

## LEASE

THIS LEASE, made and entered into this 1<sup>st</sup> day of August, 2011, by and between South Gibson School Corporation (hereinafter called "LANDLORD") and Community Action Program of Evansville (hereinafter called "TENANT").

WITNESSETH:

### ARTICLE 1 PREMISES

The Landlord for and in consideration of the rents, covenants and agreements hereinafter set forth and hereby agreed to be paid, kept and performed by said Tenant, or Tenants, successors and assigns, has leased and by these presents does lease to said Tenant one classroom at Owensville Community School; the use of playground, gymnasium, public space and cafeteria per schedule developed by the School Principal; use of telephone services for local calls only; and administrative time from the Superintendent, Principal, School Secretary, Nurse and Cafeteria Personnel (hereinafter referred to as the "LEASED PREMISES").

### ARTICLE 2 OCCUPANCY AND USE

**SECTION 2.1. USE OF PREMISES.** The Leased Premises shall be used and occupied by Tenant, subject to the conditions herein contained, as a school classroom only for a Head Start Pre-School Program. In no event shall the Leased Premises be used or occupied by the Tenant in any manner contrary to law, zoning regulations, or recorded restrictions, if any.

**SECTION 2.2. ACCEPTANCE.** Tenant has inspected the premises and is satisfied with the physical condition thereof, and Tenant's taking possession of the premises shall be conclusive evidence that the same are in good condition and repair. Tenant agrees that no representation as to the condition of repair of the premises has been made except as herein noted and that no promise to decorate, alter, repair or improve the premises prior to or during the term has been made, unless provided in this Lease.

### ARTICLE 3 TERM

**SECTION 3.1. INITIAL TERM.** The term of this Lease shall be for one (1) year, commencing on August 1<sup>st</sup>, 2011, and ending on August 1<sup>st</sup>, 2012, both dates inclusive.

**SECTION 3.2. OPTION TO RENEW.** Provided the Tenant is not in default of any of the terms of the Lease, the Tenant shall have the right, subject to Landlord's consent, to four (4) renewals of this Lease for a term of one (1) year for each renewal. The Tenant shall notify the Landlord or Landlord shall notify Tenant in writing at least thirty (30) days prior to the expiration of the current term of either Tenant's intention to renew or Landlord's intention not to renew this Lease. The Tenant shall pay to the Landlord the following rental during the renewal period: Commencing August 1<sup>st</sup>, 2011 through August 1<sup>st</sup>, 2012, the sum of Two Thousand Two Hundred Fifty Dollars (\$2,250.00) per annum payable in equal monthly installments of Two Hundred Twenty-five Dollars (\$225.00) for ten (10) months and a like sum each additional year if renewed.

**SECTION 3.3. SURRENDER OF PREMISES.** The Tenant covenants to deliver the Premises to the Landlord, or the Landlord's agent, peaceably and quietly, at the end of the Lease Term, in good order and condition, ordinary wear and tear excepted.

### ARTICLE 4 RENT AND DEPOSIT

**SECTION 4.1. RENT.** Tenant shall, without deduction, abatement or set-off of any nature whatsoever, pay to Landlord as fixed rent for the Leased Premises the sum of Two Thousand Two Hundred Fifty Dollars (\$2,250.00) per annum, in ten (10) equal monthly installments August through May of Two Hundred Twenty-five Dollars (\$225.00) each, in advance and without demand on the first day of each and every calendar month throughout the term of this Lease. If the commencement date of this Lease shall be other than the first day of a calendar month, then Tenant shall pay rent at the rate herein established on a pro-rata basis for the number of days of tenancy during such initial month and shall thereafter make rent payments on the first day of each calendar month, with a like adjustment for the final month of the Lease term, if applicable. The rent shall be payable at the office of the Landlord at 1029 W 650 South, Ft. Branch, Indiana 47648, or at such other place as Landlord may from time to time designate in writing.

Failure of Landlord to make demand for rental when due shall not excuse payment thereof. Tenant shall pay all other sums to Landlord forthwith and said amounts, and also unpaid rent installments, including all charges and costs treated as additional rent hereunder, shall bear interest from and after ten days after due date until paid at the rate of 12 1/2% per annum or the maximum legal rate, whichever is less.

**SECTION 4.2 SECURITY DEPOSIT.** Upon execution of this Lease, Tenant shall deposit with the Landlord the sum of NONE Dollars (\$0) (the "Security") for the full and faithful performance of the provisions of this lease. If Tenant does not pay the fixed rent or additional rent hereunder, the Landlord may use the Security to pay for rent past due. If Tenant fails to perform any other term in this Lease, Landlord may use the Security for payment of money Landlord may spend on damages Landlord suffers because of Tenant's failure. If the Landlord uses the Security, Tenant shall, upon notice from Landlord, deposit an amount equal to the sum used by the Landlord.

**SECTION 4.3. OPERATING EXPENSES.** Landlord shall pay all operating expenses. The term "Operating Expenses" is defined to include:

1. cost of all maintenance and service agreements;

*[Handwritten signature]*

2. cost of repairs and general maintenance, exclusive of expenses of alterations of premises for the accommodation of tenant, and exclusive also of expenditures made for capital investment or improvements;

3. cost of water, sewer services, electric, gas, power, heating, lighting, ventilating and air conditioning of the Leased Premises;

4. window breakage; and

5. custodial expenses.

## **ARTICLE 5 SERVICES, ALTERATIONS AND REPAIRS**

### **SECTION 5.1. SERVICES BY LANDLORD.** Landlord covenants and agrees:

1. To heat and air condition the Leased Premises by heating or cooling the Leased Premises to reasonable temperatures for normal occupancy and use as reasonably determined by Tenant in its sole and exclusive judgment subject however to any applicable law;

2. To furnish electric power for lighting and operation of the premises;

3. To provide water;

4. Landlord shall not be responsible for any security to the Premises, and Tenant's property therein;

5. No interruption or malfunction of any of the service to be furnished by Landlord hereunder shall constitute an eviction or disturbance of Tenant's use and possession of the Leased Premises, or a breach by the Landlord of any of its obligations hereunder, or render the Landlord liable for damages or entitle Tenant to be relieved of any of its obligations hereunder (including obligation to pay rent) or grant Tenant any right of set-off or recoupment. In the event of any such interruption or malfunction of such services, however, Landlord agrees to use reasonable diligence to restore such service.

### **SECTION 5.2. CLEANING.** Tenant shall keep the Leased Premises in good and clean condition.

**SECTION 5.3. TENANT'S IMPROVEMENTS.** No alteration, addition, improvement, or refinishing of or to the Leased Premises shall be made by Tenant without the prior written consent of the Landlord. Any alteration, addition or improvement made by the Tenant after such consent shall have been obtained shall be made strictly in accordance with all applicable building codes and governmental authority regulations, and all such alterations, additions or improvements and any fixtures installed by Tenant (including wall paneling) shall become the property of the Landlord upon the expiration or other sooner termination of this Lease, and Tenant shall reimburse Landlord for additional taxes, cleaning or maintenance expense, if any, resulting from any such items.

**SECTION 5.4. STRUCTURAL REPAIRS AND MAINTENANCE.** The Landlord will make any and all reasonably necessary repairs to maintain in good order and repair the exterior, and structural parts of the building.

## **ARTICLE 6 LIENS**

Tenant shall not permit any mechanic's lien to be filed against the fee of the Leased Premises or against the Tenant's leasehold interest in the premises by reason of work, labor, services or materials supplied or claimed to have been supplied to the Tenant or anyone holding the Leased Premises through or under the Tenant, whether prior or subsequent to the commencement of the term hereof. If any such mechanic's lien shall at any time be filed against the Leased Premises and Tenant shall fail to remove same within 30 days thereafter, it shall constitute a default under the provisions of this Lease.

## **ARTICLE 7 ASSIGNMENT AND SUBLETTING**

Tenant shall not assign or encumber this Lease nor sublet nor permit the Leased Premises or any part thereof to be used by others. No consent by the Landlord, nor the acceptance of an assignee, subtenant or occupant as a tenant shall release the Tenant from the further performance by the Tenant of the covenants in this Lease or be construed to relieve the Tenant from obtaining the consent in writing of the Landlord to any further assignment or subletting. In any event Tenant shall remain primarily liable on this Lease for the entire term hereof and shall in no way be released from the full and complete performance of all of the terms, conditions, covenants and agreements herein contained. This Lease may be assigned by Landlord and upon such assignment the obligations of Landlord hereunder shall become obligations solely of such assignee.

In the event that Tenant shall sublet the Leased Premises for a rental in excess of the fixed rent due hereunder from Tenant to Landlord, then, notwithstanding any other provision contained in this Lease to the contrary, the fixed rent provided for in Section 4.1 of this Lease shall automatically be increased during the term of such sublease to a sum equal to the amount of rent payable under such sublease. In the event that Tenant shall receive any valuable consideration for an assignment of the Tenant's interest in this Lease, then notwithstanding any other provision contained in this Lease to the contrary, Tenant shall pay to Landlord as additional rent hereunder the amount of consideration thereby received.

## **ARTICLE 8 LANDLORD'S NON-LIABILITY AND INDEMNIFICATION OF LANDLORD**

**SECTION 8.1. INDEMNIFICATION OF LANDLORD.** Tenant shall indemnify Landlord and save Landlord harmless from suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury or property damage arising from or out of any occurrence in, upon or at or from the Leased Premises, or the occupancy or use by Tenant of said premises or any part thereof, or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, servants, invitees or licensees.

Tenant shall store its property in and shall occupy the Leased Premises at its own risk, and releases Landlord, to the full extent permitted by law, from all claims of every kind resulting in loss of life, personal or bodily injury or property damage to any of its employees or students.

Landlord shall not be responsible or liable at any time for any loss or damage to Tenant's equipment, fixtures or other personal property of Tenant, Tenant's business or personal property of Tenant's employees or students.

Landlord shall not be responsible for any defect, latent or otherwise in the Leased Premises, or any of the equipment, machinery, utilities, appliances or apparatus therein, nor shall Landlord be responsible or liable for any injury, loss, or damage to any person or to any property of Tenant or other person caused by or resulting from bursting, breakage, leakage, running, backing up, seepage, or the overflow of water, sewerage, steam, snow or ice, in any part of said premises or for any injury or damage caused by or resulting from acts of God or the elements.

In case Landlord shall without fault on its part be made a party to any litigation commenced by or against Tenant, then Tenant shall protect and hold Landlord harmless and pay all costs, expenses and reasonable attorneys' fees.

**SECTION 8.2. INSURANCE.** Tenant shall procure and keep in force at all times during the term of this Lease, at its expense, public liability insurance in an amount of not less than One Million Dollars (\$1,000,000.00) for personal injuries arising out of any one accident; and One Million Dollars (\$1,000,000.00) property damage. Landlord shall be named as one of the insured parties under such policies of insurance. When requested by Landlord, Tenant shall furnish Landlord with a certificate, or certificates, issued by the insurance carrier evidencing such insurance. If Landlord's cost of insurance for the Leased Premises or the building of which the Leased Premises form a part shall be increased by reason of the occupancy and use of the premises by Tenant or any other person holding under the Tenant, all such increases over the existing rate prior to such use shall be Paid by Tenant to Landlord on demand. Landlord shall be listed as an additional insured.

#### **ARTICLE 9 HOLDING OVER**

In the event that Tenant or any party holding under Tenant shall holdover the Leased Premises beyond the expiration of the term of this Lease, whether by expiration or forfeiture, such party shall pay double rent hereunder during such holdover period. Provided, however, and subject to the provisions of Section 3.2, if Tenant shall remain in possession of the Leased Premises beyond the expiration of the term with the express consent of the Landlord then such possession shall be as a month-to-month tenant as the same rent as the last month of the Lease term, and the provisions of this Lease shall be applicable. Prior to termination of this Lease, or any extension thereof, if Tenant is not in default on any obligation or covenant under this Lease, Tenant may remove its supplies and equipment from the Leased Premises, and shall promptly repair any damage caused by such removal.

#### **ARTICLE 10 RIGHTS RESERVED TO LANDLORD**

Landlord reserves the following special right: Landlord, and its duly authorized agents, employees and contractors shall have access to the Leased Premises at all reasonable times for the purposes of inspecting the same and making necessary repairs or replacements as called for hereunder or as the Landlord shall elect to undertake for the safety, preservation, benefit or welfare of the Leased Premises.

#### **ARTICLE 11 DEFAULT**

The following events shall be deemed to be events of default by Tenant under this Lease:

1. If Tenant shall fail to pay any fixed rent hereby reserved when due;
2. If Tenant shall fail to comply with any term, or provision, or covenant of this Lease, other than the payment of rent, and shall not cure such failure within 10 days after written notice thereof to Tenant;
3. If Tenant shall become insolvent, or shall make a transfer in fraud of its creditors, or shall make an assignment for the benefit of its creditors;
4. If Tenant shall file a petition under any section or chapter of the National Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or Tenant shall be adjudicated bankrupt or insolvent in the proceedings filed against Tenant thereunder;
5. If a receiver or trustee shall be appointed for all or substantially all of the assets of Tenant; or
6. If Tenant shall desert or vacate any substantial portion of the Leased Premises.
7. If in the sole opinion of Landlord, the Leased Premises is being damaged by the Tenant, students or others then the Landlord may terminate the Lease on 30-days written notice to Tenant.
8. If Tenant fails to supervise students by employees at all times.

**SECTION 12.1. REMEDIES OF LANDLORD.** Upon the occurrence of any such event of default, Landlord shall have the option to pursue any one or more of the following remedies (as well as any other remedies provided by law) without any notice or demand whatsoever:

1. Declare immediately due and payable the entire amount of the rent then remaining to be paid under this Lease for the balance of the Lease term;
2. Enter upon and take possession of the Leased Premises without terminating this Lease and without relieving Tenant of its obligation to make the monthly payments of rent herein reserved, and expel or remove Tenant and any other person who may be occupying said premises or any part thereof and any personal property or trade fixtures located therein (including

changing or altering the locks and other security devices) and relet the Leased Premises in the name of Landlord or Tenant at any rental readily obtainable, and receive the rent therefor. In such event Tenant shall pay to Landlord on demand any deficiency that may arise by reason of such reletting and the expenses of such reletting, for the residue of the term of this Lease;

3. Forfeit and terminate this Lease forthwith. In the event of such termination Tenant shall immediately surrender the Leased Premises to Landlord and if Tenant fails to do so, Landlord may enter upon and take possession of the Leased Premises and expel or remove Tenant and any other person who may be occupying said premises or any part thereof, and any personal property or trade fixtures located therein. In the event of the forfeiture of this Lease as herein provided, Tenant agrees that any security deposit being held by Landlord hereunder shall be forfeited to Landlord as liquidated damages for Tenant's default, which liquidated damages shall be in addition to and not in lieu of any unpaid rent or any other damages accruing to Landlord by reason of the violation by Tenant of any of the terms, provisions and covenants of this Lease.

4. Tenant shall pay rent to Landlord for all periods of time after termination of the Lease reasonably necessary to make repairs to the Leased Premises caused during Tenant's occupancy. Tenant shall pay for all damages to the Leased Premises occurring during the Tenant's occupancy thereof.

Tenant hereby waives demand for rent, demand for possession, notice of forfeiture, notice of termination and any and all other demands or notices required by law.

Pursuit by Landlord of any of the foregoing remedies or any other remedy provided by law shall not constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation by Tenant of any of the terms, provisions and covenants of this Lease. In no event shall Tenant be relieved from its obligation to pay the rentals specified in this Lease by reason of a surrender of possession, termination of this Lease or in any other manner whatsoever, unless specifically agreed to in writing by Landlord. Landlord may recover a reasonable attorney fee to enforce their rights in this Lease.

#### **ARTICLE 13 DAMAGE BY FIRE AND EMINENT DOMAIN**

**SECTION 13.1. DAMAGE AND DESTRUCTION.** In the event that the Leased premises or any substantial part thereof, shall be destroyed or damaged by fire or unavoidable casualty, then this Lease may be terminated at the election of Landlord, such election to be made by the giving of written notice to Tenant within 60 days after such destruction or damage.

1. If Landlord shall not exercise said election or if such damage or destruction shall not affect a substantial part of the Leased Premises this Lease shall continue in force and Landlord covenants in such event, to repair or rebuild with reasonable diligence the Leased Premises, so as to make the Leased Premises as nearly similar in value and character to its condition immediately prior to such destruction or damage as shall be practicable and reasonable, to the extent permitted by the net proceeds of insurance recovered for such destruction or damage, and subject to zoning and building laws then in existence. "Net proceeds of insurance recovered" refers to the gross amount of such insurance less the reasonable expenses of Landlord in connection with the collection of the same, including without limitation fees and expenses for legal and appraisal services. In such event, however, Landlord shall not be required to repair, rebuild or restore any additions, alterations or improvements made by or for the Tenant and not required by this Lease to be furnished by Landlord, nor any trade fixtures; furniture, equipment, signs or other property installed by or belonging to tenant;

2. If Landlord shall not exercise said election and if the Leased Premises shall not be repaired and rebuilt as above provided within the period of 180 days from the date of such destruction or damage, then this Lease may be terminated at the election of Tenant, such election to be made by the giving of written notice to Landlord within 10 days after the end of said period;

3. If this Lease is not terminated as above provided and if the fault or neglect of the Tenant or its agents, servants, or employees did not cause or contribute to such damage or destruction, then from and after such damage or destruction and until the Leased Premises are substantially repaired or rebuilt in accordance with the foregoing provisions the fixed annual rent will abate, either wholly or proportionately, according to the extent that the Leased Premises have been rendered untenable by such damage or destruction.

**SECTION 13.2. CONDEMNATION.** If the whole of the Leased premises shall be taken for any public or any quasi-public use under any statute or by right of eminent domain, or by purchase under threat of condemnation, then this Lease shall automatically terminate as of the date that title shall be taken.

If any part of the Leased Premises shall be so taken and this Lease shall not be terminated under the provisions of 13.2 above, then Landlord shall have the option to terminate this Lease upon 90-days' notice to Tenant, if continued operation of the remaining structure or improvements is uneconomic, in Landlord's sole discretion.

In any event, all compensation awarded or paid upon such a total or partial taking shall belong to and be the property of the Landlord without any participation by the Tenant; provided, however, that nothing contained herein shall be construed to preclude the Tenant from prosecuting any claim directly against the condemning authority in such condemnation proceeding for loss of business, depreciation to, damage to, or cost of removal of, or for the value of trade fixtures, furniture and other personal property belonging to the Tenant; provided, however, that no such claim shall diminish or otherwise adversely affect the Landlord's award.

#### **ARTICLE 14 SURRENDER OF PREMISES**

At the expiration of the Lease term, Tenant shall surrender the Leased Premises in as good condition as they were at the beginning of the term, reasonable wear and tear excepted. Notwithstanding any provision of law or any judicial decision to the contrary, no notice shall be required to terminate the term of this Lease as herein provided, and the term of this Lease shall expire on the termination date herein mentioned without notice being required from either party.

**ARTICLE 15  
WAIVER**

No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants of this Lease shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default.

If Landlord incurs any expenses, including court costs and attorneys' fees, as a result of a default by Tenant under this Lease, then such expenses shall be reimbursed by Tenant as additional rent, whether or not such default is subsequently cured.

**ARTICLE 16  
NOTICES**

Any notice under this Lease shall be in writing and shall be deemed to be duly given if delivered personally or mailed by registered or certified mail, addressed to the Landlord at the address at which it receives rent and addressed to the Tenant at the Leased Premises.

**ARTICLE 17  
MISCELLANEOUS PROVISIONS**

**SECTION 17.1. FORCE MAJEURE.** Landlord shall be excused from performing any obligation or undertaking provided in this Lease in the event and/or so long as the performance of any obligation is prevented or delayed, retarded or hindered by Act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, terrorist action, insurrection, riot, mob violence, sabotage, inability to procure equipment, facilities, materials or supplies in the open market, failure of power, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, requisition, laws, orders of government or civil or military authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of Landlord.

**SECTION 17.2. HEADINGS AND DEFINITIONS.** It is agreed that the headings and phrases as to the contents of particular paragraphs of this Lease are inserted only as a matter of convenience and for reference, and in no way are intended to be a part of this Lease, or in any way to define, limit or describe the scope or intent of the particular paragraph to which they refer. Where in this instrument pronouns, or words indicating the singular number, appear, such words shall be considered as masculine, feminine or neuter pronouns or words indicating the plural number, and vice versa, where the context indicates the propriety of such use.

**SECTION 17.3. MODIFICATION.** Landlord and Tenant agree that this Lease contains the entire agreement between them and shall not be modified in any manner except by an instrument in writing signed by each of them.

**SECTION 17.4. BENEFIT.** This Lease shall inure to the benefit of and be binding upon the Landlord and Tenant and their respective heirs, executors, administrators, successors and such assigns and sublessees as may be permitted hereunder.

**SECTION 17.5. AUTHORIZATION.** Each individual executing this Lease on behalf of Patoka Township and North Gibson School Corporation represents and warrants that he or she has been authorized to do so by the appropriate authority of such corporation.

**SECTION 17.6. PARTIAL INVALIDITY.** Any provision of this Lease violating the law of the state of Indiana shall be deemed void to the extent of such prohibitions, but without invalidating the remaining provisions hereof.

This Lease consists of 17 Articles numbered consecutively.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the day and year first above written.

**LANDLORD  
SOUTH GIBSON SCHOOL CORPORATION**

ATTEST:

\_\_\_\_\_  
Elizabeth Hirsch, Secretary  
South Gibson School Corporation

\_\_\_\_\_  
Michael Bengert, President  
South Gibson School Corporation

**TENANT  
COMMUNITY ACTION PROGRAM OF EVANSVILLE**

By: *Alicia Weather*  
Printed Name: Alicia Weather  
Title: Executive Director

**THIS INSTRUMENT PREPARED BY:**  
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