

PARKING LOT USE LICENSE AGREEMENT

[April 2013 Form]

THIS LICENSE AGREEMENT ("Agreement") is made and entered into as of **December 6, 2018** ("Effective Date"), by and between the Board of Education of the City of Chicago, a body politic and corporate ("**Licensor**") and **Drake Avenue Condominium Association** ("**Licensee**").

WITNESSETH:

For and in consideration of the mutual promises and covenants set forth in this Agreement, the parties agree as follows:

1. **Grant of License.** Licensor hereby grants to Licensee the non-exclusive right, privilege and permission, subject to the terms and provisions of this Agreement, to possess and occupy the following premises ("**Premises**"):

eleven (11) spaces located in the parking located adjacent to School,

which is located at **Theodore Roosevelt High School**, 3436 W Wilson Ave, Chicago, IL 60625 Chicago, Illinois (the "**School**").

2. **Term of License.** The term of this License Agreement shall commence on **January 1, 2019** and end on **December 31, 2019** ("**Term**"), unless terminated earlier in accordance with the provisions of this License Agreement.

3. **Early Termination.** Either party may terminate this License Agreement at any time, with or without cause, upon not less than 30 day's written notice to the other party as provided in paragraph 17 herein. If Licensor determines, in its sole discretion, that the Use compromises or in any way interferes, directly or indirectly, with the safety and security of the School, Licensor may terminate this Agreement immediately upon written notice.

4. **Limitations on License.** Licensee hereby acknowledges and agrees that the license granted hereunder is for the sole purpose of parking motor vehicles for Licensee's customers, guests, invitees and employees, subject to the following limitations and restrictions ("**Use**"):

A. Licensee may use the Premises only on the following days and times:

<u>Days of Week</u>	<u>Hours of Use</u>
Seven days a week	24 hours

B. Licensee acknowledges that the primary function of the Premises is in connection with the operation of the School. Licensee's license hereunder is and shall at all times remain throughout the Term subordinate to and ancillary to school operations. Licensee agrees that: (a) Licensee shall conduct its operations in the Premises in a manner that will not interfere with, interrupt, or disturb or disrupt in any manner the operation of the School; (b) Licensee's Use shall not be exclusive and that Licensor shall the right to use the Premises for its own purposes, which purposes shall, at all times, remain paramount to and have priority over Licensee's rights hereunder; and (c) without any reduction in the License Fee, upon not less than twenty-four (24) hours' notice from Licensor to the Licensee, the Licensor shall have the right to use the Premises for special functions, including but not limited to, graduation, report card pickup day, and parent/teacher conferences.

C. Ingress and egress to and from the Premises shall be from St. Louis or Leland Avenue.

5. **License Fee.**

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- A. During the Term, Licensee shall pay a **license fee of \$63 per space per month**, payable to the School at the School's address listed in Section 1, in advance on the first day of each month ("Monthly License Fee"), for a total fee of **\$8,316.00**. For any partial month, the Monthly License Fee shall be pro-rated accordingly, based upon a 30 day month.
 - B. Any Monthly License Fee not received in full by the School by the tenth (10th) day of the month shall be assessed a late payment fee equal to five percent (5%) of the total amount of the outstanding Monthly License Fee.
6. **Costs and Expenses.** Any and all costs, expenses or fees arising out of or relating to the grant of this License or the Use shall be borne by Licensee, including, without limitation, permit or approval fees, taxes, and insurance premiums. To the extent Licensor, at its option, pays any of the preceding costs, expenses or fees, Licensee shall reimburse Licensor within five (5) days after receipt of written notice from Licensor regarding the same.
7. **Compliance with Laws.** For the purpose of this Section 7, "Licensee" shall refer to Licensee and its agents, employees, invitees, members and guests. Licensee shall, at all times during the Term and any renewal thereof, comply (and shall cause its members, employees, agents, and invitees to comply) with all laws, codes, statutes, ordinances and regulations applicable to this Agreement and Licensee's Use of the Premises. In conjunction therewith, Licensee shall obtain, at its sole cost and expense, all zoning and other approvals and permits necessary to use the Premises at the times and for the Use stated herein.
8. **Maintenance.**
- A. Licensee shall, at its sole cost and expense, be responsible for normal maintenance of the Premises during the permitted Use time, including without limitation, keeping the Premises free of all debris.
 - B. Licensee shall, at its sole cost and expense, repair any damage to the Premises caused by Licensee, or by its members, invitees, guests, employees and agents. Licensee shall return the Premises to the Licensor in the same or better condition than received.
 - C. When snow accumulates to two inches or more on the Premises during the permitted Use time, Licensee shall be responsible for the snow removal and shall use one of Licensor's approved vendors for such snow removal services. If Licensee fails to remove snow or requests Licensor to remove the snow, Licensee shall reimburse the Licensor, on demand, the actual cost of the removal.
 - D. Licensor shall have the right to temporarily close the Premises or certain areas therein in order to perform necessary repairs, maintenance and improvements.
9. **Signage; Alterations and Modifications; Vehicles/Property Left on Premises.**
- A. Licensee shall not without (i) prior written consent from Licensor, and (ii) written proof the Premises is zoned to allow any such signage, place any signage on, or otherwise alter, modify, improve or change the Premises. Any request from Licensee to place signage on, or otherwise alter, modify, improve or change the Premises must include drawings or a detailed written proposal of any such requested changes. All Licensor approved signage, alterations, modifications, improvements or changes shall be at the sole cost and expense of Licensee.
 - B. The parties acknowledge and agree that no equipment or fixtures may be placed on the Premises by Licensee without receiving Licensor's prior written consent. Further, Licensee agrees that if any approved equipment is installed that restricts access to the Premises, Licensee shall ensure such equipment will not prohibit or hinder use of the

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Premises outside the days and times of Licensor's permitted Use. Licensor shall have no liability for any equipment or fixtures of Licensee.

- C. Prior to installing any such approved equipment on the Premises, Licensee shall pay to Licensor a deposit in the amount of \$N/A ("**Equipment Deposit**"). If Licensee places approved equipment or fixtures on the Premises, the parties agree that upon termination of this Agreement (after any extensions or renewals hereof), Licensee shall, at its sole cost, remove all equipment and fixtures from the Premises and restore the Premises to its original condition as it existed at the commencement of this Agreement. In the event Licensee fails to restore the Premises to the condition required herein within ten (10) days after termination of this License Agreement, Licensor shall use the Equipment Deposit to restore the Premises. In the event the actual cost of restoring the Premises exceeds the amount of the Equipment Deposit, Licensor shall provide notice of such additional amount to Licensee, and Licensee shall pay to Licensor any such amount within thirty (30) days after written notice from Licensor. If the Premises are restored as required in this Agreement, Licensor shall return any Equipment Deposit to Licensee within sixty (60) days of Licensee's completion of any required restoration.
- D. Except for emergency repairs, Licensee shall not permit work to be performed on any vehicle while located on the Premises.

10. Indemnification. To the fullest extent permitted by law, Licensee shall indemnify, defend and hold harmless Licensor, the School and the Local School Council that is affiliated with the School, and their respective board members, officers, directors, employees, agents, affiliates, and representatives, and all other parties claiming by, through or under any of the preceding, from and against any and all claims, demands, suits, liabilities, injuries (personal or bodily), property damage, causes of action, losses, expenses, damages or penalties, including, without limitation, court costs and attorneys' fees, arising or resulting from, or occasioned by or in connection with: (i) the occupancy or Use of the Premises by Licensee, or its invitees, employees, agents, affiliates or other representatives; (ii) any act or omission to act (whether negligent, willful, wrongful or otherwise) by Licensee, or its invitees, employees, agents, affiliates or other representatives; (iii) a violation of any laws, statutes, codes, ordinances or regulations by Licensee, or its invitees, employees, agents, affiliates or other representatives; and/or (iv) any breach, default, violation or nonperformance by Licensee of any term, covenant, condition, duty or obligation provided in this Agreement. This indemnification, defense and hold harmless obligation shall survive the termination of this Agreement.

11. Condition of Premises: Assumption of Risk. No agreements or representations have been made to Licensee regarding the conditions of the Premises, its suitability for the stated Use, or whether it is zoned properly for Licensee's intended Use. Licensee agrees that it is familiar with the condition of the Premises and the suitability of the Premises for its intended Use and accepts the Premises on an "AS-IS", "WHERE-IS" basis. Licensee acknowledges and agrees that by Use of the Premises, Licensee assumes all risk of loss or damage to property, including, without limitation, property damage, and all risk of personal injury, including but not limited to death, attributable to any cause other than the gross negligence or unlawful conduct of Licensor. To the fullest extent permitted by law, Licensee hereby releases Licensor, the School and the Local School Council that is affiliated with the School, and their respective board members, officers, directors, employees, agents, affiliates, and representatives, and all other parties claiming by, through or under any of the preceding (collectively, the "**Released Parties**"), from and waives all claims for damages to person or property sustained by Licensee, regardless of the cause thereof, provided no unlawful act of the Released Parties resulted in the loss or damages. This is a license. No bailment is intended or created.

12. Security. Licensee acknowledges that at all times during the permitted Use times, it shall maintain security measures appropriate to reasonably protect the Premises, including the staffing of personnel as may be reasonably necessary to safely operate the Premises for parking.

13. Insurance Requirements. Licensee must provide and maintain at Licensee's own expense, for the duration of this Agreement, the minimum insurance coverages specified below, insuring all operations related to this License. Licensee shall provide Licensor with a certificate of such insurance

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upon execution of this Agreement. All insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service. Minimum insurance requirements are:

A. **Workers Compensation and Employers Liability.** Workers' Compensation and Employers' Liability Insurance. Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by law and Employers' Liability Insurance covering all Licensee's employees who perform work at the Premises, with limits of not less than Five-Hundred Thousand and 00/100 Dollars (\$500,000.00) per occurrence.

B. **Commercial General Liability (Primary and Umbrella).** Commercial General Liability Insurance or equivalent with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate, for bodily injury, personal injury, and property damage liability. Coverages must include all premises and operations. The Board of Education of the City of Chicago is to be named as additional insured on a primary, non-contributory basis for any liability arising directly or indirectly during the Term.

C. **Automobile Liability (Primary and Umbrella).** When any motor vehicles (owned, non-owned and hired) are used in connection with the Use of the Premises, Licensee must provide Automobile Liability Insurance, with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage. The Board of Education of the City of Chicago is to be named as additional insured on a primary, non-contributory basis.

D. **Umbrella/Excess Liability Insurance.** Umbrella or Excess Liability Insurance with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, which will provide additional limits for Commercial General Liability Insurance and Automobile Liability Insurance.

E. **Garage keepers Legal Liability.** Garage Keepers Legal Liability with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. The Board of Education of the City of Chicago is to be named as additional insured on a primary, non-contributory basis.

F. **Insurance Certificates.** Before the beginning of the Term and prior to Licensee's use of the Premises, Licensee will have its insurance company or its representative submit an insurance certificate evidencing insurance coverage maintained by Licensee and indicating that the Board of Education of the City of Chicago, a body politic and corporate, and its members, employees and agents, and such other entities as may be designated by Licensee are listed as on a primary basis without recourse or right of contribution. The Certificate must provide for sixty (60) days prior written notice to Licensor of material change, cancellation or non-renewal of any policy maintained by Licensee and be given to:

Board of Education of the City of Chicago
Department of Risk Management
42 West Madison Street
Chicago, Illinois 60602
Attn: Risk Manager
Fax: (773) 553-3326

Licensee's failure to carry or document required insurance shall constitute a breach of this Agreement and any failure by the Licensor to demand or receive proof of insurance coverage shall not constitute a waiver of Licensee's obligation to obtain the required insurance. Licensor will not allow Licensee to use the Premises if satisfactory proof of insurance is not provided. Licensor reserves the right to obtain copies of insurance policies and insurance records by written request at any time from the Licensee and to modify, delete, alter or change insurance requirements at any time.

14. Safety Issues. Licensee shall promptly notify Licensor's Risk Management office of any safety concerns regarding the Premises or Use of the Premises under this Agreement. Licensee is responsible for using the Premises in a safe manner. **In the event of any significant injury or damage to or on the Premises, Licensee will inform Licensor as soon as possible but in no event later than twenty-four (24) hours of such event. Failure to timely provide such notice shall constitute a breach of this License Agreement.**

15. Default. If Licensee or any of its agents, employees, invitees, members or guests fails to observe or perform any covenant, agreement, obligation, duty or provision of this Agreement, Licensor may, after five (5) days' prior written notice to Licensee and without prejudice to any other right or remedy Licensor may have at law and/or in equity, terminate this Agreement. Notwithstanding the above, Licensor may terminate this Agreement immediately in the event of any action or failure to act which affects the safety and/or welfare of individuals on or around the Premises

16. Assignment; Sub-licensing; Successor and Assigns.

A. The interest of Licensee under this License is personal to Licensee and may not be assigned or transferred to any other individual or entity without Licensor's prior written consent. Licensor shall have the right at any time to transfer or assign its interest under this License.

B. Licensee may not sub-license any portion of its interest under this License to another party without Licensor's prior written consent.

C. This License shall be binding upon, and inure to the benefit of, the successors and assigns of Licensor. While this License shall likewise be binding upon the successor and permitted assigns of Licensee, it shall not inure to the benefits of Licensee's successors or unpermitted assigns.

17. Notices. All notices required hereunder shall be in writing and shall be deemed properly served if delivered in person or if sent by registered or certified mail, with postage prepaid and return receipt requested, to the following addresses (or to such other address as either party may subsequently designate):

If to Licensor: Board of Education of the City of Chicago
Department of Operations and Facilities
42 West Madison Street
Chicago, Illinois 60602
Attn: Director of Real Estate

With a copy to: Board of Education of the City of Chicago
Law Department, 9th Floor
1 North Dearborn
Chicago, Illinois 60602
Attn: General Counsel

If to Licensee: Drake Avenue Condominium Association
c/o PropertyHill, Inc.
4240 N. Pulaski Road
Chicago, IL 60641

All notices required hereunder shall be deemed received on the date of delivery, or attempted delivery if delivered in person, or if mail, on the date which is two (2) days after the date such notice is deposited in the U.S. mail.

18. Paragraph Headings. The paragraph headings appearing in this License 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 or intent of the paragraph to which they pertain.

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

20. **Conflict of Interest.** This License is not legally binding on the Licensor if entered into in violation of the provisions of 105 ILCS 5/34-21.3 which restricts the employment of, or the letting of contracts to, former board members of Licensor during the one (1) year period following expiration or other termination of their terms of office.

21. **Indebtedness.** Licensee agrees to comply with the Licensor's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as may be amended from time to time, which policy is hereby incorporated by reference as if fully set forth herein.

22. **Inspector General.** Each party to this License 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.

23. **Ethics.** Licensee agrees to comply with Licensor's Ethics Code adopted May 25, 2011 (11-0525-PO2), as amended from time to time, which code is incorporated into and made part of this License, to the extent applicable to this License.

24. **Governing Law.** This Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois.

Licensee irrevocably submits itself to the original jurisdiction of those courts located in the County of Cook, State of Illinois, with regard to any controversy arising out, or relating to, or in any way concerning the Use of the Premises. Licensee agrees that service of process on Licensee may be made, at the option of Licensor, by either registered or certified mail to the address and to the person set forth in Section 17 above, or to such other address or person as may be designated by Licensee in writing, to the office actually maintained by Licensee or by personal delivery on any officer, director or managing or general agent of Licensee. If any action is brought by Licensee against Licensor concerning this License, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

25. **No Third Party Beneficiary.** This License is not intended and shall not be construed so as to grant, provide or confer any benefits, rights, privileges, claims, causes of action or remedies to any person or entity as a third party beneficiary under any statutes, laws, codes, ordinances or otherwise.

26. **Entire Agreement and Amendment.** This Agreement, including all exhibits attached by mutual agreement of the parties, constitutes the entire agreement of the parties with respect to the matters contained herein. No modification of or amendment to the License shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral, relating to the subject matter of the License, are of no force or effect.

27. **Local School Council Approval.** This License is subject to approval of the members of the School's Local School Council.

28. **Agreement to be Posted Online.** The parties acknowledge that in accordance with 105 ILCS 5/34-220, this Agreement and any amendment or renewal thereof will be posted on the CPS Internet website.

29. **Licensee Authorized to Sign.** This Agreement shall not be binding until signed by all parties. The persons signing this Agreement represent and warrant that they are duly authorized to sign this Agreement and have full and complete authority to commit their respective parties to all terms and conditions of this Agreement, which shall constitute valid, binding obligations of the parties.

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30. Counterparts and Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, and both of which taken together shall constitute one and the same document. This Agreement shall be considered effective and binding once it has been executed by both parties. A signature delivered in electronic format or by facsimile shall be considered binding for both parties.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement as of the last date written below.

LICENSOR:

Board of Education of the City of Chicago

By: Mary De Runtz *MDR*
Mary De Runtz, Deputy Chief of Capital
Planning & Construction

Date: 12/11/18

LICENSEE:

Drake Avenue Condominium Association

By: Aristotle Pingul
Name: ARISTOTLE PINGUL

Title: PRESIDENT

Date: DECEMBER 11, 2018

