

DRAFT – 6/5/01

GROUND LEASE

Between

EDMONDS SCHOOL DISTRICT NO. 15

And

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LONG-TERM GROUND LEASE AGREEMENT

THIS AGREEMENT is entered by and between EDMONDS SCHOOL DISTRICT NO. 15 ("Landlord") and _____ ("Tenant").

NOW, THEREFORE, in consideration of the rents and covenants and under the terms and conditions hereinafter set forth, Landlord and Tenant hereby agree as follows:

1. Glossary of Terms

1.1

2. Premises

Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, that certain unimproved real property situate in Snohomish County, Washington, more particularly described on EXHIBIT A attached hereto and incorporated herein by reference ("Premises").

3. Term

3.1 Initial Term

The initial term of this Lease ("Initial Term") shall be for fifty (50) years, commencing on the date of mutual execution ("Commencement Date") and terminating on the __ day of _____, __, inclusive. Whenever the word "Term" is used in this Lease, it shall be deemed to include the Initial Term and Extension Term as described in Section 2.2.

3.2 Tenant's Option to Extend

Tenant shall have the right to extend the term of this Lease ("Option to Extend") for one term of ten (10) years (herein the "Extension Term") upon the following terms and conditions:

3.2.1 The Term of this Lease shall be extended automatically for the Extension Term unless Tenant gives written notice to Landlord of Tenant's election not to exercise its Option to Extend. Tenant's notice of non-exercise shall be given no later than twelve (12) months prior to the expiration of the Initial Term; and

3.2.2 The Extension Term shall be upon the same terms, covenants and conditions as in this Lease; provided, however, that rent during the Extension Term shall be determined in the manner set forth in Section 3 below.

4. Rent; Security Deposit

4.1 Base Rent

Tenant shall pay rent of _____ (\$ _____) per month ("Base Rent"), commencing on the earlier of (i) substantial completion of the Improvements, as defined in Section 4 (excluding tenant improvements therein) or (ii) issuance to Tenant of a preliminary or final certificate of occupancy; provided, however, that notwithstanding the foregoing, the Base Rent shall begin to accrue and be paid pursuant to Section 3.7 below as of the date that is twelve (12) months after the Commencement Date. Commencing on fifth (5th) anniversary of the Commencement Date, and on each subsequent fifth anniversary during the Initial Term and Extension Term, Base Rent shall be increased by an annual amount equal to five percent (5%) of the Base Rent for each year of the Initial Term and the Extension Term.

4.2 Market Rate Adjustments

Notwithstanding the terms of Section 3.1, the Base Rent shall be recalculated to be the fair market rent for the Premises in the year prior to the twentieth (20th) and fortieth (40th) year ("market rent adjustment dates") of the Initial Term. At least one-hundred eighty (180) days prior to each of the market rent adjustment dates, Landlord and Tenant shall enter into negotiations to determine the then current fair market rental value of the leasehold and other rights granted to Tenant hereunder which determination shall constitute the Base Rent for the following lease years until otherwise recalculated. Fair market rental value shall be defined as provided in Section 1 of this Lease. If Landlord and Tenant cannot mutually agree upon a determination of the fair market rental value on or before one-hundred forty-five (145) days prior to the lease year when the Base Rent is to be readjusted, then the Landlord shall furnish to Tenant a notice of such adjusted rent accompanied by an M.A.I. appraisal report valuing the fair market rental value at least one-hundred (100) days prior to the applicable market rent adjustment date. Within ten (10) days of receipt of such notice, Tenant may notify Landlord that Tenant will, at Tenant's own expense, obtain a second appraisal by an M.A.I. appraiser, which such appraisal must be delivered to Landlord within sixty (60) days after Tenant's receipt of the first appraisal. The first appraisal will stand if the second appraisal deviates from the first appraisal in favor of the Tenant by ten percent (10%) or less. If a greater deviation exists and the parties cannot agree on value within ten (10) days after the date of the

second appraisal, then a third appraiser will be selected by the two appraisers or by the Presiding Judge of King County Superior Court in the event the two cannot agree to a third appraiser by the twentieth (20th) day after the date of the second appraisal. The Court will select from a list of four (4) proposed M.A.I. appraisers (two (2) to be proposed by each side). The third appraiser shall examine the two appraisals, seek such information as the appraiser deems necessary and, within twenty (20) days after the notice of appointment, decide the matter by selecting the value found by one or the other of the two appraisers. The third appraiser shall have no latitude to deviate from one or the other of the two appraisals. The Base Rent as so agreed upon or established shall become effective as of January 1 of the next lease year (constituting the twentieth and fortieth lease years of the Term, respectively) and shall thereafter be subject to adjustment on five-year intervals as provided for in Section 3.1. Notwithstanding the foregoing, the market rate adjustment shall never result in a base rental amount lower than the most recent preceding Base Rent amount, with annual adjustments as provided in Section 3.1, and shall never result in a base rental amount that does not provide Landlord with a ten percent (10%) market return.

4.3 Payment and Proration

Base Rent during the Initial Term and Extension Term is due in advance on the first (1st) day of each calendar month. If the Commencement Date or the expiration of the Term of this Lease shall occur on any day other than the first (1st) day of a month, then the Base Rent shall be prorated with respect to the month in which such commencement or expiration occurs on the basis of the number of days in such month.

4.4 Net Lease

It is the intent of Landlord and Tenant that the rent herein specified and reserved shall be absolutely net to Landlord, so that this Lease shall yield, net, to Landlord the Base Rent specified herein each year during the Initial Term and Extension Term. All costs, expenses and obligations of every kind and nature whatsoever relating to the Premises, which shall arise or become due during the Initial Term or Extension Term, including, but not limited to, leasehold taxes, shall be paid by Tenant, and Landlord shall be indemnified by Tenant against all such costs.

4.5 Management

Tenant shall use every reasonable and prudent effort throughout the Term to operate the Premises in a manner reasonably designed to realize for Landlord the optimum return under this Lease consistent with Tenant's obligations to maintain the Premises and to comply with the other terms hereof.

4.6 Form of Payment

All rent and any other sums to be paid by Tenant to Landlord pursuant to this Lease shall be in lawful money of the United States of America and shall be paid without deduction or offset, prior to notice or demand, at Landlord's address designated in Section 17.

4.7 Security Deposit

Simultaneously with the execution of this Lease, Tenant shall deposit with Landlord the sum of _____ Dollars (\$ _____) to be held by Landlord as security for the payment of all sums and the performance by Tenant of all of Tenant's obligations under this Lease ("Security Deposit"). The Security Deposit shall be adjusted whenever the Base Rent is adjusted and shall be the same percentage of the Base Rent as the original amount of the Security Deposit. Landlord shall not be required to keep any such sums separate from its general funds and Tenant shall not be entitled to interest thereon. Landlord shall pay Tenant the Security Deposit within thirty (30) days after the expiration or earlier termination of this Lease, provided Tenant is not then in default. Landlord may withdraw from the Security Deposit the amount of any unpaid rent or other charges not paid when due, and Tenant shall, within ten (10) days after receipt of notice from Landlord, re-deposit an amount equal to that so withdrawn.

5. Construction of Improvements

5.1 Construction of Building and Related Improvements

Tenant shall, at its sole cost and expense, and subject to the provisions hereof, construct and maintain on the Premises a commercial building or buildings with related parking areas, landscaping and other improvements, all pursuant to plans and specifications to be approved by Landlord (herein collectively, "Improvements"). The Improvements, when completed, shall have an appraised value of no less than Dollars (\$_____).

5.2 Commencement of Construction

Tenant shall promptly commence design of the Improvements and thereafter apply for all necessary permits. Tenant shall proceed with all steps necessary to construction of the Improvements with due diligence. The commencement of construction, meaning the commencement of the installation of the shoring system for the Improvements, shall occur on or before _____, ____ (the "Construction Commencement Date"). If Tenant shall not have obtained a building permit for, and

actually commenced construction of, the Improvements on or before _____, either Landlord or Tenant shall have the right to terminate this Lease by giving written notice of such termination to the other party on or before _____ and, upon such notice, this Lease shall automatically terminate and neither Landlord nor Tenant shall have any further rights, responsibilities or liabilities hereunder. Tenant shall diligently, expeditiously and continually pursue completion of the Improvements from and after the Construction Commencement Date and shall complete construction to the point of issuance of a Temporary Certificate of Occupancy no later than _____, except as such completion is delayed due to strikes, inability to obtain materials or equipment after due diligence in attempting to acquire them, fire or destruction or other causes beyond the reasonable control of Tenant, in which case the date for such completion shall be extended to the extent of such delay

5.3 Approval of Plans

Tenant shall cause to be constructed on the Premises certain improvements in conformance with plans and specifications approved by Landlord and in conformance with all applicable laws, statutes, ordinances, regulations and permits. As soon as practicable following execution of this Lease, but in any event no later than _____, Tenant shall deliver or cause to be delivered to Landlord for approval plans and specifications for the improvements, including the basic core and shell of the building or buildings but excluding the tenant finish work for space leased by Tenant to its subtenants. Such plans and specifications shall include provisions for the installation of all sidewalks, curbs, gutters, landscaping, utility connections, essential fixtures, furnishings and equipment required by and necessary for the completed project. No construction, grading or other work shall be commenced and no material shall be delivered to the Premises unless Landlord has approved the plans and specifications and, once so approved, no Material Changes (as defined below) shall be made therein without Landlord's prior written approval. For purposes of this Lease, a Material Change shall refer to any change to the plans and specifications which (i) involves an increase or decrease in the construction cost of the Improvements of Thirty Thousand Dollars (\$30,000) or more, (ii) involves, together with all other changes heretofore made, an increase in the construction cost of the Improvements of One Hundred Thousand Dollars (\$100,000) or more, or (iii) involves a fundamental or material change in the project or any of its operational systems, including but not limited to, electrical, heating, air conditioning, plumbing, elevators and mechanical systems, or the architecture of the building or buildings.

Landlord shall respond in writing as promptly as practicable to any request to review and approve the plans and specifications or any Material Change thereto,

stating its approval or its reasons for not granting such approval, and shall in any event so respond within a reasonable time (no longer than thirty (30) days after submission to the Landlord of the initial plans and specifications or of any Material Change thereof and no longer than fifteen (15) days after the submission of any requested Material Change to plans and specifications previously approved). Landlord shall not unreasonably withhold its consent for any such request approval. In the event Landlord shall reasonably request of Tenant additional information regarding any request for approval, Tenant shall use its best efforts to respond to such request within fifteen (15) days of such request. Following submission by Tenant of additional information so requested, Landlord shall have an additional ten (10) day period within which to approve or disapprove Tenant's submission.

Landlord does not and will not make any covenant or warranty, express or implied, that any plans and specifications submitted by Tenant are accurate, complete or in any way suited for the intended purpose.

5.4 Contractors and Suppliers

Architects, engineers, other consultants and the prime contractor to be engaged with respect to services to be rendered, work to be done or goods or materials to be supplied with respect to construction of the Improvements shall be subject to the prior approval of Landlord.

5.5 Liens; Hold Harmless

Tenant shall release, defend, indemnify, protect and hold harmless Landlord and the Premises from and against all claims and liabilities arising by virtue of or relating to construction of the Improvements and any other improvements or repairs made at any time to the Premises (including repairs, restoration and rebuilding). Tenant shall regularly and timely pay any and all amounts properly payable to third parties with respect to such work and will maintain its books and records in Snohomish County, Washington, with respect to all aspects of such work and materials therefor, and will make them available for inspection by Landlord or its representatives as requested. Tenant expressly covenants and agrees that no liens of mechanics, materialmen, laborers, architects, artisans, contractors or subcontractors or any other lien of any kind whatsoever shall be created against or imposed upon the Premises or the Improvements, and that in the event any such claims or liens of any kind whatsoever shall be asserted or filed by any persons, firms or corporations performing labor or furnishing material in connection with such work, Tenant shall pay off or cause the same to be discharged of record within five (5) days of notification thereof.

For all work done or materials being supplied to the Premises subsequent to initial development of the Improvements, which in the aggregate could result in the assertion of one (1) or more liens, encumbrances or charges against any interest in any portion of the Premises in excess of Fifty Thousand Dollars (\$50,000), Tenant shall:

(a) Furnish to Landlord, prior to the commencement of any such work or the furnishing of any such materials or goods, fully paid performance and payment surety bonds written by insurance companies licensed to conduct business in the State of Washington and in amounts reasonably acceptable to Landlord with respect to all such work, goods and materials, to ensure the completion of such work, the supplying of such goods and materials and the full payment therefor, in a timely manner, and to ensure that the Premises will not be subjected to any liens or encumbrances with respect thereto. Such bonds shall name Landlord as an insured party and shall be in a form customarily utilized in Snohomish County, Washington, in connection with new construction; and

(b) Obtain and furnish to Landlord, in form and substance satisfactory to Landlord, waivers and releases of all liens and claims against Landlord and the Premises by all contractors, subcontractors and other parties performing any such work or supplying any such materials or goods, such releases to be furnished monthly on or before the thirtieth (30th) day of each month for all work or materials or goods done or supplied to or for the Premises the previous month.

5.6 Inspection of Construction

During construction of the Improvements, Landlord and any architect, engineer or other representative Landlord may select to act for it, may inspect (but shall have no duty or obligation to inspect) the work being performed upon the premises and the materials being used in, or to be used in, performance of such work. If Landlord or its architect, engineer or other representative shall determine or be advised that any materials do not substantially conform to the approved specifications, or that the Improvements are not being constructed in accordance with approved plans and specifications, prompt notice thereof may be given by Landlord to Tenant specifying the nature of the deficiency, defect or omission. Upon the receipt of any such notice, Tenant shall promptly take steps as may be necessary to correct such defect, deficiency or omission.

5.7 Permits; Compliance With Codes

All building permits and other permits, licenses, permissions, consents and approvals required to be obtained from governmental agencies or third parties in connection with construction of the Improvements and any subsequent improvements,

alterations or additions, including, without limitation, repairs, replacements and renewals, shall be acquired in conformance with all applicable laws, ordinances and regulations by and at the sole cost and expense of Tenant. All work done by Tenant shall be done in accordance with all laws, ordinances and rules and regulations of any federal, state, county, municipal or other public authority and/or Board of Fire Underwriters, including, without limitation, all building permit requirements, building codes and land use requirements.

5.8 Construction Period Insurance

Tenant acknowledges and agrees that a material condition to the granting of approval of Landlord to construction of the Improvements and to any alterations and/or improvements and/or repairs required under this Lease or desired by Tenant is that the contractors who perform such work shall carry a comprehensive liability policy covering both property and bodily injury, and builder's all-risk insurance, in amounts approved by Landlord. Landlord may require proof of such insurance coverage from each contractor at the time of submission of Tenant's request for Landlord's consent to commence work.

5.9 Completion of Construction; As-Built Drawings

Construction of the Improvements shall be substantially completed no later than _____, as set forth in Section 4.3. Upon completion of the Improvements, Tenant shall deliver to Landlord three (3) copies of as-built drawings of the building and three (3) copies of an as-built survey showing the location of all Improvements, including all underground Improvements. Tenant shall cause such drawings and survey to be revised if there are any changes thereto and shall deliver three (3) copies of such revised drawings or survey to Landlord.

5.10 Control and Indemnification

Notwithstanding anything to the contrary in this Lease, during the Term of this Lease Tenant shall have exclusive control and possession of the Premises, and Landlord shall have no liabilities, obligations or responsibilities whatsoever with respect thereto or with respect to any plans and specifications referred to in Section 4.3. Landlord's approval of any such plans and specifications, and Landlord's exercise of its right of inspection pursuant to Section 4.6, shall not render Landlord liable therefor, and Tenant covenants, indemnifies, defends and holds harmless Landlord from and against any and all claims arising out of or from the use of such plans and specifications or out of or relating to the construction of the Improvements.

5.11 Bond

Tenant shall obtain and maintain in full force and effect throughout the period of construction of the Improvements a full performance and payment bond with respect to the construction containing a dual obligee rider naming Landlord as obligee.

6. Tenant Financing of Improvements

Subject to the terms and conditions of this Section 5, without the prior written consent of Landlord, which consent may be granted, withheld or conditioned by Landlord acting in its sole discretion, Tenant shall not have the right to mortgage, assign, encumber, convey or otherwise transfer an interest in the leasehold granted hereunder except for the following purposes:

(a) To permit Tenant to construct the Improvements, which financing may be in an amount up to one hundred percent (100%) of the cost of the Improvements, including financing expenses, but not exceeding _____ Million Dollars (\$_____);

(b) To permit Tenant to refinance the construction financing referred to in paragraph (a) above, and any permanent financing obtained pursuant to this paragraph (b), in an amount not exceeding that necessary to refinance such financing up to the value of the Improvements, including the financing cost; provided, further, that such permanent financing is amortized over a period ending not later than thirty (30) years following the funding of the financing and in no event ending later than the expiration of the Initial Term of this Lease or extension thereof which Tenant has elected to make;

(c) In the event of the destruction or damage of the Premises, to finance the restoration and repair of the Premises so that the Premises following such restoration and repair are in substantially the same condition as prior thereto to the extent that such financing may be necessary, up to the value of any replacement improvements, in addition to the insurance proceeds obtained by Tenant on the policies maintained pursuant to Section 26 hereof; and

(d) To permit Tenant to borrow funds, the payment of which is secured by the Premises, when the amount of such borrowing and all other indebtedness, whose payment is also secured by the Premises (the "Total Indebtedness"), exceeds the amount of the permanent financing (referred to in paragraph (b) above) if and only if each of the following conditions is satisfied:

- (i) The Total Indebtedness, including the amount of the new financing, shall not exceed 70% of the appraised value of the Improvements, as of the time of the financing as determined by an M.A.I. appraiser approved by Landlord (the "Appraised Value");
- (ii) The financing provides, and Tenant covenants and agrees, that periodic principal payments shall be made upon the financing so that the Total Indebtedness does not exceed 70% of the Appraised Value of the Improvements as of the end of each five-year term during the term of the financing or at such other intervals as Landlord, acting in its reasonable discretion, has grounds to believe that there has been a substantial diminution in the fair market value of the Improvements;
- (iii) At the time of the proposed financing, Tenant's net operating income from the Premises (as computed in accordance with generally accepted accounting principals) (the "Net Operating Income") equals or exceeds 1.2 times the debt service payments on the Total Indebtedness;
- (iv) The financing provides that, within sixty (60) days of each anniversary of the financing, the outstanding principal shall be reduced to the extent necessary so that the ratio of the Net Operating Income for the prior twelve (12) months to the scheduled principal and interest payments on the Total Indebtedness for the following twelve (12) months is equal to or greater than 1.2 or, if Tenant can reasonably demonstrate that the expected Net Operating Income for the following twelve (12) months (the "Expected Net Operating Income") will exceed the Net Operating Income of the prior twelve (12) months or Landlord can reasonably demonstrate that the Expected Net Operating Income will be less than that for the prior twelve (12) months, the outstanding principal shall be reduced by the amount necessary so that the ratio of the Expected Net Operating Income to the scheduled payments on the Total Indebtedness for the following twelve months is equal to or greater than 1.2;
- (v) Tenant agrees to bear any and all expenses incurred in obtaining such financing, in conducting the appraisals required under this Section 5(d) and in making any principal reductions required thereunder (including any prepayment fees) and shall pay or

reimburse Landlord for any and all expenses incurred by it to insure compliance with the provisions of this Section 5(d) including, but not limited to, accounting and legal expenses;

- (vi) Tenant agrees to make its books and records available to Landlord for inspection and review for the purpose of determining the financing's compliance with the debt service/income ratios contained in this Section 5(c);
- (vii) Tenant shall not enter into any financing arrangement which allows the lender to subordinate Landlord's fee interest. Tenant will inform its lender, and provide Landlord with a copy of its notice to its lender, at the time of seeking financing, of this provision;
- (viii) Tenant shall not enter into any financing agreement unless Landlord's right to terminate this Agreement and recapture the Premises, as provided in Section 25 below, is expressly incorporated into the financing agreement and made binding on the lender; and
- (ix) The documentation for the proposed financing is submitted to Landlord for its review and approval and in form and substance is satisfactory to Landlord.

6.1 Mortgagee's Rights

To the extent Tenant obtains a mortgage in accordance with the provisions of this Section 5, the Mortgagee shall have the rights set forth in this Section 5.1. As used herein, "Mortgage" shall include a deed of trust.

6.1.1 Notice to Landlord

No Mortgagee on this Lease shall have the rights or benefits mentioned in this Section 5.1, nor shall the provisions of this Section 5.1 be binding upon Landlord, unless and until the name and address of any such Mortgagee shall have been delivered in writing to Landlord, notwithstanding any other form of notice, actual or constructive. As soon as available, Tenant will supply to Landlord copies of recorded forms of Mortgages and any and all amendments or modifications thereto.

6.1.2 Specific Protections

If Tenant, or Tenant's successors and assigns, shall mortgage this Lease in compliance with the provisions of this Section 5, then so long as any such Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(a) Landlord, upon serving upon Tenant any notice of a default, any notice of the occurrence of an Event of Default as defined in Section 19, any notice of intention to terminate this Lease, or any notice of termination of this Lease, or any other notice under the provisions of or with respect to this Lease, shall also serve a copy of such notice upon such Mortgagee, at the address provided for in paragraph (e) of this Section 5.1.2, and no notice by Landlord to Tenant hereunder shall be deemed to have been duly given unless and until a copy thereof has been so served.

(b) Any such Mortgagee, in case Tenant shall be in default hereunder, shall, within the period and otherwise as herein provided, have the right to remedy such default, or cause the same to be remedied, and Landlord shall accept such performance by or at the instance of such Mortgagee as if the same had been made by Tenant.

(c) For the purpose of this Section 5.1 only, no Event of Default shall be deemed to exist under Section 19 in respect of the performance of work required to be performed, or of acts to be done, or for conditions to be remedied, if steps shall, in good faith, have been commenced within the time permitted therefor to rectify the same and shall be prosecuted to completion with diligence and continuity as in Section 19 provided.

(d) Anything herein contained to the contrary notwithstanding, upon the occurrence of an Event of Default due to a default of Tenant, Landlord shall take no action to effect a termination of this Lease without first giving to any such Mortgagee written notice of its intent to terminate pursuant to Section 19.2.3 and a reasonable time thereafter within which to either (i) obtain possession of the mortgaged property (including possession by a receiver) or (ii) institute, prosecute and complete foreclosure proceedings or otherwise acquire Tenant's interest under this Lease with diligence. Such Mortgagee upon acquiring Tenant's interest under this Lease shall be required promptly to cure all defaults then reasonably susceptible of being cured by such Mortgagee. Provided, however, that: (i) such Mortgagee shall not be obligated to continue such possession or to continue such foreclosure proceedings after such Events of Default shall have been cured; (ii) nothing herein contained shall preclude Landlord, subject to the provisions of this Section 5.1, from exercising any rights or remedies under this Lease with respect to any other default by Tenant during the pendency of such foreclosure proceedings; (iii) such Mortgagee

shall deposit with Landlord during the period of forbearance by Landlord from taking action to effect a termination of this Lease such security as shall be reasonably satisfactory to Landlord to assure to Landlord the compliance by such Mortgagee during the period of such forbearance with such of the terms, conditions and covenants of this Lease as are reasonably susceptible of being complied with by Mortgagee; and (iv) Mortgagee shall agree with Landlord in writing to comply during the period of such forbearance with such of the terms, conditions and covenants of this Lease as are reasonably susceptible of being complied with by Mortgagee including, but not limited to the payment of Base Rent. In the event Mortgagee fails to fulfill its obligations under any such written agreement, Landlord shall be entitled to cause forbearance upon giving Mortgagee notice of such failure and Mortgagee's failure to cure within a reasonable period following such notice. Any Event of Default due to a default of Tenant not reasonably susceptible of being cured by Mortgagee shall be deemed to have been waived by Landlord upon completion of such foreclosure proceedings or upon such acquisition of Tenant's interest in this Lease, except that any of such Events of Default which are reasonably susceptible of being cured after such completion and acquisition shall then be cured with reasonable diligence. Mortgagee, or its designee, or other purchaser in foreclosure proceedings may become the legal owner and holder of this Lease through such foreclosure proceedings or assignment of this Lease in lieu of foreclosure.

(e) Any notice or other communication which Landlord shall desire or is required to give to or serve upon any Mortgagee shall be in writing and may be given personally or may be delivered by depositing the same in the United States mails, certified, return receipt requested, postage prepaid, and properly addressed to such Mortgagee at its address as set forth in such Mortgage, or in the last assignment thereof delivered to Landlord pursuant to Section 5.1.2, or at such other address as shall be designated by such Mortgagee by notice in writing given to Landlord by registered mail.

Any notice or other communication which any Mortgagee shall desire or is required to give to or serve upon Landlord shall be in writing and may be given personally or may be delivered by depositing the same in the United States mails, certified, return receipt requested, postage prepaid, and properly addressed to Landlord at Landlord's address as set forth in Section 17 or at such other addresses as shall be designated by Landlord by notice in writing given to such holder by registered mail.

(f) Anything herein contained to the contrary notwithstanding, the provisions of this Section 5.1.2 shall inure only to the benefit of the holders of leasehold Mortgages which shall be, respectively, a first, second and third lien that is

subordinate to Landlord's fee title. If there shall be any conflict between the rights of any Mortgagees under this Lease, then the right of the holder of the senior Mortgage shall prevail. If the parties shall not agree on which leasehold is prior in lien, such dispute shall be determined, at no cost to Landlord, by any one of Chicago Title Insurance Company, Transamerica Title Insurance Company, Safeco Title Insurance Company or Pioneer Title Insurance Company, or the successor of any of them, designated by Landlord and such determination shall bind the parties.

(g) No union of the interests of Landlord and Tenant herein shall result in a merger of this Lease in the fee interest.

(h) As used herein, determination of whether (or the extent to which) a default is reasonably susceptible of cure by a Mortgagee or whether (or the extent to which) any term or condition hereof is reasonably susceptible of compliance or performance, either before or after a Mortgagee has obtained possession of the Premises, shall be based upon all the relevant facts and circumstances then pertaining, but the curing of any default, or the performance of or compliance with any obligation, shall not be excused due to the financial condition or ability of any person, entity or party.

7. Acceptance of Premises

Tenant has inspected the Premises and hereby accepts the Premises in their condition existing on the date hereof, subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises. Tenant acknowledges that Landlord has not made any representation or warranty, and expressly disclaims any representation or warranty as to zoning or the suitability of the Premises for Tenant's intended purpose.

8. Feasibility Study

At any time after the execution of this Lease and prior to ninety (90) days before the Construction Commencement Date (the "Feasibility Study Period"), Tenant may conduct a review with respect to the Premises and satisfy itself with respect to the condition of and other matters related to the Premises and its suitability for Tenant's intended use, all such investigation to be done at Tenant's sole costs and expense (the "Feasibility Study").

8.1 Access

The Feasibility Study may include all inspections and studies Tenant deems necessary or desirable, in its sole discretion. Tenant and Tenant's agents,

representatives, consultants, architects and engineers will have the right, from time to time, from and after the date of this Lease to enter onto the Premises and make borings, drive test piles and conduct any other tests and studies that may be necessary or desirable to ascertain the condition and suitability of the Premises for Tenant's intended use. Tenant shall protect, defend and indemnify Landlord from and against any construction or other liens or encumbrances arising out of or in connection with its exercise of this right of entry and shall cause any such liens or encumbrances to be promptly released. Tenant's right of entry shall be scheduled with Landlord and, for each entry onto the Premises, Tenant shall execute a Temporary Use Permit, substantially in the form attached hereto as EXHIBIT B. The terms and conditions of said Temporary Use Permit are expressly incorporated herein by reference and shall apply to Tenant's entry to the Premises at any time during the Feasibility Study Period, regardless of whether Tenant has executed a Temporary Use Permit on each occasion of entry to the Premises.

8.2 Termination During Feasibility Period

Tenant shall have the right to terminate this Lease at any time during the Feasibility Study Period if, in Tenant's good faith judgment, the Premises are not suitable for Tenant's intended use or do not meet Tenant's intended investment objectives. Tenant's right to terminate must be exercised by delivering written notice of its election to Landlord on or before the expiration of the Feasibility Study Period. If Tenant terminates this Lease pursuant to this Section, Landlord and Tenant will be released from all further obligation or liability hereunder, except as otherwise specified by this Lease. During the Feasibility Study Period, Landlord shall have the right to actively market the Premises to third parties and accept other offers contingent upon Tenant's election to terminate this Lease prior to the end of the Feasibility Study Period.

8.3 Confidentiality

Tenant will not distribute or divulge the information or materials it and its agents and consultants may generate in connection with the Feasibility Study to other persons, except as may be required by law or, with the written permission of Landlord, as may be necessary in connection with Tenant's evaluation of the Premises and their suitability. If Tenant elects to terminate this Lease, Tenant agrees that, except as may be required by law, it will not further divulge or further distribute the information and materials, except with Landlord's consent, and subject to the terms and conditions of the Temporary Use Permit substantially in the form attached hereto as EXHIBIT B.

9. Ownership of Improvements

The Improvements and all other improvements, alterations and additions constructed by Tenant on the Premises shall be and remain the property of Tenant until the expiration or earlier termination of this Lease. At the expiration or earlier termination of this Lease, the Improvements and all alterations, additions and improvements thereto or replacements thereof, and all appurtenant fixtures, machinery and equipment installed therein, shall become the property of Landlord, and throughout the term of this Lease any liens, encumbrances or claims of third parties with respect to the foregoing shall be expressly subordinate and subject to the rights of Landlord under this sentence. Notwithstanding the foregoing, Landlord may require the Tenant to remove the Improvements and restore the Premises to its original condition at the time this Agreement was first executed. Tenant shall remove Improvements within sixty (60) days of the date Landlord notifies Tenant it will invoke this provision of the Lease.

10. Utilities

Tenant shall arrange and pay for all charges for roads through or abutting the Premises, gas, electricity, light, heat, water, telephone and other communication services, sewer and for all other public or private utilities or services which shall be used in or charged against or in connection with use of the Premises during the Term of this Lease. Landlord shall not be liable for the failure of any such services for any reason whatsoever. Tenant shall release, defend, indemnify, protect and hold harmless Landlord and the Premises from all charges as described above.

11. Taxes and Assessments

11.1 Payment of Taxes and Assessments

As further consideration for this Lease, Tenant covenants and agrees to bear, pay and discharge fifteen (15) days before delinquency thereof, as additional rent, all taxes and assessments, general and special, including, but not limited to, leasehold taxes, which may be taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Premises or any part thereof or the Improvements or Tenant's personally located thereon, including any new taxes and assessments not of the kind enumerated above to the extent that the same are made, levied or assessed in lieu of any taxes or assessments now customarily levied against real estate or personally. Taxes and assessments for the year in which this Lease commences and the year in which it expires or terminates shall be prorated between Landlord and Tenant as of such date of commencement, expiration or termination. In the event the amount of such taxes and assessments for such year of termination cannot be

ascertained as of said date of termination, proration shall be made on the basis of the taxes and assessments for the preceding year. In the event the Premises are not segregated for the purposes of assessment, Landlord shall determine the amount of taxes and assessments attributable to the Premises and Landlord's determination shall be binding.

11.2 Installments

If by law any tax or assessment may at the option of the taxpayer be paid in installments, Tenant may exercise such option, and shall pay all such installments (and interest, if any) becoming due during the Term as the same become due (including any installment with respect to any assessment which may be payable following the Commencement Date) and shall at the end of the Term deposit with Landlord an amount sufficient to pay Tenant's pro rata share of all taxes and assessments for the calendar year in which the Lease terminates.

11.3 Proof of Payment

Tenant will furnish to Landlord, upon request, for inspection, within thirty (30) days after the date any tax or assessment would become delinquent official receipts of the appropriate taxing authority or other proof satisfactory to Landlord evidencing the payment thereof.

11.4 Tax on Rentals

If any governmental authority or unit under any present or future law effective at any time during the term of this Lease shall in any manner levy a tax on rentals payable under this Lease, or a tax in any form against and/or because of or measured by gross income derived from the leasing or rental of the Premises, the amount of the next succeeding rent payment following payment of such tax by Landlord shall be increased by an amount equal to such tax paid by Landlord, and for Tenant's default in paying the rent thus revised, Landlord shall have the same remedies as upon failure to pay rent.

12. Accidents

Landlord and Landlord's agents shall not be liable for any damage, either to person or property, sustained by Tenant or others, caused by any defects now in the Premises or hereafter occurring therein, or due to the Improvements Tenant shall construct, or any part or appurtenance thereof, becoming out of repair, or caused by fire or by the bursting or leaking of water, gas, sewer or steam pipes or from any act or neglect of occupants of said Improvements, or any other persons, or due to the

happening of any accident from whatsoever cause in and about said Improvements. Tenant agrees to release, defend, indemnify and hold Landlord and Landlord's agents harmless from any and all claims for damages suffered or alleged to be suffered in or about the Premises by any person, firm or corporation.

13. Care of Premises; Alterations and Additions

13.1 Maintenance and Surrender

Tenant shall maintain the Premises, the Improvements and any other improvements, alterations and additions to the Premises in first class condition, both inside and outside, and shall keep the same and all parts thereof in good, clean, healthful and safe order and condition, all in accordance with applicable ordinances and the direction of proper public officers. Tenant shall at the expiration or earlier termination of this Lease surrender and deliver the Premises and Improvements in as good condition as hereafter improved, reasonable use, wear and tear excepted. Landlord shall not be called upon to make any improvement or repair of any kind upon the Premises. The Premises shall at all times be kept and used in accordance with the laws of the State of Washington and ordinances of the City of Lynnwood, and in accordance with all directions, rules and regulations of the health officer, fire marshal, building inspector or other proper officer of any governing entity, at the sole cost and expense of said Tenant; and Tenant will permit no waste, damage or injury to the Premises or Improvements.

13.2 No Alterations or Additions

Tenant shall not make any alterations, additions or improvements to the Premises or the Improvements without Landlord's prior written consent. Any alterations, additions or improvements to the Premises, including those approved by Landlord, shall be constructed in accordance with the provisions of Section 4.

14. Use

Tenant shall use the Premises for business purposes and for no other purpose or purposes whatsoever without the prior written consent of Landlord. Tenant shall not use or permit the Premises or any part thereof to be used in violation of any federal, state, county or municipal law, rule, regulation or ordinance. Tenant shall not commit or allow to be committed any waste upon the Premises, or any public or private nuisance.

14.1 Landlord's Representations

Landlord represents that: a) Landlord is a public school district duly organized, validly existing and in good standing under the laws of the State of Washington; and (b) The Premises shall at the commencement of the Initial Term be free of all liens and encumbrances except those specifically described in the Preliminary Title Commitment depicted on EXHIBIT C attached hereto and incorporated herein by this reference, and those created by or through Tenant; except for the representation contained in this paragraph (b), Landlord makes no representations as to the quality or condition of the Premises, or the suitability for the Premises for the purposes intended by the Tenant, and the Tenant hereby agrees to accept the Premises "as is," subject to Tenant's right to conduct a feasibility study pursuant to Section 7.

14.2 Tenant's Representations

Tenant represents that: a) Tenant (i) is a _____ duly organized, validly existing and in good standing under the laws of the State of Washington, (ii) has full power, authority and legal right to carry on its business as now being conducted and to own the property and assets it now owns, and (iii) is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the character of the property owned by Tenant or the transaction of Tenant's business in such jurisdiction makes qualification necessary or advisable; b) Tenant has full power, authority and legal right to execute, deliver and perform this Lease, and all other documents and certificates contemplated hereby, and the execution, delivery and performance thereof have been duly authorized by Tenant and by all necessary action of Tenant's general partners; and c) There are no actions, suits, proceedings, orders or investigations pending or, to the best of Tenant's knowledge, threatened against or affecting Tenant at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which might adversely affect Tenant's performance under this Lease or the consummation of the transactions contemplated hereby.

15. Assignment and Sublease

Tenant shall not assign, sublet or encumber this Lease or any part thereof without the prior written consent of Landlord. This Lease shall not be assignable by operation of law. Any assignment or sublease in violation of this Section 14 shall be void. If consent is once given by Landlord to any assignment or subletting of this Lease or any interest therein, Landlord shall not be obligated to consent to any further assignment or subletting. In the event Tenant requests Landlord's consent to any

assignment, subletting or encumbering of a portion of the Premises, Landlord may, at its option, grant such consent, withhold such consent or terminate the Lease as to such portion of the Premises.

15.1 Restrictions Upon Subtenants

Landlord shall not be required to consider the approval of any sublease under this Section 14 unless such sublease provides as follows:

15.1.1 The sublease recites in detail the restrictions contained in this Section 14 and grants to Landlord the right to seek injunctive relief, without the necessity of posting bond, to enjoin violations by the subtenant, or any assignee thereof, of the restrictions contained herein, whether or not Tenant joins with or supports Landlord's efforts to seek such injunctive relief.

15.1.2 Throughout the Term, Tenant shall not enter into any sublease unless and until the form thereof has been presented to and approved by Landlord as being consistent with the terms and conditions of this Lease. The restrictions contained in this Section 14 shall be deemed to apply with equal force to the Tenant's use and occupancy of the Premises, whether or not such use and occupancy is taken pursuant to the terms of a "sublease."

16. Access

Tenant shall permit Landlord and its agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same. Nothing contained in this Section shall be deemed to impose any obligation upon Landlord whatsoever to inspect, repair, improve or maintain the Premises or the Improvements. Tenant shall maintain all records that relate to this Lease and Tenant's use of the Premises at a location on the Premises made known to Landlord and shall make said records available to Landlord, or Landlord's designee, for review and inspection at the request of Landlord.

17. Damage or Destruction

In the event of damage to or destruction of the Improvements or the Premises to be covered by the insurance described in Section 26:

17.1 Damage of Less Than Fifty Percent (50%) of Replacement Cost

If the cost of repairing or reconstructing the Improvements to the condition and form prior to such damage or destruction is not in excess of fifty percent (50%) of the

then replacement cost of the Improvements, and such repairs or reconstruction of any such damage or destruction can be made under then existing laws, ordinances, statutes or regulations of any governmental authorities applicable thereto (or can be so made with changes to the former condition and form of the property damaged or destroyed, provided that the repaired or reconstructed property has substantially the same economic value as the property had immediately prior to the damage or destruction), Tenant shall effect, and Landlord and Tenant agree that the funds derived from insurance acquired pursuant to Section 26 shall be made available to effect, such repair and reconstruction of the Improvements to be in substantially the same condition as its condition prior to said damage or destruction, and Tenant agrees that if said funds are not adequate, it will post a performance bond, in accordance with Section 4.11, prior to the commencement of any construction work a sufficient sum so that, taken together with the insurance funds available for construction purposes, an amount meeting or exceeding the estimated cost of all labor, materials and other construction costs, direct and indirect (including, but not limited to, overhead charges, contractors' fees, architects' fees, payroll and social security charges and taxes) will be available so as to fully complete the repairing, restoring and/or rebuilding of said Improvements as aforesaid.

All such work shall be carried on in accordance with plans and specifications prepared by a licensed architect or architects designated by Tenant and approved by Landlord (acting reasonably) if such architect or architects are reasonably required, given the scope and nature of the work. The Landlord may rely upon and accept the certified determinations of such architects with respect to estimated costs, awarding of contracts, sufficiency of bonds, progress of construction, interpretation of plans and specifications, compliance with same, and completion of construction. No extras or changes in plans and specifications shall be added or made by Tenant without first (i) giving written notice of such changes to Landlord, (ii) securing an additional bond such that it provides assurances satisfactory to Landlord that such funds will be available when needed sufficient to pay for such extras or charges as certified by said architects, and (iii) as to any such changes which, together with all other changes theretofore made, involve over Fifty Thousand Dollars (\$50,000), and as to any changes which involve fundamental or material changes in the project, obtaining the written consent of Landlord (which consent shall not be unreasonably withheld). In the event of such repair, restoration and/or rebuilding, the funds derived from the insurance with respect to the damage shall be made available as the work progresses and is certified as acceptable by said architect.

17.2 Damage in Excess of Fifty Percent (50%) of Replacement Cost

If the cost of repairing or reconstructing said damage or destruction to its former condition and form is in excess of fifty percent (50%) of the replacement cost as provided in paragraph 16.1 of this Section 16, and such reconstruction or rebuilding can be made under then existing laws, ordinances, statutes or regulations of any governmental authority applicable thereto (or can be so made with changes to the former condition and form of the property damaged or destroyed such that the repaired or reconstructed property has substantially the same economic value as the property had immediately prior to the damage or destruction), Tenant may, at its discretion, elect to proceed with the repair and reconstruction of the Improvements and the Premises in the same manner as provided for under Section 16.1 hereof or may elect to terminate this Lease with the term expiring as of the date of such damage or destruction. Tenant shall notify Landlord within sixty (60) days after the determination of the insurance surveyor with respect to such damage or destruction as to whether it wishes to repair and reconstruct the Improvements or to terminate the Lease as provided for herein.

18. Notices

Any notice required to be served in accordance with the terms of this Lease shall be deemed to have been given when given in writing by depositing the same in the United States mail, postage prepaid, registered or certified, and addressed to the party at its mailing address:

To Landlord: EDMONDS SCHOOL DISTRICT NO. 15
20420 – 68th Avenue West
Lynnwood, WA 98036

Attn: Bret Carlstad
Director of Property Management

To Tenant: _____

Attn: _____

Each party may change its mailing address by giving written notice to the other party of such change.

19. Governmental Fees

All fees, including, without limitation, excises, levies, license fees, permit fees, inspection fees and other authorization fees, payable to the City of Lynnwood, Snohomish County or State of Washington during the life of this Lease with respect to the Premises or Improvements or any additions or alterations thereto shall be paid by Tenant.

20. Default and Remedies

20.1 Default by Tenant

Upon the occurrence of any of the following events, Landlord shall have the remedies set forth in Section 19.2:

20.1.1 Tenant fails to pay any installment of rent or any other sum due hereunder within three (3) days after the same shall be due.

20.1.2 Tenant fails to perform any other term, condition or covenant to be performed by it pursuant to this Lease within ten (10) days after written notice of such default shall have been given to Tenant by Landlord or, if cure would reasonably require more than ten (10) days to complete, Tenant fails to commence performance within the ten (10) day period or fails to diligently pursue such cure to completion.

20.1.3 Tenant shall become bankrupt or insolvent or file any debtor proceedings or have taken against such party in any court pursuant to state or federal statute, a petition in bankruptcy or insolvency, reorganization or appointment of a receiver or trustee; or Tenant petitions for or enters into an arrangement; or suffers this Lease to be taken under a writ of execution.

20.2 Remedies

Upon the occurrence of the events set forth in Section 19.1, Landlord shall have the option to take any or all of the following actions, without further notice or demand of any kind to Tenant or any other person:

20.2.1 Landlord may immediately reenter and remove all persons and property from the Premises, storing said property in a public place, a warehouse or elsewhere at the cost of, and for the account of, Tenant. No such reentry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given by Landlord to Tenant. No such action by Landlord shall be considered or construed to be a forcible entry.

20.2.2 Landlord may collect, by suit or otherwise, each installment of rent or other sum as it becomes due hereunder, or enforce, by suit or otherwise, any other term or provision hereof on the part of Tenant required to be kept or performed.

20.2.3 Landlord may terminate this Lease by written notice to Tenant. In the event of such termination, Tenant agrees to immediately surrender possession of the Premises. Should Landlord terminate this Lease, it may recover from Tenant all damages it may incur by reason of Tenant's breach, including, without limitation, the cost of recovering the Premises, reasonable attorneys' fees, and the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the stated term over the then-reasonable rental value of the Premises for the remainder of the stated term, all of which amounts shall be immediately due and payable from Tenant to Landlord. In determining the rent which would be payable by Tenant hereunder subsequent to default, the rent for each year of the unexpired term shall be equal to the rent that would otherwise be payable under the full term of this Lease.

20.2.4 Should Landlord reenter, as provided above, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, and whether or not it terminates this Lease, Landlord may relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable. Upon each such reletting all rentals received by Landlord from such reletting shall be applied first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorneys' fees and costs of any alterations and repairs; third, to the payment of rent due and unpaid hereunder. The residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month shall be less than that to be paid during such month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. If such rentals received from such reletting exceed the total sum of Landlord's damages incurred by reason of Tenant's breach and the costs set forth above against which such rentals are to be applied, including, without limitation, all future rent, then until Landlord exercises its right to terminate this Lease such excess, after all costs and damages of Landlord and all rents due hereunder have been paid, shall be paid to Tenant. No such reentry and reletting of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant pursuant to Section 19.2.3 above, or unless the termination thereof be decreed by a court of competent jurisdiction.

Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach.

The remedies given to Landlord in this Section 19.2 shall be in addition and supplemental to all other rights or remedies which Landlord may have under laws then in force. If any rents above reserved, or any part thereof, shall be and remain unpaid when the same shall become due, or if Tenant shall violate or default in any of the covenants and agreements herein contained, then Landlord may cancel the Lease upon giving the notice required by law, and reenter the Premises, but notwithstanding such reentry by Landlord, the liability of Tenant for the rent provided for herein shall not be extinguished for the balance of the term of the Lease, and Tenant covenants and agrees to make good to Landlord any deficiency arising from a reentry and reletting of the Premises at a lesser rental than herein agreed to. Tenant shall pay such deficiency each month as the amount thereof is ascertained by Landlord.

21. Costs and Attorneys' Fees

If Landlord is involuntarily made a party defendant to any litigation concerning the Lease or the Premises or Improvements or any other improvement made by Tenant by reason of any act or omission of Tenant or its agents, employees, licensees, invitees or sublessees, then Tenant shall release, defend, indemnify and hold harmless Landlord from all loss, cost, expense and liability by reason thereof, including reasonable attorneys' fees, and all costs and expenses incurred by Landlord in such litigation.

If either Landlord or Tenant shall commence any legal proceedings against the other with respect to any of the terms and conditions of this Lease, the nonprevailing party therein shall pay the other all costs and expenses of such litigation, including reasonable attorneys' fees, as may be fixed by the court having jurisdiction over the matter. The parties hereto agree that Snohomish County, Washington, is the proper jurisdiction for litigation of any matters relating to this Lease.

22. Nonwaiver of Breach

The failure of Landlord to insist upon strict performance of any of the covenants and agreements of this Lease, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such covenants and agreements, or any other covenants or agreements, but the same shall be and remain in full force and effect. Any acceptance by Landlord of a partial payment of rent and interest shall not constitute a waiver of any remaining unpaid rent and/or interest which may have accrued at that time or which may accrue thereafter.

23. Removal of Property

Upon expiration or sooner termination of this Lease, Tenant shall remove its trade fixtures, office supplies and movable furniture and equipment not attached to the Improvements; provided: (a) such removal is made prior to the termination or expiration of this Lease, (b) Tenant is not in default under any provisions of this Lease at the time of such removal, and (c) Tenant immediately repairs all damage caused by or resulting from such removal. All other property in or around the Premises or Improvements and any alterations or additions thereto (including, without limitation, wall-to-wall carpeting, paneling, wall covering, landscaping, bushes, trees or lighting fixtures and apparatus) and any other article affixed to the floor, wall or ceiling of the any building or affixed to any other improvement shall become the property of Landlord and shall remain upon and be surrendered with the Premises, Tenant hereby waiving all rights to any payment or compensation therefor. If, however, Landlord so requests in writing, Tenant will, prior to termination of this Lease, remove any such alterations, additions, fixtures, equipment and property placed or installed by it in or about the Premises or Improvements which may be designated by Landlord, and will immediately repair any damage caused by or resulting from such removal.

If Tenant shall fail to remove any of its property of any nature whatsoever from the Premises or any Improvement at the termination of this Lease or when Landlord has the right of reentry, Landlord may, at its option, remove and store said property without liability for loss thereof or damage thereto, such storage to be for the account and at the expense of Tenant. If Tenant shall not pay the cost of storing any such property after it has been stored for a period of thirty (30) days or more, Landlord may, at its option, sell, or permit to be sold, any or all of such property at a public or private sale (and Landlord may become a purchaser at such sale), in such manner and at such times and places as Landlord in its sole discretion may deem proper, without notice to Tenant, and shall apply the proceeds of such sale: first, to the cost and expense of such sale, including reasonable attorneys' fees actually incurred; second, to the payment of the costs or charges for storing any such property; third, to the payment of any other sums of money which may then be or thereafter become due Landlord from Tenant under any of the terms hereof; and, fourth, the balance, if any, to Tenant.

24. Heirs and Successors

Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this Lease shall be binding upon the heirs, legal representatives, successors and assigns of any or all of the parties hereto.

25. Condemnation

25.1 Total or Substantial Taking

If, during the term of this Lease, fee title to all of the Premises is taken or damaged for any public or quasi-public use under any statute, or by right of eminent domain, whether by a condemnation proceeding or otherwise, or any transfer of all or any part of the Premises or any interest therein is made in avoidance of an exercise of the power of eminent domain, or if title to so much of the Premises is taken that a reasonable amount of reconstruction of the Improvements will not result in the Improvements being a practical improvement and reasonably suitable for Tenant's continued occupancy for the uses and purposes for which the Premises are leased in Tenant's reasonable business judgment, then this Lease shall terminate on the date that possession of the Premises is taken, and the rent and other charges provided herein to be paid by Tenant shall be apportioned and paid by Tenant to such date. If Tenant does not notify Landlord in writing within sixty (60) days after the date Tenant is first notified of such proceeding that Tenant contends that the remaining part of the Premises not so taken will not result in the Improvements being a practical improvement and reasonably suited for Tenant's continued occupancy for the uses and purposes for which the Premises are leased, then the provisions of Section 24.2 shall apply to such taking. If Landlord shall dispute Tenant's contention, Landlord shall give notice thereof to Tenant within thirty (30) days after the giving of Tenant's such notice, and in such event such dispute shall be determined by mediation-arbitration pursuant to Section ____.

25.2 Nonsubstantial Taking

If, during the term of this Lease, fee title to any part of the Premises is condemned and if the remaining part of the Premises (after reconstruction of the Improvements) is such that the Improvements are a practical improvement and reasonably suited for Tenant's continued occupancy for the uses and purposes for which the Premises are leased in Tenant's reasonable business judgment, then this Lease shall, as to the part so taken, terminate as of the date that possession of such part is taken, and the annual rent paid by Tenant under Section 3 shall thereafter be reduced by the amount that the rental value of the Premises (land only) immediately prior to such taking exceeds the rental value of the Premises (land only) after such taking. If the Parties cannot agree upon a just portion of rent to be abated, the amount shall be determined by mediation-arbitration pursuant to Section ____.

25.3 Distribution of Award

If fee title to the Premises is condemned, the entire award or compensation (including damages and interest, if any) awarded or paid upon a total or partial condemnation of the fee title of the Premises, whether such compensation be awarded or paid as compensation for diminution in value of the leasehold or of the fee (the “Total Award”), shall be allocated in the following order of priority:

(1) To Landlord, a sum equal to the value of the Premises taken, valued as unimproved land, exclusive of the Improvements and other any improvements erected on or made to the Premises by Tenant.

(2) To any Leasehold Mortgagee, the balance due on any Leasehold Mortgage.

(3) To Landlord and/or Tenant, any and all reasonable expenses or disbursements Landlord and/or Tenant may have incurred or obligated itself for in connection with such proceedings.

(4) To Tenant, an amount equal to the Depreciated Cost on the date possession is taken in such condemnation of the Improvements and all other improvements erected on or made to the Premises by Tenant, less the amount of item (2) above, but not to exceed the amount of that part, if any, of the Total Award attributable to the value of the Improvements and such other improvements. The term “Depreciated Cost” as used in this Section 16 shall mean the amount which would have been the adjusted basis for determining gain or loss of the improvement in question on the date possession is so taken in such condemnation, if such adjusted basis were computed pursuant to the Internal Revenue Code using straight line depreciation over a period of 31.5 years.

(5) The remainder of the Total Award, if any, shall be divided between the Parties as their interests shall appear. If the date possession of the Premises is taken in such condemnation is on or after the first (1st) day of the fiftieth (50th) Lease Year, then in distributing the remainder of the Total Award, the Trustee shall assume that any available option(s) to extend the term of this Lease would have been exercised if Tenant proves that it was commercially reasonable for Tenant to do so.

26. Landlord's Right to Recapture Premises

Tenant acknowledges that Landlord is a school district and the Premises are, at the time of execution of this Lease, surplus school property subject to statutory limitations on use by third parties, in accordance with Ch. 28A.335 RCW. In the event the Premises, or any portion thereof, is needed for school purposes subsequent to the Commencement Date and during the Initial Term or Extension Term, Landlord shall have the right to terminate this Lease upon twenty-four (24) months notice to Tenant. Landlord shall not exercise such recapture right without having diligently pursued other available properties owned by Landlord that are not subject to existing ground leases. In the event of any such recapture, Landlord shall pay Tenant the fair market value of the Improvements on the date of recapture, less depreciation, as determined by an M.A.I. appraiser selected by Landlord.

27. Insurance (Insurance Requirements Subject to Change Depending Upon Use of Property – this Clause May Be Revised Prior to Mutual Execution)

27.1 Casualty Insurance on Improvements and on Tenant's Personal Property and Fixtures

27.1.1 Tenant, at its sole expense, shall obtain and keep in force at all times during the term hereof on all buildings and improvements on the Premises all-risk insurance coverage, with extended coverage endorsement, including coverage against losses by vandalism, flood and earthquake. The amount of such insurance shall not be less than the full replacement value of the improvements. During the term of this Lease, Tenant, at its expense, shall also maintain insurance covering its furniture, fixtures, equipment and inventory in an amount equal to the full insurable value thereof, insuring against fire and risks covered by a standard extended coverage endorsement and insurance covering all plate glass and other glass on the Premises. Tenant shall provide Landlord with written evidence of the existence of such insurance coverage.

27.1.2 All insurance required under the terms of this Section 26.1.2 and all renewals thereof shall be issued by companies approved by any holder of any security interest in the Premises ("Lender"), shall be endorsed with a standard mortgagee clause and shall be payable solely to Landlord. Any loss adjustment shall require the joint written consent of Landlord and Lender. All policies shall expressly provide that such policies shall not be canceled, terminated or altered without thirty (30) days' prior written notice to Landlord and Lender. Upon the issuance thereof, each such policy or a duplicate or certificate thereof shall be delivered to Landlord and Lender.

27.1.3 If Tenant is not in default hereunder, amounts that are received under Section 26.1.1 shall be paid to Tenant and its contractor on a percentage of completion basis, less ten percent (10%) retainage, to pay for the cost of repair, reconstruction or replacement of the buildings and improvements as herein required. If the insurance proceeds are insufficient to cover the cost of repairing, reconstructing or replacing the buildings and improvements as herein required, Tenant shall be obligated to advance the deficiency.

27.1.4 Tenant hereby grants a security interest in such proceeds to Landlord to secure Tenant's performance of each of its obligations hereunder.

27.2 Liability Insurance

Tenant shall, during the entire Term, keep in full force and effect a policy of public liability and property damage insurance with respect to the Premises and any business operated by Tenant in the Premises, with a combined single limit for personal or bodily injury and property damage of not less than Ten Million Dollars (\$10,000,000); provided, however, Landlord shall have the right to require Tenant to increase such amount from time to time as Landlord in its sole discretion may determine necessary or desirable and consistent with reasonable practices in the area in which the Premises are situate. The policy shall name Tenant as insured and Landlord as an additional insured and shall contain a clause that the insurer will not cancel or change the insurance without first giving Landlord thirty (30) days' written notice. The insurance shall be provided by an insurance company approved by Landlord and a copy of the policy or a certificate of insurance shall be delivered to Landlord. All public liability, property damage and other liability policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry. All such policies shall contain a provision that Landlord, although named as an additional insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it and its servants, agents and employees by reason of the negligence of Tenant. All such insurance shall specifically insure the performance by Tenant of the indemnity agreement as to liability for injury to or death of persons or injury or damage to property contained in Section 28 below.

28. Waiver of Subrogation

Whether the loss or damage is due to the negligence of either Landlord or Tenant or their agents or employees, or any other cause, Landlord and Tenant do each herewith and hereby release and relieve the other and any other tenant or its agents or employees from responsibility for, and waive their entire claim of recovery for, any loss resulting from business interruption at the Premises or loss of rental income from

the Improvements or any loss or damage to the real or personal property of either located anywhere in the Premises or Improvements, arising out of or incident to the occurrence of any of the perils which are covered by any all-risk direct physical damage insurance policy now or from time to time carried by the parties hereto or any of the perils which would be covered by the standard form of all-risk direct physical damage insurance policy in common use in Snohomish County, Washington for comparable properties. Each party shall cause its insurance carriers to consent to such waiver and to waive all rights of subrogation against the other party. Notwithstanding the foregoing, no such release by Landlord or Tenant shall be effective unless such waivers are obtainable by each party.

29. Indemnification

Tenant shall release, defend and indemnify Landlord and save it harmless from and against any and all liability, damages, costs or expenses, including attorneys' fees, arising from any act, omission or negligence of Tenant or its officers, contractors, licensees, permittees, agents, servants, employees, guests, invitees or visitors in or about the Premises, or arising from any breach or default under this Lease by Tenant, or arising from any accident, injury or damage, howsoever and by whomsoever caused, to any person or property, occurring in or about the Premises.

29.1 Scope of Tenant Indemnity

Tenant to Indemnify Landlord. Notwithstanding that joint or concurrent liability may be imposed upon Landlord by statute, ordinance, rule, regulation or order, Tenant shall indemnify, defend and hold harmless Landlord from and against any and all liabilities, obligations, penalties, fines, suits, claims, demands, actions, costs and expenses of any kind or nature, including without limitation reasonable architects', engineers', and attorneys' fees which may be imposed upon or asserted against Landlord by reason of the occurrence of any one or more of the following:

29.1.1 Tenant's Breach. Any breach, violation or nonperformance of any covenant or agreement in this Lease set forth and contained on the part of Tenant to be fulfilled, kept, observed or performed;

29.1.2 Landlord's Nonnegligent Performance. Any accident, injury or damage to person and/or property (except to the extent arising from the nonperformance or negligent performance of any covenant or obligation undertaken by Landlord under this Lease) or to any use or occupancy of the Premises which Tenant may permit or suffer to be made, occasioned by Tenant's use or occupancy of the Premises and/or occurring on any sidewalk, plaza, street, alley, curb, passageway or space adjacent thereto, or any part thereof;

29.1.3 Tenant Negligence. Any negligence or wrongful act or omission on the part of Tenant or any of its agents, contractors, servants, employees, licensees, sublessees or invitees;

29.1.4 Tenant Work. Any work or thing done by Tenant in, on or about the Premises and/or on any sidewalk, plaza, street, alley, curb, passageway or space adjacent thereto, or any part thereof unless such work or thing be performed by Landlord or its agents;

29.1.5 Subtenant's Violation of Laws. Any failure of Tenant's subtenant to perform and comply with laws now or hereafter enacted or promulgated affecting the Premises; or

29.1.6 Construction of the Building; Waiver of Immunity. Any accident, injury or damage to person and/or to property insofar as such accident, injury or damage relates to the construction, alteration, repair, addition to, subtraction from or maintenance of the Improvements or any road, excavation, or other structure, project development or improvement attached to the real property which is the subject of this Agreement, including moving or demolition in connection therewith. Further, Tenant hereby waives Tenant's immunity under industrial insurance, Title 51 R.C.W. This waiver is expressly negotiated by the parties. The indemnification provided for by this Section 28.1.6 shall, however, be limited as follows:

(a) In the event that such damages are caused by or result from the sole negligence of Landlord, its agents and/or employees, Landlord shall have no right to indemnification hereunder; and

(b) In the event that such damages are caused by or result from the concurrent negligence of Landlord, its agents and/or employees, and Tenant or its agents or employees, Landlord's right to indemnification hereunder shall be limited to liability for damages which relate to the negligence of Tenant or any of its agents and/or employees.

The provisions of this Section 28.1 shall survive the expiration of the Term or earlier termination of this Agreement.

29.2 Legal Proceedings

If Tenant is required to defend any action or proceeding pursuant to this Section 28 to which action or proceeding Landlord is made a party, Landlord shall also be entitled to appear, defend or otherwise take part in the matter involved, at its election and at its own expense, by counsel of its own choosing.

29.3 Nonwaiver Agreement

The foregoing agreements of indemnity are in addition to and not by way of limitation of any other covenants by Tenant to indemnify Landlord; provided, however, that nothing contained in this Section 28 or in any other provision of this Lease shall be construed as a release by Tenant of any cause of action based upon the negligence of Landlord or an undertaking by Tenant to indemnify Landlord against the consequences of Landlord's negligence.

29.4 Subleases

Nothing herein shall affect the liabilities and obligations of Tenant or Landlord under any sublease of any portion of the Building.

30. Notice of Space Availability

At least ninety (90) days prior to the expiration or termination of any sublease between Tenant and a subtenant with respect to a portion of the Premises, Tenant shall give to Landlord written notice of such expiration or termination.

30.1 Landlord as Tenant

It is hereby acknowledged that Landlord may from time to time sublease from Tenant a portion of the Premises. The terms of such sublease shall be governed by the terms and conditions of the sublease as negotiated by Tenant and Landlord then acting in its capacity as a subtenant of Tenant; provided, however, Tenant hereby covenants and agrees that it shall not impose any conditions upon Landlord's use and occupancy of any space subleased by it in a manner that is disadvantageous from the conditions then generally imposed upon all subtenants in the Premises and that the imposition of such conditions, or the threat to impose such conditions, shall constitute an Event of Default.

31. Holdover

If Tenant shall, without the written consent of Landlord, hold over after the expiration or termination of the Term, Tenant shall be deemed to be occupying the Premises on a month-to-month tenancy, which tenancy may be terminated as provided by the laws of the State of Washington. During such tenancy, Tenant agrees to pay to Landlord twice the rate of rental as set forth herein, unless a different rate shall be agreed upon, and to be bound by all of the terms, covenants and conditions herein specified, so far as applicable.

32. Transfer of Landlord's Interest

This Lease shall be assignable by Landlord without the consent of Tenant. In the event of any transfer or transfers of Landlord's interest in the Premises or the Improvements, other than a transfer for security purposes only, the transferor shall be automatically relieved of any and all obligations and liabilities on the part of Landlord accruing from and after the date of such transfer and Tenant agrees to attorney to the transferee.

33. Right to Perform

If Tenant shall fail to pay any sum of money, other than rent, required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue for five (5) days after notice thereof by Landlord, Landlord may, but shall not be obligated to, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease. All sums so advanced by Landlord shall be deemed additional rent, due and payable on the next succeeding Base Rent due date. Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment of sums due under this Section as in the case of default by Tenant in the payment of rent.

34. General

34.1 Captions

The captions to sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof. This Lease shall be construed and governed by the laws of the State of Washington.

34.2 No Partnership

Nothing contained herein shall be construed as creating a partnership or joint venture between Landlord and Tenant or cause Landlord to be responsible in any way for debts or obligations of Tenant or any other party.

34.3 Commissions

Tenant represents and warrants to Landlord that it has not engaged any broker, finder or other person who would be entitled to any commission or fee in respect of the negotiation, execution or delivery of this Lease and shall indemnify and hold harmless Landlord against any loss, cost, liability or expense incurred by Landlord as

a result of any claim asserted by any such broker, finder or other person on the basis of any arrangements or agreements made or alleged to have been made by or on behalf of Tenant.

34.4 Entire Agreement; Severability

This Lease contains all covenants and agreements between Landlord and Tenant relating in any manner to the rental, use and occupancy of the Premises and other matters set forth in this Lease. No prior agreements or understanding pertaining to the same shall be valid or of any force or effect and the covenants and agreements of this Lease shall not be altered, modified or added to except in writing signed by Landlord and Tenant. If any provision of this Lease or the application thereof to any person or circumstances shall prove to any extent invalid or unenforceable, the remaining provisions hereof or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

34.5 Time of the Essence

Time is of the essence with respect to each of the provisions of this Lease.

34.6 Survival

Each provision of this Lease which may require the payment of money by, to or on behalf of Landlord or Tenant or third parties after the expiration of the Term hereof or its earlier termination shall survive such expiration or earlier termination.

34.7 Memorandum of Lease

The parties agree that this Lease shall not be recorded, but that they shall execute and acknowledge an appropriate memorandum of this Lease for public recordation purposes, so that public notice of the Term of this Lease hereof be given, in substantially the form attached hereto as EXHIBIT D.

34.8 Lease Construed as a Whole

The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and neither strictly for nor strictly against Landlord or Tenant.

34.9 Interest

Except as otherwise specifically provided herein, any amounts due to Landlord from Tenant pursuant to the terms of this Lease, including amounts to be reimbursed by Tenant to Landlord, shall bear interest from the due date or the date the right to reimbursement accrues at the rate published or publicly announced most recently prior to such date as the lowest rate charged by _____, or its successor, for commercial, short-term unsecured loans, but not less than eighteen percent (18%) per annum; provided, however, that such rate shall not exceed, in any event, the highest rate of interest which may be charged under applicable law without the creation of liability for penalties or rights of offset or creation of defenses. For purposes of interest calculations, the due date of amounts or the date the right to reimbursement accrues shall be deemed the date that it originally was owing but may have been disputed, as distinguished from the date of final settlement or the making of a judicial award.

34.10 Governing Law

This Lease shall be governed by, and interpreted in accordance with, the laws of the State of Washington as they shall exist from time to time.

IN WITNESS WHEREOF the parties hereto have executed this Lease as of this _____ of _____, _____.

LESSEE:

By: _____

Its: _____

LESSOR:

EDMONDS SCHOOL DISTRICT NO. 15

By: _____

Its: _____

DRAFT – 6/5/01

EXHIBIT A LEGAL DESCRIPTION
EXHIBIT B TEMPORARY USE PERMIT
EXHIBIT C PRELIMINARY TITLE COMMITMENT
EXHIBIT D MEMORANDUM OF LEASE