

Horseheads Central School District
Business Office

LEASE

THIS LEASE, made the _____ day of _____, 2011, by and between HORSEHEADS CENTRAL SCHOOL DISTRICT, a New York municipal corporation with an office located at One Raider Lane, Horseheads, New York (hereinafter referred as "Lessor"), and ELMIRA HEIGHTS CENTRAL SCHOOL DISTRICT, a New York municipal corporation with an office located at 2083 College Avenue, Elmira Heights, New York (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor is the owner of certain real property in Horseheads, New York, commonly known as the Horseheads Central School District Transportation Garage, which is comprised of the following facilities: one garage bay, one bay with lift, office area, bus drivers' room, bay storage space, automobile parking area for bus drivers (22 slots), bus parking area (13 slots), and use of wash bay.

WHEREAS, Lessor desires to lease such facilities (hereinafter referred to as the "Facilities") to Lessee and Lessee desires to lease the Facilities from Lessor, together with certain rights appurtenant thereto.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree as follows:

1. **Lease of Facilities:** Lessor hereby leases and demises to Lessee and Lessee hereby leases and takes from Lessor the Facilities for the term and upon the agreements, covenants and conditions set forth herein.
2. **Term:** The term of this Lease shall be for one (1) year commencing on July 1, 2011, and shall terminate on June 30, 2012.
3. **Rent:** Lessee shall pay rent to Lessor in the following amounts during the leased term, payable in ten (10) equal payments, beginning September 1st and continuing on the 1st day of each month thereafter through June:

July 1, 2011 – June 30, 2012 @ \$19,635.00 per year or \$1,963.50 per month.

4. **Condition of the Facilities:** On the commencement date of the term hereof, Lessor shall deliver the Facilities to Lessee and Lessee shall accept the Facilities from the Lessor in "as in" condition.
5. **Use of the Facilities:** Lessee shall have the nonexclusive right to use the Facilities for the purpose of storing and repairing Lessee's school buses. Said use shall be in conjunction with Lessor's use of the Facilities for the same purposes.

6. **Insurance and Indemnity:** Lessee covenants and agrees to indemnify and hold harmless Lessor of, from and against any and all claims and demands of any person, firm or corporation and from and against all costs, expenses and liability arising out of or on account of any event occurring in or about the Facilities or as a result of Lessee's use of the Facilities during the term hereof or on account of any act done thereon by Lessee or any person coming or being thereon by the license or permission of Lessee or on account of Lessee's use or occupancy of the Facilities. Lessee covenants and agrees to maintain in full force and effect during the term hereof at Lessee's own cost and expense a policy or policies of comprehensive public liability insurance insuring Lessee and Lessor against liability for injury, damage or death to or of person or property in or about the Facilities including any liability arising out of the use of the Facilities described herein during the term hereof with a combined single limit of at least Two Million Dollars (\$2,000,000.00) in the case of bodily injury to or death of one person or more than one person on account of or arising out of any one occurrence and at least Two Million Dollars (\$2,000,000.00) in the case of property damage. Such policy or policies shall be issued by a responsible insurance carrier satisfactory to Lessor. Lessee shall furnish Lessor with a certificate showing such insurance cannot be cancelled without at least 30 days prior written notice to lessor. Lessee also covenants and agrees that it will insure its own personal property and buses utilized and maintained at the Facilities in the same amounts hereinabove described. In addition, Lessee covenants and agrees to maintain workers' compensation coverage with respect to its employees working in the Facilities.

7. **Repair and Maintenance of Facilities:**
 - a. Lessee shall, at all times during the term hereof, keep the interior of the Facilities and every part thereof in good and sanitary condition and repair.
 - b. Lessor shall provide janitorial service and all of Lessee's rubbish and other debris shall be removed by Lessor from the Facilities at such times and to such location on the Facilities as may be designated from time to time by Lessor. Snow removal from the parking lot, driveway and sidewalk shall be the responsibility of Lessor. Lessor shall provide 20 electrical connections for the buses.
 - c. Lessee shall, at the end of the term hereof, surrender to Lessor the Facilities and all alterations, additions and improvements thereto in the same condition as when received, ordinary wear and tear, improvements required to be made by Lessor and damage by fire, earthquake, act of God or the elements excepted.

8. **Alterations and Improvements:** Lessee shall not make any material alterations, improvements or additions to the Facilities without the prior written consent of Lessor. All alterations, additions and improvements, whether temporary or permanent in character, made in or upon the Facilities, either by Lessee or Lessor, other than Lessee's furniture, fixtures and equipment, shall be Lessor's Facilities and, at the end of the term hereof, shall remain on the Facilities without compensation to Lessee. Any such furniture, fixtures and equipment remaining on the Facilities at the end of the term hereof shall be removed by Lessee or, if not so removed within thirty (30) days thereafter, shall, at the option of Lessor, become the Facilities of Lessor. No fixtures shall be removed without Lessor's consent, if the removal thereof would impair the structural strength of the Facilities or would damage any improvements within the Facilities. Lessee shall repair any damage occasioned by the removal of their furniture, fixtures and equipment.

9. **Default:** If (i) Lessee shall fail to pay any rent or other sum payable hereunder for a period of fifteen (15) days after the same is due, or (ii) Lessee shall fail to observe, keep or perform any of the other terms, covenants, agreements or conditions hereof, Lessee shall be deemed in default hereunder and Lessor may, at his option and without further notice or demand, in addition to any other rights and remedies given hereunder or by law, do any of the following:
- a. Lessor shall have the right, so long as such default continues, to give notice of termination to Lessee and, on the date specified in such notice (which shall not be less than ten (10) days after the giving of such notice), this Lease shall terminate, unless the default shall have been remedied.
 - b. In the event Lessee breaches this Lease and abandons the Facilities and Lessor does not elect to terminate this Lease by reason of such breach and abandonment, this Lease shall continue in full force and effect and, in addition to any other rights and remedies Lessor may have, Lessor shall have the right to recover rent as it falls due.
 - c. Lessee agrees to pay Lessor for any attorneys' fees, costs, and/or disbursements, incurred or arising out of, enforcement of this agreement.
10. **Eminent Domain:** If all or any part of the Facilities shall be taken as a result of the exercise of the power of eminent domain, this Lease shall terminate as to the part so taken as of the date of the vesting of title thereto in the condemning authority and, in the case of a partial taking, Lessee shall have the right to terminate this Lease as to the balance of the Facilities by notice to Lessor within thirty (30) days after such date; provided, however, that a condition to the exercise by Lessee of such right to terminate shall be that, in the event of a partial taking of the Facilities, the portion of the Facilities taken shall be of such extent and nature as substantially to handicap, impede or impair Lessee's use of the balance of the Facilities. In the event of any taking, Lessor shall be entitled to compensation, damages, income, rent, awards or any interest therein whatsoever which may be paid or made in connection therewith and Lessee shall have no claim against Lessor for the value of any unexpired term of this Lease. Lessee does not waive any damages payable for moving expenses, trade fixtures and other improvements installed by Lessee or for loss or interruption of business. In the event of a partial taking of the premises which does not result in a termination of this Lease, the rent thereafter to be paid shall be reduced in the proportion that the area of the portion of the Facilities so taken bears to the total area of the Facilities prior to such taking.
11. **Damage and Destruction:** If, during the term of this Lease, the Facilities is destroyed to an extent of fifty percent (50%) or more of the insured value thereof or to an extent which will require in excess of one hundred twenty (120) days to repair or restore, either Lessor or Lessee may cancel and terminate this Lease, as of the date of such destruction, by notice to the other within thirty (30) days thereafter. If, during the term of this Lease, the Facilities is destroyed to the extent of less than fifty percent (50%) of the insured value thereof and such damage or destruction was not caused by the willful act or negligence of Lessee or if Lessor does not elect to terminate the Lease as provided above, Lessor shall promptly rebuild or restore the Facilities to their condition immediately prior to such damage or destruction. During the period of restoration by Lessor, rent shall be equitably abated.
12. **Notices:** All notices required to be given hereunder shall be in writing. Such notices shall be sent by United States registered or certified mail, postage prepaid, addressed to the

addresses first set forth above or to such other place or person as either Lessor or Lessee may, from time to time, respectively designated in a written notice given to the other. Notices shall be deemed sufficiently served two (2) days after the date of the mailing thereof.

13. General Provisions:

- a. Severability: In case any one or more of the provisions hereof shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but this Lease shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.
- b. Time: Time is of the essence in each and every agreement, covenant and condition of this Lease.
- c. Successors and Assigns: Each and every covenant, agreement and condition contained herein shall be binding upon and inure to the benefit of each of the parties, their successors and assigns.
- d. Entire Agreement: This Lease constitutes the entire agreement between Lessor and Lessee with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral or written. This Lease may not be amended or modified in any respect whatsoever, except by an instrument in writing signed by Lessor and Lessee.
- e. Construction: The parties agree that each party and its counsel have reviewed and revised this Lease and that the rule of construction, to the effect that any ambiguities are to be resolved against the drafting party, shall not be employed in the interpretation of this Lease or any amendments or exhibits hereto. The terms and provisions of this Lease shall be construed and interpreted in accordance with the laws of the State of New York.
- f. Access to the Facilities: Lessee shall allow Lessor access to the Facilities during all hours.
- g. Assignment or Subletting: Lessee shall not assign their interest in this Lease or sublet any part of the Facilities.
- h. Holding Over: If Lessee remains in possession of the Facilities after the expiration of the term hereof, such holding over shall be deemed to be a month-to-month tenancy upon all of the terms and conditions hereof.
- i. Laws: Lessee shall not violate any federal, state or local statutes, laws or ordinances which are now or hereafter may be in effect with respect to use of the Facilities.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the date first above written.

HORSEHEADS CENTRAL SCHOOL DISTRICT

BY: _____
Ralph Marino, Jr. Ed. D. Lessor
Acting School Business Administrator

ELMIRA HEIGHTS CENTRAL SCHOOL DISTRICT

BY: _____
Mary Beth Fiore Lessee
Superintendent