

**FIRST AMENDMENT TO LEASE
BETWEEN SOUTH WHITTIER SCHOOL DISTRICT
AND OPTIONS FOR LEARNING**

THIS FIRST AMENDMENT TO LEASE AGREEMENT (“AMENDMENT”) IS MADE THIS 20th DAY OF OCTOBER 2020, between the South Whittier School District of Los Angeles (hereinafter referred to as “District”), and Options for Learning, a California corporation (hereinafter referred to as “Options for Learning”). District and Options for Learning may be individually referred to herein as a “Party,” or may be collectively referred to herein as the “Parties.”

RECITALS

- A. The District and Options for Learning entered into that Lease Agreement, commonly referred to as Contract #17-18-064, ratified by the District’s Board of Trustees on or about October 17, 2017 (the “Lease”), through which the District agreed to provide Options for Learning with ground space for the siting of two classroom portable buildings owned by Options for Learning, ground space for play-yards, and access for utility hook-ups, for purposes of a State Preschool program (“Program”). Such Lease also contained requirements for Options for Learning’s use of the designated site.
- B. District and Options for Learning acknowledge the contagious nature, health risks and dangers associated with the transmission of infectious or communicable diseases, including but not limited to “severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),” which is responsible for Coronavirus Disease 2019 (“COVID-19”), and/or any mutation or various thereof (collectively, “Infectious Diseases”).
- C. District and Options for Learning have mutually agreed to modify the Lease to incorporate relevant requirements in light of the ongoing COVID-19 pandemic.
- D. District has determined that the modifications contained in this Amendment are in the District’s best interest.
- E. In light of the above, the Parties wish to execute this Amendment to modify the Lease.

NOW, THEREFORE, in light of the foregoing and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

- 1. **Recitals.** The foregoing recitals are true and correct.
- 2. **Definitions.** Capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings set forth in the Lease.

3. Amendment Provisions. The Parties hereby amend the Lease as follows:

3.1 Article 10: Cancellation is hereby deleted in its entirety, and the following is inserted in its place:

“ARTICLE 10: TERMINATION

This Lease may be terminated by either Party for material breach of the Lease, provided that the Party seeking to terminate has first provided at least thirty (30) days’ written notice for curing of the breach and that the Party served such notice has failed to cure the breach.

The District may terminate the Lease at any time and without notice if, in the sole discretion of the District, the District determines that Options for Learning and/or the Options for Learning Parties are not in full compliance with the Guidelines and/or pursuant to any other order or directive of an applicable governmental agency, related to COVID-19 or other Infectious Disease. If the District terminates the Lease pursuant to this paragraph, Options for Learning shall not be entitled to a refund of any rental fees for use to date and shall not be entitled to recover any consequential damages arising from such termination. Failure of the District to terminate Options for Learning’s use of the site shall not relieve Options for Learning from any responsibility or liability for its own failure to comply with the requirements set forth in the Lease.”

3.2 Article 11: Indemnity is hereby deleted in its entirety, and the following is inserted in its place:

“ARTICLE 11: ASSUMPTION OF RISK; WAIVER AND RELEASE OF CLAIMS; INDEMNIFICATION

Assumption of Risk. Options for Learning recognizes that there is presently a significant element of risk of COVID-19 transmission inherent in visiting public spaces, such as the District’s grounds, and/or engaging in activities, gatherings, or events with or within proximity of others, including, without limitation, risk of sickness, viral exposure or infection, bacterial exposure or infection, hospitalization, bodily injury, death, loss of personal property, and/or quarantine, and that engaging in such activities, gatherings, or events may be dangerous. Options for Learning acknowledges and agrees that it has reviewed and understands the risks reflected in the Guidelines. Options for Learning agrees and acknowledges that it shall take all necessary measures to reduce the risk of exposure to Infectious Diseases, including but not limited to the measures set forth in the Guidelines and herein this Lease. Options for Learning agrees and acknowledges that District cannot ensure the safety of Options for Learning or Options for Learning’s employees, volunteers, students, officers, agents, contractors, guests, invitees, spectators, and all other related persons,

agents, and entities (collectively, the “Options for Learning Parties”) from risks of COVID-19 or other Infectious Diseases. Options for Learning agrees and acknowledges that it assumes full responsibility for all risks, known and unknown, from COVID-19 and other Infectious Diseases, including any sickness, viral exposure or infection, bacterial exposure or infection, hospitalization, bodily injury, death, loss of personal property, quarantine, and all related costs and expenses of any person, associated with the operation of the Program, the participation in the Program by its employees, enrolled students and parents, and visitors, and arising from the Options for Learning Parties’ use and occupancy of the site.

Waiver and Release of Claims. To the fullest extent permitted by law, Options for Learning releases South Whittier School District and its Board of Trustees, administrators, officers, employees, agents, and volunteers (collectively, the “District Parties”), from and against any and all claims and causes of action for any sickness, viral exposure or infection, bacterial exposure or infection, hospitalization, bodily injury, death, loss of personal property, quarantine, or harm of any kind which may arise from or out of the Options for Learning Parties’ use and occupancy of the site, including, without limitation, any and all risks from COVID-19 and/or other Infectious Diseases. This release is intended to discharge the District Parties against any and all liability arising out of or connected in any way with the Options for Learning Parties’ use and occupancy of the site, even to the extent that such liability may occur or arise out of negligence on the part of the District Parties. Options for Learning understands and acknowledges that by signing this Amendment, Options for Learning hereby voluntarily releases claims and gives up substantial rights, including its right to sue.

Indemnification. TO THE FULLEST EXTENT PERMITTED BY LAW, OPTIONS FOR LEARNING AGREES TO IMMEDIATELY DEFEND, INDEMNIFY, AND HOLD THE DISTRICT PARTIES FREE AND HARMLESS FROM ANY AND ALL LOSS, DAMAGE, LIABILITY, CLAIM, CAUSE OF ACTION, OR EXPENSE, INCLUDING ATTORNEY’S FEES, THAT MAY ARISE, IN WHOLE OR IN PART, FROM THE LEASE, INCLUDING AS IT RELATES TO THE NEGLIGENCE OR WRONGFUL ACTS OF THE OPTIONS FOR LEARNING PARTIES, OR AS IT RELATES ANY EXPOSURE TO COVID-19 OR OTHER INFECTIOUS DISEASE. THE DEFENSE AND INDEMNITY OBLIGATIONS UNDER THIS PARAGRAPH SHALL APPLY REGARDLESS OF THE DISTRICT PARTIES’ OR ANY OTHER PERSON OR ENTITY’S ACTIVE OR PASSIVE NEGLIGENCE.

Options for Learning agrees and acknowledges that it has read and fully understands the contents of the Assumption of Risk, Waiver and Release of Claims, and Indemnification contained herein.”

3.3 The following section is hereby inserted:

“ARTICLE 19: LEGAL COMPLIANCE

Options for Learning shall operate the Program and perform the services contemplated by this Lease in a professional and competent manner and in compliance with all District policies, and all applicable federal, state, and local laws, rules, and regulations, as may be amended, updated, or superseded from time to time.

Options for Learning has read and agrees to strictly, and without exception, comply with all federal, state, and local rules, regulations, orders, and guidelines (collectively, “Guidelines”), as may be amended, updated, or superseded from time to time, to help prevent the spread of COVID-19 and other Infectious Diseases, including but not limited to adherence to applicable California Department of Public Health (“CDPH”) and Los Angeles County Department of Public Health (“LACDPH”) school and Early Care and Education guidelines. Options for Learning acknowledges and understands that such Guidelines set forth requirements including, without limitation, requirements pertaining to physical distancing, group gatherings and events, face coverings, hygiene, disinfection, sanitation, symptom checks, screening procedures, signage, and related measures pertaining to the operation of the Program and activities to prevent the spread of COVID-19. Options for Learning shall, at its sole cost and expense, take reasonable measures to ensure that its facilities have the necessary supplies needed for compliance with the Guidelines. Options for Learning agrees that Options for Learning shall, at its sole cost and expense, be solely responsible for developing and enforcing proper protocols and procedures, and shall ensure that the Options for Learning Parties comply with all applicable Guidelines, protocols, and procedures. Options for Learning shall ensure the Options for Learning Parties do not enter District grounds when they are sick, and do not return until they have met applicable criteria to discontinue home isolation. Options for Learning understands and agrees that Options for Learning shall promptly notify the District upon learning or discovering someone is or becomes sick, to the extent permissible by applicable law, and shall inform District, to the extent possible, of all areas used or visited by said person.”

4. Miscellaneous.

- 4.1** Ratification. Except as otherwise modified by this Amendment, all terms and conditions of the Lease shall remain in full force and effect, and the Parties do hereby ratify and confirm the Lease as amended.
- 4.2** Amendment. This Amendment may not be amended except in writing by the Parties, duly executed by their authorized agents. The Parties recognize that the COVID-19 pandemic is evolving, as is the governmental and public health

response. The Parties acknowledge that this Amendment may need to be later revised, upon a subsequent amendment mutually executed by both Parties, in the event of further governmental or public health directives regarding the COVID-19 pandemic.

- 4.3** Execution. This Amendment may be executed in several counterparts, electronic or otherwise, each of which shall be an original and all of which shall constitute but one and the same agreement. Each Party has the full power and authority to enter into and perform this Amendment, and the person signing this Amendment on behalf of each Party has been properly authorized and empowered to enter into this Amendment.
- 4.4** Choice of Law. This Amendment has been negotiated and executed in the State of California and shall be governed and construed by the laws of the State of California without regard to the conflicts of laws principles.
- 4.5** Captions. The captions, headings, and titles to the various articles and paragraphs of this Amendment are not a part of this Amendment, are for convenience and identification only, and shall have no effect upon the construction or interpretation of any part hereof.
- 4.6** No Third Party Benefit. This Amendment is by and between the Parties named herein and, unless expressly provided in the provisions contained herein, no third party shall be benefitted hereby. This Amendment may not be enforced by anyone other than a Party hereto or a successor to such Party who has acquired his/her/its interest in a way permitted by the provisions contained herein.
- 4.7** Successors and Assigns. All of the covenants, stipulations, promises, and agreements contained in this Amendment by or on behalf of, or for the benefit of, either of the Parties, shall bind or inure to the benefit of the successors and assigns of the respective Parties.

IN WITNESS THEREOF, this Amendment is executed by the Parties on the day and year first written above.

OPTIONS FOR LEARNING

SOUTH WHITTIER SCHOOL DISTRICT

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

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