

## **FIRST AMENDMENT TO GYMNASIUM JOINT USE AGREEMENT**

This FIRST AMENDMENT TO GYMNASIUM JOINT USE AGREEMENT (“Amendment”) is made and entered into to be effective \_\_\_\_\_, 2025 by and between the Town of Huntersville, North Carolina (“Town”) and Lake Norman Charter School, Inc. (“LNCS”)

### **Background.**

Town and LNCS are parties to that certain Gymnasium Joint Use agreement (the “Agreement”) entered as of October 16, 2023, whereby the Town and LNCS agreed to jointly use certain LNCS facilities and Town facilities, as set out in the Agreement. The parties now wish to amend the Agreement to add the construction and joint use of six (6) tennis courts at the new Elementary School located on McIlwaine Road in Huntersville.

### **Agreement**

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, Town and LNCS agree for themselves, their heirs, personal representatives, successors and assigns and follows:

1. **Section 1- Design.** The Parties agree Section 1 of the Agreement, Design, shall be amended by deleting the same in its entirety and inserting in lieu thereof:
  1. **Design.** LNCS will design the Elementary School Gym II, which will include certain reserved secured space for Town's exclusive use consistent with the space reserved for the Town at the Elementary School Gym, Middle School Gym, and the High School Gym. The Elementary School Gym II will accommodate at a minimum an 84' x 50' basketball court and seating for 300 spectators. As part of Elementary School Gym II, LNCS shall also design and construct six (6) regulation tennis courts with lighting. Unless otherwise specified, the six tennis courts shall be included in the definition of Elementary School Gym II. The Town shall have the right to review and approve the design plans for the Elementary School Gym II. The Town's approval may not be unreasonably withheld and will be deemed given unless the Town provides reasonable and specific objections to the design plans within 14 days of receipt.
2. **Section 3- Contribution.** The Parties agree Section 3 of the Agreement, Contribution, shall be amended by deleting the same in its entirety and inserting in lieu thereof:
  3. **Contribution.** Town shall make a one-time lump sum payment toward the construction cost of the Elementary School Gym II in the amount of \$650,000. This payment shall be made directly to LNCS and shall be due within 30 days of LNCS's receipt of a Certificate of Occupancy for the school, but no sooner than July 1, 2026. The Town acknowledges that the contribution made through this agreement does not give it ownership rights to the Gymnasiums or other LNCS property.

3. **Section 6- Joint Use.** The Parties agree Section 6 of the Agreement, Joint Use, shall be amended by deleting the same in its entirety and inserting in lieu thereof:

6. **Joint Use.**

I. Joint Use of Gymnasiums:

a. LNCS and Town shall jointly use the Gymnasiums. LNCS shall have exclusive use as needed: (i) during school operating hours, as that term is defined by LNCS and which will include weekday hours until 6:00pm.; and (ii) during certain other days, evenings and weekends as needed for at dates and times reasonably determined by LNCS ("Reserved Hours"). Notwithstanding the foregoing, Town may use the Gymnasiums for public purposes for the operation of recreation and athletic activities, which will mainly be held during weekend hours, and weekday evening hours beginning at 6:00 p.m. that are not in conflict with school operating hours or Reserved Hours. The use of the Gymnasiums is subject to the provisions herein, and shall be coordinated pursuant to Term 7 below.

b. The Town shall not use any of the Gymnasiums at any time for a purpose that would be deemed a "Private Business Use" as that term is defined in the Arbitrage and Tax Regulatory Agreement among LNCS, the Public Finance Authority, consistent with the 2024A Educational Revenue Bond dated October 9, 2024. Nor shall the Town use any of the Gymnasiums for any other purpose which may cause the interest on the Public Finance Authority Tax-Exempt Variable Rate Educational Facilities Revenue Bonds (Lake Norman Charter School), Series 2018A and 2024A Educational Revenue Bond to be included in the gross income of the Holders thereof or any other future tax-exempt financing that LNCS may issue in the future.

c. During mutually agreed upon times and days reasonably determined by Town, LNCS shall be allowed to reserve and use the Town's Athletic Fields ("Athletic Fields") and Town's Tennis Courts ("Tennis Courts") including, but not limited to: three (3) Lacrosse practice fields in the spring; two (2) football practice fields in the fall; two (2) soccer practice fields in the fall and spring; two (2) baseball practice fields in the spring; two (2) softball practice fields in the spring; three (3) tennis courts in the fall and spring; two (2) baseball game fields in the spring; and two (2) softball game fields in the spring. LNCS shall enjoy the same usage of these Town facilities as it has experienced during the calendar year of 2024 as noted above, and the Town shall maintain that level of usage. Use of said Town facilities are subject to the provisions herein, and shall be coordinated pursuant to Term 7 below.

d. The Town shall continue to have access to the Middle School's community room at mutually agreed upon times outside of regular school hours.

II. Joint Use of Tennis Courts at Elementary School Gym II:

- a. Town shall have use of the courts for public use during times when not used by LNCS for school activities. The parties expect that the courts will be generally available for public usage between the hours of 9:00 a.m. to 2:30 p.m. and 3:30 p.m. to 11:00 p.m. During Town usage times, the Town may make the courts available for United States Tennis Association (“USTA”) league play, other Town-sponsored league play, or for periodic clinics and lessons. Town shall not provide reserved usage of the courts to any other group, organization, or school without the prior written consent of LNCS, which consent may be withheld in the sole discretion of LNCS. Town may apply for a USTA grant with respect to the courts, and LNCS will facilitate such application, but Town shall be solely responsible for complying with the terms and conditions of any grants provided by USTA.
- b. The Town shall charge tennis court reservation fees at the same rate as other Town tennis courts.
- c. Fees collected by the Town from reservation fees for the courts shall be deposited into a Capital Reserve Fund for repairs and improvements to the courts. Improvements include, but are not limited to: resurfacing, netting, and lighting. If additional funding for improvements are needed above the funds held in the Capital Reserve Fund, then the parties shall agree to additional cost and timing of the repair. The parties would then be responsible for equally funding the overage amount.
- d. Except as provided in subsections (e) and (f) below, and otherwise agreed mutually in writing by the parties, LNCS shall pay for and be responsible for all costs of operation, utilities, school parking lot(s), driveways, and routine maintenance of the courts.
- e. Once constructed, fully operational, and use has commenced by the Town, the Town shall pay and be responsible for the electric utility expense for the tennis court lighting.
- f. Each party shall be responsible for clean up during its use of the courts.
- g. LNCS shall have access to the Fire Station No. 4 public park restrooms when the courts are in use for school events.

4. **Section 7- Scheduling.** The Parties agree Section 7 of the Agreement, Scheduling, shall be amended by deleting the same in its entirety and inserting in lieu thereof:

#### **7. Scheduling.**

- a. Scheduling of Gymnasiums:

Subject to the other terms of this Agreement, the Town shall be responsible for coordinating the scheduling of the Gymnasiums in cooperation with LNCS. LNCS shall provide to the Town's Parks and Recreation Department Director, or designee, an annual schedule of school operating hours and Reserved Hours no later than July 1st annually. Within thirty (30) days thereafter, Town will provide LNCS a schedule of dates and times it intends to operate programs on the premises.

b. Scheduling of Elementary School Gym II Tennis Courts:

Town shall be responsible for scheduling uses of the courts by the public during periods of time in which the courts are not being used by LNCS for school activities. LNCS shall be responsible for advising Town annually, prior to August 1st, of its anticipated reserved usage times for the upcoming year. It is anticipated and agreed that LNCS shall have the following reserved times during the year:

- i. Fall Sports Season (August 1st through mid-November): six (6) courts are reserved Monday through Friday from 2:30 p.m. to 6:30 p.m. to LNCS. All courts shall be closed to public use during this time.
- ii. Spring Sports Season (Mid-February through mid-May): six (6) courts are reserved Monday through Friday from 2:30 p.m. to 6:30 p.m. to LNCS. All courts shall be closed to public use during this time.
- iii. Town tennis reservations will not begin before 7:00 p.m. during Fall and Spring North Carolina High School Athletic Association playoffs to allow more time for matches to finish without conflicts. The dates and times of the playoffs shall be provided by LNCS to the Town in writing in advance of the playoffs.
- iv. LNCS expects to reserve the courts each year for school events, summer camps, and fundraisers. School events shall require approximately three hours per event for six events per year. Summer camps will require three weeks of half-day camps. The dates and times of these events shall be provided by LNCS to the Town in writing

c. These procedures shall not preclude either party from requesting additional time, either within the LNCS school hours or Reserved Hours, or within those times designated by the Town, and each party will work in good faith to accommodate the other. LNCS shall make its field and court requests to Town semi-annually in the fall and spring. Additional details as to scheduling and other operational policies and procedures are to be established by the parties in a Memorandum of Understanding described in Term 8 hereof.

- d. Notwithstanding the foregoing, if LNCS should schedule school use during school operating hours and Reserve Hours to the extent that Town is unable to reasonably utilize a certain LNCS gymnasium during Town's normal and customary recreation usage throughout the year, then Town shall be given additional usage of another LNCS gymnasium so that no shortages in usage occur. For purposes of usage, a year shall be deemed to begin on August 1st and end on the ensuing July 31st. Exclusive rights over outside third-party users shall be subject to Town's use.
5. **Unmodified Terms.** Terms and provisions of the Agreement which are not expressly modified by this Amendment shall remain in full force and effect.
6. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but one and the same instrument.

**IN WITNESS WHEREOF**, the parties do hereby execute this Amendment for the purposes above stated.

**Town of Huntersville, North Carolina**

**By:** \_\_\_\_\_  
Anthony Roberts, Town Manager

ATTEST:

\_\_\_\_\_  
Janet Pierson, Clerk to the Board

**Lake Norman Charter School, Inc.**

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

**Its:** \_\_\_\_\_