

LEASE AND USE AGREEMENT

THIS LEASE AND USE AGREEMENT, is made and entered into in duplicate this ____ day of _____, 2013, by and between The School Board of Sarasota County, Florida, a body corporate under the laws of the State of Florida, hereinafter referred to as the Lessor, and The Venice Symphony, a 501(C)3 corporation under the laws of the State of Florida, hereinafter referred to as the Lessee.

W I T N E S S E T H:

That for and in consideration of the mutual covenants hereinafter contained and the sums of money paid and hereinafter agreed to be paid by Lessee to Lessor and for other valuable considerations, Lessor does hereby demise and lease unto Lessee and Lessee does hereby hire and let from Lessor that certain property depicted on Exhibit A hereto and commonly known as the Music Suite at Venice High School, situate in Sarasota County, Florida, hereinafter referred to as the Demised Premises.

1. TERM. The term of this Lease and Use Agreement shall commence on the date which is 30 days after the Lessor receives a certificate of occupancy for the instructional spaces of the Performing Arts Center building and terminating on June 30, 2019, unless otherwise terminated pursuant to the provisions of this Lease. Lessee shall have the option to extend the term of this Lease for three (3) additional consecutive five (5) year periods. Each option for the extended term of this Lease shall be deemed automatically exercised without notice by Lessee to Lessor unless Lessee gives Lessor written notice of its intention not to exercise any such extension option at least six (6) months prior to the end of the then current term. If Lessee gives Lessor written notice of its intention not to exercise any such option, the term of this Lease shall expire at the end of the then current term. All references herein to the term of this Lease shall include the term as it is extended as provided in this Lease.

2. QUIET ENJOYMENT. Provided Lessee shall keep and perform all of the terms, covenants and conditions hereof, Lessee shall peaceably possess and quietly enjoy the Demised Premises without hindrance or interruption subject only to the terms hereof, reservations, restrictions and easements of record and applicable zoning and other governmental regulations.

3. USE OF PREMISES. Lessee shall use the Demised Premises

solely for the purpose of musical rehearsals, classes, demonstrations, or similar activities and no other use shall be made thereof without the prior express written consent of Lessor. Lessee has examined the Demised Premises and agrees that same is in good order and condition and agrees to accept same "as is." Lessee shall make no immoral, offensive or illegal use of the Demised Premises or do anything thereon deemed extra hazardous. Lessee shall keep and abide by all laws, ordinances, rules and regulations of all governmental bodies and their respective regulatory agencies having any jurisdiction over the Demised Premises. Lessee shall not commit or suffer any strip or waste in or about the Demised Premises. During the term of this Lease, Lessor will not enter into a lease or other agreement for the use of the Demised Premises with any third party.

Lessee agrees that any individual coming onto the campus of Venice High School while school is in session for the purpose of visiting the Demised Premises will enter the campus through the main office and submit to a RAPTOR background check in the same manner as all other visitors to the campus. Keys for the demised Premises will be issued by request through the Director of Safety and Security. The keys are designed to be part of the overall keying structure of the school campus and therefore locks and or keys may not be altered without written consent from the Director of Safety and Security.

4. MAINTENANCE AND UTILITIES. Lessee shall have sole responsibility for notifying the Lessor in a timely manner regarding all maintenance needed to maintain the Demised Premises in good condition. Lessor will perform all required maintenance and bill Lessee at a rate of \$58 per hour for completion of such work. The rate charged by Lessor will be adjusted annually based on its actual bargained labor rates (including benefits and cost of overhead expenses). Notwithstanding the above, major maintenance of the building envelope of the Demised Premises, specifically complete exterior paint jobs and roof replacement, will remain the responsibility of the Lessor. Lessor further reserves the right to inspect the Demised Premises at any time and conduct any needed preventive maintenance and bill the Lessee for services at the same labor rate. Additionally, Lessee shall make no changes to the structure of the Demised Premises, interior or exterior, without the prior written approval of the School Board or the School Board's Building Department. No changes of any kind will be made that are visible from the outside of the building without prior written approval of the School Board. Lessee shall be solely responsible for the payment of all charges and costs associated with the Music Suite, including the payment of electrical service which shall include

HVAC, which shall be separately metered in the name of The Venice Symphony and an additional amount for chilled water that will be metered and calculated as follows: $\$0.174/\text{Ton Hour} \times \text{Ton hours per month (number from the BTU meter)} = \text{Total monthly charges}$. The cost per ton hour will change annually based upon actual KWH costs at that site from FPL (the rate presented here is the rate for calendar year 2013).

Lessee shall keep the Demised Premises in good order, condition and repair and shall also keep the Demised Premises in a clean, sanitary and safe condition in accordance with law and in accordance with rules and regulations promulgated by Lessor from time to time in accordance with all directions rules and regulations of governmental agencies having jurisdiction. The plumbing facilities shall not be used for any other purposes than that for which they were constructed, and no foreign substances of any kind shall be disposed therein.

5. PARKING. Lessee may utilize the common parking areas adjacent to the Music Suite at Venice High School on a non-exclusive basis in connection with its use of the Music Suite.

6. INDEMNIFICATION. The parties hereby agree that the Lessee shall be responsible for and shall bear any and all liability for personal injuries or property damages arising from any cause, except negligence on the part of the Lessor, arising out of the maintenance and use of the Music Suite by the Lessee or any of its subtenants during the term of this Lease. The Lessee shall maintain a general liability policy with a minimum policy limit of \$1,000,000 per occurrence in effect for the duration of the Lease, naming the School Board as an additional insured. Lessee further agrees to indemnify and hold harmless the Lessor from and against any and all liabilities, claims, demands, suits, causes of action, losses and expenses including attorney's fees, arising or growing out of the use and maintenance of the Music Suite by the Lessee or any of its subtenants during the term of this Lease except to the extent that the cause was as a result of negligence on the part of the Lessor. Lessee shall pay the expense of Lessor's defense of any and all actions, suits or proceedings which may be brought against Lessor, or in which the Lessor may be impleaded or joined with others, and shall satisfy, pay and discharge any and all judgments, orders and decrees that may be recovered against Lessee or Lessor in any such action or proceedings. Lessee's obligation under this paragraph is limited to \$1,000,000 per occurrence.

Nothing contained herein shall be deemed to constitute a waiver of sovereign immunity on the part of Lessor or to affect, limit or reduce the protection afforded Lessor under the provisions of Section 768.28, Florida Statutes, or to protect Lessee from

liability for any deliberate willful or malicious act of Lessee. Lessee's obligation to indemnify Lessor shall survive termination of this Lease.

7. TAXES. Lessee agrees to assume all responsibility for liabilities that accrue to the Demised Premises or to the improvements thereon, including any and all drainage and special assessments or taxes of every kind and all mechanic's or materialman's liens which may be hereafter lawfully assessed and levied against the Demised Premises during this Lease. Lessee shall pay all occupational licenses, personal property taxes or other obligations attributable to Lessee's use of the Demised Premises.

8. DESTRUCTION OF PREMISES. In the event of the total destruction of the improvements on the Demised Premises by fire or otherwise, or such substantial partial destruction thereof as will cause the Demised Premises to be unfit for the aforesaid use, this Lease, at either party's sole option, shall terminate and the rights of all parties hereunder shall cease (except such rights and liabilities as may have accrued to the time of such destruction). If the parties mutually agree that the Lessor will rebuild the Music Suite, and allow Lessee to continue its occupancy and usage of the Demised Premises under the terms of this Lease all rebuild costs shall be borne by the Lessee. In rebuilding the Demised Premises, in no event shall Lessor be required to expend more than the amount received from either the Lessee or insurance purchased by the Lessee or a combination thereof.

9. DEFAULT. In the event Lessee fails to perform any of the covenants or obligations contained herein, or otherwise breaches this Lease Agreement, Lessor shall be entitled to pursue all available legal remedies.

The prevailing party in any action concerning this Agreement shall be entitled to recover its attorneys' fees and costs, including appellate attorneys' fees and costs. Venue for any action shall be in Sarasota County, Florida. The laws of Florida shall govern this Agreement.

10. WAIVER OF DEFAULT. No waiver of any breach of any of the terms, covenants and conditions hereof shall be taken or construed to be the waiver of any other or succeeding breach of the same or any other term, covenant or condition hereof.

11. CORRECTIONS OF DEFAULTS. If Lessee defaults in any of the terms, covenants and conditions hereof, Lessor may perform the

same or procure the performance thereof without waiving or affecting the option to terminate the term hereof or waiving said default or waiving any rights hereunder, and all payment or payments or expenditures made by Lessor in so doing shall be charged to Lessee, shall become immediately due and payable and shall bear interest at the rate of 12% per annum from the date of disbursement by Lessor until paid by Lessee.

12. IDENTITY OF INTEREST. The execution of this Lease or the performance of any of the terms hereof shall not be deemed or construed to have the effect of creating, between Lessor and Lessee, the relationship of principal and agent or of a partnership or of a joint venture and the relationship between the parties hereto shall always be and remain that of Lessor and Lessee.

13. ASSIGNMENT AND SUBLETTING. This Lease may not be assigned in whole or in part and no portion of the Demised Premises shall be sublet without the prior written consent of Lessor and any attempted assignment of this Lease or subletting of any of the Demised Premises without such written consent shall be void. Lessor gives consent for subleases for both Exultate and the Venice Concert Band.

14. ACCESS TO PREMISES BY LESSOR. The Lessor or any of Lessor's agents shall have free access to the Demised Premises and all parts thereof at all reasonable times for the purpose of examining same.

15. NOTICES. Any notice given or required to be given in connection with this Lease shall be mailed postage prepaid to Lessor at 1960 Landings Boulevard, Sarasota, Florida 34231, attention: Superintendent, and to Lessee at P. O. Box 1561, Venice, Florida 34284 attention: Executive Director, Venice Symphony, or to such other address as either party may hereafter direct in writing.

16. PARAGRAPH TITLES. Paragraph titles used herein are solely for convenience and are not to be used in interpreting particular provisions hereof.

17. MISCELLANEOUS PROVISIONS AND DEFINITIONS. All of the terms and provisions hereof shall be binding upon and the benefits inure to the parties hereto and their respective successors and assigns. The term "Lessee" and "Lessor" shall include all parties so designated herein, their respective successors and assigns. Whenever used herein, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. This Lease and all instruments or documents relating to

same and all references herein shall be construed under Florida law.

18. RADON NOTIFICATION. Radon is a naturally occurring radioactive gas that, when it has 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 Public Health Unit.

IN WITNESS WHEREOF, the parties have caused this Lease and Purchase Agreement to be executed by their respective undersigned officials as of the date hereinabove set forth.

THE SCHOOL BOARD OF SARASOTA
COUNTY, FLORIDA

BY: _____
Jane Goodwin, Chair

Approved for Legal Content,
September 3, 2013, by Matthews Eastmoore,
Attorneys for The School Board
of Sarasota County, Florida
Signed: ASH

THE VENICE SYMPHONY

BY: _____
Executive Director