

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease"), made this _____ day of _____, 2023, by and between the **CITY OF HAMPTON, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia ("City" or "Landlord") and the **SCHOOL BOARD OF THE CITY OF HAMPTON, VIRGINIA**, a body politic of the Commonwealth of Virginia (the "School Board" or "Tenant"), the City and the School Board each a "Party" and collectively, the "Parties."

RECITALS

A. The City constructed the Ruppert L. Sargent Building (the "Building"), a six-story office building, using funds from a City-issued General Bond Obligation with the intent to save costs by relocating multiple City offices and School Board administrative offices to that Building.

B. The City and School Board have maintained a regular and continuous course of dealing regarding a split of the costs necessary to maintain the Building based on the respective use by each Party, and desire to memorialize that relationship through this Lease.

WITNESSETH:

That for and in consideration of the following terms, conditions, covenants, promises and agreements, the Parties agree as follows:

1. Recitals. The Parties acknowledge and agree the recitals stated above are true and accurate and incorporated herein.
2. Leased Premises. Landlord leases and demises to Tenant and Tenant takes and leases from Landlord, a portion of the property located at 1 Franklin Street, Hampton, Virginia, 23669 (the "Property"), more particularly described as the entirety of the second (2nd) – fifth (5th) floors of the Building ("Leased Premises").
3. Term. The current term of this Lease shall be for a period of five (5) years, commencing on the approval of this Lease by the City Council of the City of Hampton, Virginia (the "Term").
4. Rent. In lieu of rent the School Board shall annually pay to the City its pro-rata portion of all costs to operate and maintain the Building, including, but not limited to, certain designated personnel; utilities; security guard and system monitoring; extermination; heating and air maintenance; fire alarm, monitoring, and sprinkler testing; elevator inspections; generator services; and janitorial services.

5. Permitted Use and Common Areas. The Leased Premises shall be used for offices and all uses consistent therewith, and for no other purpose without the prior written consent of Landlord, which shall not be unreasonably withheld. Landlord additionally grants to Tenant the right to use, in common with Landlord and other tenants and occupants of the Building, all portions of the Building (if any) designed for the common use of all tenants and occupants of the Building, including, but not limited to, those certain conference rooms located on the first (1st) floor of the Building subject to Tenant coordinating with and securing rental and use of those spaces from the Landlord and to those additional terms and conditions imposed by Landlord on all users of those conference room areas. Tenant's use of these common facilities shall be subject to such reasonable rules and regulations as Landlord may adopt.

6. Insurance. Tenant must maintain an occurrence form of comprehensive commercial general liability coverage. Such coverage shall include, but not be limited to, bodily injury, property damage broad form, and personal injury, for the hazards of, broad form contractual, independent contractors, and products/completed operations. Tenant must maintain such commercial comprehensive general liability coverage with limits of liability not less than \$1,000,000 each occurrence; \$1,000,000, personal and advertising injury, each occurrence; and \$1,000,000 products liability and completed operations, each occurrence with an aggregate of \$2,000,000. In addition, Tenant shall (a) maintain umbrella or excess coverage in a minimum amount of \$2,000,000.00. Umbrella or excess coverage must be follow-form over primary coverage; and (b) keep in force for the duration of the Lease a policy covering damages to its property at or on the Leased Premises. The amount of coverage shall be sufficient to replace the damaged property, loss of use and comply with any ordinance or legal requirements.

Tenant shall provide evidence of the required insurance in the form of a certificate of insurance issued by a company (rated A- VII or better), licensed to do business in the Commonwealth of Virginia, which includes all coverages required in this Section 6. Tenant will include Landlord as an additional insured on the general liability and umbrella/excess policies. The certificate(s) shall also provide that the coverage may not be canceled, non-renewed, or materially changed without thirty (30) days' prior written notice to the Landlord. Tenant shall provide a current certificate of insurance to the Department of Risk Management annually without demand.

7. Limitation of Liability. Neither Landlord nor Tenant shall be responsible or liable to the other for any loss or damage arising from any claim to the extent attributable to any acts or omissions of other licensees occupying the Building or vandalism to the Building for any structural or power failures or destruction or damage to the Building except to the extent caused by the negligence or willful misconduct of such Party; provided however, that nothing in this Lease shall constitute or be deemed to be a waiver of the sovereign immunity or any defense related thereto of

Landlord or Tenant or a waiver of the ordinary negligence standard applicable to Landlord and Tenant. Notwithstanding anything to the contrary in this Lease, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant each hereby waive the right to recover, incidental, consequential (including lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.

8. Defense and Indemnification. To the extent permitted by law, and without waiving its sovereign immunity, Tenant agrees to defend, indemnify and hold harmless Landlord and its elected officials, officers, employees, agents, and representatives, from and against any and all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorney's fees and other costs and expenses of litigation, arising or alleged to arise which may be asserted against or incurred by Landlord or for which Landlord may be liable in the performance of this Lease, except those which arise from the gross negligence, willful misconduct or omissions of Landlord. Tenant shall defend all claims arising out of Tenant's use of the Leased Premises and out of the installation, operation, use, maintenance, repair, removal, or presence of Tenant's Facility on the Leased Premises. And, to the extent permitted by law, and without waiving its sovereign immunity, Landlord agrees to defend, indemnify and hold harmless Tenant and its officers, employees, agents, and representatives, from and against any and all claims, costs, losses, expenses, demands, actions, or causes of action, and other costs and expenses arising or alleged to arise from the gross negligence or willful acts or omissions of Landlord or any gross negligence or omission of Landlord, its agents, employees, licensees, or independent contractors which occurs during the term of this Lease or alleged to arise from a breach of this Lease by Landlord.

9. Notice. Any notice required or permitted by this Lease to be given by a Party to the other must be in writing unless otherwise provided herein and shall be effective only if delivered by personal service or mailed by registered or certified mail, postage prepaid, return receipt requested. In each case, the notice should be addressed to the addresses set forth below, or at such other addresses as either party may designate by notice given from time to time. Notice shall be deemed given on the day received if by personal service, or on the second business day after being placed in the United States mail as aforesaid.

Landlord's address for notices shall be:
Office of the City Manager
22 Lincoln Street
Hampton, VA 23669
Attention: Brian DeProfio

Tenant's address for notices shall be:

10. Compliance With All Laws/Governing, Law /Venue/Recordation. Tenant shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or

hereafter adopted, in the performance of its obligations under this Lease. This Lease shall be construed to be a Virginia contract and shall be governed by the applicable laws of the Commonwealth of Virginia as to all matters, whether of validity, interpretation, obligations, performance or otherwise. Venue for any suit brought to enforce the terms of this Lease or arising from the rights, liabilities or obligations set forth herein shall be filed in the appropriate court of competent jurisdiction in the City of Hampton, Virginia. Neither this Lease or a short form thereof shall be filed or recorded in the public land records by either Party.

10. Holdover. If Tenant remains in possession after the end of the Term without the prior written consent of the Landlord, Tenant shall be subject to the terms and conditions hereof.

IN WITNESS WHEREOF, the parties hereto have affixed their seals as of the day and year first above written.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF HAMPTON, VIRGINIA

SCHOOL BOARD OF THE CITY OF HAMPTON, VIRGINIA

By: _____
City Manager/Authorized
Designee of the City Manager

By: _____
Name: _____
Title: _____

APPROVED AS TO CONTENT:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

City Director of Public Works

Legal Counsel for the School Board

APPROVED AS TO
RISK MANAGEMENT:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

City Director of Risk Management

Legal Counsel for the City

APPROVED AS TO FINANCE

City Director of Finance