**STATE OF GEORGIA
COUNTY OF FULTON**

**AMENDED AND RESTATED LEASE AGREEMENT**

**(Archer Facility)**

This Amended and Restated Lease Agreement (this “**Lease**”)made this \_\_\_ day of \_\_\_\_\_\_\_, 2023 (“**Effective Date**”) between **ATLANTA INDEPENDENT SCHOOL SYSTEM**, an entity created by an Act of the Georgia General Assembly, managed and controlled by the Atlanta Board of Education, hereinafter referred to as “**Landlord**”**,** and **WESTSIDE ATLANTA CHARTER SCHOOL, INC.**, a Georgia non-profit corporation, hereinafter referred to as “**Tenant**”:

**WITNESSETH:**

 WHEREAS, Landlord owns that certain real property lying and being in Land Lots 245 and 246 of the 17th District of Fulton County, Georgia, commonly known as 2250 Perry Boulevard, Atlanta, Georgia 30318 as more particularly described in **Exhibit “A”** attached hereto and incorporated herein by this reference (the “**Land**”), together with a building (the “**Building**”) and other improvements thereon (such Land, Building, and other improvements, collectively, the “**Premises**”); and

WHEREAS, Landlord and Tenant entered into that certain Lease Agreement having a Commencement Date of July 1, 2018, as amended by that certain First Amendment to Lease Agreement dated 2019, and as further amended by that certain Second Amendment to Lease Agreement dated 2020 (collectively, the “**Original Lease**”), governing Tenant’s use and occupancy of a portion of the Land and Building originally defined therein as the Premises; and

 WHEREAS, by its terms, the Original Lease is set to expire on June 30, 2023; and

 WHEREAS, the Atlanta Board of Education has approved a renewal of Tenant’s charter agreement to continue operating the school under the authorization of Landlord for an additional five-year term beginning July 1, 2023 and ending June 30, 2028 (the “Renewal Charter Contract”);

WHEREAS, Landlord and Tenant now wish to fully amend and restate the Original Lease, as provided herein to align with the term of the Renewal Charter Contract.

 NOW, THEREFORE, for and in consideration of the premises, the performance of the obligations hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto for themselves and their permitted successors and assigns do hereby agree as follows:

**1. BASIC LEASE TERMS.** The following terms shall have the following meanings in this

Lease:

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| --- | --- |
| a. Effective Date:  | The date of last signature of this Lease, when the last party to sign should fill in the date in the preamble, above. |
| b. Commencement Date:  | July 1, 2023 |
| c. Lease Expiration Date:  | June 30, 2028 |
| d. Premises: | Archer Facility 2250 Perry Blvd.Atlanta, Georgia 30318 |
| e. Term: | Commencement Date through 11:59 P.M. EST on the Lease Expiration Date |
| f. Base Rent: | N/A |
| g. Address for Notices: |  |
|  (i) To Landlord: | Atlanta Independent School System130 Trinity Avenue Atlanta, Georgia 30303 Attn: Superintendent |
| With a copy to: | Atlanta Independent School System1631 La France StreetAtlanta, Georgia 30307Attn: Executive Director of Facilities Services |
|  And a copy to: | Atlanta Independent School System130 Trinity AvenueAtlanta, Georgia 30303Attn: General Counsel |
|  (ii) To Tenant: | Westside Atlanta Charter School, Inc.Attn: Delana W. Reeves, Ed.S., Principal2250 Perry Boulevard NWAtlanta, GA 30318E-mail: delana@wacs.us |
| With a copy to: | Westside Atlanta Charter School, Inc.Attn: Douglas McRae, Board Chair2250 Perry Boulevard NWAtlanta, GA 30318E-mail: douglas@wacs.us |
| h. Security Deposit | N/A |
| i. Renewal Option: | N/A |

 **2. TERM.** This Lease shall be effective as of the Effective Date.The term of this Lease (the “**Term**”) shall commence upon the Commencement Date and shall expire automatically at 11:59 p.m. EST on the Lease Expiration Date unless sooner terminated as provided herein.

 **3.** **PREMISES.** For and in consideration of ONE DOLLAR ($1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the covenants and conditions hereinafter set forth, Landlord hereby leases to Tenant, and Tenant hereby rents and leases from Landlord, upon the terms and conditions set forth herein, the Premises, together with rights of access to and from the Premises to the public right-of-way; provided, however, from the Commencement Date through and including December 31, 2023 (the “**Landlord Occupancy Period**”), Tenant’s rights in and to the Premises shall expressly exclude those portions of the Premises defined below as the Landlord’s Subpremises, as the Landlord’s Subpremises shall be reserved for Landlord’s exclusive use during the Landlord Occupancy Period. Landlord agrees to vacate the Landlord’s Subpremises at the end of the Landlord Occupancy Period, and, provided that Tenant is not in default of the Lease, Tenant may thereafter use and occupy the Landlord’s Subpremises for the remainder of the Term. The “**Landlord’s Subpremises**” means and refers to those portions of the Premises listed in **Exhibit “B”** attached hereto and incorporated herein. Notwithstanding the foregoing, Tenant’s repair and maintenance obligations under the Lease shall include Landlord’s Subpremises at all times during the Term of this Lease, including during the Landlord Occupancy Period.

 **4. PARKING RIGHTS.** During the Term, Tenant shall have the exclusive right to use certain parking areas on the Premises (except that during the Landlord Occupancy Period, Landlord shall also have the right to use such parking areas in common with Tenant).Tenant agrees that Tenant and its employees, agents and invitees shall observe reasonable safety precautionsin the use of the parking areas, and shall at all times abide by all rules and regulations promulgated by Landlord governing the use of all parking areas on the Premises. It is understood and agreed that Landlord does not assume any responsibility for any damage or loss to any automobiles parked in the parking areas or to any personal property located therein, or for any injury sustained by any person in or about the parking areas.

 **5. DELIVERY OF THE PREMISES.**

1. Acceptance. Tenant accepts the Premises in their current “**AS IS, WHERE IS**”condition, and acknowledges that **LANDLORD MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, IN CONNECTION WITH THE PREMISES.** Landlord shall not be required to make any improvements to the Premises. Tenant will, at Tenant’s expense, take good care of the Premises and will suffer no active or permissive waste or injury thereof.
2. Delivery. The Premises is demised and leased subject to all Laws, as hereinafter defined, and the state of title to the Premises, and any statement of facts which an accurate survey may disclose, together with all easements, mortgages, agreements, encumbrances, and all other liens, charges or other matters of any nature, recorded or unrecorded, affecting the Premises.

 **6. CONSIDERATION.** Tenant shall not be required to pay rental to Landlord for the use and occupancy of the Premises during the Term. Any or other amounts that may be due to Landlord shall be paid to Landlord at **Atlanta Independent School System, 1631 La France Street, Atlanta, Georgia 30307, Attention: Property Manager**, or at such other address as Landlord may, from time to time, designate in a notice to Tenant. The covenant of Tenant to pay any amounts due hereunder is and shall be deemed a separate and individual covenant and, except as otherwise allowed by law, Tenant shall have no right of deduction or set-off whatsoever. Any payment by Tenant or acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full shall be given no effect, and Landlord may accept such payment without prejudice to any other rights or remedies which Landlord may have against Tenant. As consideration for the rent-free use and occupancy of the Premises, Tenant agrees to maintain and repair the Premises as further set forth in this Lease.

 **7. EXISTING FF&E.** Intentionally deleted.

1. **PERMITTED USE; PROHIBITED USES.** Tenant shall use and occupy the Premises for the sole purpose of operating a non-profit charter school pursuant to the Renewal Charter Contract (the “**Permitted Use**”), and for no other purpose whatsoever without prior written consent of Landlord; provided, however, that no proposed use shall be permitted if in violation of applicable zoning laws, restrictive covenants of record against Landlord’s title, or any exclusive or prohibited rights granted to other parties. Tenant covenants that the Premises shall not be used for any illegal purposes; nor in violation of any regulation of any governmental body, nor in any manner to create any nuisance or trespass, nor in any manner that will vitiate the insurance or increase the rate of insurance on the Premises. Tenant further covenants that Tenant will not change Tenant’s use of the Premises without the prior written approval of Landlord, which approval may be granted or denied in Landlord’s sole discretion. Landlord hereby reserves for itself and its agents and employees the right of access to the Premises at all reasonable times after prior written notice to Tenant (except in the event of an emergency in which case no notice shall be required), for (i) the purpose of determining whether or not Tenant is complying with the terms and conditions hereof, or (ii) for the management, maintenance or repair of the Premises. Landlord hereby also reserves the right to prohibit access to certain areas during maintenance and repairs.
2. **BUYBACK SERVICES.** Landlord andTenant may elect to execute a separate agreement with one another for Landlord’s provision of services related to Tenant’s educational operations at the Premises (a “**Buyback Services Agreement**”). Nothing herein or in such agreement will prevent the parties from mutually agreeing to change the scope of buyback services during the Term by executing or amending such a Buyback Services Agreement. Landlord and Tenant acknowledge that as of the Effective Date of this Lease, the only Buyback Services Agreement currently in effect between the parties is for internet, telephone and security monitoring services to the Premises. A default by Tenant under the terms of this or any Buyback Services Agreement shall constitute a default of this Lease in accordance with **Section 20** hereof.
3. **SIGNAGE; ALTERATIONS.** Tenant may install business identification signs at the Premises at Tenant’s sole cost and expense, only after receiving Landlord’s written approval of the location, design, text, size and materials of the same. Tenant shall promptly remove such signage at the expiration or earlier termination of this Lease at Tenant’s sole cost and expense, including the costs to repair any damage caused by the installation or removal of such signage. Tenant shall neither make nor allow any alterations, changes, additions, renovations or improvements (collectively referred to as “**Alterations**”)to the Premises or any part thereof without the prior written consent of Landlord (including approval of the plans and specifications for such Alterations) in Landlord’s sole discretion, where (i) the cost of such Alterations will exceed $25,000.00, or (ii) regardless of cost, the Alterations would require a building permit or land disturbance permit, or would modify the structure or layout of the Building. Tenant shall not make any Alterations to the Landlord’s Subpremises during the Landlord Occupancy Period. Landlord’s consent to any Alterations to the Premises shall not imply that Landlord represents or warrants that such Alterations comply with applicable Laws, nor shall Landlord be responsible to or for any contractor, architect or engineer of Tenant even if Landlord approved the same. All of Tenant’s Alterations shall be performed (i) in such a manner so as not to obstruct ingress and egress to the Building or the Premises, (ii) so as not to interfere with the occupancy or business operation of Landlord in Landlord’s Subpremises, and (iii) at such times, in such manner and subject to such rules and regulations as Landlord may from time to time reasonably designate. No Alterations shall commence unless and until Tenant has provided proof of insurance to Landlord for Tenant’s engineers, architects and contractors in amounts reasonably required by Landlord. Tenant shall indemnify and hold harmless Landlord and Landlord’s officers, directors, Board members and employees from and against all costs (including reasonable attorneys’ fees and costs of suit), losses, liabilities, or causes of action arising out of or relating to any Alterations made by Tenant to the Premises. Tenant shall have no power or authority to create any lien or permit any lien to attach to the Premises or the interest of Landlord therein, or other improvements thereon as a result of improvements made by Tenant or by reason of any other work done on Tenant’s behalf or any other act or omission of Tenant. Tenant shall indemnify Landlord against any loss or expenses incurred as a result of the assertion of any such lien, and Tenant hereby covenants and agrees to remove such or file a bond to discharge such lien of record pursuant to applicable Laws within ten (10) days of the filing of such lien. In the event Tenant fails to have such lien removed or discharged as required hereunder, Landlord shall have the right to pay such lien and Tenant shall reimburse Landlord for such amount, plus an administrative fee in the amount of fifteen percent (15%) of the amount of the lien, upon demand, along with payment upon demand of the amount of reasonable attorneys’ fees and costs actually incurred by Landlord.
4. **UTILITIES AND SERVICES.** With the exception of internet, telephone and security monitoring services, which are currently handled and reimbursed to Landlord under a separate Buyback Services Agreement between Landlord and Tenant, Tenant shall transfer all utility accounts serving the Premises into Tenant’s name for the Term of this Lease. Tenant shall promptly pay directly to each such utility provider and be solely responsible for all charges for Tenant’s use or consumption of sewer, water, electricity, and any other such utility services in connection with Tenant’s use and occupation of the Premises (including Landlord’s Subpremises). Landlord shall not be liable in the event of any interruption in the supply of any utilities provided by a licensed utility company as a result of the Tenant’s failure to pay as a result of fire, accident, acts of God, or other causes beyond the control of Landlord. Landlord shall not be liable in the event of any interruption in the supply of any utilities including any heating and air-conditioning. Tenant agrees that it will not install any equipment which will exceed or overload the capacity of any existing utility facilities serving the Premises (including Landlord’s Subpremises) and that if any equipment installed by Tenant shall require additional utility facilities, the same shall be installed at Tenant’s sole expense in accordance with plans and specifications to be approved in writing by Landlord, such approval not to be unreasonably withheld, conditioned or delayed.
5. **ABANDONMENT.** Tenant agrees not to abandon or vacate the Premises during the Term of this Lease, and agrees to use the Premises only for the Permitted Use until the expiration hereof. If at any time during the Term of this Lease Tenant abandons the Premises, Landlord may at its option enter the Premises by any means without being subject to prosecution or suit therefore, and without becoming liable to Tenant for damages or for payment of any kind whatever, and may at its discretion, on behalf of the Tenant, re-let the Premises or any part thereof for the whole or any part of the then-unexpired Term of this Lease. If Landlord exercises its right of re-entry following abandonment of the Premises by the Tenant, then Landlord may consider any property belonging to the Tenant and left on the Premises to have been abandoned, in which case Landlord may dispose of all such property in any manner Landlord shall deem proper and is hereby relieved of any and all liability for doing so.
6. **HOLDING OVER.** If Tenant remains in occupancy of the Premises beyond the expiration or termination of the Lease, it shall remain solely as a tenant from month-to-month, and all provisions of this Lease applicable to the Term shall remain in fullforce and effect. Nothing in this **Section 13** is intended or shall be construed to permit Tenant to remain in occupancy of the Premises beyond the expiration or termination of the Lease or to waive any right or remedy of Landlord as a result thereof. Tenant shall defend, indemnify and save Landlord, its successors and assigns, harmless form any cost, loss, damage or expense, including without limitation, reasonable attorneys’ fees, incurred by Landlord as a result of any claim, suit, liability or demand arising out of, pertaining to or involving Tenant’s remaining in occupancy of the Premises beyond the expiration or termination of the Lease.
7. **ASSIGNMENT AND SUBLETTING.** Tenant shall not enter into any “Transfer” (as hereinafter defined) with or to any person, entity or party (collectively, a “**Transferee**”),without Landlord’s prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned, and any Transfer without Landlord’s consent shall be void *ab initio* and of no effect. A “**Transfer**”shall mean: (a) any assignment or other transfer of this Lease; (b) any subletting or granting of concessions, easements, licenses or any right to use or occupy all or any part of the Premises; or (c) any mortgage, deed to secure debt, collateral assignment or secured or unsecured interest in this Lease or any or all of Tenant’s right, title or interest in or to the Lease or the Premises. If Landlord consents to a Transfer and the Transferee’s proposed use of the Premises, or part thereof, such Transferee shall not change such approved use without the prior written consent of Landlord, which consent may be withheld by Landlord for any or no reason in its sole and unfettered discretion. Notwithstanding any Transfer, Tenant shall nevertheless remain primarily liable to Landlord for the full payment of any amounts due under this Lease and the observance and performance of all obligations, covenants and agreements under this Lease as payments and obligations of a principal, and not of a guarantor or surety, as though no Transfer had been made. Each Transfer shall expressly be made subject to the provisions of this Lease.
8. **COVENANTS, WARRANTIES AND REPRESENTATIONS.**
9. Compliance with Laws. During the Term, Tenant covenants and represents to Landlord that Tenant, at Tenant’s sole cost and expense, shall comply with all applicable laws, ordinances and regulations affecting the Premises and the conduct of Tenant’s business in the Premises, now in force or which hereafter may be in force, including but not limited to requirements and regulations of the appropriate fire departments and underwriters, Landlord’s insurance providers and other companies and organizations establishing insurance rates, Environmental Laws (as hereinafter defined), and the Americans with Disabilities Act of 1990 and regulations issued pursuant thereto (“**ADA**”) (all such laws, ordinances, and regulations, collectively, “**Laws**”). In addition, Tenant covenants and represents to Landlord the following: (i) no goods, merchandise or material shall be used, kept or stored in or on the Premises which are explosive; (ii) no alcoholic beverages shall be sold or used upon the Premises; (iii) Tenant shall not keep, store, use or discharge at the Premises any Hazardous Substances (as hereinafter defined); and (iv) Tenant shall not do anything on the Premises which will increase the rate of or suspend the Tenant’s or Landlord’s insurance coverage upon the Premises or other property of Landlord or Tenant.
10. Environmental Laws Definitions.
11. “**Environmental Laws**”means every law, ordinance, regulation, judicial or administrative order or decree, permit, license, approval, authorization and similar requirement of every federal and Georgia governmental agency or other governmental authority relating to any Hazardous Substances, including the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, the Hazardous Substances Account Act, the Hazardous Substances Act, the Underground Storage Tank Act of 1984, and the Georgia Underground Storage Tank Act, Official Code of Georgia Annotated § 12-13-1, *et seq*.
12. “**Hazardous Substances**”means any substance, material, condition, mixture or waste that is now or hereafter (i) defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “restricted hazardous waste,” “oil,” “pollutant” or“contaminant” under any provision of Georgia, federal or other applicable Law; (ii) classified as radioactive material; (iii) designated as a “hazardous substance” pursuant to Article 311 of the Clean Water Act, 33 U.S.C. Article 1321 or listed pursuant to Article 307 of the Clean Water Act, 33 U.S.C. Article 1317; (iv) defined as a “hazardous waste” pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Article 6901 *et seq.;* (v) defined as a “hazardous substance” pursuant to Article 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Article 9601 *et seq.;* (vi) determined to be a “hazardous chemical substance or mixture” pursuant to the Toxic Substances Control Act, 15 U.S.C. Article 2601 *et seq.;* (vii) identified for remediation, storage, containment, removal, disposal or treatment in any Tenant plan for the Premises; or (viii) determined by state or federal authorities to be potentially injurious to public health, safety or property (such substances to include petroleum and petroleum by products, asbestos, polychlorinated biphenyls, polynuclear aromatic hydrocarbons, cyanide, lead, mercury, acetone, styrene and “hazardous air pollutants” listed pursuant to the Clean Air Act, 42 U.S.C. Article 7412). Hazardous Substances shall not include compounds customarily used in office buildings for sanitation, cleaning, painting, maintenance, repair or operation, including without limitation cleaning compounds and solvents, copier toner fluids and batteries relating to supplemental power supplies, provided that such substances are used strictly in accordance the manufacturers’ directions and other requirements (including applicable Laws) relating to such use.
13. Environmental Indemnification. Tenant shall and hereby does indemnify and hold Landlord harmless from and against any and all expense, loss, and liability suffered by Landlord (with the exception of those expenses, losses, and liabilities arising from Landlord's sole and direct negligence or willful act), by reason of the storage, generation, release, handling, treatments, transportation, disposal, or arrangement for transportation or disposal, of any Hazardous Substances (whether accidental, intentional, or negligent) by Tenant or Tenant's agents, guests or invitees, or by reason of Tenant's breach of any of the provisions of this Section 15. Such expenses, losses and liabilities shall include, without limitation, (i) any and all expenses that Landlord may incur to comply with any Environmental Laws, (ii) any and all costs that Landlord may incur in studying or remedying any contamination at or arising from the Premises or the Project; (iii) any and all costs the Landlord may incur in studying, removing, disposing or otherwise addressing any Hazardous Substances; (iv) any and all fines, penalties or other sanctions assessed upon Landlord; and (v) any and all legal and professional fees and costs incurred by Landlord in connection with the foregoing. The indemnity and obligations contained herein shall survive the expiration or earlier termination of this Lease.

**16. MAINTENANCE AND REPAIRS.**

1. Maintenance Obligations. Unless otherwise provided under a separate Buyback Services Agreement between the parties (in which case, such Buyback Services Agreement shall control), Tenant shall at its sole cost maintain and keep the Premises in good order, repair and condition throughout the Term, ordinary wear and tear excepted. Tenant, its employees, agents and licensees shall not commit waste, and Tenant shall promptly and adequately repair all damage to the Premises caused by Tenant, such repairs to be made under the supervision and subject to the approval of Landlord and within any reasonable period of time specified by Landlord. Tenant shall be solely responsible for the procurement and cost of any janitorial service to the Premises. Subject to Section 18, Landlord shall not be obligated to make or conduct any maintenance, repairs, replacements or restoration of any kind upon the Premises or the Premises.
2. Payment of Repairs and Replacements. Unless otherwise provided under a separate Buyback Services Agreement between the parties (in which case, such Buyback Services Agreement shall control), Tenant shall make and pay for all maintenance, repairs and replacements to the Premises, the Building and its components necessary to maintain the same in good and tenantable condition and repair. Tenant’s maintenance, repair and replacement obligations shall include the roof, foundation, exterior walls and interior structural walls of the Building, paved parking surfaces on the Premises and all structural components and all systems of the Building such as mechanical, electrical, HVAC, and plumbing systems.
3. Manner of Work. Repairs or replacements under this **Section 16** shall be commenced promptly by the responsible party and diligently completed within a reasonable time (depending on the nature of the repair or replacement needed) after receiving notice in writing or having actual knowledge of the need for a repair or replacement. All of Tenant’s repair and replacement work shall be subject to and comply with the requirements of **Section 15** of this Lease.
4. Inspections. Tenant agrees to and shall comply with the facilities inspection requirements set forth on **Exhibit “C”** attached hereto and incorporated herein by reference. Tenant shall ensure the facilities and systems listed on **Exhibit “C”** are inspected on the intervals listed therein by qualified inspectors, and shall promptly provide evidence of such inspections to Landlord upon request of Landlord.
5. Reports. Throughout the term of this Lease, Tenant shall, on the 1st day of each July, provide Landlord with a report of all material maintenance activities performed by Tenant on the Premises during the twelve (12) month period preceding the report, and shall provide such other maintenance information and documentation as Landlord may reasonably request from time to time. In addition, at any time during the term of the Lease, Landlord may, upon reasonable prior notice to Tenant, request to enter the Premises to view (a) the condition of the Premises, (b) the maintenance, inspection, and/or repair work performed on the Premises; and Tenant shall provide Landlord with the requested access, logs, and documentation.
6. Surrender of Premises. At the expiration or earlier termination of this Lease, Tenant shall return to Landlord all keys to the Premises, and shall vacate and surrender the Premises to Landlord in “broom clean” condition, and in good order, condition and repair except for ordinary wear and tear, repairs required to be made by Landlord, or loss or damage by fire, the elements and other casualty. Prior to the expiration or earlier termination of this Lease, Tenant shall remove all personal property, fixtures and equipment (including signs) placed or affixed on the Premises by Tenant, its assignees, subtenants, or licensees, and shall repair all damage to the Premises occasioned by the installation or removal thereof. If Tenant fails to so remove or repair, Landlord may, for the account of Tenant, remove and dispose of such property and/or repair any damage caused by removal. Tenant covenants and agrees to pay the costs of such removal and repair by Landlord within ten (10) days of receipt of a statement therefor from Landlord. No such removal or disposal shall cause Landlord to be the owner or converter of such property. This **Section 16(f)** shall survive the termination or earlier expiration of this Lease.

**17. INSURANCE.**

1. Tenant’s Comprehensive Insurance. Tenant shall, at its sole expense, procure and maintain at all times throughout the term of this Lease, with such coverage and endorsements as Landlord may reasonably require, comprehensive general liability insurance, including fire legal liability coverage of no less than $1,000,000, insuring Landlord and Tenant against (i) any and all liability for injury to or death of a person or persons, (ii) for damage to property occasioned by or arising out of any construction work being done by or on behalf of Tenant on the Premises, (iii) arising out of the condition, use, or occupancy of the Premises by Tenant and Tenant’s officers, employees, agents, sublessees, assignees, licensees or invitees (collectively, “**Tenant’s Agents**”),or (iv) in any way occasioned by or arising out of the activities of Tenant or Tenant’s Agents in the Premises, the limits of such policy or policies to be in combined single limits (per policy year) for both property damage and personal and bodily injury of not less than $1,000,000 per occurrence and $2,000,000 in the aggregate, with excess umbrella insurance coverage for excess liability with coverage of no less than $5,000,000. Such insurance shall extend to any liability of Tenant arising out of the indemnities provided in **Section 24**. Tenant shall ensure that the Atlanta Independent School System is named as an Additional Insured on all policies of insurance required hereunder.
2. All-Risk Property Insurance. So long as Landlord maintains a policy or policies of special form “all-risk” property insurance, insuring against the direct and indirect loss or damage by fire and all other casualties and risks to (i) the Premises, the Building and appurtenant structures; and (ii) all fixtures, furnishings, equipment, supplies and other Tenant personalty contained in the Premises, Tenant shall reimburse Landlord for Landlord’s total annual insurance premium. Tenant shall pay Landlord’s annual insurance premium to Landlord once annually by no later than August 31 of each fiscal year. Such “all-risk” fire and extended coverage insurance shall provide coverage to the extent of not less than one hundred percent (100%) of the full replacement value (i.e. replacement value without regard to depreciation) of all said items. If Landlord ceases to maintain “all-risk” property insurance, Landlord shall notify Tenant of the same, and Tenant shall promptly thereafter, at its sole expense, procure and maintain at all times throughout the term of this Lease, the foregoing coverage.
3. Workers’ Compensation and Employer Liability Coverage. Tenant shall, at its sole expense, procure and maintain at all times throughout the term of this Lease, statutory workers’ compensation insurance as required by law and employer’s liability insurance with coverage of at least $1,000,000. Tenant, and not Landlord, will be liable for any costs or damages in excess of the statutory limit for which Tenant would, in the absence of workers’ compensation insurance, be liable.
4. Waiver of Subrogation. All insurance policies obtained by Tenant affecting the Building shall be endorsed to provide that any release from liability of, or waiver of claim for recovery from, another person entered into in writing by the insured thereunder prior to any loss or damage shall not affect the validity of such policy or the right of the insured to recover thereunder. Such policies shall also provide that the insurer waives all rights of subrogation that such insurer might have against Landlord. Tenant hereby waives all claims for recovery from or against Landlord for any loss or damage to any of its property or damages as a result of business interruption or rent loss insured under a valid policy to the extent of any recovery collectible under such policies.
5. Additional Insurance. Landlord shall also have the right to require Tenant to procure and maintain from time to time, at Tenant’s sole cost and expense, and with such minimum coverage limits and endorsements as Landlord may reasonably require, such additional insurance as is customary and/or prudent in light of Tenant’s intended use of the Premises as a school facility, including without limitation, teacher’s professional liability and automobile liability coverage.

f. Other Insurance Policy Requirements. Unless otherwise provided, all insurance required to be maintained by Tenant by this **Section 17** shall comply with the following requirements:

(i) Tenant shall deliver or cause to be delivered to Landlord renewal certificates for all required policies of insurance set forth herein at least thirty (30) days prior to expiration of said policies;

1. no insurance policy may be terminated or amended except after thirty (30) days’ prior notice to Landlord;
2. Landlord shall be named as additional insured, except with respect to worker’s compensation and employer liability coverage, and as additional insured and loss payee with respect to Tenant’s all risk property insurance;
3. Landlord will be entitled to recover under such policies for any loss sustained by Landlord and such other additional insurers, its agents and employees as a result of the acts or omissions of Tenant;
4. Tenant’s policies will be written as primary policies, non-contributory with and not supplemental to any coverage that Landlord may carry;
5. Tenant’s comprehensive general liability insurance will be written to recognize Tenant’s indemnity obligations in **Section 24** of this Lease;
6. Tenant’s All-Risk Property Insurance will not be subject to more than a $25,000 deductible limit without Landlord’s prior written consent;
7. Any insurance that Tenant is required to obtain pursuant to this Lease may be carried under a “blanket” policy or policies covering other properties or liabilities of Tenant, provided that such “blanket” policy or policies otherwise comply with the provisions of this **Section 17**;
8. Tenant shall pay all premiums for the insurance coverage that Tenant is required to procure and maintain under this Lease;
9. All insurers providing coverage to Tenant as required by this Lease shall be licensed by the State Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance, and shall be an insurer having a rating from Best Insurance Reports of not less than A-/X (or an equivalent rating if such rating is discontinued);
10. Tenant shall deliver copies of the insurance policies (or certificates of insurance) described in this **Section 17** on or before the Effective Date, which policy(ies) shall provide that the indemnity provisions in **Section 24** of this Lease have been reviewed and are recognized under such policy(ies); and

(xii) No action or omission on the part of Tenant or of Tenant’s officers, employees or agents will invalidate coverage with respect to the Landlord or the Premises.

 **18. FIRE OR CASUALTY.**

1. Non-Substantial Damage. In the event that less than twenty-five percent (25%) of the Premises (as determined on a square footage basis) shall be destroyed or damaged by storm, fire or other casualty (a “**Casualty**”),Tenant shall give to Landlord prompt notice thereof, and to the extent of any available insurance proceeds, (i) Landlord shall expeditiously repair and restore the Premises to the condition and state of completion as of the Effective Date, and (ii) Tenant shall expeditiously restore all improvements, fixtures and equipment installed by Tenant on the Premises, including without limitation any Alterations made by Tenant during the term of the Lease (collectively, the “**Restoration**”).
2. Substantial Damage. In the event that: (i) twenty-five percent (25%) or more of the Premises (as determined on a square footage basis) shall be destroyed or damaged by Casualty; or (ii) if within sixty (60) days following Landlord’s receipt of notice from Tenant of a Casualty, Landlord reasonably determines that the Premises cannot be repaired or restored within one hundred twenty (120) days, then in such event, either party may elect to terminate this Lease by giving the other party written notice of such election. If either party does not provide such notice within sixty (60) days following a Casualty, the parties are deemed to have waived their right to termination under this **Section 18**, and this Lease shall continue in full force and effect, and Landlord and Tenant shall expeditiously commence the Restoration. Upon termination of the Lease by either party pursuant to this **Section 18** of the Lease, Landlord shall be entitled to receive the proceeds of any fire and extended coverage insurance covering the Casualty (excluding an amount equal to any policy payouts specifically dedicated to Tenant’s personal property), and Tenant shall immediately release the balance of such proceeds to Landlord.

 **19. EMINENT DOMAIN.** If all or such portion of the Premises which in the sole discretion of Tenant renders the Premises unsuitable for Tenant’s use shall be acquired or taken by eminent domain for any public or quasi-public use or purpose, then this Lease and the term hereof shall cease and terminate as of the date of title vesting in such proceeding. If this Lease is terminated, any amounts owed by Tenant hereunder shall be paid up to the day that possession is so taken by public authority. Tenant shall not be entitled to any condemnation award for any taking, whether whole or partial, and whether for diminution in value of the leasehold or to the fee. However, Tenant shall have the right (to the extent that the same can be separately determined) to claim from the condemner, but not from Landlord, such compensation as may be recoverable by Tenant in its own right for damage to Tenant’s business and fixtures. If this Lease is not terminated following a partial condemnation, Tenant and/or Landlord (as applicable) shall, as speedily as practical under the circumstances, make all necessary repairs or alterations reasonably necessary to make the Premises and/or the Building, an architectural whole.

 **20. DEFAULT AND REMEDIES.**

a.Events of Default. Any of the following occurrences, acts or omissions shall constitute an “**Event of Default**”under this Lease: (i) Tenant fails to pay any charge or sum due under this Lease within ten (10) days of Tenant’s receipt of notice from Landlord; or (ii) Tenant fails to observe or perform any other provision of this Lease within thirty (30) days of Tenant’s receipt of notice from Landlord (provided that if such failure cannot reasonably be cured within such 30-day period, then such failure shall not be deemed an Event of Default if Tenant commences to cure within such 30-day period and proceeds diligently and in good faith thereafter to cure such failure and does cure such failure within a reasonable time, but in no event shall such time exceed a ninety (90) day period); or (iii) Tenant fails to pay when due any charge or sum under this Lease two (2) times during the Term; or (iv) Tenant files a petition in bankruptcy or for reorganization, is adjudicated a bankrupt, becomes insolvent or makes an assignment for the benefit of creditors; or (v) a receiver or trustee is appointed for Tenant or all or substantially all of Tenant’s assets, or for the Premises or Tenant’s estate therein; or (vi) Tenant’s charter is revoked or non-renewed; or (vii) Tenant or a Tenant affiliate defaults under any other agreement with Landlord, including any Buyback Services Agreement.

1. Notice to Terminate. If an Event of Default shall have occurred and be continuing, Landlord shall have the right, but not the obligation, to terminate this Lease by giving Tenant at least thirty (30) days’ prior written notice of such termination. Thereupon, the Lease and the estate hereby granted shall terminate as fully and completely and with the same effect as if such date were the date herein fixed for the expiration of the Lease, and all rights of Tenant hereunder shall terminate, but Tenant shall remain liable as hereinafter provided.
2. Right to Re-enter. If an Event of Default shall have occurred and be continuing, Landlord shall have the right to re-enter and repossess the Premises by summary proceedings, ejectment or in any other lawful manner and shall have the right to remove all persons and property therefrom. Landlord shall be under no liability by reasons of any such re-entry, possession or removal. No such re-entry or repossession of the Premises shall be construed as an election by Landlord to terminate the Lease unless a notice of such intention is given by Landlord to Tenant pursuant to **Section 20.b.,** or unless such termination is decreed by a court of competent jurisdiction.
3. Tenant’s Liability Continues. No expiration or termination of the Lease pursuant to **Section 20.b.,** or by operation of law or otherwise, and no re-entry or repossession of the Premises pursuant to **Section 20.c.** or otherwise, shall relieve Tenant of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, re-entry, or repossession.
4. General Provisions Regarding Default. No right or remedy under this Lease or at law or equity shall be exclusive as against any other right or remedy but shall be cumulative. Failure to insist upon strict performance of any provision of this Lease or to exercise any right or remedy of this Lease or at law or equity shall not constitute a waiver of any future performance. Receipt by Landlord of any sum payable under this Lease with knowledge of an Event of Default or Tenant’s breach of this Lease shall not constitute a waiver of such Event of Default or breach. No waiver by either party of any provision of this Lease shall be deemed to have been made unless made in writing.

 **21. LANDLORD’S RIGHT TO TERMINATE LEASE FOR NEED.** In addition to any express right of termination due to default or otherwise, as contained elsewhere in this Lease, Landlord shall have the right to terminate this Lease, in the event Landlord determines, in good faith and in its sole discretion, that the Premises is needed for school district purposes or that there is otherwise a need to terminate this Lease, in which event Landlord may terminate this Lease upon at least one hundred eighty (180) days’ prior written notice to Tenant and with the effective date of such termination to coincide with the end of an academic year.

 **22. NOTICES.** Any and all notices or demands required or permitted hereunder shall be in writing and served (i) personally, (ii) by registered or certified U.S. mail, return receipt requested, or (iii) by nationally recognized overnight courier, at the addresses provided in **Section 1.g.** above. If served personally, service shall be conclusively deemed made at the time of such delivery. If served by certified mail, service shall be conclusively deemed made three (3) business days after the deposit thereof in the U.S. mail, postage prepaid. If served by overnight courier, service shall be conclusively deemed made one (1) business day after deposit with such courier. Either party may specify a different address according to the terms of this **Section 22**. Notice shall be deemed to have been made in accordance with this **Section 22** whether or not accepted or actually received by the recipient.

 **23. QUIET ENJOYMENT.** Landlord covenants that, if Tenant is not in default hereunder, Tenant shall at all times during the Term peaceably and quietly have, hold and enjoy the Premises without disturbance from Landlord, subject to the terms of this Lease and to the rights of the parties presently or hereinafter secured by any deed to secure debt or similar instrument against the Premises.

 **24. LIABILITY; INDEMNIFICATION.**

a.Notwithstanding anything to the contrary herein, the parties expressly understand, acknowledge and agree that Landlord shall be free from all liabilities, claims, suits, losses, charges, and expenses (including reasonable attorneys’ fees and costs) (collectively, the “**Damages**”):

1. For damages for or by reason of any injury or injuries to any persons or property of any kind whatsoever, whether the person or property of Tenant, its agents or employees, or third persons, or from any cause or causes whatsoever, while in or upon the Premises or any part thereof during the Term of this Lease, or occasioned by any activity carried on by Tenant in connection therewith;
2. due to the breach of any covenant in this Lease required to be performed by Tenant; or
3. directly or indirectly resulting from or arising out of any negligence, act or omission of Tenant or Tenant’s employees, agents, contractors, licenses or invitees.

b.Tenant hereby covenants and agrees to indemnify, defend, and hold Landlord harmless from all Damages, except to the extent such Damages arise by reason of the sole negligence or willful act of Landlord, its agents or employees. Nothing contained herein is intended to be a waiver in any respect whatsoever of Landlord’s rights to assert under any circumstances whatsoever its claim of governmental immunity from any liability or damages asserted against it by any person, natural or entities, created by law.Tenant hereby waives any cause of action it might have against Landlord on account of any Damage that is covered by any insurance policy that covers the Premises, Tenant’s fixtures, personal property, any leasehold improvements or Tenant’s business and which names Tenant as a party insured. The indemnity required of Tenant provided by this **Section** **24** shall in no way and for no purpose be limited to the extent of available and collectible insurance set forth in **Section 17** of this Lease.

 **25. RULES.** Tenant shall comply with such rules as are now or may hereafter beprescribed and adopted by Landlord through the lawful exercise of its powers and provided in writing to Tenant (the “**Rules**”). Landlord shall not enforce any Rules against Tenant in an unreasonable or discriminatory manner.

 **26. SOVEREIGN IMMUNITY.** Notwithstanding anything in this Lease to the contrary, it is expressly understood, acknowledged and agreed by the parties that nothing contained in this Lease shall be intended to be a waiver in any respect whatsoever of Landlord's right to assert (under any circumstances whatsoever), its claim of sovereign immunity from any liability or damages asserted against it by any third party whether natural person or entity created by law.

 **27. MISCELLANEOUS.**

1. Time of the Essence. Time is of the essence with respect to all of each party’s obligations under this Lease.
2. Partial Invalidity. If any Lease provision shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease shall continue in effect and be enforceable to the fullest extent permitted by law.
3. Attorneys’ Fees. Tenant shall pay the reasonable attorneys’ fees actually incurred by Landlord in the event Landlord is required to use the services of an attorney to collect any amounts due to Landlord or for the enforcement against Tenant of any of the terms, covenants or provisions hereof.
4. Remedies Cumulative; No Waiver. The rights and remedies granted herein or by law or equity are separate and no one of them, whether or not exercised, shall be deemed to exclude other rights or remedies. No failure of a party to exercise, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of any right or remedy granted hereunder. Receipt by Landlord of any portion of any amount due hereunder with knowledge of the breach by Tenant of any provision hereof shall not constitute a waiver of such breach or an accord and satisfaction. To be valid, any waiver shall be in writing and signed by the party waiving its rights, and no waiver of any breach shall be deemed to be a waiver of any subsequent breach.
5. Entire Agreement. This Lease together with the Exhibits hereto, which collectively are hereby incorporated where referred to herein and made a part hereof as though fully set forth, contains all the terms and provisions between Landlord and Tenant relating to the matters set forth herein, and no prior or contemporaneous agreement or understanding pertaining to the same shall be of any force or effect. Tenant has relied on Tenant’s inspections and due diligence in entering this Lease and not on any representations or warranties made by Landlord concerning the condition or suitability of the Premises for any particular purpose.
6. Binding on Successors. Except as specifically set forth herein, this Lease shall bind and inure to the benefit of the parties’ heirs, successors, representatives and assigns.
7. Headings. The headings in this Lease are for purposes of reference only and shall not limit or define the meaning of any provision hereof.
8. Force Majeure. Except for monetary obligations and insurance requirements, Landlord and Tenant shall be excused from performing an obligation or undertaking provided for in this Lease during such time as such performance is prevented, delayed or hindered by Act of God, force majeure, fire, earthquake, flood or any other cause whether similar or dissimilar to the foregoing, not within the reasonable control of Tenant or Landlord, as the case may be.
9. Modification. The provisions of this Lease may not be modified in any way except by written agreement signed by both parties.
10. Only Landlord - Tenant Relationship. Nothing contained in this Lease shall be deemed or construed by the parties or by any third party to create the relationship of principal and agent, partnership, joint venture or any association between Landlord and the Tenant other than the relationship of Landlord and Tenant. This Lease is made for the benefit of the parties hereto and not for the benefit of any third party.
11. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Georgia, including to the extent applicable the provisions of O.C.G.A. § 51-1-53.
12. Guaranty. If requested by Landlord, Tenant shall ensure the cooperation of a parent or affiliate organization to execute a guaranty of this Lease.
13. Counterparts; Electronic Signatures. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of this Lease, any signature transmitted by facsimile or electronically via e-mail shall be considered to have the same legal and binding effect as any original signature.
14. Georgia Violent Sex Offender Law. Tenant acknowledges that pursuant to state law, as well as Landlord’s policies, any person listed on the Georgia Violent Sex Offender Registry maintained by the Georgia Bureau of Investigation is prohibited from being within 1,000 feet of the Premises. Tenant shall comply with all relevant laws, rules and regulations, including without limitation, the aforementioned state law, in the performance of any activities on the Premises.
15. Estoppel. At any time and from time to time, Tenant, within twenty (20) days from the date of a request therefor made by Landlord, shall execute, acknowledge and deliver to Landlord and to such assignee, mortgagee or other party as may be designated by Landlord a certificate (in a form to be reasonably required by Landlord) setting forth the Commencement Date, expiration date of the Term, and the current amount of the monthly amounts, if any, payable hereunder, and stating whether or not: (i) this Lease is in full force and effect; (ii) this Lease has been amended in any way; and (iii) there are any existing events of default on the part of any party hereunder to the knowledge of such party and specifying the nature of such events of default, if any. Any such assignee, mortgagee or other party may rely upon the certificate delivered by Tenant hereunder.
16. Landlord’s Subpremises. Landlord shall remove its equipment from Landlord’s Subpremises on or before December 31, 2023. Landlord shall be permitted to host a surplus equipment auction on the Premises prior to vacating Landlord’s Subpremises. If Tenant desires to use or access any portion of Landlord’s Subpremises on or before December 31, 2023, Tenant may make such request through Landlord’s facility rental application process using Landlord’s “SchoolDude” system or then-current facilities application system, and such rental shall be subject to Landlord’s standard rental fee schedule.
17. Board Approval. This Lease is not effective unless and until approved by public vote of the Atlanta Board of Education as required by law.

**[LANDLORD’S SIGNATURE PAGE TO AMENDED AND RESTATED LEASE AGREEMENT]**

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| --- | --- |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **LANDLORD:****ATLANTA INDEPENDENT SCHOOL SYSTEM**, an entity created by an Act of the Georgia General Assembly, managed and controlled by the Atlanta Board of EducationBy: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: Dr. Lisa HerringTitle: Superintendent |

**[SIGNATURES CONTINUE ON FOLLOWING PAGE]**

**[TENANT’S SIGNATURE PAGE TO AMENDED AND RESTATED LEASE AGREEMENT]**

|  |  |
| --- | --- |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **TENANT:****ATLANTA WESTSIDE CHARTER SCHOOL, INC.**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: Title: ATTEST:By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: Title:  |

**Exhibit “A”**

**Description of the Land**



**Exhibit “B”**

**Landlord’s Subpremises**

* Suites 145 and 146 in the Building;
* Room 143 in the Building; and
* First Floor of buildings 5011 and 5012.

|  |  |  |  |
| --- | --- | --- | --- |
|  **Exhibit “C”: Facility Inspections** |  |  |  |
|  |  |  |  |
| **System** | **Inspection Interval** | **Service Interval** | **Code Requirement/Authority** |
| Emergency Generator | Weekly | Semi-Annual | NFPA 101 Fire Marshall |
| Emergency Exit Lighting | Monthly | Annual | NFPA 101 Fire Marshall |
| Fire Extinguishers | Monthly  | Annual and after use | NFPA 101 Fire Marshall |
| Fire Hydrants | Annual | Annual | NFPA 25 Fire Marshall |
| Sprinkler System | Annual | Annual | NFPA 101 Fire Marshall |
| Backflow Preventers | Annual | Annual | NFPA 101 Fire Marshall |
| Elevators | Annual | Annual | O.C.GA 25-15-1 GA Dept. Of Labor |
| Boilers | Annual | Annual | O.C.GA 25-15-1 GA Dept. Of Labor |
| Roof | Weekly | As required |   |
| Kitchen Oven Hoods | Annual | Annual | NFPA 96 Fire Marshall |
| HVAC Filter Change | Monthly | Bi-Monthly |   |
| HVAC Loop strainer maintenance  | Monthly | Semi Annually |  |
| Cooling Tower | Monthly | Annually |  |
| Chiller | Quarterly | Annually |  |
| HVAC Water Treatment Automatic Water Treatment | Bi-weekly | Annual |   |