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.

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.

 **(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 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 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 ($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.**

1. 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).

 **(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.

**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 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 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 warrant 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.

**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. 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 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 nonresponsibililty 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 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.

**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 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 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 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.

 **(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 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 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 success 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 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.

## 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.

**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.

**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.

 **(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.

 **(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: **LANDLORD**

The Rector, Wardens and Vestry

of Name of the Church

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Name:

 Title:

Signed On: **TENANT**

 The Name of the School

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Name:

 Title: