



# BROWN UNITED, INC

P.O. Box 1700  
Monrovia, CA 91017  
phone: (626) 357-1161 fax: (626) 358-3064

**Ref: SOUTH PASADENA UNIFIED SCHOOL DISTRICT/ SOUTH PASADENA HIGH SCHOOL**

## EQUIPMENT LEASE

This Equipment Lease ("Lease") is by and between Brown United, Inc., a California corporation ("Lessor"), and South Pasadena Unified School District ("Lessee").

For good and valuable consideration, the adequacy and sufficiency of which is acknowledged by each of the parties, the parties agree as follows:

1. **Description of Equipment Leased.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Equipment described in the box immediately below (hereinafter referred to as the "Equipment"):

DESCRIPTION OF EQUIPMENT
<p>LONG TERM RENTAL OF THE FOLLOWING:</p> <p>1 - +/- 84' X 6 row elevated +/- 3'5" bleacher unit w/ 1 - ADA Ramp.</p> <p>1 - +/- 48' X 6 row elevated +/- 3'.5" bleacher unit w/ 2 - sets of stairway access.</p> <p>Note: Long term rental Use cement / Trex mud cells for foundations.</p> <p>MONTHLY RENTAL @ \$1,200.00 per month to start 6/1/2016</p> <p><b><u>EXCLUSIONS:</u></b></p> <ol style="list-style-type: none"><li>1. Site Engineering &amp; Permits.</li><li>2. Labor quoted as non-union.</li></ol>

2. **Term of Lease.** The commencement and expiration of the term for which the Equipment described above is leased is the period commencing with the Install Date designated in the box immediately below and expiring with the Removal Date designated in the box immediately below:

INSTALL DATE: March 15, 2016

Each piece of Equipment leased hereunder shall be made available and returned to Lessor on the termination of the term of the Lease. The commencement or expiration dates of this Lease can only be modified by the written agreement of the parties hereto.

3. **Payment of Rent.** Lessee shall pay to Lessor the rent for the Equipment leased in the total amount set forth opposite Total Rent in the box immediately below without offset or deduction for any reason whatsoever:

RENT PAYABLE

MONTHLY RENTAL: \$1,200.00 starting 6/1/2016

All Rent payments shall be paid to Lessor via check to Lessor via Information below:

Brown United, Inc.  
P.O. Box 1700  
Monrovia, CA 91017

4. **Ownership of Property.** This Lease constitutes a lease of the Equipment, and is not a sale or the creation of a security interest. Lessee will not have, or at any time acquire, any right, title, or interest in the property, except the right to possession and use as provided for in this Lease. Lessor will at all times be the sole owner of the property. Lessee shall not sublet, encumber or dispose of the Equipment which is the subject of this Lease, and will not remove the Equipment from the location where it is placed by Lessor without the express written consent of Lessor. Lessee will not remove, cover or interfere with Lessor's identification or advertising labels attached to the Equipment.

5. **Use of Property.**

- (a) ***Rights of Lessee.*** Lessee will be entitled to the absolute right to the use, operation, possession and control of the Equipment during the term of this Lease, *provided that* Lessee is not in default of any provision of this Lease. Lessee will employ and have absolute control, supervision, and responsibility over any operators or users of the property. All Equipment delivered to Lessee by Lessor shall be returned to Lessor in the same condition as when first delivered to Lessee, ordinary wear and tear resulting from the normal and proper use thereof excepted.

- (b) ***Duties of Lessee.*** Lessee will use the Equipment in a careful and proper manner and will not permit any Equipment to be operated or used in violation of any applicable federal, state, or local statute, ordinance, rule, or regulation relating to the possession, use, or maintenance of the property. Lessee agrees to reimburse Lessor in full for all damage to the property arising from any misuse or negligent act by Lessee, its employees, its agents, and its licensees. Lessee will indemnify and hold Lessor harmless from any liabilities, forfeitures, or penalties for violations of any federal, state or local statute, rule or regulation.
- (c) ***Use of Property by Lessee.*** Lessee warrants that the Equipment will be used for commercial or business purposes only, and in the conduct of a lawful business. Lessee shall not, without Lessor's prior written consent, remove the Equipment from the location where it is installed, part with possession or control of the Equipment or attempt or purport to sell, pledge, mortgage or otherwise encumber any of the Equipment or otherwise dispose of or encumber any interest under this Lease.

6. **Delivery and Installation.**

- (a) ***Responsibilities of Lessor and Lessee.*** Unless otherwise provided in the box immediately below, Lessor shall be responsible, at its expense, for the delivery, installation and removal of the Equipment at the event site designated by Lessee in the box immediately below:

INSTALLATION RESPONSIBILITY; INSTALLATION SITE
<p><input checked="" type="checkbox"/> LESSOR responsible for installation on 3/15/2016</p> <p><input type="checkbox"/> LESSEE responsible for installation</p> <p>Description of Installation site:          South Pasadena High School          1327 Diamond Ave.          South Pasadena, CA , 91030</p>

Lessee agrees to provide, at its expense, sufficient unobstructed space for the delivery, installation, dismantlement and removal of the Equipment, and access to such space. Lessee is responsible for grounding all structures installed by Lessor. Prior to the time fixed for the dismantlement and removal of the Equipment, Lessee shall remove all personal property installed or placed on the Equipment by Lessee or any other party, and upon dismantlement of the Equipment, Lessor shall have no obligation to provide protection for such personal property, or to move, remove or dismantle such personal property or to dispose of any rubbish or refuse on Lessee's premises not directly attributable to the removal of Lessor's Equipment. In the event that any such personal property is not removed as required herein prior to the dismantlement and removal of the Equipment, Lessor

may nonetheless enter the premises, move or remove any of such personal property at Lessee's risk and cost, and dismantle and remove the Equipment without further notice, and Lessee hereby indemnifies Lessor for any cost, expense or liability, including attorney's fees, arising therefrom.

- (b) ***Time of Delivery; Disclosures by Lessee.*** Lessor shall deliver and install the Equipment at such reasonable times as it deems best for safety and scheduling, allowing time for Lessee's decoration and pre-event arrangements. Lessee shall advise Lessor as to the existence and location of any underground cables, pipes, conduits, etc. In the absence of such advice, Lessor may assume that no underground obstructions exist. Although Lessor will endeavor to minimize damage to Lessee's lawn, plantings, underground utilities and premises generally (including power failures and other hazards), Lessee assumes the risk, and releases Lessor from liability for any such damage which may occur. Lessor may rely upon and follow any directions, whether oral or written of any employee or agent of Lessee with respect to any act or acts performed by Lessor in the delivery, installation, dismantlement or removal of the Equipment or the performance of any services called for by this Lease.

7. **Risk of Loss.** Lessee shall be fully responsible hereunder and bear the risk of loss for the Equipment commencing with the delivery of the leased Equipment to Lessee's event site or, if Lessee is to install the Equipment, delivery to Lessee. This risk of loss shall continue until the Lessor removes the Equipment from the event site or, if Lessee is to remove the Equipment, until return of the Equipment to the location designated by Lessor. Risk of loss includes destruction, loss, confiscation, theft, taking, or damage from any cause whatsoever. If any such event occurs, Lessee shall notify Lessor in writing as soon as possible, but no later than 48 hours following such event. If damage occurs and the piece of Equipment is repairable, Lessee shall repair such piece of Equipment to its condition prior to the damage or reimburse Lessor for its actual cost of repairs of such Equipment. If damage occurs and the piece of Equipment is not repairable, Lessee shall pay on demand to Lessor the replacement value, as determined by Lessor, unless Lessor had been paid such replacement value under the insurance Lessee is required to provide under Section 11 below. If the replacement value has not been paid to Lessor by the Removal Date set forth above, Lessee's obligation to pay rent for the proportionate share of the destroyed Equipment shall continue until the replacement value is paid to Lessor at a *per diem* rate equal to:

- (a) Total Rent (from Section 3 above) divided by Number of Days Rented (from Section 2 above)

multiplied by

- (b) the proportionate share of the destroyed Equipment (as reasonably determined by Lessor).

8. **Title and Quiet Enjoyment of Equipment.** Lessor represents and warrants that Lessor has title to the Equipment, and during the term of this Lease, shall not interfere with Lessee's quiet enjoyment of such Equipment. Lessor represents and warrants that it has the right to lease the Equipment to Lessee.

9. **EXCLUSION OF IMPLIED WARRANTIES.**

- (a) ***EXCLUSION OF IMPLIED WARRANTY OF MERCHANTABILITY.*** LESSOR, NOT BEING THE MANUFACTURER OF THE EQUIPMENT, NOR THE MANUFACTURER'S AGENT, MAKES NO WARRANTY OF MERCHANTABILITY WITH RESPECT TO THE GOODS LEASED UNDER THIS LEASE.
- (b) ***EXCLUSION OF IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE.*** LESSOR MAKES NO WARRANTY THAT THE GOODS LEASED UNDER THIS LEASE ARE FIT FOR ANY PARTICULAR PURPOSE.

10. **Exclusion of Express Warranties.** It is the intent of the parties to provide in this Lease an effective agreement of all express warranties with respect to the Equipment. The parties have reduced the entire agreement to writing, and except for the representation and warranty provided in Section 8 above, the description of goods contained in this Lease is the sole basis of the parties' agreement. No statement of fact, promise, representation, or other indication has been made with respect to the quality of goods outside of this Lease. Any opinions or statements of Lessor as to the value or quality of the goods leased under this Lease do not form a basis for this Lease, and unless the statements are specifically embodied in this writing, they do not in any way constitute a warranty. Any modification of this Lease that relates in any way to a warranty must be in writing and signed by the Lessor; otherwise the purported modification will be void.

11. **Insurance.**

- (a) ***Lessee's Duty to Insure.*** Lessee agrees at its own expense to maintain comprehensive general liability insurance, including death, bodily injury and property damage in an amount not less than \$5,000,000 combined single limit coverage in the aggregate. Such insurance shall defend and indemnify Lessee from any and all loss it may suffer as a result of Lessor's supplying the Equipment, including the reimbursement of event costs, lost profits and any and all consequential and incidental damages. Such insurance shall not contain a failure of work product exclusion, and shall include coverage for losses resulting from the withdrawal or recall of the Equipment from use as a result of a known or suspected deficiency, inadequacy or dangerous condition in it. Such insurance shall also include coverage for losses to Lessee or others resulting from the loss of use of the Equipment for any reason, including the failure of the Equipment.
- (b) ***Insurance Against Loss or Damage to Equipment.*** Lessee also agrees to provide all-risk insurance covering the Equipment, including fire, theft, lightening and electrical damage, provided that such insurance shall at all times while the Equipment is subject to this Lease be in an amount which covers the replacement value of such Equipment
- (c) ***Lessor as Additional Insured.*** Any policies of insurance carried in accordance with this section and any policies taken out in substitution or replacement for any such policies shall name Lessor as an additional insured thereunder, and with respect to the insurance carried in accordance with clause (a) above, such policies shall be made payable to Lessor as loss payee to the extent of the replacement

value of the Equipment and the amounts for which Lessee is obligated to Lessor under this Lease.

- (d) ***Waiver of Subrogation Rights Against Lessor.*** Any policies of insurance carried in accordance with this Section or otherwise covering the Equipment leased hereunder and any policies taken out in substitution or replacement for any such policies shall provide for a waiver of all subrogation rights against Lessor.

12. **Indemnity.** Lessee agrees to defend and indemnify, and to hold Lessor and its officers, directors, employees, agents, and attorneys harmless from, any and all claims, suits, liability, expense, damage, penalties, fines and other sanctions, cause of action or judgment, including attorneys' fees, resulting from injury or death sustained to any person or persons, including Lessee or its employees or agents, any contractors of Lessee or their employees or agents, or any other persons working on or attending the event for which the Equipment is leased, or resulting from damage to property of any kind belonging to Lessor, Lessee or any other person, including the Equipment, if the injury, death or damage to property arises out of or is in any way connected with the use or possession of the Equipment by anyone during the term of the Lease. This obligation to indemnify is meant to apply to any injury, death or property damage arising from any cause whatsoever, including any alleged defect in the Equipment or in the design or installation of the Equipment and to any acts or omissions or negligent conduct of Lessor, whether active or passive. Lessee shall provide and pay for the defense, including appeal, of the Lessor in any such action with counsel of Lessor's choice.

13. **WAIVER OF CONSEQUENTIAL AND INCIDENTAL DAMAGES. NEITHER LESSOR NOR LESSEE SHALL BE ENTITLED TO RECOVER, AND EACH HEREBY DISCLAIMS AND WAIVES ANY RIGHT THAT IT MAY OTHERWISE HAVE TO RECOVER, AGAINST THE OTHER, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING THOSE FOR LOSS OF AVAILABILITY TO LESSOR OF EQUIPMENT, REIMBURSEMENT TO LESSEE OF THE COSTS OF THE EVENT OR OF LOST PROFITS FOR THE EVENT) AS A RESULT OF ANY BREACH OR ALLEGED BREACH BY THE OTHER OF THIS LEASE. IT IS THE INTENT OF THE PARTIES THAT ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES SHALL BE REIMBURSED BY THE INSURANCE POLICIES LESSEE IS REQUIRED TO PROVIDE UNDER SECTION 11 ABOVE.**

14. **Default.**

- (a) ***Events of Default.*** An "Event of Default" shall occur if any one or more of the following apply:
- (1) Lessee shall fail to pay any rent payment or other amount owed when due, and such failure continues for a period of three days; or
  - (2) Lessee shall fail to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder and such failure continues uncured for 10 days after written notice thereof to Lessee by Lessor; or

- (3) Lessee ceases doing business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy, is adjudicated a bankrupt or an insolvent, files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation, or files an answer admitting the material allegations of a petition filed against it in any such proceeding, consents to or acquiesces in the appointment of a trustee, receiver, or liquidator of it or of all or any substantial part of its assets or properties, or takes or its shareholders shall take any action regarding its dissolution or liquidation; or
  - (4) within 60 days after the commencement of any proceedings against Lessee seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if within 60 days after the appointment without Lessee's consent or acquiescence of any trustee, receiver or liquidator of it or all or any substantial part of its assets and properties, such appointment shall not be vacated; or
  - (5) Lessee attempts to remove, sell, transfer, encumber, part with possession of or sublet the Equipment or any item thereof; or
  - (6) any material warranty, representation or statement made or furnished to Lessor by or on behalf of Lessee proves to have been false in any material respect when made or furnished.
- (b) ***Remedies of Lessor Upon Default.*** Upon the occurrence of an Event of Default, and at any time thereafter, Lessor shall have all of the rights and remedies provided by applicable law and by this Lease, except those excluded by this Lease. In addition, Lessor, at its option, may do one or more of the following:
- (1) declare all unpaid rentals and other sums due and to become due hereunder immediately due and payable;
  - (2) proceed with the appropriate court action or actions or other proceedings, either at law or in equity, to enforce performance by Lessee of any and all covenants of this Lease and to recover damages for the breach thereof;
  - (3) demand that Lessee deliver the Equipment forthwith to Lessor at Lessee's expense at such place as Lessor may designate; and
  - (4) without notice, liability or legal process, enter by itself or its agents into any premises of or under control or jurisdiction of Lessee or any agent of Lessee where the Equipment may be or by Lessor is believed to be, and repossess all or any item thereof, disconnecting and separating all thereof from any other property and using all force necessary or permitted by applicable law so to do, Lessee hereby expressly waiving all further rights to possession of the Equipment and all claims for injuries suffered through or loss caused by such repossession.

- (c) ***Attorney's Fees Upon Default.*** In the event of such default or breach, Lessor shall be entitled to recover from Lessee Lessor's reasonable costs of recovery of the Equipment, including attorney's fees.
15. **Assignment.** This Lease and all rights and obligations of Lessor hereunder may be assigned by Lessor without Lessee's consent, but Lessee shall not be obligated to any assignee of Lessor except after written notice of such assignment from Lessor. Without Lessor's prior written consent, which may be given or withheld by Lessor in Lessor's sole discretion, Lessee shall not assign this Lease or its rights or obligations hereunder, or enter into any sublease with respect to the Equipment covered by this Lease.
16. **Survival of Obligations.** Lessee's obligations hereunder, such as to indemnify, to be responsible for damages and to pay for repairs and other expenses, which relate to matters or events occurring prior to the expiration or termination of this Lease, which are not discharged prior thereto, shall survive the expiration or termination of this Lease.
17. **Severability.** If any court finds any provision of this Lease to be invalid or unenforceable, such provision shall be deemed modified, if feasible, to be valid or enforceable or, if not feasible, it shall be stricken and all other provisions shall remain valid and enforceable.
18. **Amendment.** This Lease may be modified or amended only by a writing duly authorized and executed by both Lessor and Lessee. It may not be amended or modified by oral agreements or understandings between the parties, or by any acts or conduct of the parties with reference thereto.
19. **Notices.** All notices or other communications given under this Lease shall be in writing and shall be given by one or more of the following methods:
- (a) personally delivered;
  - (b) sent by facsimile transmission (confirmed electronically) with an original mailed on the same date;
  - (c) sent by certified mail, return receipt requested; or
  - (d) sent by overnight delivery by FedEx, UPS or other nationally recognized overnight delivery service;
- in each case to the respective address or fax number for Lessor located at 1399 Las Lomas Road, Duarte, CA 91010 with facsimile number (626) 358-3064 or for Lessee located at 1020 El Centro Street, South Pasadena, CA 91030 with facsimile number (626) 441-5815 notices shall be deemed received on the day of personal delivery, the day of faxing if the original is so mailed, three business days after certified mailing, or on the delivery date if sent by overnight delivery.
20. **No Continuing Waivers.** The waiver by Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition. The subsequent acceptance of rent by Lessor shall not be deemed a waiver of any preceding or continuing breach by Lessee



of any term, covenant or condition of this Lease, regardless of Lessor's knowledge of such preceding or continuing breach at the time of acceptance of such rent.

21. **Judicial Reference:** If either party commences any action or proceeding based on, [arising from, relating to, or touching upon] this contract, or relating to the condition, design, or construction of any Equipment which is the subject of the contract, then all of the issues in that action or proceeding, whether of fact or law, shall be submitted to judicial reference pursuant to Code of Civil Procedure Sections 638, et seq.
22. **Captions.** The captions in this Lease are inserted only as a matter of convenience and for reference, and are not and shall not be deemed to be a part hereof.
23. **No Joint Venture.** Nothing provided herein is intended to create a joint venture, partnership, tenancy-in-common or joint tenancy relationship between or among Lessor and Lessee.
24. **Successors and Assigns.** This Lease shall bind all successors and permitted assigns of Lessor and Lessee and shall inure to the benefit of all successors and permitted assigns of Lessor and Lessee.
25. **Attorneys' Fees.** In the event that either party brings or commences an action or proceeding to enforce or interpret any of the terms of this Lease, or arising from or related to this Lease or any obligation provided for herein, the prevailing party in such action or proceeding shall recover from the other party its reasonable attorneys' fees and costs incurred in prosecuting or defending such proceeding or action.
26. **Governing Law.** This Lease shall be construed in accordance with the internal laws of the State of California, without reference to conflicts of law principles.
27. **Exclusive Jurisdiction and Venue.** Any action brought by either party to enforce or interpret this Lease, or arising from or related to this Lease or any obligation provided for herein, shall be instituted in either the Superior Court for the County of Los Angeles or the United States District Court for the Central District of California, in Los Angeles, California (the "Los Angeles, California Courts"). Each of Lessor and Lessee by execution of this Lease consents to, and agrees that it is subject to, the jurisdiction of the Los Angeles, California Courts.
28. **Entire Agreement.** Lessor and Lessee intend this Lease to be the final expression of the terms of their agreement and further intend that this Lease be the complete and exclusive statement of all of the terms of their agreement. This Lease supersedes all prior written and oral agreements and no such prior agreement may be used to contradict, supplement or explain this Lease. No representation, promise, inducement, statement or intention has been made by any party hereto that is not embodied herein, and no party shall be bound by or liable for any alleged representation, promise, inducement, or statement not so set forth herein.
29. **Construction.** The use of the word "or" is not exclusive. The use of the word "including" is not limiting.

30. **Counterparts.** This Lease may be executed in counterpart originals, each of which shall constitute an original, and all of which together shall constitute one and the same agreement.

*[Signatures on following page]*

*[Signature Page to Equipment Lease]*

LESSOR:

BROWN UNITED, INC.

By: \_\_\_\_\_

Its: Jeff Llamas, Vice President of Sales

LESSEE:

SOUTH PASADENA UNIFIED SCHOOL  
DISTRICT

By: \_\_\_\_\_

Its: \_\_\_\_\_  
(Type or Print Name and Title)

By: \_\_\_\_\_

Its: \_\_\_\_\_  
(Type or Print Name and Title)