

NORTH CAROLINA  
DURHAM COUNTY

LEASE OF NON-RESIDENTIAL PROPERTY  
(Single Tenant Facility)

This Lease Agreement, including any and all addenda attached hereto, is between the City of Durham ("Landlord") and Durham Housing Authority ("Tenant"), made on \_\_\_\_\_ day of April, 2014.

For and in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. PREMISES: The Landlord hereby leases to the Tenant and Tenant accepts a certain parcel of land together with the improvements thereon and the fixtures therein, located at 531 Lakeland Street, Durham North Carolina. (hereafter called the "Premises") The Premises are located in the City of Durham.

For information purposes only, the tax parcel number of the Premises is 211054. The parcel is referenced in Deed Book 222, Page 442 of Durham County Real Estate Records.

2. TERM. This term of this Lease shall commence on \_\_\_\_\_ (Lease Commencement Date), and shall expire at 11:59 pm (based upon the time at the locale of the Premises) on the thirty-sixth month following the Lease Commencement Date.

3. PURPOSE. Tenant may not use the property for any purpose other than for the purpose of after school programs, GED programs, robotics programs, and other services provided for the benefit of Durham residents.

4. RENT. DEPOSIT.

(a) The Tenants shall pay to the Landlord as rent the sum of \$1.00 for each year of the term. Rent payments are due, in advance, without set-off, deduction, or demand, on or before the 10<sup>th</sup> day of each month. See Section 14 (Late Payments)

(b) Tenant shall pay a security deposit in the amount of \$0.00

5. RETURNED CHECKS. INTENTIONALLY DELETED.

6. EXTENSION OF LEASE TERM. Tenant may extend the Lease by two (2) renewal terms of three (3) years each. Notice of Tenant's intent to renew the Lease should be sent to the Landlord at least one hundred twenty (120) days prior to the expiration of the preceding lease term.

7. TERMINATION OF LEASE TERM: Part "a" of Section [23]  
(TERMINATION, CASUALTY, AND EMINENT DOMAIN)

X   applies        \_\_\_ does not apply to this Lease

8.        **CONDITION OF PREMISES AND REPAIRS.** The Landlord will deliver the premises in broom clean condition. Tenant should inspect the Premises to agree that they are in good repair and are fit as of the beginning of the term. The Tenant shall immediately notify the Landlord of all damage to the Premises, need for repairs, and situations that might reasonably be expected to result in damage. If the Landlord makes repairs that are allocable and chargeable to the Tenant, such charges shall be added to and included as part of the rent, but shall be paid within fifteen (15) days of billing by the Landlord. This Lease does not give Tenant any authority either to obligate the Landlord to pay any third party for any labor or materials or to suffer liens to be placed on the Premises. Tenant shall compensate the Landlord for damage to the Premises caused by all negligent, willful, or intentional acts and omissions by the Tenants and any of Tenant's agents, invitees, licensees, and contractors. Tenant shall not allow any "Environmental Contamination" (defined in Section 21 (INDEMNIFICATION) below, to be released onto the Premises by itself or its agents, contractors, invitees, or licensees, and Tenant shall remediate said releases if they occur, with such remediation being to the Landlord's reasonable satisfaction, including but not limited to remediation meeting the requirements of governmental authorities.

Landlord shall at its expense maintain the roof, principal structure members, and exterior masonry walls, of the building located on the Premises, and shall replace any compressors and electric motors that are a part of the HVAC system if they cannot be repaired. Landlord will make all other repairs and replacements needed to keep the building and its systems and all equipment in good condition and state of repair.

Tenant shall at its expense be responsible for routine interior maintenance, custodial care, cleaning including materials, general plumbing and electrical repairs, maintenance of the grounds (as shown on Exhibit A, attached hereto and hereby made part of this Lease Agreement), replacement of light bulbs, purchase and placement of fire extinguishers as required by law, door hardware, glass and plexiglass, if any, purchase and routine changing of air filters.

9.        **USE AND CARE OF THE PREMISES.** The Premises shall not be used in any way that exposes the improvements to any unreasonable risk of damage from fire. Without written permission from the Landlord, the Tenant shall not permit or keep any kerosene or gasoline on the Premises unless in properly constructed tanks attached to motor vehicles. The Tenant shall keep the Premises in a presentable condition, including clean of trash and garbage and the lawn and shrubbery groomed within the areas shown on Exhibit A. No trees or shrubbery shall be removed without first obtaining written permission from the Landlord. The Tenant shall not use or allow the use of any illegal drugs on the Premises. The Tenant shall not violate any lawful requirements of all public authorities regarding use of the Premises, including applicable zoning and building codes. No animals may be kept on the Premises without the Landlord's written consent.

10. ALTERATIONS. FIXTURES. Tenant is allowed to paint and alter the Premises upon prior review and approval by Landlord, which approval will not be unreasonably withheld. Tenant may not affix anything to nor alter the roof of the Premises without prior written approval from the Landlord. Any such work must be done a workmanlike manner. Tenant may, prior to the expiration of the term of this Lease, remove from the Premises any fixtures that Tenant may have installed, whether affixed or not; provided, however, that any damages done to the Premises by the installation of such fixture or by such removal will be repaired at Tenant's expense. Any fixtures remaining in the Premises after the expiration of the term shall be the property of the Landlord. Any improvements and repairs to the Premises, unless removed pursuant to this section, shall inure to and be to the benefit of the Landlord.

11. KEYS. The Tenant shall not be permitted to add or change locks without the Landlord's written consent. Once the locks are changed, Tenant must provide Landlord with keys that may be used for entry. At the end of the term, the Tenant shall give to the Landlord all keys that Tenant has for the Premises, including any keys made from Landlord's keys.

12. UTILITIES. The Tenant shall be responsible for and shall pay all proper charges for all utilities, including oil, gas, electricity, water, sewer, storm water charges, garbage pickup, cable, telephone, security, and pest exterminating services.

13. USE OF SECURITY DEPOSIT. INTENTIONALLY DELETED.

14. LATE PAYMENTS. INTENTIONALLY DELETED.

15. POSSESSION. The Landlord shall not be liable for its failure to deliver possession because of a cause beyond its reasonable control, including holdover by a previous tenant.

16. ASSIGNMENT AND SUBLETTING. The Tenant may neither assign nor sublet either any rights in, or any part of, the Premises without the written consent of the Landlord, which shall not be unreasonably withheld. The Tenant shall remain liable to the Landlord under this Lease regardless of assignments or subleases.

17. TAXES AND INSURANCE. During the term of this lease, the Landlord shall pay all taxes and assessments imposed on the Premises. Any insurance that the Landlord may obtain on the Premises is for the benefit of the Landlord, not the benefit of the Tenant. Landlord shall not provide either any liability insurance to protect Tenant or insurance against loss or damage to Tenant's property. If Tenant desires any insurance, Tenant shall obtain it at Tenant's expense.

18. ACCESS. The Landlord shall keep keys to the Premises. The Landlord and its agents and contractors may enter the Premises, including the interior, in case of emergency or with the consent of the Tenants. All parties agree that the Landlord will

give Tenant twenty-four (24) hour notice of intent to enter the premises, except in the case of an emergency in which case no notice is required. During the last ten weeks of the term and until the Premises have been rented beyond the term or sold, Tenant shall permit Landlord to show the Premises, including the interior, to prospective tenants or purchasers, from 8:00 AM - 4:30 PM, Monday - Friday. The Landlord may place and maintain for sale and for rent signs on the Premises.

19. VACATING. (a) The Tenant shall surrender vacant possession of the Premises on or before the end of the term. Time is of the essence in complying with the preceding sentence. (b) On vacating the Premises, the Tenant shall see that all utilities are paid in full and disconnected (unless other arrangements are made with the Landlord), that the Premises (including, if applicable, plumbing fixtures, stoves, refrigerators, and sinks) are clean, that the doors and windows are closed and locked, and that all other provisions of this Lease are complied with. So that Landlord may provide security to the Premises after the Premises are vacant and may use the Premises for its purposes, Tenant shall notify Landlord at least sixty days in advance of the expected date that the Premises will become vacant and shall also notify Landlord within one working day after the Premises actually become vacant. This subsection "b" applies even if Tenant vacate before the end of the term. (c) If the Tenant fails to comply with its obligations under this section, Tenant shall be liable for resulting damages suffered by the Landlord, including, if applicable, the inability to use the Premises for the purposes for which the Landlord has provided notice to the Tenant, which notice may be given before or during the term.

20. DEFAULT. (a) If the Tenant fails to pay the rent when due or fails to perform any other material obligation under this Lease, or if a material purported fact in the Tenant's rental application is substantially false, or if a bankruptcy case designating Tenant as a debtor is commenced or Tenant is made the subject of insolvency proceedings, and such failure, event, or condition continues for ten days after notice of such failure, event, or condition is sent, then the Landlord may at any time (i) terminate this Lease and cause the Tenant's estate to be ceased, or (ii) terminate the Tenant's right to possession of the Premises without causing the Tenant's estate to be ceased or terminating this Lease. In either event, the Tenant shall deliver possession of the Premises to the Landlord. In addition, the Landlord may reenter and take possession in accordance with legal procedures. If the Landlord terminate this Lease, the Tenant shall be liable for accrued rent, damages resulting from the Tenant's breach, and other accrued obligations and liabilities. If the Landlord terminates the Tenant's right to possession without terminating the Lease, this Lease shall remain in effect, and the Landlord shall make reasonable efforts to re-let the Premises on the Tenant's behalf. Tenant shall compensate the Landlord for the costs and expenses of such efforts. (b) The Landlord's waiver of or failure to exercise or enforce any of its rights under this Lease shall not constitute a waiver of any right thereafter. The Landlord's rights under this section are in addition to other rights under this Lease or as provided by law.

21. INDEMNIFICATION. (a) To the maximum extent allowed by law, Tenant shall defend, indemnify, and save harmless Indemnitees from and against all Charges that

arise in any manner from, in connection with, or out of this Lease or out of the use or occupancy of the Premises pursuant to this Lease, including for Environmental Contamination. In performing its duties under this subsection "a", Tenant shall at Tenant's sole expense defend Indemnitees with legal counsel reasonably acceptable to Landlord. (b) Definitions. As used in subsections "a" and "c" of this section -- "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines, penalties, settlements, and expenses (included within "Charges" are interest and reasonable attorneys' fees assessed as part of any such item). "Environmental Contamination" means petroleum products (including oil, gasoline, and kerosene), hazardous wastes, hazardous substances, hazardous materials, toxic substances, toxic wastes, hazardous air pollutants, and toxic pollutants, as those terms are used in any federal, state, or local laws, rules, regulations, codes, and ordinances, as amended from time to time. "Indemnitees" means Landlord and its officers, officials, independent contractors, agents, and employees, and does not include Tenant. (c) Limitations of Tenant's Obligation. Subsection "a" of this section shall not require Tenant to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

22. ADA. If Tenant receives any notice or document (i) which alleges any violation of the Americans with Disabilities Act ("ADA") relating to the Premises, or (ii) which pertains to any claim made or threatened relating to the Premises regarding alleged noncompliance with the ADA, or (iii) which pertains to any governmental or regulatory action or investigation instituted or threatened relating to the Premises regarding alleged noncompliance with the ADA, Tenant shall, within ten (10) days after receipt of such notice or document, provide the Landlord with a copy.

23. TERMINATION, CASUALTY, AND EMINENT DOMAIN. (a) If fire or other casualty renders the Premises uninhabitable, and if the casualty is not the fault of Tenant or any person for whose acts or omissions Tenant is liable, and if Landlord cannot or does not make the Premises reasonably useable for Tenant's purposes within ten days afterwards, Tenant may, by sending notice to the Landlord within fifteen days of the casualty, terminate the term effective as of the date of the casualty. (b) If fire or other casualty substantially damages the Premises, and if the casualty is not the fault of Tenant or any person for whose acts or omissions Tenant is liable, and if Landlord cannot or does not substantially repair the Premises within twenty days afterwards, Tenant may, by sending notice to the Landlord within twenty-five days of the casualty, terminate the term effective as of the date of the casualty. (c) If fire or other casualty renders the Premises unusable for the Tenant's purposes, the Landlord may, by sending notice to the Tenant within twenty days of the casualty, terminate the term effective as of the date of the casualty. (d) If an authority with the power of eminent domain acquires an interest in the Premises that substantially affects their use for Tenant's purposes, Tenant may, by sending notice to the Landlord within thirty days of the taking of possession by the authority, terminate the term effective as of the date of the taking of possession by the authority. (e) Each subsection of this section is intended to be independent of the other

subsections of this section.

24. EFFECTS ON OTHER RIGHTS. The Landlord shall not be liable for any loss or damage occurring to the personal property of Tenant, except through the intentional act of the Landlord, and except as otherwise provided by law or this Lease. Nothing in this Lease shall limit the City of Durham's governmental powers regarding the Premises, including eminent domain, zoning, subdivision, and police.

25. RENEWAL. INTENTIONALLY DELETED.

26. ADDRESSES. NOTICES. Notices to Landlord or Tenant shall be in writing, and such notices shall be sent to:

City of Durham  
General Services  
Real Estate Division Manager  
101 City Hall Plaza  
Durham, NC 27701  
Tel: (919) 560-4197

Durham Housing Authority  
c/o Shannon McLean  
Chief Development & Operations Officer  
330 E. Main Street  
Durham, NC 27701

By sending a notice stating its new address, either party may change the address to which notices may be sent.

27. E-VERIFY COMPLIANCE. The contractor represents and covenants that the contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (NCGS). In this E-Verify Compliance section, "contractor": its subcontractors and comply shall have the meanings intended by NCGS 160A-20.1(b). The City is relying on this section in entering into this contract. The parties agree to this section only to the extent authorized by law. If this section is held to be unenforceable or invalid in whole or in part, it shall be deemed amended to the extent necessary to make this contract comply with NCGS 160A-20.1(b).

28. INTERPRETATION. Unless the context requires otherwise, the singular includes the plural, and vice versa. "Including" and "included" mean including or included but not limited to. Section headings are not for interpretation of this Lease. In Section 2 (TERM), if the period stated conflicts with the expiration date stated, the period shall control. In case of conflict, Section 21 (INDEMNIFICATION) controls over Section 8 (CONDITION OF PREMISES AND REPAIRS).

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IN WITNESS WHEREOF, the parties executed this Lease as of the date written above.

**LANDLORD:**

CITY OF DURHAM

ATTEST:

\_\_\_\_\_

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

**TENANT:**

DURHAM HOUSING AUTHORITY

ATTEST:

\_\_\_\_\_

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

State of North Carolina

ACKNOWLEDGMENT BY CORPORATION

County of \_\_\_\_\_

I, a notary public in and for the aforesaid county and state, certify that

\_\_\_\_\_ personally appeared before me this day and stated that he or she is chief executive officer of Housing Authority of the City of Durham, a corporation, and that by authority duly given and as the act of the corporation, he or she signed, under seal, the foregoing contract or agreement with the City of Durham. This the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

# EXHIBIT A

