

## **TRANSFER AGREEMENT**

THIS AGREEMENT is made this 8<sup>th</sup> day of May, 2013 ("Effective Date"), by and among Desert Mirage Preparatory Academy, an Arizona nonprofit corporation ("Transferor") with offices at 7878 N. 16th Street, Suite 150, Phoenix, Arizona 85020 and Kaizen Education Foundation d/b/a Discover U Elementary School, an Arizona nonprofit company ("Transferee"), with offices at 5237 N 31st Place, Phoenix, Arizona 85016.

### **RECITALS:**

WHEREAS, Transferor operates a public charter elementary school located at 13226 N. 113th Avenue, Youngtown, Arizona, 85363 pursuant to charter (the "Charter") granted by the Arizona State Board for Charter Schools (the "Authorizer") in accordance with Sections 15-101 *et seq.* of the Arizona Revised Statutes (the "Code") (the "Charter School Business"); and

WHEREAS, Transferor desires to transfer and Transferee desires to acquire the Charter School Business and substantially all of Transferor's assets used and useful in the conduct of the Charter School Business upon the terms and conditions set forth in this Agreement.

THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

### **AGREEMENT:**

#### **1. SALE OF ASSETS.**

1.1 Assets Sold. On the Closing Date (as hereinafter defined), subject to the terms and conditions set forth in this Agreement, Transferor shall sell, convey, transfer, assign and deliver to Transferee and Transferee shall purchase the following assets ("Transferred Assets") of the Charter School Business:

1.1.1 All equipment, furniture, machinery, tools, software, computer hardware and systems owned by Transferor or in which Transferor has any interest, including any leasehold interests, and other supplies owned by Transferor and used in the operation of the Charter School Business (the "Equipment");

1.1.2 Cash and cash equivalents;

1.1.3 All accounts receivable;

1.1.4 All prepaid expenses;

1.1.5 All student records and related data ("Student Records");

1.1.6 All financial records of Transferor related to the Charter School Business and related data ("Financial Records");

1.1.7 All right, title and interest of the Transferor in, to and under the Charter, provided that Transferor and Transferee hereby agree to do all things reasonably necessary to cause the Arizona State Board for Charter Schools to transfer the Charter with the operating name of the school being "Discover U Elementary School."

1.1.8 All right, title and interest of the Transferor in, to and under the “Assigned Contracts” (as hereinafter defined);

1.1.9 Only to the extent transferable, all right, title and interest of Transferor in, to and under all licenses, permits, orders, certificates, approvals and other government authorizations owned by Transferor exclusively in connection with Transferor’s Charter School Business;

1.1.10 All other personal property of every nature or description owned by Transferor and used in the operation of the Charter School Business, including, but not limited to, general intangibles, and the goodwill of the Charter School Business.

1.2 Assignment and Assumption of Contracts. The “Assigned Contracts” consist of third all party contracts between Transferor and service suppliers which relate to the Charter School Business. At the Closing, effective as of the Closing Date (as hereinafter defined) Transferor will assign and transfer to Transferee all of Transferor’s right, title and interest in, to and under the Assigned Contracts, and Transferee will assume, perform and discharge all of Transferor’s obligations and liabilities arising and/or attributable to time periods after the Closing Date under the Assigned Contracts (“Contract Liabilities”).

1.3 Excluded Assets. Notwithstanding anything in Section 1.1 above to the contrary, the corporate books and records of Transferor, including Transferor’s corporate charter and similar items (the “Excluded Assets”) shall not be transferred, assigned, conveyed or delivered to Transferee.

## 2. LIABILITIES.

2.1 Assumption. On the Closing Date (as hereinafter defined), subject to the terms and conditions set forth in this Agreement, Transferee hereby agrees to assume and become liable and responsible for all of the then existing liabilities, debts, or obligations of Transferor, of any nature whatsoever, including, but without limiting the generality of the foregoing, the Contract Liabilities ("Assumed Liabilities").

## 3. CONSIDERATION; ALLOCATION.

3.1 Consideration. The Transferor and Transferee hereby acknowledge and agree that the consideration provided in exchange for the Transferred Assets shall be the Assumed Liabilities and Transferee's commitment to continue the Charter School Business in accordance with its nonprofit mission and tax exempt purposes.

3.2 Allocation of Consideration. The Consideration shall be allocated between the components of the Transferred Assets, the Assumed Liabilities and the Charter School Business in accordance with Transferor's book values.

4. CLOSING. Unless this Agreement is terminated earlier in accordance with Section 4, the closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Transferee on (i) the date that is two (2) business days following the date on which all of the conditions to Closing set forth under Section 9 of this Agreement have been satisfied or waived, except those conditions (such as delivery of certain documents) which are customarily satisfied at a closing. The day on which the Closing is effective shall be referred to herein as the “Closing Date.” The Closing shall be deemed effective as of 11:59 p.m. Mountain Time on the Closing Date. At the Closing, the parties shall execute and deliver the documents, agreements and instruments provided for under this Agreement.

5. REPRESENTATIONS AND WARRANTIES OF TRANSFEROR. To induce Transferee to enter into this Agreement, Transferor makes the following representations and warranties:

5.1 Corporate Organization. Transferor is a nonprofit corporation which is duly incorporated and validly existing under the laws of the State of Arizona, all filings necessary for the maintenance of its existence has been made, and there are no proceedings pending for the dissolution of Transferor. Transferor has all requisite power and authority to carry on the Charter School Business as it is now being conducted and to own and lease the properties and assets it now owns and leases.

5.2 Authorization, Validity. Transferor has all requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action. No other corporate proceedings on the part of Transferor is necessary to authorize this Agreement or the transactions contemplated hereby, and this Agreement constitutes the valid and legally binding obligation of Transferor enforceable in accordance with its terms.

5.3 Compliance. Neither the execution nor delivery of this Agreement by Transferor nor the consummation by Transferor of the transactions contemplated hereby, will result in any violation of or be in conflict with, or constitute a default under, any provision of Transferor's Articles of Incorporation, By-Laws or any material contract, agreement, security agreement, pledge, document, commitment, instrument, judgment, decree, order, statute, rule or governmental regulation to which Transferor is a party or by which it is bound, or which is applicable to Transferor, the Transferred Assets or the Charter School Business.

5.4 Good Title. The Transferred Assets (in the case of leased assets, Transferor's leasehold interest therein) are free and clear of all security interests, encumbrances, liens, mortgages, pledges, charges, conditional sale or title retention agreements and restrictions, except liens for personal property taxes not due and payable. Transferor shall execute an Affidavit at closing verifying free/clear title to the Transferred Assets and that same are subject to no liens. There are no currently effective Uniform Commercial Code financing statements of record covering any of the Transferred Assets.

5.5 Leases, Contracts, Etc. The Assigned Contracts comprise all of the material leases, subleases, maintenance agreements, service agreements and all other agreements affecting the Charter School Business or the Transferred Assets ("Contracts"). Correct and complete copies of the Contracts have been or will be provided to Transferee. Each such Contract is in full force and effect and there has not occurred any event which (with or without the lapse or passage of time and/or giving of notice) would constitute a material default thereunder by Transferor or by any other party.

5.6 Equipment. All of the Equipment (or, in the case of leased assets, the leases pursuant to which they are leased) are included among the Transferred Assets and Transferor has not disposed of any Equipment prior to Closing.

5.7 Absence of Certain Changes or Events. Transferor has conducted the Charter School Business solely in the ordinary course and consistent with past practice, and, without limiting the foregoing, (i) there has not been any material adverse change in the financial condition or operation of the Charter School Business and no event has occurred which materially and adversely affects the Charter School Business, (ii) Transferor has not waived any rights which are material to the Charter School Business, (iii) there has not been any damage, destruction or loss (whether or not covered by insurance) which singly or in the aggregate materially and adversely affects the Transferred Assets or the Charter School Business, (iv) Transferor has not entered into or terminated any material agreement, lease, license or commitment which relates to the Charter School Business or the Transferred Assets, (v) Transferor has

not disposed of any material assets other than inventory sold in the ordinary course of business, and (vi) Transferor has not made any material change in any method of accounting or accounting practice.

5.8 Litigation and Other Proceedings. No action, suit, proceeding or investigation before any court, arbitrator, governmental authority or instrumentality is pending against Transferor, or to Transferor's knowledge is threatened against Transferor, which involves the Charter School Business, the Transferred Assets or the consummation by Transferor of the transactions contemplated by this Agreement, and, to Transferor's knowledge, no valid basis exists for any such action, suit, proceeding or investigation.

5.9 Consents and Approvals. No consent, approval or authorization of, or declaration, filing or registration with, any governmental or regulatory authority or agency, whether federal, state or local, is required in connection with the execution or delivery of this Agreement by Transferor or the consummation by Transferor of any of the transactions contemplated hereby. No consent of any other entity, agency or person is required in connection with the execution or delivery of this Agreement by Transferor or the consummation by Transferor of any of the transactions contemplated hereby, including, without limitation, consents from any party to any Contract (whether or not an Assigned Contract) to which Transferor is a party, or which is applicable to the Charter School Business or the Transferred Assets.

5.10 Taxes.

5.10.1 Transferor has properly and timely filed all federal, state and local tax reports and returns required to be filed by it, and all taxes, license fees, and charges and levies of every kind, character and description (including, without limitation, those due in respect to their properties, income, franchise, occupations, licenses, sales and payrolls), as shown by such reports or returns to be due and payable, or levied, assessed or imposed on the Charter School Business or Transferor through the date hereof (except for those which by their terms are not yet due and payable) have been paid. No taxing authority has asserted against Transferor any claim for the assessment of any additional tax liability.

5.10.2 There are no tax liens upon any property or assets of Transferor except liens for current taxes not yet due and payable.

5.10.3 No examination or audit of any tax return or report of Transferor is in progress or to Transferor's knowledge is contemplated.

5.11 All Necessary Assets. Except for the Excluded Assets, the Transferred Assets comprise all of the assets, properties and rights required to operate the Charter School Business in the manner in which it has heretofore been operated by Transferor.

5.12 Compliance with Laws. Transferor has complied in all material respects with all applicable laws and statutes and all ordinances, codes, rules, regulations, judgments, orders, injunctions, writs or decrees of any Federal, state, local or foreign court or any governmental body or agency thereof to which Transferor may be subject or which are applicable to or otherwise affect the operations, Charter School Business or Transferred Assets. Transferor has not received any notice alleging any such violation, nor does Transferor have any knowledge of any inquiry, investigation or proceeding relating thereto.

5.13 Permits and Licenses. Transferor has in force and effect, and has complied with all of the conditions and requirements imposed by, all material permits, licenses, exemptions, consents,

authorizations and approvals used in or required for the conduct of its Charter School Business as currently conducted. Transferor has not received any notice of, nor has any knowledge of, any intention on the part of any appropriate authority to cancel, revoke or modify, or any inquiries, proceedings or investigations the purpose or possible outcome of which is the cancellation, revocation or modification of any such material permit, license, exemption, consent, authorization or approval.

5.14 Brokers' Fees. Transferor has no liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.

5.15 Knowledge of Transferor. For those warranties and representations set forth in this Section 4 which are qualified by reference to the Transferor's "awareness" or "knowledge", the Transferor shall be deemed to have knowledge and be aware of (i) any matter, fact, or thing that is, as of the date hereof or the Closing Date, actually known to any officer or director of the Transferor.

6. REPRESENTATIONS AND WARRANTIES OF TRANSFEREE. To induce Transferor to enter into this Agreement, Transferee makes the following representations, warranties and agreements:

6.1 Corporate Organization. Transferee is a nonprofit corporation which is duly incorporated and validly existing under the laws of the State of Arizona, all filings necessary for the maintenance of its existence has been made, and there are no proceedings pending for the dissolution of Transferee.

6.2 Authorization; Validity. Transferee has all requisite entity power and authority to enter into this Agreement and to carry out its obligations hereunder, and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary limited liability company action. No other entity proceedings on the part of Transferee are necessary to authorize this Agreement or the transactions contemplated hereby and this Agreement constitutes the valid and legally binding obligation of Transferee, enforceable in accordance with its terms.

6.3 Litigation. There are no lawsuits, claims or other proceedings pending or threatened against Transferee which would adversely affect Transferee's ability to perform its obligations hereunder.

6.4 Consents and Approvals. Except for the approval of the transfer of the Authorizer, no consent, approval or authorization of, or declaration, filing or registration with, any governmental or regulatory authority or agency, whether federal, state or local, is required in connection with the execution or delivery of this Agreement by Transferee or the consummation by Transferee of any of the transactions contemplated hereby. No consent of any other entity, agency or person is required in connection with the execution or delivery of this Agreement by Transferee or the consummation by Transferee of any of the transactions contemplated hereby, including, without limitation, consents from any lenders.

7. CONDUCT OF BUSINESS PRIOR TO CLOSING. Transferor represents, warrants and covenants that from the Effective Date through the Closing Date, except with the prior written consent of Transferee or as otherwise specifically provided for by this Agreement, Transferor shall:

7.1 carry on the Charter School Business in the normal and ordinary course in a manner consistent with the manner in which the Charter School Business has heretofore been conducted;

7.2 not enter into any material contract (other than in the usual and ordinary course of business upon terms consistent with past practices);

7.3 not encumber any of the Transferred Assets or enter into any transaction or make any commitment relating to the Transferred Assets or the Charter School Business, other than in the usual and ordinary course of business;

7.4 maintain all of its property, casualty, liability and other insurance in effect as of the date hereof through the Closing Date; and

7.5 promptly pay when and as due all taxes, license fees, charges, franchises and contributions required to be paid by Transferor to governmental agencies or taxing authorities, with respect to the operation of the Charter School Business through the Closing Date.

## 8. ACCESS TO INFORMATION AND PREMISES.

8.1 Transferor agrees that, between the Effective Date and the earlier of the Closing Date or the termination of this Agreement, Transferee and its representatives shall, upon reasonable notice and so long as such access does not unreasonably interfere with the business operations of Transferor have reasonable access during normal business hours, or other times reasonably agreed, to all matters related to the Charter School Business (including but not limited to both current and historic records) and shall be entitled to make such reasonable investigations of the properties, businesses and operations of Transferor. No information obtained from the investigations conducted pursuant to this Section 8.1 or otherwise received from Transferor shall in any way affect any representations or warranties made by Transferor in this Agreement.

8.2 From the Effective Date through the Closing Date, Transferor shall deliver to Transferee copies of (i) Transferor's routine periodic financial statements for the Charter School Business, in each case as soon as reasonably practicable following the end of each accounting period and (ii) such other routine available information regarding the operation of the Charter School Business, as Transferee may reasonably request.

9. **CONDITIONS TO OBLIGATIONS OF TRANSFEREE.** Each and every obligation of Transferee under this Agreement to be performed at or before the Closing shall be subject to the satisfaction, at or before the Closing, of each of the following conditions, unless waived in writing by Transferee:

9.1 Representations and Warranties True. Each and every representation and warranty of Transferor contained in Section 4 hereof, and in each certificate and other document delivered or to be delivered by Transferor or its representatives pursuant hereto or in connection with the transactions contemplated hereby, shall be true and accurate as of the date when made and as of the Closing Date and the Closing Date as though such representation and warranty were made by Transferor as of the Closing Date.

9.2 Performance. Transferor shall have performed and complied with each and every covenant, obligation and condition required by this Agreement to be performed or complied with by them at or prior to the Closing.

9.3 No Proceedings or Litigation. As of the Closing, no suit, action, investigation, inquiry or other proceeding by or before any court or governmental body or other regulatory or administrative agency or commission shall be threatened, instituted or pending which questions the validity or legality of this Agreement or the consummation of the transactions contemplated hereby.

9.4 No Injunction. As of the Closing Date, there shall not be any effective injunction, writ, preliminary restraining order or any order of any nature issued by a court, governmental or regulatory agency directing that the transactions provided for herein or any of them not be consummated as so provided or imposing any condition on the consummation of any of the transactions contemplated hereby.

9.5 Authorizer Approval. Transferor and Transferee shall have received approval of the Authorizer for the transfer of the Charter from Transferor to Transferee ("Charter Transfer Approval").

9.6 Other Consents, Approvals, Permits, Etc. All consents, authorizations, approvals, exemptions, licenses or permits of, or registrations, qualifications, declarations or filings with, any governmental body or agency thereof that are required in connection with the sale and transfer of the Transferred Assets to the Transferee pursuant to this Agreement and the consummation of the transactions contemplated hereby shall have been duly obtained or made in form and substance reasonably satisfactory to the Transferee and its counsel and shall be effective at and as of the Closing Date.

9.7 Third Party Consents. Transferor shall have obtained and delivered to Transferee executed written consents of any third parties to the sale of the Transferred Assets to Transferee hereunder ("Third Party Consents") which may be required pursuant to any agreement or arrangement to which Transferor is a party, including, without limitation, such documents as may be necessary to terminate any liens, security interests, encumbrances or other interests of third parties in or to the Transferred Assets and consents to the assignment by Transferor to Transferee of the Assigned Contracts. Such consents to assignment shall also confirm that such party whose consent is being obtained is not in default thereunder, that Transferor is not in default thereunder, and that the Assigned Contract is in full force and effect and will remain so after its assignment to Transferee.

9.8 No Material Adverse Change. There shall have been no material adverse change in the financial condition, results of operations, cash flows, assets, liabilities, business or operations of the Transferor during the period between the Effective Date of this Agreement and the Closing Date, except for such changes as are attributable solely to acts or omissions of Transferee ("Material Adverse Change").

9.9 Notification of Certain Matters. Transferor shall give written notice to Transferee of (i) the occurrence or nonoccurrence of any event that has caused or could reasonably be expected to cause (A) any representation or warranty of Transferor contained in this Agreement to be untrue or inaccurate at any time from the Effective Date to the Closing Date or (B) directly or indirectly, any Material Adverse Effect, or (ii) any material failure of Transferor to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder.

9.10 Deliveries at or Prior to Closing. Transferor shall have delivered or caused to be delivered to Transferee the following at or prior to the Closing, all in form reasonably satisfactory to Transferee's counsel:

9.10.1 copies of resolutions of Transferor's Board of Directors authorizing the execution, delivery and performance by Transferor of this Agreement and the consummation by Transferor of the transactions contemplated hereby, and authorizing Transferor's officers, employees and agents to carry out and perform the terms and provisions hereof, certified by the corporate secretary of Transferor.

9.10.2 a closing certificate from a duly authorized officer of Transferor certifying the fulfillment of the conditions set forth in this Section.

9.10.3 the Charter Transfer Approval from the Authorizer;

9.10.4 the Student Records and Financial Records in compliance with applicable law and regulation;

9.10.5 the Third Party Consents, if any;

9.10.6 all other instruments and documents required by this Agreement to be delivered by Transferor to Transferee, and such other instruments and documents which Transferee or its counsel may reasonably request not inconsistent with the provisions hereof so as to effectively transfer to Transferee all of Transferor's right, title and interest in and to the Transferred Assets as provided by this Agreement, including, without limitation (i) warranty bills of sale for the Transferred Assets and (ii) assignments and assumptions of Assigned Contracts and Assumed Liabilities.

10. **CONDITIONS TO OBLIGATIONS OF TRANSFEROR.** Each and every obligation of Transferor under this Agreement to be performed at or before the Closing shall be subject to the satisfaction, at or before the Closing, of each of the following conditions, unless waived in writing by Transferor:

10.1 Representations and Warranties True. Each and every representation and warranty of Transferee contained in Section 6 hereof, and in each certificate and other document delivered or to be delivered by Transferee or its representatives pursuant hereto or in connection with the transactions contemplated hereby, shall be true and accurate as of the date when made and as of the Closing Date as though such representation and warranty were made by Transferee on the Closing Date.

10.2 Performance. Transferee shall have performed and complied with each and every covenant, obligation and condition required by this Agreement to be performed or complied with by them at or prior to the Closing.

10.3 No Proceedings or Litigation. As of the Closing, no suit, action, investigation, inquiry or other proceeding by or before any court or governmental body or other regulatory or administrative agency or commission shall be threatened, instituted or pending which questions the validity or legality of this Agreement or the consummation of the transactions contemplated hereby.

10.4 No Injunction. As of the Closing Date, there shall not be any effective injunction, writ, preliminary restraining order or any order of any nature issued by a court, governmental or regulatory agency directing that the transactions provided for herein or any of them not be consummated as so provided or imposing any condition on the consummation of any of the transactions contemplated hereby.

10.5 Consents, Approvals, Permits, Etc. All consents, authorizations, approvals, exemptions, licenses or permits of, or registrations, qualifications, declarations or filings with, any governmental body or agency thereof that are required in connection with the sale and transfer of the Transferred Assets to the Transferee pursuant to this Agreement and the consummation of the transactions contemplated hereby shall have been duly obtained or made in form and substance reasonably satisfactory to the Transferor and its counsel and shall be effective at and as of the Closing Date.

10.6 Deliveries at Closing. Transferee shall have delivered to Transferor at the Closing:

10.6.1 copies of resolutions of Transferee's Board of Directors authorizing the execution, delivery and performance by Transferee of this Agreement and the consummation by

Transferee of the transactions contemplated hereby, and authorizing Transferee's officers, employees and agents to carry out and perform the terms and provisions hereof, certified by the corporate secretary of Transferee.

10.6.2 a closing certificate from duly authorized officer of Transferee certifying the fulfillment of the conditions set forth in this Section 10; and

10.6.3 all other instruments and documents required by this Agreement to be delivered by Transferee to Transferor, and such other instruments and documents which Transferor or its counsel may reasonably request not inconsistent with the provisions hereof so as to effectively cause Transferee to assume the Assigned Contracts and Assumed Liabilities, including without limitation, assignments and assumptions of all Assigned Contracts and Assumed Liabilities.

11. FURTHER ASSURANCES. From time to time after the Closing, each party shall, without cost to the other party, execute and deliver to or cause to be executed and delivered such other and further documents and instruments, and take such other action as may be reasonably request to carry out more effectively the transactions contemplated by this Agreement.

## 12. GENERAL PROVISIONS.

12.1 Amendment and Modification. This Agreement may be amended, modified and supplemented prior to the Closing only by written agreement of the parties hereto or as otherwise provided herein.

12.2 Waiver of Compliance. Any failure of Transferee or Transferor to comply with any obligation, covenant, agreement or condition contained herein may be expressly waived in writing by an officer of Transferor or an officer of Transferee, respectively, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

12.3 Fees and Expenses. Whether or not the transactions contemplated by this Agreement are consummated, and except as otherwise provided in this Agreement, all fees and expenses incurred by a party in connection with this Agreement shall be borne by such party, including, without limitation, all fees of its counsel, consultants and accountants; provided, however, that Transferor shall be liable for and pay all sales taxes, transfer taxes, and recording fees incurred in connection with the transactions contemplated by this Agreement

12.4 Notices. All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or when sent by U.S. certified or registered mail, postage prepaid to the address set forth in the preamble to this Agreement or to such other person or address as Transferee shall furnish to Transferor in writing in accordance with this Section. Notwithstanding the foregoing, written notice given in any manner shall nonetheless be effective upon its actual receipt by the party or parties entitled thereto.

12.5 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without the prior written consent of the other party, whether by operation of law or otherwise.

12.6 Governing Law. This Agreement and the legal relations among the parties hereto shall be governed by and construed in accordance with the internal laws of the State of Arizona.

12.7 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12.8 Entire Agreement. This Agreement and the other documents and certificates delivered pursuant to the terms hereof, set forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and supersede all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of either party hereto.

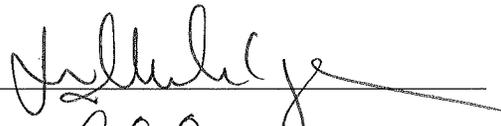
12.9 Severability. The invalidity of any provision of this Agreement or portion of a provision shall not affect the validity of any other provision of this Agreement or the remaining portion of the applicable provision.

12.10 Captions. The section and paragraph headings contained in this Agreement are for convenience only and shall not be deemed to affect the meaning or interpretation of any provision of this Agreement.

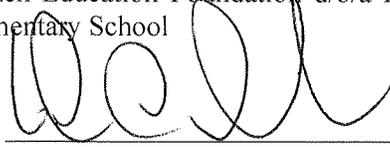
12.11 No Third Party Beneficiaries. Neither this Agreement nor any provision hereof, nor any statement, certificate, instrument or other document delivered or to be delivered pursuant hereto, nor any agreement entered into or to be entered into pursuant hereto or any provision thereof, is intended to create any right, claim or remedy in favor of, or impose any obligation upon, any person or entity other than the parties hereto and their respective successors, personal representatives, executors, heirs, beneficiaries, and permitted assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

Desert Mirage Preparatory Academy

By:   
Its C.O.O

Kaizen Education Foundation d/b/a Discover U  
Elementary School

By:   
Its President

# STATE OF ARIZONA

## Department of State



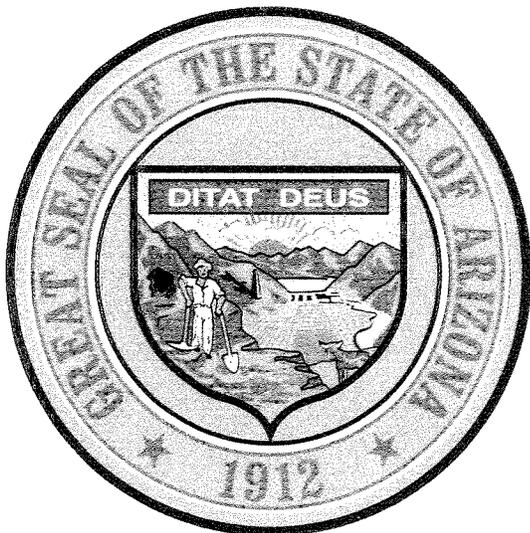
### TRADE NAME CERTIFICATION

DISCOVER U ELEMENTARY SCHOOL

I, Ken Bennett, Secretary of State, do hereby certify that in accordance with the Trade Name Application filed in this Office, the Trade Name herein certified has been duly registered pursuant to Section 44-1460, Arizona Revised Statutes, in behalf of:

KAIZEN EDUCATION FOUNDATION  
7878 NORTH 16TH STREET  
SUITE 150  
PHOENIX AZ 85020-

8/2/2013 Application



Registration Date: 08/02/2013

Expiration Date: 8/2/2018

Date First Used: 12/11/2012

Trade Name No.: 578296

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done at Phoenix, the capitol, this 14 day of August, 2013.

A handwritten signature in black ink that reads "Ken Bennett". The signature is written in a cursive, flowing style.

KEN BENNETT