

**Arizona School Risk Retention Risk Trust, Inc. Facility  
Use Agreement Between**

District Name: Dysart Unified School District #89

**AND**

Name of organization using facility: \_\_\_\_\_

**1. PARTIES**

The parties to this agreement (the "Agreement") are: DUSD #89

Hereinafter referred to as District, and \_\_\_\_\_

Hereinafter referred to as Occupant.

**2. RECITALS**

This Agreement is made based upon the following facts:

2.1 Occupant has requested that District make available the \_\_\_\_\_

(Facility) to be used by Occupant for occasional use as a/an \_\_\_\_\_

2.2 Occupant represents that Facility will only be used for the purpose so stated.

**3. USE**

When using Facility or any portion thereof, Occupant agrees to comply with all applicable federal, state, and municipal laws and regulations, and with the policies and regulations of the District pertaining to the use and occupancy of Facility, Occupant agrees to take good care of Facility and any equipment and furniture located therein, and to leave Facility at all times in as good order and condition as existed prior to Occupant's use thereof.

Occupant shall not commit or allow to be committed any waste or nuisance in or about Facility or subject Facility to any use that would damage any portion of Facility or raise or violate any insurance coverage maintained by District. Occupant shall not allow a number of persons in any portion of Facility at any time in excess of the legal or normal capacity of such portion of Facility.

Occupant shall not permit any food, drink, or smoking in any portion of Facility without the prior written consent of District. Occupant agrees that District has not agreed and will not agree to warrant the suitability or safety of Facility or any of Facility's contents for the uses intended by Occupant, such that Occupant accepts full responsibility therefor. If a key is issued to the Occupant for access to the Facility,

and the key is lost by the Occupant or any person given the key by the Occupant, the Occupant is responsible for, and will pay in full, the cost of rekeying all locks which could be opened by that key, and the cost of replacing all keys required to be replaced as a result of the loss of the key.

#### 4. SCHEDULING

Occupant shall schedule by written notice to the District to:

Name: Community Education Program Manager

Address: 15802 North Parkview Place

City, State, Zip: Surprise, Arizona 85374

Email: [facilities@dysart.org](mailto:facilities@dysart.org)

Said written notice will state the exact times during the term hereof that Occupant desires to use any portion of Facility. Occupant shall confirm the date, time, and function of usage of Facility by follow-up telephone call or email within two weeks.

Name: Community Education Program Manager

Phone: (623) 876-7917

Email: [facilities@dysart.org](mailto:facilities@dysart.org)

Said confirmation shall occur at least fourteen (14) days prior to such intended use. If Occupant has not so scheduled and confirmed for its use any portion of Facility prior to such time, then District shall be free to use or allow others to use such unscheduled portion of Facility at its discretion.

#### 5. TERM

The term of this Agreement shall commence on \_\_\_\_\_ and end on \_\_\_\_\_, at which time Occupant's rights to use the Facility under this agreement shall automatically expire unless otherwise extended by District in its sole and absolute discretion.

#### 6. COMPENSATION

Occupant will compensate District for use of Facility according to current Facility Use Rates.

#### 7. INSURANCE

Pursuant to A.R.S. Section §15-1105 et seq., Occupant agrees to procure, at its expense, and maintain during the term hereof, a policy of general liability insurance, against claims for bodily injury, death, and property damage occurring in connection with Occupant's use of any portion of Facility and/or Facility's contents, which insurance shall name District as an additional insured and be primary and non-contributing to any coverage maintained by or on behalf of District. Such insurance shall have minimum limits of \$1,000,000.00 per occurrence, and Occupant shall provide District with a certificate evidencing such insurance coverage is in effect.

#### 8. LIABILITY AND INDEMNITY

Occupant agrees to conduct its activities in Facility in a careful and safe manner. As a material part of the consideration to District, Occupant hereby assumes all risk of damage to and loss or theft of property, as well as injury or death to persons, related in any way to Occupant's use of any portion of Facility from any cause whatsoever, including when caused in whole or in part by Occupant, and Occupant hereby waives all claims in respect thereof against District. Occupant shall indemnify, defend, and save harmless District and all of its employees, agents, and representatives from any and all claims, notices of claim(s), demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including

any attorney's fees and/or litigation expenses, which may be brought or made against or incurred by District, on account of loss of or damages to any property and/or for injuries to or the death of any person(s) arising in whole or in part out of any act or omission by Occupant or its employees, agents, representatives, invitees, or subcontractors, or arising in whole or in part out of its and/or their use of Facility, or arising in whole or in part out of workers' compensation claims or unemployment disability compensation claims of employees of Occupant or out of claims under similar such laws.

#### **9. ENTIRE CONTRACT**

This agreement embodies the entire contract between Occupant and District. The parties shall not be bound by or be liable for any statement or representation of any nature not set forth in this Agreement. Changes of any of the provisions of this contract shall not be valid unless reduced to writing and signed by both parties.

#### **10. SUSPENSION AND TERMINATION**

District may, by written notice, direct Occupant to suspend its use of the Facility for such period of time as may be determined by District to be necessary or desirable. Upon receipt of such suspension or termination notice, Occupant shall immediately discontinue use of Facility under this Agreement. Payment for use already completed or in process at the time the notice of suspension or termination is received shall be adjusted between District and Occupant in a fair and equitable manner but shall exclude any allowance for the value of any unperformed use or anticipated profits thereon.

#### **11. WAIVER**

The failure of district to insist upon strict performance of any of the provisions of this agreement or to exercise any rights or remedies provided by this Agreement or District's delay in the exercise of any such rights or remedies available under this Agreement shall not release Occupant from any of its responsibilities or obligations imposed by this agreement and shall not be deemed a waiver of any right of District to insist upon strict performance of this agreement.

#### **12. ASSIGNMENTS AND SUBLETTING**

Occupant shall not have the right to assign this Agreement or allow any other person or entity to use or occupy any or all of Facility without the prior written consent of District, which consent may be granted or withheld in District's sole and absolute discretion.

#### **13. DEFAULT**

In the event that Occupant fails to pay any fee or other sum required to be paid by hereunder when due or otherwise fails to comply with or observe any other provisions of this agreement, in addition to any other remedy that may be available to District by reason of such failure, whether at law or in equity, District may immediately and unilaterally terminate this agreement and all rights of Occupant hereunder – including any right of adjustment of amounts paid hereunder.

#### **14. ARBITRATION**

In the event of a dispute hereunder, the parties agree to use arbitration insofar as required by Sections 12-1518 and 12-133, Arizona Revised Statutes, and rules promulgated thereunder. To the extent

arbitration is not required under the above-referenced laws, then the parties shall submit any dispute hereunder for adjudication by Arizona's state courts.

#### **15. CONFLICT OF INTEREST**

The parties understand that this agreement is subject to cancellation pursuant to Section 38-511 of Arizona Revised Statutes, without penalty or further obligation on the part of the District, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of District is, at any time while this Agreement or any extension here of is in effect, an employee or agent of Occupant, in any capacity, or a consultant to Occupant, with respect to the subject matter of this Agreement.

#### **16. GOVERNING LAW**

This Agreement shall be governed by the laws of the state of Arizona, the courts of which state shall have jurisdiction of the subject matter hereof.

#### **17. RELATIONSHIP**

The parties agree that neither Occupant nor any employees or other personnel of Occupant will for any purpose be considered employees of District, and with respect to Occupant and any employees or other personnel of Occupant, District shall not be responsible in any manner for the supervision, direction, and control of Occupant and/or any of its employees or other personnel, the payment of salary (including the withholding of income taxes and social security) of any such employees or other personnel, and/or the provision of workers' compensation and disability benefits for any such employees or other personnel.

#### **18. AUTHORITY**

The individual signing below on behalf of Occupant hereby represents and warrants that he/she is duly authorized to execute and deliver this agreement on behalf of Occupant and that this Agreement is binding upon Occupant in accordance with its express terms.

**19. EXECUTION DATE:**

The parties have caused this Agreement to be executed by their duly authorized representatives, on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**DISTRICT AUTHORIZED SIGNATURE:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**OCCUPANT AUTHORIZED SIGNATURE:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_