

AMENDED AND RESTATED BUILDING LEASE AGREEMENT

BETWEEN

**THE MAYOR AND ALDERMEN
OF THE TOWN OF JONESBOROUGH, TENNESSEE (“LANDLORD”),**

AND

WASHINGTON COUNTY, TENNESSEE (“TENANT”)

DATED AS OF SEPTEMBER ___, 2021

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AMENDED & RESTATED BUILDING LEASE AGREEMENT

THIS BUILDING LEASE AGREEMENT (the "Lease") is made and entered into as of the ___ day of September, 2021 (the "Effective Date") by and between the MAYOR AND ALDERMEN of the TOWN OF JONESBOROUGH, TENNESSEE ("Landlord"), a duly incorporated municipality located within Washington County, Tennessee, and WASHINGTON COUNTY, TENNESSEE ("Tenant"), a governmental corporation of the State of Tennessee. This BUILDING LEASE AGREEMENT sets forth the parameters as to the operations, maintenance and management of the facility between the Tenant and the Landlord.

RECITALS:

Landlord has undertaken the purchase of certain real property being approximately 48 acres of tax parcel 052-011.00 in Washington County, Tennessee, and more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference (the "Premises"), upon which Landlord shall construct a multi-use facility, including educational, athletic and administrative uses as generally depicted on **Exhibit B** and incorporated herein by this reference (the "Improvements"). The portion of the Premises upon which the Improvements are to be constructed is referred to hereinafter as the "Property"; and the Property and Improvements are hereinafter referred to, collectively, as the "Building").

Tenant desires to lease the Building for use as a K-8 school, while allowing Landlord to reserve use improved outside space adjacent to the gymnasium not to exceed 500 square feet thereof for athletic and administrative purposes. By separate lease agreement (the "Facilities Lease"), Tenant intends to also lease the portion of the Premises and recreational improvements as provided in the Facilities Lease (collectively, the "Facilities"), for use as described in the Facilities Lease, while allowing Landlord to reserve use of portions thereof for athletic and administrative purposes.

To finance the (1) acquisition of the Premises, (2) design and construction of the Improvements, including without limitation, architects', engineers', planners', attorneys' and other professionals' fees, acquisition costs of the Premises, and costs incurred in efforts to obtain and repay the Interim Financing (as hereafter defined in **Section 1.5**) and (3) design and construction of the Facilities (collectively, the "Project"), Landlord proposes to issue its general obligation bonds (the "Bonds," reference to which herein shall include Interim Financing) in a maximum amount of \$42,750,000.

It is intended that Tenant's payments under this Lease reimburse Landlord for the costs of purchase of the Property and construction of the Improvements, and to that purpose be in amounts sufficient to fully amortize the Bonds relating to the costs of the Improvements, the Property, and the costs of certain improvements and projects pursuant to the Facilities Lease. At no time are any payments made by Tenant to be used to pay costs of maintenance or operation expenses related to the Building.

NOW, THEREFORE, in consideration of the foregoing, the sum of \$1.00 in hand paid, and the mutual promises and the terms and conditions hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. INCORPORATION AND INTENT; DESIGN AND CONSTRUCTION

1.1. Each of the recitals set forth above is incorporated herein by this reference and made a substantive part of this Lease.

1.2. A committee (the "Design Committee"), which shall be comprised of representatives of Landlord, Tenant and Washington County School Board (the "School Board"), as provided in the Inter-Local Agreement of even date herewith by and between Landlord, Tenant and the School Board, will, in consultation with architects, engineers, and planners and construction consultants, duly qualified and registered to practice in the State of Tennessee, formulate the design of the Improvements, which shall be reflected on the construction plans and specifications approved by Landlord (the "Construction Drawings"). The approved Construction Drawings will be provided to the School Board and Tenant for comments and suggestions. The School Board and Tenant, each, will provide written comments and suggestions to Landlord, each adopted by their respective Board or Commission within thirty (30) days of receipt of the Construction Drawings submitted by Landlord. The Landlord and professional advisors will consider those written comments and suggestions with input from the Design Committee, and will thereafter submit the Landlord's response and any revised Construction Drawings (the "Landlord's Response") to the School Board and Tenant. Within thirty (30) days of receipt of the Landlord's Response, the School Board and Tenant, each, shall determine whether to accept and move forward with the construction process based on the design of the Improvements as submitted in the Landlord's Response. If both the School Board and Tenant timely accept the design, Landlord will finalize and approve the Construction Drawings ("Final Construction Drawings") and provide written notice to Tenant and the School Board of Final Construction Drawings. At no time will County have any obligation to pay costs related to securing the Final Construction Drawings (the "Design Costs") in excess of \$1,500,000 in the aggregate without County's written consent. If (A) either or both of the School Board or Tenant rejects or fails to timely accept the design reflected in the Landlord's Response, or (B) if Tenant chooses not to pay Design Costs in excess of \$1,500,000 Landlord or Tenant shall have the right, upon written notice to the other party delivered within sixty (60) days (unless otherwise agreed in writing by both parties) following submittal of the Landlord's Response to the School Board and Tenant, to terminate this Lease; and in such event, the parties shall have no further obligations or liabilities hereunder and will be released from their liabilities and obligations hereunder; except that, to the extent not paid under the terms of the Facilities Lease, Tenant shall be liable to Landlord, except as provided herein, for payment of all of (a) Landlord's actual invoiced expenses supported by written documentation not paid from Initial Rent (hereafter defined) incurred in the planning or design of the Project, including without limitation, architects', engineers', planners', attorneys' and other professionals' fees, acquisition costs of the Premises, and costs incurred in efforts to obtain Interim Financing, plus (b) 20% of such invoiced amounts to reimburse for Landlord staff time (including staffing the Design Committee and coordinating work of the architects, engineers and other professionals), administrative costs and overhead, not to exceed \$120,000 per year during any year incurred prior to funding the Interim Financing (as hereinafter defined), such percentage declining from 20% to 10% after the first year following the Effective Date, ((a) and (b) collectively, the "Termination Costs"). Termination of the Building Lease pursuant to this **Section 1.2** shall automatically cause an immediate termination of the Facilities Lease.

1.3. The Improvements including the Building shall be constructed by Landlord in accordance with the Final Construction Drawings, as may be amended at Landlord's reasonable discretion upon providing written notice to Tenant; provided however, Landlord shall not be in default under this **Section 1.3** as long as the Improvements are substantially in accordance with the Final Construction

Drawings. Upon receipt of certificate of occupancy for the Building, Landlord shall deliver same to Tenant and the School Board subject to the terms of this Lease. Landlord, Tenant and the School Board will acknowledge and confirm the date of such delivery (the "Occupation Date") in writing. Notwithstanding any changes made to Final Construction Drawings, Rent shall not change unless approved in writing by Tenant.

1.4. The Project is contingent upon Landlord's issuance of the Bonds upon terms satisfactory to the Landlord in its sole discretion. In the event that the Landlord is unable to obtain the Interim Financing (as hereinafter defined) upon terms satisfactory to Landlord in its sole discretion within 24 months following the Effective Date, Landlord or Tenant shall have the right, upon written notice to the other party, to terminate this Lease; and, in such event, the parties shall have no further obligations or liabilities hereunder and will be released from their liabilities and obligations hereunder, except that Tenant shall be liable to Landlord for payment of the Termination Costs. Termination of the Building Lease pursuant to this **Section 1.4** shall automatically cause an immediate termination of the Facilities Lease.

1.5. Landlord will obtain short term municipal indebtedness for the (a) costs incurred creating the Final Construction Drawings; (b) acquisition of the Premises; (c) construction of the Project; (d) all other reasonable costs incurred by Town to develop the Project, including, without limitation, the costs and expenses that would otherwise be included in the Termination Costs (the "Interim Financing"). Bond proceeds will be used to prepay the Interim Financing.

1.6. In the event Landlord shall have obtained its Interim Financing, but is unable to issue the Bonds as provided in **Section 1.4**, Landlord shall have the right, upon written notice to Tenant, to terminate this Lease; and, in such event, the parties shall have no further obligations or liabilities hereunder and will be released from their liabilities and obligations hereunder, except that Tenant shall nevertheless pay in full the outstanding Interim Financing, including the principal, interest, reserve replenishment, indemnity, fees, costs and expenses required to be paid or prepaid on such date with respect to the Interim Financing, and all reasonable fees, charges and disbursements of the trustee, lender or any bond or note holder accrued and to accrue until the date of full payment, together with the Termination Costs. Termination of the Building Lease pursuant to this **Section 1.6** shall automatically cause an immediate termination of the Facilities Lease.

1.7. Landlord and Tenant enter into this Lease with the express anticipation that existing law, as set forth in Tennessee Code Annotated section 49-3-315(a) (as interpreted by, *inter alia*, *City of Athens Bd. of Education v. McMinn County*, 467 S.W.3d 458 (Tenn. Ct. App. 2014); *Harriman v. Roane County*, 553 S.W.2d 904, 905-06 (Tenn. 1977), will govern this Lease and specifically not any law as proposed by pending HB 1352 and SB 1216 (111th General Assembly). Landlord and Tenant expressly would not enter into this Lease in the absence of existing law, which allows Landlord to purchase, design, and construct capital improvements on the property without necessity for Tenant to apportion any such costs to any municipality situated within Washington County. Landlord and Tenant expressly rely upon, *inter alia*, Article I, § 10, clause 1 of the United States Constitution and Article I, § 20 of the Tennessee Constitution.

1.8. Base Rent (hereinafter defined) will be used by Landlord to repay the Bonds. At no time shall the principal balance of the Bonds exceed \$42,750,000 unless otherwise agreed upon in writing by Landlord and Tenant.

1.9. If at any time the Project is terminated under the terms of this Lease, all the ownership of documents, plans, reports or other work product (other than attorney work product) generated for this Project shall, to the extent transferable, be conveyed by Landlord to Tenant.

2. LEASE GRANT AND RESERVATION

2.1. Subject to the terms and conditions of this Lease, Landlord hereby demises and leases to Tenant and Tenant does hereby lease, hire and take from Landlord the Building, including the Improvements to be constructed by Landlord upon the Property. The Landlord retains ultimate responsibility for operating, maintaining, and managing the facility, and providing for its continued availability and use at reasonable rates and terms as required by 7 CFR §1951.224(a) and 7 C.F.R. § 1942.17(b)(4). The property described herein was obtained or improved with Federal financial assistance and is subject to the nondiscrimination provisions of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and other similarly worded Federal statutes, and the regulations issued pursuant thereto that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age, or sex in programs or activities receiving Federal financial assistance. Such provisions apply for as long as the property continues to be used for the same or similar purposes for which the Federal assistance was extended, for so long as the purchaser owns it, whichever is later as required by 7 CFR §1951.224(a) and 7 C.F.R. § 1951.204.

2.2. Included in the Improvements shall be a building which shall be approximately 138,700 square feet, to be used as a public school. Notwithstanding the foregoing, Landlord reserves the right to use that portion of the Building designated in the Final Construction Drawings as the parks and recreation offices, along with reasonable access to all of the foregoing so long as such usage does not interfere with operations of the school in the Building as reasonably determined by the School Board, and subject to reasonable policies and procedures developed by the School Board regulating access to public schools.

3. TERM

3.1. This Lease shall be for an initial term beginning on the Effective Date and continuing through the Commencement Date (the "Initial Term") and then for a term that will match the amortization schedule for the Bonds as provided by the USDA or as provided by bond counsel on the Bonds based on interest rate and other information provided by the USDA in its approval of the financing, or as otherwise provided by bond counsel if the Bonds are not issued pursuant to the USDA rural development program, but not to exceed 38 years (the "Bond Term"), commencing upon the date of issuance of the Bonds (the "Commencement Date"). The Bond Term may be such shorter time to equal when the principal amount, interest and any prepayment amount on the Bonds have been paid or provision for their payment has been made in accordance with the provisions of the Lease and the Bond Resolution (hereinafter defined). (The Initial Term and the Bond Term are referred to collectively hereinafter as the "Term.")

3.2. Upon the Commencement Date of this Lease, Landlord and Tenant will acknowledge and confirm the Commencement Date in writing.

3.3. During the Initial Term, the Landlord will use the proceeds of the Interim Financing (as hereafter defined), if any, to begin design development for the Building and the Improvements, and

to pay their associated costs including without limitation costs for architects, engineers and legal costs associated with this Lease and the Building.

4. RENT

4.1. Beginning on the Effective Date and continuing through the Initial Term, Tenant shall pay to Landlord the following amounts as rent (the "Initial Rent"): (a) a sum per month to pay (1) amounts, including those already incurred by Landlord prior to the Effective Date evidenced by written invoices and approved by Landlord, incurred in the planning or design of the Project including without limitation, architects', engineers', planners', attorneys' and other professionals' fees, (2) costs related to developing the Final Construction Drawings; (3) 20% of such invoiced amounts paid to Landlord to reimburse Landlord's staff time (including staffing the Design Committee and coordinating work of the architects, engineers and other professionals), administrative costs and overhead, not to exceed \$120,000 per year during the first year after the Effective Date (and each year thereafter when such expenses arise), such percentage declining from 20% during the first year of application to 10% thereafter and such payments to cease at the time of the funding of the Interim Financing; (4) acquisition costs of the Premises, and (5) costs incurred in efforts to obtain Interim Financing, and (b) upon Landlord's receipt of the funds from the Interim Financing, the aggregate of any amounts of principal, interest, indemnity, fees, costs and expenses and other amounts owed pursuant to the Interim Financing. The portion of Initial Rent described in Section 4.1(a) shall be paid until funding of the Interim Financing. The portion of Initial Rent described in Section 4.1(b) shall be paid until the Interim Financing is repaid in full from the proceeds of the Bonds or from other sources of repayment.

4.2. a. Beginning on the Commencement Date and continuing during the Term, Tenant shall pay to Landlord rent in the amount per month that will match the amortization schedule for the Bonds (corresponding to the Bond Term as defined above) as provided by the USDA, or as provided by bond counsel on the Bonds based on the Bond Term and the interest rate and other information provided by the USDA in its approval of the financing, or as otherwise provided by bond counsel if the Bonds are not issued pursuant to the USDA rural development program ("Base Rent"). In no event shall the amount of the Base Rent payable on any date be less than, or exceed, the aggregate amount of principal, interest, reserve replenishment, indemnity, fees, costs and expenses required to be paid or prepaid on such date with respect to the Bonds, according to their tenor or as otherwise specified in the Bond Resolution. The obligation of Tenant to pay Base Rent shall commence on the Commencement Date. To secure the performance of its obligation to pay Base Rent, Tenant shall deposit with the Landlord, the Base Rent at least two (2) days before each Base Rent payment date. The Base Rent and Initial Rent are also referred to collectively hereinafter as the "Rent".

b. Tenant agrees to pay as additional rent all of the following: (i) all taxes and assessments of any nature whatsoever, including but not limited to excise taxes, ad valorem taxes and special lien special assessments, if any, levied upon the Building or upon any interest of the Landlord or Tenant therein or in the Lease; (ii) insurance premiums, if any, on all insurance required under the provisions of the Lease; and (iii) any amount needed to fund the Debt Reserve Fund as provided in the Bond Resolution; (iv) all amounts arising from or relating to any and all claims, actions, damages, suits, judgments, decrees, orders, liabilities and expenses (including without limitation, reasonable

attorneys' fees) arising from, pertaining to or in connection with any matter arising out of or resulting from any legal challenge to this Lease, payment of any amounts due pursuant to this Lease including without limitation Initial Rent or Base Rent, or litigation arising out of or relating to this Lease or the payment of any amounts due pursuant to this Lease including Initial Rent or Base Rent (the "Additional Rent"). Amounts constituting Additional Rent payable hereunder shall be paid by Tenant directly to the person or persons to whom such amounts shall be payable. Tenant shall pay all such amounts when due or at such later time as such amounts may be paid without penalty or, in any other case, within 30 days after notice in writing from the Landlord to Tenant stating the amount of Additional Rent then due and payable and the purpose thereof except in the case of insurance premiums which must be paid immediately upon notice of payment. (Hereinafter, Initial Rent, Base Rent and Additional Rent are referred to collectively as "Rent.")

c. The payments of Rent under the Lease attributable to each lease year or portion thereof during the Term shall constitute the total rental for such lease year or portion thereof and shall be paid by Tenant for and in consideration of the right to the use and occupancy, and the continued quiet use and enjoyment, of the Building by Tenant for and during such lease year or portion thereof. The parties hereto have agreed and determined that such total rental is not in excess of the total fair rental value of the Building. In making such determination, consideration has been given to the costs of acquisition and financing of the Building, the uses and purposes served by the Building, and the benefits therefrom that will accrue to the parties by reason of the Lease and to the general public by reason of the Tenant's use of the Building.

4.3. Rent shall be due and payable in full in advance on the first day of every calendar month throughout the Term of this Lease; provided that the first month's Base Rent shall be due on the Commencement Date and the first month's Initial Rent shall be due on the Effective Date. Payment of Rent shall be made to Landlord, without notice or demand, at the address specified in **Section 27.1** of this Lease, or at such other place that Landlord may from time to time designate in writing. If any payment of Rent is for a period other than one full calendar month, Rent for that fractional calendar month shall be pro rated on a per diem bases (calculated on the basis of a 30 day month) but in no event shall the amount paid be less than the amount of Rent due in the same calendar month or otherwise prior to the next monthly payment of Rent.

4.4. If any payment of Rent is not paid when due under this Lease, then, in addition to the payment then due, Tenant shall pay Landlord, as other Rent, interest thereon at the Default Rate (as hereinafter defined, but in no event less than any default rate under the Bonds) commencing from the date said Rent is due. The assessment or non-assessment of the Default Rate pursuant to the terms hereof shall be in Landlord's reasonable discretion, and is in addition to all other rights and remedies Landlord may have under this Lease. Interest as provided herein shall be due and payable on demand, and Landlord shall have the same rights and remedies for non-payment of interest as for a non-payment of Rent.

4.5. Rent due to Landlord under this Lease shall be due and payable without any notice, demand, off-set, credit, deduction or abatement. The obligations of Tenant to pay Rent and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, regardless of whether the Improvements shall have been entirely completed and regardless of the continued existence of the Building in physical condition satisfactory to the Tenant. Until such time as the Bonds shall have been fully paid or all Tenant's obligations hereunder satisfied and defeased, Tenant: (i) shall not diminish, suspend or discontinue any payments provided for in **Section 4** hereof, (ii) shall perform and observe all of its other agreements contained in this agreement, and (iii) shall

not terminate the Lease for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, condemnation, destruction of or damage to the Building, frustration of purpose, any change in the tax or other laws of the United States of America or of the State of Tennessee or any political subdivision of either thereof or any failure of Landlord to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Lease. Except as may otherwise be expressly provided herein, it is the purpose and intent of Landlord and Tenant that this Lease be construed and treated to yield net to Landlord the Rent to be paid by Tenant during the Term of this Lease. Notwithstanding any alleged defense, counterclaim or offset against Rent, Tenant's obligations to pay Rent hereunder is an independent covenant; and Tenant shall continue to pay Landlord all Rent faithfully when due, including during the continuance of any dispute or legal action, subject to reimbursement if directed by a court of competent jurisdiction. Tenant hereby consents to the entry in any court action of an order requiring Tenant to make Rent payments during the pendency of a lawsuit. The obligations of Tenant under this Lease will not be modified, waived or otherwise affected, by reason of: (i) any damage to or destruction of the Building or any portion of the Building except as may be otherwise expressly provided herein; (ii) any partial or temporary taking of the Building or any part of the Building by condemnation or otherwise except as may be otherwise expressly provided herein; (iii) any prohibition, limitation, interruption, cessation, restriction or prevention of Tenant's use, occupancy or enjoyment of the Building or any interference with such use, occupancy or enjoyment by any person; (iv) any action of any governmental authority; (v) construction on or renovation of the Building; (vi) any failure of the Building to comply with applicable law or (vii) any other cause whether similar or dissimilar to the foregoing.

4.6. Tenant hereby covenants to use any legally available funds of Tenant as may be necessary to pay Rent, and to take such action as may be necessary to include all Rent due hereunder in its annual budget until all principal of the Bonds shall have been paid or all obligations of Tenant under the Bond Resolution satisfied and terminated. Tenant hereby further covenants to take such action as may be necessary to include all Rent due hereunder in its annual budget until all principal of and interest on the Bonds shall have been paid and all obligations of Tenant under the Bond Resolution satisfied and terminated. The covenants on the part of Tenant herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the ministerial duty of each and every public official of Tenant to take such action and do such things as are required by law in the performance of such official duty of such officials to enable Tenant to carry out and perform the covenants and agreements on the part of Tenant contained in the Lease and the Bond Resolution. The obligation of Tenant to make Rent payments constitutes a general obligation of Tenant for which the full faith and credit and unlimited taxing authority of Tenant outside the corporate limits of the City of Johnson City are pledged.

4.7. Tenant recognizes that Landlord can make no warranty, either express or implied or offer any assurances that the proceeds derived from the Bonds will be sufficient to pay in full all the costs of the Building. In the event proceeds issued for such purpose are insufficient to pay all said costs, the Tenant will pay that portion of the costs in excess of the available moneys derived from the Bonds. The Tenant shall not, by reason of any payment of such excess costs (whether by virtue of direct payments thereof or payments into the capital improvements fund), be entitled to any reimbursement from Landlord or to any alteration of the Rent payable hereunder.

4.8. Upon the occurrence of a Determination of Taxability (as herein defined), Tenant shall be obligated to prepay Rent on the date fixed for the redemption of the Bonds pursuant to this Section in an amount sufficient to redeem the Bonds in whole in accordance with the provisions of the Bond

Resolution. Notice by Tenant with respect to prepayment must be given within ten (10) days after the occurrence of a Determination of Taxability.

4.9. It is intended by this Lease to comply with existing law concerning school operational costs. Because Tenant's payment obligations under this Lease relate to reimbursement of Landlord's purchase, design and construction costs of the Project (and are not intended for school operational costs), they shall be paid only out of Tenant's capital improvements fund selected or created by Tenant (the "Capital Improvements Fund"), unless and until changes to applicable Laws (hereafter defined) permit or require otherwise, except as otherwise specifically provided in this Lease. Tenant represents and warrants that it annually generates sufficient funds to pay the Rent after payment of the other capital improvement obligations.

4.10. At no time shall the aggregate amount of funds expended by the Tenant to pay costs of the Project (whether in the form of Initial Rent or Base Rent) exceed \$42,750,000 exclusive of the interest costs to be incurred from the issuance of Bonds which are to be repaid as part of the Base Rent.

4.11. Any cost paid directly by Tenant hereunder must be evidenced by a written invoice or some other form of written evidence of performance to Tenant before Tenant shall have any obligation to pay such cost.

5. USE

5.1. Tenant may assign to the School Board some or all rights and obligations (excluding the obligation to pay Rent and the obligations under **Section 22.1** below) related to the use and operation of the Building during the Term, and Landlord consents to such assignment. Tenant shall use and occupy the Building for a public school with a student population of not less than 600 only (the "Permitted Use"), in accordance with all applicable Laws or as otherwise permitted by Landlord. Parties to the Lease agree to abide by State and Federal laws regarding non-discrimination.

5.2. Tenant shall not conduct any activity on or at the Building that violates any Laws or that adversely affects in a material way the value of the Building as security for the Bonds, and Tenant shall not commit or suffer to be committed any waste or any nuisance upon the Building.

5.3. Tenant shall comply with all Laws now and hereafter affecting the Building, including without limitation, all environmental statutes, all regulations, codes, ordinances and the Americans with Disabilities Act ("ADA"). The cost, if any, of such observance and compliance shall be borne by Tenant, and Landlord shall not be liable thereof. Tenant agrees to comply with requirements of the ADA and state and local law applicable to the Building to accommodate its employees, students, invitees and the public and will be responsible for any accommodations or alterations which need to be made to the Building to accommodate the Tenant's employees, students, invitees and the public. Tenant shall not permit the release, emission, disposal, dumping or storage of hazardous wastes (as defined in any such Laws) anywhere on, in or from the Building and the provisions of this sentence shall survive the expiration of the Term of this Lease. Tenant to the best of its ability shall keep the Building free of rodents, vermin and other pests, and provide regular exterminator services at its own expense. Landlord shall not be liable for the act of any other person who may cause damage to or who may interfere with Tenant's use or occupancy of the Building.

5.4. Except as otherwise stated herein, Tenant shall, at its sole cost and expense, comply with all of the requirements of all Laws that affect Tenant's use and occupancy of the Building.

5.5. Tenant acknowledges that the Building is unique and no market or use exists for the Improvements to be constructed thereon pursuant to the Final Construction Drawings other than as a school.

5.6. This Lease is intended to be a triple net lease defined as Tenant paying all costs of the Building, including maintenance, taxes (if any), insurance and utilities. Tenant agrees that the rental payments provided for herein shall be an absolute net return to Landlord free and clear of any expenses, charges or set-offs whatsoever.

6. [INTENTIONALLY OMITTED]

7. UTILITIES

7.1. Tenant shall contract in its own name for and fully and promptly pay all gas, heat, light, power, telephone service and other public or private utilities of every kind furnished to the Building throughout the Term of this Lease beginning on the Occupation Date, and all other expenses of every kind whatsoever of or in connection with the use, operation and maintenance of the Building and all activities conducted therein, including connection charges and for all electric lights, lamps and tubes; and Landlord shall have no responsibility of any kind for any such utilities following the Occupation Date. Under no circumstances shall Landlord be responsible for any interruption of any utility service except if caused solely by the gross negligence or willful misconduct of Landlord following the Occupation Date.

7.2. Tenant shall have utilities to the Building transferred into its name upon the Occupation Date.

7.3. Tenant shall be responsible for cost of Tenant's trash dumpster services.

8. TENANT'S REPAIRS AND MAINTENANCE

8.1. To the extent not otherwise specifically provided herein, Tenant shall, at its sole expense and throughout the Term of this Lease, keep the Building in a neat and orderly fashion so as to maintain it in first class condition and repair, and keep, maintain, and replace, as necessary, the Building, in each and every respect, including, but not limited to, roof, foundations, floors, floor coverings, slabs, exterior and interior walls, entrances, glass, window molding and panes, and all fixtures, and partitions and ceilings, exterior and interior painting, structural systems, load bearing or exterior walls, mechanical equipment including HVAC, plumbing equipment, fire alarms and suppression system (if applicable), interior lighting, exterior lighting attached to the Building, water, gas, sewer and utility systems and lines from the meters, loading docks, doors, door openers, equipment, machinery, appliances, signs and appurtenances thereof. Tenant shall be responsible for all maintenance of the HVAC at all times after delivery of the Building to Tenant. Tenant shall adhere to all applicable governmental regulations regarding proper containment and disposal of trash and garbage. If within thirty (30) days after demand by Landlord to comply with the requirements of this **Section 8.1**, Tenant does not commence and diligently prosecute to completion such work, then Landlord shall have the right, but not the obligation, to cause such work to be accomplished at Tenant's cost and expense which sums shall be due and payable to Landlord upon demand, and shall bear interest at the Default Rate (as hereinafter defined) until paid.

8.2. Following delivery by Landlord to Tenant, except as stated in Section 9 of this Lease, Tenant is accepting the Building on an “AS IS” “WHERE IS” basis from Landlord and with no liabilities or obligations on the part of Landlord with respect thereto. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LANDLORD MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE HABITABILITY, MERCHANTABILITY, CONDITION, OR WORKMANSHIP OF ANY PART OF THE BUILDING, IMPROVEMENTS, OR PROPERTY OR THAT THEY WILL BE SUITABLE FOR TENANT’S PURPOSES OR NEEDS. Notwithstanding the foregoing, Landlord shall assign to Tenant on the Commencement Date all warranties received by Landlord relating to the Building as provided in **Section 8.3** of this Lease.

8.3. At time of delivery of the Building to Tenant, any contractor or other warranties pertaining to construction of the Improvements, including roof or equipment, shall, to the extent transferable, be transferred or otherwise made available by Landlord to Tenant. Landlord agrees to use commercially reasonable efforts, if necessary, to enforce any construction warranties Landlord may have against the general contractor who constructed the Building. Tenant agrees to promptly notify Landlord of any basis for a warranty claim against the general contractor and to reasonably cooperate in connection therewith. The foregoing transfer of warranties to Tenant is conditional upon Tenant’s timely payment of Rent and otherwise being in compliance with the terms of this Lease. Should an event of default on the part of Tenant occur, Landlord may, in its discretion by notice to Tenant, cause any transferred warranties to revert to Landlord.

9. LANDLORD’S REPRESENTATIONS

9.1. Landlord shall deliver the Building to the Tenant on the Occupation Date (a) free and clear of all liens and encumbrances including any potential liens resulting from construction of the Building and (b) compliant with all laws, rules and regulations relating to the design, construction and operation of the Building for its intended use as a school facility.

9.2. Landlord will provide upon the completion of construction of the Building a certificate from Landlord and the architect used for construction of the Building in a form acceptable to Tenant to confirm the Building (a) has been constructed in substantial accordance with all Final Construction Drawings and other plans and specifications related to construction of the Building and (b) there exists no known design or construction flaws with the Building. Landlord shall provide to Tenant all certificates and other written evidence from contractors, architects and any other vendor used in connection with the Building to confirm completion of the Building in accordance with Final Construction Drawings and related plans and specifications. Landlord shall also provide in such certificate a sources and uses of funds to demonstrate actual costs of construction incurred by Landlord for the Project.

9.3. Landlord shall require (a) the construction contracts and architect agreement related to the Final Construction Drawings to include standard contractual obligations to construct the Building in accordance with Environmental Laws and to not contain Hazardous Substances; and (b) such contractors and architects to deliver to Landlord and Tenant a certificate of compliance with such laws upon completion of construction of the Project.

9.4. Notwithstanding any failure, breach or dispute as to the foregoing requirements of **Sections 9.1, 9.2 and 9.3**, Rent shall continue to be paid as provided in **Section 4** without notice, demand, off-set, credit, deduction or abatement.

10. FIXTURES, ALTERATIONS AND IMPROVEMENTS; PERSONALTY

10.1. Tenant shall have the right to install fixtures or make any alterations or improvements to the Building without the prior written consent of Landlord. Such fixtures, alterations or improvements shall not impair the structural integrity of the Building, interfere with the Building's systems, invalidate or jeopardize any applicable warranty with respect to the construction of the Building, or violate any Laws. All such installations, alterations and improvements shall be undertaken and completed at Tenant's sole expense and in accordance with the plans and specifications for the Building upon provided written notice to Landlord. All such work shall be undertaken using licensed and insured contractors or Tenant's qualified personnel, shall be prosecuted diligently to completion, shall be of good workmanship and materials, and shall comply fully with all terms of this Lease and all Laws applicable to same. In all circumstances, Tenant shall be required to close all permits for any work performed by Tenant which requires a permit pursuant to applicable governmental requirements pertaining thereto.

10.2. All of Tenant's personal property, consisting of, but not limited to, furniture, goods, documents, equipment, inventory, and other items not affixed to the Building in such manner as to become part of the Building or as would cause damage to the Building upon removal, that is installed by Tenant and located in or upon the Building is herein referred to the "Personalty." At the expiration or earlier termination of this Lease, Tenant shall have the right to remove its Personalty, provided that Tenant is not in default at the time of such removal and that Tenant shall promptly repair in a good and workmanlike manner all damage caused by such removal. Failure to remove any of the Personalty within ninety (90) days following the expiration or earlier termination of this Lease shall constitute a representation and warranty by Tenant that such items are abandoned and same shall be deemed abandoned for all purposes hereunder. In such event, Landlord shall have the right to remove and dispose of same, at Tenant's expense, as Landlord deems necessary. This **Section 10.2** shall survive expiration or termination of this Lease.

11. LIENS

11.1. Tenant shall keep the Building free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Building at Tenant's request. All repairs, installations, alterations, improvements and removals by Tenant shall be done in a good and workmanlike manner, only after Tenant has procured all required permits. Tenant shall comply with all Laws and with all of Tenant's insurance requirements; and the work shall not adversely affect the structure of the Building. Tenant shall pay promptly when due all charges for labor and materials in connection with any work done by or for Tenant or anyone claiming under Tenant. Tenant shall protect, defend, save harmless and indemnify Landlord from and against all losses, claims, liabilities, injuries, expenses (including attorneys' fees), lawsuits and damages arising out of any lien described herein. NOTICE IS HEREBY GIVEN THAT LANDLORD IS NOT AND SHALL NOT BE LIABLE (EXCEPT AS OTHERWISE STATED IN THIS LEASE) FOR ANY LABOR, SERVICES, MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT OR TO ANYONE HOLDING THE BUILDING OR ANY PART THEREOF, AND THAT NO CONSTRUCTION OR OTHER LIEN FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN AND TO THE BUILDING. ALL MATERIALMEN, CONTRACTORS, LABORERS, OR OTHER PERSONS FURNISHING ANY SERVICES OR MATERIALS TO TENANT ARE HEREBY NOTIFIED THAT THEY MUST LOOK EXCLUSIVELY TO TENANT TO OBTAIN PAYMENT FOR SAME. TENANT SHALL

DELIVER WRITTEN NOTICE OF THE PROVISIONS OF THIS SECTION TO ALL PERSONS PERFORMING WORK ON THE BUILDING.

11.2. If any such lien exists, Tenant shall, within thirty (30) days after Tenant's receipt of notice of such lien, have such lien discharged of record or deliver to Landlord a recordable bond in form, amount, and issued by a surety satisfactory to Landlord, indemnifying Landlord against all costs and liabilities resulting from such lien and the foreclosure or attempted foreclosure thereof. If Tenant fails to have such lien released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, may pay or discharge the same; and Tenant shall reimburse Landlord upon demand for the amount paid by Landlord, including expenses and attorneys' fees.

12. SUBORDINATION

12.1. This Lease shall at all times be subject and subordinate to the lien of any mortgages, deeds of trust, ground leases, or other encumbrances recorded now or subsequently against the Building and all renewals, modifications, re-financings and extensions thereof (each an "Encumbrance"); provided, however prior to Tenant's obligation to subordinate Tenant must approve and accept in writing all such Encumbrances other than those encumbrances incurred in connection with the Bonds. This subordination does not apply to mechanics and materialmen's liens created by Landlord during construction of the Building. This clause shall be self-operative, but within twenty (20) days after the receipt of a written request from Landlord or any Encumbrance holder, Tenant shall execute a commercially reasonable subordination agreement together with any customary additional documents evidencing the priority of the Encumbrance and the subordination of this Lease with respect to such Encumbrance.

12.2. Notwithstanding **Section 12.1** above, provided that Tenant's occupancy of the Building is not disturbed for so long as Tenant is not in default hereunder and that the terms and conditions of this Lease are honored by the transferee of Landlord's interest in the Building, Tenant covenants and agrees to attorn to the transferee of Landlord's interest in the Building by foreclosure, deed in lieu of foreclosure, exercise of any remedy provided in any Encumbrance or underlying lease, or operation of law, and to recognize such transferee as the new landlord under this Lease. In the event any Encumbrance holder notifies Tenant of such a transfer of Landlord's interest in the Building, Landlord agrees that Tenant shall not be liable for making payments of Rent or any other sums due pursuant the terms of this Lease directly to the transferee. This clause shall be self-operative, but within twenty (20) days after the receipt of a written request from Landlord or any Encumbrance holder, Tenant shall execute a commercially reasonable agreement evidencing such non-disturbance and attornment.

12.3. If any lender of Landlord requests a modification of this Lease, Tenant shall endeavor in good faith to agree to that modification and to prepare and execute an amendment to this Lease so long as (i) Rent required to be paid under this Lease is not changed, (ii) the time for and manner of payments under this Lease are not changed, (iii) the Term are not changed, (iv) Tenant's possession of the Building and rights to possession and use of the Building are not changed, (v) Landlord's obligations to Tenant under this Lease are not reduced, (vi) Tenant's obligations to Landlord under this Lease are not increased, and (vii) the proposed modification does not materially or adversely change the other rights and obligations of Tenant under this Lease or applicable any Laws.

13. LANDLORD AND TENANT ESTOPPEL

13.1. Landlord and Tenant agree, at any time, and from time to time, upon not less than twenty (20) days prior written notice, to execute, acknowledge and deliver, a statement in writing certifying this Lease is in full force and effect; stating the dates of commencement and expiration of the Lease; stating the dates to which Rent, and other charges, if any, have been paid; that Tenant has accepted possession; that the Term has commenced; whether or not there exists any default by either party in performance of any covenant, agreement, term, provision or condition in this Lease, and, if so, specifying each such default of which either party may have knowledge; and any other such matter the requesting party may reasonably request. It is intended that such statement may be relied upon by any third party interested in the Building.

14. COMPLIANCE WITH ENVIRONMENTAL LAWS

14.1. Tenant shall, at its sole cost and expense, comply with all of the requirements of Environmental Laws pertaining to the Building and Tenant's use and occupancy of the Building. To the extent permitted by Laws, Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord at all tribunal levels), protect and hold Landlord, its elected officials, employees, agents, servants, representatives, contractors, successors and assigns from and against all claims, actions, suits, proceedings, judgments, losses, costs, personal injuries, damages, liabilities, deficiencies, fines, penalties, attorneys' fees, consultants' fees, investigations, detoxifications, remediations, removals, and expenses of every type and nature, caused by either (i) the use, storage, transportation, release, disposal, discharge or emission of Hazardous Substances (as hereinafter defined) in, on, from or about the Building by Tenant or its agents, contractors, employees or those persons under Tenant's control (collectively, "Tenant's Agents"), (ii) the failure of the Building, at any time, to be in compliance with Environmental Laws (as hereinafter defined) due to the act or omission of Tenant and/or any of Tenant's Agents, or (iii) the failure of Tenant or and of Tenant's Agents to comply with the provisions of this **Section 14.1**; provided, however, such indemnification will not be enforceable if such liabilities are the result of Landlord's negligence or willful misconduct. Neither Tenant nor Tenant's Agents shall bring any Hazardous Substances in, on or about the Building or otherwise use, generate, manufacture, refine, produce, process, store or dispose of Hazardous Substances under or about the Building in any case in violation of any Environmental Laws. The indemnification obligations set forth in this **Section 14.1** shall survive expiration or termination of this Lease.

14.2. Landlord shall, at its sole cost and expense, comply with all of the requirements of Environmental Laws pertaining to construction of the Building and its ownership of the Building prior to the Commencement Date. To the extent permitted by Laws, Landlord shall indemnify, defend (with counsel reasonably acceptable to Tenant at all tribunal levels), protect and hold Tenant, its elected officials, employees, agents, servants, representatives, contractors, successors and assigns from and against all claims, actions, suits, proceedings, judgments, losses, costs, personal injuries, damages, liabilities, deficiencies, fines, penalties, attorneys' fees, consultants' fees, investigations, detoxifications, remediations, removals, and expenses of every type and nature, caused by either (i) the use, storage, transportation, release, disposal, discharge or emission of Hazardous Substances (as hereinafter defined) in, on, from or about the Building by Landlord or its agents, contractors, employees or those persons under Landlord's control (collectively, "Landlord's Agents"), (ii) the failure of the Building, at any time, to be in compliance with Environmental Laws (as hereinafter defined) due to the act or omission of Landlord and/or any of Landlord's Agents, or (iii) the failure of Landlord or and of Landlord's Agents to comply with the provisions of this **Section 14.2**. Neither

Landlord nor Landlord's Agents shall bring any Hazardous Substances in, on or about the Building or otherwise use, generate, manufacture, refine, produce, process, store or dispose of Hazardous Substances under or about the Building in any case in violation of any Environmental Laws. The indemnification obligations set forth in this **Section 14.2** shall begin on the Effective Date and survive expiration or termination of this Lease.

14.3. If at any time during the Term of this Lease, any emission, release or contamination ("Contamination") of the Building by Hazardous Substances shall occur, which is caused by Tenant and/or Tenant's Agents or by Landlord and/or Landlord's Agents (as applicable the "Responsible Party," and hereafter reference to the Responsible Party shall mean only Tenant or Landlord, as appropriate), then the Responsible Party shall, at the Responsible Party's sole cost and expense, and to the reasonable satisfaction of Landlord or Tenant, as the non-Responsible Party (the "Other Party"), promptly and diligently remove such Hazardous Substances from the Building or the groundwater underlying the Building in accordance with the requirements of applicable Environmental Laws. However, the Responsible Party shall not take any required remedial action in response to any Contamination in or about the Building or enter into any settlement agreement, consent, decree or other compromise in respect to any claims relating to any Contamination without first notifying the Other Party of the Responsible Party's intention to do so and affording the Other Party the opportunity to appear, intervene or otherwise appropriately assert and protect the Other Party's interest with respect thereto. In addition to all other rights and remedies of the Other Party hereunder, if the Responsible Party does not promptly and diligently take all steps to prepare and obtain all necessary approvals of a remediation plan for any Contamination and thereafter commence the remediation of any Hazardous Substances released or discharged in connection with any Contamination within thirty (30) days after the Other Party has approved the Responsible Party's remediation plan and all necessary approvals and consents have been obtained and thereafter continue to prosecute said remediation to completion in accordance with the approved remediation plan, then the Other Party, at its sole discretion, shall have the right, but not the obligation, to cause said remediation to be accomplished; and the Responsible Party shall reimburse within thirty (30) days of demand for reimbursement, all amounts paid by the Other Party together with interest on said amounts at the Default Rate until paid. The Responsible Party shall promptly deliver to the Other Party copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Substances removed from the Building as part of the Responsible Party's remediation of any Contamination.

15. DAMAGE, DESTRUCTION, AND CONDEMNATION

15.1. If, during the Term of this Lease, Landlord or Tenant receives notice from any public authority that the whole or any part of the Building is being considered for taking by any public authority under the power of eminent domain, Landlord or Tenant, as appropriate, shall promptly provide the other party with written notice of such action, including a copy of said notice.

15.2. If the whole or any part of the Building is taken by any public authority under the exercise of the power of eminent domain, or conveyed by Landlord in lieu of condemnation, (either, a "Taking") this Lease shall continue in full force and effect and shall not be terminated by virtue of such Taking and the parties waive the benefit of any law to the contrary.

15.3. If the Building or any part thereof is taken under the exercise of the power of eminent domain by any governmental authority or person, firm or corporation acting under governmental authority,

the entire condemnation award (if any) referable to the Building, including any that may be recoverable by Tenant, shall be paid to the Landlord and applied as hereinafter provided:

(a) If no part of the Building is taken or damaged and if in Landlord's opinion the efficient utilization of the Building is not impaired by such taking, the Net Condemnation Award (hereinafter defined) referable thereto shall be paid to Landlord and used to apply to repayment of a portion of the principal of the Bonds to the extent callable, but will not affect payment of Rent.

(b) If any part of the Building is taken or damaged or if in the Landlord's opinion the efficient utilization of the Building is impaired by such taking, the Landlord will, subject to the provisions of **Section 15.7** hereof, proceed, as promptly as practicable under the circumstances, to repair, replace, rebuild or restore the Building or to rearrange the Building facilities so as to make the Building suitable for the Tenant's uses, and the Landlord will apply the Net Condemnation Award referable to such taking to payment of the costs of such replacement, repair, rebuilding, restoration or rearrangement. If the Net Condemnation Award is in excess of the costs of such replacement, repair, rebuilding, restoration or rearrangement, the excess shall be used to apply to repayment of a portion of the principal of the Bonds to the extent callable, but will not affect payment of Rent. If the Net Condemnation Award is not sufficient to pay all the costs of such repair, rebuilding, restoration or rearrangement, Tenant will pay the deficiency, provided that it shall not by reason of the payment of any such deficiency be entitled to any reimbursement from Landlord or to any abatement or diminution of the Rent.

Tenant will cooperate fully with Landlord in the handling and conduct of any prospective or pending condemnation proceeding with respect to the Building or any part thereof and will follow all reasonable directions given to it by Landlord in connection with such proceeding. In no event will Landlord settle, or consent to the settlement of, any prospective or pending condemnation proceeding with respect to the Building or any part thereof without the prior written consent of Tenant.

15.4. If the use, for a limited period, of all or part of the Building is taken by any such eminent domain proceeding, the Lease (including, without limitation, the provisions hereof relating to the payment of the Rent) shall continue in full force and effect, but with the consequences specified in the remaining provisions of this Section. If the period of such taking expires on or before the expiration of the Term, Landlord shall apply such award to repayment of a portion of the principal of the Bonds to the extent callable unless otherwise agreed by Landlord and Tenant, but will not affect payment of Rent. If such taking occurs during the Term but the period of such taking expires after the expiration of the Term, after the payment of all the principal and interest and premium, if any, on the Bonds, Tenant shall be entitled to receive the entire award if the Bonds have been fully paid.

15.5. Tenant shall be entitled to any condemnation award or portion thereof made for the damages to or takings of its own property, as well as all other sums awarded as compensation for the interest of Tenant in the part of the Building taken and as damages to the interest of Tenant in any part thereof not taken, but there shall be deducted therefrom, or paid directly by Tenant, all attorneys' fees and other expenses incurred in connection with the receipt of such award or sum or portion thereof.

15.6. Landlord will not, at any time after full payment of the Bonds, incur any expenses in connection with the collection of any insurance proceeds or condemnation award with respect to the Building, or any part thereof, without the prior written consent of Tenant.

15.7. The provisions of Sections 15.3 and 17.4 hereof to the contrary notwithstanding, Landlord may, within sixty (60) days following the event giving rise to the receipt of any Net Insurance Proceeds or Net Condemnation Award, as the case may be, (a) elect by written notice to the Tenant, to have such proceeds or award, as the case may be, applied to the redemption of the Bonds, in which event the entire Net Insurance Proceeds or Net Condemnation Award, as the case may be, shall be applied to such redemption on the earliest practicable redemption date thereafter, or (b) if none of the principal of the Bonds is outstanding, elect, by written notice to the Tenant, to have such proceeds or award, as the case may be, returned to the Landlord in the case of Net Condemnation Award and to Tenant in the case of Net Insurance Proceeds. If either of such options is elected by Landlord, there shall be no obligation on the part of Landlord to cause the Building to be repaired, rebuilt or reconstituted.

16. INSURANCE

16.1. Tenant agrees to carry during the entire Term of this Lease and to keep in full force and effect, at Tenant's sole cost and expense, the following insurance (collectively, "Tenant's Insurance"):

a. Liability insurance with minimum limits as required under the Tennessee Governmental Tort Liability Act and containing insuring clauses no less broad than those set forth in the standard Commercial General Liability ISO form applicable to premises liability (and without limiting the foregoing, specifically including contract liability coverage for the obligations of Tenant under the indemnity provisions of this Lease);

b. Property insurance providing standard fire and extended coverage under the Specific Form insurance policy, insuring the Building, including all appurtenances thereto, for 100% of their full replacement cost, with a commercially reasonable deductible as approved by Landlord;

c. During any time period in which Tenant is engaging in any construction or improvements to the Building, general contractor insurance, including commercial general liability insurance in an amount not less than \$2,000,000.00 per occurrence with Landlord to be named as additional insured during the construction period for any alterations or improvements undertaken by Tenant;

d. Worker's compensation insurance in the statutorily mandated limits and employer's liability insurance with limits not less than \$300,000.00 or such greater amount as Landlord may from time to time require; and

e. Such other insurance, coverages and endorsements including applicable amounts as may be necessary to comply with any applicable Laws or as Landlord may otherwise require in the exercise of its reasonable discretion.

Landlord and Tenant agree the foregoing terms, excluding **Section 16.1.b**, may be amended if requested by School Board in order to make such obligations consistent with other schools operated by School Board.

All Tenant's Insurance policies shall (i) be written by a company or companies reasonably satisfactory to Landlord; (ii) provide for a waiver of subrogation by the insurer as to claims against Landlord, its employees and agents; (iii) be written on an "occurrence" basis and provide that all insurance required to be carried by Tenant is primary; (iv) name Landlord as additional insured with no co-insurance requirement and contain a standard without contribution loss payee clause endorsement in favor of Landlord and its successors and assigns as their interests may appear; (v) include an agreement by the

insurer that any loss will be payable in accordance with the terms of the policy notwithstanding any act or neglect of Tenant, or anyone acting for Tenant; (vi) provide that the policy of insurance shall not be terminated, cancelled or substantially modified without at least thirty (30) days prior written notice to Landlord, and ten (10) days' notice for non-payment of premium; and (vii) be written for a period of at least one (1) year. Tenant shall deliver to Landlord a Certificate of Insurance, stating that the Tenant is in compliance with the insurance requirements set forth in this Section. Upon written demand of Landlord, Tenant shall provide proof of Tenant's Insurance coverage required to be maintained by Tenant hereunder.

16.2. Landlord agrees to carry during the entire Term of this Lease and to keep in full force and effect liability insurance with minimum limits as required under the Tennessee Governmental Tort Liability Act and containing insuring clauses no less broad than those set forth in the standard Commercial General Liability ISO form applicable to liability (and without limiting the foregoing, specifically including contract liability coverage for the obligations of Tenant under the indemnity provisions of this Lease). Such policy of insurance shall (i) be written by a company or companies reasonably satisfactory to Tenant; (ii) provide for a waiver of subrogation by the insurer as to claims against Tenant, its employees and agents; (iii) be written on an "occurrence" basis; (iv) name Tenant as additional insured with no co-insurance requirement and contain a standard without contribution loss payee clause endorsement in favor of Tenant and its successors and assigns as their interests may appear; (v) include an agreement by the insurer that any loss will be payable in accordance with the terms of the policy notwithstanding any act or neglect of Landlord, or anyone acting for Landlord; (vi) provide that the policy of insurance shall not be terminated, cancelled or substantially modified without at least thirty (30) days prior written notice to Tenant, and ten (10) days' notice for non-payment of premium; and (vii) be written for a period of at least one (1) year. Upon written demand of Tenant, Landlord shall provide proof of Landlord's insurance coverage herein required.

17. CASUALTY

17.1. If the Building or any of its appurtenances which Tenant is required under this Lease to maintain and repair, or any part thereof, is damaged by a Casualty (as defined herein), Tenant shall have the obligation, as further provided in **Section 17**, either to (a) restore the Building and appurtenances, as applicable, to substantially the same condition as they were in immediately before the Casualty, or (b) prepay Rent in order to repay the Bonds, including the principal, interest, reserve replenishment, indemnity, fees, costs and expenses required to be paid or prepaid on such date with respect to the Bonds, according to their tenor or as otherwise specified in the Bond Resolution and all reasonable fees, charges and disbursements of the trustee, lender or bondholder accrued and to accrue until the date of such full payment. As used in this Lease, "Casualty" means an event, or act of God, such as fire, windstorm, flood, earthquake, or other perils which are unforeseen and unpredictable, whether insured or uninsured, which causes damage or destruction to the Building.

17.2. Each party shall promptly notify the other following the occurrence of any Casualty to the Building, or any part thereof, of which the notifying party becomes aware, generally describing the nature and extent of such Casualty and including copies of any documents or notices received in connection therewith. During all periods of time following a Casualty, Tenant shall ensure that the Building is secure and does not pose any risk of harm to adjoining property owners or occupants or third-parties.

17.3. In no event will Rent or any other obligations on the part of Tenant hereunder be abated as a consequence of any Casualty irrespective of whether the Building, or any part thereof, is inaccessible

or unusable by Tenant, it being the understanding that Landlord shall continue to receive the full Rent due and any other sums due and payable hereunder at all times notwithstanding any such Casualty; provided, however, that Tenant shall not be required to pay said amount during the time of such restoration to the extent that the business interruption/loss of rents insurance required to be maintained by Tenant pursuant to **Section 16.1(c)** above pays any difference to Landlord; otherwise, Tenant shall remain responsible for all Rent due to Landlord.

17.4. If the Building is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss to the Building resulting therefrom is not greater than \$1,000,000, (a) Landlord, subject to the provisions herein, will promptly repair, rebuild or restore the property damaged or destroyed to substantially the same condition as prior to the event causing such damage or destruction, with such changes, alterations and modifications as will not impair the operating unity of the Building or the character of the Building as a school, (b) Tenant will apply for such purpose so much as may be necessary therefore of any insurance proceeds referable thereto, as well as any other moneys required therefor, prior to commencement of the work and (c) in the event the total costs of such repair, rebuilding and restoration are less than the amount of insurance proceeds referable thereto, Tenant will retain the amount by which such proceeds exceed said total costs.

If the Building is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss to the Building resulting therefrom is in excess of \$1,000,000, the Tenant will promptly so notify the Landlord in writing, and the Net Insurance Proceeds (hereafter defined) shall be paid to and held by the Landlord, whereupon, subject to the provisions of **Section 15.7** hereof.

(a) Landlord will proceed, as promptly as practicable under the circumstances and such terms, conditions and contracts as shall be approved by Landlord, to repair, rebuild or restore the property damaged or destroyed to substantially the same condition as prior to the event causing such damage or destruction, with such changes, alterations and modifications as shall be specified by Landlord and as will not impair the operating unity (meeting state school facility requirements and original school operational functionality) of the Building or the character of the Building as a school, and

(b) Tenant will apply the Net Insurance Proceeds to payment of the costs of such repair, rebuilding or restoration, either on completion thereof or as the work progresses, as may be provided in the contracts pertaining thereto.

Any balance of the Net Insurance Proceeds remaining after payment of all the costs of such repair, rebuilding or restoration shall be paid to Tenant. In the event said proceeds are not sufficient to pay in full the costs of such repair, rebuilding or restoration, Landlord will nonetheless complete the work thereof upon receipt of Net Insurance Proceeds from Tenant, and Tenant will pay that portion of the costs thereof in excess of the amount of the Net Insurance Proceeds available therefor prior to commencement of the work. Tenant shall not, by reason of the payment of such excess costs be entitled to any reimbursement from Landlord or to any abatement or diminution of the Rent.

18. WAIVER OF SUBROGATION

18.1. Each party hereto waives any and every claim which arises or may arise in its favor against the other party hereto during the Term of this Lease for any and all loss of, or damage to, any of its property within or upon, or constituting a part of, the Building, which loss or damage is covered or would be covered by special form coverage (all risk) and extended coverage insurance policies

regardless of whether or not, or in what amounts, such insurance is now, or may hereafter be carried by the parties. Such mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release in this Lease with respect to any loss of, or damage to, property of the parties hereto. Inasmuch as such mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), each party hereby agrees to give immediately to each insurance company, which has issued policies of fire and extended coverage insurance, written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverage by reason of such waivers.

19. TENANT DEFAULT; LANDLORD REMEDIES

19.1. Each of the following shall constitute an “event of default” by Tenant under this Lease:

- a. Tenant shall fail to pay Rent (whether Initial Rent, Base Rent, Additional Rent or any other amounts to be paid by Tenant hereunder) when due; or
- b. Tenant shall fail to maintain insurance in accordance with the requirements of **Section 16** of this Lease; or
- c. [Intentionally omitted].
- d. Tenant’s failure to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by Tenant, other than those set forth in **Sections 19.1.a, 19.1.b., 19.1.f and 19.1.h**, for more than thirty (30) days after written notice to Tenant thereof, provided, however, if the performance of the term, condition or covenant cannot reasonably be accomplished within said thirty (30) days, then no event of default shall be deemed to have occurred so long as Tenant shall have promptly initiated the performance and is continuing to diligently pursue same, not to exceed ninety (90) days total; or
- e. The making by Tenant of any general assignment for the benefit of creditors; or the filing by or against Tenant of a petition to have Tenant adjudged as bankrupt or petition for reorganization or arrangement under any law relating to bankruptcy or insolvency (unless, in the case of a petition filed against Tenant, the same is dismissed within ninety (90) days); or the appointment of any trustee, receiver, custodian, liquidator or like officer to take possession of substantially all of Tenant’s assets, or of Tenant’s interest in this Lease, where possession is not restored to Tenant within ninety (90) days; or the attachment or seizure of substantially all of Tenant’s assets at the Building or Tenant’s interest in this Lease, where the attachment or seizure is not discharged within ninety (90) days; or
- f. The taking of Tenant’s interest under this Lease under any unappealable (to the extent Tenant remains in possession and control of its interest under the Lease during the appeal process) writ of execution; or
- g. The cessation of use of the Building as a public school; or
- h. The occurrence of a default by Tenant under the Facilities Lease.

19.2. If any event of default occurs, Landlord, in addition to all such other rights or remedies it may have at law or in equity, shall have the immediate right to terminate this Lease or, with or without

terminating the Lease, to enter the Building and take possession thereof and of all permanent improvements thereon and may remove all persons and property from the Building by summary action, or otherwise, and such property may be removed and stored in a public warehouse or elsewhere and disposed of at the cost of and for the account of Tenant, all without service of notice or resort to legal process except as otherwise provided herein or as otherwise permitted or required by law. Tenant agrees to quit and deliver up the possession of the Building, including permanent improvements to the Building, when this Lease or Tenant's right to possession terminates by limitation or in any other manner provided for herein. The parties agree (i) that the Building is not marketable to another party for its value because of the unique nature of its use, and (ii) that there is no market for the Building and Landlord has no obligation to relet, and (iii) that the foregoing are material terms to this Lease and there would be no agreement between the parties without this provision.

19.3. If an event of default occurs, and any Bonds or Interim Financing are outstanding, Tenant shall immediately prepay Rent in an amount sufficient to pay the outstanding principal of the Bonds or Interim Financing, as applicable, plus accrued but unpaid interest thereon to the date of payment in full of the Bonds or Interim Financing; and if the payment occurs on a date which is not a date on which the Bonds are subject to optional prepayment pursuant to the Bond Resolution, then Tenant shall deposit or cause to be deposited with Landlord, in trust, cash or investments of the type described in the Bond Resolution in such amount as will, together with the interest to accrue thereon without the need for further investment, be fully sufficient to pay the Bonds due on the first date on which the Bonds are subject to optional prepayment pursuant to the terms of the Bond Resolution, including the principal, interest, reserve replenishment, indemnity, fees, costs and expenses required to be paid or prepaid on such date with respect to the Bonds, according to their tenor or as otherwise specified in the Bond Resolution and all reasonable fees, charges and disbursements of the trustee, lender or bondholder accrued and to accrue until the date of such full payment, plus all monetary obligations which arise or become due by reason of such event of default.

19.4. Any and all remedies provided to Landlord for the enforcement of the provisions of this Lease are cumulative and not exclusive; and Landlord shall be entitled to pursue either the rights enumerated in this Lease or remedies authorized by law or in equity, or both, including, but not limited to, the right to seek specific performance of any covenant or agreement contained herein. To the extent permitted by law, and without waiving any other rights and remedies provided herein, Landlord reserves the right (but shall have no obligation) to re-enter the Building and cure any default on the part of Tenant; and in such event, Tenant shall, upon demand, reimburse Landlord with interest at the Default Rate until paid. Landlord shall not be liable to Tenant for any loss or damage which Tenant may sustain by reason thereof unless caused solely by Landlord's gross negligence or willful misconduct.

20. DEFAULT BY LANDLORD

20.1. Within thirty (30) days following Landlord's receipt of written notice from Tenant of Landlord's failure to comply with any term, condition or covenant of this Lease, Landlord shall develop and provide to Tenant a corrective action plan setting out when such failure will be cured, and if Landlord does not commence and diligently prosecute to completion the cure in accordance with said plan, then Tenant shall have the right to declare a default under this Lease; provided, however, that if the default is capable of cure, then Landlord shall not be deemed in default provided that Landlord is diligently prosecuting the cure to completion.

20.2. Upon the occurrence of a default by Landlord, Tenant shall have the option to pursue any recourse available under this Lease or at law or in equity, subject to the following: (i) Tenant hereby waives any right to offset any damages incurred against any Rent due under this Lease or to otherwise reduce the amount of Rent due and payable by Tenant to Landlord hereunder; (ii) Tenant's right to exercise self-help shall be limited to the specific actions required to cure Landlord's default; and (iii) Tenant hereby expressly waives any right to terminate this Lease on account of Landlord's default. Rent due to Landlord under this Lease shall be due and payable without any notice, demand, off-set, credit, deduction or abatement.

21. ASSIGNMENT AND SUBLETTING

21.1. Tenant shall not voluntarily assign, sublease or otherwise encumber (each a "Transfer") any part of its interest in this Lease or in the Building without Landlord's prior written consent, which shall not be unreasonably withheld or delayed. Concurrent with Tenant's written request for Landlord's consent to a Transfer, Tenant shall provide Landlord with (i) information regarding the proposed transferee, including their name, address, and ownership profile, (ii) the nature of the proposed transferee's business and anticipated use of the Building, (iii) current audited financial statements of the proposed transferee, and (iv) all material terms of the proposed Transfer, including the rent to be paid by the proposed transferee for the term of the proposed assignment or sublease, the portion of the Building to be transferred, a general description of any planned alterations or improvements to be made by the proposed transferee to the Building, the effective date of the Transfer, and copies of other relevant documentation concerning the proposed Transfer to the extent then available. Notwithstanding the foregoing, Tenant in its sole discretion may assign some, or all, of its rights and obligations (excluding payment of Rent and the obligations under **Section 22.1** below) under the terms of this Lease to the School Board, and Landlord hereby consents to such assignment without any further notice or approval.

21.2. It shall not be deemed unreasonable for Landlord to withhold consent to subletting or assignment by Tenant under this Lease if Landlord in its sole judgment determines that the proposed transferee (i) is of a character or is engaged in a business which is not in keeping with Landlord's standards for the Building, as determined solely by Landlord; (ii) has a use which conflicts with the general character of the Building or otherwise does not conform to the requirements of this Lease; (iii) does not meet the then current commercially reasonable financial standards required by Landlord (including that the proposed transferee has an investment grade credit rating); or (iv) is unacceptable because Tenant is in default beyond any applicable cure period under this Lease at the time of the request for Landlord's consent. Consent given by Landlord to any such assignment or subletting shall not operate as a waiver of the necessity for consent to any subsequent assignment or subletting.

21.3. In no event will any assignment of any rights or obligations under this Lease or subletting of the Building by Tenant release Tenant from liability under this Lease.

21.4. If this Lease is assigned, any assignee shall be deemed to have expressly assumed all of the liabilities, covenants and obligations of Tenant under this Lease; and said assignee, as a precondition thereof, shall sign an assumption agreement in form reasonably required by Landlord.

21.5. In the event of any assignment, sublease, or other encumbrance, Tenant shall remain primarily liable for payment of Rent herein provided to be paid by Tenant and for performance and observance of the other agreements and covenants on its part herein provided to be performed and observed by Tenant. No assignee or sublessee or anyone claiming by, through or under any such assignment or

sublease shall by virtue thereof acquire any greater rights in the Building or Improvements than Tenant then has under the Lease. If all or part of the Building is subleased or assigned and Tenant defaults, Landlord shall have the right (without waiving any other remedies available to Landlord) to collect the rent payable by the sublessee or assignee to Tenant directly from the sublessee or assignee provided that Landlord shall apply all amounts collected to Tenant's monetary obligations under this Lease.

22. INDEMNIFICATION

22.1. To the full extent permitted by applicable Laws, Tenant shall indemnify and save harmless Landlord and its elected officials, and all employees, agents, servants, representatives, contractors, successors and assigns of any of the foregoing, so long as any liability is not the result of Landlord's gross negligence or willful misconduct, from and against any and all claims, actions, damages, suits, judgments, decrees, orders, liabilities and expenses (including without limitation, reasonable attorneys' fees) arising from, pertaining to or in connection with: (i) loss of life, personal injury and/or damage to property arising from or out of the negligent act or omission of Tenant, its elected officials, employees, agents, servants, representatives, contractors, invitees, assignees or subtenants, (the "Tenant Parties") in, on or about the Building; (ii) any matter claimed to have been caused by or resulting from any act, omission or negligence of any of the Tenant Parties in any manner growing out of or connected with the use, non-use, condition or occupation of the Building, no matter where occurring; (iii) any violation by any of the Tenant Parties of any provision, agreement or condition of this Lease; (iv) violation by any of the Tenant Parties of any contract or agreement to which Tenant is a party or any restriction, statute, law or regulation in each case affecting the Building or any part thereof; (v) any violation of, or failure to comply with, Environmental Laws affecting the Building or any part thereof by any of the Tenant Parties which occurred after the Occupation Date, or (vi) any matter arising out of or resulting from any challenge to this Lease, payment of any amounts due pursuant to this Lease, including without limitation, Rent, or litigation arising out of or relating to this Lease or challenging the Tenant's authority to enter into this Lease or the payment of any amounts due pursuant to this Lease, including without limitation, Rent. It is understood and agreed that the obligations set forth in this **Section 22.1** may not be assigned or delegated to the School Board. The indemnification obligations set forth in this **Section 22.1** shall survive expiration or termination of this Lease.

22.2. To the full extent permitted by applicable Laws, Landlord shall indemnify and save harmless Tenant and its elected officials, and all employees, agents, servants, representatives, contractors, successors and assigns of any of the foregoing, from and against any and all claims, actions, damages, suits, judgments, decrees, orders, liabilities and expenses (including without limitation, reasonable attorneys' fees) arising from, pertaining to or in connection with (i) loss of life, personal injury and/or damage to property arising from or out of the negligent act or omission of Landlord, its elected officials, employees, agents, servants, representatives, contractors, invitees, assignees or other tenants, (the "Landlord Parties") in, on or about the Building; (ii) any violation by any of the Landlord Parties of any provision, agreement or condition of this Lease; (iii) violation by any of the Landlord Parties of any contract or agreement to which Landlord is a party or any restriction, statute, law or regulation in each case affecting the Building or any part thereof; (iv) any violation of, or failure to comply with, Environmental Laws affecting the Building or any part thereof by any of the Landlord Parties. The

indemnification obligations set forth in this **Section 22.2** shall survive expiration or termination of this Lease.

23. ENTRY BY LANDLORD

23.1. Landlord and its authorized agents shall have the right, during normal business hours, and upon reasonable prior notice, to enter the Building (i) to inspect the general condition and state of repair thereof, (ii) to show the Building to any prospective purchaser or lender to Landlord or (iii) for any other reasonable purpose; provided, however, that no prior notice shall be required should an event of default on the part of Tenant have occurred, and further provided, however that access to the Building during school hours shall be subject to reasonable policies and procedures established by the School Board.

23.2. During the final eighteen (18) months of the Term, Landlord and its authorized agents shall have the right to erect and maintain on or about the Building customary signs advertising the property for lease or sale and to show same to prospective purchasers and tenants.

23.3. Landlord shall exercise its rights under this **Section 23** at such times and in such a manner as to minimize the impact of any interference with Tenant's occupancy of the Building.

23.4. Landlord and Landlord's agents may enter the Building without any advance notice when necessary to address emergency situations. For purposes of this **Section 23.4**, an emergency situation is one that poses a threat of imminent bodily harm to persons or damage to the Building. If Landlord makes an emergency entry into the Building when no authorized representative of Tenant is present, Landlord shall provide notice to Tenant as soon as reasonably possible after that entry and shall take reasonable steps to secure the Building until a representative of Tenant arrives at the Building.

23.5. Landlord shall at all times maintain a Knox Box to enable Fire Department personnel access to the Building (excluding the portion occupied by Landlord) in emergency situations.

24. SURRENDER OF BUILDING; HOLDOVER

24.1. Tenant shall, at the expiration or earlier termination of this Lease, vacate the Building and improvements in a good condition, except for reasonable use and wear thereof, and on vacating shall remove its property as provided in this Lease and leave the Building free and clear of all rubbish and debris.

24.2. Any holding over after the expiration or earlier termination of this Lease shall be construed to be a tenancy at will of Landlord at 150% of the Rent herein specified and in effect at such expiration or earlier termination hereof and shall otherwise be on the terms and conditions herein specified, so far as applicable.

25. QUIET ENJOYMENT

25.1. Landlord hereby covenants and warrants that Tenant, upon payment of the Rent as herein provided and performance of the provisions hereof on its part to be performed, shall and may peacefully possess and enjoy the Building during the Term without any interruption or disturbance by

Landlord, subject to title covenants and documents affecting title to the Building and the requirements of any applicable Laws.

26. INTEGRATION AND MODIFICATION

26.1. This Lease, along with any exhibits, appendices, addenda, schedules, and amendments hereto, and the Inter-Local Agreement of this date, encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written. (To the extent this Lease and the Inter-Local Agreement are in conflict, this Lease will control.) The parties hereby acknowledge and represent, by affixing their signatures hereto, that they have not relied on any representation, assertion, guarantee, warranty, collateral contract or other assurance, except those set out in this Lease, made by or on behalf of any other party or any other person or entity whatsoever, prior to the execution of this Lease. The parties hereby waive all rights and remedies, at law or in equity, arising or which may arise as the result of a party's reliance on such representation, assertion, guarantee, warranty, collateral contract or other assurance, provided that nothing herein contained shall be construed as a restriction or limitation of said party's right to remedies associated with the negligence, willful misconduct or fraud of any person or party taking place prior to, or contemporaneously with, the execution of this Lease. In addition, this Lease may not be altered, amended, or otherwise modified except by the express written agreement of the parties and the USDA.

27. NOTICES

27.1. Any notice or document required or permitted to be delivered hereunder may be delivered or shall be deemed to be delivered, when actually received or delivery refused, via overnight mail or email (subsequently confirmed by overnight delivery), when deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the parties at the addresses indicated below, or at such other addresses as may hereafter be specified by written notice delivered in accordance herewith. Notwithstanding the foregoing, any notice of default under **Section 19** or **Section 20** of this Lease, if delivered by email, shall also be delivered by another form of notice listed above.

Landlord: Town of Jonesborough
Attn: Town Administrator
123 Boone Street
Jonesborough, TN 37659

Facsimile: (423) 753-1074

With a copy to: James R. Wheeler
The Law Offices of James R. Wheeler
1211 E. Jackson Blvd.
Jonesborough, TN 37659

E-Mail: jim@firsttownlaw.com

Tenant: Washington County
Attn: County Mayor
100 E. Main Street

With a copy to: Jonesborough, TN 37659
R. Culver Schmid
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
265 Brookview Centre Way
Suite 600
Knoxville, TN 37919
E-Mail: cschmid@bakerdonelson.com

28. MISCELLANEOUS

28.1. Counterparts. This Lease may be executed in counterparts, each of which shall be an original but shall together constitute one and the same instrument.

28.2. Force Majeure. Except as otherwise expressly provided in this Lease, if the performance of any act required by this Lease to be performed by either Landlord or Tenant is prevented or delayed by reason of any act of God, strike, lockout, labor trouble, acts of war or inability to secure materials, restrictive governmental laws or regulations, or any other cause (except financial inability) not the fault of the party required to perform the act (the foregoing referred to as "Force Majeure"), the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused. However, nothing in this Section shall excuse the prompt payment of Rent by Tenant as required by this Lease, or the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act.

28.3. Computation of Time. If any date for the occurrence of an event or act under this Lease falls on a Saturday, Sunday or legal holiday in the State of Tennessee, the time for the occurrence of such event or act shall be extended to the next succeeding business day.

28.4. Interpretation. Notwithstanding the fact that this Lease (in its original form) was prepared by Landlord, this Lease has been reviewed by Tenant and its legal counsel; and the terms and provisions hereof have been negotiated by both parties; and this Lease shall not be construed for or against Landlord or Tenant.

28.5. Time. Time is of the essence of each and every provision hereof.

28.6. Commission. Landlord and Tenant agree that neither has engaged a real estate broker in this transaction. Each party shall indemnify and hold the other harmless from and against any and all commissions, fees and expenses and all claims there for by any other broker, salesman or other party in connection with or arising out of such party's actions in entering into this Lease.

28.7. Recording. A memorandum of this Lease in form and substance reasonably satisfactory to Landlord and Tenant may, at the option of Tenant, be recorded in the Register's Office for Washington County, Tennessee, prior to the Commencement Date.

28.8. Attorney Fees. Except as otherwise stated herein, if either party to this Lease commences litigation, legal action, or claim to protect its interest, or to enforce any term or provision of this Lease, the losing party in the dispute shall pay the prevailing party for all reasonable attorneys' fees and court costs incurred by the prevailing party.

28.9. Exhibits. All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied at full length herein.

28.10. No Partnership. Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business or otherwise, or joint venturer or a member of a joint enterprise with Tenant.

28.11. Captions and Context. The captions of the Sections or paragraphs of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other.

28.12. Waiver of Breach. No waiver of any breach of any provision of this Lease shall be construed to be a waiver of any preceding or succeeding breach of such provision or of any other provision hereof.

28.13. Applicable Law, Jurisdiction and Forum. This Lease and the rights and obligations of the parties arising hereunder shall be construed in accordance with the laws of the State of Tennessee. Except as may otherwise be expressly provided in this Lease to the contrary, in the case of any action, suit or proceeding arising out of this Lease, Landlord and Tenant agree that jurisdiction and venue shall be in the courts of record for Washington County, Tennessee.

28.14. Severability and Validity. A determination that any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws will not affect the remainder of this Lease. If for any reason the Lease shall be held by a court of competent jurisdiction void, voidable, or unenforceable by the Landlord or by Tenant, or if for any reason it is held by such a court that any of the covenants and agreements of Tenant hereunder, including the covenant to pay Rent hereunder, is unenforceable for the full Term, then and in such event for and in consideration of the right of Tenant to possess, occupy and use the Building, which right in such event is hereby granted, the Lease shall thereupon become and shall be deemed to be a lease from year to year under which the Rent payments herein specified will be paid by Tenant.

28.15. Prohibited Persons and Transactions. Tenant and Landlord (each, a “Representing Party”) each represents and warrants to the other (i) that neither the Representing Party nor any of its representatives is a person or entity (each, a “Prohibited Person”) with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury (including those named on OFAC’s Specially Designated Nationals and Blocked Persons List) or under any statute, executive order (including Executive Order 13224 (the “Executive Order”) signed on September 24, 2001 and entitled “Blocking Property and Prohibiting Transactions with Person Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action, (ii) that the Representing Party’s activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders promulgated thereunder (as amended from time to time, the “Money Laundering Act”), and (iii) that throughout the term of this Lease the Representing Party shall comply with the Executive Order and with the Money Laundering Act.

28.16. Facsimile Signature. “Facsimile signatures,” as that term is commonly used with reference to facsimile machines used in transmitting documents, signatures, photocopies, etc., will be and hereby are declared by all parties to this Lease to be the same as an original signature to this Lease.

A facsimile of this Lease, including the signature portion thereof, will be treated and relied upon by all parties hereto as an original Lease and an authentic signature with the same legal effect as though the facsimile were an original document to which a genuine signature has been affixed.

28.17. Electronic Signature. “Electronic signatures” (i.e.: pdf, tif, etc.) as that term is commonly used with reference to electronic scanning and transmission, via the Internet, of documents, signatures, photocopies, etc. will be and hereby are declared by all parties to this Lease to be the same as an original signature to this Lease. An electronic transmission of this Lease, including the signature portion thereof, will be treated and relied upon by all parties hereto as an original Lease and an authentic signature with the same legal effect as though the electronic transmission were an original document to which a genuine signature has been affixed.

28.18. Default Rate of Interest. “Default Rate” when referred to in this Lease shall mean the greater of: (i) Prime Rate plus five percent (5%) per annum, or (ii) any rate of default to be paid under the Bonds.

28.19. Laws. “Laws,” as the term is used in this Lease, refers to all applicable federal, state, county, city, or government agency laws, statutes, ordinances, standards, rules, requirements, or orders now in force or hereafter enacted, promulgated, or issued.

28.20. Prime Rate. “Prime Rate” shall mean the interest rate per annum as published, from time to time, in The Wall Street Journal as the “Prime Rate” in its column entitled “Money Rate.” The Prime Rate may not be the lowest rate of interest charged by any “large U.S. money center commercial banks” and Landlord makes no representations or warranties to that effect. In the event The Wall Street Journal ceases publication or ceases to publish the “Prime Rate” as described above, the Prime Rate shall be the average per annum discount rate on ninety-one (91) day bills issued from time to time by the United States Treasury at its most recent auction, plus three hundred (300) basis points. If no such 91-day Treasury bills are then being issued, the Prime Rate shall be the discount rate on Treasury bills then being issued for the period of time closest to ninety-one (91) days, plus three hundred (300) basis points.

28.21. Environmental Laws. For purposes of this Lease, “Environmental Laws” means any present and future federal, state, city or local, statutes, ordinances, rules, regulations and the like, as well as common law, relating to protection of human health or the environment, relating to Hazardous Substances, relating to liability for or costs of remediation or prevention of releases of Hazardous Substances or relating to liability for or costs of other actual or threatened danger to human health or the environment, including, but not limited to, the following statutes, as amended, any successor thereto, and any regulations promulgated pursuant thereto, and any state or local statutes, ordinances, rules, regulations and the like addressing similar issues: the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Hazardous Substances Transportation Act; the Resource Conservation and Recovery Act; the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Occupational Safety and Health Act; the Federal Water Pollution Control Act; and the National Environmental Policy Act.

28.22. Hazardous Substances. For purposes of this Lease, “Hazardous Substances” includes but is not limited to any and all substances (whether solid, liquid or gas) defined, listed, or otherwise classified as pollutants, hazardous wastes, hazardous substances, hazardous materials, hazardous wastes, or words of similar meaning or regulatory effect under any present or future Environmental

Laws or that may have a negative impact on human health or the environment, including but not limited to petroleum and petroleum products, asbestos and asbestos-containing materials, microbial matter, polychlorinated biphenyls, lead, radon, radioactive materials, flammables and explosives, biological or chemical agents, pesticides, petroleum or its by-products, and mold.

28.23. Advances by Landlord. In any instance in which Landlord has elected to advance monies that are otherwise the responsibility of Tenant, said advances shall bear interest at the Default Rate commencing on the date of said advance by Landlord (subject, however, to any notice or grace period that may otherwise be specifically set forth in this Lease). Any and all such advances and interest thereon shall be considered Rent hereunder.

28.24. Determination of Taxability. “Determination of Taxability” means a determination that the interest income on the Bonds is Taxable, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following: (i) the date on which Landlord determines that the interest income on the Bonds is Taxable by filing with the Tenant a statement to that effect; or (ii) the date on which Landlord shall be advised by private ruling, technical advice or any other written communication from an authorized official of the Internal Revenue Service that, based upon any filings of Landlord, or upon any review or audit of Landlord, or upon any other grounds whatsoever, the interest income on the Bonds is Taxable; or (iii) the date on which Landlord shall receive notice from the lender or bondholder in writing that the bondholder or lender has been advised by any authorized official of the Internal Revenue Service that the interest income on the Bonds is Taxable; provided that no Determination of Taxability shall be deemed to have occurred: (a) as a result of a determination by Landlord pursuant to the preceding clause (i) unless supported by a written opinion of bond counsel acceptable to the bondholder or lender that the interest income on the Bonds is Taxable; or (b) as a result of the event described in the preceding clauses (ii) or (iii) unless and until (1) Landlord has been afforded a reasonable opportunity, at its expense, to contest such determination either through its own action (if permitted by law) or by or on behalf of the bondholder or lender and (2) such contest, if made, has been abandoned by Landlord or has been finally determined by a court of competent jurisdiction from which no further appeal exists, but if such contest has not been abandoned or finally determined within three years of the event described in either of said clauses (ii) and (iii) which forms the basis of the Determination of Taxability in question, then such Determination of Taxability shall be deemed to have occurred three years after the date of such event.

28.25. Taxable. “Taxable” when applied to the interest income on the Bonds, means that, under federal tax laws and regulations issued thereunder, as such laws and regulations exist on the issue date or as they may thereafter be amended, the interest income on the Bonds is includable in gross income of the recipient thereof for federal income tax purposes for any reason other than the fact (and for the period) that the Bonds are held by a person who is a “substantial user” of the Improvements or a “related person” within the meaning of Section 147(a) of the Code or any successor provision.

28.26. Bond Resolution. “Bond Resolution” means that certain Resolution the Landlord to be adopted prior the issuance of the Bonds and setting forth the Landlord’s approval of the Bonds and certain terms, conditions and forms of the Bonds.

28.27. Net Insurance Proceeds. “Net Insurance Proceeds” means the total insurance proceeds recovered by Tenant on account of any damage to or destruction of the Building or any part thereof less all expenses (including reasonable attorneys’ fees) incurred in the collection of such proceeds.

28.28. Net Condemnation Award. “Net Condemnation Award” means the total amount awarded as compensation for any part of the Building taken under the exercise of the power of eminent domain plus damages to any part not taken, less and except (i) any portion thereof to which Landlord is entitled, as provided herein, and (ii) all attorneys’ fees and other costs and expenses incurred in the condemnation proceeding with respect to which such award was made (other than those paid directly by Landlord or deducted, pursuant to the provisions herein, from the portion of the award to which Landlord is entitled).

28.29. **TRIAL BY JURY WAIVER**. **LANDLORD AND TENANT MUTUALLY AGREE THAT THEY HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER AS TO ANY MATTER ARISING OUT OF OR CONNECTED WITH THIS LEASE, OR THEIR RELATIONSHIP AS LANDLORD AND TENANT, OR TENANT’S USE OR OCCUPANCY OF THE BUILDING.**

29. EXCULPATION OF LANDLORD

29.1. Tenant shall look solely to Landlord’s interest in the Building for the satisfaction of any judgment or decree requiring the payment of money by Landlord, based upon any default; and no other property or asset of Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of such judgment or decree.

30. BANKRUPTCY

30.1. As a material inducement to Landlord’s executing this Lease, Tenant acknowledges and agrees that Landlord is relying upon (i) the financial condition and specific operating experience of Tenant, (ii) Tenant’s timely performance of all of its obligations under this Lease notwithstanding the entry of an order for relief under the Bankruptcy Code for Tenant, and (iii) all defaults under this Lease being cured promptly and this Lease being assumed within sixty (60) days of any order for relief entered under the Bankruptcy Code for Tenant, or this Lease being rejected within such sixty (60) day period and the Building surrendered to Landlord.

Accordingly, in consideration of the mutual covenants contained in this Lease and for other good and valuable consideration, Tenant hereby agrees that:

a. All obligations that accrue or become due under this Lease (including the obligation to pay Rent), from and after the date that any action in bankruptcy or insolvency (“Bankruptcy Action”) is commenced shall be timely performed exactly as provided in this Lease and any failure to so perform shall be harmful and prejudicial to Landlord;

b. Any and all obligations under this Lease that accrue or become due from and after the date that a Bankruptcy Action is commenced and that are not paid as required by this Lease shall, in the amount of such Rent, constitute administrative expense claims allowable under the Bankruptcy Code with priority of payment at least equal to that of any other actual and necessary expenses incurred after the commencement of the Bankruptcy Action;

c. Any extension of the time period within which Tenant may assume or reject this Lease without an obligation to cause all obligations accruing or coming due under this Lease from and after the date

that a Bankruptcy Action is commenced to be performed as and when required under this Lease shall be harmful and prejudicial to Landlord;

d. Any time period designated as the period within which Tenant must cure all defaults and compensate Landlord for all pecuniary losses which extends beyond the date of assumption of this Lease shall be harmful and prejudicial to Landlord;

e. Any assignment of this Lease must result in all terms and conditions of this Lease being assumed by the assignee without alteration or amendment, and any assignment which results in an amendment or alteration of the terms and conditions of this Lease without the express written consent of Landlord shall be harmful and prejudicial to Landlord;

f. Any proposed assignment of this Lease to an assignee: (i) that will not use the Building specifically for the Permitted Uses, or (ii) that does not possess financial condition, operating performance and experience characteristics equal to or better than the financial condition, operating performance and experience of Tenant as of the Effective Date, shall be harmful and prejudicial to Landlord; and

g. The rejection (or deemed rejection) of this Lease for any reason whatsoever shall constitute cause for immediate relief from the automatic stay provisions of the Bankruptcy Code, and Tenant stipulates that such automatic stay shall be lifted immediately and possession of the Building will be delivered to Landlord immediately without the necessity of any further Bankruptcy Action by Landlord.

h. No provision of this Lease shall be deemed a waiver of Landlord's rights or remedies under the Bankruptcy Code or applicable law to oppose any assumption and/or assignment of this Lease, to require timely performance of Tenant's obligations under this Lease, or to regain possession of the Building as a result of the failure of Tenant to comply with the terms and conditions of this Lease or the Bankruptcy Code.

30.2. Notwithstanding anything in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as such, shall constitute "rent" for the purposes of the Bankruptcy Code.

30.3. For purposes of this Section addressing the rights and obligations of Landlord and Tenant in the event that an Bankruptcy Action is commenced, the term "Tenant" shall include Tenant's successor in bankruptcy, whether a trustee, Tenant as debtor in possession or other responsible person.

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IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the Effective Date, each party hereby representing that it has full power and authority to execute and deliver this Lease and to perform its obligations hereunder, that the persons signing this Lease on its behalf have the power and authority to do so, that this Lease is binding upon it, and that this Lease will not conflict with or result in a breach under any agreement or instrument to which it is a party or by which it is bound, and will not constitute a violation of any Laws applicable to it.

LANDLORD:

ATTEST:

MAYOR AND ALDERMEN
OF THE TOWN OF
JONESBOROUGH, TENNESSEE

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Approved as to form only:

Name: _____
Title: _____

TENANT:

ATTEST:

WASHINGTON COUNTY,
TENNESSEE

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Approved as to form only:

Name: _____
Title: _____

EXHIBIT A

The Premises

EXHIBIT B
The Improvements

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