that the Owner has not made any express or implied warranties with respect to the Premises with respect to either leasing or purchasing of the Property under this Lease or the Purchase Option.
- 7. <u>Utilities</u>. ACA agrees to pay when due all utility charges incurred in connection with its use and occupancy of the Premises, including, but not limited to, electricity, fuel, gas, water, sewer and telephone (including equipment and installation charges) and to immediately transfer all utility accounts into its own name at the commencement of the term of this Lease.
- 8. Existing Leases. ACA agrees that there are certain existing rights to the Property (other than the Leased Premises) as set forth in the Existing Leases which will continue through the term of this Lease and any subsequent purchase of the Property pursuant to the option contained herein. Owner represents and warrants that (a) Owner has provided ACA with true and complete copies of the Existing Leases (including all amendments thereof and attachments thereto); (b) each of the Existing Leases contains the complete agreement between Owner and the tenant thereunder regarding the premises leased thereunder, and there are no other agreements or understandings, whether written or oral, between Owner and the tenant thereunder with respect to such Existing Lease or the premises leased thereunder; and (c) there are no known defaults under or violations of either of the Existing Leases on the part of either Owner or the tenant thereunder.
- 9. <u>Trash and Debris</u>. The Owner shall remove all trash and/or debris from the

Premises by the Lease Commencement Date.

- 10. <u>Property Removal</u>. The Owner shall remove any and all property owned by Owner from the Premises by the Lease Commencement Date.
- Repairs and Maintenance. ACA shall, at its own expense, during the term of this 11. Lease, keep the Premises in good order and condition, and make all repairs and do all acts of maintenance becoming necessary in, upon or about the Premises, and to make, at ACA's expense, all repairs and to do all acts or maintenance becoming necessary during the term of the Lease and to replace all worn out and broken parts of, the heating, plumbing and electrical systems and equipment as well as the air conditioning, and to make all other repairs to keep the Premises in a fully functioning condition; provided, however, that neither the Owner nor ACA shall have no obligation to maintain, repair or replace, in whole or in part, the roof, foundation, or any structural elements of any of the improvements (except that ACA will be required to maintain and repair improvements to the extent such improvements are constructed by ACA and ACA will be responsible for repairing any damage to the extent caused by acts or omissions of ACA or its agents, employees, contractors or invitees; and further provided that ACA will have no obligation to maintain, repair or replace, in whole or in part, the Carver-Price Museum Space or the CVCC Space or any other portion of the Property which is the responsibility of any other tenant other than CVC.

If the roof, foundation, or any structural elements of any of the improvements requires repair, maintenance or replacement, and neither the Owner nor ACA agrees to fund said repairs, maintenance or replacements, ACA may terminate this Agreement by giving the Ownerat least thirty (30) days prior written notice of termination whereupon this Lease shall be terminated if ACA has not either (a) agreed in writing to make or fund such repairs, maintenance or replace at ACA's sole cost and expense or (b) exercised the Purchase Option.

ACA shall also be responsible for maintaining the parking lot and walkway surfaces and all lawns and landscaping on the Property.

12. Renovation Plan. On or before December 31, 2022, ACA shall prepare a "Renovation Plan" and provide said Plan to the Owner. The Plan shall contain the suggested renovations and improvements ACA desires to make to the Premises. ACA shall not make any alterations, additions, modifications, or improvements to the Premises except in conformity with the Renovation Plan without the consent of the Owner, which consent will not be unreasonably withheld.

ACA agrees that all such work shall be done in a good and workmanlike manner and in accordance with applicable laws and regulations, that the structural integrity of the building shall not be impaired, that no liens shall attach to the Premises by reason thereof, and that ACA will secure all necessary permits pertaining to the aforementioned alterations.

The alterations, additions, modifications, and improvements referred to in this paragraph, and consented to in writing by Owner, shall become part of the real property as soon as they are affixed thereto.

- 13. <u>Injury to Persons or Property and Insurance by ACA</u>. During the term, ACA shall maintain and keep in force at ACA's own expense public liability insurance on the Premises with limits of not less than one million dollars (\$1,000,000) in respect of bodily injury or death for any one occurrence and two million dollars (\$2,000,000.00) for the aggregate of all occurrences during any given annual policy period. ACA shall provide a copy of such insurance policy to the Owner and the Owner shall be named as an additional insured on said policy. ACA shall indemnify the Owner against and hold the Owner harmless from any and all suits, actions, damages, liability, cost, and expense (including reasonable attorney fees) to the extent arising from or out of any act or failure to act of ACA, ACA's agents, servants, employees, visitors, or licensees in or on the Premises.
- 14. Hazard Insurance; Risk of Loss. At the election of ACA, (a) ACA shall obtain and pay the premiums for a hazard insurance policy in the amount of two million dollars (\$2,000,000.00) to protect the Premises from damage due to fire or other hazards, or (b) the Owner shall obtain and pay the premiums for such hazard insurance policy and ACA shall reimburse the Owner for such premiums within thirty (30) days after ACA receives a written statement evidencing the payment of such premiums by the Owner. ACA shall name the Owner as an additional insured under the policy. ACA shall provide a copy of such insurance policy to the Owner.
- 15. Access. The Owner shall have access to the Premises at reasonable times and upon reasonable notice to ACA. *Inter Alia*, said access will be for purposes of the Owner complying with its obligations under this Agreement, and to verify that ACA is complying with its obligations under this Agreement.
- 16. <u>Assignment; Subordination</u>. ACA agrees that ACA will not transfer or assign this Lease, or let or sublet the whole or any part of the Premises, without the prior written consent of the Owner, which consent will not be unreasonably withheld. This paragraph shall not apply to ACA renting the Premises to other parties or entities for the permitted Use of Premises described above.
- 17. <u>No Holdover</u>. Upon termination of this Lease other than by settlement pursuant to the exercise of the Purchase Option, ACA shall deliver possession of the Premises to Owner together with a written instrument evidencing the termination and delivery of possession. In the event ACA holds over, the Owner may seek to summarily evict ACA and recover damages suffered or incurred by the Owner as a result of such holding over.
- 18. <u>Cost of Enforcement and Waiver of Exemptions</u>. ACA hereby agrees to pay all costs, expenses, fees, and charges incurred by the Owner in enforcing, by legal

action or otherwise, any of the provisions, covenants, or conditions of this Lease in the event of any breach of this Lease by ACA, including but not limited to reasonable attorney fees, and ACA hereby waives the benefit of any homestead or other exemption provided by law for the benefit of ACA or debtors with respect to the obligations of this Lease.

- 19. Permits Compliance with Laws. ACA shall, at its own expense, promptly obtain from the appropriate governmental authorities any and all permits, licenses and the like required to permit ACA to occupy the Premises for the purposes herein stated. ACA shall thereafter promptly comply with all statutes, laws, ordinances, orders, rules, regulations and requirements of the Federal, State and local governments and of the Board of Fire Underwriters applicable to ACA's use of the Premises, for the correction, prevention and abatement of nuisances or violations in, upon or connected with the Premises during the term of this Lease. ACA shall not use nor permit the use of the Premises in any manner that will tend to create waste or a nuisance.
- 20. Property Loss or Damage. ACA hereby expressly agrees that Owner shall not be responsible in any manner for, and does hereby release Owner and its respective agents and employees from any and all liability for any damage or injury directly or indirectly caused by (I) dampness or water, whether due to a break or leak in any part of the roof, heating, plumbing, sprinkler or other system within the Premises, or in the building in which the Premises are located, no matter how caused; (ii) theft; (iii) fire or other casualty; (iv) any other cause whatsoever, except where such loss was caused by the negligence of Owner.
- ACA's Failure to Perform. In the event that ACA fails, after fifteen (15) days' written 21. notice from Owner, to keep the Premises in good state of condition and repair as required under the express provisions of this Lease, or to commence and continuously make required repairs, or to do any act or make any payment or perform any term or covenant on ACA's part required under this Lease or otherwise fails to comply herewith, Owner may (at its option, but without being required to do so) immediately, or at any time thereafter and without notice perform the same for the account of ACA (including entering the Premises at all reasonable hours to make repairs and do any act or make any payment which ACA has failed to do), and if Owner makes any expenditures, or incurs any obligations for the payment of money in connection therewith, including, but not limited to, attorneys' fees in instituting prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of twelve percent (12%) per annum and costs, shall be deemed to be additional rent hereunder and shall be paid by ACA to Owner within five (5) days of rendition of any bill or statement to ACA therefore. All rights given to Owner in this section shall be in addition to any other right or remedy of Owner herein contained.
- 22. <u>Defaults Remedies</u>. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by ACA:

- (a) The vacating or abandonment of the Premises by ACA.
- (b) ACA's failure to maintain itself as a valid non-profit corporation under state and federal law.
- (c) If ACA ceases regularly using and operating the Premises.
- (d) The failure by ACA to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by ACA, where such failure shall continue for a period of thirty (30) days after written notice thereof from Owner to ACA; provided, however, that if the nature of ACA's default is such that more than thirty (30) are reasonably required for its cure, then ACA shall not be deemed to be in default if ACA commences such cure within said thirty (30) period and thereafter, diligently prosecutes such cure to completion.
- (e) The making by ACA of any general assignment or general arrangement for the benefit of creditors, filing by or against ACA under any law relating to bankruptcy (unless in the case of a petition filed against ACA, the same is dismissed within sixty (60 days), the appointment of a Trustee or receiver to take possession of substantially all of ACA's assets located in the Premises or ACA's interest in this Lease where possession is not restored to ACA within thirty (30 days) or the attachment, execution of other judicial seizure of substantially all of ACA's assets located at the premises or ACA's interest in this Lease, where such seizure is not discharged within thirty (30) days.

Upon an uncured default by ACA, Owner shall have the right to immediately take possession of the Premises.

PURCHASE OPTION

Option. So long as ACA is not in any material breach of this Agreement, and there is no outstanding notice of default that has been served upon ACA and such default has not been cured, ACA is hereby granted the option to purchase the Property from the Owner (the "Purchase Option"). To exercise the Purchase Option, ACA shall provide the Owner with a written notice of its intention to purchase the Property no sooner than August 1, 2024 and no later than the Lease Termination Date. The Purchase Option will expire if not exercised by the Lease Termination Date. During the term of the Lease, and including the period between exercise of the Purchase Option and Closing, the Owner shall not sell or otherwise transfer or encumber title to the Property or subject the Property to any lease or other right of use or occupancy other than the Existing Leases.

The parties understand that the Property has been used as collateral for certain bonds (the "Bonds") which shall mature in 2026, and ownership of the Property cannot transfer to ACA until such Bonds are paid. The Owner agrees that the Property will not be used as collateral on any other Appomattox County bond projects.

- 24. <u>Sales Price</u>. The sales price on the Property shall be TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) if the Purchase Option is exercised by ACA.
- 25. Closing. Closing shall occur no later than one hundred twenty (120) days after the later of (a) the exercise of the Purchase Option or (b) the date the Bonds have been paid as contemplated in Section 24, or as soon thereafter as practical. At Closing, the Owner shall deliver to Grantee a Special Warranty Deed in recordable form conveying fee simple title to the Property to ACA, free and clear of any and all (a) mortgages, deeds of trust, and other liens of definite or liquidated amounts (which are not caused by the activities of ACA or its agents, employees, contractors or invitees on the Property) which may be discharged or satisfied by the payment of money ("Monetary Liens"), and (b) other liens and encumbrances other than (i) the Existing Leases, the lien of real property taxes and sewer and water rents not yet due and payable, and publicly recorded easements and rights-of-way for utilities that do not materially adversely affect the fair market value of the Property.
- 26. <u>Continuation of Lease Term</u>. If ACA provides Owner a notice of its intention to exercise the Purchase Option, the parties agree to work diligently to complete the transaction as soon as is practicable. If the closing of the sale cannot be completed before the end of the term of the Lease, the Lease will continue on a "day to day" term until such time as closing is effectuated.
- 27. No Brokers. The parties hereto each represent and warrant that no real estate broker or realtor is involved in this sale or in the procurement of the Purchase Option and any real estate commission claimed hereunder by any person or entity shall be paid by the party determined to have employed the same.
- 28. <u>Closing Costs</u>. ACA shall pay all closing costs incurred as a result of its exercise of this Purchase Option, provided, however, that Owner shall be solely responsible for the Owner's attorneys' fees and the cost of release of existing liens or encumbrances on the Property which Owner is obligated to remove under the terms of this Agreement.

29. Right of First Refusal.

a.. If ACA receives either a bona fide written offer by a willing third party to purchase all or part of the Property which ACA intends to accept, or a purchase agreement which ACA intends to enter into (collectively, "Offer"), Seller shall give

written notice to Appomattox County by a providing copy of such Offer at least fifteen (15) days before the date of contemplated sale.

- b. Within fifteen (15) business days after receipt of the written notice, Appomattox shall have the right to notify ACA that it is exercising its Right of First Refusal and will purchase the Property pursuant to a purchase agreement subject to the terms and conditions of the Offer.
- c. If Purchaser fails to exercise its Right of First Refusal within the time stated above, this Right of First Refusal shall have no more force and effect.

ADDITIONAL TERMS TO THIS AGREEMENT

30. <u>Notices.</u> Any notices required to be served in accordance with the terms of this Lease or the Purchase Option shall be in writing and served by registered or certified mail, or delivered in person and duly acknowledged, as follows:

If the notice is to Owner:

County Administrator Appomattox County, Virginia 153-A Morton Lane P.O. Box 863 Appomattox, Virginia 24522

With a Copy to:

County Attorney
Appomattox County, Virginia
153-A Morton Lane
P.O. Box 863
Appomattox, Virginia 24522

If the notice is to ACA:

Attn. Bruce S. Boone, Sr., Board Chair 711 Applegate Road Appomattox, Virginia 24522

With a Copy to:

David Mitchell 1085 Oakleigh Avenue Appomattox, Virginia 24522

Either party may at any time designate by written notice to the other a change in

the above addresses or addressees. All notices, demands and requests which shall be served by registered or certified mail in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder at the time such notice, demand or request shall be mailed by United States registered or certified mail as aforesaid in any Post Office or Branch Post Office regularly maintained by the United Sates Government.

- 31. <u>Severability</u>. If any term or provision of this Lease (or Purchase Option) or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease and/or Purchase Option or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.
- 32. <u>Captions</u>. All headings in this Lease and Purchase Option are intended for convenience of reference only and are not to be deemed or taken as a summary of the provisions to which they pertain or as a construction thereof.
- 33. <u>Successors and Assigns</u>. Except as otherwise provided, the covenants, conditions and agreements contained in this Lease and Purchase Option shall bind and inure to the benefit of Owner and ACA, and their respective heirs, distributees, executors, administrators, successors, and assigns.
- 34. No Third Party Beneficiaries. This Agreement is made solely among and for the benefit of the parties hereto, and their successors and assigns, and no other person or entity (including but not limited to the tenants under the Existing Leases or any other tenant of the Property other than ACA) will have any rights, interests or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.
- 35. Quiet Enjoyment. Owner covenants and agrees that while ACA complies with and performs all of the covenants and agreements required to be performed by and on the part of ACA and there is no uncured default hereunder by ACA, ACA will, subject to the terms of this Lease, at all times during the term of this Lease, have peaceable and quiet enjoyment of the Premises.
- 36. Governing Law. This Lease was made in the state of Virginia and shall be governed by and construed in all respects in accordance with the laws of the State of Virginia. Any dispute arising under this agreement shall be resolved exclusively in the Circuit Court for Appomattox County.
- 37. <u>Incorporation of Prior Agreements</u>. This Lease and Purchase Option contains all agreements of the parties with respect to any matters contained herein. No prior agreement or understanding pertaining to any such matter shall be affected. This Lease and/or Purchase Option may be modified only in writing and signed by the

parties in interest at the time of the modification.

Recording. Either Owner or ACA shall, upon request of the other, execute, acknowledge, and deliver to the other a "short form" memorandum of this Lease and/or the Purchase Option suitable for recording purposes, provided that the party requesting such memorandum shall be solely responsible for paying any and all recordation and transfer taxes, recording costs and fees, and all other costs charged by the state and/or county to record the memorandum. The party requesting such memorandum may record such memorandum in the land records where the Property are located. Such memorandum will include a legal description of the Property such that the memorandum will be recordable.

Signature page follows

WITNESS the following signatures.

Owner:

COUNTY OF APPOMATTOX, VIRGINIA

By: Banul E. Carter

Name: SAMUEL E. GRETER

Title: Chairman of Board of Supervisors

ACA:

APPOMATTOX CHRISTIAN ACADEMY

Bruce S. Boone, Sr.,

Chair, Board of Directors

Exhibit A

Plat of the Property

(See attached)

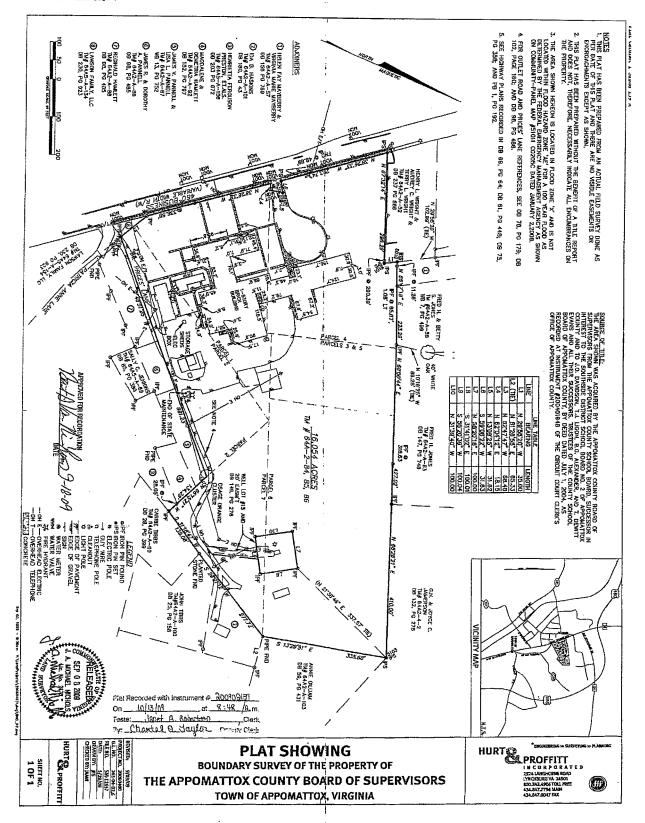


Exhibit B

Carver-Price Museum Space and CCVC Space (See attached)

