

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into as of this _____ day of _____, 20____, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(hereinafter referred to as “SBBC”),
a body corporate and political subdivision of the State of Florida,
whose principal address is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

THE CITY OF SUNRISE, FLORIDA,

(hereinafter referred to as “CITY”),
a municipal corporation organized and existing under the laws of the State of Florida,
whose principal address is
10770 West Oakland Park Blvd. Sunrise, Florida 33351

WHEREAS, on September 27, 2017, the SBBC and the CITY entered into an Agreement of Sale and Purchase (Agreement) to sell and convey certain SBBC owned property and improvements formally known as the New River Circle Site (Property) to the CITY; and

WHEREAS, as part of the terms and conditions of the Agreement, the CITY agreed to enter into a Lease Agreement to allow the SBBC to continue to operate its educational programs in portables, located on the Property, for a period of six (6) months from the date of closing of the Agreement with the option to extend said occupancy for an additional six (6) month period under the same terms and conditions; and

WHEREAS, on December 15, 2017, the SBBC and the CITY closed on the sale of the Property, which transferred ownership of the Property to the CITY and simultaneously entered into a Lease Agreement which allowed SBBC to continue to occupy the Property as articulated herein; and

WHEREAS, the SBBC and the CITY mutually agree to enter a new Lease Agreement for an eight (8) month period.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 –SPECIAL CONDITIONS

2.01 **Lease Term.** The term of this Lease Agreement shall be for eight (8) months, commencing on December 16, 2018 and shall conclude on August 16, 2019.

2.02 **Leased Premises.** The SBBC shall solely lease twenty-eight (28) Occupied Portables together with all parking, herein referred to as “Leased Premises” including the rights of access on the Leased Premises, as more particularly described in **Exhibits A and B** attached hereto and incorporated herein.

2.03 **Hours of Operation.** The Leased Premises may be used twenty-four (24) hours a day for seven (7) days per week and for any lawful purpose.

2.04 **Consideration.** The CITY agrees that SBBC shall not make rental payments to the CITY for occupancy of the CITY Leased Premises for the period stated herein.

2.05 **Transfer.** The SBBC shall not assign or sublet the Leased Premises in this Lease Agreement, without consent of the CITY.

2.06 **Condition of Leased Premises.** SBBC shall accept the Leased Premises as they are at the time of occupancy. Removal or change of location of any appliance of equipment, occasioned by the SBBC’s use of said Leased Premises, shall be made by the SBBC at the SBBC’s expense.

2.07 **Maintenance Repairs.**

2.07.1 The SBBC shall be responsible for the cost of all maintenance and repair on the Leased Premises, including the Occupied Portables including, but not limited to, the interior and exterior of said structures, as well as the pavement, driveways, lighting, mechanical equipment and landscaping located on or adjacent to the Leased Premises.

2.07.2 The CITY shall have no obligation to maintain or repair the Leased Premises, the Occupied Portables, sidewalks or paved parking areas on the Leased Premises, and SBBC shall repair damage to such areas regardless of the cause.

2.07.3 SBBC shall be responsible, at its sole cost and expense, for securing the Leased Premises when not in use.

2.08 **Utilities.** The SBBC will promptly pay for all gas, water, power and electric light rates or charges which may become payable during the term of this Lease Agreement for the gas, water and electricity used by the SBBC on the Leased Premises. SBBC will promptly pay for

electricity consumed by SBBC within the Leased Premises and telephone services for the Leased Premises. In no event will the CITY be liable for any interruption or failure in the supply of any of the Utilities, regardless of cause.

2.09 **Insurance.**

2.09.1 SBBC acknowledges, without waiving its right of sovereign immunity as provided by Section 768.28, Florida Statutes, that it is self-insured for general and auto liability limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may change and be set forth by the Florida legislature, during the term of this Lease Agreement with respect to tort liability arising out of the Leased Premises.

2.09.2 In the event SBBC maintains School Board Legal Liability, Commercial General Liability, or General Liability under an insurance trust or pool, then SBBC shall maintain a limit of liability not less than \$1,000,000 each occurrence / \$2,000,000 general aggregate, or similar single limit combination. SBBC shall procure and maintain at its own expense, and keep in effect during the full term of this Lease Agreement, a policy or policies of insurance or self-insurance under a Risk Management Program in accordance with Section 768.28, Florida Statutes.

2.09.3 SBBC acknowledges that it is self-insured for Worker's Compensation Insurance with statutory benefits in accordance with Chapter 440, Florida Statutes, including Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

2.09.4 SBBC agrees to maintain Fire Legal Liability damage to Leased Premises with limits of \$500,000 per occurrence/aggregate. SBBC is not permitted to utilize stoves, ovens, microwave ovens, hotplates or any devices, which have the potential to cause a fire on CITY's Leased Premises. CITY grants permission for a vendor of SBBC to utilize catering warmers on CITY's Leased Premises. SBBC agrees it will require its vendor to endorse "CITY of Sunrise, its officers, agents and employees" as additional insured on SBBC's vendor's Commercial General Liability and provide the CITY with a Certificate of Insurance evidencing the same. SBBC's Fire Legal Liability will be primary and non-contributory over all other valid and collectible coverage maintained by the CITY.

2.09.5 All SBBC's self-insurance, insurance and/or liability policies are primary and non-contributory over all other valid and collectible coverage maintained by the CITY.

2.09.6 No activities under this Lease Agreement shall commence until the SBBC's certificates of insurance or letter evidencing self-insurance or insurance as required herein have been received and reviewed by the CITY's Risk Manager at the address in Section 2.10 Notice below.

2.10 **Notice.** All notices of request, demand and other communications hereunder shall be addressed to the Parties as follows unless the address is changed by the party by like notice given to the other parties:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue – 10th Floor
Fort Lauderdale, Florida 33301

With a Copy to: Director, Facility Planning and Real Estate
The School Board of Broward County, Florida
600 Southeast Third Avenue – 8th Floor
Fort Lauderdale, Florida 33301

Telephone No: (754) 321-2162
Telecopier No: (754) 321-2179
Email: chris.akagbosu@browardschools.com

With a Copy to: Office of the General Counsel
The School Board of Broward County, Florida
600 Southeast Third Avenue – 11th Floor
Fort Lauderdale, Florida 33301

To CITY: Richard Salamon, CITY Manager
CITY of Sunrise
10770 West Oakland Park Boulevard
CITY of Sunrise, Florida 33351

Telephone No: (954) 746-3430
Telecopier No: (954) 746-3439
Email: rsalamon@sunrisefl.gov

With a Copy to: CITY Attorney
CITY of Sunrise
CITY Attorney's Office
10770 West Oakland Park Boulevard
Sunrise, Florida 33351
Telephone No.: (954) 746-3300
Telecopier No.: (954) 746-3307
Email: CITYAttorney@sunrisefl.gov

Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid, and shall be deemed delivered when mailed or upon hand delivery to the address indicated.

Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by telegraph, telephonic communication reduced to written form (i.e., telecopier) or Federal Express, but shall only be deemed to have been given when received.

2.11 **Indemnification**. This section shall survive the termination of all performance or obligations under this Lease Agreement and shall be fully binding until such time as any proceeding brought on account of this Lease Agreement is barred by any applicable statute of limitations.

2.11.1 To the extent permitted by law, CITY and SBBC each agree to indemnify, defend and hold harmless the other, including their officers, agents and employees, from and against any and all tort claims for money damages arising out of or caused, in whole or in part, by the negligent act or omission of an employee of the indemnifying party who is acting in the course and scope of his or her employment function, unless otherwise stated herein. To the extent permitted by law, SBBC additionally agrees to indemnify, defend and hold harmless the CITY from and against any claims, damages, losses, liabilities or causes of action of any kind or nature arising out of or because of SBBC's use, occupancy, or maintenance of any Leased Premises.

2.11.2 Each party reserves the right to select its own counsel in any such proceeding and all costs and fees associated therewith shall be the responsibility of the indemnitor under this indemnification agreement.

2.11.3 Compliance with the foregoing shall not relieve the indemnitor of any liability or other obligation under this Agreement.

2.11.4 Nothing contained herein is intended nor shall be construed to waive either party's right, immunities, and limits under the common law or Section 768.28, Florida Statutes.

2.12 **Parking**. SBBC shall have access to and use of the parking spaces depicted on the attached **Exhibit B**. CITY shall have no obligation to keep and maintain the parking depicted on the attached **Exhibit B**.

2.13 **CITY's Rights**. The CITY shall have the right to install construction fencing or barriers, segregate the areas to be used by the SBBC during its occupancy, and otherwise engage in the maintenance, demolition, site work, construction, or other activities or uses, on all areas set forth in **Exhibit A** not occupied by the SBBC. The CITY shall have access to those areas occupied by the SBBC in order to adjust or maintain any portion of the site or the perimeter fencing. Any such work, completed by the CITY shall be done in such a manner so as to not disrupt or impair SBBC's use of the Leased Premises as provided herein.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida

Statutes. This section shall survive the termination of all performance or obligations under this Lease Agreement and shall be fully binding until such time as any proceeding brought on account of this Lease Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Lease Agreement. None of the Parties intend to directly or substantially benefit a third party by this Lease Agreement. The Parties agree that there are no third party beneficiaries to this Lease Agreement and that no third party shall be entitled to assert a claim against any of the Parties based upon this Lease Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The Parties to this Lease Agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Lease Agreement. SBBC shall not be responsible for social security, withholding taxes, and contributions to unemployment compensation funds or insurance for the CITY or the CITY's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The Parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the Parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Disposition of Portables.** CITY shall be solely responsible for the cost and disposition of the Portables depicted on the attached **Exhibit "B"**, and may dispose of them as it deems necessary, with the exception of the Occupied Portables which are the subject of this Lease Agreement. Upon SBBC vacating the Occupied Portables upon termination of this Lease Agreement, CITY, at its sole discretion and cost, may proceed to dispose of the Occupied Portables.

3.06 **Default.** The Parties agree that, in the event that either party is in default of its obligations under this Lease Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Lease Agreement may be terminated by the non-defaulting party upon thirty (30) days' notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof.

3.07 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended.

3.07.1 CITY shall keep and maintain public records required by SBBC to perform the services required under this Lease Agreement. Upon request from SBBC's custodian of public records, CITY shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. CITY shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Lease Agreement's term and following completion of the Lease Agreement if CITY does not transfer the public records to SBBC. Upon completion of the Lease Agreement, CITY shall transfer, at no cost, to SBBC all public records in possession of CITY or keep and maintain public records required by SBBC to perform the services required under the Lease Agreement. If CITY transfer all public records to SBBC upon completion of the Lease Agreement, CITY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CITY keeps and maintains public records upon completion of the Lease Agreement, CITY shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

IF A PARTY TO THIS LEASE AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE LEASE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-2300, RECORDREQUESTS@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SE 3rd AVENUE, 11TH FLOOR FT. LAUDERDALE, FL 33301.

3.07.2 The SBBC shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. To the extent that the SBBC and this Lease Agreement are subject to the requirements in Section 119.0701, Florida Statutes, the SBBC shall:

3.07.2.1 Keep and maintain public records required by the CITY to perform the services provided hereunder.

3.07.2.2 Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

3.07.2.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Lease Agreement and following completion of this Lease Agreement if the SBBC does not transfer the records to the CITY.

3.07.2.4 Upon completion of the Lease Agreement, transfer, at no cost, to the CITY all public records in the possession of the SBBC or keep and maintain public records required by the CITY to perform the service. If the SBBC transfers all public records to the CITY upon completion of the Lease Agreement, the SBBC shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the SBBC keeps and maintains public records upon completion of the Lease Agreement, the SBBC shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

3.07.2.5 If the SBBC fails to comply with the requirements in this Section 3.08(b), the CITY may enforce these provisions in accordance with the terms of this Lease Agreement. If the SBBC fails to provide the public records to the CITY within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE SBBC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SBBC'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE AGREEMENT, THE SBBC SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, FELICIA M. BRAVO, BY TELEPHONE (954/746-3333), E-MAIL (CITYCLERK@SUNRISEFL.GOV), OR MAIL (CITY OF SUNRISE, OFFICE OF THE CITY CLERK, 10770 WEST OAKLAND PARK BOULEVARD, SUNRISE, FLORIDA 33351).

3.08 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.09 **Place of Performance.** All obligations of SBBC under the terms of this Lease Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.10 **Governing Law and Venue.** This Lease Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Lease Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.11 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Lease Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.12 **Binding Effect.** This Lease Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

3.13 **Assignment.** Neither this Lease Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Lease Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.14 **Incorporation by Reference.** Exhibits A and B attached hereto and referenced herein shall be deemed to be incorporated into this Lease Agreement by reference.

3.15 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Lease Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Lease Agreement, nor in any way affect this Lease Agreement and shall not be construed to create a conflict with the provisions of this Lease Agreement.

3.16 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Lease Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Lease Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.17 **Preparation of Agreement.** The Parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Lease Agreement has been their joint effort. The language agreed to herein express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

3.18 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Lease Agreement and executed by each party hereto.

3.19 **Waiver.** The Parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Lease Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Lease Agreement shall not be deemed a waiver of such provision or modification of this Lease Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.20 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Lease Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.21 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Lease Agreement.

3.22 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Lease Agreement.

3.23 **Authority.** Each person signing this Lease Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Lease Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Lease Agreement.

3.24 **Radon Gas Disclosure.** RADON GAS: Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

IN WITNESS WHEREOF, the parties hereto have made and executed this Lease Agreement on the date first above written.

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA, a body corporate
and political subdivision of the State of
Florida

ATTEST:

By: _____
Nora Rupert, Chair

Robert W. Runcie
Superintendent of Schools

Approved as to form and legal content:

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR CITY

(Corporate Seal)

THE CITY OF SUNRISE, FLORIDA, a
municipal corporation organized and
existing under the laws of the State of
Florida

ATTEST:

By: _____

Name: _____

Title: _____

-or-

Witness

Witness

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the CITY Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of
_____, 20__ by _____ of

(Insert Name of Person)

_____, on behalf of the corporation/agency.

(Insert Name of Corporation or Agency)

He/She is personally known to me or produced _____ as
identification and did/did not first take an oath. (Type of Identification)

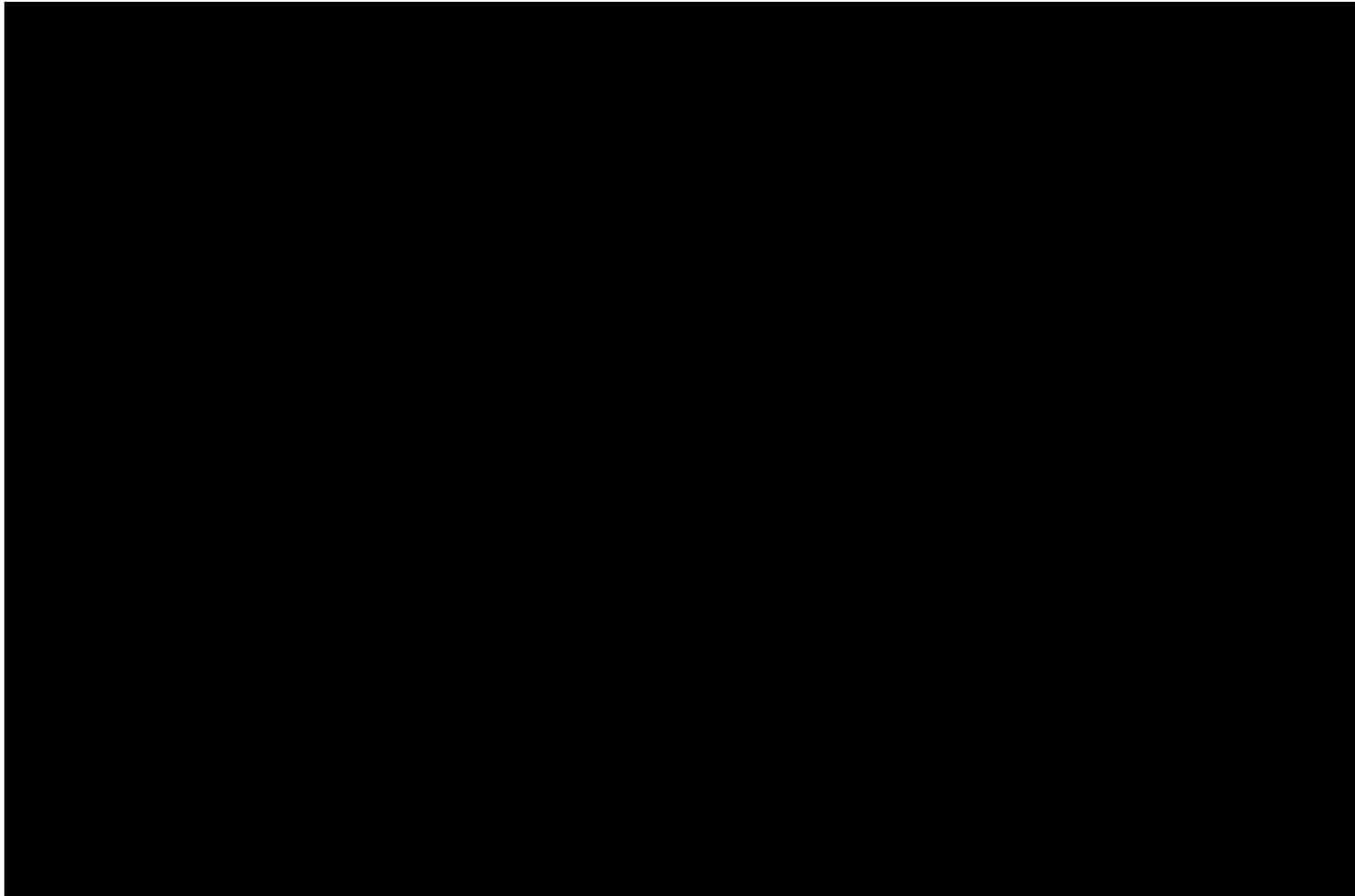
My Commission Expires: _____

Signature – Notary Public

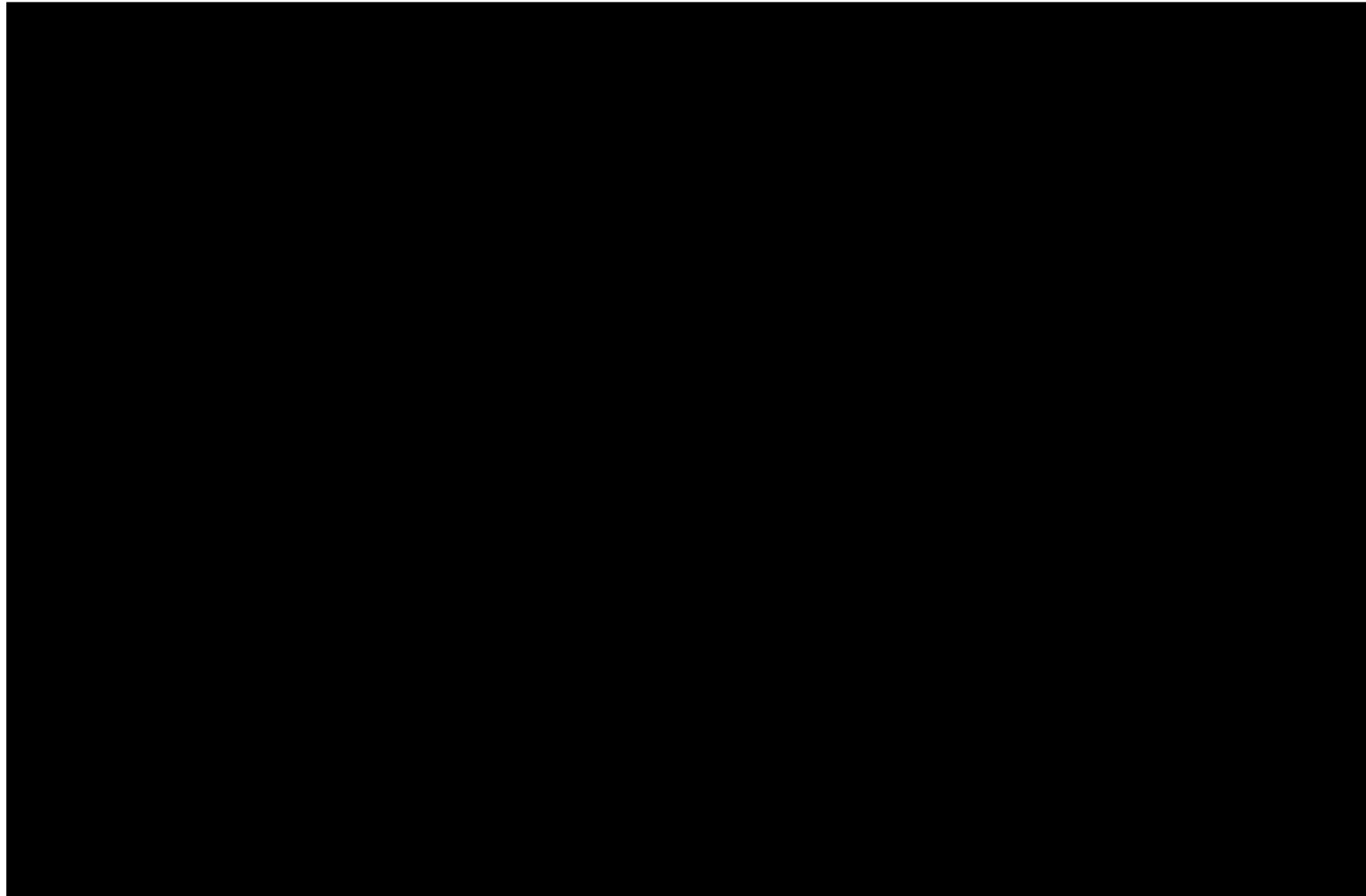
(SEAL)

Printed Name of Notary

Notary's Commission No.



This Exhibit is confidential and has been has been redacted pursuant to Sections 119.071 and 281.301, Florida Statutes. The unredacted Exhibit will be provided to the parties to this Agreement.



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