

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made and entered into this ____ day of _____, by and between the Landlord and the Tenant named below.

ARTICLE 1 - BASIC LEASE TERMS

For the purposes of this Lease, the following terms shall have the meanings set forth below:

- 1.1 Landlord. **The Charlotte-Mecklenburg Board of Education.**
- 1.2 Tenant. _____
- 1.3 Building. **The buildings located at _____ [insert address] North Carolina and commonly known as [_____ School] (the "Building").** The Buildings and the land on which they are located are collectively referred to herein as the "Property."
- 1.4 Leased Premises. The (portions of) the Buildings and the Property as shown on Exhibit A attached hereto and incorporated herein by reference.
- 1.5 Lease Term. **[_____ years], commencing on _____ and unless sooner terminated pursuant to the provisions of this Lease.**
- 1.6 Base Rent. _____
- 1.7 Security Deposit. Security deposit is one month's Base Rent.
- 1.8 Addresses. See signature page.
- 1.9 Permitted Use. For **[_____]** purposes and no other use unless expressly agreed to by Landlord in writing.

ARTICLE 2 - GRANTING CLAUSE AND RENT PROVISIONS

2.1 Grant of Premises. Landlord hereby leases the Leased Premises to Tenant during the Lease Term, subject to the provisions of this Lease.

2.2 Base Rent; Late Payment. Tenant agrees to pay the Base Rent to Landlord annually in advance during the term of this Lease, without demand, offset or reduction. Tenant shall pay within thirty (30) days of invoice, as additional rent, all other sums due under this Lease. If any payment due Landlord is not received by Landlord by the fifth (5th) day after it became due, Landlord can collect a late payment charge of ten percent (10%) of such past due amount.

ARTICLE 3 - OCCUPANCY AND USE

3.1 Use. The Leased Premises shall be used and occupied only for the purpose as set forth in Section 1.9.

Tenant acknowledges and agrees that Landlord has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future concerning (a) the value, nature, quality or condition of the Leased Premises, including, without limitation, the water, soil and geology, (b) the income to be derived from the Leased Premises, (c) the suitability of the Leased Premises for any and all activities and uses which Tenant may conduct therein, (d) the compliance of or by the Leased Premises or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body, (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Leased Premises or (f) any other matters with respect to the Leased Premises.

Landlord specifically disclaims any representations regarding compliance with any environmental protection, pollution, land-use or solid waste (as defined by the U.S. Environmental Protection Agency regulations) laws, rules, regulations, orders or requirements or the disposal or existence, in, under or on the Leased Premises of any hazardous substance as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder or any other applicable laws. Tenant further acknowledges and agrees that Tenant has been provided ample opportunity to inspect and test the Leased Premises and that Tenant is relying and will rely solely on its own investigation of the Leased Premises and not on any information provided or to be provided by Landlord. Tenant further acknowledges and agrees that any information provided or to be provided with respect to the Leased Premises is from a variety of sources and that Landlord has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information.

Tenant expressly acknowledges and agrees that, provisions having been made for it to inspect and test the Leased Premises, Tenant will take title to the Leased Premises on an "AS IS" condition and basis with all faults, to the maximum extent permitted by law.

Tenant hereby releases and forever discharges Landlord, Landlord's agent, subagents, employees, board members or any one of them and any other person, firm or corporation that may be liable by or through them from any and all claims, losses or demands, including claims for personal or bodily injuries and all of the consequences thereof, regardless of whether such consequences are presently known, which may arise from any chemical substance on the Leased Premises. Tenant hereby covenants and agrees not to sue or otherwise make any claim against Landlord for any matter as to which Landlord has no responsibility to Tenant under this paragraph, and this covenant not to sue shall be binding upon the successors and assigns of Tenant to the maximum extent permitted by law.

Tenant, at its expense, shall comply (i) with any and all laws, rules, regulations and standards ("Legal Requirements") applicable to the Leased Premises or Tenant and (ii) with the rules and regulations of the Leased Premises adopted or amended from time to time by Landlord ("Landlord's Rules and Regulations"). Tenant shall

immediately notify Landlord in writing if Tenant becomes aware of violations of Legal Requirements or Landlord's Rules and Regulations. If Tenant is not complying with such Legal Requirements or Landlord's Rules and Regulations, then Landlord, may, at its election, enter the Leased Premises without liability therefor and fulfill Tenant's obligations at Tenant's expense.

3.2 Entry. Landlord or its authorized agents shall at any and all reasonable times have the right to enter the Leased Premises without liability therefor.

ARTICLE 4 - UTILITIES AND SERVICES

4.1 Utilities. Tenant shall, at Tenant's sole cost and expense, pay separately all utilities provided to the Leased Premises. Tenant shall pay directly to the applicable utility provider(s) all use, connection and consumption charges for gas, water, electricity, telephone, garbage collection and any other utility services used in the Leased Premises during the term hereof by Tenant.

ARTICLE 5 - REPAIRS AND MAINTENANCE

5.1 Landlord Repairs. Landlord shall not be required to make any improvements, replacements or repairs of any kind or character to the Leased Premises during the term of this Lease. Landlord shall not be liable to Tenant for any damage or inconvenience, and Tenant shall not be entitled to any damages nor to any abatement or reduction of rent by reason of any maintenance, repairs, replacements, alterations or additions made by Landlord under this Lease.

5.2 Tenant Repairs. Tenant, at its own cost and expense, shall perform such maintenance, repairs and replacements as are required to keep the Leased Premises in good condition. Tenant shall keep a log of maintenance work and shall only use third party vendors to provide maintenance that have been approve in advance by Landlord. Tenant, at its own cost expense, shall also repair or replace any damage to all or any part of the Leased Premises and/or the Property, caused by any act or omission of Tenant or Tenant's agents, employees, invitees, licensees or visitors. At the termination of this Lease, by lapse of time or otherwise, Tenant shall deliver the Leased Premises to Landlord in as good condition as existed at the Commencement Date of this Lease, ordinary wear and tear and damage by fire or other casualty excepted.

Without limiting the foregoing, Tenant shall be responsible all asbestos and or lead-based paint inspections, work practices, and disposal associated with any operations, repairs, maintenance, alterations and or improvements subject to Title II of the Toxic Substance Control Act, The Asbestos Hazard Emergency Response Act (AHERA),the National Emission Standards for Hazardous Air Pollutants, Occupational Safety and Health Administration Asbestos and Lead standards, the USEPA Lead Renovation Rule and or Mecklenburg County Air Quality regulations. As soon as reasonably possible after receipt thereof, and in any event prior to commencing any inspections, work plans or disposals, Tenant shall provide Landlord with copies of all related drawings, work plans, sampling results, and or permits. Landlord has provided Tenant with copies of its most current asbestos AHERA inspection data. Tenant shall contract such services from others qualified to provide said services.

Additionally, if the subject facility has existing playground(s) the Tenant will either accept responsibility for year-round maintenance of the playground(s) or the playgrounds will be removed by the Landlord prior to occupancy. Maintenance shall comply with the Consumer Product Safety Commission Publication Number 325 Handbook for Public Playground Safety, the ASTM Standard 1487 Safety Performance Specification for Playground Equipment for Public Use, and if applicable North Carolina Administrative Code Title 10A Chapter 9 Section .0605 and North Carolina Administrative Code Title 10A Chapter 41C Section .0900. Tenant shall contract such services from others qualified to provide said services.

ARTICLE 6 - ALTERATIONS AND IMPROVEMENTS

Tenant waives any defects in the Leased Premises and accepts (1) the Leased Premises as suitable for the purpose for which they are leased and (2) the Leased Premises and every part and appurtenance thereof as being in good and satisfactory condition. Tenant shall not make or allow to be made any alterations, physical additions or improvements in or to the Leased Premises (including signs) without first obtaining the written consent of Landlord.

Notwithstanding the foregoing, Tenant shall have the right to make certain improvements and repairs to the Leased Premises as set forth on Schedule A attached hereto and incorporated herein by reference (the "Approved Tenant Improvements"). Tenant shall cause all Approved Tenant Improvements to be constructed in accordance with all applicable laws, ordinances and regulations. The Approved Tenant Improvements (and any other alterations and improvements that may be authorized by Landlord during the term hereof) shall become part of the Premises and shall remain upon and be surrendered with the Premises upon the expiration or termination of this Lease.

ARTICLE 7 - CASUALTY AND INSURANCE

[confirm with DIRM]

7.1 Damage. Landlord shall at all times during the term of this Lease insure the Property against such risks and in an amount and with such deductibles as Landlord considers appropriate. Landlord shall not be obligated in any way or manner to insure any personal property of Tenant. If the Leased Premises are partially or totally destroyed by fire or other casualty, then, at Landlord's sole option, this Lease may be terminated immediately upon written notice and without liability to Landlord for any damage or expense suffered by Tenant. If the Lease is not terminated, Landlord shall proceed with reasonable diligence to rebuild or repair the Building or other improvements (but not any of Tenant's property) to substantially the same condition in which they existed prior to the damage and the Lease shall continue.

7.2 Waiver of Subrogation. ANYTHING IN THIS LEASE TO THE CONTRARY NOTWITHSTANDING, LANDLORD AND TENANT HEREBY WAIVE AND RELEASE EACH OTHER OF AND FROM ANY AND ALL RIGHT OF RECOVERY, CLAIM, ACTION OR CAUSE OF ACTION, AGAINST EACH OTHER, THEIR AGENTS, OFFICERS AND EMPLOYEES, FOR ANY LOSS OR DAMAGE THAT MAY OCCUR TO THE LEASED PREMISES, IMPROVEMENTS TO THE PROPERTY, OR PERSONAL PROPERTY WITHIN THE PROPERTY, BY REASON OF FIRE OR THE ELEMENTS, REGARDLESS OF CAUSE OR ORIGIN, INCLUDING NEGLIGENCE OF LANDLORD OR TENANT AND THEIR AGENTS, OFFICERS AND EMPLOYEES.

7.3 Hold Harmless. Landlord shall not be liable to Tenant or to Tenant's customers, employees, agents, guests or invitees, or to any other person whomever, for any injury to persons or damage to property on or about the Leased Premises or the Property including but not limited to, damages, (1) caused by any act or omission of Tenant, its employees, subtenants, licensees and concessionaires or of any other person entering the Property or the Leased Premises by express or implied invitation of Tenant, or (2) arising out of the use of the Leased Premises or the Property by Tenant, its employees, subtenants, licensees, concessionaires or invitees, or (3) arising out of any breach or default by Tenant in the performance of its obligations hereunder, or (4) caused by the improvements located in the Leased Premises becoming out of repair or by defect in or failure of equipment, pipes, or wiring, or by broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Leased Premises or Property, (5) criminal acts or entry by any person into the Leased Premises or the Property or (6) arising out of the failure or cessation of any service provided by Landlord, and Tenant hereby agrees to indemnify Landlord and hold Landlord harmless from any liability, loss, expense or claim (including, but not limited to reasonable attorneys' fees) arising out of such damage or injury. Nor shall Landlord be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Property or of any other persons whomsoever, excepting only duly authorized employees and agents of Landlord acting within the scope of their authority. Further, Tenant specifically agrees to be responsible for and indemnify and hold Landlord harmless from any and all damages or expenses of whatever kind arising out of or caused by a burglary, theft, vandalism, malicious mischief or other illegal acts performed in, at or from the Leased Premises.

7.4 Insurance. Tenant at all times during the Lease term shall, at its own expense, keep in full force and effect the following insurance, in form and substance, with carriers, and in an insured amount, satisfactory to Landlord: (a) commercial general liability insurance (with "personal injury" coverage and contractual liability coverage) with a limit not less than \$1,000,000 per occurrence/aggregate and (b) standard extended coverage insurance for the full insurable value of Tenant's personal property, trade fixtures and all improvements to the Leased Premises installed at Tenant's expense (except that Tenant may elect to self-insure against the risks covered by the insurance described in the clause (b)). The commercial general liability shall name Landlord as an additional insured. Certificates of such insurance, in form and substance reasonably satisfactory to Landlord, shall be furnished by Tenant to Landlord.

ARTICLE 8 - CONDEMNATION

If all or any part of the Leased Premises should be taken under eminent domain, this Lease shall terminate on the date of such taking without liability to Landlord for any damage or expense suffered by Tenant. The term "eminent domain" shall include the exercise of any similar governmental power and any purchase or other acquisition in lieu of condemnation. Tenant shall not be entitled to any portion of the award payable to Landlord for such condemnation.

ARTICLE 9 - ASSIGNMENT OR SUBLEASE

9.1 Assignment.

(a) Tenant shall not assign, sublet, transfer or hypothecate, in whole or in part, this Lease, by operation of law or otherwise, without the prior written consent of Landlord, and in no event shall any such assignment or sublease ever release Tenant or any guarantor from any obligation or liability hereunder.

(b) Tenant accepts this Lease subject and subordinate to any lease, mortgage or deed of trust lien presently existing, or hereafter encumbering the Property and any renewals, modifications, extensions or replacements thereof. Tenant hereby agrees to attorn, upon request, to the purchaser at any foreclosure sale or to the grantee under any deed in lieu of foreclosure or to any other transferee of Landlord's interest.

9.2 Landlord Assignment. Landlord shall have the right to sell, transfer or assign, in whole or in part, its rights and obligations under this Lease and in the Property. Any such sale, transfer or assignment shall operate to release Landlord from any and all liabilities under this Lease arising after the date of such sale, assignment or transfer.

9.3 Estoppel Certificates. Tenant agrees to furnish, from time to time, within ten (10) days after receipt of a request from Landlord or Landlord's mortgagee, a statement certifying such matters as may be required by Landlord or Landlord's mortgagee.

ARTICLE 10 - RULES AND REGULATIONS

The Rules and Regulations attached hereto as Exhibit B shall apply to Tenant's use of the Leased Premises.

ARTICLE 11 - DEFAULT AND REMEDIES

11.1 Default by Tenant. The following shall be deemed to be events of default by Tenant under this Lease: (1) Tenant shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease; (2) Tenant or any guarantor of Tenant's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations hereunder; (3) Tenant or any guarantor of Tenant's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors; (4) Tenant shall do or permit to be done any act which results in a lien being filed against the

Leased Premises or the Property; (5) the liquidation, termination or dissolution of Tenant or any guarantor of Tenant's obligations hereunder; or (6) Tenant shall be in default of any other term, provision or covenant of this Lease, other than those specified in subparts (1) through (5), above, and such default is not cured within ten (10) days after written notice thereof to Tenant.

11.2 Remedies for Tenant's Default. Upon the occurrence of any event of default set forth in this Lease, Landlord shall have the option to pursue any one or more of the remedies set forth in this Section without additional notice or demand:

(1) Without declaring the Lease terminated, Landlord may relet the Leased Premises on behalf of Tenant and receive the rent directly by reason of the reletting. Tenant agrees to pay Landlord on demand any deficiency that may arise by reason of any reletting of the Leased Premises; further, Tenant agrees to reimburse Landlord for any expenditures made by it in order to relet the Leased Premises, including, but not limited to, remodeling and repair costs.

(2) Landlord may terminate this Lease, in which event Tenant shall immediately surrender the Leased Premises to Landlord. Tenant agrees to pay on demand the amount of all loss and damage which Landlord may suffer for any reason due to the termination of this Lease under this Section, including (without limitation) loss and damage due to the failure of Tenant to maintain and/or repair the Leased Premises as required hereunder and/or due to the inability of Landlord to relet the Leased Premises on satisfactory terms or otherwise.

In addition to any other remedy set forth in this Lease, Landlord shall have all rights and remedies available pursuant to North Carolina law. Notwithstanding anything contained in this Lease to the contrary, this Lease may be terminated by Landlord only by written notice of such termination of Tenant given in accordance with Section 12.11 below, and no other act or omission of Landlord shall be construed as a termination of this Lease.

11.3 Remedies Cumulative. All rights and remedies of Landlord herein or existing at law or in equity are cumulative and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other.

ARTICLE 12 – MISCELLANEOUS

12.1 Waiver. Failure of Landlord to declare an event of default immediately upon its occurrence, or delay in taking any action in connection with an event of default, shall not constitute a waiver of the default, but Landlord shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease.

12.2 Act of God. Landlord shall not be required to perform any covenant or obligation in this Lease, or be liable in damages to Tenant, so long as the performance or non-performance of the covenant or obligation is delayed, caused or prevented by an act of God, force majeure or by Tenant.

12.3 Attorney's Fees. If Tenant defaults in the performance of any of the provisions of this Lease and Landlord places in the hands of any attorney the enforcement of all or any part of this Lease, the collection of any rent or other sums due or to become due or recovery of the possession of the Leased Premises, Tenant agrees to pay Landlord's costs of collection, including reasonable attorneys' fees, whether suit is actually filed or not. Such legal fees shall be based upon the lesser of (i) actual amount of time expended in connection with such matters at the customary hourly rates of such attorneys or (ii) the amount permitted by the provisions of N.C.G.S. Section 6-21.

12.4 Successors. This Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, personal representatives, successors and assigns.

12.5 Notices. Any notice under this Lease shall be deemed to be delivered (whether or not actually received) when deposited in the United States Mail, postage prepaid, certified mail, return receipt required, addressed to the parties at the respective addresses set forth herein (or, in the case of Tenant, at the Leased Premises), or to such other addresses as the parties may have designated by written notice to each other, with copies of notices to Landlord being sent to Landlord's address as shown herein.

12.6 No liens. The Tenant shall keep the Property free from any and all liens of any nature for any work done, labor performed or materials furnished thereon at the instance of or request of, or on the behalf of Tenant; and Tenant shall defend, indemnify and save harmless the Landlord from and against any and all claims, liens, demands, costs and expenses of any nature for such work done, labor performed, or materials furnished.

12.8 Sale of Property. Upon any conveyance, sale or exchange of the Leased Premises or assignment of this Lease, Landlord shall be and is hereby entirely free and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence, or omission relating to the Leased Premises or this Lease occurring after the consummation of such sale or exchange and assignment.

12.9 Time is of the Essence. The time of the performance of all of all of the covenants, conditions and agreements of this Lease is of the essence of this Lease.

12.10 Exhibits. All exhibits to this Lease are attached hereto and incorporated herein by this reference.

12.11 Termination. In addition to the immediate termination rights set forth in Section 1.5 hereof, either Landlord or Tenant shall have the right to terminate this Lease at any time and for any reason whatsoever by furnishing not less than sixty (60) days prior written notice to the other party.

ARTICLE 13 - AMENDMENT AND LIMITATION OF WARRANTIES

13.1 Amendment. THIS LEASE MAY NOT BE ALTERED, WAIVED, AMENDED OR EXTENDED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY LANDLORD AND TENANT.

13.2 Limitation of Warranties. LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS LEASE.

13.3 Waiver And Releases. TENANT SHALL NOT HAVE THE RIGHT TO WITHHOLD OR TO OFFSET RENT OR TO TERMINATE THIS LEASE EXCEPT AS EXPRESSLY PROVIDED HEREIN. TENANT WAIVES AND RELEASES ANY AND ALL STATUTORY LIENS AND OFFSET RIGHTS.

EXECUTED by Tenant and by Landlord on the dates set forth below to be effective as of the date set forth in the first sentence of this Lease.

LANDLORD:

The Charlotte-Mecklenburg Board of Education

By: _____
Its: Superintendent

Date: _____

Reviewed and approved by:

Associate Superintendent for Operations

Insurance provisions reviewed and approved by Department of Insurance and Risk Management:

For reference:

This lease was approved by the Board of Education at its meeting on: _____

The Mecklenburg County Board of County Commissioners declined to exercise its statutory right of first refusal pursuant to NCGS 115C-518 at it meeting on _____]

TENANT: [INSERT APPROPRIATE SIGNATURE AND NOTARY BLOCK FOR TENANT]

By: _____

Its: _____

Date: _____

EXHIBIT A
[Leased Premises]

EXHIBIT B
RULES AND REGULATIONS

1. Tenant shall not at any time occupy any part of the Leased Premises as sleeping or lodging quarters.
2. Tenant shall not place, install or operate on the Leased Premises or in any part of the Property any engine, stove or machinery, or conduct mechanical operations or cook thereon or therein, or place or use in or about the Leased Premises or the Property any explosives, gasoline, kerosene, oil, acids, caustics, or any flammable, explosive or hazardous material without written consent of Landlord.
3. Landlord will not be responsible for lost or stolen merchandise, trade fixtures, furniture, furnishings, personal property, equipment, money or jewelry from the Leased Premises or the Property regardless of whether such loss occurs when the area is locked against entry or not.
4. No dogs, cats, fowl, or other animals shall be brought into or kept in or about the Leased Premises or Property.
5. No person shall disturb neighbors of the Property by the use of any radios, record players, tape recorders, musical instruments, the making of unseemly noises or any unreasonable use.
5. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business, Tenant, before occupying the Leased Premises, shall procure and maintain such license or permit and submit it for Landlord's inspection. Tenant shall at all times comply with the terms of any such license or permit.
6. Tenant shall not install any radio or television antenna, loudspeaker or other device on the exterior walls of the Building.
7. Tenant shall store all its trash and garbage within the Leased Premises until daily removal of same by Tenant to such location in the Building as may be designated from time to time by Landlord. No material shall be placed in the Building trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the city in which the Leased Premises is located without being in violation of any law or ordinance governing such disposal.
8. Tenant shall comply, at its sole expense, with applicable laws, rules, regulations and standards relating to protection of human health or safety or the environment, including, without limitation, the federal Comprehensive Environmental Response, Compensation and Liability Act, the federal Resource Conservation and Recovery Act, the federal Title II of the Toxic Substance Control Act - Asbestos Hazard Emergency Response Act (AHERA), the federal National Emission Standards for Hazardous Air Pollutants, the federal Consumer Product Safety Commission Publication Number 325 Handbook for Public Playground Safety, the ASTM Standard 1487 Safety Performance Specification for Playground Equipment for Public Use, North Carolina Administrative Code Title 10A Chapter 9 Section .0605, North Carolina Administrative Code Title 10A Chapter 41C Section .0900, the North Carolina Oil Pollution and Hazardous Substances Control Act, and the North Carolina Inactive Hazardous Sites Act.
9. Tenant shall comply with any applicable Board of Education policies and supporting regulations.
10. Landlord reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be necessary, for the safety, care and cleanliness of the Leased Premises and for the preservation of good order therein.

Schedule A
[Approved Tenant Improvements]