

MONTH-TO-MONTH LEASE AGREEMENT
WITH LITTLE TUMBLEWEED DAYCARE

THIS MONTH-TO-MONTH LEASE AGREEMENT (hereinafter "Lease") is effective on the date this Lease is approved by the Gadsden Independent School District Board of Education, or the 1st day of August, 2013, whichever is later ("Effective date"), and is entered into by and between the BOARD OF EDUCATION OF THE GADSDEN INDEPENDENT SCHOOL DISTRICT, ("Lessor"), and LITTLE TUMBLEWEED DAYCARE ("Lessee").

WHEREAS, Lessor owns and controls approximately 1264 square feet of vacant classroom space, located within a portion of the former La Mesa Elementary School Complex, located at 253 E. Chimuri, La Mesa, New Mexico, more specifically designated and highlighted in yellow on the site map attached hereto as Exhibit A, and incorporated herein by reference (hereinafter the Leased Premises," and

WHEREAS, the Leased Premises is not presently used or needed for school or administrative operations; and

WHEREAS, Lessor wishes to lease this approximately 1264 square foot space to Lessee, on a month-to-month basis, subject to termination upon 30 days written notice by either party, with no other or further expectation of occupancy by the Lessee, and no other or further expectation of rental revenues by the Lessor; and

WHEREAS, if the parties desire in the future to enter into a long term lease arrangement, they will do so pursuant to a new and separate written lease agreement, subject to obtaining all approvals required by law; and

WHEREAS, Lessee proposes to maintain and keep the Leased Premises in good condition and repair, to pay the Rent reserved herein, to pay the allocated utilities specified below and otherwise comply with the terms and conditions of this Lease.

NOW, THEREFORE, Lessor does hereby lease, demise and let unto Lessee the property described below, on a month-to-month basis, and subject to the terms and conditions agreed to as follows:

1. Description of the Leased Premises:

Classroom space totaling approximately 1264 square feet within the former La Mesa Elementary School Complex, located at 253 E. Chimuri, La Mesa, New Mexico, as designated *and* highlighted in yellow on the site map attached hereto as Exhibit A and incorporated herein by reference.

2. Term: The Term of this Lease shall be on a **month-to-month** basis, commencing on the Effective date, but subject to termination upon 30 days written notice by either party, with no other or further expectation of occupancy by the Lessee, and no other or further expectation of rental revenues by the Lessor.

3. Rent and Allocated Utilities: Lessee agrees to pay to Lessor and Lessor agrees to accept as Rent for the Leased Premises the sum of \$1,053.33, payable monthly, the first installment to be paid on the Effective date, and the same amount being payable on the same day of each successive month thereafter, subject to termination of this Lease upon 30 *days* written notice by either party. In addition to the payment of Rent, Lessee shall pay to Lessor on a monthly basis an allocated Utility charge of \$227.52 per month, the first installment to be paid on the Effective date and the same amount being payable on the same day of each successive month thereafter, subject to termination of this Lease upon 30 days written notice by either party.

4. **Prior Inspection:** A physical inspection of the Leased Premises has been made by the Lessee prior to 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 conditions.

5. **Consent to Improvements at Lessee's Sole Expense:** At Lessee's sole cost and expense, and conditioned upon Lessee's compliance with all applicable federal, state and local laws, permitting requirements and with all applicable rules and regulations of Lessor, Lessor hereby consents to such improvements and modifications of the Leased Premises as Lessor may approve from written plans submitted by Lessee in advance.

6. **Ownership of Improvements:** All improvements which are placed on the Leased Premises during the term of the Lease by the Lessee shall be owned by Lessee during the term of this Lease and any extension thereof; upon expiration of the Term and any extension thereof, all improvements shall be owned by Lessor.

7. **Maintenance:** Lessee shall, at Lessee's sole expense, keep and maintain the Leased Premises and all improvements thereon clean, safe and in a reasonable state of repair and preservation, and shall not suffer or permit any continuing nuisance thereon.

8. **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.

9. Business Signs and Personal Property: Lessee may place business signs on the Leased Premises and on or near the La Mesa Elementary School Complex only with advance written approval of Lessor, which approval shall not be unreasonably withheld. All personal property, business 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 or loss thereto.

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

11. Laws: Lessee will comply with all applicable federal, state and local laws and ordinances, and with all applicable rules and regulations of Lessor, and will insure that those 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 11 of this Lease.

12. Indemnity: Lessee shall indemnify and hold Lessor harmless 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 use or operation of the Leased Premises by Lessee, 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.

13. 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 Efren Yturralde
Gadsden Independent School District
P.O. Drawer 70
Anthony, New Mexico 88021

LESSEE: Sheri Seay
Little Tumbleweed Daycare
4500 Bataan Memorial East
Las Cruces, New Mexico 88011

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

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

15. Expiration: Upon termination of this Lease, Lessee shall peaceably surrender to Lessor possession of the Leased Premises and all improvements thereon in clean and good condition and repair, reasonable wear and tear excepted.

16. 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, and as additional rent hereunder, 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 anyone occurrence, and \$100,000 for each accident for property damage liability, for the benefit of both Lessor and Lessee as protection against all liability claims arising from the Lessee's use or occupancy 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 commencement of the term of this Lease. Lessor shall maintain in full force and effect during the term of this Lease, and any extension thereof, fire and extended liability coverage insurance upon all buildings, alterations, additions and improvements comprising former the La Mesa Elementary Complex, including the Leased Premises, in such manner and in such amount as is authorized 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.

17. 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 or utility payment or insurance premiums required to keep in force the insurance coverage required hereunder;

then Lessor may give Lessee written notice by certified or registered mail specifying such event of default.

17.1 Unless the event of default is remedied by Lessee within thirty (30) days after its receipt of such notice, or unless within such thirty (30) days period Lessee shall have commenced and shall continue to take action for the purpose of remedying such event of default and shall thereafter in good faith prosecute such action to completion, Lessor may declare the forfeiture and termination 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.

17.2 Upon receipt of such notice of forfeiture, Lessees shall immediately peacefully surrender the Premises, together with all improvements, buildings and fixtures thereon. 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.

17.3 Lessee agrees that in the event of forfeiture and termination hereunder it shall, upon request of Lessor, assign, convey and transfer to Lessor the title to all improvements and fixtures on the premises.

17.4 Lessee shall be liable for all accrued rent and utilities due and payable on and after the date of default, for the costs, expenses and attorneys' fees of Lessor in enforcing its rights under this Lease, including injunctive relief, and 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, utilities, costs, expenses and attorneys' fees.

17.5 After termination of the Lease, upon payment in full of all accrued rent and utility payments and costs and expenses as provided above, Lessee shall not be liable for any future rental payments, and Lessor shall have no further obligation to Lessee under this Lease.

18. Uses to be Made of Leased Premises: The Leased Premises shall be used as office space, and for such other lawful purposes as the Lessor shall first consent to in writing. Should Lessee use the premises for any other purpose, the lease shall terminate automatically. In no event shall the premises be used for any unlawful purpose or other purpose constituting or creating a public or private nuisance.

19. Termination: This Lease may be terminated by either party upon 30 days' prior written notice to the other party in the manner specified in Paragraph 13, which notice shall state the effective date of such termination which in no event shall be less than 30 days prior to the delivery of such notice. The parties shall perform all obligations incurred or accrued through the date of termination, including the payment of rent and utilities. Thereafter, on the termination date, all rights, duties, obligations, and liabilities pursuant to the terms of this Lease shall cease.

20. Succession: This Lease shall extend to and be binding upon the heirs, successors and assigns of the parties.

21. 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.

22. Potential for Long Term Lease: If the parties desire in the future to enter into a long term lease arrangement, they will do so pursuant to a new and separate written lease agreement, subject to obtaining all approvals required by law.

23. Non-Appropriation. The performance of Lessor's obligations under this Lease is contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the Lessor's performance of this Lease. If sufficient appropriations and authorization are not made by the Legislature, this Lease shall terminate upon written notice being provided by Lessor to the Lessee.

24. Entire Agreement. This Lease incorporates all of the agreements, covenants and understandings of the parties concerning the subject matter hereof and all such covenants, agreements and understandings have merged into this Lease Agreement. No prior agreement or understanding, whether verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Lease Agreement.

26. Governing Law. This Lease shall be governed by the laws of the State of New Mexico. 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:

LITTLE TUMBLEWEED DAYCARE

By: _____

SHERI SEAY, OWNER/DIRECTOR
AUTHORIZED OFFICER

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

The Leased Premises consists of classroom space totaling approximately 1264 square feet within the former La Mesa Elementary School Complex, located at 253 E. Chimuri, La Mesa, New Mexico 88044, as designated and highlighted in yellow on the attached site map.

