

MONTH-TO-MONTH LEASE AGREEMENT

THIS MONTH-TO-MONTH LEASE AGREEMENT (hereinafter "Lease") is made this ____ day of February, 2012 ("Effective Date"), by and between the BOARD OF EDUCATION OF THE GADSDEN INDEPENDENT SCHOOL DISTRICT, (Lessor), and SW FOAM (Lessee).

WHEREAS, Lessor owns and controls 460 square feet of vacant space within the Gadsden Schools Administrative Complex located at 4950 McNutt Road, Sunland Park, New Mexico, which is not presently used or needed for school or administrative operations; and

WHEREAS, Lessor wishes to lease such space to Lessee on a month-to-month basis and in accordance with the provisions and conditions specified below; and

WHEREAS, Lessee proposes to maintain and keep said Premises in good condition and repair, to pay the rent and utilities and otherwise comply with the terms and conditions specified in this Lease; and

WHEREAS, this lease will remain in place on a month-to-month basis as specified more fully below.

NOW, THEREFORE, in consideration of the foregoing, the rent herein reserved, the covenants herein contained, and for other good and valuable consideration specified herein, Lessor does hereby lease, demise and let unto Lessee the property described herein on a month-to-month basis and in accordance with the conditions set

forth below. The parties agree as follows:

1. **Description of the Leased Premises:** Office space totaling 460 square feet located within the Lessor's Administrative Complex at 4950 McNutt Road, Sunland Park, New Mexico, 88021, as designated and highlighted on the site map attached hereto as Exhibit "A" (hereinafter the "Leased Premises").

2. **Term:** The term of this Lease shall be month-to-month, for a period not to exceed twelve (12) months, commencing on the Effective Date. This Lease may be terminated by either Lessor or Lessee on 30 days prior written notice of termination from one party to the other.

3. **Rent and Utilities:** Lessee agrees to pay to Lessor as Rent the amount of \$10 per square foot over the term of this Lease, which is a sum equal to \$383.33 per month. The first monthly installment of Rent shall be paid in advance on the Effective Date of this Lease, and each succeeding installment shall be paid monthly thereafter throughout the remaining term of this Lease unless sooner terminated by the Parties. In addition to the Rent, Lessee agrees to pay utilities to the Lessor in the amount of \$ 0.18 per square foot, a sum equal to \$6.90 per month, which sum shall be paid together with the monthly Rent payment.

4. **Prior Inspection and Acknowledgment:** A physical inspection of the Leased Premises has been conducted by Lessee as of the effective date of this Lease, and Lessee hereby acknowledges that it knows the conditions of the Leased Premises,

that no representations as to same have been made by Lessor and Lessee hereby accepts the Leased Premises in their present condition.

5. **Ownership of Improvements**: All improvements placed on and affixed to the Leased Premises during the term of the Lease by the Lessee shall be owned by Lessee during the term of this Lease; on the termination date, all such improvements shall be owned by Lessor.

6. **Maintenance and Repair**: Lessee shall, at Lessee's sole expense, maintain and preserve the Leased Premises and all improvements thereon in reasonable condition, normal wear and tear excepted. Lessee shall perform such repairs at its sole expense as may be necessary to maintain the Leased Premises in reasonable condition and Lessee shall not suffer or permit any continuing nuisance thereon.

7. **Assignment and Subletting**: Lessee may not assign, sublet, mortgage, subordinate, alienate or hypothecate the Leased Premises, or any part thereof, without the express written consent of Lessor.

8. **Signs and Personal Property**: Lessee may place signs on the Leased Premises only with the advance written approval of Lessor, which approval shall not be unreasonably withheld. All personal property, signs and improvements of Lessee, its employees, agents, customers and invitees shall be kept on or near the Leased Premises at the sole risk of the Lessee, and Lessor shall not be liable for any damage thereto.

9. **Inspection:** Lessee will permit Lessor to come upon the Leased Premises at all reasonable times in order to inspect the condition, use, safety or security of the Leased Premises.

10. **Laws:** Lessee will comply with all applicable federal, state and local laws and with all applicable rules and regulations of Lessor, and will insure that all persons using the Leased Premises so comply. Lessee shall indemnify Lessor and hold it harmless from and against any and all claims, damages, loss and liability (including, but not limited to attorney's fees and costs of litigation) suffered by Lessor by reason of Lessee's failure to comply with the terms of this paragraph 10 of this Lease.

11. **Indemnification:** Lessee shall indemnify and hold harmless Lessor from all loss, cost, damage, liability and expense, including but not limited to attorney's fees, and cost of litigation, incurred by Lessor by reason of any claim made against Lessor arising out of the Lessee's use of the Leased Premises, except those claims arising out of the active conduct or negligence of Lessor's employees acting in the course of their employment for the benefit of Lessor and not Lessee.

12. **Notice:** All notices relating to the Lease shall be in writing and shall be delivered to the following addresses and if mailed, sent certified or registered mail:

LESSOR: Superintendent,
Gadsden Independent School District
P.O. Drawer 70

Anthony, New Mexico 88021

LESSEE:

SW Foam

Attn: Mike Simpson

[_____]

[_____]

or to such other addresses as either party may give to the other party by notice as set forth above.

13. **Waiver:** No failure on the part of Lessor to exercise and no delay in exercising any right, power or privilege hereunder, shall preclude other or further exercise thereof, or the exercise of any other right, power or privilege by Lessor. The rights or limitations herein provided are cumulative and not exclusive of any rights and remedies otherwise provided by law or equity.

14. **Expiration:** Upon termination of this Lease by reason of the expiration of the maximum term or earlier termination by either party, as provided herein, Lessee shall peaceably surrender to Lessor possession of the Leased Premises and all improvements thereon in good condition and repair, reasonable wear and tear excepted.

15. **Insurance:** Lessee shall carry and maintain in full force and effect during the term of this Lease, and any extension thereof, at Lessee's sole cost and expense, liability insurance covering bodily injury, disease, illness or death and property damage liability, in a form and with an insurance company acceptable to Lessor, with limits of coverage not less than \$300,000 for each person and \$500,000 in the aggregate for bodily injury, disease, illness or death with respect to any one occurrence, and \$100,000 for each occurrence for property damage liability, for the benefit of both Lessor and Lessee as protection against all liability claims arising from Lessee's use of the Premises, causing Lessor to be named as an additional-named insured on such policy of insurance, and delivering a copy thereof to Lessor upon the effective date of this Lease. Lessor shall maintain in full force and effect during the term of this Lease, and any renewal thereof, fire and extended coverage insurance upon all buildings, alterations, additions and improvements comprising the Gadsden Schools Administrative Complex, including the leased Premises, in such manner and in such amount as is provided by law for school districts in New Mexico. In the event that such buildings, additions or improvements should be destroyed or substantially damaged in whole or in material part, including the leased Premises, this Lease shall terminate and neither party shall have any other or further obligation to the other under the terms of this Lease.

16. **Default of Lessee and Remedies of Lessor:** If any of the following events (Events of Default) shall occur:

- A. Lessee's abandonment of the Leased Premises for a period of thirty (30) continuous days;
- B. Lessee's breach or default under any other term, covenant or condition of this Lease;
- C. Lessee's failure to pay when due any rental payment or insurance premiums required to be paid hereunder;

then, Lessor may give Lessee written notice by certified or registered mail specifying such Event of Default. Unless the Event of Default is remedied or obviated by Lessee within thirty (30) days after its receipt of such notice, or unless within such thirty (30) day period Lessee shall have commenced and shall continue to take action for the purpose of remedying or obviating such Event of Default and shall thereafter in good faith prosecute such action to completion, Lessor may declare the forfeiture of the interest of Lessee in this Lease by giving Lessee written notice thereof by certified or registered mail, and this Lease shall terminate forthwith.

Upon receipt of such notice of forfeiture, Lessee shall immediately peacefully surrender the Leased Premises together with all improvements, buildings and fixtures thereon and pay such amounts as may then be due under this Lease. If Lessee fails to surrender the Leased Premises, Lessor may forthwith take possession of the Leased Premises, together with all improvements, buildings and fixtures thereon, either by force, summary proceedings or by any other suitable action or proceedings at law or otherwise, without being liable for damages. Lessee agrees that in the event of forfeiture hereunder it shall, upon request of Lessor, assign, convey and transfer to Lessor the title to all

improvements, buildings and fixtures on the Leased Premises. Under this remedy Lessee shall be liable for the costs, expenses and attorneys' fees of Lessor in enforcing its rights under this Lease, including injunctive relief or the obtaining of possession, and Lessor shall have a lien on all property of Lessee on the Leased Premises as security for the payment of such rental, costs, expenses and attorneys' fees. Lessee shall not be liable for any future rental from the date of termination if this remedy is pursued, and Lessor shall have no further obligation to Lessee under this Lease.

17. **Uses to be Made of Premises:** The Leased Premises shall be used for the conduct and operation of office space and ordinary attendant uses and for such other lawful purposes as the Lessor shall consent, to in writing. Should Lessee use the Leased Premises for any other purpose, the Lease shall terminate automatically. In no event shall the Leased Premises be used for any unlawful purpose or other purpose constituting or creating a public or private nuisance.

18. **Termination:** This Lease may be terminated by either party on 30 days' prior written notice to the other party as provided in paragraph 12, which notice shall state the effective date of such termination. The parties shall perform all obligations incurred or accrued through the date of termination, including the payment of rent and utilities. Thereafter, all rights, duties, obligations, and liabilities pursuant to the terms of this Agreement shall cease.

19. **Succession:** This Lease Agreement shall extend to and be binding

upon the heirs, successors and assigns of the parties.

20. **Condemnation:** In the event that all or any portion of the Leased Premises is condemned by any governmental body or agency, Lessor shall be entitled to all compensation awarded or paid without participation by Lessee.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals.

LESSOR:

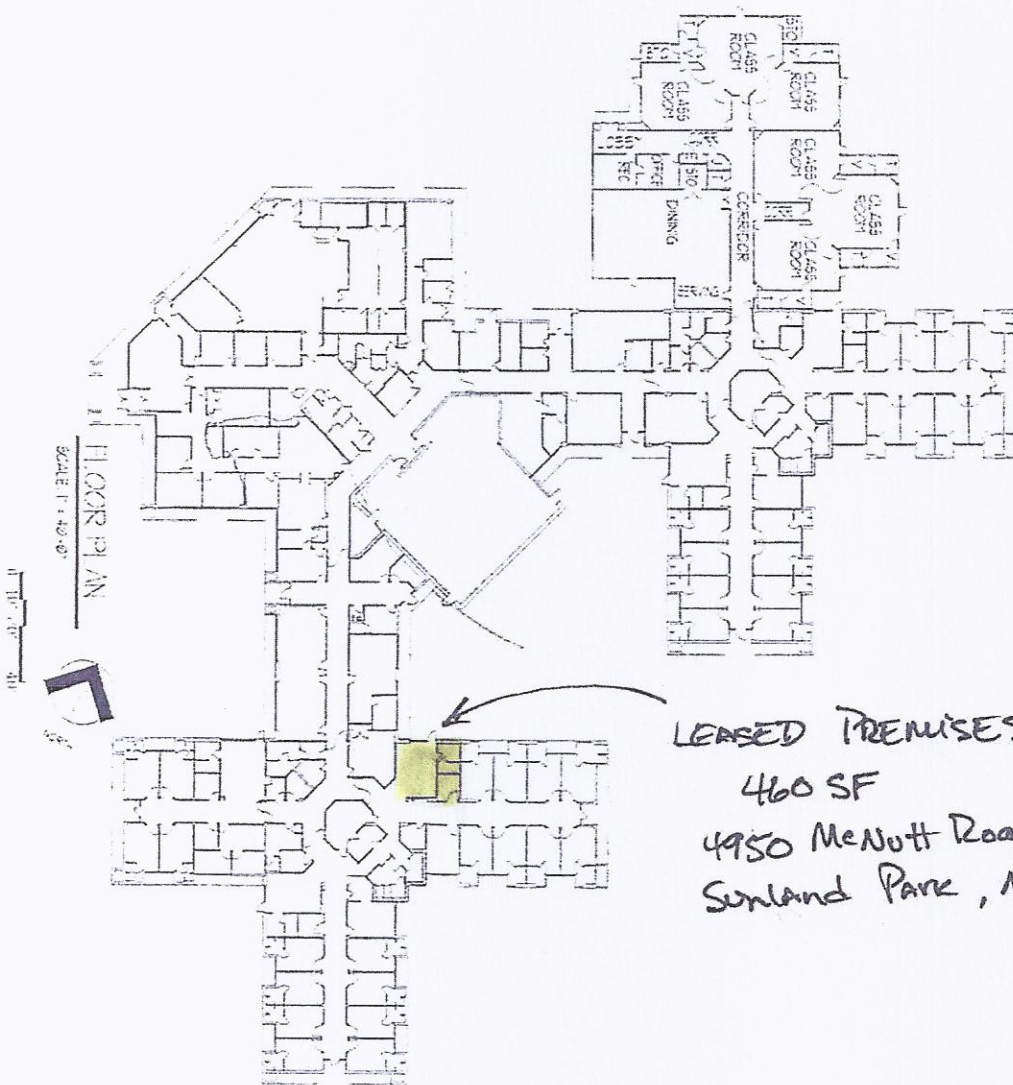
BOARD OF EDUCATION OF THE GADSDEN
INDEPENDENT SCHOOL DISTRICT

By: _____
Superintendent and
Authorized Representative

LESSEE:

By: _____
Mike Simpson, Director of
Manufacturing and
Authorized Representative for
SW Foam

Exhibit "A" To LEASE AGREEMENT
BETWEEN Gadsden Ind. School District and
SW Foam,



LEASED PREMISES
460 SF
4950 McNott Road
Sunland Park, NM 88021

