

Prepared by and Return to: Durham County Attorney's Office (WD)
200 E. Main St. Durham 2nd Fl., NC 27701

STATE OF NORTH CAROLINA

**LEASE AGREEMENT –
DURHAM CRISIS RESPONSE
CENTER**

COUNTY OF DURHAM

THIS LEASE AGREEMENT made and entered into this _____ day of _____, 2020 between the **COUNTY OF DURHAM**, a political subdivision of the State of North Carolina hereinafter referred to as "Landlord," and the **DURHAM CRISIS RESPONSE CENTER**, a North Carolina not-for-profit corporation, hereinafter referred to as "Tenant."

WITNESSETH:

WHEREAS, Landlord is the owner of a certain parcel of real property located at 101 E. Morgan Street, Durham, North Carolina as further described in Deed Book 2015 page 506, recorded in the Durham County Office of the Register of Deeds and shown on Exhibit A, attached hereto and incorporated herein; and

WHEREAS, Tenant desires to lease said property to the Durham Crisis Response Center which is the sole provider of comprehensive shelter and support services for those in need of help in the aftermath of domestic, sexual and family violence and human trafficking in Durham County; and

WHEREAS, Landlord and Tenant desire to enter into this Lease Agreement in order to effectuate that purpose and to set forth their respective rights and liabilities in connection with said property (hereinafter the “Lease”);

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

1. **Demise of Premises:** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the property located at the 101 E. Morgan Street, Durham, North Carolina (hereinafter the “Leased Property”), which includes a 5,650 square foot building, which shall be referred to as the “DCRC - Family Justice Center”, and shown on Exhibit A. The Landlord covenants and agrees that if the Tenant shall perform all of the covenants and agreements herein stipulated to be performed on Tenant’s part, the Tenant shall, at all times during said lease term, and any renewal hereof, have the peaceable and quiet enjoyment and possession of said Leased Premises without any manner of hindrance from the Landlord or any persons lawfully claiming through or under the Landlord.
2. **Use of Leased Property:** Tenant shall use and occupy the Leased Property for the sole purpose of providing services consistent with the mission of the Durham Crisis Response Center to Durham County residents.
3. **Term and Renewal:** The term of this Lease shall commence on the date first written above and shall expire on July 31, 2025, unless terminated sooner as provided herein (hereinafter the “Term”). This Lease may be extended and or amended from time to time. Amendments and extensions shall be upon mutual agreement of the parties in writing.
4. **Rental:** Tenant shall pay to Landlord the rental amount of One Dollar (\$1.00) per year for the initial term of this Lease. Such rental payment shall be delivered to Landlord on the Commencement Date and each anniversary of the Commencement Date thereafter.
5. **Utilities:** Tenant shall pay 100% of all monthly Utility Costs for use of the Leased Property. For purposes of this Lease Agreement, Utility Costs shall include monthly electric power, natural gas, storm water use, water and sewer. Tenant shall be responsible for arranging for the provision of services with utility providers directly and shall maintain service without interruption for the entirety of the lease term.
6. **Electronic Security, Telecommunications and Network Systems:** All security, telecommunications and data, including but not limited to telephone, television, satellite and internet (wired or wireless) services, lines, infrastructure, fixtures, and equipment shall be the sole cost, expense, and responsibility of Tenant.
7. **Repairs and Maintenance:**

- a.) Tenant agrees and hereby stipulates with Landlord that the Leased Property is in good and tenable condition on the Commencement Date of this Lease. Tenant accepts the Leased Property in “as is” condition.
- b.) Landlord’s Responsibilities. During the Term of this Lease, Landlord shall, at its own cost and expense, provide Capital Maintenance and Repair services, deemed necessary by the Landlord. Capital Maintenance and Repairs shall be conducted by Durham County General Services to include the following services:
 - (i) Maintenance and repair of the plumbing system (this shall not include daily maintenance of toilets and sinks) and mechanical equipment, including the electrical system (but not light bulb replacement), HVAC, compressors, and water heater;
 - (ii) Maintenance, repair or replacement of the roof, sidewalls, structural supports, exterior windows and foundation of the Leased Property;
 - (iii) Maintenance of parking lot and sidewalks to include snow and/or ice removal of parking areas and sidewalks as may reasonably be required from time to time;
 - (iv) Landscape maintenance.

Provided however, in no event shall the Landlord be liable or responsible for any Capital Maintenance or Repairs caused by or deemed necessary as a result of any negligent, intentional or reckless acts of Tenant or Tenant’s employees, agents, subtenants, licensees or invitees.

- c.) Right of Access. Landlord may enter the Leased Property at any time during the Term to perform its obligations under this Lease.
- d.) Tenant’s Responsibilities. Except to the extent that this Lease expressly imposes upon Landlord Capital Maintenance and Repair responsibilities, Tenant, at Tenant’s own cost and expense, during the Term of this Lease, shall keep and maintain the Leased Property in good order, repair, and tenable condition including all Routine Maintenance. Routine Maintenance shall include but not be limited to the following services:
 - (i) Maintenance and repair of all security system equipment and fire alarm system equipment and monitoring of said equipment;
 - (v) Internet connection for Building Automation System for HVAC systems.
 - (vi) Routine, daily cleaning and janitorial services throughout the Leased Property as well as service to and maintenance of all appliances and kitchen equipment and any fixtures or equipment installed or provided by the Tenant;
 - (vii) Initiate work orders to Durham County General Services for any maintenance or repair item that is not the Tenants responsibility via TMA system;
 - (viii) Repair of cracked or broken interior windows;
 - (ix) Pest control services;

- (x) Interior or exterior painting of the Leased Property, with prior written approval of the Landlord;
 - (xi) Maintenance, repair or replacement of carpet and tile throughout the Leased Property;
 - (xii) Replacement of all burned out light bulbs;
 - (xiii) Replacement, repair and maintenance of the building signage;
 - (xiv) Maintenance and repair of Fixtures. The term 'Fixture' shall mean personal property so permanently affixed to the Leased Property that it is regarded as part of the Leased Property, not removable, including but not limited to playground equipment;
 - (xv) Any other daily or routine maintenance and repairs necessary to keep the Leased Property in good order, repair, and tenable condition that are not the responsibility of the Landlord as set forth in Section 7(b).
- e.) Standard of Care. Tenant shall perform its obligations hereunder relating to the maintenance and repair of the Leased Property in a first-class, efficient, and proper businesslike manner consistent with industry standards for the operation of comparable facilities.
- f.) Landlord's Inspections/Request for Maintenance. Landlord may enter the Leased Property at any time during the Term to inspect the premises for proper care and maintenance required by the Tenant under this Lease. In the event Landlord determines that adequate Routine Maintenance is not being provided by the Tenant as required hereunder, Landlord shall provide Tenant with a report of Landlord's findings including any Routine Maintenance that has been neglected or performed in a poor or improper manner and Landlord's request to correct the neglected, poor or improper maintenance. Tenant shall perform or cause to be performed the Routine Maintenance requested by Landlord in a timely manner, but in no event shall Tenant take more than ten (10) calendar days to provide the maintenance. A shorter time may be necessary if the neglected poor or improper maintenance is, in the Landlord's opinion, a hazard to the occupants of the Leased Property.

In the event Tenant fails or refuses to perform its Routine Maintenance obligations, Landlord may perform said obligations and charge the Tenant the actual cost of the work performed.

- g.) Inspections and Reporting. Tenant shall conduct regular inspections of the Leased Property to ensure that the Leased Property is being properly maintained as set forth in this Lease. Tenant shall document and photograph, if requested, any conditions that it believes require Landlord to repair and provide a copy of the documentation and photographs to Landlord. Landlord shall provide any Capital Maintenance and Repairs deemed necessary in a timely manner. If Landlord requires the alteration or closure of any portion of the Leased Property in order to perform its obligations hereunder, Landlord shall give Tenant no less than twelve (12) hours prior notice thereof.

8. **Alterations and Additions:** Tenant shall not make any alterations or additions to the Leased Property nor make any contract therefore without obtaining prior written consent of Landlord. Any approved alteration or addition must be performed by a licensed contractor. Tenant shall advise anyone contracted for any work relating to alterations, additions, maintenance or repairs affecting the Leased Property that Tenant is solely responsible for all costs of all work performed and materials provided and that the property is owned by Durham County and not subject to mechanic's and material man's liens.
9. **Title to Improvements:** Alterations and permanent improvements to the Leased Property shall immediately become and be the sole and absolute property of Landlord and shall remain on the Leased Property and shall not be removed unless otherwise determined by Landlord; and, at the expiration or sooner termination of this Lease, the same shall be surrendered to Landlord in good condition and repair, reasonable wear and tear excepted, unless otherwise determined by Landlord.
10. **Signage:** Tenant shall not place or permit to be placed any sign, advertisement, notice, or display on any part of the Leased Property or the building containing the Leased Property, except for the signs already affixed to the Leased Property or of color, size and style, and in such locations, as shall be approved by County. County shall not unreasonably withhold such approval. If Tenant places any sign upon the Leased Property without the consent or approval of County and fails or refuses to remove it immediately upon demand, County may enter the Leased Property and remove the same at Tenant's cost.
11. **Damage or Destruction:**
- a.) In the event the Leased Property is damaged or destroyed and such damage is not covered by insurance as provided in this Lease, the Landlord shall not be required to restore same; provided that if the damage or destruction is to an extent greater than twenty percent (20%) of the then replacement value of improvements on the Leased Property (exclusive of any Tenant trade fixtures and equipment) then Landlord may elect not to restore and to terminate this Lease, regardless of whether insurance benefits are available to restore the Leased Property.
 - b.) Landlord must provide Tenant written notice of its election not to restore within thirty (30) days from the date of damage and if not given, Landlord shall be deemed to have elected to restore and in such event shall repair any damage as soon as reasonably possible.
 - c.) Landlord's obligation to restore shall not include the restoration or replacement of any Tenant trade fixtures, equipment, merchandise or any improvements or alterations made by Tenant to the Leased Property.
12. **Taxes:**
- a.) All assessments levied against the Leased Property by any governmental entity, including any special assessments imposed on or against the Leased Property for

the construction or improvement of public works in, on, or about the Leased Property, shall be paid before they become delinquent, by Tenant.

- b) Tenant shall pay, prior to delinquency, all taxes assessed against and levied upon any trade fixtures, furnishings, equipment and all other personal property of Tenant contained in or on the Leased Property or elsewhere and shall pay all taxes attributable to any leasehold improvements which may be made to the Leased Property by Tenant. When possible, Tenant shall cause said trade fixtures, furnishings, equipment, personal property and leasehold improvements to be separately assessed. If, however, any or all of same shall be assessed and taxed with Landlord's property, Tenant shall pay to Landlord such taxes as are attributable to Tenant's trade fixtures, furnishings, equipment, personal property and leasehold improvements within fifteen (15) days after receipt of an invoice from Landlord advising Tenant of the taxes applicable to Tenant's property.

13. Insurance:

- a.) Tenant shall procure insurance covering Tenant's personal property and trade fixtures. Tenant agrees that Tenant will not make any claim, whatsoever against Landlord and against Landlord's insurance for loss, damage, or theft of Tenant's personal property or trade fixtures. The policy shall name Landlord as an additional insured by a responsible insurance company authorized to do business in North Carolina and shall be in a form satisfactory to Landlord.
- b.) Landlord shall, at its own cost and expense, procure and maintain during the entire term of this Lease, real property insurance.
- c.) Landlord shall be free from all liability and claim for damages by reason of any injury to any person or persons, including Tenant or its agents, or property of any kind whatsoever and to whomsoever belonging, including Tenant, from any cause or causes whatsoever and to whomsoever while upon or in any connected with the Leased Property during the term of this Lease or any extension or renewal thereof. Tenant hereby covenants and agrees to indemnify and save harmless Landlord from all and any other liability, loss, costs, or obligations on account of or arising out of any such injury or loss however occurring.

14. Events of Default:

- a.) The occurrence of any of the following shall constitute an Event of Default and breach of this Lease:
 - (i) Any failure by Tenant to pay the rent or to make any other payment required to be made by Tenant hereunder (where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant).
 - (ii) Tenant's abandoning or vacating the Leased Property without written notification to the Landlord.

(iii) Failure by either Party to observe and perform any other obligation of this Lease, other than the failure of Tenant to pay rent or make any other payment required to be made by Tenant hereunder, where such failure continues for thirty (30) days after written notice thereof by the non-breaching party to the breaching party; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period a party shall not be deemed to be in default if that party shall within such period commence such cure and thereafter diligently prosecute the same to completion.

(iv) The filing by or against the Tenant of a petition seeking relief under the Bankruptcy Act or any Federal or State statute intended to provide relief for private persons or entities which are insolvent or unable to meet their obligations as they mature.

b.) **Landlord's Remedies.** The terms and conditions of this Lease shall be enforceable by actions for specific performance or injunction in addition to any other remedies available at law or in equity. If an Event of Default has occurred, Landlord may, without further notice or demand, terminate this Lease, and Tenant shall surrender the Leased Property to Landlord immediately. If Tenant fails to do so, Landlord shall have the right, without waiving any other remedy for possession or arrears in payments, to enter upon and take control of the Leased Property and to expel or remove Tenant and any other person who may be occupying the Leased Property. Pursuit of any remedy under this Lease shall not preclude the pursuit of any other remedy provided for in this Lease or any other remedy provided in law or equity, nor shall pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any amounts due to Landlord under this Lease or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions, and covenants contained in this Lease.

To the extent permitted by law, Tenant shall pay all costs and reasonable attorney's fees incurred by Landlord in the enforcement of this lease arising out of any default on the part of Tenant.

c.) **Tenant's Remedies.** Upon the occurrence and during the continuance of any Event of Default by Landlord, Tenant shall have the right, in addition to all other rights and remedies available to Tenant at law or in equity, to terminate this Lease. No other property or assets of Landlord, disclosed or undisclosed, shall be subject to levy, execution, or the enforcement procedure for the satisfaction of Tenant's remedies. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against, Landlord or its officers, elected officials, or their respective heirs, legal representatives, successors, and assigns on account of this Lease or any covenant, undertaking, or agreement in this Lease.

- 15. Termination:** On or before the date of expiration, Tenant shall vacate and surrender the Leased Property to Landlord. All keys to the Leased Property shall be delivered to the Landlord at that time.
- 16. Condition of Leased Property upon Termination/Holding Over:** Upon the termination or expiration of this Lease, Tenant shall return the Leased Property to Landlord substantially in the same condition as received ordinary wear and tear and approved improvements excepted. If Tenant does not surrender possession of the Leased Property at the expiration or earlier termination of the Term, the Landlord, at its sole discretion, shall be entitled to recover compensation for such use and occupancy at the monthly rate equal to Fair Market Value (as hereinafter defined) for the property at the expiration or earlier termination of the Term, and Tenant shall be liable to Landlord for any loss or damage it may sustain by reason of Tenant's failure to surrender possession of the Leased Property immediately upon the expiration or earlier termination of the Term. For the purposes of this Lease, "Fair Market Value" shall be determined to be \$9,887.50 per month based on a rate of \$21 per square foot/year.
- 17. Indemnity:** Tenant shall indemnify, defend and hold harmless Landlord, its Board, agents and employees from any and all claims arising from Tenant's use of the Leased Property or from the conduct of its business or from any activity, work or things which may be permitted or suffered by Tenant in or about the Leased Property and shall further indemnify, defend and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the provision of this Lease or arising from any negligence of Tenant its licensees, invitees, agents, contractors or employees.
- 18. Subordination:** This Lease, in the event Landlord so notifies Tenant in writing, shall be subordinate to any ground lease, deed of trust or other hypothecation for security now or hereafter placed upon the real property of which the Leased Property is a part and to any and all advances made on the security thereof and to all renewals, modifications, replacements and extension thereof. Tenant agrees to promptly execute any documents that may be required to effectuate such subordination. Notwithstanding such subordination, Tenant's right to quiet possession of the Leased Property shall not be disturbed if Tenant is not in default and so long as Tenant shall observe and perform all of the provisions of this Lease.
- 19. Condemnation:** If the Leased Property or any portion thereof are taken under the power of eminent domain, or sold by Landlord under the threat of the exercise of said power (all of which is herein referred to as "condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first or Landlord may terminate Lease in its entirety at Landlord's option when the condemning authority takes title or possession. If this Lease is not terminated by either Landlord or Tenant, then it shall remain in full force and effect as to the portion of the Leased Property remaining, provided the rental shall be reduced in proportion to the floor area of the buildings taken within the

Leased Property as bears to the total floor area of all buildings located on the Leased Property. In the event this Lease is not so terminated, Landlord agrees to at Landlord's sole cost, as soon as reasonably possible, restore the Leased Property to a complete unit of like quality and character as existed prior to the condemnation. All awards for the taking of any part of the Leased Property or any payment made under the threat of the exercise of power of eminent domain shall be the property of Landlord, whether made as compensation for diminution of value of the Leasehold or for the taking of the fee or as severance damages; provided, however, that Tenant shall be entitled to any award for loss of or damage to Tenant's trade fixtures and removable personal property.

- 20. Assignment and Sublease:** Tenant shall not assign, sublease, mortgage or encumber this Lease, the Leased Property or any improvements on the Leased Property. Any attempted encumbrance shall be null and void.
- 21. Applicable Law:** This Lease is entered into in North Carolina and shall be construed under the laws, statutes and ordinances of this State. All actions relating in any way to this Lease shall be brought in the General Court of Justice in the County of Durham and State of North Carolina.
- 22. Compliance with Laws:** Tenant represents that it is in compliance with all Federal, State, and local laws, regulations or orders, as amended or supplemented.
- 23. Severability:** The provisions of this Lease are independent covenants and should any provision or provisions contained in this Lease be declared by a court or other tribunal of competent jurisdiction to be void, unenforceable or illegal, then such provision or provisions shall be severable and the remaining provisions hereof shall remain in full force effect.
- 24. Notices:** All notices and written consents required under this Lease shall be in writing and shall be sent to the Landlord at 201 East Main Street, 5th Floor, Attn: Real Estate Management, Durham, North Carolina 27701, and to the Tenant, at Durham Crisis Response Center 206 N. Dillard Street, Durham, North Carolina 27701.
- 25. Waiver:** Failure or delay of either party to insist upon the strict performance of the covenants, agreements, or conditions of this Lease, or any of them, shall not be construed as a waiver or relinquishment of that party's right to enforce such, but the same shall continue in full force and effect.
- 26. Entire Agreement:** This Lease contains the entire and only agreement between the parties and no oral statements or representations or prior written matter not contained in this agreement shall have any force or effect. This Lease shall not be modified in any way except by writing executed by both parties.

IN TESTIMONY WHEREOF, This Lease Agreement has been executed by the parties hereto, in triplicate originals, as of the date first above written.

Landlord:
COUNTY OF DURHAM

Tenant:
Durham Crisis Response Center

BY: _____
Wendell Davis, County Manager

BY: _____
Kent Wallace-Meggs,
Executive Director

(SEAL)

(SEAL)

ATTEST:

Clerk to the Board

ATTEST:

Name, Title

NORTH CAROLINA
DURHAM COUNTY

I, _____, a Notary Public of the County and State aforesaid, certify that Monica Toomer personally came before me this day and acknowledged that she is clerk to the Board of Commissioners of Durham County, a political subdivision of the State of North Carolina, and that by authority duly given and as the act of the County, the foregoing instrument was signed in its name by its County Manager, sealed with the County seal, and attested by Monica Toomer, Clerk to the Board of Commissioners. Witness my hand and official stamp or seal, this _____ day of _____, 2020.

Witness my hand and official stamp or seal, this _____ day of _____, 2020.

Notary Public (SEAL)

My commission expires: _____

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, a Notary Public in and for the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is _____ of Durham Crisis Response Center, a North Carolina not-for-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Executive Director, sealed with its corporate seal and attested by _____ as its _____.

Witness my hand and notarial seal this _____ day of _____, 2020.

Notary Public (SEAL)

My commission expires: _____