

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease"), dated _____, 20_____, 2011 for identification, is by and between the COUNTY SCHOOL BOARD OF ALBEMARLE COUNTY, VIRGINIA ("Landlord" or "Albemarle County"), and THE PIEDMONT REGIONAL EDUCATION PROGRAM JOINT BOARD OF CONTROL ("Tenant"), who mutually covenant, promise and agree as follows:

1. Recitals.

a. Landlord is a political subdivision of the Commonwealth of Virginia with its principal offices at 401 McIntire Road, Charlottesville, Virginia 22902 and is a member of a cooperative regional education program known as the Piedmont Regional Education Program ("PREP"). In addition to Albemarle, the other School Boards comprising the PREP Joint Board of Control ("Joint Board") are the School Board of the City of Charlottesville and the School Boards of the Counties of Culpeper, Fluvanna, Greene, Louisa, Madison, Nelson, and Rappahannock.

b. Tenant is a Joint Board of Control governing PREP composed of a representative from each of its constituent School Boards. Tenant is responsible for establishing policy and making decisions related to the operation of the programs and services provided by PREP, in accordance with Virginia Code §22.1-26, the regulations established by the Virginia Board of Education for jointly-operated school programs, and the by-laws governing PREP. PREP operates a school known as the Ivy Creek School for students with emotional disabilities who are placed by each of the member School Boards, as permitted by applicable state and federal laws and in accordance with the Operating Agreement for Ivy Creek School dated _____.

2. Demise and Premises. Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, for the term and upon the covenants, terms and conditions hereinafter set forth, certain real estate and improvements (the "Premises") described in "**Exhibit A**" annexed hereto. This Lease shall also include the right of Tenant to use all furnishings and equipment contained in the Premises and listed on "**Exhibit B**" annexed hereto.

3. Term. The term of this Lease shall commence on July 1, 2011 ("Commencement Date"), and shall terminate and expire on June 30, 2019 ("Termination Date"), unless extended or sooner terminated as hereinafter provided.

4. Renewal. Provided that all rent has been paid and all other conditions of this Lease have been properly complied with, and provided that Landlord has not exercised its right to terminate the Lease as provided for hereinafter, Tenant may at its option extend this Lease for up to two (2) consecutive five (5) year terms. To exercise its option to renew this Lease, Tenant must give Landlord written notice of renewal no later than six (6) months before the Termination Date or before the expiration of any subsequent renewal term. In the event of

such renewal, all the terms and conditions of this Lease shall continue in full force and effect, except that the amount of annual rent payable during the renewal term(s) shall be modified and communicated by Landlord to Tenant **by no later than thirty (30) days before the date the tenant is required to notify Landlord of its intent to renew the lease.**

5. Termination. Prior to the expiration of the original term or any renewal term thereafter under this Lease, Landlord may require the exclusive use of the Premises for its own school division or for other purposes. In that event, Landlord shall have the right of early termination of this Lease. To exercise this right, Landlord shall notify the Joint Board at least one (1) calendar year in advance of its intention to occupy the Facility. In such event, PREP shall vacate the Premises at a mutually acceptable date (the "Departure Date"), to be confirmed in writing by authorized representatives of the parties, and this Lease shall terminate on or before the Departure Date. The Departure Date shall be not later than one (1) calendar year after the end of the school year in which notice to vacate the Premises is received by the Joint Board. Except as provided hereunder, this Lease shall remain in effect until the expiration of the original term or any subsequent renewal term(s).

6. Rent. Tenant agrees to pay to Landlord as annual rent during the initial and any renew term(s) of this Lease (the "Rent") in an amount equal to the total amount of annual debt service incurred by Landlord and/or the County of Albemarle for the Ivy Creek school building and other reasonable and necessary improvements constructed by Landlord to house PREP programs and services as set forth on the PREP Debt Schedule annexed as **Exhibit "C."** Prior to January 1, 2019 the parties shall agree upon the amount of the annual rent for the years following the satisfaction of the debt service set forth on **Exhibit "C."** Tenant shall pay all rent owed under this Lease to Landlord on an annual or more frequent basis and in no event later than thirty (30) days following receipt of written notice from Landlord that such amount is due and owed.

7. Use. Tenant shall have the right to use the leased Premises solely for the purpose of operating the Ivy Creek School and for activities related to the operation and administration of PREP. Any other proposed use requires the prior written consent of the Landlord, which consent Landlord may withhold in its sole and absolute discretion. Tenant acknowledges that the Premises is located upon property owned by Landlord and utilized for Albemarle High School and other school division purposes, and agrees that it shall not impair Landlord's ability and right to operate and manage Albemarle High School or other school division facilities located on the Premises. In the event that Tenant's use of the Premises **materially** conflicts in any way with Landlord's operation of Albemarle High School or any other school division facility located on Landlord's property, Tenant shall take all steps required by Landlord to cure and eliminate such conflicting use. In the event Tenant is unable to cure or eliminate such conflict, then Landlord shall have the right to terminate this Lease at its sole discretion after giving written notice to Tenant at least ninety (90) days prior to the date that Tenant is required to vacate the Premises.

8. Maintenance and Repairs. Tenant hereby agrees that Tenant shall oversee and be Responsible for the maintenance of the Premises and any related improvements constructed thereon, to ensure that the Premises are kept in good condition and repair. Tenant shall therefore be responsible for all routine repairs and maintenance for the Premises, including repairs to and maintenance of all heating, air conditioning, plumbing and electrical systems. Tenant shall also be responsible for all exterior maintenance, including landscaping, trimming of shrubs and mowing of grass. Tenant shall have the right to contract with Landlord to provide these services, provided that Landlord shall be compensated at Landlord's prevailing rates for such services.

9. Improvements. Tenant shall have the right, at its own cost and expense, except as otherwise provided in this Lease, to construct on any or all of the Premises, at any time and in accordance with the terms and conditions of this Lease, such improvements, alterations, changes, replacements and additions (collectively the "Improvements") as Tenant shall from time to time determine, provided that Tenant has satisfied the other provisions of this Lease. Prior to the commencement of any such Improvements, Tenant shall provide notice in writing to Landlord. Landlord shall have the right in its sole and absolute discretion to approve or reject any proposed Improvements. Landlord shall also have the right to inspect the Improvements to ensure that they are being constructed in substantial accordance with the approved final plans. Landlord may notify Tenant in writing of any noted deviations from approved formal plans, which Tenant shall remedy or seek approval from Landlord within thirty (30) days of written notice by Landlord.

10. Title to Improvements. Title to all Improvements constructed on the Premises, including but not limited to the Ivy Creek School, shall be held by and remain in the Landlord at all times.

11. Condition of Premises. Prior to the Commencement Date, Tenant shall acknowledge in writing that it has inspected the Premises and accepts the Premises in its "as is" condition. Tenant shall keep the Premises in good order and repair and in a clean, sanitary and safe condition in accordance with all state and local laws, regulations and ordinances. Upon vacating the Premises after expiration or termination of this Lease, Tenant shall deliver the Premises to the Landlord without delay and in the condition in which Tenant agreed to maintain it pursuant to this Lease (ordinary wear and tear excepted, given its use) free and clear of all lettings and occupancies, and free and clear of all liens and encumbrances other than those authorized by Landlord.

12. Operating Agreement and Costs. The Joint Board members have entered into by-laws effective July 1, 1984 (and amended on January 25, 1985, August 9, 1995, October 18, 2000, March 19, 2003, and October 27, 2010) to control the operations and management of PREP and its programs. In addition, the constituent School Boards have entered into an Operating Agreement annexed hereto as **Exhibit "D"**, which shall control and govern the of student spaces and other ongoing operating costs of PREP.

13. Insurance.

a. Fire and Other Insurance. Starting on the Commencement Date, and during the entire Lease term hereof, Tenant, at its sole cost and expense, shall be responsible for maintaining any fire and casualty insurance on the Premises. Such policies shall insure the Premises at replacement value against loss or damage by fire or by any other cause, and shall also cover the contents of the Premises. In addition, during the entire term of this Lease, whether original or renewal term(s), Tenant shall, at its sole cost and expense, keep in full force and effect a policy or policies of general or comprehensive public liability and property damage insurance with respect to the Premises of not less than one million dollars (\$1,000,000) per occurrence, against any claims for bodily injury, death or property damage, occurring on, in or about the Premises and any improvements, and against contractual liability of any such claims.

b. Insurers. All insurance required by this section, except in the instances of self-insurance, shall be effected under valid and enforceable policies issued by insurers of recognized responsibility authorized to conduct business in Virginia that are well-rated by national ratings organizations.

c. Insureds. All policies of insurance provided for in this section shall name Landlord as an additional insured.

d. Blanket Insurance Policies. Nothing in this Lease shall prevent Tenant from taking out insurance of the kinds required by this section under a blanket insurance policy or policies maintained by Tenant; provided, however, that: (i) any such policy of blanket insurance shall specify therein, or Tenant shall furnish Landlord with a written statement from the insurer under such policy so specifying, the amount of the total insurance allocated to the Premise and improvements, which amount shall be not less than the amount required herein; (ii) any such policy of blanket insurance of the kind specified by Section 13(b) hereof shall specify that any loss payable hereunder shall be payable first in respect of the Premises and improvements without regard to the contents thereof; (iii) any policy of blanket insurance hereunder shall comply in all respects with the other provisions of this section; and (iv) the protection afforded Landlord and Tenant pursuant to Section 13(b) under any policy of blanket insurance shall be no less than that which would have been afforded under a separate policy or policies relating only to the Premises and improvements.

e. Notice of Cancellation. Each policy or certificate of insurance obtained by Tenant pursuant to this section shall contain an express agreement by the insurer that such policy shall not be canceled or modified without at least thirty (30) days' prior written notice to Landlord.

f. Certificate of Insurance. Prior to the Commencement Date, and during the term of this Lease, whether original or renewal term(s), Tenant shall provide Landlord with certificates of insurance as evidence of Tenant's compliance with the requirements of this section.

g. Landlord's Insurance Coverage. The parties may mutually agree for Landlord to add the Premises to its insurance policies because of cost-effectiveness, rather than for the Tenant to procure separate insurance. In such event, the Tenant shall be billed by Landlord for the costs of insuring the Premises and Tenant shall be responsible for the payment of such insurance costs.

14. Damage or Destruction. If the Ivy Creek School or other Improvements to the Premises are partially destroyed by fire or other casualty and thereby rendered untenable only in part, Landlord shall, except as stated herein, promptly cause the damage to be repaired to substantially the same condition as existed immediately prior to such damage. Tenant's obligation to pay Rent pursuant to Section 6 of this Lease shall remain unabated during the period the Premises is rendered untenable in whole or in part. If by reason of fire or other casualty, the Ivy Creek Ivy Creek School or other improvements are rendered completely untenable, Landlord may elect to terminate this Lease or to continue this Lease provided that Landlord agrees to repair such damage. Notwithstanding the foregoing, Landlord is under no obligation to repair the Premises and reserves unto itself the sole right to decide whether to make the necessary repairs in the event of fire or casualty to all or part of the Premises or improvements. In the event Landlord declines to make such repairs, it shall provide written notice to Tenant of its decision not to repair, in which event this Lease shall thereupon be terminated.

15. Default. Tenant shall not be deemed to be in default hereunder unless one or both of the following events has occurred. Either of the following events shall constitute a default by Tenant hereunder:

(a) Failure on the part of Tenant to pay rent or any other sum of money called for herein, or any part thereof, when due, and continuance of such failure for sixty (60) days after written notice from Landlord to Tenant;

(b) Failure on the part of Tenant to comply with or perform any other term, covenant, condition or agreement to be complied with or performed by Tenant and continuance of such failure for sixty (60) days after written notice from Landlord to Tenant, unless such failure is excused by Landlord in writing.

In the event Tenant has defaulted under (a) or (b) of this section, and said default has continued beyond those periods of time herein granted to cure the same, then Landlord may give Tenant notice of Landlord's intention to terminate this Lease on a date specified in such notice, which date shall not be less than ninety (90) days after the date on which the notice is mailed or delivered. Upon the expiration of the notice period, the term of this Lease and the estate hereby granted with respect to the Premises shall terminate on the date specified in the notice. The termination provisions in this section shall be in addition to, and not in lieu of, the termination provisions in Section 5 of the Lease.

16. Remedies. In the event of default by Tenant, and failure to remedy said default as provided by Section 15 of this Lease, Landlord shall have, in addition to all other remedies under this Lease and applicable law, the right to re-enter the Premises either with or without

legal process and remove all persons and property therefrom. Tenant expressly agrees that the exercise by Landlord of the right of re-entry shall not prejudice in any way any other legal remedies available to Landlord, and every right and remedy of Landlord shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing at law. Landlord shall also be entitled, to the extent permitted by law, to injunctive relief in case of the violation, or attempted or threatened violation, of any covenant, agreement, condition or provision of this Lease.

17. Waiver of Performance. No failure by Landlord or Tenant to insist upon the strict performance of any covenant, agreement, condition or provision of this Lease on the part of either party to be performed, or to exercise any permitted right or remedy consequent upon a default therein, and no acceptance of payment of full or partial rent by Landlord during the continuance of any such default, shall constitute a waiver by either party of such default. No waiver of any default shall otherwise affect or alter this Lease, but each and every covenant, agreement, condition and provision of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent default therein.

18. Assignment or Subletting. Tenant may not assign this Lease without the prior written consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion.

19. Notices. All notices to be given hereunder shall be in writing and shall be deemed to have been properly given if and when delivered personally or sent by registered or certified mail, postage prepaid, addressed as follows:

If to Tenant:

Piedmont Regional Education Program Joint Board

225 Lambs Lane

Charlottesville, Virginia 2290 1

If to Landlord:

Albemarle County Public Schools

Office of the Superintendent

401 McIntire Road

Charlottesville, Virginia 22902

With a copy to:

School Board Attorney

Albemarle County Attorney's Office

401 McIntire Road

Charlottesville, Virginia 22902

20. Successors and Assigns. The obligations of this Lease shall bind and benefit the assignees and successors of the parties hereto.

21. Annual Appropriations. The obligations of Landlord and Tenant under this Lease are contingent upon sufficient annual funding and appropriation by their respective governing bodies and approval by their constituent school boards.

22. Governing Law. This Lease Agreement shall be governed by the laws of the Commonwealth of Virginia. The exclusive venue of any litigation arising hereunder shall be the Albemarle County Circuit Court.

IN WITNESS WHEREOF, the parties hereto have, by formal action taken at lawfully called and constituted meetings, approved this Lease Agreement and authorized their respective representatives to execute it on their behalves.

Landlord:

COUNTY SCHOOL BOARD OF ALBEMARLE COUNTY, VIRGINIA

By: _____

Chair

COMMONWEALTH OF VIRGINIA,

COUNTY/CITY OF _____, to-wit:

The foregoing Lease Agreement was signed and acknowledged before me this _____ day of _____, 2011.

Notary Public

My Commission Expires: _____

Registration No.: _____

Tenant:

**PIEDMONT REGIONAL EDUCATION PROGRAM JOINT BOARD
OF CONTROL**

By: _____

Chair

COMMONWEALTH OF VIRGINIA,

COUNTY/CITY OF _____, to-wit:

The foregoing Lease Agreement was signed and acknowledged before me this _____ day of _____, 2011.

Notary Public

My Commission Expires: _____

Registration No.: _____