EXECUTION VERSION

SECOND AMENDMENT TO USE EASEMENT AND MAINTENANCE AGREEMENT

THIS SECOND AMENDMENT TO USE EASEMENT AND MAINTENANCE AGREEMENT (this "**Second Amendment**") is made and entered into this 8th day of August, 2019 ("**Second Amendment Effective Date**"), by and between the **DISTRICT OF COLUMBIA**, a municipal corporation, acting by and through its Department of General Services, as successor to the Department of Real Estate Services ("**District**"), and **MARET SCHOOL, INC.**, a District of Columbia non-profit corporation ("**Grantee**"). The District and Grantee are each referred to hereinafter as a "**Party**" and collectively referred to as the "**Parties**".

WITNESSETH:

WHEREAS, the District owns that certain real property with an address of 3265 S Street NW in Washington, D.C., known for real property tax and assessment purposes as Square 1299, Lot 1010;

WHEREAS, pursuant to that certain Use Easement and Maintenance Agreement dated December 29, 2009, by and between Grantee and the District (the "**Base Agreement**"), as amended by that certain First Amendment to Use Easement and Maintenance Agreement (the "**First Amendment**", and together with the Base Agreement, the "**Original Agreement**", and such Original Agreement together with this Second Amendment, the "**Agreement**"), Grantee has certain rights and obligations with respect to the Property;

WHEREAS, pursuant to Section 2 of the Base Agreement, the District of Columbia's Department of Parks and Recreation ("**DPR**") is the District agency with responsibility for administering the Agreement; and

WHEREAS, Grantee and the District desire to amend the Original Agreement as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

2. Definitions. Any capitalized terms used, but not defined, in this Second Amendment shall have the meanings ascribed in the Original Agreement. As of the Second Amendment Effective Date, any reference to "this Easement" in the Original Agreement shall mean the Original Agreement as amended by this Second Amendment.

3. The Project. The Parties acknowledge that Grantee renovated the Project Site by installing the Artificial Turf Field pursuant and subject to the terms of Section 7 of the Base Agreement (the "**Original Project**"). In consideration of the Term extension effected by the First Amendment, Grantee has agreed to perform, or cause to be performed, certain additional improvements to the Property as described below, at no cost to the District (the "**Project**"). Section 7 of the Base Agreement is hereby deleted and replaced with the following, and where the context

so requires, references to the "Project" in the Original Agreement shall be read to mean the Project as defined in this Second Amendment:

"7. The Project.

(a) Construction of the Project. Grantee shall perform, or cause to be performed, replacement of the currently existing artificial turf multipurpose field, and replacement of a portion of the fencing at the field. The proposed artificial turf and fence product materials identified by Grantee shall require the approval of DGS prior to installation. Grantee acknowledges and agrees that performance of the Project is subject to approval by the District of Columbia's Office of Partnerships and Grant Services ("**OPGS**"), as described below.

(b) Design. Following the Second Amendment Effective Date, Grantee shall promptly undertake a design process for the Project, and shall work cooperatively with DPR. Both DPR and Grantee shall exercise good faith during the design process to expeditiously achieve a mutually-agreeable Project design and materials that reasonably meets each respective party's needs, as well as the needs of the other party, without incurring excessive design, permitting, or construction costs.

(c) Permits. Promptly following completion of the design process, Grantee shall apply for all applicable permits for the Project (the "**Permits**") and shall thereafter diligently pursue obtaining the same. The District shall, upon written request by Grantee, execute applications for the Permits in its capacity as owner of the Property, as may be required by the applicable issuing authority, at no cost or expense to the District.

(d) Completion. Grantee shall complete construction of the Project within six (6) months after the date Grantee obtains all Permits (subject to the provisions of Section 21 of the Base Agreement); provided, however, that Grantee may, in its sole discretion, defer the commencement of construction so that work takes place after the conclusion of a fall interscholastic sports season (including end-of-season tournaments), with a goal of completing the work in time for use during the subsequent spring interscholastic sports season. If Grantee exercises this option, then Grantee shall complete construction of the Project within six (6) months after the commencement date of the construction (subject to the provisions of Section 21 of the Base Agreement). The District shall have no obligation to provide an alternative multipurpose field for Grantee during the period of construction or otherwise.

(e) Scope of Easement. The easement granted by the District to Grantee pursuant to Section 4 of the Base Agreement includes the right, privilege, authority, and easement to perform the scope of work set forth in the Project Plans (defined below) and all other work that is (i) reasonably contemplated by the Project Plans, and (ii) required as a consequence of governmental or quasi-governmental directives or orders, site conditions, or other unforeseen conditions in order to fully complete the Project.

(f) Project Plans. Prior to the commencement of the construction of the Project, Grantee shall submit to DPR and DGS, for DPR's and DGS' approval, the construction plans and designs for the Project (the "**Project Plans**") and a description of the product materials being used. The provisions of Section 14 of the Base Agreement with respect to review and approval by DPR shall apply to DPR's review and approval of the Project Plans.

(g) Acceptance of Project. Pursuant to Section 1105.6 of Title 19 of the District of Columbia Municipal Regulations, all improvements made to the Project Site pursuant to the Agreement or otherwise by Grantee or any other private persons or organizations shall become the property of the District. At any time after the execution of this Second Amendment and before any work begins, Grantee shall file the appropriate District government donation documents through DPR's Office of Partnerships and Development for approval by OPGS of the Project by donation. Work may not begin until the donation is approved. As used in this Section 7, "Permits" shall be read to include such approval of the donation by OPGS."

4. Communication and Notices. Section 15 of the Base Agreement is hereby deleted and replaced with the following:

"Whenever any demand, request, approval, consent or notice (a "**Notice**") shall, or may, be given by one Party to the other hereunder, such Notice shall be in writing and addressed to the applicable Party at its respective address as set forth below and sent to such Party by: (a) hand delivery, (b) a nationally recognized overnight express carrier, or (c) email so long as such email delivery is followed by such Notice being sent by the next business day by a method set forth in the foregoing (a) or (b). The date the Notice is received shall be deemed to be: (i) the date of hand delivery (with receipt therefor) in the case of hand delivery, (ii) the next business day after the Notice was sent in the case delivery by overnight carrier, or (iii) the date of email delivery so long as the subsequent Notice delivery requirement set forth in the foregoing clause (c) is satisfied. If delivery of a Notice is refused, the Parties agree that such Notice shall be deemed to be successfully delivered on the date of such refusal. Either Party may, at any time, change its Notice mailing or email address by giving the other Party Notice in accordance with the requirements above, stating the change and setting forth the new mailing or email address. Any Notice shall be addressed to each respective Party as follows (or to such other mailing or email address as shall be subsequently indicated in writing by one Party giving Notice to the other, as described above):

If to the District:

Government of the District of Columbia
Department of General Services
2000 14th Street, N.W., 8th Floor
Washington, D.C. 20009
Attention: Director

Email address: keith.anderson@dc.gov

and

Government of the District of Columbia
Department of Parks and Recreation
1250 U Street, N.W
Washington, D.C. 20009
Attention: Director

Email address: delano.hunter@dc.gov

with a copy to:

Government of the District of Columbia
Department of General Services
2000 14th Street, N.W., 8th Floor
Washington, D.C. 20009
Attention: General Counsel

and

Government of the District of Columbia
Department of General Services
2000 14th Street, N.W., 8th Floor
Washington, D.C. 20009
Attention: Chief of Staff

and, in the event of an alleged Licensor default, with a copy to:

Government of the District of Columbia
Office of the Attorney General for the District of Columbia
441 4th Street, N.W., Suite 1010 South
Washington, D.C. 20001
Attention: Deputy Attorney General, Commercial Division

Email address: david.fisher@dc.gov

If to Grantee:

Bill Hodgetts
Chief Financial Officer
Maret School
3000 Cathedral Avenue, NW
Washington, DC 20008

with a copy to:

Marjo Talbott
Head of School
3000 Cathedral Avenue, NW
Washington, DC 20008"

5. Terms. Except as expressly modified by this Second Amendment, all terms and provisions of the Original Agreement as modified by the First Amendment shall remain in full force and effect.

6. Counterparts. This Second Amendment may be executed in two or more counterpart copies, or by facsimile or e-mail .pdf, both of which counterparts shall have the same force and effect as if both Parties hereto had executed a single copy of this Second Amendment.

7. Binding. This Second Amendment shall be (a) binding upon and inure to the benefit of the Parties hereto and their respective representatives, transferees, successors, and assigns (except as expressly otherwise provided in the Original Agreement) and (b) governed by, and construed in accordance with, the laws of the District of Columbia, without regard to conflicts of law provisions.

8. Absence of Interest. Grantee represents and warrants that no officer, agent, employee, elected official or representative of the District of Columbia, including of the Council of the District of Columbia, has received any payment or other consideration for the making of this Second Amendment, and that no such person has any interest, direct or indirect, in this Second Amendment, or the proceeds thereof or related thereto.

9. No Partnership; No Third Party Beneficiaries. Nothing contained in the Agreement shall be deemed or construed to create a partnership or joint venture of or between Grantee and the District. Nothing contained in the Agreement shall be deemed or construed to create any third-party beneficiaries. The only entities that the Parties intend to be benefitted by the Agreement are Grantee and the District.

10. Severability. Each provision of this Second Amendment shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Second Amendment or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, then such provision shall be deemed to be replaced by the valid and enforceable provision most substantively similar to such invalid or unenforceable provision, and the remainder of this Second Amendment and the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby.

11. Not a Contract for Goods or Services. This Second Amendment is not intended to be, nor shall it be deemed or construed to be, a contract for goods or services. Nothing contained in this Second Amendment, and no future action or inaction by the District under the Agreement, shall be deemed or construed to mean that the District has contracted with Grantee to perform any activity at the premises or the property that is not ancillary to this Second Amendment. Grantee expressly acknowledges that the District is prohibited by law from entering into contracts for goods and services without following the procedures set forth in the Procurement Practices Reform Act

of 2010, D.C. Official Code § 2-351.01, et seq., as may be amended from time to time, or any other applicable procurement authority.

12. MOA. Grantee and DPR entered into that certain Memorandum of Agreement dated December 30, 2009 (the "**MOA**") regarding the Property. Grantee and DPR hereby acknowledge and agree that (a) as a result of the First Amendment, the term of the MOA was extended to June 29, 2029 pursuant to Section III of the MOA, and (b) all provisions of the MOA with respect to the Original Project shall be construed to apply to the Project and the Project Plans.

Signature Pages Follow

IN WITNESS WHEREOF, the District and Grantee have entered into this Second Amendment as of the Second Amendment Effective Date.

DISTRICT:

DISTRICT OF COLUMBIA,
a municipal corporation, acting by and through
its Department of General Services

By: _____
Keith A. Anderson
Director

Approved as to Legal Sufficiency for District of Columbia by:
The Office of the General Counsel for the Department of General Services

By: _____
Assistant General Counsel

Second Signature Page Follows

GRANTEE:

MARET SCHOOL, INC.,
a District of Columbia non-profit corporation

By: _____
Name: Mary Josephine Talbott
Title: Head of School

Last Signature Page Follows

ACKNOWLEDGED AND AGREED TO BY
THE DISTRICT OF COLUMBIA DEPARTMENT OF PARKS AND RECREATION:

By: _____ 8/8/19
Name: Delano Hunter
Title: Director, DPR

Last Signature Page