



THE DIOCESE OF NEWARK PROPERTY MANAGEMENT GUIDE

THE EPISCOPAL DIOCESE OF NEWARK

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LOOK FOR UPDATED VERSIONS OF THE MANUAL AT:

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Originally released in September 2004, and revised in 2007 the Property Management Guide was revised again in the fall of 2018. Representatives from the Trustees of the Episcopal Fund and Diocesan Properties, the Standing Committee, and the Ward J. Herbert Board along with the Chancellor, the Vice Chancellor, the Diocesan Property Manager, and members of the Senior Staff gathered together to address issues of property management in the Diocese of Newark. As a result, this *Property Management Guide* **has been** updated **and** produced as a resource to help congregations manage their property.

If you have questions, please contact the Diocesan Property & Risk Manager at property@dioceseofnewark.org or 973-430-9979

This publication and the form documents included in it are not intended to provide legal advice nor does the inclusion of the form documents mean to imply any legal responsibility or obligation on behalf of the diocese, its employees or its attorneys resulting from the use of such forms. Issues relating to the sale, leasing and use of property together with issues involving insurance coverage and property taxes are fact-specific. The resolution of any given issue or the negotiation of any lease or agreement for the use of property will depend upon a variety of factors. The forms included in this publication are provided only as samples of documents used in other situations and will need to be modified to apply to the specific situation confronting your church.

We highly recommend that you consult an attorney as a part of that process.

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Ownership & Control of Property in The Episcopal Church

The Trust Doctrine: All Property is Held in Trust

Regardless of the canonical designation (parish or mission) given to your church, the property of all congregations is held in trust for the Episcopal Church through the Diocese of Newark. Thus, the property of any Episcopal Church is subject to a Trust, the beneficiaries of which are The Episcopal Church (TEC) and the Episcopal Diocese of Newark. One ramification of the imposition of this Trust is that the Vestry or Executive Committee's ability to transfer or encumber any church property is expressly conditioned on the approval of Diocesan leadership.

The Canons of the Diocese of Newark recognize two types of churches:

- 1. Parish**
- 2. Mission**

Parishes:

The Vestry of a parish governs the affairs of the parish much as a Board of Directors governs a corporation. The Vestry is responsible for the management of its real and personal property. Customarily in the Episcopal Church, a parish takes title to its property in the name of the parish, which, in the normal course, has been created as a legal entity under the laws of the State of New Jersey. The Vestry's management of the property is subject to certain restrictions set forth more broadly in the national and local Canons. One significant restriction is that the parish is restricted from borrowing against (encumbering) its real property or transferring any interest in its property without the permission of, in our case, the Diocesan Standing Committee and the Bishop.

Missions:

In the Diocese of Newark, legal title to the property of missions is held by the Trustees of the Episcopal Fund and Diocesan Properties of the Episcopal Diocese of Newark ("Trustees"). The Trustees are an entity created by New Jersey Statute to serve as legal holders of title to all Diocesan property including all assets (both real and personal) owned by missions. Missions are governed by an executive committee, which operates much like a vestry and has many of the same responsibilities for management of the real and personal property. The executive committee is subject to the same canonical restrictions with regard to the sale, lease or mortgage (encumbrance) of any church property.

These principles are reflected in the National Canons of The Episcopal Church and the law of the State of New Jersey.

Ownership & Control of Property in The Episcopal Church

The Episcopal Church Canon I.7.3:

No Vestry, Trustee or other Body, authorized by Civil or Canon law to hold, manage, or administer real property for any Parish, Mission, Congregation, or Institution, shall encumber or alienate the same or any part thereof without the written consent of the Bishop and Standing Committee of the Diocese of which the Parish, Mission, Congregation or Institution is a part, except under such regulations as may be prescribed by Canon of the Diocese.

The Episcopal Church Canon I.7.4:

All real and personal property held by or for the benefit of any Parish, Mission, or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission, or Congregation is located. The existence of this trust, however, shall in no way limit the power and authority of the Parish, Mission, or Congregation otherwise existing over such property so long as the particular Parish, Mission, or Congregation remains a part of, and subject to, this Church and its Constitution and Canons.

New Jersey Statute, Title 16, Chapter 12, Section 16:12-4

Sale, conveyance, mortgage or lease of real estate: Consent of bishop and standing committee:

No sale, conveyance, mortgage or lease of real estate other than burial lots in churchyards or cemeteries, and no lease for a longer term than one year shall be made by such corporation without the previous written consent of the bishop and a majority of the standing committee of the diocese within which the corporation is located, or in case of a vacancy in the office of the bishop, or of his absence from the diocese, then of a majority of the standing committee. Such consent shall be acknowledged or proved and recorded with the deed, lease, mortgage or instrument of conveyance. Without such consent, the sale, conveyance, mortgage or lease shall be void.

Dedicated and Consecrated Churches

In addition to the Trust Doctrine that relates to all church property, the National Canons also contain other rules that relate specifically to church or chapel buildings.

The Episcopal Church Canon II.6.1:

No Church or Chapel shall be consecrated until the Bishop shall have been sufficiently satisfied that the building and the ground on which it is erected are secured for ownership and use by a Parish, Mission, Congregation, or Institution affiliated with this Church and subject to its Constitution and Canons.

The Episcopal Church Canon II.6.2:

It shall not be lawful for any Vestry, Trustees, or other body authorized by laws of any State or Territory to hold property for any Diocese, Parish or Congregation, to encumber

Ownership & Control of Property in The Episcopal Church

or alienate any dedicated and consecrated Church or Chapel, or any Church or Chapel which has been used solely for Divine Service, belonging to the Parish or Congregation which they represent, without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese.

(See “Standing Committee” in Section 2, Who’s Who in Property Management.)

The Episcopal Church Canon II.6.3:

No dedicated and consecrated Church or Chapel shall be removed, taken down, or otherwise disposed of for any worldly or common use, without the previous consent of the Standing Committee of the Diocese.

(See “Standing Committee” in Section 2, Who’s Who in Property Management.)

The Episcopal Church Canon II.6.4:

Any dedicated and consecrated Church or Chapel shall be subject to the trust declared with respect to real and personal property held by any Parish, Mission, or Congregation as set forth in Canon I.7.4.

(See “The Trust Doctrine” earlier in this section.)

Basic Rules Concerning Property Based on Type of Church

The restrictions set out in the National Canons on the use and alienation of church property grow out of fundamental considerations of the polity and governance of the Episcopal Church as well as theological concerns. While this discussion of the classification of churches and the legal relationship of individual churches to the Diocese and the national church is relatively simplistic, there are certain basic rules that each vestry or executive committee must be aware of when dealing with church property.

Parishes:

- ▶ Parishes hold property in the name of the parish corporation (rector, wardens and vestry persons or some variation thereof) subject to the application of the Trust Doctrines recognized in the National Canons.
- ▶ Management of parish property is the responsibility of the clergy, wardens and vestry collectively.
- ▶ Approval to sell, lease or encumber (mortgage) portions of church properties subject to the approval by the clergy, wardens and vestry and then the Bishop, and Standing Committee.

The Episcopal Diocese of Newark Canon 10:

A Parish may enter into a lease or leases of Parish-owned property, other than for residential use, without the prior consent of the Bishop and Standing Committee provided the term of such lease does not exceed (1) year in duration, and the lease does not obligate the Parish to extend or renew the tenancy beyond one year. No Parish-

Ownership & Control of Property in The Episcopal Church

owned property shall be used or leased for residential purposes without the prior consent of the Bishop and Standing Committee, in writing, regardless of the extent of such use and the duration of such lease, except that no such consent shall be required for the occupancy of Parish-owned property by Clergy or lay employee(s) of such Parish.

New Jersey Statute, Title 16, Chapter 12, Section 16:12-4

No sale, conveyance or mortgage of any real estate other than burial lots in churchyards or cemeteries, and no lease for a longer term than one year shall be made by such corporation without the previous written consent of the bishop and a majority of the standing committee of the diocese within which the corporation is located, or in case of a vacancy in the office of bishop, or of his absence from the diocese, then of a majority of the standing committee. Such consent shall be acknowledged or proved and recorded with the deed, lease, mortgage or instrument of conveyance. Without such consent the sale, conveyance, mortgage or lease shall be void.

Mission:

- ▶ Title to the property is held by the Trustees of the Diocesan Properties and Episcopal Funds of the Diocese of Newark on behalf of the mission.
- ▶ Management of the property is the responsibility of the executive committee and in consultation with the Trustees.
- ▶ Approval to sell, lease or encumber (mortgage) portions of church property is subject to the approval of the executive committee, the Trustees, the Bishop and the Standing Committee.

The Episcopal Diocese of Newark Canon 9.3(g)

Title to all real and personal property of a Mission, excepting funds received for the current expenses thereof, shall be vested in the Trustees of the Episcopal Fund and Diocesan Properties of the Diocese of Newark, a New Jersey corporation, or another corporation designated by it. Upon the Mission becoming an incorporated Parish in union with the Convention, the Trustees of the Episcopal Fund and Diocesan Properties, or such corporation, shall with the consent of the Bishop and Standing Committee transfer all such property to the Parish.

Who's Who in Property Management

In the Diocese of Newark

Diocesan Property & Risk Manager

The Diocesan Property & Risk Manager is the primary staff person responsible for diocesan-owned properties, assisting the congregations of the Diocese, as directed, in planning and identifying sources of financing for the construction, purchase, repair and improvement of churches, rectories and parochial buildings.

The major areas of responsibilities include being a resource to congregations in reviewing property repairs and improvements; serving as a member of the Ward J. Herbert Fund Board and supervising and overseeing property risk and repair assessments conducted for the Ward J. Herbert Fund Board; working with members of Episcopal House staff, the Standing Committee and the Trustees of the Episcopal Fund and Diocesan Properties as needed.

Contact the Diocesan Property & Risk Manager's office at:

973-430-9979 or email property@dioceseofnewark.org

Trustees of the Episcopal Fund & Diocesan Properties (created by Statute)

The Trustees are the owners of legal title for all properties held in the name of the Diocese of Newark. Their legal responsibility includes:

- Creation of legal title
- Maintenance (evaluation implied) of property

The power of the Trustees also includes the management and care of any fund in existence or which may be acquired for the support of the episcopate and the appropriation of income of the fund. It may also take and hold by gift, grant, devise, etc. any property, funds or securities in trust for religious, ecclesiastical, charitable, or educational purposes related to the control of the convention or other ecclesiastical authority. (*NJSA 16:12-20, 21, et. seq. and NJSA 16:1-4*)

Standing Committee (created by The Episcopal Church Canon)

The Standing Committee, among other duties, oversees use of property and is responsible for sales and leases, tenants, and use of rectories.

Who's Who in Property Management

Canons pertaining to the Standing Committee include:

- ▶ The Episcopal Church Canon I.7.3 (*See “The Trust Doctrine” in Section 1, Types of Churches and Property Implications.*)
- ▶ The Episcopal Church Canons II.6.2 and II.6.3 (*See “Dedicated and Consecrated Churches” in Section 1, Types of Churches and Property Implications.*)

The Standing Committee Procedures are outlined in Appendix A.

Diocesan Council (created by Diocesan Canon 5)

The Diocesan Council is responsible for the strategic direction of the Diocese and on a monthly basis acts as the Convention between Conventions. The Council approves actions of the Ward J. Herbert Board.

Ward J. Herbert Board (created by Convention)

The Ward J. Herbert Board serves as a resource for church properties. Three times a year the Board accepts applications for funding requests, reviews them and awards grants accordingly. The Board also administers the Episcopal Capital Loan Fund and makes emergency monies available on an *ad hoc* basis. *For more information, see page 18*

In Congregations

At the congregational level, clergy and lay leadership work together, following the canons of the Episcopal Church and the Diocese of Newark, using their gifts as stewards of their church's property.

Clergy person

In the worship service known as the Celebration of a New Ministry, the symbolic “giving of the keys” signifies that the clergy in charge by canonical authority, determines who may use the church buildings and when. This enables the clergy in charge to carry out the church's ministries on the congregation's behalf. Formally, the clergy person's canonical responsibility regarding church property is stated below.

Who's Who in Property Management

The Episcopal Church Canon III.9.6 (a)(2)

For the purposes of the office and for the full and free discharge of all functions and duties pertaining thereto, the Rector or priest in charge shall at all times be entitled to the use and control of the Church and other buildings together with all appurtenances and furniture, and access to all records and registers maintained by or on behalf of the congregation.

Vestry

The vestry is the body within a congregation that, with the mutual support of the clergy, directs the parish in carrying out its corporate and property responsibilities. In the absence of a clergy in charge, the wardens “hold the keys”.

The vestry’s canonical responsibility regarding church property is provided in the canons of the Episcopal Church.

The Episcopal Church Canon I.14.2:

Except as provided by the law of the State or of the Diocese, the Vestry shall be agents and legal representatives of the Parish in all matters concerning its corporate property and the relations of the Parish to its Clergy.

Regarding church property, each congregation must decide how its vestry assigns property management roles and responsibilities. Establish a committee that oversees property management (property or buildings & grounds committee).

Resources:

The Vestry Resource Guide, a Cornerstone publication of The Episcopal Church Foundation is a useful reference with a 2-page “Stewardship of Property Checklist.”

The Vestry Handbook by Christopher L. Webber is also a good resource for property information.

Clergy and Vestry

Since the rector or clergy in charge has the authority to decide when and who will use the church buildings, and the vestry is charged with the duty of maintaining these buildings, the clergy in charge and the vestry should work together, consulting with each other and cooperatively making plans regarding the church’s property (as well as its ministries and mission).

Who's Who in Property Management

In order to rent, sell, or mortgage church property, the clergy in charge and the vestry must follow the applicable canons and Standing Committee procedures. (See *"Lease, Sale, or Mortgaging Your Property or Any Part of It"* on page 16)

Annually, the vestry must designate a group of two or more representatives to conduct a walk-through of the rectory with the clergy to assess any needed repairs or improvements. Also, annually, the rector and vestry should develop a plan and budget for rectory maintenance. (See *"Rectory Checklist"* in Appendix C)

Property Committee

The clergy, wardens, and vestry may choose to create a separate committee that will handle property concerns. Each congregation should develop goals for its property committee and define how the committee will work with its clergy, wardens, and vestry.

The Property Committee should:

- Consist of 3-5 members
- ANNUALLY, take a walk-through of all church properties; i.e. Church, Parish Hall, Offices, Rectory, grounds. Present findings to Vestry
- Prepare a checklist of things to be done including priorities, timeline for completion and who is responsible. [See appendix C]
- With the Finance Committee; prepare the repair and maintenance line for the budget.
- Maintain a Maintenance notebook listing item, vendor bids [suggest 3 for major items], timeline, completion, etc.
- Report quarterly to the Vestry.

Sexton/Maintenance Service

Each congregation decides how to handle its day-to-day property maintenance and most likely either decides to employ a sexton (salaried employee) or a cleaning/maintenance service. Either should provide ongoing maintenance for the church's buildings and grounds. Each congregation should develop a job description for its sexton or a list of expectations for its cleaning/maintenance service.

Clergy or designee should:

- Supervise the sexton or cleaning service.
- Determine maintenance plan and schedule

Who's Who in Property Management

- ▶ Establish process for special maintenance tasks, i.e.: Scope work, timeline, outside vendor, cost

Vendors

Each congregation should maintain a list of its regular vendors for easy reference.

See Appendix B for a suggested list of the types of vendors to keep on hand

Things to Consider:

- ▶ Each vendor must supply a current Certificate of Insurance naming the church as an additional insured.
- ▶ Getting 3 competitive bids is strongly recommended.
- ▶ Hiring minority vendors is strongly encouraged.

What is Risk Management?

Risk Management - The continuing process to identify, analyze, evaluate and correct financial lose exposures and property deficiencies that may result in bodily injury. Risk management is a broad area with much information to digest. In a booklet about risk management and insurance basics for Episcopal organizations, the Church Insurance Agency Corporation describes the ongoing process of managing risk as comprised of the following five steps:

1. Risk Identification and Measurement/Evaluation
2. Risk Avoidance and Reduction
3. Risk Retention
 - *A churches decision to take responsibility for a particular risk because they feel it is less expensive to do so then to insure against it.*
4. Risk Transfer
 - *The act of transferring a risk from the church to the insurance company, such as boiler insurance.*
5. Risk Monitoring and Adjustment
 - *There are standards and practices laid out by organizations such as the Church Insurance Agency and the Occupational Safety and Health Administration. as well as others*

Resources:

The Church Pension Group provides information on risk management on their website:
www.cpg.org/administrators/insurance/property-and-casualty/risk-management/

For more Church Insurance information about risk management and safety, please review:

- Safety & Insurance Handbook for Churches
<https://www.cpg.org/administrators/insurance/property-and-casualty/risk-management/>
- Safeguarding Against Sexual Misconduct
<https://www.cpg.org/administrators/insurance/property-and-casualty/risk-management/safeguarding>
- The Good Steward Newsletter
<https://www.cpg.org/administrators/insurance/property-and-casualty/forms-publications/#The-Good-Steward>
- *Church and Parish Hall Inventory: Protecting Your Church Assets also by the Church Insurance Agency Corporation is available for download here:*
<https://www.cpg.org/administrators/insurance/property-and-casualty/forms-publications/>

Resources – continued:

Risk Management

- *The Church Pension Group's website provides another good resource for researching issues of risk management and may be accessed from the following link:*

<https://www.cpg.org/administrators/insurance/property-and-casualty/risk-management/risk-management-materials/>

- *"Interim Checklist/Plan for Emergency Preparedness for Congregations" from Episcopal Relief and Development helps congregations prepare for any type of emergency by planning response *before* disaster strikes, may be accessed at the following link:*

<https://www.episcopalrelief.org/what-we-do/us-disaster-program/us-disaster-program-preparedness-resources>

RISK MANAGEMENT GENERAL INFORMATION

Financial – Review your money counting and banking procedures.

Please refer to The Episcopal Church Manual of Business Methods in Church Affairs, which is a comprehensive guide to properly managing all aspects of your congregation's financial affairs. You can access it here: www.episcopalchurch.org/manual-business-methods.

For more information contact the Diocesan Chief Financial Officer at (973) 430-9988 or email finance@dioceseofnewark.org

Property – A Few Things to consider:

- Have your property committee do an inspection and look for such issues as;
- Are your exits well marked with lighted exit signs.
- Are your fire extinguishers properly inspected and tagged?
- Is there adequate lighting by each exit door?
- Are there any apparent electrical hazards such as extension cords?
- Are there any flammables or combustibles stored in the boiler/furnace room?
- Do a room-by-room inspection at least annually.

For more information refer to Appendix C

Annual Maintenance

Annual Maintenance

It is helpful to have a building and grounds manual to keep annual maintenance reports, vendor lists, repair information etc. easy access to this information is helpful to people dealing with building and grounds.

SUGGESTED CONTENTS

The following questions, from *The Vestry Resource Guide**, are helpful in considering the care of your buildings.

PROPERTY COMMITTEE

The Property Committee should:

- ▶ Consist of 3-5 members;
- ▶ ANNUALLY, take a walk-through of all church properties; i.e. Church, Parish Hall, Offices, Rectory, grounds. Present findings to Vestry
- ▶ Prepare, MAINTAIN AND UPDATE ANNUALLY a check list of things to be done including priorities, timeline for completion and who is responsible. [See appendix
- ▶ With the Finance Committee; prepare the repair and maintenance, AND DEFERRED MAINTENANCE lines for the budget.
- ▶ Maintain a Maintenance notebook listing item, vendor bids [suggest 3 for major items], timeline, completion, etc.
- ▶ Report quarterly to the Vestry.

Examples of long-term maintenance tasks that have expected expenses.

A detailed account for each building's maintenance needs should be kept and updated regularly. You should budget accordingly for the following major expenses:

- ▶ Painting: exterior 6-8 years, interior 5-7 years
- ▶ Roofs: 15-25 years
- ▶ Furnishings should be inspected annually for wear and tear.

What procedure is used for contracting for repairs and maintenance of buildings?

- ▶ Are bids received?
- ▶ Who selects the contractor?
- ▶ Who oversees the work? (Someone must usually be free during normal business hours to oversee the project.)

What provisions are made for emergency repairs (plumbing, electrical, etc.)?

- ▶ Is a list posted of whom to contact?
- ▶ Who authorizes emergency repairs?

Who is responsible for building upkeep and cleaning?

Annual Maintenance

- If there is a sexton, who is responsible for overseeing the sexton's work? If a maintenance service is contracted, who oversees the work of the service?
- Who sets the "standards"?
- Who negotiates the contract for service?

Who is responsible for grounds maintenance?

- Has provision been made for snow removal during the winter?
- If this work is contracted who authorizes payment?

Is a rectory part of the church's property?

- When is a rectory inspected?
- Who is responsible for overseeing this?

Rectory

When clergy live in the rectory, a Letter of Agreement between the clergy and the vestry/executive committee specifies how repair, improvements, and routine maintenance of the rectory is delegated, approved, and paid for. Annually, the vestry/executive committee or property committee 1) conducts a walk-through of the rectory to assess any needed repairs or improvements and 2) develops a plan and budget for rectory maintenance.

(See "Rectory Checklist" in Appendix C)

- The *Vestry Resource Guide*:

<http://www.episcopalfoundation.org/programs/ecf-publications/vestry-resource-guide>

Routine Maintenance

Maintenance Walk-Through

The entire property committee should walk through every space, room, and hallway of the church's buildings and grounds as well as the rectory to determine maintenance needs, i.e. rooms needing paint, tiles needing to be replaced, faucets that drip, sidewalks needing repair, tree limbs that need to be trimmed, etc..

After the walk-through:

1. Make a list of projects that need to be done.
2. Categorize projects by type – Major repairs, minor repairs, or ongoing maintenance, and establish priorities.
3. Determine how and when the projects will be completed and who is responsible

Annual Maintenance

4. Get estimates, if necessary. – At least three (3) estimates are recommended.
5. Any work planned should comply with appropriate diocesan resolutions regarding:
 - Minority vendors
 - Environmental requirements
 - ADA requirements (accessibility)

<http://www.episcability.org/>

6. In conjunction with the clergy, wardens, and vestry, determine how to fund the project. Various sources could include:
 - Operating budget
 - Where appropriate, Church insurance – Report the incident and work with the insurance adjuster.
 - Church capital campaign for a major project

Diocesan Funding Sources

- Ward J. Herbert Fund – provides grants for up to 50% of qualified projects, 3 cycles/year

<http://www.dioceseofnewark.org/funding/wjh>

- Bishop's Church Emergency Fund (BCEF) – Subscriber based grant fund, four calls issued per year for capital projects, with a focus on emergent circumstances

<http://www.dioceseofnewark.org/funding/bcef>

- The Episcopal Capital Loan Fund (ECLF) – loan program where terms are set by congregation, up to \$40,000 for up to 25 years at 5% interest.

<http://www.dioceseofnewark.org/funding/eclf>

Resources:

- The Partners for Sacred Places website has numerous publications about property care.

<https://sacredplaces.org/>

- *Maintenance Manual: A Program for Inspection and Seasonal Maintenance of Religious Properties*

<https://sacredplaces.org/tools-research/repair-and-maintenance-guide>

- *Inspecting and Maintaining Religious Properties*
- *How to Care for Religious Properties*

Leases, Space Use, & Sales

Most congregations permit some use of their building(s) for non-congregational functions or meetings. Since this use presents both opportunities and challenges it must be carefully considered and well-defined guidelines and policies should be established.

Things to Consider:

The clergy in charge, by canonical authority, determines who may use the church buildings and when. This enables the clergy in charge to carry out the church's ministries on the congregation's behalf.

The clergy and or their designee should maintain the building use schedule. This includes scheduling, having the rooms clean, set up and ready for use, and inspecting after the event.

The vestry should establish policies and guidelines for rental or lease of building space:

- What groups or individuals are permitted to rent the building(s)?
- What type of functions (for example, wedding receptions, group meetings long term leases etc.) are the building(s) rented?
- Determine a fee schedule? Is the rate the same for communicants and non-communicant.
- Who is responsible for cleanup or is there a fee for cleanup included in the
- agreement? Who makes sure that standards are met?
- Established policies for alcohol use and designated smoking areas? If so, where may individuals smoke and what types of alcohol (beer, wine or spirits) may be used? Is this different for congregational functions as opposed to rentals?

A written agreement, stating the terms of the rental or lease, should be obtained with every organization, entity, or person who uses church space whether for a single event or on a regular basis.. (For reference, see sample leases in Appendix D.)

- Determine the effect the rentals have on your liability insurance? (For more information, see Section 9 on Insurance.)
- Determine the effect, if any, the building rentals have on your property tax exemption status? Consulting a tax attorney regarding rentals is strongly recommended.
- (See Appendix G.)

Pre-School Rental

- If the building(s) are used for pre-school groups there may be special fire, safety
- and other state and municipal regulations. These need to be investigated and determine that your buildings meet these standards?

Leases, Space Use, & Sales

- ▶ Consider requiring pre school/daycare/after school employees to be certified in Safeguarding God's Children?

Free Use of Buildings:

- ▶ Are groups such as AA or Scouts permitted to use the buildings free of charge?
- ▶ What determines which groups are permitted "free use" of the building(s)? Is this a decision of the vestry as a whole or is the decision delegated to the clergy or property committee?
- ▶ What responsibility does the user have for cleanup?
- ▶ Who is responsible for making sure that standards are met?

Lease, Sale, or Mortgaging Your Property or Any Part of It

The Standing Committee must approve any lease agreement for residential use regardless of the duration, including rectories. All non-residential agreements of more than one year, or any transfer, conveyance or encumbrance of church property must also be approved. (*Also, see Appendix A, Standing Committee Procedures.*)

Relevant canons include The Episcopal Church Canon I.7.3 (*Section 1 of this guide, under "The Trust Doctrine"*); The Episcopal Church Canon II.6.2 (*Section 1, of this guide, under "Dedicated and Consecrated Churches"*), and Diocesan Canon 10 listed below.

Diocesan Canon 10:

A Parish may enter into a lease or leases of Parish-owned property, other than for residential use, without the prior consent of the Bishop and Standing Committee provided the term of such lease does not exceed (1) year in duration, and the lease does not obligate the Parish to extend or renew the tenancy beyond one year. No Parish-owned property shall be used or leased for residential purposes without the prior consent of the Bishop and Standing Committee, in writing, regardless of the extent of such use and the duration of such lease, except that no such consent shall be required for the occupancy of Parish-owned property by Clergy or lay employee(s) of such Parish.

Resources:

- ▶ *The Vestry Handbook*; Chapter 4 — Buildings and Grounds

Major Improvements & New Construction

Much consideration, planning, and learning must go into a congregation's plans to undertake major improvements and/or new construction. Below are some starting points to review when seeking guidance on how to begin these major projects.

Education and Information Resources

- Episcopal Church Building Fund (ECBF)

<https://www.ecbf.org/>

The ECBF, founded in 1880, is an autonomous and self-supporting organization whose mission is “to aid in the building, improvement, and repair of churches, rectories, parochial, and diocesan buildings by providing assistance in planning and loans, and to aid in the development of congregations through providing training, education, and resources.”

The ECBF with its expertise in congregational development offers support for development of congregations themselves as well as for the properties that support their ministries. The following are some of the resources available from ECBF.

- Workshops for the diocese – free when 6 or more congregations attend.
- Individual consultations for a fee.
- Written and visual resources for congregations planning building projects.
- A building planning guide – *A Congregational Planning Process*, is a comprehensive workbook that helps congregations understand the decision-making involved in every phase, from inception to completion, of planning and implementing building projects.
- A guide about liturgical design – *The Church for Common Prayer, A Statement on Worship Space for the Episcopal Church* provides theological and practical information for developing space where we worship.
- A video – *Churches for Common Prayer: Building for the Liturgical Assembly* tours 2 church buildings, one new and one old and renovated, both showing good liturgical design and flexible and inviting space.
- Seminars for Congregational Development; “Start Up! Start Over!” a 5-day basic training seminar and “!Upward Bound!” a 5-day advanced training program.

Grants & Loans from the Diocese for Building Repair and Improvement

Diocesan requirements for funding:

The diocesan requirements for Ward J. Herbert are as follows: churches must be in compliance with financial reporting obligations, including current parochial reports and audits; and the most current pledge card on file.

- Ward J. Herbert Fund Grants (including the Episcopal Capital Loan Fund)

<https://dioceseofnewark.org/funding/application-ward-j-herbert-fund>

WARD J. HERBERT FUND

The Ward J. Herbert Fund provides funds for buildings that are used for congregational functions. Top priority is given to funds for deterioration of structure, hazards, and emergencies, such as required roof repairs and inoperative boilers. The fund's second priority is interior and exterior renovation to provide for expanded mission of the congregation. Grants from the Ward J. Herbert Fund must be matched dollar for dollar.

Applications for Ward J. Herbert grants are received three times a year:

February 15 for mid-spring funding

April 15 for late-spring funding

October 1 for early winter funding

If any of the above dates falls on a Saturday, Sunday or legal holiday, the deadline will be the next business day

The Ward J. Herbert Fund Board also administers the Episcopal Capital Loan Fund (ECLF)

Episcopal Capital Loan Fund (ECLF)

<https://dioceseofnewark.org/funding/eclf>

The Episcopal Capital Loan Fund (ECLF) is an endowment fund created in the 1950s that provides two types of loans to congregations. Both require having an audit on file with the diocesan Finance Department.

Funding

- ▶ A short term loan to fund capital campaigns: the amount borrowed may be up to 90% of the face value pledged with a payback over three years (which is the usual life of a capital campaign). The interest rate is 5% for all congregations.
- ▶ A long term loan for major building projects: the payback period is twenty-five years with rate of interest at 5% for all congregations.

The Ward J. Herbert Fund Board and the WJH Fund Executive Committee administers, reviews and approves ECLF loans. The loan recommendation is ratified by the Diocesan Council before funds are disbursed.

Any congregation, or any agency supported by or under the jurisdiction of the Diocese of Newark, may apply to ECLF for assistance in meeting a capital (as opposed to an operating) need.

The maximum amount of the loan shall be \$40,000 or not more than 75% of the cost of the project whichever is less.

A long term loan will not be made to any applicant unless and until ECLF has been assured that the applicant cannot obtain an adequate loan and terms (as judged by ECLF) from commercial sources.

All ECLF interest income goes to the Ward J. Herbert Fund for discretionary granting purposes.

Bishop's Church Emergency Fund (BCEF)

<https://dioceseofnewark.org/funding/bcef>

The Bishop's Church Emergency Fund (BCEF) provides financial support for church buildings in the diocese needing repairs and renovation, usually with a special focus on emergency and unforeseen needs.

A series of four calls per year go to donors of BCEF who have pledged in advance to support work the bishop deems important.

BCEF calls repair buildings, and they can be utilized to cover the costs of projects that may not be covered within the scope of Ward J. Herbert funding priorities.

Funding at the Congregation Level

Capital Campaign

From time to time every congregation will need major funds for a special project or an unforeseen major expense. Conducting a capital campaign may be the best way to generate

Funding

those funds, particularly if such a campaign has not been conducted in the last 5-10 years. Experience shows it will not lower pledge amounts and it may actually increase enthusiasm for the specific project.

Resource:

Partners for Sacred Places [\(see section 6, Major Improvements and New Construction\)](#) have expertise to share about conducting successful capital campaigns and they publish a very useful book, *The Complete Guide to Capital Campaigns for Historic Churches and Synagogues*.

Building Reserve

It is strongly recommended that funds be held in reserve for expected building maintenance that may not be included in routine monthly expenses but will be known to occur every so often – such as painting, roof repair, etc.

Mortgaging Property

It is important to remember that if a mortgage or a Letter or Line of Credit is being sought to fund improvements on any property, then you must obtain approval from the **Standing Committee before the application is made**. (See “Mortgaging” in Appendix A, *Standing Committee Procedures*.)

Accessibility

At the 128th Convention of the Diocese of Newark in 2002, the Diocese resolved:

That this 128th Convention of the Episcopal Diocese of Newark asks all congregations and organizations in the diocese to review their facilities to determine if they are in compliance with the American with Disabilities Act (ADA); and, if not, to develop a plan of commitment and compliance that will lead to full program and facilities accessibility by 2006.

<https://www.ada.gov/>

Resources:

- Visit the Episcopal Disability Network

<http://www.episcability.org/>

- *Accessibility Guidelines for Episcopal Churches* developed by the Task Force on Accessibility in December 1986 in response to resolutions concerning handicapped/disabled persons that were passed at the 68th General Convention of The Episcopal Church in the U.S.A. (*Contact the Diocesan Property Manager for a copy of this document.*) – property@dioceseofnewark.org
- The Committee on Disabilities of the National Council of the Churches of Christ in the USA has published the *Equal Access Guide for Meetings, Conferences, Large Assemblies, and Worship*. This useful guide, is “a comprehensive resource, enabling persons with disabilities to participate in the life of the church”. Purchasing details may be found at this line

<http://www.episcability.org/Accessibility/accessibility-resources.html>

- See “More Than 50 Ways to Make your Parish Accessible (With Little or No Cost Involved)”

<http://www.episcability.org/Accessibility/50-ways-accessible.html>

- *Accessible Faith: A Technical Guide for Accessibility in Houses of Worship* published by The Retirement Research Foundation, recommended on Partners for Sacred Places website.

<https://www.rrf.org/grants/accessible-faith-grants/accessible-faith-project-resource-links>

- The Partners for Sacred Places website lists a number of publications about property care.

<https://sacredplaces.org>

- *Accessible Faith: A Technical Guide for Accessibility in Houses of Worship.*
- *Loving Justice: The ADA and the Religious Community.*
- *Money and Ideas: Creative Approaches to Congregational Access.*
- *That All May Worship: An Interfaith Welcome to People with Disabilities.*

Church Property Insurance

TEC Canon I.7.1(h): All buildings and their contents shall be kept adequately insured.

Property insurance is necessary to protect a church's assets against loss resulting from direct damage to the church's property. Adequate insurance coverage is a matter of good stewardship that requires doing a great deal of research, understanding the risks a church faces, and evaluating church property, finances, and replacement values on an ongoing basis. This should include regular appraisals of real and personal property. Conducting a thorough study of the insurance protection the church has and the protection it needs is highly recommended.

Insurance

This section is an overview of issues related to property insurance, not other insurance issues such as personal injury.

Insurance policies offer protection against economic loss or damage to your property and or against personal injury occurring on your property

After an inventory of your buildings and grounds, contact an insurance professional to determine what level of coverage is needed.

YOU NEED TO HAVE A GENERAL LIABILITY POLICY FOR CHURCHES

– NOT –

A COMPREHENSIVE GENERAL LIABILITY POLICY.

Most House of Worship insurance programs provide coverage for the following items not included in standard comprehensive general liability policies such as:

- Pastoral counseling coverage
- Lay counseling coverage
- Directors and Officers Liability
- Replacement cost coverage for specialized and sacred objects such as pews, altars, pulpits and organs to name a few

Coverage for specialized building contents and fixtures such as stained glass:

Cemeteries, Memorial Gardens & Columbariums

- Coverage for outdoor signs
- Coverage for the loss or destruction of valuable papers and records such as marriage and death certificates, birth certificates, etc.
- Coverage for medical expenses of a parishioner injured while providing donated labor
- Coverage for bus and van drivers transporting parishioners or students on church trips.

Things to Consider:

- All buildings (and their contents) are properly insured as required by the national canons
- Insurance records are maintained and kept in a safe place. It is strongly recommended that original insurance documents be kept in a fire-resistant safe and copies of the documents be kept off the premises.
- Determine who makes certain that insurance records are kept up-to-date.
- Determine who is responsible for filing insurance claims.
- Determine who is the insurer.
- Most Episcopal congregations use the Church Insurance Company. The Church Insurance Company offers “The Pinnacle™ Policy” especially designed for Episcopal churches. It fills church insurance needs not addressed by commercial policies.
- ‘The Pinnacle Policy can be accessed from this link:

<https://www.cpg.org/administrators/insurance/property-and-casualty/policies/pinnacle-policy/>

The following are a few basics to keep in mind when making decisions regarding insurance

Type of Policy

A property insurance policy covers buildings, contents, and other types of property against damage by certain perils, or causes of loss. There are generally two kinds of property policies:

- The “Named Perils” contract insures only against specifically listed perils such as fire, lightning, windstorm, hail, vandalism, explosion, weight of snow, falling objects, etc.
- The “All Risk’ contract insures against all perils except those that are specifically excluded. Unlike a Named Perils policy, common causes of loss include burglary and theft of property, glass breakage, and water back-up from sewers and drains.

The Named Perils buyer needs to determine exactly what causes of loss are insured since loss by any unlisted peril will not be covered whereas the All Risk buyer may have broader coverage but must be familiar with policy exclusions that will not be covered.

Limits of Policy

- A Blanket Limit represents the total value of all structures and their contents. The total figure is available in the event of loss to any part of the property.

Cemeteries, Memorial Gardens & Columbariums

- Specific Limits can be set for each structure and its contents. Recovery for buildings and/or contents will be limited to the stated value for each.

Basis of Valuation

The basis of valuation has a direct bearing on the amount of insurance coverage a church decides to purchase and on the resulting premium it must pay. The basis of valuation helps determine what will be recovered through insurance after a loss.

- Replacement cost is the cost of repairing or replacing damaged property with new material similar in kind and quality to that of the original.
- Reproduction cost is the cost of repairing or replacing damaged property with materials identical to those of the original.
- Actual cash value is the replacement cost less reasonable depreciation reflecting the age, condition, and utility of the damaged property.

Physical Inventory

For insurance purposes, it is crucial to have a thorough inventory of all assets, ideally with accompanying photos and/or videotapes and descriptions and estimates of most recent replacement and/or reproduction costs.

A “Church and Parish Hall Inventory” booklet, published by the Church Insurance Corporation, offers a good inventory framework and is included in the folder with this guide.

Appraisals

To adequately insure property, the property value must be known. Since a reliable appraisal can accurately determine this value, it is an important part of the insurance process.

Property values can change due to inflation, expansion, and other factors, therefore, it is important to have property reappraised on a regular basis.

- Buildings should be appraised every five to seven years.
- Contents should be inventoried and valued more frequently.
- Property values should also be revised regularly.

Resources:

Cemeteries, Memorial Gardens & Columbariums

- ▶ The American Appraisal Service for Episcopal Institutions provides a detailed assessment of church property and includes a site plan and color image of property, all on CD-ROM. (See Appendix E for contact information.)

Coverage Review

All insurance policies should be reviewed on an annual basis.

Users' Insurance

This type of insurance generally protects the church if it is having a special event such as a street fair where there may be special risks associated with the event. For instance, mechanical rides or other unusual events might suggest the need for additional coverage.

Additionally, when others use any a portion of a church property, whether for a single event or on an ongoing basis, the church should require users insurance that lists the church as a named insured. The user will agree to hold the church harmless for any claims, damages and expenses, including reasonable attorney fees, that may arise out of or be connected with the user's use of the church property. Users insurance in which the church is the named insured is intended to minimize the church's exposure as well as to protect the user from anyone who maintains that the user has a legal responsibility for damages suffered by any claimant on the church premises.

All users of the church's premises and facilities should provide the church with the following, preferably at least a week prior to their use:

- ▶ A certificate of liability insurance for the period that the user will use the church facilities with the church named as the second insured on the policy.
- ▶ Liability insurance minimums should be:
 - \$250,000.00 for property damage
 - \$500,000.00 for injuries to one person
 - \$1,000,000.00 for more than one person in any accident or occurrence
- ▶ Insurance policies should be with companies authorized to conduct business in New Jersey.

Users can purchase liability insurance in the following ways:

- ▶ As a rider on their home or apartment insurance policy for single or multiple use at an off-site facility (the church).
- ▶ As a rider on the insurance policy of the user's organization.
- ▶ As a separate insurance policy.

Cemeteries, Memorial Gardens & Columbariums

Vendors' Insurance

All vendors used by the church should have their own current Certificate of Insurance on file at the church which lists the church as a named insured. The certificate of insurance should be renewed annually. In addition, the vendor should also provide proof of current workers compensation coverage. This minimizes the potential risk the church assumes from third parties.

Resources:

Church Insurance Policies

- Pinnacle Policy – Property and Liability Coverage

<https://www.cpg.org/administrators/insurance/property-and-casualty/policies/pinnacle-policy/>

- Fidelity Liability Insurance/Employee Dishonesty

<https://www.cpg.org/administrators/insurance/property-and-casualty/policies/fidelity-liability-insurance/>

- Directors' & Officers/Employment Practices Liability

<https://www.cpg.org/administrators/insurance/property-and-casualty/policies/directors-officers-insurance/>

- Fleet Auto Insurance

<https://www.cpg.org/administrators/insurance/property-and-casualty/policies/fleet-auto-insurance/>

- Workers' Compensation Insurance

<https://www.cpg.org/administrators/insurance/property-and-casualty/policies/workers-compensation/>

- International Travel Insurance

<https://www.cpg.org/administrators/insurance/property-and-casualty/policies/international-travel-insurance/>

- Umbrella Liability

<https://www.cpg.org/administrators/insurance/property-and-casualty/policies/umbrella-insurance/>

What's the Difference and are they a Good Idea?

Cemeteries, Memorial Gardens & Columbariums

Many of our congregations have, over the years, considered ways to provide for the preservation of remains on property owned by the congregation for use by parishioners (current and former) and other members of the parish community.

There are three ways to accomplish this:

- ▶ Cemetery
- ▶ Memorial Garden
- ▶ Columbarium

Each category has its differences and imposes different liabilities and obligations on a parish that need to be understood both currently and in the future. Some of these terms and arrangements have legal definition and impose legal and financial obligations on a congregation.

What is a Cemetery?

In New Jersey a “cemetery” is defined legally as follows:

“Cemetery” means any land or place used or dedicated for use for burial of human remains or disposition of cremated human remains, and also includes a crematory located on dedicated cemetery property.”

There are many rules and regulations about the operation, care and maintenance of a cemetery that impose substantial obligations and liabilities on congregations.

Briefly, there are two kinds of cemeteries: A “public” cemetery in which any person can purchase a burial plot (whether a member of the sponsoring congregation or not) and a “private” cemetery that is open only to members of the sponsoring congregation.

Public cemeteries are subject to the many rules and regulations imposed by the New Jersey Cemeteries Act, N.J.S.A. 13:44j-1 et seq., and the New Jersey Cemetery Board, while Private Cemeteries owned by religious corporations and societies (such as an Episcopal Church) and available exclusively to their members are not subject to the same degree of regulation.

Starting, owning, running and maintaining a cemetery (whether public or private) require a great many resources and, it goes without saying, a great deal of land. Those churches in the Diocese that have cemeteries are known to the Diocese. We would not recommend starting one as in either case they impose long term “permanent” care, maintenance and financial obligation on congregations that are substantial.

Cemeteries, Memorial Gardens & Columbariums

What is a Memorial Garden?

A **memorial garden** is usually a church garden with a set-apart section in which the cremated ashes are poured directly into the ground and covered by grass or a groundcover vine; these ashes are commingled with other ashes and with soil. In memorial gardens, there is usually a plaque somewhere nearby on which the names and dates of the deceased can be inscribed and a sitting and meditation area.

Memorial Gardens are not regulated by state law and do not fall under the purview of the Cemeteries Act. Depending upon whether you have any structures associated with the Memorial Garden, you may have to deal with local issues involving zoning and land use laws. Significantly, other than a common marker, there is no specific designation as to the location of remains.

Many churches have a simple set of rules associated with the remains that can be placed in the Memorial Garden (clergy past and present; parishioners past and present; families of parishioners past and present), the manner by which ashes can be spread and the use of flowers etc. or markers. In addition, the rules provide for the schedule of fees to charges by the Congregation, if any, for the use of the Memorial Garden.

What is a Columbarium?

These are more complicated.

A **columbarium** is brick or stone structure (indoors or outside) with niches or containers in which the urn containing ashes from a deceased person are interned. Columbaria can take various forms. They can be in an interior wall of a church building (usually in the worship space). They can be constructed in the churchyard, in various shapes and sizes. In some, the niche is permanently sealed; in others the face front panel is unlocked. The name of the deceased is usually inscribed into the face.

While columbaria owned by a religious corporation are not regulated by the Cemetery Board or the Cemeteries Act, they are frequently subject to the dictates of local land use and zoning laws because they involve the creation of a structure. Because they require maintenance in the future, it is recommended that a Maintenance and Preservation Fund be created, funded by the sale of niches to maintain the structures into the future. As in the case of a Memorial Garden, a set of rules regarding use and charges is useful.

Note that there are hybrid versions that combine Memorial Gardens and Columbarium models which may impose hybrid obligations on sponsoring parishes.

Cemeteries, Memorial Gardens & Columbariums

Some General Observations

1. Be wary about signing contracts, management agreements, sales agreements, marketing agreements of any kind with cemetery management companies. In addition to the fact that some may require the approval of the Standing Committee, the fact remains that they are not the financial panacea that they appear to be, Call the Diocese if approached by anyone about these “opportunities” as we have a great deal of experience in dealing with them.

2. Whether mandated by state law or not, best practices dictate that the sponsoring church put aside money from each contribution or sale for future maintenance, improvement or upkeep of the facility. The congregation owes it to the families who have entrusted remains to your care and to future congregational leadership such that you provide for resources in the future to preserve and maintain these memorials to past generations.

Property Taxes & Church Property

This section deals with the potential taxation of church property by municipalities. There are other potential taxes issues impacting churches and church property that are not addressed in this section.

Eligibility for tax exemption is governed by N.J.S.A. 54:4-3.6, which contains an exemption for properties used for religious purposes, and states in pertinent part:

The following property shall be exempt from taxation under this chapter: . . . all buildings actually used in the work of associations and corporations organized exclusively for religious purposes, including religious worship, or charitable purposes, provided that if any portion of a building used for that purpose is leased to a profit-making organization or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion shall be exempt from taxation, and provided further that if any portion of a building is used for a different exempt use by an exempt entity, that portion shall also be exempt from taxation; ... the land whereon any of the buildings hereinbefore mentioned are erected, and which may be necessary for the fair enjoyment thereof, and which is devoted to the purposes above mentioned and to no other purpose and does not exceed five acres in extent; the furniture and personal property in said buildings if used in and devoted to the purposes above mentioned; . . . provided, in case of all the foregoing, the buildings, or the lands on which they stand, or the associations, corporations or institutions using and occupying them as aforesaid, are not conducted for profit ...

[N.J.S.A. 54:4-3.6.]

So what does all of this mean?

RULE I:

Churches and Church Are Generally Exempt from Property Taxation In Many Situations.

Property tax exemption for church property is a factor of three elements:

- ▶ Ownership – The subject property must be owned by the church.
- ▶ Use – The property must be “actually” used for a tax exempt purpose by a tax exempt entity.
- ▶ Profit – The entity must not make a “Profit” as defined by law.

What is a tax exempt purpose and what is a tax exempt entity? A tax exempt entity is one that has a federal 501(c)(3) status and certificate and qualifies as a “Not for Profit” under federal tax law.

Episcopal churches have a blanket federal tax exemption granted to the National Church that flows down through the Diocese and to the local congregation. Individual churches are not tax exempt in their own right. They are exempt because they are part of the Diocese of Newark which is part of the National Episcopal Church. Federal tax exemption statements naming individual churches are obtained through the National Church office at 815 Second Avenue, New York. The Finance Office can provide you with the email address at 815 to obtain the requisite document. You will need to have and maintain this document for a variety of reasons including maintaining your right to property tax exemptions.

Property Taxes & Church Property

A tax exempt purpose from a church standpoint is one that furthers the charitable and religious purposes of the organization.

RULE II:

If You Rent Space to Another Not for Profit Entity (One that can satisfy the exemption test discussed previously) then Your Property Tax Exemption Will Stand.

The Tax assessor will expect that you can prove that any tenant that you have satisfies the standards for Not for Profit Status which means, at the very least that the tenant can provide an current IRS 501(c)(3) form to you.

If you rent to an entity that cannot satisfy the “not for profit test” then you can expect a tax bill for that portion of your property used and occupied by the For Profit Entity.

In other words if you rent space to a for profit school and that takes up 50% of your space, then you can expect a tax bill calculated on 50% of the appraised value of the building.

There are ways to protect the church which include tax clauses in the lease or property use agreement.

REMEMBER; The obligation to pay property taxes falls to the property owner (i.e. the Church) whatever else you do make sure that the tenant pays money to the Church to cover the tax bill and that the Church attends to paying the quarterly tax bills.

RULE III:

Rectories (or Parsonages) are Different!

Parsonages (the language of the Statute) or Rectories (in Episcopal Parlance) are exempt because your clergy are living in them rent-free. This has been expanded to any member of the staff who occupies the Rectory and serves the church but lives in the Rectory as part of their compensation scheme.

If for some reason your Rectory is empty and you choose to lease it out to a Third Party to make some extra money, then you can expect to receive a tax bill.

RULE IV:

Tax Exemption Status Must Be Renewed Every Three Years.

By New Jersey state law, every non-profit in the state must re-register its tax exempt status with the municipality where it is located every three years – with the filing due November 1st. This includes all local churches. Obviously, every church is on a different time cycle depending when it first registered. The process for doing this is the filing of a form called “Further Statement of Tax-exempt Status”

https://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/further.pdf

Property Taxes & Church Property

A separate form must be filed for every lots and block number (i.e. every different piece of property owned by the Church as the reasons for exemption may differ from property to property.

One question that you will be asked is whether there have been any changes to the use of the property in the previous three years.

The form is available on line and from your local Tax Assessor. Most (but not all) assessors will send you the form well in advance of the deadline. Some will even complete parts of it for you. That said the obligation to file this form and keep it current falls to the property owner.

Appendix A: Standing Committee Requirements

In order to obtain approval from the Standing Committee at its first Wednesday of the month meeting (except in July and August) to sell, mortgage, lease parish property in excess of one year, or lease rectories/vicarages for any period, or to encumber church property for any period of time, papers must be submitted to the Bishop's office no later than the Monday prior to the last Wednesday in the preceding month.

SELLING OR LEASING: No application to sell or to lease real estate to a tenant will be entertained until the petitioner has filed the following documents in proper form with the Bishop's Office:

- A. A Resolution, or other proof, that the Vestry of the parish, or the Executive Committee AND the Diocesan Council, has authorized (subject to the consent of the Bishop and the Standing Committee) the proposed sale or proposed lease.
- B. A brief statement of how the sale or lease of this property will aid and support the congregation's strategy for growing its mission.
- C. A Petition which shall contain or be accompanied by supporting schedules, containing the following:
 1. A description of the property,
 2. Information as to whether the property has been consecrated,
 3. The reason or reasons for selling or leasing the property,
 4. The full name, address, and the relationship, if any, of the lessee or purchaser to the parish or mission.
 5. In the case of a lease:
 - a. Written appraisal of rental value by a qualified real estate professional,
 - b. Proof of liability insurance coverage carried by the leasing body or organization. Such coverage should be in the amount of not less than \$1.5 million, and should specifically stipulate the parish, the leasing body or organization, and/or the Diocese of Newark as the additional insured,
 - c. A copy of the proposed lease
 6. In the case of a sale:
 - a. The terms and conditions of the sale together with a statement of the intended disposition of the proceeds of the sale, and
 - b. The Petition must be accompanied by a current (i.e., performed within the last six months) written appraisal by a licensed (minimum requirement) or certified real estate appraiser.

Appendix A: Standing Committee Requirements

MORTGAGING: No application to mortgage real estate will be entertained until the petitioner has filed the following documents in proper form with the Bishop's Office:

- A. A Resolution, or other proof, that the vestry/executive committee of the congregation, has authorized (subject to the consent of the Bishop and the Standing Committee) the proposed mortgage.
- B. A Petition which shall contain or be accompanied by supporting schedules containing the following:
 1. A description of the property by metes and bounds,
 2. A ministry plan, including a statement of the size and terms of the mortgage, including the interest rate, amortization period, and name of the mortgagee,
 3. The terms of the Letter of Credit (if any).
 4. A statement of the reasons why it is necessary to borrow the money secured by the mortgage, and a description of the plan for the ultimate repayment of the amount borrowed.
 5. A statement of all outstanding indebtedness (current and year-end for the last two years),
 6. An operating statement of the parish for the last two fiscal years showing all sources of income, including pledges, plate offerings, rental income, income from investments, and the like; and expenses, including salaries and operating expenses.
 7. A detailed listing of all financial assets (trust funds, endowment income, etc.), including their present value and year-end value for the last two years.

Additionally, the congregation must be current with all canonical filing obligations including parochial reports and audits.

The Bishop's Office will distribute the papers to all members of the Standing Committee, although in certain cases the complete package of documents may be distributed only to the members of the Property Committee and the President.

Timely submissions allow for review of the petitions for missing information. Normally, correct petitions, fully prepared and timely submitted to the Bishop's Office, will be sufficient for the Standing Committee to review and advise. A member of the Standing Committee shall notify the petitioner if it is necessary for a representative of the congregation to appear to present the petition in person. Upon personal appearance before the Standing Committee (which meets at lunchtime on Wednesdays), a petitioner may request a waiver of any of the foregoing documents.

Vestries/executive committees, and all others required to petition for consent of the Standing Committee, are cautioned to establish a date for closing the transaction which will allow ample

Appendix A: Standing Committee Requirements

time for preparation of the petition and its accompanying schedules and the presentation thereof to the Bishop and Standing Committee. It is suggested that counsel for the petitioning body review the petition and its accompanying schedules before filing the petition with the Standing Committee.

Parishes and others that are contemplating sales of real estate, leasing to a tenant, or borrowing on mortgage, are also cautioned that any sales contract or other form of commitment executed before the Bishop and Standing Committee have given their consent must contain a provision that performance of the contract or commitment is conditioned upon and subject to written consent to the transaction in question being obtained from the Bishop and Standing Committee. Failure to do so is a violation of New Jersey law. (N.J.S.A. 16:12-4)

Appendix B: Vendor List

The following* is a suggested list of the types of vendors whose names, and numbers and contact information would be helpful to maintain.

Type of Vendor	Contact Name	Contact Information
Electrician		
Plumber		
Carpenter		
Roof Repair		
Boiler/Furnace Repair		
A/C Repairs		
Furniture Repair		
Upholstery Repair		
Floor Cleaning		
Gutter Cleaning		
Glazier		
Stained Glass Repair		
Masonry		
Painting		
Landscapers		
Plant/Garden Center		
Pest & Termite Service		
Stove Repairs		
Appliance Repairs		
Organ/Piano Repairs		
Alarm Company		
IT Vendor		
Telecom Vendor		
Copier Vendor		

Appendix C: Annual Maintenance Check List

SPRING

- Exterior maintenance walk-through
- Interior maintenance walk-through
- Thermostat programming adjustment
- Air conditioning system check
- Window operation check
- Grounds clean-up
- Lawn and grounds spring/summer maintenance coverage check
- Gutter cleaning
- Exterior lighting programming adjustment

SUMMER

- Gutter cleaning

FALL

- Interior maintenance walk-through
- Thermostat programming adjustment
- Heating system check
- Grounds clean-up
- Snow clean-up coverage check
- Winterization check
- Gutter cleaning
- Exterior lighting programming adjustment

WINTER

- Walks shoveled, and driveway/parking lot(s) plowed

Appendix C: Annual Maintenance Check List

RECTORY CHECKLIST GENERAL CONDITION OF RECTORY AND PREMISES

Excerpt from the Diocesan Letter of Agreement between clergy and congregations:

The Rector and [his/her] family will be living in the church-owned Rectory. The Vestry shall be responsible for the following expenses:

- a) Insurance (and property taxes, if any) on the property;*
- b) Maintenance or replacement of the following appliances:
[Specify, such as refrigerator, dishwasher, etc.];*
- c) Maintenance of the structure(s), renovations or capital improvements;*
- d) Standard Utilities [Specify utilities, such as heat, light, water, etc.];*
- e) [Specify other responsibilities].*

The Rector and [his/her] family are responsible for good stewardship in regard to the care of the Rectory and will remain responsible for the general care and upkeep such as [specify particular responsibilities].

The Rector is expected to present an annual report to the Vestry on the condition of the Rectory, with particular attention to items requiring maintenance.

The vestry or a representative thereof shall inspect the Rectory at least annually upon adequate notice given to the Rector.

Rectories are an important and valuable asset to congregations and — when occupied by clergy — represent a significant portion of the clergy compensation package. It is, therefore, essential that congregations ensure that their rectories are in good condition both before a new priest is called and throughout the clergy person’s tenure.

All rectories should be fit for habitation and reflect local housing norms. Plumbing, electrical service, ventilation, fire, sanitary, and safety codes and all other standards should, at a minimum, conform to applicable local building regulations.

Well before a new priest is called, congregations should inspect the condition of the rectory to ensure that the building and premises have been cleaned and are in good condition prior to the arrival of the new clergy person. This includes — but is not limited to — the repainting at the expense of the congregation of the interior as well as all public spaces immediately before the arrival of a new priest and during the priest’s residency at least every five (5) years thereafter. In addition, standard appliances (refrigerators, air conditioners, etc.) should be in good condition, of reasonable age and in good working order.

Congregations are not expected, nor should they, “decorate” rectories. Window treatments, floor coverings, wall papering and custom paint colors (beside a standard off-white painting provided by the congregation) are the responsibility of the occupying clergy as are cable television and any internet connection, unless the parish does not provide office space outside of the rectory.

Appendix C: Annual Maintenance Check List

Although the general condition of the rectory is the congregation's responsibility, clergy should take good care of the property throughout their residence and should not permit or do any damage to it, except for that which occurs through ordinary wear and tear. Maintenance problems should be promptly reported to the vestry and before expending any funds or making any alterations to the rectory, clergy should seek the written permission of the vestry.

A general checklist for inspecting the rectory follows. A blank sheet which may be photocopied should be used for additional rooms and spaces not listed in the checklist.

Appendix C: Annual Maintenance Check List

GENERAL	CONDITION: AWARD GRADES "E" (EXCELLENT), "G" (GOOD), "F" (FAIR) & "P" (POOR)					COST
	G	E	F	P	CONDITION	
Roof	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Exterior Walls (paint, siding, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Windows, Storms & Screens	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Leaders & Gutters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Stairs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Porch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Front Door & Locks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Interior Stairs & Hallways	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Basement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Heating System	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Appendix C: Annual Maintenance Check List

	CONDITION: AWARD GRADES "E" (EXCELLENT), "G" (GOOD), "F" (FAIR) & "P" (POOR)					
	G	E	F	P	CONDITION	
GENERAL - CONTINUED						
Smoke & CO Detectors						
Central Air Conditioning						
Landscaping – Lawn & Garden						
Patio, Terrace, Deck, etc.						
Driveway & Parking Area						
Garage						
Other						
LIVING ROOM						
Floors & Floor Coverings						
Walls & Ceilings						
Light Fixtures						

Appendix C: Annual Maintenance Check List

		CONDITION: AWARD GRADES "E" (EXCELLENT), "G" (GOOD), "F" (FAIR) & "P" (POOR)				CONDITION	COST
		G	E	F	P		
LIVING ROOM - CONTINUED							
Windows, Screens & Doors							
Air Conditioner							
Fire Place							
Other							
KITCHEN							
Floors & Floor Coverings							
Walls & Ceilings							
Light Fixtures							
Cabinets							
Counters							
Stove/Oven							
Refrigerator							

Appendix C: Annual Maintenance Check List

KITCHEN - CONTINUED	CONDITION: AWARD GRADES "E" (EXCELLENT), "G" (GOOD), "F" (FAIR) & "P" (POOR)					COST
	G	E	F	P	CONDITION	
Dishwasher	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Sink & Plumbing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Smoke Detector	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Fire Extinguisher	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
DINING ROOM						
Floors & Floor Covering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Walls & Ceilings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Light Fixtures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Windows, Screens & Doors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Air Conditioner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

Appendix C: Annual Maintenance Check List

	CONDITION: AWARD GRADES "E" (EXCELLENT), "G" (GOOD), "F" (FAIR) & "P" (POOR)					
	G	E	F	P	CONDITION	
BATHROOM 1						
Floors & Floor Coverings						
Walls & Ceilings						
Windows, Screens & Doors						
Light Fixtures						
Bathtub/Shower						
Sink(s) & Counter(s)						
Toilet						
Other						

Appendix C: Annual Maintenance Check List

	CONDITION: AWARD GRADES "E" (EXCELLENT), "G" (GOOD), "F" (FAIR) & "P" (POOR)					
	G	E	F	P	CONDITION	
BATHROOM 2						
Floors & Floor Coverings						
Walls & Ceilings						
Windows, Screens & Doors						
Light Fixtures						
Bathtub/Shower						
Sink(s) & Counter(s)						
Toilet						
Other						

Appendix C: Annual Maintenance Check List

		CONDITION: AWARD GRADES "E" (EXCELLENT), "G" (GOOD), "F" (FAIR) & "P" (POOR)					CONDITION	COST
		G	E	F	P			
BEDROOM 1								
	Floors & Floor Coverings							
	Windows, Screens & Doors							
	Walls & Ceilings							
	Light Fixtures							
	Smoke Detector							
	Air Conditioner							
	Other							
BEDROOM 2								
	Floors & Floor Coverings							
	Windows, Screens & Doors							
	Walls & Ceilings							
	Light Fixtures							

Appendix D: Sample Leases

Legal Note Regarding Sample Leases

This publication and the form documents included in it are not intended to provide legal advice nor does the inclusion of the form documents mean to imply any legal responsibility or obligation on behalf of the diocese, its employees or its attorneys resulting from the use of such forms. Issues relating to the sale, leasing and use of property together with issues involving insurance coverage and property taxes are fact-specific. The resolution of any given issue or the negotiation of any lease or agreement for the use of property will depend upon a variety of factors. The forms included in this publication are provided only as samples of documents used in other situations and will need to be modified to apply to the specific situation confronting your church. You may need to consult an attorney as part of that process.

Sample Forms

Sample forms have been included here and are available on the Diocesan website. The forms included are:

- ▶ Facilities and Equipment Use Agreements have 4 main sections:
 - ▶ Details of Facilities and Equipment to be used – dates, times, contacts, payment, etc.
 - ▶ Terms and conditions of agreement.
 - ▶ Key Control Agreement.
 - ▶ Letter to the “User” from the church.

A variety of leases have been vetted to assist you with the preparation of your lease agreement. They are as follows:

A Space and Equipment Use Agreement for daily use by a daycare or other similar organization.

- ▶ School Lease (begins Page 50)
 - ▶ Has extremely stringent state and municipal permit and licensing requirements.
 - ▶ There are additional Insurance requirements that pertain to providing a safe space for the children enrolled and the adults that are entrusted with their care.
 - ▶

A Space and Equipment Use Agreement for daily use by a daycare or other similar organization.

- ▶ Daycare Lease (begins Page 84)
 - ▶ Has extremely stringent state and municipal permit and licensing requirements.
 - ▶ There are additional Insurance requirements that pertain to providing a safe space for the children enrolled and the adults that are entrusted with their care.

Appendix D: Sample Leases

A Single-Use Facilities and Equipment Use Agreement:

- ▶ Single Use Contract (begins Page 92) - Should be used for events such as:
 - ▶ Birthday & Anniversary Parties
 - ▶ Baby & Bridal Showers
 - ▶ Concerts & Plays
 - ▶ Lecture Demos

A Lease Agreement for leasing church property.

- ▶ Multi Use Contract (begins page 98)
 - ▶ Used for meetings usually scheduled on the same day of the week on a weekly, monthly, bimonthly basis, such as:
 - ▶ Girl & Boy Scouts, AA, GA, NA, Art classes, music lessons, specialized sports, etc.

A Lease Agreement for leasing a rectory.

- ▶ Rectory Lease (begins page 104)
 - ▶ May have significant tax consequences and must be reviewed and approved by the Standing Committee regardless of the length of the lease.

A Space and Equipment Use Agreement for sharing space with another Church.

- ▶ Sharing Church Space (begins page 108)
 - ▶ Has extremely stringent state and municipal permit and licensing requirements.
 - ▶ There are additional Insurance requirements that pertain to providing a safe space for the children enrolled and the adults that are entrusted with their care.

Notes:

To assist you with filling out the leases, “Instructions” and helpful hints have been provided.

The process for renewing multi-year leases has been streamlined, limiting that exercise to capturing changes made that will be attached to the original lease to provide a historical reference.

Appendix D: Sample Leases – School

REAL ESTATE LEASE

ARTICLE ONE: BASIC TERMS

This Article One contains the Basic Terms of this Lease between the Landlord and Tenant named below.

- Section 1.01. Date of Lease: MM DD, YYYY
- Section 1.02. Landlord: The Rector Wardens and Vestry
of the Name of the Church
- Address of Landlord: Street Address
City, NJ Zip Code
- Section 1.03. Tenant: Name of the School
Address of Tenant: Street Address
City, NJ Zip Code
- Section 1.04. Property: Name of the Property that houses the school
Street Address
City, NJ Zip Code
- Section 1.05. Demised Premises: As shown on Exhibit "A"
- Section 1.06. Lease Term: For a period of XXXX years, beginning on MM DD, YYYY and ending on MM DD, YYYY (the "Termination Date") unless earlier terminated pursuant to Section 2.04 or extended pursuant to the renewal options set forth in Section 2.03.
- Section 1.07. Permitted Uses: A Non Profit School
- Section 1.08. Rent and Other Charges Payable by Tenant
Base Rent: Year 1: \$XXX,XXX.00 per annum
Year 2: \$XXX,XXX.00 per annum
Year 3: \$XXX,XXX.00 per annum
Year 4: \$XXX,XXX.00 per annum
- Section 1.09. Cancellation Option: As set forth in Section 2.04.
- Section 1.10. Renewal Option: As set forth in Section 2.03.

Appendix D: Sample Leases – School

Section 1.11. Rent Adjustment Date: MM DD, YYYY, and any anniversary thereof.

Section 1.12. Commencement Date: Notwithstanding any other provision of this Lease, the Commencement Date of this Lease shall be the later of either (a) the date set forth in Section 1.01, or (b) the date on which the consents described in Section 13.15 are granted.

ARTICLE TWO: LEASE TERM:

Section 2.01. Lease of Demised Premises for Lease Term.

Landlord leases the Demised Premises as defined in Section 1.05 to Tenant and Tenant leases the Demised Premises from Landlord for the Lease Term. The Lease Term is for the period stated in Section 1.06 above and shall begin and end on the dates specified in Section 1.06 above, unless extended pursuant to Section 2.03, except that this Lease shall not become effective until the "Commencement Date" specified in Section 1.12.

Section 2.02. Holding Over.

Tenant shall vacate the Demised Premises upon the expiration or earlier termination of this Lease. If Tenant does not vacate the Demised Premises upon the expiration or earlier termination of the Lease and Landlord thereafter accepts rent from Tenant, Tenant's occupancy of the Demised Premises shall be a "month-to-month" tenancy, subject to all of the terms of this Lease applicable to a month-to-month tenancy, except that the Base Rent then in effect shall be increased to one and a half times the Base Rent for the period immediately prior to the hold-over period.

Section 2.03. Renewal Option.

Tenant is granted the right and option to extend the term of this Lease for one renewal period of **two (2) years** with such renewal period commencing on **MM DD, YYYY**, upon the following conditions:

(a) The option must be exercised, if at all, by written notice of Tenant to Landlord given not later than 18 months prior to the Termination Date, time being of the essence. The failure of Tenant to furnish such notice to Landlord in a timely manner as provided in this subsection shall constitute a waiver by Tenant of Tenant's option to renew the Term hereof and shall release Landlord from any obligation to extend the Term.

(b) At the time of exercise of such option, and as of the date of commencement of such renewal period, this Lease shall be in force and there shall exist no default by Tenant that remains uncured beyond any applicable grace period.

Appendix D: Sample Leases – School

(c) If the foregoing option is effectively exercised, all the terms and conditions contained in this Lease shall continue to apply during the renewal period except that the Base Rent payable during the renewal period shall be in the amount stated in Section 1.08 above as increased by the Index as provided in subparagraph (d) below.

(d) The Base Rent during the renewal period shall be increased as of the commencement of the renewal period (the "Rent Adjustment Date"), and on any anniversary thereof, in accordance with the increase in the [United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers](#) (all items for the geographical Statistical Area in which the Property is located on the basis of 1982-1984 – 100) (the "Index") as follows:

(i) The Base Rent (the "Comparison Base Rent") in effect immediately before the Rent Adjustment Date as defined by Section 1.11 shall be increased by the percentage that the Index has increased from the date (the "Comparison Date") on which payment of the Comparison Base Rent began through the month in which the Rent Adjustment Date occurs. The Base Rent shall not be reduced by reason of such computation. Landlord shall notify Tenant of each increase by a written statement which shall include the Index for the applicable Comparison Date, the Index for the Rent Adjustment Date, the percentage increase between those two Indices, and the new Base Rent.

(ii) Tenant shall pay the new Base Rent from the applicable Rent Adjustment Date until the next Rent Adjustment Date (the anniversary of the original Rent Adjustment Date). Landlord's notice may be given after the applicable Rent Adjustment Date of the increase, and Tenant shall pay Landlord the accrued rental adjustment of the months elapsed between the effective date of the increase and Landlord's notice of such increase within ten (10) days after Landlord's notice but in no event prior to the applicable Rent Adjustment Date. If the format or components of the Index are materially changed after the Commencement Date, Landlord shall substitute an index which is published by the Bureau of Labor Statistics or similar agency and which is most nearly equivalent to the Index in effect on the Commencement Date.

(e) The option to renew granted to Tenant is personal to Tenant and may not be exercised or assigned, voluntarily or involuntarily, by or to any other person or entity other than Tenant.

Section 2.04. Cancellation.

The Tenant shall have the right to cancel this Lease upon written notice to the Landlord. Said termination will be effective at the end of the 18th month following the receipt of notice. In

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other words, if notice were provided in the 12th month, the Lease would terminate at the end of the 30th month.

ARTICLE THREE: BASE RENT

Section 3.01. Time and Manner of Payment.

Except as provided in Section 3.02, on the first day of the first month of the Lease Term and each month thereafter during the Lease Term, Tenant shall pay Landlord one-twelfth of the annual Base Rent and Additional Rent (as hereinafter defined) payable hereunder, in advance, without offset, deduction or prior demand. The Base Rent and Additional Rent shall be payable at Landlord's address, as set forth in Section 1.02 of this Lease, or at such other place as Landlord may designate in writing.

Section 3.02. First-Year Rent.

For the period of the Lease Term prior to MM DD, YYYY, the Base Rent and Additional Rent shall be payable at the same time and in the same manner as described in Section 3.01 above. However, Tenant's monthly payment to Landlord shall be equal to the annual Base Rent and Additional Rent, minus any rent paid by Tenant to Landlord for the period between MM DD, YYYY and the Commencement Date, divided by the number of full months remaining between the Commencement Date and MM DD, YYYY.

ARTICLE FOUR: OTHER CHARGES PAYABLE BY TENANT

Section 4.01. Additional Rent.

Except for Base Rent, all monies required to be paid by Tenant hereunder shall be considered additional rent ("Additional Rent").

In addition to the provisions of Section 4.02 hereof, Tenant shall reimburse the Landlord for 33 1/3% of the costs of trash removal for the Property; and in addition, Tenant shall reimburse the Landlord for 33 1/3% ("Tenant's Percentage") of any annual increase in the Operating Expenses of the Demised Premises over said expenses in the base year of the Lease. For purposes of this section, the base year will be MM DD, YYYY – MM DD, YYYY. For the purposes of this Lease, "Operating Expenses" shall mean, with respect to the Property, the following: (i) landscaping, snow and ice removal of the parking areas, sidewalks, and entrances, (ii) the usage charges for utilities servicing the Property (including, without limitation, if provided, fuel, water, sewer, gas and electric energy charges for the building); (iii) cleaning and general maintenance of the Common Areas; and (iv) related supplies. The costs of trash removal and Operating Expenses are included within the Base Rent for the base year.

Section 4.02. Real Property Taxes.

Landlord and Tenant acknowledge that the Demised Premises is presently exempt from Real Property Taxes (as defined below), and Landlord and Tenant shall use their best efforts to

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continue to maintain the tax exemption of the Property throughout the Term hereof. In the event the Property or any portion thereof becomes subject to Real Property Taxes as a result of this Lease or as a result of Tenant's use, act or omission, Tenant shall pay one hundred percent (100%) of the Real Property Taxes on the Property during the Lease Term. In the event that the Property or any portion thereof becomes subject to Real Property Taxes for reasons other than this Lease or Tenant's use, act or omission, Tenant shall pay Tenant's proportionate share, which is deemed to be thirty-three and one-third percent (33-1/3%) of the of the Real Property Taxes on the Demised Premises during the Lease Term. If Landlord does not contest any imposition of Real Property Tax, Landlord authorizes Tenant, at Tenant's option, to contest the imposition of Real Property Tax against the Property or the Demised Premises based on this Lease or Tenant's use and occupancy of the Demised Premises.

"Real Property Tax" means:

- (i) any fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, penalty or tax imposed by an taxing authority against the Property;
- (ii) any tax on the Landlord's right to receive, or the receipt of, rent or income from the Demised Premises or against Landlord's business of leasing the Demised Premises;
- (iii) any tax or charge for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Demised Premises by any governmental agency;
- (iv) any tax imposed upon this transaction or based upon a reassessment of the Demised Premises due to a change of ownership, as defined by applicable law, or other transfer of all or part of Landlord's interest in the Demised Premises; and
- (v) any charge or fee replacing a tax previously included within the definition of Real Property Tax. "Real Property Tax" does not, however, include Landlord's federal or state income, franchise, inheritance or estate taxes.

Section 4.03. Utilities.

Landlord agrees to supply, or cause the applicable utility companies to supply all necessary utilities to the Demised Premises. Landlord will pay all utilities for the Demised Premises during the Lease Term except that the Tenant shall be responsible for 33 1/3% of any increases in utility charges pursuant to Section 4.01.

Section 4.04. Insurance Policies.

(a) **Liability Insurance.** During the Lease Term, Tenant shall maintain a policy of commercial general liability insurance (sometimes known as broad form comprehensive general liability insurance) insuring Tenant against liability for bodily injury, property damage (including loss of use of property) and personal injury arising out of the operation, use or occupancy of the Demised Premises. Tenant shall name Landlord as additional insured under such policy. The initial amount of such insurance shall be a minimum of One Million Dollars

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(\$1,000,000) per occurrence and shall be subject to periodic increase based upon inflation, increased liability awards, recommendation of Landlord's professional insurance advisers and other relevant factors. The liability insurance obtained by Tenant under this Section 4.04(a) shall

- (i) be primary and non-contributing;
- (ii) contain cross-liability endorsements; and
- (iii) insure Landlord against Tenant's performance under Section 5.05, if the matters giving rise to the indemnity under Section 5.05 result from the negligence of the Tenant. The amount and coverage of such insurance shall not limit Tenant's liability nor relieve Tenant of any other obligation under this Lease. Landlord may also obtain comprehensive public liability insurance in an amount and with coverage determined by Landlord insuring Landlord against liability arising out of ownership, operation, use or occupancy of the Demised Premises and the Property. The policy obtained by Landlord shall be contributory and shall not provide primary insurance.

(b) Worker's Compensation Insurance. During the Lease Term, Tenant shall maintain a policy of Worker's Compensation Insurance (including Employees' Liability Insurance) in the statutory amount covering all employees of Tenant employed at or performing services at the Demised Premises, in order to provide the statutory benefits required by the laws of the state in which the Demised Premises is located.

(c) Property and Rental Income Insurance. During the Lease Term, Landlord shall maintain policies of insurance covering loss of or damage to the building of which the Demised Premises is a part in the full amount of its replacement value. Such policy shall contain an Inflation Guard Endorsement and shall provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils (all risk), sprinkler leakage and any other perils which Landlord deems reasonably necessary. Landlord shall not obtain insurance for Tenant's fixtures or equipment or building improvements installed by Tenant on the Demised Premises. In the event of a loss or casualty in the Demised Premises caused by the negligence or intentional conduct of Tenant or Tenant's invitees or staff, Tenant shall be liable for the payment of any deductible amount under Landlord's or Tenant's insurance policies maintained pursuant to this Section 4.04. Tenant shall not do or permit anything to be done which invalidates any such insurance policies. Tenant shall be responsible to maintain casualty insurance on all of its goods, personal property or effects, including removable trade fixtures located in the Demised Premises.

(d) Payment of Premiums.

- (i) Landlord shall pay the premiums of the insurance policies maintained by Landlord under Section 4.04(c).
- (ii) Tenant shall pay the premiums of the insurance policies maintained by Tenant under Sections 4.04 (a), (b) and (c).

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(e) General Insurance Provisions.

(i) Any insurance which Tenant is required to maintain under this Lease shall include a provisions which requires the insurance carrier to give Landlord not less than thirty (30) days written notice prior to any cancellation or modification of such coverage.

(ii) If Tenant fails to deliver any policy, certificate or renewal to Landlord required under this Lease within the prescribed time period or if any such policy is cancelled or modified during the Lease Term without Landlord's consent, Landlord may obtain such insurance, in which case Tenant shall reimburse Landlord as additional rent, 110% of the cost of such insurance within fifteen (15) days after receipt of a statement that indicates the cost of such insurance, unless Tenant has cured the deficiency within ten days after receiving notice thereof from Landlord.

(iii) Tenant shall maintain all insurance required under this Lease with companies holding a "General Policy Rating" of A-12 or better, as set forth in the most current issue of "Best Key Rating Guide". Landlord and Tenant acknowledge the insurance markets are rapidly changing and that insurance in the form and amounts described in this Section 4.04 may not be available in the future. Tenant acknowledges that the insurance described in this Section 4.04 is for the primary benefit of Landlord, if at any time during the Lease Term, Tenant is unable to maintain the insurance required under the Lease, Tenant shall nevertheless maintain insurance coverage which is customary and commercially reasonable in the insurance industry for Tenant's type of business, as that coverage may change from time to time. Landlord makes no representation as to the adequacy of such insurance to protect Landlord's or Tenant's interests. Therefore, Tenant shall obtain any such additional property or liability insurance which Tenant deems necessary to protect Landlord and Tenant.

(iv) Landlord and Tenant each hereby waive any and all rights of recovery against the other, or against the officers, employees, agents or representatives of the other, for loss of or damage to its property or the property of others under its control, if such loss or damage is covered by any insurance policy in force (whether or not described in this Lease) at the time of such loss or damage, to the extent available under such policies. Upon obtaining the required policies of insurance, Landlord and Tenant shall give notice to the insurance carriers of this mutual waiver of subrogation. In the event that either Landlord or Tenant shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, Landlord or Tenant, as the case may be, shall promptly notify the other. In the event that such provision is only available upon payment of an additional premium, the party benefiting from such provision will pay the additional premium.

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Section 4.05. Late Charges.

Tenant's failure to pay Rent promptly may cause Landlord to incur unanticipated costs. The exact amount of such costs is impractical or extremely difficult to ascertain. Such costs may include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by any ground lease, mortgage or trust deed encumbering the Demised Premises. *Therefore, if Landlord does not receive any Rent or Additional Rent payment within ten (10) days after it becomes due, Tenant shall pay Landlord a late charge equal to five percent (5%) of the overdue amount.* The parties agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of such late payment.

Section 4.06. Interest on Past Due Obligations.

Any amount owed by Tenant to Landlord which is not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the due date of such amount. Interest shall be calculated, due and compounded on the first day of every month after the due date for the amount owed. The payment of interest on such amounts shall not excuse or cure any default by Tenant under this Lease. If the interest rate specified in this Lease is higher than the rate permitted by law, the interest rate is hereby decreased to the maximum legal interest rate permitted by law.

Section 4.07. Payment.

At any time, and from time to time, after the establishment of the base year costs for each of the categories referred to in Section 4.01, Landlord shall advise Tenant in writing of Tenant's Percentage with respect to each of the categories as estimated for the current Lease Year (as hereinafter defined) [and for each succeeding Lease Year or proportionate part thereof if the last period prior to the Lease's termination is less than twelve (12) months] as then known to Landlord, and thereafter, Tenant shall pay as Additional Rent, Tenant's Percentage, as hereinafter defined, of the excess of these costs over the base year costs for the then current period affected by such advice (as the same may be periodically revised by Landlord as additional costs are incurred) in equal installments together with payments of Base Rent on the first day of each month, such new rates being applied to any months for which the Base Rent shall have already been paid which are affected by the operating cost escalation and/or utility cost escalation above referred to, as well as the unexpired months of the current period, the adjustment for the then expired months to be made at the payment of the next succeeding installment of Base Rent, all subject to final adjustment at the expiration of each Lease Year [or proportionate part thereof, if the last period prior to the Lease's termination is less than twelve (12) months]. As used in this Lease, Lease Year shall mean the twelve (12) month period commencing on the Commencement Date and each twelve (12) month period thereafter. Once the base costs are established, in the event any lease period is less than twelve (12) months, then the base year costs for the categories listed above shall be adjusted to equal the proportion that said period bears to twelve (12) months, and Tenant shall pay to Landlord as Additional Rent for such period, an amount equal to Tenant's Percentage, as hereinafter

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defined, of the excess for said period over the adjusted base with respect to each of the aforesaid categories. Notwithstanding anything contained herein to the contrary, once the base costs are established, Landlord reserves the right to calendarize billing and payment in order to establish operating consistency.

In the event the last period prior to the Lease's termination is less than twelve (12) months, the base year costs during said period shall be proportionately reduced to correspond to the duration of said final period.

ARTICLE FIVE: USE OF PROPERTY

Section 5.1. Permitted Uses.

Subject to the reservations respecting Landlord's use described in Section 5.06, Tenant may use the Demised Premises for (but only for) the Permitted Uses set forth in Section 1.07 above and uses customary and incidental thereto.

Section 5.02. Manner of Use.

Tenant shall not cause or permit the Demised Premises to be used in any way which constitutes a violation of any law, ordinance, or governmental regulation or order, which annoys or interferes with the rights of tenants of the Property, or which constitutes a nuisance or waste. Tenant shall take good care of the Premises and shall neither encumber or obstruct the sidewalks, driveways, yards, entrances, hallways and stairs. Tenant shall obtain and pay for all permits required for Tenant's occupancy of the Demised Premises and shall promptly take all actions necessary to comply with all applicable statutes, ordinances, rules, regulations, orders and requirements regulating the use by Tenant of the Demised Premises or Tenant's business or operations.

Section 5.03. Government Compliance

(a) Tenant, at its sole expense, shall comply with all rules, orders, laws, regulations and requirements of any Governmental Authority, Board of Fire Underwriters or any other similar body exercising functions similar to those of any of the foregoing ("Legal Requirements") which shall impose any violation, order or duty upon Landlord or Tenant with respect to the Demised Premises as a result of the use or occupancy thereof by Tenant or the use thereof for any purpose not authorized by the provisions of this Lease or the conduct by Tenant of its business in the Demised Premises in a manner different from the ordinary or proper conduct of such business. Landlord will comply with Legal Requirements in all other cases, including cases where Legal Requirements, mandated repairs, alterations, changes or additions to the Demised Premises are not caused by Tenant's particular use thereof. Any increase in fire insurance premiums on the Property or its contents caused by the use or occupancy of the Demised Premises by Tenant shall be Additional Rent and paid by Tenant to Landlord within ten (10) days of demand therefor made by Landlord to Tenant. Landlord represents and warrants that as of the Commencement Date, Landlord is not aware of any violations of any Legal

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Requirements or any violation of any covenant or restriction applicable to the Property or the Demised Premises.

(b) Within ten (10) days after any informational request or notice of violation from any governmental organization, Tenant shall provide a copy of said request and its response to the Landlord, as well as all information requested from time to time by Landlord, or by an enforcement agency, including but not limited to, the New Jersey Division of Youth and Family Services, for the preparation of notices submissions or affidavits. Before the expiration of the required response period, Tenant shall execute and deliver any document reasonably required in order to comply with any law. Tenant shall promptly deliver to Landlord copies of all notices made by Tenant to, or received by Tenant from, any such government agency or body.

Section 5.04. Signs.

Tenant shall not place any sign on the Property without Landlord's prior written consent, which consent shall not be unreasonably withheld. Landlord hereby consents to the sign(s) described on Schedule 5.04 appended hereto. Tenant, at Tenant's sole cost and expense, will be responsible for ensuring that any signs erected by Tenant are in full compliance with all applicable laws.

Section 5.05. Indemnity.

Tenant shall indemnify Landlord against and hold Landlord harmless from any and all costs, claims or liability caused by;

- (a)** Tenant's use of the Demised Premises;
- (b)** the conduct of Tenant's business or anything else done or permitted by Tenant to be done in or about the Demised Premises, including any contamination of the Property or any other property resulting from the presence or use of Hazardous Materials caused or permitted by Tenant;
- (c)** any breach or default in the performance of Tenant's obligations under this Lease;
- (d)** any misrepresentation or breach of warranty by Tenant under this Lease; or
- (e)** other acts or omissions of Tenant. Tenant shall defend Landlord against any such cost, claim or liability at Tenant's expense with counsel reasonably acceptable to Landlord or, at Landlord's election, Tenant shall reimburse Landlord for any legal fees or costs incurred by Landlord in connection with any such claim. As a material part of the consideration to Landlord, Tenant assumes all risk of damage to property or injury to persons in or at out the Demised Premises arising from any cause, and Tenant hereby waives all claims in respect thereof against Landlord, except for any claim arising out of Landlord's gross negligence or willful misconduct. As used in this Section, the term "Tenant" shall include Tenant's employees, agents, contractors and invitees, if applicable.

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Section 5.06. Landlord's Use and Access.

(a) To the extent practicable, Landlord will permit Tenant to access the Demised Premises, but not the Common Areas, 24 hours a day, 7 days a week. Landlord and its agents reserve the right to gain access at any time to the Demised Premises at reasonable times and with reasonable advanced notice, (except in case of emergency, where no notice is required).

(b) Landlord or its agents may enter the Demised Premises at all reasonable times to show the Demised Premises to potential users, tenants or other parties; to do any other act or to inspect and conduct tests in order to monitor Tenant's compliance with all applicable laws and all laws, or for any other purpose Landlord deems necessary provided Landlord takes reasonable precautions not to interrupt the business of the Tenant. Landlord shall give Tenant reasonable prior notice of such entry, except in the case of an emergency. In the event or an emergency or in the event critical repairs to the Demised Premises or building are necessary, Landlord shall have the right to immediately enter the Demised Premises regardless of any disruption such entry may cause to the Tenant's business.

Section 5.07. Quiet Possession.

Landlord covenants and agrees that, upon the performance by Tenant of all of the covenants, agreements and provisions hereof on Tenant's part to be kept and performed, Tenant shall have, hold and enjoy the Demised Premises, subject to the terms of this Lease, provided, however, that no diminution or abatement of the Base Rent, Additional Rent or other payment to Landlord shall be claimed by or allowed to Tenant for inconvenience or discomfort arising from the making of any repairs or improvements to the Demised Premises or the Property, nor for any de minimus space taken to comply with any law, ordinance or order of any governmental authority, except as provided for herein. Landlord will use reasonably commercial efforts to ensure that any repair or improvement to the Property does not interfere with Tenant's use and enjoyment of the Demised Premises. Tenant's rights hereunder are and shall be subject to the existing state of title to the Property, to all existing and future mortgages, liens or real estate taxes, and to future easements affecting the Property, including, by way of illustration and not limitation, easements for storm and sanitary sewers, drainage ditches and public utilities. Landlord will secure a non-disturbance agreement, for the benefit of Tenant, from all current and future lien holders against the Property.

ARTICLE SIX: CONDITION OF DEMISED PREMISES; MAINTENANCE, REPAIRS AND ALTERATIONS

Section 6.01. Existing Conditions.

Except as provided herein Tenant accepts the Demised Premises and the Property in their condition as of the execution of the Lease, subject to all recorded matters, laws, ordinances and governmental regulations and orders. Except as provided herein, Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Demised Premises or the suitability of the Demised Premises for Tenant's intended use.

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Tenant represents and warrants that Tenant has made its own inspection of and inquiry regarding the condition of the Demised Premises and, except as set forth herein, is not relying on any representations of Landlord or any Broker with respect thereto.

Section 6.02. Exemption of Landlord from Liability.

Landlord shall not be liable for any damage or injury to the person, business (or any loss of income therefrom), goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, students or any other person or about the Demised Premises, whether such damage or injury is caused by or results from:

- (a) fire, steam, electricity, water, gas or rain;
- (b) the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures or any other cause;
- (c) conditions arising in or about the Demised Premises or upon other portions of the property, or from other sources or places; or
- (d) any act or omission of any other tenant of the Property. Landlord shall not be liable for any such damage or injury even though the cause of or the means of repairing such damage or injury are not accessible to Tenant. The provisions of this Section 6.02 shall not, however, exempt Landlord from liability for Landlord's gross negligence or willful misconduct.

Section 6.03. Landlord's Obligations.

Subject to the provisions of Section 6.04, Article Seven (Damage or Destruction) and Article Eight (Condemnation), and as elsewhere provided for, Landlord shall not have the responsibility to repair, maintain or replace any portion of the Demised Premises at any time. The Landlord shall not be responsible for (1) any items installed by Tenant or Tenant's contractors or (ii) any replacements, alterations or improvements required by the acts or negligence of Tenant, its agents, employees, contractors or invitees or (iii) for any alterations, improvements or other capital requirements required by the Use of the Tenant by any government rule, law or regulation.

Except as provided in Section 6.04, Landlord shall provide and maintain (i) all exterior and structural elements of the Building including, but not limited to the roof, bearing walls, windows, foundation, and floor slabs, (ii) all electrical, plumbing, fire suppression, HVAC and other utility systems and lines serving the Demised Premises, and (iii) parking lot and roadways, driveways, sidewalks, walkways, exterior lighting, and landscaping, snow and ice removal of the parking areas, sidewalks, and entrances.

In accordance with past practice, Landlord shall engage a cleaning and maintenance service, as part of and to perform the functions listed as Operating Expenses under Section 4.01, except with respect to Tenant Improvements installed by Tenant. The cleaning and maintenance service shall report to the Landlord's Rector but shall be available to Tenant Monday to Friday for the purpose of receiving requests for the performance of tasks included within the Operating Expenses. If Landlord deems it necessary to engage the services of a

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facility manager, Tenant shall pay as Additional Rent fifty percent (50%) of the costs and expenses incurred by Landlord in hiring the facility manager. All components shall be maintained in good repair and in a clean and safe condition, and all repairs shall be performed in a workmanlike manner.

Section 6.04. Tenant's Obligations.

Notwithstanding Section 6.03, Tenant shall be responsible for the cost and expense and without any reimbursement obligation by Landlord, for any parts and materials used in the repair and general maintenance of the Demised Premises and any tenant improvement installed by Tenant in the Demised Premises, but shall not be responsible for structural and major repairs. For the purpose of this Section 6.04, structural and major repairs shall be undertaken by Landlord and shall include, but not be limited to, repairs to the roof, foundation, exterior walls and footers.

Section 6.05. Alterations, Additions, and Improvements.

(a) Tenant shall not make any alterations, additions or improvements to the Demised Premises or the Property without Landlord's prior written consent. Landlord may require Tenant to provide demolition and/or lien and completion bonds in form and amount reasonably satisfactory to Landlord. Tenant shall promptly remove any alterations, additions or improvements constructed in violation of this Section 6.05(a) upon Landlord's written request. All alterations, additions and improvements shall be done in a good and workmanlike manner in conformity with all applicable laws and regulations, and by a contractor approved by Landlord. Landlord will not unreasonably withhold, condition or delay its approval. Upon completion of any such work, Tenant shall provide Landlord with "as built" plans, copies of all construction contracts and proof of payment for all labor and materials.

(b) Tenant shall pay when due all claims for labor and materials furnished to the Demised Premises for any contractors hired by or at the request of Tenant. Tenant shall give Landlord at least twenty (20) days prior written notice of the commencement of any work on the Demised Premises. Landlord may elect to record and post notices of nonresponsibility on the Demised Premises.

Section 6.06. Condition Upon Termination.

Upon the termination of the Lease, Tenant shall surrender the Demised Premises to Landlord, broom clean and in the same condition as received except for the alterations not required by Landlord to be removed at the end of the Term and ordinary wear and tear which Tenant was not otherwise obligated to remedy under any provision of this Lease. However, Tenant shall not be obligated to repair any damage that Landlord is required to repair under Article Seven (Damage or Destruction) unless such damage was caused by Tenant. In addition, Landlord may require Tenant to remove any alterations, additions or improvements prior to the expiration of the Lease and to restore the Demised Premises to their prior condition, all at Tenant's expense. All alterations, additions and improvements that Landlord has not required Tenant to remove

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shall become Landlord's property and shall be surrendered to Landlord upon the expiration or earlier termination of the Lease, except that Tenant may remove any of Tenant's trade fixtures and equipment that can be removed without material damage to the Demised Premises. Tenant shall repair, at Tenant's expense, any damage to the Demised Premises caused by the removal of any such equipment. In no event, however, shall Tenant remove any of the following materials or equipment (which shall be deemed Landlord's property) without Landlord's prior written consent: any power wiring or wiring panels; lighting or lighting fixtures; wall coverings; drapes, blinds or other window coverings; carpets or other floor coverings, heaters, air conditioners and any other heating or air conditioning equipment; fencing or security gates; or other similar building operating equipment and decorations.

ARTICLE SEVEN: DAMAGE OR DESTRUCTION

Section 7.01. Partial Damage to Demised Premises.

(a) Tenant shall notify Landlord in writing immediately upon the occurrence of any damage to the Demised Premises. If the Demised Premises is only partially damaged (less than or equal to 30%) as determined by the Landlord's insurer and if the proceeds received by Landlord from the insurance policies described in Section 4.04(c) are sufficient to pay for the necessary repairs, this Lease shall remain in effect and Landlord shall repair the damage as soon as reasonably possible. Landlord may elect (but is not required) to repair any damage to Tenant's fixtures, equipment or improvements.

(b) If the insurance proceeds received by Landlord are not sufficient to pay the entire cost of repair, if the cause of the damage is not covered by the insurance policies which Landlord maintains under Section 4.04(c) or if the Landlord's mortgagee does not make the insurance proceeds available to Landlord for the restoration of the Property, Landlord may elect either to (i) repair the damage as soon as reasonably possible, in which case this Lease shall remain in full force and effect, or (ii) terminate this Lease as of the date the damage occurred. Landlord shall notify Tenant within thirty (30) days after receipt of notice of the occurrence of the damage whether Landlord elects to repair the damage or terminate the Lease. If Landlord elects to repair the damage, and if the damage was due to an act or omission of Tenant, or Tenant's employees, agents, contractors or invitees, Tenant shall pay the difference between the actual cost of repair and any insurance proceeds received by Landlord.

(c) If the damage to the Demised Premises occurs during the last six (6) months of the Lease Term and Tenant has not exercised its right to extend the Lease Term and such damage will require more than thirty (30) days to repair, either Landlord or Tenant may elect to terminate this Lease as of the date the damage occurred, regardless of the sufficiency of any insurance proceeds. The party electing to terminate this Lease shall give written notification to the other party of such election within thirty (30) days after Tenant's notice to Landlord of the occurrence of the damage.

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Section 7.02. Substantial or Total Destruction.

If the Demised Premises is substantially (greater than 30%) as determined by the Landlord's insurer or totally destroyed by any cause whatsoever (i.e., the damage to the Demised Premises is greater than partial damage as described in Section 7.01), and regardless of whether Landlord receives any insurance proceeds, the Lease shall terminate as of the date the destruction occurred. Notwithstanding the preceding sentence, if the Demised Premises are partially, substantially or totally destroyed and can be rebuilt within nine (9) months after the date of destruction, Landlord may elect to rebuild the Demised Premises at Landlord's own expense, in which case this Lease shall remain in full force and effect. Landlord shall notify Tenant of such election within sixty (60) days after Tenant's notice of the occurrence of total or substantial destruction. If Landlord so elects, Landlord shall rebuild the Demised Premises at Landlord's sole expense, except that if the destruction was caused by an act or omission of Tenant, Tenant shall pay Landlord the difference between the actual cost of rebuilding and any insurance proceeds received by Landlord. If Landlord does not so elect, Tenant shall have the right to terminate this Lease.

Section 7.03. Temporary Reduction of Rent.

If the Demised Premises is destroyed or damaged, and part or all of the Demised Premises are still available for occupancy by Tenant and Landlord or Tenant repairs or restores the Demised Premises pursuant to the provisions of this Article Seven, any rent payable during the period of such damage, repair and/or restoration shall be reduced according to the degree, if any, to which Tenant's use of the Demised Premises is impaired. If all or a material part of the Demised Premises are rendered uninhabitable by the damage, the rent will abate for the entire Demised Premises until it is completely repaired. Except for such possible reduction in Base Rent, insurance premiums and real property taxes, Tenant shall not be entitled to any compensation, reduction, or reimbursement from Landlord as a result of any damage, destruction, repair or restoration of or to the Demised Premises unless the damage was caused by the gross negligence or willful conduct of Landlord or its agents, contractors, employees, licensees or invitees.

Section 7.04. Waiver.

Tenant waives the protection of any statute, code or judicial decision which grants a tenant the right to terminate a lease in the event of the substantial or total destruction of leased property. Tenant agrees that the provisions of Section 7.02 above, shall govern the rights and obligations of Landlord and Tenant in the event of any substantial or total destruction to the Demised Premises.

ARTICLE EIGHT: CONDEMNATION

Section 8.01. Condemnation.

If all or any portion of the Demised Premises is taken under the power of eminent domain or sold under the threat of that power (all of which are called "Condemnation"), this Lease shall

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terminate as to the part taken or sold on the date the condemning authority takes title or possession, whichever occurs first. If more than ten percent (10%) of the floor area of the building in which the Demised Premises is located is taken, either Landlord or Tenant may terminate this Lease as of the date the condemning authority takes title or possession, by delivering written notice to the other within ten (10) days after receipt of written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority takes title or possession). If neither Landlord nor Tenant terminates this Lease, this Lease shall remain in effect as to the portion of the Demised Premises not taken, except that the Base Rent and Additional Rent shall be reduced in proportion to the reduction in the floor area of the Demised Premises. If the Demised Premises or the rights of Tenant under this Lease shall be affected in any way by any condemnation or conveyance in lieu thereof, Tenant waives all claims of any nature whatsoever against Landlord and assigns to Landlord all claims of any nature against the condemning authority arising by reason of such condemnation or conveyance in lieu thereof, including without limitation all claims for loss of Tenant's leasehold estate. Notwithstanding the foregoing, Tenant may file such claims with the condemning authority as may be permitted by applicable law for removal expenses, business dislocation damages, and moving expenses but only so long as such claims do not reduce any award otherwise payable to Landlord. If this Lease is not terminated, Landlord shall repair any damage to the Demised Premises caused by the Condemnation, except that Landlord shall not be obligated to repair any damage for which Tenant has been reimbursed by the condemning authority. If the severance damages received by Landlord are not sufficient to pay for such repair, Landlord shall have the right to either terminate this Lease or make such repair at Landlord's expense.

ARTICLE NINE: ASSIGNMENT AND SUBLETTING

Section 9.01. Landlord's Consent Required.

No portion of the Demised Premises or of Tenant's interest in this Lease may be acquired by any other person or entity, whether by sale, assignment, mortgage, sublease, transfer, operation of law, or act of tenant, without Landlord's prior written consent. Landlord has the right to grant or withhold its consent as provided in Section 9.04 below. Any attempted transfer without consent shall be void and shall constitute a breach of this Lease. If Tenant is a partnership, any cumulative transfer of more than twenty percent (20%) of the partnership interests shall require Landlord's consent. If Tenant is a corporation, any change in the ownership of a controlling interest of the voting stock of the corporation shall require Landlord's consent.

Section 9.02. No Release of Tenant.

No transfer permitted by Article Nine, whether with or without Landlord's consent, shall release Tenant or change Tenant's primary liability to pay the rent and to perform all other obligations of Tenant under this Lease. Landlord's acceptance of rent from any other person is not a waiver of any provision of this Article Nine. Consent to one transfer is not a consent to any

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subsequent transfer. If Tenant's transferee defaults under this Lease, Landlord may proceed directly against Tenant without pursuing remedies against the transferee. Landlord may consent to subsequent assignments or modifications of this Lease by Tenant's transferee without notifying Tenant or obtaining its consent. Such action shall not relieve Tenant's liability under this Lease.

Section 9.03. Offer to Terminate.

If the Tenant desires to assign the Lease or sublease the Demised Premises, Tenant shall have the right to offer, in writing, to terminate the Lease as of a date specified in the offer. If Landlord elects in writing to accept the offer to terminate within twenty (20) days after notice of the offer, the Lease shall terminate as of the date specified and all the terms and provisions of the Lease governing termination shall apply. If Landlord does not so elect, the Lease shall continue in effect until otherwise terminated and the provisions of Section 9.04 with respect to any proposed transfer shall continue to apply.

Section 9.04. Landlord's Consent.

(a) The Tenant's request for consent to any transfer described in Section 9.01 shall set forth in writing the details of the proposed transfer, including the name, business and financial condition of the prospective transferee, financial details of the proposed offer (e.g., the term of and the rent and security deposit payable under any proposed assignment or sublease), and any other information Landlord deems relevant. The Landlord shall have the right to withhold consent in its sole discretion, or to grant consent, based on the following factors:

- (i) the business of the proposed assignee or subtenant and the proposed use of the Demised Premises and its compatibility with the other tenants and users of the Property;
- (ii) the net worth and financial reputation of the proposed assignee or subtenant;
- (iii) Tenant's compliance with all of its obligations under the Lease;
- (iv) the effect the proposed assignee or subtenant will have on the tax-exempt status of the Property and
- (v) such other factors as Landlord in its sole discretion may reasonably deem relevant.

(b) If Tenant assigns or subleases, the following shall apply:

- (i) Tenant shall pay to Landlord as Additional Rent under the Lease one hundred percent (100%) of the Profit (defined below) on such transaction as and when received by Tenant, unless Landlord gives written notice to Tenant and the assignee or subtenant that the Profit shall be paid by the assignee or subtenant to Landlord directly. For the purposes of this Section, "Profit" shall mean the excess of the monthly rent payable under the Lease and all fees and other

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consideration paid for the assignment or sublease, including fees under any collateral agreements, less costs and expenses directly incurred by Tenant in connection with the execution and performance of such assignment or sublease for real estate broker's commissions and costs of renovation or construction of tenant improvements required under such assignment or sublease. Tenant is entitled to recover such costs and expenses before Tenant is obligated to pay the Profit to Landlord. The Profit in the case of a sublease of less than all the Demised Premises is the rent allocated to the subleased space as a percentage on a square foot basis.

(ii) Tenant shall provide Landlord a written statement certifying all amounts to be paid from any assignment or sublease of the Demised Premises within thirty (30) days after the transaction is signed. On written request, Tenant shall promptly furnish to Landlord copies of all the transaction documentation all of which shall be certified by Tenant to be complete, true and correct. Landlord's receipt of the Profit shall not be a consent to any further assignment or subletting.

ARTICLE TEN: DEFAULTS; REMEDIES

Section 10.01. Covenants and Conditions.

Tenant's performance of each of Tenant's obligations under this Lease is a condition as well as a covenant. Tenant's right to continue in possession of the Demised Premises is conditioned upon such performance. Time is of the essence in the performance of all covenants and conditions.

Section 10.02. Defaults.

Tenant shall be in material default under this Lease:

(a) If Tenant abandons the Demised Premises or if Tenant vacates the Demised Premises (other than closing The Winston School in accordance with the Tenant's customary school closing schedule and procedures);

(b) If Tenant fails to pay Rent or any other charge when due;

(c) If Tenant fails to perform any of Tenant's non-monetary obligations under this Lease for a period of thirty (30) days after written notice from Landlord; provided that if more than thirty (30) days are required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the thirty (30) day period and thereafter diligently pursues its completion. The notice required by this Section is intended to satisfy any and notice requirements imposed by law on Landlord and is not in addition to any such requirement.

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(d) (i) If Tenant makes a general assignment or general arrangement for the benefit of creditors, (ii) if a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by or against Tenant and is not dismissed within thirty (30) days; (iii) if a trustee or receiver is appointed to take possession of substantially all of Tenant's assets located at the Demised Premises or of Tenant's interest in this Lease and possession is not restored to Tenant within thirty (30) days; or (iv) if substantially all of Tenant's assets located at the Demised Premises or of Tenant's interest in this Lease is subjected to attachment, execution or other judicial seizure which is not discharged within thirty (30) days. If a court of competent jurisdiction determines that any of the acts described in this subparagraph (d) is not a default under this Lease, and a trustee is appointed to take possession (or if Tenant remains a debtor in possession) and such trustee or Tenant transfers Tenant's interest hereunder, then Landlord shall receive, as Additional Rent, the excess, if any, of the rent (or any other consideration) paid in connection with such assignment or sublease over the rent payable by Tenant under this Lease.

Section 10.03. Remedies.

On the occurrence of any material default by Tenant, Landlord will take reasonable steps to mitigate its damages and may, at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have:

(a) Terminate Tenant's right to possession of the Demised Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Demised Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including (i) the worth at the time of the award of the unpaid Base Rent, Additional Rent and other charges which Landlord has earned at the time of the termination; (ii) the worth at the time of the award of the amount by which the unpaid Base Rent, Additional Rent and other charges which Landlord would have earned after termination until the time of the award exceeds the amount of such rental loss that Tenant proves Landlord could have reasonably avoided; (iii) the worth at the time of the award of the amount by which the unpaid Base Rent exceeds the amount of such rental loss that Tenant proves Landlord could have reasonably avoided; and (iv) any other obligations under the Lease or which in the ordinary course would proximately result therefrom, including, but not limited to, any reasonable costs or expenses Landlord incurs in maintaining or preserving the Demised Premises after such default, the reasonable cost of recovering possession of the Demised Premises, reasonable expenses of reletting, including necessary renovation or alteration of the Demised Premises, Landlord's reasonable attorneys' fees incurred in connection therewith, and any real estate commission paid or payable. As used in subparts (i) and (ii) above, the "worth at the time of the award" is computed by allowing interest on unpaid amounts at the rate of fifteen percent (15%) per annum, or such lesser amount as may then be the maximum lawful rate. As used in subpart (iii) above, the "worth at

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the time of the award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of New York at the time of the award. If Tenant has abandoned the Demised Premises, Landlord shall have the option of (i) retaking possession of the Demised Premises and recovering from Tenant the amount specified in this Section 10.03(a), or (ii) proceeding under Section 10.03(b);

(b) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant has abandoned the Demised Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the Rent as it becomes due.

(c) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the State of New Jersey.

Section 10.04. Automatic Termination.

Notwithstanding any other term or provision hereof to the contrary, the Lease shall terminate on the occurrence of any act which affirms the Landlord's intention to terminate the Lease as provided in Section 10.03 hereof, including the filing of an unlawful detainer action against Tenant. On such termination, Landlord's damages for default shall include all costs and fees, including, but not limited to reasonable attorneys' fees that Landlord incurs in connection with the filing, commencement, pursuing and/or defending of any action in any bankruptcy court or other court with respect to the Lease; the obtaining of relief from any stay in bankruptcy restraining any action to evict Tenant; or the pursuing of any action with respect to Landlord's right to possession of the Demised Premises. All such damages suffered (apart from Base Rent and other rent payable hereunder) shall constitute pecuniary damages which must be reimbursed to Landlord prior to assumption of the Lease by Tenant or any successor to Tenant in any bankruptcy or other proceeding.

Section 10.05. Cumulative Remedies.

Landlord's exercise of any right or remedy shall not prevent it from exercising any other right or remedy.

ARTICLE ELEVEN: PROTECTION OF LENDERS

Section 11.01. Subordination.

This Lease shall be automatically subject and subordinate to any existing or future deed of trust or mortgage encumbering the Demised Premises, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. Tenant shall cooperate with Landlord and any lender that is acquiring a security interest in the Demised Premises or the Lease. Tenant shall execute such documents and assurances as such lender may require, provided that Tenant's obligations under this Lease

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shall not be increased in any material way (the performance of ministerial acts shall not be deemed material), and Tenant shall not be deprived of its rights under this Lease.

Section 11.02. Attornment.

If Landlord's interest in the Demised Premises is acquired by any ground lessor, beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, and the Landlord is not in default hereunder, Tenant shall at the election of such ground lessor, beneficiary under a deed of trust, mortgagee or purchaser at a foreclosure sale, attorn to the transferee of or successor to Landlord's interest in the Demised Premises and recognize such transferee or successor as Landlord under this Lease. Tenant waives the protection of any statute or rule of law which gives or purports to give Tenant any right to terminate this Lease or surrender possession of the Demised Premises upon the transfer of Landlord's interest.

Section 11.03. Signing of Documents.

Tenant shall sign and deliver any instrument or documents, if true and correct, which are necessary or appropriate to evidence any such attornment or subordination or agreement to do so. If Tenant fails to do so within ten (10) days after written request, Tenant hereby makes, constitutes and irrevocably appoints Landlord, or any transferee or successor of Landlord, the attorney-in-fact of Tenant to execute and deliver any such instrument or document.

Section 11.04. Estoppel Certificates.

(a) Upon Landlord's or Tenant's written request, the non-requesting party shall execute, acknowledge and deliver to the requesting party a written statement certifying: (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed), (ii) that this Lease has not been cancelled or terminated; (iii) the last date of payment of the Base Rent and other charges and the time period covered by such payment; (iv) that the requesting party is not in default under this Lease (or if the requesting party is claimed to be in default, stating why); and (v) such other representations or information with respect to the non-requesting party or the Lease as the requesting party may reasonably request or which any prospective purchaser or encumbrancer of the Demised Premises may require. The non-requesting party shall deliver such statement to the requesting party within ten (10) days after the requesting party's request. The requesting party may give any such statement by the non-requesting party to any prospective purchaser or encumbrancer of the Demised Premises. Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct.

(b) If the non-requesting party does not deliver such statement to the requesting party within such ten (10) day period, the requesting party, and any prospective purchaser or encumbrancer, may conclusively presume and rely upon the following facts: (i) that the terms and provisions of this Lease have not been changed except as otherwise represented by the requesting party; (ii) that this Lease has not been cancelled or terminated except as otherwise represented by the requesting party; (iii) that not more than one month's Base Rent or other

Appendix D: Sample Leases – School

charges have been paid in advance; and (iv) that the requesting party is not in default under the Lease. In such event, the non-requesting party shall be estopped from denying the truth of such facts.

ARTICLE TWELVE: LEGAL COSTS

Section 12.01. Legal Proceedings.

If Tenant or Landlord shall be in breach or default under this Lease, such party (the "Defaulting Party") shall reimburse the other party (the "Non-defaulting Party") upon demand for any costs or expenses that the Non-defaulting Party incurs in connection with any breach or default of the Defaulting Party under this Lease, whether or not suit is commenced or judgment entered. Such costs shall include reasonable fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Furthermore, if any action for breach of or to enforce the provisions of this Lease is commenced, the court in such action may award to the party in whose favor a judgment is entered, a reasonable sum as settlement, enforcement of rights or otherwise. Furthermore, if any action for breach of or to enforce the provisions of this Lease is commenced, the court in such action shall award to the party in whose favor a judgment is entered a reasonable sum as attorneys' fees and costs. The losing party in such action shall pay such attorneys' fees and costs. Tenant shall also indemnify Landlord against and hold Landlord harmless from all costs, expenses, demands and liability Landlord may incur if Landlord becomes or is made a party to any claim or action (a) instituted by Tenant against any third party, or by any third party against Tenant, or by or against any person holding any interest under or using the Demised Premises by license of or agreement with Tenant; (b) for foreclosure of any lien for labor or material furnished to or for Tenant or such other person holding an interest in the Demised Premises; (c) otherwise arising out of or resulting from any act or transaction of Tenant or such other person holding an interest in the Demised Premises; or (d) necessary to protect Landlord's interest under this Lease in a bankruptcy proceeding, or other proceeding under Title 11 of the United States Code, as amended. Tenant shall defend Landlord against any such claim or action at Tenant's expense with counsel reasonably acceptable to Landlord or, at Landlord's election, Tenant shall reimburse Landlord for any reasonable legal fees or costs Landlord incurs in any such claim or action. Landlord and Tenant each waive irrevocably the right to a trial by jury for any action arising out of or relating to this Lease.

Section 12.02. Landlord's Consent.

Tenant shall pay Landlord a \$500 fee in connection with Tenant's request for Landlord's consent under Article Nine (Assignment and Subletting), or any other reasonable costs and expenses in connection with any other act which Tenant proposes to do and which requires Landlord's consent.

Appendix D: Sample Leases – School

ARTICLE THIRTEEN: MISCELLANEOUS PROVISION

Section 13.01. Landlord's Liability: Certain Duties.

(a) As used in this Lease, the term "Landlord" means only the current owner or owners of the fee title to the Demised Premises or the Property or the leasehold estate under a ground lease of the Demised Premises or Property at the time in question. Each Landlord is obligated to perform the obligations of Landlord under this Lease only during the time such Landlord owns such interest or title. Any Landlord who transfers its title or interest to a third party is relieved of all liability with respect to the obligations of Landlord under this Lease to be performed on or after the date of transfer. However, each Landlord shall deliver to its transferee the security deposit that Tenant previously paid if such funds have not yet been applied under the terms of this Lease.

(b) Tenant shall give written notice of any failure by Landlord to perform any of its obligations under this Lease to Landlord and to any ground lessor, mortgagee or beneficiary under any deed of trust encumbering the Demised Premises whose name and address have been furnished to Tenant in writing. Landlord shall not be in default under this Lease unless Landlord (or such ground lessor, mortgagee or beneficiary) fails to cure such non-performance within thirty (30) days after receipt of Tenant's notice. However, if such non-performance reasonably requires more than thirty (30) days to cure, Landlord shall not be in default if such cure is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

(c) Notwithstanding any term or provision herein to the contrary, the liability of Landlord for the performance of its duties and obligations under this Lease is limited to Landlord's interest in the Demised Premises and the Property, and neither the Landlord nor its vestry, officers, parishioners, the Episcopal Diocese of Newark, the National Episcopal Church, or any other related entities shall have any personal liability under this Lease.

Section 13.02. Severability.

A determination by a court of competent jurisdiction that any provision of this Lease or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision of this Lease, which shall remain in full force and effect.

Section 13.03. Interpretation.

The captions of the Articles or Sections 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, in any provision relating to the conduct, acts or omissions of Tenant, the term "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Demised Premises with Tenant's expressed or implied permission.

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Section 13.04. Incorporation of Prior Agreements; Modifications.

This Lease is the only agreement between the parties pertaining to the lease of the Demised Premises; the previous lease executed in YYYY is no longer in effect; and no other agreements are effective. All amendments to this Lease shall be in writing and signed by all parties. Any other attempted amendment shall be void.

Section 13.05. Notices.

All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by certified mail return receipt requested, postage prepaid. Notices to Tenant shall be delivered to the address specified in Section 1.03 above and copied to Church's Attorney's Name, Name of the Law Firm, Street Address of the Attorney or Law Firm, City, New Jersey Zip Code. Notices to Landlord shall be delivered to office address specified in Section 1.02 above. All notices shall be effective upon delivery. Either party may change its notice address upon written notice to the other part.

Section 13.06. Waivers.

All waivers must be in writing and signed by the waiving party. Landlord's failure to enforce any provision of this Lease or its acceptance of rent shall not be a waiver and shall not prevent Landlord from enforcing that provision or any other provision of this Lease in the future. No statement on a payment check from Tenant or in a letter accompanying a payment check shall be binding on Landlord. Landlord may, with or without notice to Tenant, negotiate such check without being bound to the conditions of such statement.

Section 13.07. No Recordation.

Tenant shall not record this Lease without prior written consent from Landlord.

Section 13.08. Binding Effect; Choice of Law.

This Lease binds any party who legally acquires any rights or interest in this Lease from Landlord or Tenant. However, Landlord shall have no obligation to Tenant's successor unless the rights or interests of Tenant's successor are acquired in accordance with the terms of this Lease. The laws of the State of New Jersey shall govern this Lease.

Section 13.09. Force Majeure.

If Landlord or Tenant (except Tenant's failure to pay Rent or any other financial obligation under this Lease) cannot perform any of its obligations due to events beyond their control, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond a party's control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction and weather conditions.

Appendix D: Sample Leases – School

Section 13.11. Execution of Lease.

This Lease may be executed in counterparts and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument. Landlord's delivery of this Lease to Tenant shall not be deemed to be an offer to lease and shall not be binding upon either party until executed and delivered by both parties.

Section 13.12. Survival.

All representations and warranties of Landlord and Tenant shall survive the termination of this Lease for a period of one year.

Section 13.13. Examination of Lease.

Submission of this Lease to Tenant does not constitute an option to lease, and this Lease is not effective until execution and delivery by both Landlord and Tenant.

Section 13.14. Rules and Regulations.

Tenant agrees to abide by the Rules and Regulations of the Property as set forth in Exhibit "B" (Rules and Regulations) and as reasonably may be amended from time to time by Landlord in its sole discretion respecting the management, care and safety of the buildings and grounds, including parking areas, landscaped areas, walkways, hallways and other facilities provided for the common use and conveyance of other occupants. Notice of such rules and regulations will be posted or given to Tenant.

Section 13.15. Standing Committee.

Landlord and Tenant agree that this Lease is subject to the consent of the Bishop and the Standing Committee of the Episcopal Diocese of Newark and is not binding until said consents are granted, which consent shall be evidenced by a letter or other writing, signed by the Bishop or other authorized person who shall, in such writing, represent his authority to sign and deliver such consent. Landlord will diligently seek this consent.

Section 13.16. Compliance with Environmental Laws.

(a) Tenant agrees to comply with all applicable environmental laws, rules and regulations, including but not limited to, the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.) ("ISRA") applicable to Tenant and its use and occupancy of the Demised Premises. Tenant represents to Landlord that it shall not conduct any activity in the Demised Premises which shall cause it to be considered an "industrial establishment" under ISRA, or otherwise subject the Demised Premises to the requirements of compliance with ISRA and Tenant shall not conduct any operations that shall subject the Demised Premises to ISRA. The Landlord represents to Tenant that no activities on the Property are "industrial establishments." Landlord represents that, to the best of Landlord's knowledge, there are no Hazardous Materials in, on, or under the Property or the Demised Premises.

Appendix D: Sample Leases – School

(b) Tenant hereby agrees to execute such documents as Landlord reasonably deems necessary and to make such applications as Landlord reasonably requires to assure compliance with ISRA; and without limiting the generality of the foregoing will provide Landlord within ten (10) business days of Landlord's request for the same, an affidavit in support of a request for a non-applicability letter by Landlord in the form required under ISRA. Tenant shall bear all costs and expenses incurred by Landlord associated with any required ISRA compliance resulting from Tenant's use of the Demised Premises, including, but not limited to, state agency fees, engineering fees, cleanup costs, filing fees, and suretyship expenses. As used in this Lease, ISRA compliance shall include applications for determinations of non-applicability by the appropriate governmental authority upon the "closure, terminations or transfer" of Tenant's operations at the Demised Premises. The foregoing undertaking shall survive the termination or sooner expiration of the Lease and surrender of the Demised Premises and shall also survive sale, or lease or assignment of the Demised Premises by Landlord. Tenant shall immediately provide Landlord with copies of all written correspondence, reports, notices, orders, findings, declarations and other materials pertinent to Tenant's compliance with the New Jersey Department of Environmental Protection ("DEP") requirements under ISRA as they are issued or received by Tenant.

(c) Tenant shall not generate, store, manufacture, refine, transport, treat, dispose of, or otherwise permit to be present on or about the Demised Premises, any Hazardous Substances. As used herein, Hazardous Substances shall be defined as any "hazardous chemical," "hazardous substance" or similar term as defined in the Comprehensive Environmental Responsibility Compensation and Liability Act, as amended (42 U.S.C. 9601, et seq.), the Industrial Site Recovery Act, as amended, (N.J.S.A. 13: 1K-6 et seq.), the New Jersey Spill Compensation and Control Act, as amended, (N.J.S.A. 58:10 -23.11b, et seq.), any rules or regulations promulgated thereunder, or in any other applicable federal, state or local law, rule or regulation dealing with environmental protection; provided, however, that Tenant shall be permitted to keep and store normal office supplies in the Demised Premises in customary amounts and stored in compliance with environmental laws.

(d) In the event Tenant fails to comply with ISRA as stated in this Section or any other governmental law as of the termination or sooner expiration of the Lease and as a consequence thereof Landlord is unable to rent the Demised Premises, then the Landlord shall treat the Tenant as one who has not removed at the end of its Term, and thereupon be entitled to all remedies against the Tenant provided by law in that situation including a monthly rental of two hundred (200%) percent of the monthly Base Rent and Additional Rent then in effect and without the requirement for demand or notice by Landlord to Tenant demanding delivery of possession of said Demised Premises (but Additional Rent shall continue as provided in this Lease), which sum shall be payable in advance on the first day of each month, until such time as Tenant provides Landlord with a letter of non-applicability, no further action letter, negative declaration or confirmation that any required clean-up plan has been successfully completed.

Appendix D: Sample Leases – School

(e) During the term, both parties shall be responsible and will comply with all applicable environmental laws, rules and regulations with respect to the Property and the Demised Premises.

Section 13.17. Brokers.

Each party warrants and represents to the other that it has not dealt with any real estate broker or sales representative in connection with this Lease. If either party breaches this warranty and representation, the breaching party shall indemnify, defend and hold harmless the non-breaching party from and against all threatened or asserted claims, liability, costs or damages (including, without limitation, reasonable attorney's fees and disbursements) which may be asserted against or incurred by the non-breaching party as a result of the breach. This representation shall survive the expiration or sooner termination of this Lease.

Landlord and Tenant have signed this Lease at the place and on the dates specified adjacent to their signature below and have initialed all Exhibits which are attached to or incorporated by reference in this Lease.

Signed on:

LAND LORD

The Rector, Wardens & Vestry of
Name of the Church

By: _____

Name:

Title:

Signed on:

TENNANT

The Name of the School

By: _____

Name:

Title:

Appendix D: Sample Leases – School Renewals

CHURCH SCHOOL LEASE AGREEMENT RENEWAL INSTRUCTIONS

1. This form should be used for the preparation of Church School/Pre-School/Daycare Center Renewal found on:
 - a. <https://dioceseofnewark.org/sites/default/files/resources/Contract-ChurchSchoolRealEstateLease-2016.doc>
2. In an effort to streamline the process, the details in the lease that need to be updated are shown in “green” and capitalized for easy identification
3. So that the Standing Committee can expedite the approval of the annual or multi-year lease, suggestions for your consideration on the clauses that will be affected follow:
4. **Section 1.08** – Outlines the proposed increases year-on-year versus the base lease and the periods for which those increases are in effect.
5. At a minimum, the SC suggests that the annual increase be set as a ‘floor’ for the additional years covered in the lease – i.e., if the first additional year uses a 4% increase then the year-on-year increases for all additional years should not be lower than 4%. – See Section 2.03d in the base lease.
 - i. In addition to consulting a certified real estate professional for advice on the prevailing space use costs for similar space in your area, and making appropriate corrections accordingly, the SC recommends that you also consult the following for annual increases in your lease:
 1. The Cost of Living Adjustment – COLA
 - a. Details of the COLAs for our areas can be found here:
 - i. <https://www.ssa.gov/OACT/COLA/colaseries.html>
 2. The London Inter-bank Offered Rate – LIBOR
 - a. LIBOR is a benchmark rate that some of the world’s leading banks charge each other for short-term loans and serves as the first step to calculating interest rates on various loans throughout the world.
 - b. Details of the LIBOR rates can be found here:
 - i. <http://www.macrotrends.net/1433/historical-libor-rates-chart>
6. **Section 4.03 Utilities:** The ideal circumstances for the payment of all utilities by the *SCHOOL* would be to have designated meters for the *SCHOOL*. However, if this is not a feasible option then the SC committee recommends the following options for the renewal lease.
 - a. If in the base lease the *CHURCH* is responsible for paying the cost of utilities for the *SCHOOL* then the SC recommends that the *CHURCH* determine the increase in the cost of utilities incurred by the *CHURCH* pre and post the time start of the base lease and renegotiate those terms in additional years in the lease.

Appendix D: Sample Leases – School Renewals

- i. The SC will assist you with this process upon receipt of an email request sent to the following email address:
 1. Suggest that a SC diocesan email address be established which would be monitored by the current President or his/her designee to make this an evergreen document.
7. Security Payment –
 - a. The SC takes no exception to maintaining the Security Payment at the level identified in the base lease and leaves any increases in the Security Payment that the *CHURCH* deems necessary, for whatever reason, to the sole discretion of the *CHURCH*.
8. Once you have completed all of the changes outlined above (including removal of all of the “brackets”), then, utilizing the “Select All” option, simply change the color of the “font” to black and your renewal lease form will be complete.
9. This document is not intended to provide legal advice nor to imply any legal responsibility or obligation on behalf of the diocese, its employees or its attorneys resulting from the use of such forms. Issues relating to the leasing and use of property together with issues involving insurance coverage and property taxes are fact-specific. The resolution of any given issue or the negotiation of any lease or agreement for the use of property will depend upon a variety of factors. This form is provided only as a **vetted** document that has been used in other situations and the SC requires that any lease that you enter in with a third party be provided in this format. If you determine that any section contained herein is not required then the SC requires that you utilize the “strike-out” option (do not delete) and provide an accompanying explanation for deleting this section. Finally the SC strongly recommends that you consult an attorney as part of this process. If for whatever reason you are unable to cover the cost of an attorney, please send an email to the President of the Standing Committee and the SC will make best efforts to provide you with assistance.

Appendix D: Sample Leases – School Renewals

REAL ESTATE LEASE

ARTICLE ONE: BASIC TERMS

This Article One contains the Basic Terms of this Lease between the Landlord and Tenant named below.

Section 1.01. Date of Lease:	MM DD, YYYY
Section 1.02. Landlord:	The Rector Wardens and Vestry of the Name of the Church
Address of Landlord:	Street Address City, NJ Zip Code
Section 1.03. Tenant:	Name of the School
Address of Tenant:	Street Address City, NJ Zip Code
Section 1.04. Property:	Name of the Property that houses the school Street Address City, NJ Zip Code
Section 1.05. Demised Premises:	As shown on Exhibit "A"
Section 1.06. Lease Term:	For a period of XXXX years, beginning on MM DD, YYYY and ending on MM DD, YYYY (the "Termination Date") unless earlier terminated pursuant to Section 2.04 or extended pursuant to the renewal options set forth in Section 2.03.
Section 1.07. Permitted Uses:	A Non Profit School
Section 1.08. Rent and Other Charges Payable by Tenant	
Base Rent:	Year 1: \$XXX,XXX.00 per annum Year 2: \$XXX,XXX.00 per annum Year 3: \$XXX,XXX.00 per annum Year 4: \$XXX,XXX.00 per annum
Section 1.09. Cancellation Option:	As set forth in Section 2.04.
Section 1.10. Renewal Option:	As set forth in Section 2.03.

Appendix D: Sample Leases – School Renewals

Section 1.11. Rent Adjustment Date: MM DD, YYYY, and any anniversary thereof.

Section 1.12. Commencement Date: Notwithstanding any other provision of this Lease, the Commencement Date of this Lease shall be the later of either (a) the date set forth in Section 1.01, or (b) the date on which the consents described in Section 13.15 are granted.

ARTICLE TWO: LEASE TERM:

Section 2.01. Lease of Demised Premises for Lease Term.

Landlord leases the Demised Premises as defined in Section 1.05 to Tenant and Tenant leases the Demised Premises from Landlord for the Lease Term. The Lease Term is for the period stated in Section 1.06 above and shall begin and end on the dates specified in Section 1.06 above, unless extended pursuant to Section 2.03, except that this Lease shall not become effective until the "Commencement Date" specified in Section 1.12.

Section 2.02. Holding Over.

Tenant shall vacate the Demised Premises upon the expiration or earlier termination of this Lease. If Tenant does not vacate the Demised Premises upon the expiration or earlier termination of the Lease and Landlord thereafter accepts rent from Tenant, Tenant's occupancy of the Demised Premises shall be a "month-to-month" tenancy, subject to all of the terms of this Lease applicable to a month-to-month tenancy, except that the Base Rent then in effect shall be increased to one and a half times the Base Rent for the period immediately prior to the hold-over period.

Section 2.03. Renewal Option.

Tenant is granted the right and option to extend the term of this Lease for one renewal period of **two (2) years** with such renewal period commencing **on MM DD, YYYY**, upon the following conditions:

(a) The option must be exercised, if at all, by written notice of Tenant to Landlord given not later than 18 months prior to the Termination Date, time being of the essence. The failure of Tenant to furnish such notice to Landlord in a timely manner as provided in this subsection shall constitute a waiver by Tenant of Tenant's option to renew the Term hereof and shall release Landlord from any obligation to extend the Term.

(b) At the time of exercise of such option, and as of the date of commencement of such renewal period, this Lease shall be in force and there shall exist no default by Tenant that remains uncured beyond any applicable grace period.

Appendix D: Sample Leases – School Renewals

(c) If the foregoing option is effectively exercised, all the terms and conditions contained in this Lease shall continue to apply during the renewal period except that the Base Rent payable during the renewal period shall be in the amount stated in Section 1.08 above as increased by the Index as provided in subparagraph (d) below.

(d) The Base Rent during the renewal period shall be increased as of the commencement of the renewal period (the "Rent Adjustment Date"), and on any anniversary thereof, in accordance with the increase in the [United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers](#) (all items for the geographical Statistical Area in which the Property is located on the basis of 1982-1984 – 100) (the "Index") as follows:

(i) The Base Rent (the "Comparison Base Rent") in effect immediately before the Rent Adjustment Date as defined by Section 1.11 shall be increased by the percentage that the Index has increased from the date (the "Comparison Date") on which payment of the Comparison Base Rent began through the month in which the Rent Adjustment Date occurs. The Base Rent shall not be reduced by reason of such computation. Landlord shall notify Tenant of each increase by a written statement which shall include the Index for the applicable Comparison Date, the Index for the Rent Adjustment Date, the percentage increase between those two Indices, and the new Base Rent.

(ii) Tenant shall pay the new Base Rent from the applicable Rent Adjustment Date until the next Rent Adjustment Date (the anniversary of the original Rent Adjustment Date). Landlord's notice may be given after the applicable Rent Adjustment Date of the increase, and Tenant shall pay Landlord the accrued rental adjustment of the months elapsed between the effective date of the increase and Landlord's notice of such increase within ten (10) days after Landlord's notice but in no event prior to the applicable Rent Adjustment Date. If the format or components of the Index are materially changed after the Commencement Date, Landlord shall substitute an index which is published by the Bureau of Labor Statistics or similar agency and which is most nearly equivalent to the Index in effect on the Commencement Date.

(e) The option to renew granted to Tenant is personal to Tenant and may not be exercised or assigned, voluntarily or involuntarily, by or to any other person or entity other than Tenant.

Section 2.04. Cancellation.

The Tenant shall have the right to cancel this Lease upon written notice to the Landlord. Said termination will be effective at the end of the 18th month following the receipt of notice. In

Appendix D: Sample Leases – School Renewals

other words, if notice were provided in the 12th month, the Lease would terminate at the end of the 30th month.

ARTICLE THREE: BASE RENT

Section 3.01. Time and Manner of Payment.

Except as provided in Section 3.02, on the first day of the first month of the Lease Term and each month thereafter during the Lease Term, Tenant shall pay Landlord one-twelfth of the annual Base Rent and Additional Rent (as hereinafter defined) payable hereunder, in advance, without offset, deduction or prior demand. The Base Rent and Additional Rent shall be payable at Landlord's address, as set forth in Section 1.02 of this Lease, or at such other place as Landlord may designate in writing.

Section 3.02. First-Year Rent.

For the period of the Lease Term prior to MM DD, YYYY, the Base Rent and Additional Rent shall be payable at the same time and in the same manner as described in Section 3.01 above. However, Tenant's monthly payment to Landlord shall be equal to the annual Base Rent and Additional Rent, minus any rent paid by Tenant to Landlord for the period between MM DD, YYYY and the Commencement Date, divided by the number of full months remaining between the Commencement Date and MM DD, YYYY.

ARTICLE FOUR: OTHER CHARGES PAYABLE BY TENANT

Section 4.01. Additional Rent.

Except for Base Rent, all monies required to be paid by Tenant hereunder shall be considered additional rent ("Additional Rent").

In addition to the provisions of Section 4.02 hereof, Tenant shall reimburse the Landlord for 33 1/3% of the costs of trash removal for the Property; and in addition, Tenant shall reimburse the Landlord for 33 1/3% ("Tenant's Percentage") of any annual increase in the Operating Expenses of the Demised Premises over said expenses in the base year of the Lease. For purposes of this section, the base year will be MM DD, YYYY – MM DD, YYYY. For the purposes of this Lease, "Operating Expenses" shall mean, with respect to the Property, the following: (i) landscaping, snow and ice removal of the parking areas, sidewalks, and entrances, (ii) the usage charges for utilities servicing the Property (including, without limitation, if provided, fuel, water, sewer, gas and electric energy charges for the building); (iii) cleaning and general maintenance of the Common Areas; and (iv) related supplies. The costs of trash removal and Operating Expenses are included within the Base Rent for the base year.

Section 4.03. Utilities.

Appendix D: Sample Leases – School Renewals

Landlord agrees to supply, or cause the applicable utility companies to supply all necessary utilities to the Demised Premises. Landlord will pay all utilities for the Demised Premises during the Lease Term except that the Tenant shall be responsible for 33 1/3% of any increases in utility charges pursuant to Section 4.01.

ARTICLE THIRTEEN: MISCELLANEOUS PROVISION

Section 13.15. Standing Committee.

Landlord and Tenant agree that this Lease is subject to the consent of the Bishop and the Standing Committee of the Episcopal Diocese of Newark and is not binding until said consents are granted, which consent shall be evidenced by a letter or other writing, signed by the Bishop or other authorized person who shall, in such writing, represent his authority to sign and deliver such consent. Landlord will diligently seek this consent.

Landlord and Tenant have signed this Lease at the place and on the dates specified adjacent to their signature below and have initialed all Exhibits which are attached to or incorporated by reference in this Lease.

Signed on:

LAND LORD

The Rector, Wardens & Vestry of
Name of the Church

By: _____

Name:

Title:

Signed on:

TENNANT

The Name of the School

By: _____

Name:

Title:

Appendix D: Sample Leases – Day Care

Space and Equipment Use Agreement (Day Care)

By and between
The Rector, Wardens and the Vestry of the
Church of CCCCC (“Church” or “CCCC”)
and
Organization (“User”)

Occupancy Date:	Month DD, YYYY through Month DD, YYYY
Name of Organization (“User”):	Organization
Name of User’s Representative:	User Representative
Address:	Street Address City, New Jersey Zip Code
Business Telephone Number:	###-###-####
Business Fax Number:	###-###-####
Space to be used by User:	Description of the location of the classrooms, entrances, stairwells, restrooms playground and parking facilities, etc.
Equipment to be used:	Own equipment
Days:	Usually Monday through Friday
Times:	7:00 a.m. – 7:00 p.m.
Donation* and Method of Payment:	\$X,XXX.00 per month in Year 1. \$X,XXX.00 per month in Year 2. \$X,XXX.00 per month in Year 3. Payment is due on the first day of each month in advance.

* A donation is required to help defray the cost of utilities and the maintenance of the space, any other facilities, and equipment.

Appendix D: Sample Leases – Day Care

Space and Equipment Use Agreement

This Space and Equipment Use Agreement is made and entered into on the DD of Month, YYYY, by and between the Name of the Church, Street Address, City, New Jersey (hereinafter referred to as “Church” or “CCCCC”) and “the Name of the Organization”, Street Address, City, New Jersey (hereinafter referred to as “Day Care Center”).

WHEREAS, the Church owns the building and surrounding land known as The Church of CCCCC, and

WHEREAS, the Day Care Center desires to use a portion of the Church’s building, facilities and equipment and a portion of the surrounding land,

THEREFORE, in recognition of the mutual promises contained herein and other good and valuable consideration passing between the parties, The Church of CCCCC and the Day Care Center agree as follows:

SECTION 1. Premises – The following gives a list of options that may define the Space and limits access in some cases

- a.) The Day Care Center shall have the use of the space and facilities at the Church that comprise the classrooms in the undercroft of the Church and the restroom on the lower level that have prior to this agreement been used by and as a day care center.
- b.) The Day Care Center shall have use of the outside fenced in yard/playground area on Church Street side of the Church and abutting the space and facilities denoted in subsection a above. The Church may use this space if it is not in use by the Day Care Center.
- c.) The Day Care Center shall have sole use of the separate entrance from the Church parking lot to the Day Care Center.
- d.) The Day Care Center and the Church shall share the space, including the stairs that comprise the stairwell and hallway leading from the Day Care Center to the South Orange Avenue entrance to the Church’s Parish Hall.
- e.) However, the Day Care Center shall not have access to the Church’s Parish Hall except with specific written permission of the Rector and Wardens of the Church.
- f.) The Day Care Center shall have access to X number of parking spaces in the Church’s parking lot.
- g.) The space described in subsections a, b, and c, above shall hereinafter be referred to as “Premises”.

Section 2. Use of Premises –

- a.) The Premises shall be used solely as a Day Care Center.
- b.) The Day Care Center shall not sub-let, assign, or permit the Premises to be used in whole or in part by an entity not a party to this Agreement.

Appendix D: Sample Leases – Day Care

- c.) The Day Care Center shall not use said premises for activities other than those directly related to providing day care services for children without obtaining prior written authorization from the Rector and Wardens of the Church. Such requests shall be made in writing at least 30 days before any proposed event.
- d.) The Day Care Center shall not engage in any activities that shall impede the use of the areas outside of the Premises by the staff and parishioners of The Church. In the event the Day Care Center shall require areas outside of those areas specifically described as “Premises”, a request for such use must be submitted to the Rector and Wardens of the Church at least 30 days prior to such intended use.

Section 3. Licenses and Permits –

- a.) The Day Care Center is responsible for all necessary state and municipal permits and licenses required by law or regulation to operate a day care center at the Church.
- b.) If Day Care Center does not obtain or does not continue to have all necessary state and municipal permits and licenses, this Agreement shall terminate immediately, notwithstanding the provisions in Section 10, Termination, and the Day Care Center shall vacate the premises immediately.
- c.) Day Care Center shall provide a copy of said licenses and permits to the Church.

Section 4. Use and Care of Premises –

- a.) The Day Care Center hereby agrees to abide by the rules of the Church as to Proper Use and Care of Rooms, Facilities, and Equipment. A copy of the current rules are attached and incorporated into this Agreement.
- b.) Stairways, stairwells, landings and all access areas and entrances must always be accessible. It is recognized and understood that clutter of any type presents a hazardous condition. Stairways, stairwells, landings and all access areas and entrances shall not be used as storage space. In the event that the Day Care Center does not abide by this provision, the Church may arrange for the removal of said items in order to maintain a safe condition. The cost of such removal will be at the expense of the Day Care Center.

Section 5. Repairs and Maintenance –

- a.) The Day Care Center shall obtain prior written approval from the Rector and Wardens of the Church before any installations, improvements; major alterations or upgrading is carried out. Requests for such installations, improvements, major alterations or upgrading must be made in writing, accompanied by sketches or drawings with details of proposed work, including projected cost, for review and necessary action by the Church. At no time will a contractor be utilized that has not been previously approved by the Church. The Church will exercise diligence and promptness in responding to requests and shall cooperate with Day Care Center in implementing such requests.

Appendix D: Sample Leases – Day Care

- b.) In the event that Day Care Center must make alterations to the Premises in order to comply with the requirements of any state and municipal regulations and/or licenses, the cost of said alterations shall be borne by the Day Care Center.
- c.) The Church will give appropriate notice to the Day Care Center if changes to the physical plant are anticipated.
- d.) The Day Care Center shall:
 - 1) Be liable for the cost of repairing all damage caused by the Day Care Center's act or neglect.
 - 2) Keep the Day Care Center space and any other part of the Church used by the Day Care Center as clean and safe as possible.
 - 3) Remove from the Day Care Center all garbage and debris and place such garbage and debris in covered garbage pails at the close of each business day.
 - 4) Do nothing to cause a cancellation or an increase in the Church's fire or liability insurance.
 - 5) Use no more electricity than the wiring to the Day Care Center or the feeders to the Church can safely carry.
 - 6) Do nothing to destroy, deface, damage or remove any part of the Center or Church.
 - 7) Keep nothing flammable or dangerous in the Day Care Center.
 - 8) Be liable to repair and maintain in working order the stove, refrigerator, if any, and air conditioner(s) if any.
 - 9) Immediately notify the Rector, Wardens or Property Chair in the event of an emergency that occurs while your group is present: e.g., fire, broken water pipe, discontinuation of heat or electricity, the need for emergency services: police, fire, ambulance, etc.
- e.) The Church shall:
 - 1) Maintain the common areas of the Church in a clean condition.
 - 2) Make any necessary repair to the Day Care Center and vital facilities within a reasonable time after notice by the Day Care Center. The Day Care Center shall submit requests in writing to the Rector and Wardens for repairs to the Premises prior to taking any action on the repairs. In the event of any emergency, Day Care Center shall seek remediation using contractors or resources from a Church endorsed list of providers.

Section 6. Utilities –

The Church shall pay for all utilities, namely electricity, water, heat and gas. However, the Day Care Center will use due care and diligence in the utilization of such utilities to avoid excessive utility charges to the Church.

Section 7. Indemnification –

Day Care Center agrees to indemnify and hold harmless the Church, its Rector, Wardens and Vestry, and any of its officers, agents and employees from any and all claims, damages, costs and expenses, including reasonable attorney's fees, arising out of or connected in any

Appendix D: Sample Leases – Day Care

manner with the Day Care Center's use and or presence upon said Premises or presence upon or use of any other portion of Church property or the use or presence of the Day Care Center's officers, employees, members, agents, clients, potential clients, visitors, or by anyone having or seeking a business relationship with the Day Care Center.

Section 8. Liability Insurance –

- a.) The Day Care Center agrees to maintain liability insurance in an adequate amount for the protection of the Church, its Rector, Wardens, Vestry, officers, agents and employees against any claim of loss, damages or costs. At a minimum the Day Care Center must maintain the following minimums:
- \$250,000 for property damage,
 - \$500,000 for injuries to one person
 - \$1,000,000 for injuries to more than one person in any accident or occurrence.

and list the Church as the second insured on the Day Care Center insurance policy.

- b.) The Day Care Center shall submit a current Certificate of Insurance to the Church within one week of signing this Agreement and shall submit new Certificates to the Church office, no later than 30 days prior to the expiration of the Certificate of Insurance currently on file with the Church. Failure to provide such insurance shall provide an immediate basis for termination and the Day Care Center shall cease its operations at the premise until such certification is received.
- c.) The Day Care Center shall notify the Church Representative in writing within 48 hours of its being notified, reported or told of any breakage, damage, inconvenience and/or accident caused or suffered by the Day Care Center or by its employees, agents, clients, potential clients, visitors, or by anyone having or seeking a business relationship with the Day Care Center.

Section 9. Duration of Agreement –

- a.) This Agreement shall be for a Y-year term commencing on Month, DD, YYYY through Month, DD, YYYY.
- b.) This Agreement may be renewed by the parties in writing for additional one-year terms upon the terms and conditions agreed to by the parties at the time or renewal.
- c.) Either the Church or the Day Care Center shall notify in writing to the other party of its intent to renew or not renew this Agreement at least 60 days before the end of the term.

Section 10. Termination –

- a.) Either party may terminate this Agreement if the other party does not abide by the terms and conditions of this Agreement, upon the one party giving the non-complying party 10 days advance written notice, unless the non-complying party can

Appendix D: Sample Leases – Day Care

bring itself into compliance with this Agreement with 5 days of its receipt of such notice.

- b.) The Church may terminate this Agreement for no cause upon providing 90 days advance written notice to the Day Care Center.
- c.) The Day Care Center may terminate this Agreement without cause upon providing 90 days advance written notice to the Church.

Section 11. Payment by Day Care Center –

- a.) The Day Care Center agrees to pay and will pay the Church \$X,XXX.00 per month in the first year, to be increased by X% in each succeeding year through the three year term of the Lease. It is understood that this amount is inclusive of utilities, normal wear and tear, the aforementioned maintenance and repairs.
- b.) The Day Care Center shall provide to the Church, on a calendar quarter basis, financial information as to its gross receipts and any other financial information requested in writing by the Church.
- c.) All payments are due on the first of each calendar month.
- d.) In the event a payment is not received by the 15th of the month in which it is due, a late charge of \$50 will also be payable.

Section 12. Modifications –

This Agreement may be modified from time to time by the parties but such modifications shall be effective only if it is in writing and signed by both parties.

Section 13. Keys

- a.) The Day Care Center shall provide keys to all areas of the Premises to a representative of the Church for use in emergency circumstances.
- b.) The Church shall provide the key to Premises to the Day Care Center. The providing of such key is subject to the “Security Regulation – Key Control Agreement” attached hereto and incorporated herein.

Section 14. Miscellaneous –

- a.) All requests and notices required under this Agreement shall be in writing. Notices and requests from the Day Care Center shall be directed to the Wardens and Vestry of the Church. Notices and requests from the Church shall be directed to the Director of the Day Care Center.
- b.) The Church shall provide one permanent parking spot for the Director of the Day Care Center.

Appendix D: Sample Leases – Day Care

Section 15. Standing Committee –

Landlord and Tenant agree that this Lease is subject to the consent of the Bishop and the Standing Committee of the Episcopal Diocese of Newark and is not binding until said approvals are granted, which approval shall be evidenced by a letter or other writing, signed by the Bishop or other authorized person who shall, in such writing, represent his authority to sign and deliver such consent. Landlord will diligently seek this approval.

The parties agree to be bound by this Agreement, its Terms and Conditions, Key Control Agreement and any Attachments as of this ____ day of Month, YYYY.

The Rev. Name, Rector

Church of CCCCC

Date: Month, DD, YYYY

Name of Representative, Title

Name of Organization

Appendix D: Sample Leases – Day Care

The Church of CCCCCC City, New Jersey Zip Code

KEY CONTROL AGREEMENT

User:: Organization
Key-Holder's Name: User Representative
Key-Holder's Address: Street Address
City, New Jersey Zip Code
Key-Holder's Telephone Number: ###-###-#### (Business)
Key-Holder's Telephone Number: ###-###-#### (Fax)

I acknowledge receipt of Key # _____, and agree to maintain it under my personal control at all times during our use of the premises and facilities at the Church of CCCCCC, City, New Jersey, or in a secure location if not at the premises or facilities. I further agree not to duplicate or attempt to duplicate this key, and to return the key to the Church office upon termination of use of the Church's facilities, or upon demand. Should I be replaced as Key-Holder by any person from my group/organization, I will notify the church liaison. A similar form may be executed with the new Key-Holder before he/she takes possession of this key. In the event of loss or theft of this key, I agree to immediately notify the church liaison named below.

I also understand that this is the only key my group or organization will be assigned. I understand that this key is part of a non-duplicable key and lock system presently established on the church premises. I agree that should this key be lost or stolen through my negligence, I and the group/organization to which I belong shall pay for the whole cost of another key and lock system comparable to the one now established on the church premises.

This agreement also includes a key to the Church Alarm System for User's area.

The Reverend. Name, Rector

Church of CCCCCC

Street Address

City, New Jersey, Zip Code

Name, Title

Organization

Street Address

City, New Jersey, Zip Code

Appendix D: Sample Leases – Single Use Contract

***The Name of the Church
Street Address
City, New Jersey Zip Code***

FACILITIES AND EQUIPMENT USE AGREEMENT

By and between
The Rector, Wardens and the Vestry of the
Church of CCCCC ("Church" or "CCCCC")
and
Individual or Group ("User")

Occupancy Date:	Month Day, YYYY
Name of Organization ("User"):	User Name
Name of User's Representative:	User Representative
Address:	Street Address City, New Jersey Zip Code
Preferred Telephone Number:	###-###-####
Email Address:	XXX#####@.....
Space to be used by User:	Room(s)
Equipment to be used:	Equipment Description
Days:	Weekday, Month DD, YYYY
Times:	Time range e.g., 1:00 p.m. – 6:00 p.m.
Donation* and method of Payment:	\$XXX.XX including clean-up \$100.00 refundable deposit

* A donation is required to help defray the cost of utilities and the maintenance of the space, any other facilities, and equipment.

Appendix D: Sample Leases – Single Use Contract

*The Church of CCCCCC
Street Address
City, New Jersey Zip Code*

Terms and Conditions

I. AGREEMENT TO INDEMNIFY AND HOLD HARMLESS

In consideration of being allowed to use and using portions of the premises and facilities of the Church, the User agrees to indemnify and hold harmless the Church and its officers, agents and employees from and against all claims, damages, and expenses, including reasonable attorney's fees arising out of or connected with the User's presence upon or use of said premises of the Church or by the User's officers, employees, members, agents, clients, visitors, or by anyone having or seeking a business relationship with User.

II. AGREEMENT TO MAINTAIN LIABILITY INSURANCE

User agrees to maintain liability insurance of not less than \$250,000 for property damage, \$500,000 for injuries to one person and \$ 1,000,000 for injuries to more than one person in any accident or occurrence for the protection of User's organization, its officers, employees, and members against the claims of anyone who charges that User's organization, its officers, employees or members have legal responsibility for damages suffered by the claimant at the Church premises. The insurance policies shall be with companies authorized to do business in this State and shall be delivered to the Landlord, together with proof of payment, not less than fifteen (15) days prior to the commencement of the term when the Tenant shall enter in possession, whichever occurs sooner. At least fifteen days prior to the expiration or termination date of any policy, the Tenant will provide a renewal or replacement policy with proof of the payment.

User's liability insurance carrier's name, address and telephone number:

Liability Insurance Carrier's:

Name:

Address 1:

Address 2:

City, State Zip code:

User's Policy #:

User will submit a current Certificate of Insurance to the Church within one week of signing this agreement with the Church listed as the second insured. Failure to submit a current Certificate of Insurance to the Church will void the contract or it is deemed to be automatically terminated.

Appendix D: Sample Leases – Single Use Contract

III. GENERAL REGULATIONS

The Church requires that all organizations, groups, or Individuals using parish facilities agree to the following:

1. Abide by the Agreement, its Terms and Conditions, and any and all Attachments.
2. Leave all facilities and equipment clean.
3. Use only the room(s) and/or area(s) and the equipment specified in this agreement.
4. Shall notify the Church Representative in writing within 48 hours of its being notified, reported or told of any breakage, damage, inconvenience and/or accident caused or suffered by the Group, its employees, agents, clients, potential clients, visitors, or by anyone having or seeking a business relationship with the Group.
5. Understand that any repair or replacement costs due to damage or pilferage will be assessed in addition to the agreed upon donation.

IV. PROPER USE AND CARE OF ROOMS, FACILITIES, AND EQUIPMENT

WHEN YOU ENTER

1. Turn off the alarm and turn on only those lights that are needed.
2. Open only those doors and windows necessary for convenience and comfort.
3. Set up room(s) to be used.
4. Permit no animals - pets or strays - in to the building (with the exception of aid dogs for the handicapped).

WHEN YOU LEAVE

1. Clean up any spills and litter in the room(s) and lavatories.
2. If food or beverages have been served to or by the group, be sure that any leftovers have been either disposed of properly or taken home.
3. Restore the room(s) and equipment to the way they were found.
4. Be sure all water faucets are turned off.
5. If the stove has been used, be sure that all burners and ovens are turned off.
6. Be sure any electrical appliances and/or coffee makers have been unplugged, cleaned, and put away properly.
7. Be sure all outside doors are locked.
8. Be sure all windows are closed and secured.
9. Turn off all lights in room(s) and lavatories.
10. Be sure any outside lights at entrances and parking areas are turned off and/or that "timers" have been set so that their lights will go off automatically.
11. Check to see that all group members and guests have left, the alarm has been set, and that the last exit door has been locked securely.

Appendix D: Sample Leases – Single Use Contract

V. TERMINATION

The Church may terminate this Agreement, for cause with 3 days advance written notice or, for no cause at all, with 15 days advance written notice of such termination. User may terminate this Agreement, for cause or no cause at all, upon giving the Church of CCCCCC 30 days advance written notice of such termination. Upon termination, the User shall remove any and all equipment it may have stored on the premises and facilities.

VI. MODIFICATIONS

This Agreement may be modified from time to time but only if a modification is in writing and signed by both parties.

The parties agree to be bound by this Agreement, its Terms and Conditions, the Key Control Agreement and any Attachments as of this XX day of “Month”, YYYY.

Name:

Title:

Church of CCCCCC

Name:

Title:

Appendix D: Sample Leases – Single Use Contract

*The Church of CCCCCC
Street Address
City, New Jersey Zip Code*

KEY CONTROL AGREEMENT

User: **User Name**

Key-Holder's Name: **User Representative**

Key-Holder's Address: **User Street Address
City, New Jersey Zip Code**

Key-Holder's Telephone Number: **###-###-####**

I acknowledge receipt of Key # **XXXXXXX** and agree to maintain it under my personal control at all times during our use of the premises and facilities at the **Church of CCCCCC, Street Address, City, N. J.**, or in a secure location if not at the premises or facilities. I further agree not to duplicate or attempt to duplicate this key, and to return the key to the Church office upon termination of use of the Church's facilities, or upon demand. Should I be replaced as Key-Holder by any person from my group/organization, I will notify the church liaison. A similar form may be executed with the new Key-Holder before he/she takes possession of this key. In the event of loss or theft of this key, I agree to immediately notify the church liaison named below.

I also understand that this is the only key my group or organization will be assigned. I understand that this key is part of a non-duplicable key and lock system presently established on the church premises. I agree that should this key be lost or stolen through my negligence, I and the group/organization to which I belong shall pay for the whole cost of another key and lock system comparable to the one now established on the church premises.

This agreement also includes a key to the Church Alarm System for User's area.

Name:
Church of CCCCCC

Key Holder:

Date:

Appendix D: Sample Leases – Single Use Contract

Church of CCCCCC
Street Address
City, New Jersey Zip Code

Month DD, YYYY

Mr. /Ms. User Representative
User Name
Street Address
City, New Jersey Zip Code

Dear User Representative;

I am enclosing two copies of the Facilities and Equipment Use Agreement, Terms and Conditions pertaining to the use of 'description of room(s)' at the Church of **CCCCCC**. Please sign both copies and return them to my attention at the Church in the pre-addressed envelope provided. Once the Agreement is executed by the Church, we will give you an executed copy.

The space-use agreement fee is **\$XXX.XX** including \$100.00 for clean-up. In addition we require a **\$100.00** refundable deposit check (made payable to the church) to protect against other loses (including breakage). Presuming that you abide by the tenants of our agreement, this check will be returned to you no longer than 10 days after your event.

If you have any questions, please call me at the Church (**###-###-####**).

Sincerely,

Name of Church Representative

Title of Church Representative

Appendix D: Sample Leases – Annual Contract

FACILITIES AND EQUIPMENT USE AGREEMENT

By and between
The Rector, Wardens and the Vestry of the
Church of CCCCCC ("Church" or "CCCCCC")
and
The XXXXXX Group ("User")

Occupancy Date: Month DD, YYYY through Month DD, YYYY

Name of Organization ("User"): The Group ("User")

Name of User's Representative: Representative

Address: Street Address
City, New Jersey 07079

Business Telephone Number:

Home Telephone Number: XXX-XXX-XXXX

Space to be used by User: Room(s)

Equipment to be used: ## Chairs and ## Tables.

Days: Every 'day of the week'

Times: X:XX p.m. – XX:XX p.m.

Donation* and Method of Payment: \$XXX.XX per calendar month, payable to the Church by the first of each month.

- * A donation is required to help defray the cost of utilities and the maintenance of the space, any other facilities, and equipment.

Appendix D: Sample Leases – Annual Contract

The Church of CCCCCC Church Address

Terms and Conditions

I. AGREEMENT TO INDEMNIFY AND HOLD HARMLESS

In consideration of being allowed to use and using portions of the premises and facilities of the Church, User agrees to indemnify and hold harmless the Church and its officers, agents and employees from and against all claims, damages, and expenses, including reasonable attorney's fees arising out of or connected with User's presence upon or use of said premises of the Church or by User's officers, employees, members, agents, clients, visitors, guests or by anyone having or seeking a business relationship with User.

II. AGREEMENT TO MAINTAIN LIABILITY INSURANCE

User agrees to maintain liability insurance of not less than \$250,000 for property damage, \$500,000 for injuries to one person and \$ 1,000,000 for injuries to more than one person in any accident or occurrence for the protection of User's organization, its officers, employees, and members against the claims of anyone who charges that User's organization, its officers, employees or members have legal responsibility for damages suffered by the claimant at the Church premises. The insurance policies shall be with companies authorized to do business in this State and shall be delivered to the Landlord, together with proof of payment, not less than fifteen (15) days prior to the commencement of the term when the Tenant shall enter in possession, whichever occurs sooner. At least fifteen days prior to the expiration or termination date of any policy, the Tenant will provide a renewal or replacement policy with proof of the payment.

Liability Insurance Carrier's:

Name:

Address 1:

Address 2:

City, State Zip code:

User's Policy #:

User will submit a current Certificate of Insurance to the Church within one week of signing this agreement with the Church listed as the second insured. Failure to submit a current Certificate of Insurance to the Church will void the contract or it is deemed to be automatically terminated.

Appendix D: Sample Leases – Annual Contract

III. GENERAL REGULATIONS

The Church requires that all organizations, groups, or Individuals using parish facilities agree to the following:

1. Abide by the Agreement, its Terms and Conditions, and any and all Attachments.
2. Leave all facilities and equipment clean.
3. Use only the room(s) and/or area(s) and the equipment specified in this agreement.
4. Shall notify the Church Representative in writing within 48 hours of its being notified, reported or told of any breakage, damage, inconvenience and/or accident caused or suffered by the Group, its employees, agents, clients, potential clients, visitors, or by anyone having or seeking a business relationship with the Group.
5. Acknowledge that any repair or replacement costs due to damage or pilferage will be assessed in addition to the agreed upon donation.
6. Immediately notify the Rector, Wardens or Property Chair in the event of an emergency that occurs while your group is present: e.g., fire, broken water pipe, discontinuation of heat or electricity, the need for emergency services: police, fire, ambulance, etc.

IV. PROPER USE AND CARE OF ROOMS, FACILITIES, AND EQUIPMENT

WHEN YOU ENTER

1. Turn off the alarm and turn on only those lights that are needed.
2. Open only those doors and windows necessary for convenience and comfort.
3. Set up room(s) to be used.
4. Permit no animals - pets or strays - in to the building (with the exception of aid dogs for the handicapped).

WHEN YOU LEAVE

1. Clean up any spills and litter in the room(s) and lavatories.
2. If food or beverages have been served to or by the group, be sure that any leftovers have been either disposed of properly or taken home.
3. Restore the room(s) and equipment to the way they were found.
4. Be sure all water faucets are turned off.
5. If the stove has been used, be sure that all burners and ovens are turned off.
6. Be sure any electrical appliances and/or coffee makers have been unplugged, cleaned, and put away properly.
7. Be sure all outside doors are locked.
8. Be sure all windows are closed and secured.
9. Turn off all lights in room(s) and lavatories.
10. Be sure any outside lights at entrances and parking areas are turned off and/or that "times" have been set so that their lights will go off automatically.

Appendix D: Sample Leases – Annual Contract

11. Check to see that all group members and guests have left, the alarm has been set, and that the last exit door has been locked securely.

V. TERMINATION

The Church may terminate this Agreement, for cause with 3 days advance written notice or, for no cause at all, with 15 days advance written notice of such termination. User may terminate this Agreement, for cause or no cause at all, upon giving the Church of CCCCCC 30 days advance written notice of such termination. Upon termination, the User shall remove any and all equipment it may have stored on the premises and facilities.

Modifications

This Agreement may be modified from time to time but only if a modification is in writing and signed by both parties.

The parties agree to be bound by this Agreement, its Terms and Conditions, Key Control Agreement and any Attachments as of this ___ day of _____, YYYY,

Name:

Title:

Church of CCCCCC

Name:

Title:

Appendix D: Sample Leases – Annual Contract

The Church of CCCCCC City, New Jersey Zip Code

KEY CONTROL AGREEMENT

(i) User:

(ii) Name of Organization ("User"):

Key-Holder's Name:

Name of User's Representative:

Key-Holder's Address:

Street Address
City, New Jersey Zip Code

Key-Holder's Telephone Number(s):

###-###-#### Business
###-###-#### Home or Cell Phone

I acknowledge receipt of Key #_____, and agree to maintain it under my personal control at all times during our use of the premises and facilities at the Church of CCCCCCCCCCCCCC in City, New Jersey, or in a secure location if not at the premises or facilities. I further agree not to duplicate or attempt to duplicate this key, and to return the key to the Church office upon termination of use of the church's facilities, or upon demand. Should I be replaced as Key-Holder by any person from my group/organization, I will notify the church liaison. A similar form may be executed with the new Key-Holder before he/she takes possession of this key. In the event of loss or theft of this key, I agree to immediately notify the church liaison named below.

I also understand that this is the only key my group or organization will be assigned. I understand that this key is part of a non-duplicable key and lock system presently established on the church premises. I agree that should this key be lost or stolen through my negligence, I and the group/organization to which I belong shall pay for the whole cost of another key and lock system comparable to the one now established on the church premises.

This agreement also includes a key to the Church Alarm System for User's area.

Name:

Key Holder:

Church of CCCCCC

Date:

Appendix D: Sample Leases – Annual Contract

The Episcopal Church of CCCCCC
Street Address
City, New Jersey Zip Code

Month DD, YYYY

Name of Organization (“User”)
Street Address
City, New Jersey Zip Code

Dear Mr. or Ms. ‘Name of User’s Representative’:

I am enclosing two copies of the Facilities and Equipment Use Agreement, Terms and Conditions, and Key Control Agreement pertaining to the use of the Room(s) at The Church of CCCCCC. Please sign both copies and return them to my attention at the Church. Once the Agreement is executed by the Church, we will give you an executed copy.

As is our practice, the Agreement is for the use of the Room(s) on Weekday(s) from Month DD, YYYY through Month DD, YYYY. The space-use agreement fee is \$XXX.XX per calendar month and will be due on or before the first of each month.

If you have any questions, please call me at the Church (###-###-####).

Very truly yours,

Church Representative
Title of Church Representative

Appendix D: Sample Leases – Lease of Rectory

LEASE AGREEMENT FOR RECTORY

This Lease Agreement is made on MM, DD, YYYY

BETWEEN

“The Name of the Church”, Diocese of Newark

whose address is

Street Address, City, New Jersey Zip Code

referred to as the “Landlord,”

AND

Name of the Tenant

whose address is

Street Address, City, New Jersey Zip Code

referred to as the “Tenant.”

1. Premises. **The Landlord does hereby lease to the Tenant and the Tenant does hereby rent from the Landlord, the following described premises:**

The property known as The Rectory of “The Name of the Church” located at Street Address, City, New Jersey Zip Code.

2. Term. **This Lease is for a term of one (1) year commencing on MM, DD,YYYY, and ending on MM, DD,YYYY.**

Appendix D: Sample Leases – Lease of Rectory

3. Use. The Premises are to be used and occupied only and for no purpose other than a single family residence for the following persons: Only Tenant signing this Lease and the spouse and children of that Tenant may live in the Property. The Tenant will not, and will not allow others, to occupy or use the Premises or any part thereof for any purposes other than as specified in this Paragraph 3, nor for any business or professional purpose or any purpose deemed unlawful, disreputable, or extra hazardous, on account of fire or other casualty.

4. Rent. The Tenant agrees to pay rent at the rate of \$X, XXX.00 per month, due on the First day of each month. The first payment of rent and any security deposit is due upon the signing of the Lease by the Tenant. The Tenant must pay a late charge of \$XXX.00 as additional rent for each payment that is more than ten (10) days late. This late charge is due with the monthly rent payment. Tenant is responsible for any and all bank charges incurred by the Landlord for dishonored checks by the Tenant for any reason including but not limited to insufficient funds, uncollected funds, or account closed. Landlord reserves the right to file for eviction of Tenant and collection including but not limited to any and all bank charges, late fees, back rent, filing fees and attorney costs. If the Tenant does not pay the rent within 60 days after it is due, the Tenant will be considered to be in default of the Lease and may be evicted consistent with the terms outlined in clauses 20 and 21.

5. Additional Rent. If the Tenant fails to comply with any agreement in this Lease, the Landlord may do so on behalf of the Tenant. The Landlord may charge the cost to comply to the Tenant as “additional rent.” This includes reasonable attorney’s fees incurred by the Landlord as a result of the Tenant’s violation of any Lease agreement. The additional rent shall be due and payable as a rent with the next monthly rent payment. Nonpayment of additional rent gives the Landlord the same rights against the Tenant as if the Tenant failed to pay their rent.

6. Security Deposit. The Tenant has made a security deposit of \$X,XXX.00 with the Landlord as security that the Tenant will comply with all the terms of this lease. If the Tenant complies with the terms of this Lease, the Landlord will return this deposit within thirty (30) days after the end of the Lease, including any extension. The Landlord may use as much of the deposit necessary to pay for damages resulting from the Tenant’s occupancy. If this occurs prior to the Lease termination, the Landlord may demand that the Tenant replace the amount of the security deposit used by the Landlord. Interest on the Security belongs to the Tenant less Landlord’s administration expense allowed by law. Security deposit is not being applied against the last rental period. All damages, cleaning services, late charges, utility fees and/or expenses not paid to date will be netted out against the security deposit.

Appendix D: Sample Leases – Lease of Rectory

7. **Repairs and Care.** The Tenant has examined the premises and has entered into this Lease without any representation on the part of the Landlord as to the condition thereof. The Tenant shall take good care of the premises and shall at the Tenant's own cost and expense, make all repairs, including painting, decorating, and shall maintain the premises in good condition and state of repair, and at the end or other expiration of the term hereof, shall deliver up the rented premises in good order and condition, wear and tear from a reasonable use thereof, and damage by the elements not resulting from the neglect or fault of the Tenant, excepted. The Tenant shall neither encumber nor obstruct the sidewalks, walkways, driveways, yards, entrances, hallways and stairs, but shall keep and maintain the same in a clean condition, free from debris, trash, refuse, snow and ice. All repairs in excess of \$500.00 shall be approved by the Landlord. The Tenant shall be responsible for all operating expenses for the subject property together with all utilities (including water and sewer) and operating costs, costs of snow removal, lawn care, cleaning and maintenance. The Landlord is not liable for any stoppage or reduction of services beyond the Landlord's control. This does not excuse the Tenant from paying rent.

If the Tenant leaves any property in the Property, the Landlord may:

- a. Dispose of it and charge the Tenant for the cost of disposal, or
- b. Keep it as abandoned Property.

The Tenant shall:

- a. Be liable for the cost of repairing all damage caused by the Tenant's act or neglect. This includes damage caused by the Tenant's family and domestic employees.
- b. Promptly notify the Landlord of conditions that need repair.
- c. Take good care of the Property and all equipment and fixtures in it.
- d. Obey any written instructions of the Landlord for the care and use of the appliances, equipment and other personal property in the Property.
- e. Keep the Property and any other part of the building used by the Tenant as clean and safe as possible.
- f. Remove from the Property all garbage and debris and place in covered pails.
- g. Use all electric, plumbing and other facilities safely.
- h. Do nothing to cause a cancellation or an increase in the cost of Landlord's fire or liability insurance.
- i. Use no more electricity than the siring to the Property or feeders to the building can safely carry.

Appendix D: Sample Leases – Lease of Rectory

- j. Do nothing to destroy, deface, damage, or remove any part of the Property or building.
- k. Keep nothing flammable or dangerous in the Property.
- l. Do nothing to destroy the peace and quiet of the Landlord, other tenants, or persons in the neighborhood.
- m. The Tenant will remove all of the Tenant's property at the end of the Lease.

Alterations and Improvements. **No alterations, additions or improvements shall be made, and no climate regulating, air conditioning, cooling, heating or sprinkler systems, television or radio antennas, heavy equipment, apparatus and fixtures, shall be installed in or attached to the leased premises, without the written consent of the Landlord. Unless otherwise provided herein, all such alterations, additions or improvements when made, installed in or attached to the said premises, shall belong to and become the property of the Landlord and shall be surrendered with the premises and as part thereof upon the expiration or sooner termination of this Lease, without hindrance, molestation or injury. All changes or additions made without the Landlord's written consent shall be removed by the Tenant on demand.**

9. **Signs. The Tenant shall not place nor allow to be placed any signs, upon, in or about the said premises, except as may be consented to by the Landlord in writing, which consent shall not be unreasonably withheld. Any signs permitted by Landlord shall at all times conform with all municipal ordinances or other laws and regulations applicable thereto.**

10. **Compliance with Laws etc. The Tenant shall promptly comply with all laws, ordinances, rules, regulations, requirements and directives of all Governmental or Public Authorities and of all their subdivisions, applicable to and affecting the said premises, their use and occupancy, and shall promptly comply with all orders, regulations requirements and directives of the Board of Fire Underwriters or similar authority and of any insurance companies which have issued or are about to issue policies of insurance covering the said premises and its contents, for the prevention of fire or other casualty, damage or injury, at the Tenant's own cost and expense. Tenant shall be responsible for the installation and maintenance of all smoke alarms, fire alarms, extinguishers as required by local and state fire codes and insurance regulations.**

11. **Assignment and Subleasing. The Tenant may not, without the written consent of the Landlord, assign, mortgage or hypothecate this Lease.**

12. **Liability Insurance. The Tenant, at Tenant's own cost and expense, shall obtain or provide and keep in full force for the benefit of the Landlord, and acceptable to Landlord in its sole discretion, during the term hereof, liability insurance including both property damage and general liability coverage insuring the Landlord against any and all liability or claims of liability arising out of, occasioned by or resulting from any accident or otherwise in or about**

Appendix D: Sample Leases – Lease of Rectory

the leased premises for injuries to any persons, for limits of not less than \$250,000 for property damage, \$500,000 for injuries to one person and \$1,000,000 for injuries to more than one person in any accident or occurrence. The insurance policies shall be with companies authorized to do business in this State and shall be delivered to the Landlord, together with proof of payment, not less than fifteen (15) days prior to the commencement of the term hereof or of the date when the Tenant shall enter in possession, whichever occurs sooner. At least fifteen days prior to the expiration or termination date of any policy, the Tenant shall deliver a renewal or replacement policy with proof of the payment of the premium therefore.

13. **Indemnification.** The Tenant also agrees to and shall hold harmless and indemnify the Landlord from and for any and all payments, expenses, costs, attorneys and fees (including attorney fees incurred in enforcing the Tenant's obligation under this Paragraph 11) and from and for any and all claims and liability for losses or damage to property or injuries to persons occasioned wholly or in part by or resulting from any acts or omissions by the Tenant or the Tenant's agents, employees, guests, licensees, invitees, subtenants, assignees or successors, or for any cause or reason whatsoever arising out of or by reason of the occupancy or business of the Tenant, even if such damage or injury is allegedly caused or contributed to by any act or omission of the Landlord.

14. **Mortgage Priority.** This Lease shall not be a lien against the said premises with respect to any mortgages that may hereafter be placed upon said premises. The recording of such mortgages shall have preference and be superior and prior in lien to this Lease, irrespective of the date of recording. The Tenant agrees to execute any instruments, without cost, which may be deemed necessary, to further effect the subordination of this Lease to any such mortgages. A refusal by the Tenant to execute such instruments is a violation and shall entitle the Landlord to cancel this Lease.

15. **Condemnation Eminent Domain.** If any portion of the premises of which the leased premises are a part shall be taken under eminent domain or condemnation proceedings, or if suit or other action shall be instituted for the taking or condemnation thereof, or if in lieu of any formal condemnation proceedings or actions, the Landlord shall grant an option to purchase and or shall sell and convey the said premises or any portion thereof, to the governmental or other public authority, agency, body or public utility, seeking to take said land and premises or any portion thereof, then this Lease, at the option of the Landlord, shall terminate, and the term hereof shall end as of such date as the Landlord shall fix by notice in writing. The Tenant shall have no claim or right to claim or be entitled to any portion of any

Appendix D: Sample Leases – Lease of Rectory

amount that may be awarded as damages or paid as the result of such condemnation proceedings or paid as the purchase price for such option, sale or conveyance in lieu of formal condemnation proceedings. All rights of the Tenant to damages, if any, are hereby assigned to the Landlord. The Tenant agrees to execute and deliver any instruments, at the expense of the Landlord, as may be deemed necessary to expedite any condemnation proceedings or to effectuate a proper transfer of title to such governmental or other public authority, agency, body or public utility seeking to take or acquire the said lands and premises of any portion thereof. The Tenant agrees to vacate the said premises, remove all of the Tenant's personal property therefrom and deliver up peaceable possession thereof to the Landlord or to such other party designated by the Landlord. The Tenant shall repay the Landlord for such costs, expenses, damages and losses as the Landlord may incur by reason of the Tenant's breach hereof.

16. **Fire and Other Casualty.** In case of fire or other casualty, the Tenant shall give immediate notice to the Landlord. If the premises shall be partially damaged by fire, the elements or other casualty, the Landlord shall repair the same as speedily as practicable, but the Tenant's obligation to pay the rent hereunder shall not cease. If, in the opinion of the Landlord, the premises are so substantially damaged as to render them untenable, then the rent shall cease until such time as the premises shall be made tenantable by the Landlord. However, if, in the opinion of the Landlord, the premises are so substantially damaged that the Landlord decides not to rebuild, then the rent shall be paid up to the time of such destruction and thenceforth this Lease shall come to an end. However, the provisions of this clause shall not become effective or be applicable, if the fire or other casualty and damage shall be the result of the carelessness, negligence or improper conduct of the Tenant or the Tenant's agents, employees, guests, licensees, invitees, subtenants, assignees or successors. In such case, the Tenant's liability for the payment of the rent and the performance of all the covenants, conditions and terms hereof on the Tenant's part to be performed shall continue and the Tenant shall be liable to the Landlord for the damage and loss suffered by the Landlord. If the Tenant shall have been insured against any of the risks herein covered, then the proceeds of such insurance shall be paid over to the Landlord to the extent of the Landlord's costs and expenses to make the repairs hereunder, and such insurance carriers shall have no recourse against the Landlord for reimbursement.

17. **Reimbursement of Landlord.** If the Tenant shall fail or refuse to comply with any of the terms and conditions of this Lease, the Landlord may carry out and perform such conditions at the cost and expense of the Tenant, which amounts shall be payable on demand to the Landlord. This remedy shall be in addition to such other remedies as the Landlord may have by reason of the breach by the Tenant of any of the terms and conditions of this Lease.

Appendix D: Sample Leases – Lease of Rectory

18. Increase of Insurance Rates. If for any reason it shall be impossible to obtain fire and other hazard insurance on the buildings and improvements on the leased premises, in an amount and in the form and in insurance companies acceptable to the Landlord, the Landlord may, at any time, terminate this Lease, upon giving to the Tenant fifteen (15) days' notice in writing of the Landlord's intention so to do. Upon the giving of such notice, this Lease shall terminate. If by reason of the use to which the premises are put by the Tenant or character of or the manner in which the Tenant's business is carried on, the insurance rates for fire and other hazards shall be increased, the Tenant shall upon demand, pay to the Landlord, as rent, the amounts by which the premiums for such insurance are increased.

19. Inspection and Repair. The Tenant agrees that the Landlord and the Landlord's agents, employees or other representatives, shall have the right to enter into and upon the said premises or any part thereof, upon reasonable notice, for the purpose of examining the same or making such repairs or alterations therein as may be necessary for the safety and preservation thereof. This clause shall not be deemed to be a covenant by the Landlord nor be construed to create an obligation on the part of the Landlord to make such inspection or repairs.

The Tenant must notify the Landlord if the Tenant will be away for ten (10) days or more. In case of an emergency or the Tenant's absence, the Landlord may enter the premises without the Tenant's consent.

20. Right to Exhibit. The Tenant will permit the Landlord and the Landlord's agents, employees or other representatives to show the Premises to persons wishing to rent or purchase the Premises, and Tenant agrees that on and after 60 days next preceding the expiration of the term hereof, the Landlord or the Landlord's agents, employees or other representatives will have the right to place notices on the front of the Premises or any part thereof, offering the premises for rent or for sale; and the Tenant will permit the same to remain thereon without hindrance or molestation. The Tenant will also permit the Landlord and the Landlord's agents, employees or other representatives to show the Premises to prospective mortgagees of the Premises or the land and improvements of which the Premises are a part.

21. Events of Default; Remedies Upon Tenant's Default. If there should occur any default on the part of the Tenant in the performance of any conditions and covenants herein contained, or if during the term hereof the premises or any part thereof shall be or become abandoned or deserted, vacated or vacant, or should the Tenant be evicted, the Landlord, in addition to any other remedies herein contained or as may be permitted by law, may either by force or otherwise, without being liable for prosecution therefor, or for damages, re-enter, possess and enjoy the said premises. The Landlord may then re-let the premises and receive the rents therefor and apply the same, first to the payment of such expenses, reasonable attorney fees and costs, as the Landlord may have been put to in re-entering and repossessing

Appendix D: Sample Leases – Lease of Rectory

the same and in making such repairs and alterations as may be necessary; and second to the payment of the rents due hereunder. The Tenant shall remain liable for such rents as may be in arrears and also the rents as may accrue subsequent to the re-entry by the Landlord, to the extent of the difference between the rents reserved hereunder and the rents, if any, received by the Landlord during the remainder of the unexpired term hereof, after deducting the aforementioned expenses, fees and costs; the same to be paid as such deficiencies arise and are ascertained each month

22. Termination on Default. If an Event of Default occurs, the Landlord may, at any time thereafter, terminate this Lease and the term hereof, upon giving to the Tenant, five (5) days' notice in writing, of the Landlord's intention so to do. Upon the giving of such notice, this Lease and the term hereof shall end on the date fixed in such notice as if the said date was the date originally fixed in this Lease for the expiration hereof; and the Landlord shall have the right to remove all persons, goods, fixtures and chattels therefrom, by force or otherwise, without liability for damage.

23. Non-Liability of Landlord. The Landlord shall not be liable for any damage or injury which may be sustained by the Tenant or any other person, as a consequence of the failure, breakage, leakage or obstruction of the water, plumbing, steam, sewer, waste or soil pipes, roof, drains, leaders, gutters, valleys, downspouts or the like or of the electrical, gas, power conveyor, alarm, refrigeration, sprinkler, air-conditioning or heating systems, elevators or hoisting equipment; or by reason of the elements; or resulting from the carelessness, negligence or improper conduct on the part of any other Tenant, Tenant's family, or any other Tenant's agents, employees, guests, licensees, invitees, subtenants, assigns or successors; or attributable to any interference with, interruption of, or failure beyond the control of the Landlord, of any services to be furnished or supplied by the Landlord. This limitation on the Landlord's liability will not apply to damage or injury resulting from the gross negligence or willful misconduct of the Landlord or of the Landlord's agents, employees, guests, licensees, invitees, assignees or successors.

24. Non-Waiver by Landlord. The various rights, remedies, options and elections of the Landlord, expressed herein, are cumulative. The failure of the Landlord to enforce strict performance by the Tenant of the conditions and covenants of this Lease or to exercise any election or option, or to resort or have recourse to any remedy herein conferred or the acceptance by the Landlord of any installment of rent after any breach by the Tenant, in any one or more instances, shall not be construed or deemed to be a waiver or a relinquishment for the future by the Landlord of any such conditions and covenants, options, elections or remedies, but the same shall continue in full force and effect.

25. Non-Performance by Landlord. This Lease and the obligation of the Tenant to pay the rent hereunder and to comply with the covenants and conditions hereof, shall not be affected, curtailed, impaired or excused because of the Landlord's inability to supply any service or

Appendix D: Sample Leases – Lease of Rectory

material called for herein, by reason of any rule, order, regulation or preemption by any governmental entity, authority, department, agency or subdivision or for any delay which may arise by reason of negotiations for the adjustment of any fire or other casualty loss or because of strikes or other labor trouble or for any cause beyond the control of the Landlord.

26. Validity of Lease. The terms, conditions, covenants and provisions of this Lease shall be deemed to be severable. If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision herein, but such other clauses or provisions shall remain in full force and effect.

27. Notices. All notices required under the terms of this Lease shall be given and shall be complete by mailing such notices by certified or registered mail, return receipt requested, to the address of the parties as shown at the head of this Lease, or to such other address as may be designated in writing, which notice of change of address shall be given in the same manner. Notices to the Landlord may be sent to The Reverend NNNNNN, Rector, Name of the Church, Street Address, City, New Jersey Zip Code.

28. Title and Quiet Enjoyment. The Landlord covenants and represents that the Landlord is the owner of the premises herein leased and has the right and authority to enter into, execute and deliver this Lease; and does further covenant that the Tenant on paying the rent and performing the conditions and covenants herein contained, shall and may peaceably and quietly have, hold and enjoy the leased premises for the term aforementioned.

29. Entire Contract. This Lease contains the entire contract between the parties. No representative, agent or employee of the Landlord has been authorized to make any representations or promises with reference to the within letting or to vary, alter or modify the terms hereof. No additions, changes or modifications, renewals or extensions hereof, shall be binding unless reduced to writing and signed by the Landlord and Tenant.

30. Liens. If any construction or other liens shall be created or filed against the leased premises by reason of labor performed or materials furnished for the Tenant in the erection, construction, completion, alteration, repair or addition to any building or improvement, the Tenant shall upon demand, at the Tenant's own cost and expense, cause such lien or liens to be satisfied and discharged of record together with any lien claims that may have been filed. Failure so to do, shall entitle the Landlord to resort to such remedies as are provided herein in the case of any default of this Lease, in addition to such as are permitted by law.

31. Waiver of Subrogation Rights. The Tenant waives all rights of recovery against the Landlord or Landlord's agents, employees or other representatives, for any loss, damages or injury of any nature whatsoever to property or persons for which the Tenant is insured. The

Appendix D: Sample Leases – Lease of Rectory

Tenant shall obtain from Tenant's insurance carriers and will deliver to the Landlord, waivers of the subrogation rights under the respective policies.

32. Estoppel Certificates. The Tenant will at any time and from time to time upon not less than 5 days' prior notice by the Landlord, execute, acknowledge and deliver to the Landlord or by other party specified by the Landlord, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications) and the dates to which the rent, additional rent and other charges have been paid, and stating whether or not, to the knowledge of the signer of such certificate, the Tenant or the Landlord is in default in performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which the signer may have knowledge, as well as certifying to such other matters as the Landlord or the intended recipient of such certificate may reasonably request.

33. Conformation with Laws and Regulations. The Landlord may pursue the relief or remedy sought in any invalid clause, by conforming the said clause with the provisions of the statutes or the regulations of any governmental agency as if the particular provisions of the applicable statutes or regulations were set forth herein at length in this Lease.

34. Number and Gender. In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties hereto, and their heirs, executors, administrators, personal or legal representatives, successors and assigns.

35. Liability for Property Taxes. Tenant shall be liable for any property taxes assessed against the Premises by state or municipal taxing authorities as a result of the use of the premises by Tenant.

36. Rules and Regulations. **The Tenant shall comply with the following rules for the safety and care of the Property:**

- a. **Nothing may be placed on the outside wall of the Property. Nothing may be attached to the sills or windows except drapery rods. The Tenant shall not place signs anywhere.**
- b. **The Tenant must give the Landlord keys to all locks. Locks may not be changed or new locks put in without written consent of the Landlord. Doors must be locked at all times. All keys must be returned to the Landlord at the end of the Term.**
- c. **No waterbeds are allowed.**
- d. **The Tenant shall remove garbage daily.**

Appendix D: Sample Leases – Lease of Rectory

- e. Laundry machines, if provided by the Landlord, are used at the Tenant's risk and cost. Instructions must be followed. The landlord may stop their use at any time.
 - f. No dogs or other pets are allowed without the written consent of the Landlord.
 - g. The Tenant shall obey the parking rules.
 - h. The Tenant shall not throw sweepings, rubbish, rags or other objects into the plumbing fixtures. Tenant will not flush sanitary napkins, etc. in the toilet. Costs of repairs to plumbing due to above will be the full responsibility to the Tenant. Nothing may be thrown out of the windows. No one shall air, dry or shake rugs, blankets or clothing out of the windows.
 - i. Cooking must be done in the kitchen only.
 - j. The Tenant is not allowed on the roof.
 - k. The Tenant shall conserve energy and water.
- 37. Attorney Review.**
- a. Study by Attorney. The Tenant or the Landlord may choose to have an attorney review this Lease. If an attorney is consulted, the attorney must complete his or her review of the Lease within a three-day period. This Lease will be legally binding at the end of this three-day period unless an attorney of the Tenant or the Landlord reviews and disapproves of the Lease.
 - b. Counting Time. You count the three days from the date of delivery of the signed Lease to the Tenant and the Landlord. You do not count Saturdays, Sundays and legal holidays. The Tenant and the Landlord may agree in writing to extend the three-day period for attorney review.
 - c. Notice of Disapproval. If an attorney for the Tenant or the Landlord reviews and disapproves of this Lease, the attorney must notify the other party named in this Lease within the three-day period. Otherwise this Lease will be legally binding as written. The attorney must send the notice of disapproval to the other party named in this Lease by certified mail, federal express or by delivering it personally. The federal express or certified letter will be effective upon sending. The personal delivery will be effective upon delivery to the address of the other Party named in the Lease. The attorney may also, but need not inform the other named Party of any suggested revision(s) in the Lease that would make it satisfactory.
- 38. Standing Committee.** Landlord and Tenant agree that this Lease is subject to the consent of the Bishop and the Standing Committee of the Episcopal Diocese of Newark and is not binding until said consents are granted, which consent shall be evidenced by a letter or other writing, signed by the Bishop or other authorized person who shall, in such writing, represent his authority to sign and deliver such consent. Landlord will diligently seek this consent.

Appendix D: Sample Leases – Lease of Rectory

In Witness Whereof, the parties have set their hands and seals, or caused these presents to be signed by their proper corporate offices and their proper corporate seal to be hereto affixed the day and year first above written.

For The Name of the Episcopal Church, Landlord

By: _____
The Rev. NNNNNN, Rector

Appendix D: Sample Leases – Church Lease

LEASE AGREEMENT

This Lease Agreement is made on Month DD, YYYY

BETWEEN

The Trustees of the Episcopal Fund and Diocesan Property of the Diocese of Newark

whose address is

Episcopal House, 31 Mulberry Street, Newark, New Jersey 07102

referred to as the “Landlord,”

AND

Name of a not-for-profit corporation

whose address is

Street Name, City, New Jersey Zip Code

referred to as the “Tenant.”

1. **Premises.** The Landlord does hereby lease to the Tenant and the Tenant does hereby rent from the Landlord, the following described premises:

The property known as Name of the Episcopal Church located at Street Name, City, New Jersey Zip Code Subject to paragraph 5 the subject Premises shall not include the Rectory until the provisions of Paragraph Five are satisfied.

2. **Term.** This Lease is for a term of Y years commencing on MM, DD, YYYY, and ending on MM, DD, YYYY.

3. **Use.** The Premises are to be used and occupied only and for no purpose other than a house of worship. The Tenant will not, and will not allow others, to occupy or use the Premises or any part thereof for any purposes other than as specified in this Paragraph 3, nor for any purpose deemed unlawful, disreputable, or extra hazardous, on account of fire or other casualty. Landlord shall exercise no control over, and is not responsible for, the operations of Tenant’s facility, including staffing, curriculum decisions, and the like.

4. **Rent.** The Tenant agrees to pay rent at the rate of \$X,XXX.00 per month, due on the First day of each month. The first payment of rent and any security deposit is due upon the signing of the Lease by the Tenant. The Tenant must pay a late charge of \$XXX.00 as additional rent for each payment that is more than ten (10) days late. This late charge is due with the

Appendix D: Sample Leases – Church Lease

monthly rent payment. The Tenant must also pay a fee of \$25.00 as additional rent for any dishonored check. The Tenant shall make a security deposit of \$X,XXX.00.

5. **Use of the Rectory.** The Rectory located on the Premises described in Paragraph 1 shall not be available for the use of the Tenant as long as the current vicar remains in possession. Upon the termination of the use of the Rectory by the current vicar, Tenant may use the Rectory on the same terms and conditions as set forth in this lease for an additional monthly payment of \$XXX.00 per month. Use of the property shall be in accordance with the provision of Paragraph 4.

6. **Repairs and Care.** The Tenant has examined the premises and has entered into this Lease without any representation on the part of the Landlord as to the condition thereof. The Tenant shall take good care of the premises and shall at the Tenant's own cost and expense, make all repairs, including painting, decorating, and shall maintain the premises in good condition and state of repair, and at the end or other expiration of the term hereof, shall deliver up the rented premises in good order and condition, wear and tear from a reasonable use thereof, and damage by the elements not resulting from the neglect or fault of the Tenant, excepted. The Tenant shall neither encumber nor obstruct the sidewalks, walkways, driveways, yards, entrances, hallways and stairs, but shall keep and maintain the same in a clean condition, free from debris, trash, refuse, snow and ice. All repairs in excess of \$1,000.00 shall be approved by the Landlord; Chief Financial Officer and Property Officer. Tenant shall be responsible for all operating expenses for the subject property together with all utilities and operating costs, costs of snow removal, lawn care, cleaning and maintenance.

7. **Alterations and Improvements.** No alterations, additions or improvements shall be made, and no climate regulating, air conditioning, cooling, heating or sprinkler systems, television or radio antennas, heavy equipment, apparatus and fixtures, shall be installed in or attached to the leased premises, without the written consent of the Landlord. Unless otherwise provided herein, all such alterations, additions or improvements when made, installed in or attached to the said premises, shall belong to and become the property of the Landlord and shall be surrendered with the premises and as part thereof upon the expiration or sooner termination of this Lease, without hindrance, molestation or injury.

8. **Signs.** The Tenant shall not place nor allow to be placed any signs, upon, in or about the said premises, except as may be consented to by the Landlord in writing, which consent shall not be unreasonably withheld. Any signs permitted by Landlord shall at all times conform with all municipal ordinances or other laws and regulations applicable thereto.

9. **Compliance with Laws etc.** The Tenant shall promptly comply with all laws, ordinances, rules, regulations, requirements and directives of all Governmental or Public Authorities and of all their subdivisions, applicable to and affecting the said premises, their use and occupancy, and shall promptly comply with all orders, regulations requirements and directives of the Board of Fire Underwriters or similar authority and of any insurance companies which have issued or

Appendix D: Sample Leases – Church Lease

are about to issue policies of insurance covering the said premises and its contents, for the prevention of fire or other casualty, damage or injury, at the Tenant's own cost and expense. Tenant shall be responsible for the installation and maintenance of all smoke alarms, fire alarms, extinguishers as required by local and state fire codes and insurance regulations.

10. **Assignment and Subleasing.** The Tenant may not, without the written consent of the Landlord, assign, mortgage or hypothecate this Lease. The Tenant may, with the prior written consent of the Bishop and Standing Committee of the Episcopal Diocese of Newark, sublet or sublease the premises or any part thereof on such terms and conditions as may be required by the Bishop and the Standing Committee. The restriction on assignment and subletting will also apply to:

(a) any assignment or subletting that occurs by operation of law (including by merger, consolidation, reorganization, transfer or other change in or of the Tenant's structure);

(b) any assignment or subletting to or by a receiver or trustee in any federal or state bankruptcy, insolvency or other proceedings;

(c) the sale, assignment or transfer of all or substantially all of the assets of the Tenant outside of the ordinary course of the Tenant's business, with or without specific assignment of this Lease; or

(d) if the Tenant is an entity the direct or indirect sale, redemption or other transfer of fifty (50%) or more of the voting equity interests in the Tenant or the acquisition of a fifty percent (50%) or more voting equity interest in the Tenant. Landlord's consent to assignment or subletting shall not be unreasonably withheld or delayed.

11. **Liability Insurance.** The Tenant, at Tenant's own cost and expense, shall obtain or provide and keep in full force for the benefit of the Landlord, and acceptable to Landlord in its sole discretion, during the term hereof, liability insurance including both property damage and general liability coverage insuring the Landlord against any and all liability or claims of liability arising out of, occasioned by or resulting from any accident or otherwise in or about the leased premises for injuries to any persons, for limits of not less than \$250,000 for property damage, \$500,000 for injuries to one person and \$1,000,000 for injuries to more than one person in any accident or occurrence. The insurance policies shall be with companies authorized to do business in this State and shall be delivered to the Landlord, together with proof of payment, not less than fifteen (15) days prior to the commencement of the term hereof or of the date when the Tenant shall enter in possession, whichever occurs sooner. At least fifteen days prior to the expiration or termination date of any policy, the Tenant shall deliver a renewal or replacement policy with proof of the payment of the premium therefor.

12. **Indemnification.** The Tenant also agrees to and shall hold harmless and indemnify the Landlord from and for any and all payments, expenses, costs, attorneys and fees (including

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attorney fees incurred in enforcing the Tenant's obligation under this Paragraph 11) and from and for any and all claims and liability for losses or damage to property or injuries to persons occasioned wholly or in part by or resulting from any acts or omissions by the Tenant or the Tenant's agents, employees, guests, licensees, invitees, subtenants, assignees or successors, or for any cause or reason whatsoever arising out of or by reason of the occupancy or business of the Tenant, even if such damage or injury is allegedly caused or contributed to by any act or omission of the Landlord.

13. **Right of First Refusal.** Landlord grants to Tenant a right of first refusal with respect to the Parcel identified in Paragraph 1 subject to the following terms and conditions. If Landlord receives a bona fide offer (the "Offer") from an unrelated third party to purchase the Premises, which Offer Landlord desires to accept, Landlord shall advise Tenant of the terms of the Offer and provide Tenant with a written copy of the Offer. Landlord shall have ten (10) days (excluding holidays and not more than one (1) intervening weekend) within which to agree in writing to make an offer substantially in accordance with the Offer received from the third party purchaser. If Tenant does not make such an offer, Tenant shall not have any further rights under this Lease. Should a sale of the Premises to an entity other than Tenant occur during the five year term of this lease, Landlord shall give notice to Tenant and notwithstanding any other provision of this lease; Tenant shall have sixty (60) days from the date of the notice to vacate the Premises.

14. **Mortgage Priority.** This Lease shall not be a lien against the said premises with respect to any mortgages that may hereafter be placed upon said premises. The recording of such mortgages shall have preference and be superior and prior in lien to this Lease, irrespective of the date of recording. The Tenant agrees to execute any instruments, without cost, which may be deemed necessary, to further effect the subordination of this Lease to any such mortgages. A refusal by the Tenant to execute such instruments is a violation and shall entitle the Landlord to cancel this Lease.

15. **Condemnation Eminent Domain.** If any portion of the premises of which the leased premises are a part shall be taken under eminent domain or condemnation proceedings, or if suit or other action shall be instituted for the taking or condemnation thereof, or if in lieu of any formal condemnation proceedings or actions, the Landlord shall grant an option to purchase and or shall sell and convey the said premises or any portion thereof, to the governmental or other public authority, agency, body or public utility, seeking to take said land and premises or any portion thereof, then this Lease, at the option of the Landlord, shall terminate, and the term hereof shall end as of such date as the Landlord shall fix by notice in writing. The Tenant shall have no claim or right to claim or be entitled to any portion of any amount which may be awarded as damages or paid as the result of such condemnation proceedings or paid as the purchase price for such option, sale or conveyance in lieu of formal condemnation proceedings. All rights of the Tenant to damages, if any, are hereby assigned to the Landlord. The Tenant agrees to execute and deliver any instruments, at the expense of the

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Landlord, as may be deemed necessary to expedite any condemnation proceedings or to effectuate a proper transfer of title to such governmental or other public authority, agency, body or public utility seeking to take or acquire the said lands and premises of any portion thereof. The Tenant agrees to vacate the said premises, remove all of the Tenant's personal property therefrom and deliver up peaceable possession thereof to the Landlord or to such other party designated by the Landlord. The Tenant shall repay the Landlord for such costs, expenses, damages and losses as the Landlord may incur by reason of the Tenant's breach hereof.

16. Fire and Other Casualty. In case of fire or other casualty, the Tenant shall give immediate notice to the Landlord. If the premises shall be partially damaged by fire, the elements or other casualty, the Landlord shall repair the same as speedily as practicable, but the Tenant's obligation to pay the rent hereunder shall not cease. If, in the opinion of the Landlord, the premises are so substantially damaged as to render them untenable, then the rent shall cease until such time as the premises shall be made tenantable by the Landlord. However, if, in the opinion of the Landlord, the premises are so substantially damaged that the Landlord decides not to rebuild, then the rent shall be paid up to the time of such destruction and thenceforth this Lease shall come to an end. However, the provisions of this clause shall not become effective or be applicable, if the fire or other casualty and damage shall be the result of the carelessness, negligence or improper conduct of the Tenant or the Tenant's agents, employees, guests, licensees, invitees, subtenants, assignees or successors. In such case, the Tenant's liability for the payment of the rent and the performance of all the covenants, conditions and terms hereof on the Tenant's part to be performed shall continue and the Tenant shall be liable to the Landlord for the damage and loss suffered by the Landlord. If the Tenant shall have been insured against any of the risks herein covered, then the proceeds of such insurance shall be paid over to the Landlord to the extent of the Landlord's costs and expenses to make the repairs hereunder, and such insurance carriers shall have no recourse against the Landlord for reimbursement.

17. Reimbursement of Landlord. If the Tenant shall fail or refuse to comply with any of the terms and conditions of this Lease, the Landlord may carry out and perform such conditions at the cost and expense of the Tenant, which amounts shall be payable on demand to the Landlord. This remedy shall be in addition to such other remedies as the Landlord may have by reason of the breach by the Tenant of any of the terms and conditions of this Lease.

18. Increase of Insurance Rates. If for any reason it shall be impossible to obtain fire and other hazard insurance on the buildings and improvements on the leased premises, in an amount and in the form and in insurance companies acceptable to the Landlord, the Landlord may, at any time, terminate this Lease, upon giving to the Tenant fifteen (15) days' notice in writing of the Landlord's intention so to do. Upon the giving of such notice, this Lease shall terminate. If by reason of the use to which the premises are put by the Tenant or character of

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or the manner in which the Tenant's business is carried on, the insurance rates for fire and other hazards shall be increased, the Tenant shall upon demand, pay to the Landlord, as rent, the amounts by which the premiums for such insurance are increased.

19. Inspection and Repair. The Tenant agrees that the Landlord and the Landlord's agents, employees or other representatives, shall have the right to enter into and upon the said premises or any part thereof, at all hours, for the purpose of examining the same or making such repairs or alterations therein as may be necessary for the safety and preservation thereof. This clause shall not be deemed to be a covenant by the Landlord nor be construed to create an obligation on the part of the Landlord to make such inspection or repairs.

20. Right to Exhibit. The Tenant will permit the Landlord and the Landlord's agents, employees or other representatives to show the Premises to persons wishing to rent or purchase the Premises, and Tenant agrees that on and after 60 days next preceding the expiration of the term hereof, the Landlord or the Landlord's agents, employees or other representatives will have the right to place notices on the front of the Premises or any part thereof, offering the premises for rent or for sale; and the Tenant will permit the same to remain thereon without hindrance or molestation. The Tenant will also permit the Landlord and the Landlord's agents, employees or other representatives to show the Premises to prospective mortgagees of the Premises or the land and improvements of which the Premises are a part.

21. Removal of Tenant's Property. Any equipment, fixtures, goods or other property of the Tenant, not removed by the Tenant upon the termination of this Lease, or upon any quitting, vacating or abandonment of the premises by the Tenant, or upon the Tenant's eviction, shall be considered as abandoned and the Landlord shall have the right, without any notice to the Tenant, to sell or otherwise dispose of the same, at the expense of the Tenant, and shall not be accountable to the Tenant for any part of the proceeds of such sale, if any.

22. Events of Default; Remedies Upon Tenant's Default. If there should occur any default on the part of the Tenant in the performance of any conditions and covenants herein contained, or if during the term hereof the premises or any part thereof shall be or become abandoned or deserted, vacated or vacant, or should the Tenant be evicted, the Landlord, in addition to any other remedies herein contained or as may be permitted by law, may either by force or otherwise, without being liable for prosecution therefor, or for damages, re-enter, possess and enjoy the said premises. The Landlord may then re-let the premises and receive the rents therefor and apply the same, first to the payment of such expenses, reasonable attorney fees and costs, as the Landlord may have been put to in re-entering and repossessing the same and in making such repairs and alterations as may be necessary; and second to the payment of the rents due hereunder. The Tenant shall remain liable for such rents as may be in arrears and also the rents as may accrue subsequent to the re-entry by the Landlord, to the extent of the difference between the rents reserved hereunder and the rents, if any, received

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by the Landlord during the remainder of the unexpired term hereof, after deducting the aforementioned expenses, fees and costs; the same to be paid as such deficiencies arise and are ascertained each month

23. Termination on Default. If an Event of Default occurs, the Landlord may, at any time thereafter, terminate this Lease and the term hereof, upon giving to the Tenant, five (5) days' notice in writing, of the Landlord's intention so to do. Upon the giving of such notice, this Lease and the term hereof shall end on the date fixed in such notice as if the said date was the date originally fixed in this Lease for the expiration hereof; and the Landlord shall have the right to remove all persons, goods, fixtures and chattels therefrom, by force or otherwise, without liability for damage.

24. Non-Liability of Landlord. The Landlord shall not be liable for any damage or injury which may be sustained by the Tenant or any other person, as a consequence of the failure, breakage, leakage or obstruction of the water, plumbing, steam, sewer, waste or soil pipes, roof, drains, leaders, gutters, valleys, downspouts or the like or of the electrical, gas, power conveyor, alarm, refrigeration, sprinkler, air-conditioning or heating systems, elevators or hoisting equipment; or by reason of the elements; or resulting from the carelessness, negligence or improper conduct on the part of any other Tenant or of the Landlord or the Landlord's or this or any other Tenant's agents, employees, guests, licensees, invitees, subtenants, assigns or successors; or attributable to any interference with, interruption of, or failure beyond the control of the Landlord, of any services to be furnished or supplied by the Landlord. This limitation on the Landlord's liability will not apply to damage or injury resulting from the gross negligence or willful misconduct of the Landlord or of the Landlord's agents, employees, guests, licensees, invitees, assignees or successors.

25. Non-Waiver by Landlord. The various rights, remedies, options and elections of the Landlord, expressed herein, are cumulative. The failure of the Landlord to enforce strict performance by the Tenant of the conditions and covenants of this Lease or to exercise any election or option, or to resort or have recourse to any remedy herein conferred or the acceptance by the Landlord of any installment of rent after any breach by the Tenant, in any one or more instances, shall not be construed or deemed to be a waiver or a relinquishment for the future by the Landlord of any such conditions and covenants, options, elections or remedies, but the same shall continue in full force and effect.

26. Non-Performance by Landlord. This Lease and the obligation of the Tenant to pay the rent hereunder and to comply with the covenants and conditions hereof, shall not be affected, curtailed, impaired or excused because of the Landlord's inability to supply any service or material called for herein, by reason of any rule, order, regulation or preemption by any governmental entity, authority, department, agency or subdivision or for any delay which may arise by reason of negotiations for the adjustment of any fire or other casualty loss or because of strikes or other labor trouble or for any cause beyond the control of the Landlord.

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27. Validity of Lease. The terms, conditions, covenants and provisions of this Lease shall be deemed to be severable. If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision herein, but such other clauses or provisions shall remain in full force and effect.

28. Notices. All notices required under the terms of this Lease shall be given and shall be complete by mailing such notices by certified or registered mail, return receipt requested, to the address of the parties as shown at the head of this Lease, or to such other address as may be designated in writing, which notice of change of address shall be given in the same manner. Until changed in a subsequent designation, all notices to the Tenant shall be addressed to Name of Tenant, Street Address, City, New Jersey Zip Code.

29. Title and Quiet Enjoyment. The Landlord covenants and represents that the Landlord is the owner of the premises herein leased and has the right and authority to enter into, execute and deliver this Lease; and does further covenant that the Tenant on paying the rent and performing the conditions and covenants herein contained, shall and may peaceably and quietly have, hold and enjoy the leased premises for the term aforementioned.

30. Entire Contract. This Lease contains the entire contract between the parties. No representative, agent or employee of the Landlord has been authorized to make any representations or promises with reference to the within letting or to vary, alter or modify the terms hereof. No additions, changes or modifications, renewals or extensions hereof, shall be binding unless reduced to writing and signed by the Landlord and Tenant.

31. Liens. If any construction or other liens shall be created or filed against the leased premises by reason of labor performed or materials furnished for the Tenant in the erection, construction, completion, alteration, repair or addition to any building or improvement, the Tenant shall upon demand, at the Tenant's own cost and expense, cause such lien or liens to be satisfied and discharged of record together with any lien claims that may have been filed. Failure so to do, shall entitle the Landlord to resort to such remedies as are provided herein in the case of any default of this Lease, in addition to such as are permitted by law.

32. Waiver of Subrogation Rights. The Tenant waives all rights of recovery against the Landlord or Landlord's agents, employees or other representatives, for any loss, damages or injury of any nature whatsoever to property or persons for which the Tenant is insured. The Tenant shall obtain from Tenant's insurance carriers and will deliver to the Landlord, waivers of the subrogation rights under the respective policies.

33. Estoppel Certificates. The Tenant will at any time and from time to time upon not less than 5 days' prior notice by the Landlord, execute, acknowledge and deliver to the Landlord or

Appendix D: Sample Leases – Church Lease

by other party specified by the Landlord, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications) and the dates to which the rent, additional rent and other charges have been paid, and stating whether or not, to the knowledge of the signer of such certificate, the Tenant or the Landlord is in default in performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which the signer may have knowledge, as well as certifying to such other matters as the Landlord or the intended recipient of such certificate may reasonably request.

34. Conformation with Laws and Regulations. The Landlord may pursue the relief or remedy sought in any invalid clause, by conforming the said clause with the provisions of the statutes or the regulations of any governmental agency as if the particular provisions of the applicable statutes or regulations were set forth herein at length in this Lease.

35. Number and Gender. In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties hereto, and their heirs, executors, administrators, personal or legal representatives, successors and assigns.

36. Additional Provisions. The Day Care Center (does it have a name) located in the subject property shall be relocated within a reasonable period of time based upon the best efforts of the Landlord.

37. Liability for Property Taxes. Tenant shall be liable for any property taxes assessed against the Premises by state or municipal taxing authorities as a result of the use of the premises by Tenant.

38. Standing Committee. Landlord and Tenant agree that this Lease is subject to the consent of the Bishop and the Standing Committee of the Episcopal Diocese of Newark and is not binding until said consents are granted, which consent shall be evidenced by a letter or other writing, signed by the Bishop or other authorized person who shall, in such writing, represent his authority to sign and deliver such consent. Landlord will diligently seek this Consent.

In Witness Whereof, the parties have set their hands and seals, or caused these presents to be signed by their proper corporate offices and their proper corporate seal to be hereto affixed the day and year first above written.

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**For the Trustees of the Episcopal Fund and Diocesan
Property of the Diocese of Newark**

By:

Name
President

Name of not-for-profit corporation

By:

Name
Title

By: _____

NNNNNN, Warden

By: _____

NNNNNN, Tenant

By: _____

