

**LEASE AGREEMENT
KIPP ASCEND CHARTER SCHOOL
(Penn School Building)**

THIS LEASE AGREEMENT ("Lease") is effective as of the date written on the signature page of this Lease (the "**Effective Date**") and is entered into by and between the **BOARD OF EDUCATION OF THE CITY OF CHICAGO**, a body politic and corporate ("**Landlord**") and **KIPP ASCEND CHARTER SCHOOL**, an Illinois not for profit corporation ("**Tenant**").

RECITALS:

- A. Landlord is the owner of the Penn School, located at 1616 S. Avers, Chicago, Illinois (the "**School**").
- B. Landlord desires to lease a portion of the School consisting of approximately _____ square feet, as set forth on Exhibit "A" attached hereto and made part hereof, (the "**Premises**") to Tenant and Tenant desires to so rent the Premises from Landlord for a charter school campus and related educational and community programs and for no other purposes (the "**Use**").
- C. Shared use of the Premises shall be subject to that certain Memorandum of Understanding attached hereto and, by this reference made a part hereof, as Exhibit D.

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein as though set forth in full and for other good and valuable consideration in hand paid, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **GRANT/TERM.** Landlord hereby leases the Premises to Tenant, upon the terms and conditions hereinafter set forth, for a term commencing on the Effective Date and ending on June 30, 2013, (the "**Term**"). Notwithstanding the foregoing, if: (i) Tenant's charter is terminated or not renewed for any reason; or (ii) Tenant otherwise ceases to operate the Premises for the Use, this Lease shall terminate on the first to occur of, the date said charter is terminated or not renewed, or the date Tenant so ceases to operate the Premises for the Use.
2. **RENT.** In consideration of the leasing of the Premises as set forth above, Tenant covenants and agrees to pay to the Landlord as rent for the Premises the sum of One Dollar (\$1.00) per year.
3. **OPERATING EXPENSES AND ALLOCATION OF RESPONSIBILITY.** The term "**Operating Expenses**" means all of the expenses, costs and disbursements of every kind or character incurred in the management, operation and maintenance of the School (except for the "**Capital Expenses**", as hereinafter defined, which shall be the sole responsibility of the Landlord) including, but not limited to the following: life safety system inspections and certifications, food services (Note: If the Board provides food services, the Board shall have the right, in its sole and exclusive discretion, to provide either warming kitchen facilities or full kitchen facilities to the Tenant), security, custodial/janitorial, engineer, building operations & maintenance, grounds keeping, utilities, and information technology (collectively, "**Operating Services**").

Tenant shall, at its sole cost and expense, pay all Operating Expenses based on the type of occupancy Tenant holds under this Lease:

A. Sole Occupancy.

- (i) In the event Tenant is the sole occupant of the Premises, Tenant shall have the following options: (a) to directly procure all Operating Services from third parties, other than Landlord; or (b) to elect to procure some or all of its Operating Services from the Landlord at Landlord's current rates and in accordance with Landlord's procedures.

(ii) A list of Operating Services provided by Landlord, and the costs of such Operating Services, shall be provided to Tenant prior to execution of this Lease. If Tenant desires to procure any such Operating Services from Landlord, Tenant shall make such election on the Facility Services Request form provided by Landlord (a copy of which is attached hereto as Exhibit B and, by this reference, made a part hereof).

(iii) Tenant shall be bound by such election for the entire 2009-2010 school year ("Pilot Period"). In the event Landlord extends its Operating Services procurement plan beyond the Pilot Period, Tenant shall again have the option (as set forth in section A(i) above) to choose how it will receive Operating Services for the 2010-2011 school year. Further, in the event this Lease is extended or renewed beyond the Term, Tenant shall have the option to choose its Operating Services provider(s) every third (3rd) school year of any renewal or extension Term commencing as of the 2014-2015 school year.

B Shared Occupancy with a Chicago Public School. In the event Tenant shares the Premises, at any time during the Term or any renewed or extended Term, with a Chicago Public School, Tenant's sole option (while sharing the Premises) shall be to procure all of Operating Services from Landlord. Tenant shall pay for such Operating Services at Landlord's current rates and in accordance with Landlord's procedures.

C. Shared Occupancy with a contract school and/or an additional charter school. In the event Tenant shares the Premises, at any time during the Term or any renewed or extended Term, with a contract school and/or an additional charter school(s), both or all such schools sharing the Premises must, collectively, select one option (as set forth in section A(i) above) regarding the procurement of Operating Services. Such election shall be made in accordance with section A above.

Tenant agrees that, if it opts to procure any Operating Services from Landlord, Tenant ensure that all such Operating Services are provided according to the same standards provided by the Landlord in its other schools. Landlord shall provide to Tenant, in writing, Landlord's standards (the "Standards"). Landlord shall, at Tenant's sole cost, inspect the Premises up to four (4) times per year; provided, however, in the event Tenant holds the type of tenancy set forth in section C above, the cost of such inspections shall be shared equally by all occupants. Landlord shall invoice Tenant for costs related to the inspections. Tenant shall pay such invoice within thirty (30) days of receipt. If Landlord determines that the Standards have not been met by the Tenant, Landlord shall have the right to declare such failure to maintain the Standards a default hereunder.

Landlord shall not be liable to Tenant for damages or otherwise if water, gas, electric, or sewer service is interrupted or terminated because of necessary repairs, installations, improvements, or any cause beyond the control of Landlord. Landlord agrees, except in the case of emergencies or a cause that is not within Landlord's control, to give Tenant thirty (30) days advance written notice prior to such interruption or termination.

Landlord shall be responsible for making all necessary capital repairs, capital replacements, and capital improvements to the Premises and the School (herein referred to as "Capital Expenses", and all as defined under generally accepted accounting principles consistently applied), unless such expenditure is required because of damage caused by any act, omission or negligence of Tenant or its employees, agents, invitees, licensees or contractors. Landlord shall not be required to commence any such capital work that is not in accordance with the Landlord's approved annual Capital Improvement Plan. The provisions of this paragraph shall not apply in the case of damage or destruction by fire or other casualty or a taking under the power of eminent domain, in which events the obligations of Landlord shall be controlled by Section 12.

4. **DELIVERY OF PREMISES.** Landlord shall deliver to Tenant possession of the Premises on the commencement date in an "AS-IS" and "WHERE-IS" condition, Landlord making no representations or warranties of any nature whatsoever as to the condition of the Premises or the School. Tenant's taking possession of the

Premises shall be deemed to be Tenant's acceptance of the Premises in the order and condition as then exists. No promise of Landlord to alter, remodel, decorate, clean or improve the Premises, or any portion thereof, and no representation respecting the condition of the Premises, or any portion thereof have been made by Landlord to Tenant.

5. **PROJECT LABOR AGREEMENT.** The Landlord has entered into a project labor agreement with various trades regarding construction projects awarded by the Landlord (a copy of which is attached hereto as Exhibit C, together with a list of signatory unions, and by this reference, incorporated herein) (the "**Project Labor Agreement**"). Tenant acknowledges familiarity with the requirements of the Project Labor Agreement, its applicability to any alteration, remodeling or other construction that may be done on the Premises, and further agrees to comply with the Project Labor Agreement in all respects

6. **TENANT'S COVENANTS.** Tenant covenants, at all times during the Lease Term and any extension or renewal of the Term, to:

A. use the Premises only for the Use;

B. apply for, secure, maintain and comply with all licenses or permits which may be required for the conduct by Tenant of the business herein permitted to be conducted in the Premises and to pay, if, and when due, all license and permit fees and charges of a similar nature in connection therewith;

C. perform all work in the Premises and School in a good and workmanlike manner, employing materials of good quality and in compliance with all governmental requirements. All work performed by Tenant within the Premises and School shall be accomplished only by qualified contractors and, if the work is in excess of Ten Thousand and 00/100 Dollars (\$10,000.00), pursuant to contracts and plans, all of which shall first be approved by Landlord. Tenant shall comply with the terms of the Project Labor Agreement. Tenant shall not commence any such work until Landlord has been provided with insurance certificates evidencing that the contractors and subcontractors performing such work have, in full force and effect: (i) adequate workmen's compensation insurance as required by the laws of the State of Illinois; and (ii) public liability and builders risk insurance in such amounts and according to terms reasonably satisfactory to Landlord.

D. permit Landlord, or Landlord's agents, at reasonable times to enter the Premises for any of the following purposes: (i) inspection of the Premises; (ii) making repairs, additions or alterations to the Premises or to the School; and (iii) showing the Premises to prospective purchasers, lenders and tenants, and other persons having a legitimate interest in inspecting the same.

E. promptly comply with the following, which are not the responsibility of Landlord under Section 3 above: (i) all present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state, municipal and local governmental departments, commissions, boards and officers with respect to the Premises; (ii) all orders, rules and regulations of the National Board of Fire Underwriters, Illinois Inspection and Rating Bureau, the local Board of Fire Underwriters, or any other body or bodies exercising similar functions, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises; (iii) all insurance policies and other recommendations of all insurance inspections and insurance carriers, at any time in force, with respect to the Premises, the School or any part thereof; and (iv) all present or future rules and regulations for the use and occupancy of the School, as Landlord in its reasonable discretion, from time to time promulgates.

F. not, without Landlord's prior written consent which, in each instance, may be withheld at the sole discretion of Landlord: (i) assign, transfer, hypothecate, mortgage, encumber, or convey this Lease or any interest under it, or subject or permit any lien or charge to exist upon this Lease or any interest under it; (ii) allow any transfer of, or any lien upon, Tenant's interest in this Lease by operation of law or otherwise; or (iii) sublet the Premises in whole or in part.

G. not suffer any mechanics', laborers' or materialmen's liens to be filed against the Premises, the School or any portion thereof or any interest therein by reason of any work, labor, services performed at, or materials furnished to, or claimed to have been performed at, or furnished to, the Premises or the School, by or at the direction or sufferance of Tenant, or anyone holding the Premises by, through or under the Tenant.

H. not affix, maintain or locate any signs, advertising placards, names, insignia, trademarks, descriptive material or any other such like item or items on the Premises or School except such as shall have first been approved by Landlord, in writing.

7. **QUIET ENJOYMENT.** Landlord covenants that Tenant shall have the right to peacefully and quietly have, hold and enjoy the Premises without any encumbrance or hindrance by or from Landlord, its agents, employees, successors and assigns.

8. **SURRENDER OF PREMISES UPON TERMINATION.** Upon termination of this Lease, by lapse of time or otherwise, the Tenant shall remove any and all of its properties, supplies, and equipment of all kinds from said Premises. The Tenant shall deliver the Premises, upon termination, in as good a state or condition as the same were when entered upon, less reasonable use and wear thereof, and damages by fire and accident excepted.

9. **INSURANCE.**

A. Tenant shall maintain, at all times during the Term or any extension or renewal Term, in responsible companies approved by Landlord, which approval will not be unreasonably withheld, general liability insurance, insuring Landlord and its agents and Tenant, as their interests may appear: (i) against all claims, demands or actions for injury to or death of any one person in an amount of not less than One Million and 00/100 Dollars (\$1,000,000.00); (ii) for injury or death of more than one person in any one occurrence in an amount of not less than Two Million and 00/100 Dollars (\$2,000,000.00); (iii) for damage to property in an amount not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) made by or on behalf of any persons, firm or corporation, arising from, related to, or connected with the conduct and operation of the Use in the Premises (Landlord shall have the right to direct Tenant to increase said amounts whenever it reasonably considers them inadequate) and (iv) in like amounts, covering Tenant's contractual liability under the indemnity provisions of this Lease. All of said insurance shall be in form, and carried with responsible companies, each satisfactory to Landlord and shall provide that it will not be subject to cancellation, termination or change except after at least thirty (30) days prior written notice to Landlord. The policies or duly executed certificates for the same (which shall evidence the insurer's waiver of subrogation) together with satisfactory evidence of the payment of the premium thereon, shall be deposited with Landlord on or before the commencement of this Lease and upon renewals of such policies, not less than thirty (30) days prior to expiration of the term of such coverage. If Tenant fails to comply with such requirements, Landlord may obtain such insurance and keep the same in effect, and Tenant shall pay Landlord the premium cost thereof upon demand.

B. Landlord agrees that it either self-insures or holds policies of insurance for liability and property damage in amounts not less than Two Million and 00/100 Dollars (\$2,000,000.00) and shall maintain such insurance throughout the Term.

C. Whenever: (i) any loss, cost, damage or expense resulting from fire, explosion or any other casualty or occurrence is incurred by either of the parties to this Lease, or anyone claiming by, through or under them in connection with the Premises; and (ii) such party is then either covered in whole or in part by insurance (or self-insurance) with respect to such loss, cost, damage or expense, or required under this Lease to be so insured (or self-insured), then the party so insured (or so required or self-insured) hereby releases the other party from any liability said other party may have on account of such loss, cost, damage or expense to the extent of any amount recovered by reason of such insurance or self-insurance (or which could have been recovered, had insurance been carried as so required) and waives any right of subrogation

which might otherwise exist in or accrue to any person on account thereof; provided, however, that such release of liability and waiver of the right to subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage or increase the cost thereof (provided that in the case of increased cost the other party shall have the right, within thirty (30) days following written notice, to pay such increased cost thereupon keeping such release and waiver in full force and effect).

10. **LANDLORD DEFAULT.** If Landlord is in default under this Lease and such default shall continue for ten (10) days after Tenant has notified the Landlord by written notice of such default, unless in the case of a default which cannot be remedied within ten (10) days, and where Landlord shall have commenced and shall be diligently pursuing all necessary action to remedy such default, the Tenant may, but shall not be obligated to immediately terminate this Lease by providing Landlord written notice as provided for herein.

11. **TENANT DEFAULT.** If the Tenant is in default under this Lease and such default shall continue for ten (10) days after Landlord has notified the Tenant by written notice of such default, unless in the case of a default which cannot be remedied within ten (10) days, and where Tenant shall have commenced and shall be diligently pursuing all necessary action to remedy such default, the Landlord shall have all of its rights and remedies under law and equity including, but not limited to, curing the default or electing to terminate this Lease by providing Tenant written notice as provided for herein.

12. **CASUALTY AND CONDEMNATION.** If the Premises are made untenable by fire or other casualty, or taken by any governmental entity pursuant to its power of eminent domain, the Landlord or Tenant may elect to terminate this Lease as of the date of the fire or other casualty or the taking by eminent domain, by notice to the other party within thirty (30) days after the date of the fire or other casualty, or in the case of eminent domain, by notice delivered as soon as reasonably possible after a party receives notice or otherwise becomes aware of such proceedings. If there is any award or payment by the condemning governmental entity, Tenant shall not be entitled to any portion thereof. Landlord agrees to promptly notify Tenant if it receives any notice of proposed taking by a governmental entity pursuant to eminent domain.

13. **INDEMNIFICATION.**

A. Tenant hereby agrees to indemnify and hold the Landlord harmless from any liability, claim or demand (including court costs and reasonable attorneys' fees), incurred by Landlord as a result of Tenant's actions on or about the Premises, limited, however, to only such liabilities, claims or demands which arise or are caused by Tenant's negligent acts, errors and/or omissions.

B. Landlord hereby agrees to indemnify and hold the Tenant harmless from any liability, claim or demand (including court costs and reasonable attorneys' fees), incurred by Tenant as a result of Landlord's actions on or about the Premises, limited, however, to only such liabilities, claims or demand which arise or are caused by Landlord's negligent acts, errors and/or omissions.

14 **SECURITY.** The party responsible for security under Paragraph 3 above, agrees to establish and maintain security measures appropriate to reasonably protect the Premises, individuals properly present at the Premises, and the personal property located thereon and each party agrees to cooperate with the other in maintaining such security measures.

15 **NOTICES.** All notices and other communications given pursuant to this Lease shall be in writing and shall be deemed properly served and effective: (i) as of the day of delivery if delivered in person, by messenger, overnight delivery service or a party's attorney or agent; or (ii) on the third (3rd) day after deposit in the U.S. mail as registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed as follows:

If to Tenant: KIPP Ascend Charter School
4320 W. 5th Avenue
Chicago, Illinois 60624
Attention: Jim O'Connor

If to Landlord: Board of Education of the City of Chicago
125 South Clark Street, 16th Floor
Chicago, Illinois 60603
Attention: Director of Real Estate

With a copy to: Board of Education of the City of Chicago
125 South Clark Street, 7th Floor
Chicago, Illinois 60603
Attention: General Counsel

Either party may, from time to time, change the names and addresses furnished for notice hereunder by giving written notice of said change to the other party in accordance with the notice provisions set forth above.

16. **PARAGRAPH HEADINGS.** The paragraph headings appearing in this Lease have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit, or extend the scope of intent of the paragraph to which they pertain.

17. **SUCCESSORS AND ASSIGNS.** This Lease shall inure to the benefit of and be binding upon the respective parties hereto and their respective successors and permitted assigns.

18. **AUTHORITY.** The individual officers, agents and employees of the parties hereto who execute this Lease do hereby individually represent and warrant that they have full power and lawful authority to execute this Lease and perform the transactions contemplated hereunder, on behalf of and in the name of their respective principals and/or employers.

19. **SEVERABILITY.** If any provision(s) of this Lease is (are) determined to be legally invalid, the parties hereto agree that particular provision shall be null and void, but that the remainder of this Lease shall remain in full force and effect.

20. **INSPECTOR GENERAL.** Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

21. **BOARD APPROVAL.** This Agreement is subject to approval by the members of the Chicago Board of Education.

22. **RELATIONSHIP OF THE PARTIES.** Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto or any other relationship, other than the relationship of Landlord and Tenant.

23. **LANDLORD'S TITLE.** The Landlord's title is and shall always be paramount to the title of the Tenant, and nothing herein contained shall empower the Tenant to do any act which can, shall or may encumber the title of the Landlord.

23. **MEMORANDUM OF UNDERSTANDING.** A Memorandum of Understanding, a copy of which is attached hereto and made part hereof as Exhibit D, has been entered into between the parties sharing the School, which includes, among other matters, the shared usage procedures between the parties. In addition, Tenant shall either employ or retain an individual or a company (and keep Landlord informed of the name, address, and

telephone number thereof) to be responsible for the general management of the Premises; those matters set forth in Section 3 which are the responsibility of the Tenant; and all work in the Premises which is approved by the Landlord and in compliance with the Project Labor Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

LANDLORD:

**BOARD OF EDUCATION OF
THE CITY OF CHICAGO**

By: Michael Scott
Michael Scott, President

Attest: Estela G. Beltran 8/27/09
Estela G. Beltran, Secretary

Board Report Number: 09-0527-OP2-1

Approved as to legal form:

Patrick J. Rocks *st*
Patrick J. Rocks, General Counsel

Date Executed by Landlord: 8/27/09

TENANT:

KIPP ASCEND CHARTER SCHOOL

By: Kathryn Mazurk

Name: Kathryn Mazurk

Title: Principal

Attest:

By: Nicole Boardman

Name: Nicole Boardman

Title: Director of Business Operations

EXHIBIT "A"

PREMISES

[See Attached]

EXHIBIT "B"

[See Attached]

EXHIBIT "C"

PROJECT LABOR AGREEMENT

[See Attached]

EXHIBIT "D"

MEMORANDUM OF UNDERSTANDING

[See Attached]

**MOU Addendum: Annual Sharing Agreement between
KIPP Ascend Charter School and William Penn Elementary School**

PART ONE: PHYSICAL SPACE

I. CLASSROOMS

A. KIPP Ascend Charter School will be housed in the following classrooms:

1st floor: 114, 110 = 2

3rd floor: 317, 311, 307, 305, 301, 306, 308, 310, 314, 318, 320, 312, 304, 300,
303, 309, 315 = 17

B. William Penn Elementary School will be housed in the following classrooms:

1st floor: 117, 115, 111, 109, 107, 105, 101, 103, 106, 104, 108, 112, 118 = 13

2nd floor: 217, 211, 207, 205, 201, 206, 208, 210, 214, 218, 220, 212, 204, 200,
203, 209, 215 = 17

II. OFFICE SPACE

A. KIPP Ascend Charter School will use 120 as their office space.

B. William Penn Elementary School will use existing office as their office space.

III. SIGNATURES

Signed By:


PRINCIPAL OF KIPP ASCEND CHARTER


PRINCIPAL OF PENN ELEMENTARY


SCHOOL SUPPORT COORDINATOR,
OFFICE OF NEW SCHOOLS

DIRECTOR OF BUSINESS SERVICES,
OFFICE OF NEW SCHOOLS

AREA INSTRUCTIONAL OFFICER

CHIEF EDUCATION OFFICER,
CHIEF EDUCATION OFFICE

CHIEF ADMINISTRATIVE OFFICER,
CHIEF ADMINISTRATIVE OFFICE