

**STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG**

LEASE AGREEMENT

THIS LEASE AGREEMENT is made this _____ day of _____, 20_____
("Effective Date"), by and between **THE CITY OF CHARLOTTE**, a North Carolina municipal
corporation ("Lessor"), and **ENVISION CHARLOTTE**, a North Carolina nonprofit corporation
("Lessee").

Lessor and Lessee agree for themselves, their successors and assigns, as follows:

1. **Basic Lease Provisions.** The following terms, whenever capitalized and used in this
Lease Agreement ("Lease"), shall have the meanings set forth in this Paragraph 1.

(a) **Premises:** All of that property formerly known as the Lessor's former Light
Vehicle Maintenance Facility, at 932 Seigle Avenue, in Charlotte, North Carolina (tax parcel
identification number 081-115-01), including all buildings and improvements, including a 36,600
square foot warehouse, along with outside parking spaces.

(b) **Lease Term:** Five (5) full Lease Years, beginning on the Commencement Date.

(c) **Commencement Date:** Lease shall commence on July 1, 2018 ("Commencement
Date") and shall terminate on June 30, 2023 ("Termination Date"), unless otherwise terminated
sooner according to the terms of Paragraphs 6 and 11 herein.

(d) **Rent:** Lessee shall pay to Lessor as rent one dollar (\$1.00) for the period that
begins on the date of delivery of the Premises through the following July 1, and one dollar
(\$1.00) for each full one-year period thereafter, provided that Lessee may prepay such rent at any
time.

(e) **Permitted Use:** The Premises may, during the Lease Term, be used and occupied
by Lessee, its employees, partners, subtenants, licensees and invitees for Lessee-sponsored
activities which further its goal of exploring and stimulating the creation of environmentally-
sustainable and economically-friendly activities and products, as well as any ancillary or other
legally permitted activities that Lessee determines to be necessary, desirable or beneficial in
connection with the activities conducted within the Premises by Lessee, its partners, subtenants
and/or licensees. By way of example only and not limitation, such uses may include, but are not
limited to, fabrication, development and marketing of new products, presentation of educational
and community-related information, administrative and auxiliary activities, short-term rental for
public and private events, and any other uses, Lessee deems appropriate.

(f) **Grant Agreement:** Lessee's activities at the Premises shall be funded in part by a
financial grant from Lessor and are therefore subject to and conditioned on the terms of the Grant

Agreement labeled "Exhibit A", attached hereto, which terms are incorporated herein and made a part of this Lease by reference.

(g) Lessor's Mailing Address: City of Charlotte
Real Estate Division
600 E. 4th Street, 14th Floor
Charlotte, NC 28202
Attention: Roberta R. Whitner, Portfolio Manager
Office: (704) 336-3149
roberta.whitner@charlottenc.gov

(h) Lessee's Mailing Address: Envision Charlotte
615 S College Street, 9th Floor
Charlotte, NC 28202
Attention: Amy Aussieker, Executive Director
(704) 605-1805
AAussieker@EnvisionCharlotte.org

2. **Premises.** Lessor hereby leases to Lessee, and Lessee hereby accepts and rents from Lessor at the Rent, and upon the terms and conditions set forth in this Lease, the Premises described in Paragraph 1(a).

3. **Term.** The Lease Term shall begin on the Commencement Date and shall end at midnight on the last day of the Lease Term as described in Paragraph 1 (b).

4. **Delivery and Maintenance of the Premises.** Lessor shall deliver exclusive possession of the Premises to Lessee "as is" on the date of this Lease. After delivery of the Premises, Lessor shall maintain the roof and exterior structures and Lessee will, at its own expense, keep and maintain in good order and repair during the full Lease Term the entire Premises, including, but not limited to: interior improvements located thereon, heating and air conditioning systems (including but not limited to replacement of parts, compressors, air handling units, and heating units), landscaping, grounds, and paving.

Lessee shall not make any structural or exterior alterations to the building(s) on the Premises without Lessor's prior written approval of plans and specifications for such work, which approval shall not be unreasonably withheld or delayed and which approval shall be deemed given if not refused in writing within twenty (20) days after request. Lessee shall be permitted to conduct interior alterations to the Premises, including interior structural alterations without Lessor's prior written approval, provided however, notwithstanding the foregoing, Lessor's prior written approval shall be required for any interior alteration that materially affects utility services or building systems within the Premises and the cost for such alteration exceeds \$50,000. If Lessor consent is required for any such interior alterations, such approval shall not be unreasonably withheld or delayed and said approval shall be deemed given if not refused in

writing within twenty (20) days after request. Upon the termination of this Lease for any reason, all permanent alterations and improvements shall become part of the Premises and shall remain upon and be surrendered with the Premises. Any temporary improvements, trade fixtures, equipment, and personal property will remain the property of Lessee (or any subtenant, as applicable), and Lessor shall execute a waiver of interest in said property upon Lessee's request.

5. **Use of the Premises.**

(a) **Permitted Use.** The Premises may, during the Lease Term, be used and occupied only for the Permitted Use in Paragraph 1(e), and for no other purposes, without the written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. Lessee shall not knowingly use, or suffer or permit to be used, the Premises or any part thereof in violation of any law or ordinance or any regulation of any governmental authority, or in any manner that will constitute a nuisance, or for any hazardous purpose.

(b) **Environmental.**

(i) During the Lease Term Lessee shall not, and shall not allow any other party, to bring upon, store, dispose of, or install any "Hazardous Materials" in or upon the Premises except in compliance with all applicable laws. As used in this Paragraph 5, the terms "Hazardous Materials" shall mean any explosives, petroleum products, radioactive materials, hazardous wastes, toxic substances, or related materials, including without limitation: (i) any substances defined as or included within the definition of "hazardous wastes", "hazardous substances", "Hazardous materials", "toxic substances", "hazardous air pollutants", or "toxic pollutants", as those terms are used in the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Hazardous Materials Transportation act, the Toxic Substances Control Act, the Clean Air Act and the Clean Water Act, or any amendments thereto, or any regulations promulgated thereunder; (ii) any "PCBs" or "PCB items" (as defined in 40 C.F.R. Section 761.3); or (iii) any "asbestos" (as defined in 40 C.F.R. Section 763.63).

(ii) Lessor represents and warrants that there are no Hazardous Materials located in, on or under the Premises except in compliance with all applicable laws. To the fullest extent permitted by law, Lessor shall protect, defend, indemnify and hold Lessee harmless from and against any and all loss, claims, liability or costs (including court costs and reasonable attorney's fees) incurred by reason of any violation of applicable environmental laws with respect to the Premises: (a) existing prior to the Term, including but not limited to any violation that is discovered in connection with any alterations, renovations or retrofitting of the Premises, or (b) which is caused by the acts of Lessor or Lessor's employees, agents or contractors. The provisions of this Paragraph 5 shall survive the termination of this Lease with respect to any claims or liability accruing prior to such termination.

6. **Termination.** Notwithstanding anything herein to the contrary, Lessor may, at its election, terminate this Lease at any time upon ninety (90) days written notice to the Lessee. Upon termination of the Lease by Lessor, Lessee must remove any and all equipment related to the Permitted Use and leave the Premises in the condition required pursuant to Paragraph 9 below.

Notwithstanding anything to the contrary, Lessee may, at its election, terminate this Lease at any time upon ninety (90) days written notice to the Lessor. Upon such termination, and provided that Lessee is not default under the terms of this Lease, Lessee shall have no further liability or obligation to Lessor.

7. **Utilities.** Lessee shall be responsible for all utility charges.

8. **Release of Lessor and Liability Insurance.**

(a) **Release.** LESSOR DOES NOT INSURE LESSEE'S PROPERTY AGAINST LOSS. Lessee shall, at its sole cost and expense, keep all of its personal property located or stored upon the Premises insured, and shall occupy the Premises at its own risk. Such insurance shall be in an amount equal to the replacement value of the property so insured and shall be placed with a company selected by Lessee; provided however, Lessee may elect not to maintain such insurance if Lessee determines, in its reasonable business judgment, that the value of such personal property does not warrant such insurance.

Lessor and its agents, employees, and contractors shall not be liable for, and Lessee hereby releases, all claims for bodily injury, death, or property damage sustained by Lessee, or any person claiming through Lessee, and resulting from any fire accident, occurrence, or condition in or upon the Premises. In particular, Lessor shall not be responsible or liable for: (i) any loss or damage to Lessee's equipment, fixtures, or other personal property, or to Lessee's business; (ii) any injury, loss, or damage to any person or to any property of Lessee caused by or resulting from bursting, breakage, or leakage, steam or snow or ice, running, backing up, seepage, or the overflow of water or sewage in any part of the Premises; or (iii) any injury or damage caused by or resulting from acts of God or the elements.

(b) **Liability Insurance.** Throughout the Lease Term, the Lessee and any of its subcontractors will comply with the insurance requirements described in this section. In the event that the Lessee fails to maintain the required insurance, the Lessor shall be entitled to terminate or suspend the Lease immediately.

The Lessee agrees to purchase and maintain the following insurance coverage during the Lease Term:

(i) **Automobile Liability.** Lessee shall require that each and every privately owned or

hired vehicle used in connection with the Permitted Use hereunder is insured by its owner for property damage and bodily injury liability.

(ii) Commercial General Liability. Insurance with a limit not less than \$1,000,000 per occurrence/aggregate including coverage for bodily injury, property damage, products and completed operations, personal/advertising injury liability and contractual liability.

The Lessee's insurance required by this Paragraph shall: (i) name Lessor as an additional named insured to the Commercial General Liability policy; (ii) to the extent commercially available, contain an endorsement requiring thirty (30) days' written notice from the insurance company to all named insureds prior to the cancellation of the policy, or any material change in coverage, scope, or amount of the policy; and (iii) contain an endorsement providing that no act or omission of any named insured shall invalidate the interest of any other named insured, or constitute a defense against the claims of such named insured.

(c) Property Insurance. Unless otherwise provided, the Lessee shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Premises is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial City Contribution, plus the value of subsequent improvements made and cost of materials supplied or installed by others, comprising total value for the entire renovation project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, until final payment has been made for the renovations or until no person or entity other than Lessor has an insurable interest in the property required to be covered, whichever is later. This insurance shall include interests of the Lessor, the Lessee, and the Contractor, Subcontractors and Sub-subcontractors in the Project.

9. Surrender of Premises. Upon termination of this Lease, Lessee shall surrender to Lessor the Premises, including, without limitation, all buildings, apparatus, and fixtures (except signs, unattached movable furniture, furnishings, personal property, and equipment and machinery installed by Lessee, its partners, subtenants or licensees) then upon the Premises, and the Premises property shall be surrendered to Lessor by Lessee without injury, damage, or disturbance thereto or payment therefor, reasonable wear and tear and insured casualty excepted.

Notwithstanding the foregoing, the parties acknowledge that all improvements of any kind made to and installed upon the Premises by Lessee which are funded by the "City Contribution", as that term is defined in Exhibit A attached hereto, shall remain the property of Lessor and shall not be removed from the Premises. The property to be surrendered to Lessor shall include all components of the heating, air conditioning, plumbing and electrical systems, lighting fixtures and fluorescent tubes and bulbs, conveyors, and partitions (whether removable or otherwise). Lessee shall promptly repair any damage to the Premises resulting from the installation or removal of any of the foregoing items, and Lessee's responsibility for repair as described herein shall survive the termination of this Lease.

10. **Indemnification.** Lessee shall protect, indemnify, and save harmless Lessor from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs, and expenses, including without limitation reasonable attorney's fees and expenses, by reason of (a) Lessee's occupancy of the Premises or any interest therein or receipt of any Rent or other sum therefrom, (b) any accident, injury to, or death of persons or loss of or damage to property occurring on or about the Premises or any part thereof or the adjoining sidewalks, curbs, vaults, and vault space, if any, streets or ways, unless caused by the negligence or willful misconduct of Lessor, its employees, agents, contractors or invitees (the "Lessor Parties"), (c) any use, non-use, or condition of the Premises or any part thereof or the adjoining sidewalks, curbs, vaults, and vault space, if any, streets or ways, (d) any failure on the part of the Lessee to perform or comply with any of the terms of this Lease, or (e) performance by persons other than Lessor, its agents, or employees of any labor or services or the furnishing of any materials or other property in respect to the Premises or any part thereof. In case any action, suit, or proceeding is brought against Lessor by reason of any such occurrence, Lessee, upon Lessor's request, will at Lessee's expense, resist and defend such action, suit, or proceeding, or cause the same to be resisted and defended by counsel designated by Lessee. Such obligation of Lessee under this section which shall have accrued at the time of termination of this Lease shall survive any such termination. This Paragraph 10 shall not impose on Lessee any liability, expense, or obligation with respect to any matter arising prior to Lessee's possession of the Premises pursuant to this Lease and arising from or in connection with the Premises or any condition thereon or thereunder or claim in connection therewith, and, to the fullest extent permitted by law, Lessor shall indemnify, defend, and hold Lessee harmless from and against any and all such matters as, if and when the same may arise.

11. **Default.**

(a) Each of the following shall constitute an event of default by Lessee under this Lease:

(i) Lessee fails to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Lessee, and fails to cure such default within one hundred twenty (120) days after written notice from Lessor; provided, however, that if the default is of a nature that it cannot be cured within the one hundred twenty (120) day period, then Lessee shall not be in default hereunder if it commences good faith efforts to cure such default within the one hundred twenty (120) day period and continues to pursue such cure in a diligent manner.

(b) Upon the occurrence of an event of default by Lessee under this Lease, and the failure to cure same as hereinabove provided, Lessor shall have all rights and remedies allowed at law, in equity, and by statute, including, but not limited to, the right of summary ejectment and otherwise, and in addition, without notice or demand, Lessor may at its election:

(i) Terminate this Lease;

(ii) With or without terminating this Lease, terminate Lessee's right to possession of the Premises, and re-enter and re-let the Premises. No re-entry or re-letting of the Premises shall be construed as an election by Lessor to terminate this Lease unless a written notice of such intention is given by Lessor to Lessee; and notwithstanding any such re-letting without terminating this Lease, Lessor may at any time thereafter elect to terminate this Lease in the event that Lessee remains in default hereunder. In the event of any re-entry, Lessor may remove all persons from the Premises and all property located in or about the Premises. At Lessor's option, it may either place such property in a public warehouse at the cost and risk of Lessee, or sell such property in whole or in part in the manner and after giving the notices required by the laws of the State of North Carolina to the highest bidder for cash, with or without such property being present at the sale; and

(iii) Recover from Lessee such damages as are caused by Lessee's default, including all costs of recovering and re-letting the Premises, and Lessee shall remain liable to Lessor for the total amount of Rent and all other charges as would have been payable by Lessee hereunder for the remainder of the term. Termination of Lessee's right to possession shall not relieve Lessee of its liability hereunder and the obligations created hereby shall survive any such termination. Lessor shall use commercially reasonable efforts to mitigate Lessee's damages;

(iv) Lessee shall be liable to Lessor for all reasonable court costs and attorneys' fees Lessor shall incur in repossessing or re-letting the Premises or collecting sums due to Lessor under this Paragraph 11. Lessee shall have no recourse against Lessor should Lessor exercise said rights in accordance with this Paragraph.

12. **Lessor's Entry.** After giving not less than twenty-four (24) hours' advance notice to Lessee (except in cases of emergencies), Lessor shall have the right to enter the Premises at all reasonable times. Lessor shall take reasonable precautions during any entry to minimize interference with the Permitted Use and to avoid causing property damage to the Premises or bodily injury (including death) to any natural persons.

13. **Liability Cap.** Notwithstanding anything in this Lease to the contrary, Lessee's total financial responsibility in connection with this Lease shall in no event exceed the total of; (i) the remaining unspent or uncommitted funds Lessee received from Lessor under the Grant Agreement or otherwise, and (ii) any rentals actually received from subtenants or licensees. Notwithstanding the foregoing, this Section 13 shall not apply with respect to insurance proceeds arising out of any matter for which Lessee maintains insurance as required under the terms of this Lease.

14. **Assignment and Subletting.** Lessee shall be permitted at all times during the Term to sublease, license or otherwise contract to permit one or more parties the use and/or occupancy of

all or any portion of the Premises without the prior written consent of Lessor, provided that any and all such agreements shall be for a Permitted Use. Notwithstanding the foregoing, no sublease shall relieve Lessee, wholly or partially, from the obligations of Lessee to Lessor under this Lease. Lessee shall also be permitted to assign this Lease, in whole or part, to an Affiliate of Lessee, provided that the Affiliate of Lessee is a not-for-profit organization. As used herein, an "Affiliate of Lessee" shall be any entity or organization that is controlled by or under common control with Lessee.

15. **Notices.** All notices provided for in this Lease shall be in writing and shall be deemed to be given when sent by prepaid registered or certified mail, return receipt requested, addressed to Lessor or Lessee at the address set out in Paragraph 1. Either party may, from time to time, by ten (10) days' prior written notice given as provided above, designate a different address to which notices to it shall be sent.

16. **Severability.** If in the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

17. **Waiver.** Any consent or approval required hereunder and any waiver of a provision hereof shall be effective only if given in writing signed by a representative of the party to be charged, and then such waiver, consent, or approval shall be effective only in the specific instance and for the purpose given. Whenever under this Lease the approval or consent of a party is required, such approval shall not be unreasonably withheld or delayed.

18. **Applicable Law.** This Lease shall be governed by and construed in accordance with the laws of the State of North Carolina, and any action brought in connection herewith shall be brought in Mecklenburg County, North Carolina.

19. **Holding Over.** If Lessee remains in possession of the Premises or any part thereof after the expiration of the Lease Term with Lessor's acquiescence but without any written agreement of the parties, Lessee shall be only a Lessee at will, and there shall be no renewal of this Lease or exercise of an option by operation of law.

20. **Warranty.** Lessor warrants that it holds fee simple title to the Premises, that it has full right and authority to Lease the Premises upon the terms and conditions set forth in this Lease; and that Lessee shall peacefully and quietly hold and enjoy the Premises for the full Lease Term so long as it does not default in the performance of any of its obligations under this Lease.

21. **Grant Agreement.** Upon commencement of the Lease Term, the parties shall execute in recordable form the grant agreement attached hereto as Exhibit A.

22. **Nature and Extent of Agreement.** This Lease contains the complete agreement of the parties regarding the terms and conditions of the Lease of the Premises, and there are no oral or

written conditions, terms, understandings, or other agreements pertaining thereto which have not been incorporated in this Lease. This Lease creates only the relationship of Lessor and Lessee between the parties as to the Premises; and nothing in this Lease shall in any way be construed to impose upon either party any obligations or restrictions that are not expressly set forth in this Lease.

23. **Waiver of Jury Trial.** Lessor and Lessee each expressly waive any right to trial by jury of any claim, demand, or cause of action arising under this Lease or in any way related to the dealings of the parties with respect to the Premises.

24. **Counterparts.** This Lease may be executed in any number of counterparts, each of which shall be deemed an original once executed and delivered.

25. **Recording.** This Lease may not be recorded, provided, however, Lessor and Lessee shall execute and record with the Mecklenburg County Register of Deeds a memorandum of this Lease, in the form attached hereto as Exhibit B (the "Memorandum").

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed, the day and year above written, for the uses and purposes hereinbefore set forth.

LESSOR:

CITY OF CHARLOTTE

By: _____

Name: _____

Title: _____

LESSEE:

ENVISION CHARLOTTE

By: _____

Name: _____

Title: _____

EXHIBIT A

EXHIBIT B

Document Prepared By and Mail to:
Ronald S. Melamed, Esq.
Moore & Van Allen, PLLC
100 N. Tryon Street, Suite 4700
Charlotte, NC 28202 (ROD Box 74)

MEMORANDUM OF LEASE

THE CITY OF CHARLOTTE, a North Carolina municipal corporation (“**Lessor**”), having a mailing address of 600 East 4th Street Charlotte, NC 28202, has leased to **ENVISION CHARLOTTE**, a North Carolina nonprofit corporation (“**Lessee**”), having a mailing address of 615 S College Street, 9th Floor, Charlotte, NC 28202 for a term of five (5) years beginning on July 1, 2018 (“Commencement Date”) and ending on June 30, 2023 (the “**Lease**”) the following described property:

The Premises (as defined in the Lease) constituting of that property formerly known as the City of Charlotte’s former Light Vehicle Maintenance Facility, located at 932 Seigle Avenue, in Charlotte, North Carolina (tax parcel identification number 081-115-01), including all buildings and improvements located thereon, all as more specifically described on the **Exhibit A**, attached hereto and incorporated herein.

[Remainder of page intentionally left blank]

The provisions set forth in a written lease agreement between the parties dated the _____ day of _____, 2018 are hereby incorporated in this memorandum.

LESSOR:

CITY OF CHARLOTTE,
a North Carolina municipal corporation

By: _____
Name: _____
Title: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of _____ County and State of _____, do hereby certify that the following person personally appeared before me this day, acknowledging to me that (s)he voluntarily signed the foregoing instrument for the purpose stated and in the capacity indicated: _____

_____ .

Witness my hand and official stamp or seal this ____ day of _____, 2018.

(AFFIX SEAL)

Notary Public
Print Name: _____
My Commission Expires: _____

The provisions set forth in a written lease agreement between the parties dated the _____ day of _____, 2018 are hereby incorporated in this memorandum.

LESSEE:

ENVISION CHARLOTTE,
a North Carolina nonprofit corporation

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

I, _____ a Notary Public, certify that _____ personally known to me () or () proven by satisfactory evidence (said evidence being _____), personally came before me this day and acknowledged that he is the _____ of ENVISION CHARLOTTE, a North Carolina nonprofit corporation, and that (s)he, as _____, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the _____ day of _____, 2018.

(AFFIX SEAL)

Notary Public

Print Name: _____

My Commission Expires: _____