

## LEASE AGREEMENT

This Lease Agreement dated the 21<sup>st</sup> day of April, 2015 is made and executed by and between Independent School District No. 2860 (Blue Earth Area Schools) (hereinafter called "Landlord") and Southern Plains Education Cooperative (hereinafter called "Tenant").

WHEREAS, Landlord owns certain real property known as the Winnebago Elementary School, 132 1<sup>st</sup> Avenue Southeast, Winnebago, Minnesota including the appurtenant gravel area behind the school (collectively referred to as "Building"); and

WHEREAS, Landlord presently rents to Tenant a portion of the Building; and

WHEREAS, Landlord no longer needed the Building for use as an elementary school and closed the building on April 13, 2015; and

WHEREAS, Tenant is an educational cooperative established by a Joint Powers Agreement pursuant to Minnesota Statutes Section 471.59 and consists of five (5) member school districts, including Landlord; and

WHEREAS, Tenant is in need of additional space for the purpose of operating its programs.

NOW THEREFORE, in consideration of the sums to be paid as rent in the manner herein provided and Tenant's agreement to faithfully keep and perform the agreements, promises, covenants, and conditions hereinafter stipulated, Landlord, and Tenant hereby agree as follows:

1. DEMISE AND PREMISES: Subject to the terms and conditions hereof, Landlord leases to Tenant, and Tenant leases from Landlord, the Building. The terms and conditions of this Lease supersede any other leases, agreements or understandings between the parties in regards to the Building.
2. TERM; OPTION TO EXTEND; RIGHT TO TERMINATE:
  - a. Term: This Lease shall be for a term of three (3) years commencing on July 1, 2015 and ending on June 30, 2018.
  - b. Extension: Provided Tenant is not then in default, as provided herein, the term of this Lease shall automatically renew for successive periods of one (1) year unless either party gives written notice to the other party at least 90 days prior to the expiration of the then current term.
  - c. Termination: Landlord shall have the absolute right to terminate this Lease at any time for any reason upon at least 90 days prior written notice to Tenant. During any extension period only, Tenant shall also have the right to terminate this Lease upon at least 90 days prior written notice to Landlord. Landlord's right to terminate is in addition to its rights under the default provisions of this Lease.

### 3. RENT AND EXPENSES:

- a. General Statement of Terms of Rent: Tenant agrees to pay to Landlord Basic Rent (which includes Fixed Costs) and Additional Expenses associated with keeping the building open and associated with Tenant's occupancy as described in Subparagraphs 3.b.i and ii below.
- b. Basic Rent: Tenant agrees to pay to Landlord, upon invoice, Basic Rent in the total annual amount of one-hundred sixty thousand dollars (\$160,000), in semi-annual installments of eighty thousand dollars (\$80,000) commencing on the commencement date. All Basic Rent shall be payable semi-annual, in advance, on the first day of July and January during every year of the demised term, in lawful money of the United States, without deduction or offset, to Landlord at the address set forth below for notices or to such other place as Landlord may from time to time designate in writing. For any portion of a calendar month during the term hereof, Basic Rent shall be prorated for each day of such period and shall be due and payable on the first day of such period. Rental notices shall be sent to Southern Plains Education Cooperative, at the address set forth in Paragraph 18.
  - i. Rental Adjustment: The annual Basic Rent is intended to cover all Fixed Costs associated with the occupancy of the building. Tenant shall be responsible for adjustments to Basic Rent to the extent that there is an increase in the Fixed Costs that exceed Basic Rent. Fixed Costs include utilities, vendors (i.e., repairmen), snow removal, boiler supplies, custodial supplies, grounds maintenance, and supplies for minor repairs, fuel, Simplex, softener salt, insurance, internet, and custodian.
  - ii. Additional Expenses: During the term of this Lease, Tenant agrees to pay any and all Additional Expenses relating to Tenant's use and occupancy of the Building based on actual expenses related to real estate taxes, special assessments, or major repairs and damages created as a result of Tenant's occupancy. Landlord and Tenant shall enter into an agreement with respect to any repairs or maintenance needed to keep the building operational (such as roof repairs, boiler replacement, etc.) and their respective share of the cost associated therewith. These Additional Expenses shall not include repairs, restoration or other work which is covered and paid for by Landlord's insurance.
  - iii. General Statement of Costs: Landlord is providing Tenant with use of the Building at the cost to keep the Building in use and operational. Landlord does not intend to make a profit from the leasing of Building. Tenant may request Landlord's records associated with Fixed Costs and Additional Expenses to ensure compliance with the general terms of this Paragraph.

4. TENANT AUTHORITY: Tenant expressly warrants that Tenant is authorized under Minnesota law to execute and deliver this Lease and to perform all of its obligations provided hereunder and contemplated hereby, and the officers of Tenant executing this Lease have been duly authorized to execute and deliver this Lease.
5. PERMITTED USE AND RESTRICTIONS ON USE: The Building shall be used only for education purposes in connection with the Tenant's business as a school district and for no other purposes whatsoever without Landlord's prior written consent. Tenant shall use and occupy the Building for such purposes throughout the term hereof. Tenant agrees to exercise due care in the use and operation of the Building and not use or operate the Building improperly, carelessly, in violation of any state or federal law or for a purpose in a manner contrary to that contemplated by the Lease. Tenant shall not do or knowingly permit anything to be done in or about the Building which in any way is improper, immoral, unlawful or objectionable, that injures, or tends to injure the reputation of the Building. However, Landlord acknowledges by the nature of the students serviced within Tenant's programs that students may conduct actions that are improper, immoral, unlawful, and objectionable and such actions may injure or tend to injure the reputation of the Building. Tenant shall not knowingly cause, commit, maintain, or permit any nuisance or cause, commit, maintain, or permit the commission of any waste in, on, or about the Building.
6. SIGNAGE. Tenant agrees that no signs shall be placed on or about the Building by Tenant or at Tenant's direction without the prior written consent of Landlord.
7. COMPLIANCE WITH LAWS AND RULES: Tenant shall not use the Building or knowingly permit anything to be done on or about the Building or bring or keep anything therein which will in any way increase the cost of insurance now or hereafter carried on the Building or any of its contents, or that will invalidate any such insurance or grant the insurer a defense thereon, unless Tenant has received the prior written agreement of Landlord. Except as otherwise provided herein, Tenant shall at its sole cost and expense promptly comply with all applicable laws, orders, statutes, ordinances and governmental rules, regulations or requirements now or hereafter in force, and with the requirements of any duly constituted public authority having jurisdiction over the Building or any similar body now or hereafter constituted relating to or affecting the condition, use, or occupancy of the Building.
8. UTILITIES AND SERVICES: Landlord shall: (a) furnish heat to the Building and (b) furnish water for the intended use of the Building. Landlord shall not be liable for, and Tenant shall not be entitled to, any abatement or reduction of Basic Rent by reason of interruption or Landlord's failure to furnish any of the foregoing when such failure is caused by accident, breakage, repairs, strikes, lockouts, or other labor disputes of any character, or by any similar or dissimilar cause beyond the reasonable control of Landlord. Landlord shall not be liable for any circumstances for loss of, or injury to, property or person, however, occurring, through or in connection with or incidental to the

furnishing of, interruption of, or failure to furnish any of the foregoing, including documents, files, or other property damaged, destroyed, or lost through act of omissions of the personnel performing custodial or cleaning services. Any services, other than those agreed herein to be provided by Landlord in the form of Fixed Costs as described in Paragraph 3.b.i, which are consumed in the Building, shall be paid by Tenant.

Tenant agrees at all times to cooperate fully with Landlord and to abide by all of the regulations and requirements which Landlord may prescribe for the proper functioning and protection of the Building.

9. CUSTODIAL CARE AND MAINTENANCE: Landlord will provide general custodial services to the building consistent with the cleaning frequency and standards prescribed by Landlord for the operation of the Building as school. These services shall include, but are not limited to, boiler monitoring and maintenance, lawn care, snow removal, small repairs, assistance with moving furniture and other heavy items, reasonable requests from staff (hanging pictures, making efforts to fix equipment, and cleaning spills), thorough cleaning yearly of all floors, lockers, and similar spaces, and daily cleaning (trash removal, floor cleaning, bathroom disinfection, etc.). Landlord agrees to provide services in the summer when summer programming is in place; although services do not need to be as frequent, services will be provided to a similar level of quality. Reasonable adjustments to daily services may be made if staff are not available. Tenant may request that certain services are not provided to allow for students to practice relevant skills.
10. ALTERATIONS: Tenant shall not make or suffer to be made, any alterations, additions, or improvements in, on, or to the Building or any part thereof, without the prior written consent of Landlord; and any such alteration, addition, or improvement in, on, or to the Building, except movable furniture and trade fixtures, shall at once become a part of the Building and appurtenant realty and belong to Landlord. Any such alteration, addition, or improvement by Tenant shall be made at Tenant's sole cost and expense, and any contractor or person selected by Tenant to make the same must first be approved in writing by Landlord. All of the foregoing, together with all repairs required to be made by Tenant, shall be made in good and workmanlike manner and in compliance with all applicable state and federal laws and regulations. Tenant shall obtain all necessary permits from governmental authorities. Tenant agrees not to create, incur, impose, or permit or suffer to exist any lien or other obligation against the Building or Landlord (or shall provide adequate security or bond, in a manner satisfactory to Landlord, and use due diligence to contest any such lien or other obligation in good faith) by reason of any alteration or improvement or any repair or decoration permitted or required to be made by Tenant pursuant to this Lease.
11. USE BY OTHER PARTIES: Tenant shall not assign, pledge, mortgage, or otherwise encumber this Lease or sublease any part or all of the Building without Landlord's prior written consent, nor shall any transfer of Tenant's interest in the Building by operation of law occur or be allowed to occur. Tenant shall abide by Landlord's policy, rules and

regulations governing the use of its buildings. Landlord may allow other parties to use portions of the Building only with the express consent of Tenant.

12. INSURANCE AND WAIVER OF SUBROGATION: Tenant shall, at its own expense, obtain and carry at all time during the term of this Lease: (a) comprehensive liability insurance covering the Building with respect to the activities to be undertaken by and on behalf of Tenant and against liability resulting from the careless, negligent, or unlawful use of the Building by Tenant, its officers, agents, or employees in connection with the use of the Building with limits of at least One Million and 00/100 dollars (\$1,000,000.00) for injury or death to any one person, \$2,000,000.00 for injury or death for more than one person resulting from one occurrence, whichever is greater, and \$1,000,000.00 for damage to property. All of the policies shall cover both Landlord and Tenant, as their interests may appear, and any insurers thereon shall agree not to cancel or change the same without at least thirty (30) days prior written notice to Landlord. Landlord shall be named as an "additional insured with contractual liability" as evidenced by certificates to be furnished to Landlord on the effective date of this lease and annually upon the nonrenewal of insurance coverage by Tenant. Tenant shall also, at its own expense, carry and maintain casualty and property damage insurance with respect to its property in the Building, including its machinery, equipment, furniture, fixtures, improvements and other property under the care or control of Tenant and its employees, in an amount at least equal to the replacement value of said property. Tenant shall provide Landlord with certificates evidencing the insurance carried hereunder.

Landlord will maintain and continue to maintain during the term of the Lease its own policy of comprehensive liability insurance providing coverage against liability resulting from the careless, negligent, or unlawful use or maintenance of the Building by the Landlord, its officers, agents and employees.

Notwithstanding any other provision in this Lease to the contrary, Landlord and Tenant each hereby releases the other party and the officers, employees and agents of the other party from any and all liability or responsibility to such party or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to the Building, Tenant's property in the Building, or to the Building or property, resulting from any occurrence coverable by the property damage insurance policies required to be maintained hereunder by such party, even if such occurrence shall have been caused by the fault or intentionally tortious or negligent act or omission of the other party or anyone for whom the other party may be responsible. Both Landlord and Tenant agree that its policies will include such a clause or endorsement permitting such waiver, but the failure to obtain such a clause or endorsement shall not negate the waiver provided herein.

13. DESTRUCTION OF BUILDING: In case the building or any part thereof is destroyed or partially destroyed by fire or other casualty not arising from the fault or negligence of Tenant or those employed by Tenant, Landlord shall repair the damage within a reasonable period of time, due allowance being made for delays beyond control of

Landlord, and rent shall abate proportionately to the extent that the premises are untenantable, but in the event damage shall be so extensive that building and/or premises cannot be substantially restored within ninety (90) days, either Landlord or Tenant shall have the option to terminate this lease upon thirty (30) days' written notice to the other from date of damage, whereupon this lease shall terminate and Tenant shall pay rent up to date of damage, and thereafter both Landlord and Tenant shall be free and discharged of all further obligations hereunder.

14. LANDLORD'S RIGHT OF ACCESS: Landlord and its agents and employees shall have the right to enter the Building after giving reasonable notice to Tenant (except in emergencies, in which case the time of entry shall not be so limited) to inspect the same, to supply any service to be provided by Landlord to Tenant hereunder, to show the Building to prospective purchasers, mortgagees, or tenants and to alter, improve, or repair the Building and any portion of the Building without abatement of rent, and may for the purpose of maintenance, repair or construction, erect, use, and maintain scaffolding, pipes, conduits, and other necessary structures in and through the Building where required by the character of the work to be performed. For each of the aforesaid purposes Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon, or about the Building. Landlord and its agents and employees agree to make reasonable scheduling arrangements with Tenant for building maintenance and repairs to not disrupt or cause undue distress to students served within Building.
15. DEFAULT: The following shall be "events of default" under the Lease and the terms "event of default" and "default" shall mean, whenever they are used in the Lease, with respect to the Building, any one or more of the following events:
  - a. Failure by Tenant to pay any rental payment or other payment required to be paid under the Lease at the time specified therein, and said failure in payment shall continue for ten (10) days.
  - b. Failure by Tenant to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than the payment of rent, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied shall have been given to the Tenant by Landlord unless Landlord shall agree in writing to an extension of such time prior to its expiration or if any representation or warranty of Tenant shall be determined to be or have been a material misrepresentation or materially misleading or untrue when made; provided, however, if the failure stated in the notice be such that it cannot be corrected within the applicable period, Landlord will not unreasonably withhold its consent to an extension of such time (but not more than ninety (90) days) if corrective action is instituted by Tenant within the applicable period and diligently pursued until the default is corrected.

- c. The vacation or abandonment by Tenant of the Building for a period of ninety (90) consecutive days.

Whenever any Event of Default shall have happened under the Lease, Landlord shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

- a. Landlord, with or without terminating the Lease, may repossess the Building or any portion thereof by giving Tenant written notice to vacate the Building, whereupon Tenant shall do so within ten (10) days; or in the event the Tenant fails to do so within ten (10) days after receipt of such notice, Landlord may enter the Building and take possession of the Building and charge Tenant for costs incurred in repossessing portion of the Building, including reasonable attorneys' fees. Tenant expressly waives any damages occasioned by such repossession
- b. If Landlord terminates the Lease and takes possession of the Building or any portion thereof, Landlord shall have the right to lease or sell Landlord's interests in the Building or any portion thereof, in a commercially reasonable manner at public or private sale in accordance with applicable State laws, and Tenant agrees to use its best efforts to assist Landlord in so doing.
- c. Landlord may take any other remedy available at law or in equity to require Tenant to perform any of its obligations under the Lease.

The failure of the Landlord to insist, in any one or more instances, upon a strict performance of any of the terms, covenants, and conditions of this Lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future, of such term, covenant, condition or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rent with knowledge of a breach in any of the terms, covenants, or conditions of this Lease to be kept or performed by Tenant shall not be deemed to have waived any provision of this Lease unless expressed in writing and signed by the Landlord.

- 16. RETURN OF BUILDING. Upon termination or expiration of the Lease or any extension thereof, Tenant shall vacate the Building and surrender the premises in the condition, repair, appearance and working order required by the Lease, reasonable wear and tear, or unavoidable casualty excepted.
- 17. NO REMEDY EXCLUSIVE: No remedy conferred upon or reserved to Landlord by the Lease is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease.
- 18. NOTICES: All notices, demands or communications under this Lease must be sent by facsimile or First Class U.S. Mail, to the following addresses or such address as may be designated from time to time:

LANDLORD: Blue Earth Area Schools, ISD #2860  
315 E. 6<sup>th</sup> Street  
Blue Earth, MN 56013  
ATTN: Superintendent

TENANT: Southern Plains Education Cooperative  
201 East 3<sup>rd</sup> Street  
Fairmont, MN 56031  
ATTN: Director

19. BINDING EFFECT: This Lease inures to the benefit of and shall be binding upon Landlord and Tenant and their respective successors and assigns.
20. SEVERABILITY: If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision.
21. INTERPRETATION: The terms of this Lease shall be interpreted in accordance with the laws of the State of Minnesota.
22. AMENDMENTS, CHANGES AND MODIFICATIONS: This Lease may be amended or modified only by written agreement signed by Landlord and Tenant.
23. ENTIRE AGREEMENT: This Lease contains the entire agreement between the parties, and no other agreements, oral or in writing, express or implied, pertaining to the tenancy or premises, or anything incidental thereto, exists between the parties hereto as of the date of execution of this agreement.
24. EXECUTION IN COUNTERPARTS. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized representatives as of the day and year first above written.

[signatures appear on next page]

LANDLORD:

INDEPENDENT SCHOOL DISTRICT NO. 2860 (BLUE EARTH AREA SCHOOLS)

\_\_\_\_\_  
Title: Board Chair

\_\_\_\_\_  
Title: Board Clerk

Date: \_\_\_\_\_

TENANT:

SOUTHERN PLAINS EDUCATION COOPERATIVE

\_\_\_\_\_  
Title: Board Chair

\_\_\_\_\_  
Title: Board Clerk

Date: \_\_\_\_\_