

Return to:  
J. M. Seigler, Jr.  
P. O. Box 5513  
Rome, GA 30162-5513

Inst # 2001-27029

07/02/2001-27029  
09:11 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
022 MB 77.00

### COLLATERAL ASSIGNMENT OF TENANT'S INTEREST IN LEASE

THIS COLLATERAL ASSIGNMENT (this "Collateral Assignment") is entered into by and among A J ASSOCIATES HOLDINGS, L.L.C., an Alabama limited liability company, ("Landlord"); EARLY EDUCATIONAL CONCEPTS, INC., an Alabama corporation, ("Franchisee") and PRIMROSE SCHOOL FRANCHISING COMPANY ("Primrose") this 29<sup>th</sup> day of June, 2001.

#### Background

Franchisee and Primrose have entered into that certain Franchise Agreement, dated April 19, 2000 with respect to the operation by Franchisee of a Primrose School (the "Franchise Agreement"). Franchisee wishes to operate its Primrose School at certain premises owned by Landlord (the "Premises"), and Landlord and Franchisee have entered into a certain lease agreement of even date herewith (the "Lease") with respect to the Premises. Primrose desires, as a condition to approving the Lease and making various accommodations to Franchisee under the Franchise Agreement, to be granted this Collateral Assignment and the protections contained herein, which are intended to, among other things, enable Primrose to continue the operation of a Primrose School on the Premises notwithstanding any termination of the Franchise Agreement. Franchisee and Landlord wish to enter into this Collateral Assignment in order to induce Primrose to approve the Lease and the Premises and, in the instance of Franchisee, in order to induce Primrose to provide to Franchisee various other accommodations and approvals under the Franchise Agreement.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants contained herein and in the Franchise Agreement, the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Franchisee, Landlord and Primrose agree as follows:

1. Collateral Assignment. Franchisee hereby grants, transfers and assigns to Primrose all of Franchisee's right, title, and interest as the tenant or lessee in, to and under the Lease and any renewals, extensions, novations or substitutes thereof (including, without limitation, any renewals or extensions thereof as set forth in Section 5.b hereof) and in and to the Premises, including, but not limited to, the right of use and occupancy of the Premises under the Lease. Franchisee and Landlord warrant and represent that a true, accurate, current and complete copy of the Lease.

*Alabama Title*

2. Purpose of Assignment. This Collateral Assignment is given as collateral for the purpose of securing the performance and discharge by Franchisee of each and every obligation, covenant, duty and agreement contained in (i) this Collateral Assignment, (ii) the Franchise Agreement, and (iii) any other agreement entered into by and between Primrose and Franchisee or its principals or affiliates or any related party, including without limitation any promissory note, deed to secure debt or other evidence of, or collateral for, any indebtedness or any other obligation in any way related to the Franchise Agreement (all such obligations described in this Section 2 being hereinafter collectively referred to as the "Obligations"). Primrose hereby grants to Franchisee a license to possess, use and enjoy the Premises as the tenant under the Lease, such license to be automatically revoked upon Primrose exercising its rights under Section 4 hereof.

3. Covenants of Franchisee and Landlord. Franchisee and Landlord covenant with Primrose to observe and perform all of the obligations imposed upon them under the Lease and not to do or permit to be done anything to impair the existence and validity of the Lease or the security of Primrose hereunder; and not to execute or permit any other sublease or assignment of the tenant's interest under the Lease; and not to modify or amend the Lease in any respect without Primrose's prior written consent. Landlord covenants to preserve Franchisee's rights as the tenant under the Lease and, where necessary, to extend the term of the Lease for the full term of the Franchise Agreement, as such term may be extended from time to time. Any actions taken in violation of this Section 3 shall be void at Primrose's Option.

4. Default. Upon or at any time after default in the performance of any of the Obligations, default under any of the agreements underlying the Obligations (including, but not limited to, the Franchise Agreement), or default by Franchisee under the Lease, Primrose may, at its option, without in any way waiving such default, upon five (5) days notice to Franchisee and Landlord, with or without bringing any action or proceeding, or by a receiver appointed by a court, take possession of the Premises as the tenant under the Lease and, subject to the terms of the Lease (as modified pursuant to the terms of this Collateral Assignment) have, hold, use, occupy, lease, sublease, assign or operate the Premises on such terms and for such period of time as Primrose may deem proper. Franchisee shall indemnify and hold Primrose harmless from and against, and Landlord hereby releases Primrose from, any and all claims, actions, damages and expenses (including, without limitation, attorneys' fees) arising (i) out of Franchisee's failure to perform under the Lease or any breach by Franchisee of the Lease or of this Collateral Assignment, and (ii) in connection with the Lease prior to Primrose's taking possession of the Premises pursuant to this Section 4. The exercise by Primrose of the option granted it in this Section 4 shall not be considered a waiver by Primrose of any default by Franchisee under the Obligations or under the Lease.

5. Landlord's Agreements.

a. Consent. Landlord executes this Collateral Assignment in order to give its consent to the assignment granted herein and to covenant that in the event of a default by Franchisee under the Lease, Landlord will give Primrose written notice thereof and permit Primrose to exercise, within fifteen (15) days of the expiration of all cure periods for such default under the Lease, its rights under Section 4 hereof to occupy and use the Premises as the tenant under the Lease



(as modified pursuant to the terms of this Collateral Assignment). Landlord agrees that Franchisee, and not Primrose or its sublessees or assigns, shall be responsible for all obligations and liabilities of the tenant under the Lease prior to the occupation and use of the Premises by Primrose. This Collateral Assignment is hereby incorporated by reference into the Lease and shall bind Landlord and any and all successors of Landlord in title to the Premises, and Landlord agrees, as a condition to the effectiveness of any transfer of any title to the Premises, to obtain a written agreement from the transferee that the transferee shall be bound hereby.

b. Term of Lease. This Section 5.b shall apply only if Landlord and Franchisee are or hereafter become affiliates of one another, owned or controlled by the same persons or entities or otherwise closely related in ownership or control. In the event that the term of the Lease is shorter than the term of the Franchise Agreement, including any renewals of the Franchise Agreement, at the option of Primrose (exercised by written notice to Landlord) the term of the Lease shall be automatically extended to be coterminous with the term of the Franchise Agreement, as extended or renewed from time to time. Although no further documentation shall be required to evidence such extension, Landlord agrees to confirm the extension in writing if so requested by Primrose.

c. Amendment of Lease. This Section 5.c shall apply only if Landlord and Franchisee are or hereafter become affiliates of one another, owned or controlled by the same persons or entities or otherwise closely related in ownership or control. In the event Primrose takes possession of the Premises pursuant to Section 4 hereof, at the option of Primrose, the Lease shall be amended by Primrose and Landlord entering into an amendment thereto (hereinafter the "Amendment") pursuant to which: (i) the Lease shall be modified so that all of its terms are consistent with commercially reasonable triple-net leases then being entered into in connection with facilities similar to the Premises in the Birmingham area; and (ii) the rental and other amounts due under the Lease, whether base rental or additional rental of any nature, shall be modified to reflect the fair market rental value of the Premises under the Lease as modified pursuant to subpart 5.c.(i) hereof. Such fair market rental value shall be determined based on the rental then being charged in connection with facilities similar to the Premises in the Birmingham area.

Primrose shall be entitled to exercise its option to enter into the Amendment at any time after taking possession of the Premises, by delivering to Landlord a proposed form for the Amendment, and Landlord agrees not to unreasonably withhold or delay its consent thereto and execution thereof. Primrose and Landlord agree to attempt in good faith to negotiate and enter into the Amendment. If Landlord and Primrose are unable to agree on the terms of the Amendment within fifteen (15) days after the date Primrose provides Landlord its proposed form for the Amendment, the terms of the Amendment shall be determined by arbitration in accordance with the following procedure. Within ten (10) days after the aforesaid fifteen (15) day negotiation period, Landlord and Primrose shall each appoint a disinterested, qualified real estate professional (such as a real estate attorney or MAI appraiser) and give notice of the name and address of such arbitrator to the other. The arbitrators thus appointed shall, within five (5) days, appoint a third (3rd) disinterested, qualified real estate professional, and such third arbitrator shall, within thirty (30) days after being appointed, determine the terms of the Amendment and prepare the form thereof for execution. The decision of the third arbitrator shall be conclusive and binding on Primrose and

Landlord and shall be enforceable in any court having jurisdiction. Primrose and Landlord shall promptly execute the Amendment in the form prepared and on the terms prescribed by the third arbitrator, and, if either refuses, the Amendment so prescribed shall nonetheless be binding. If either party fails or neglects to appoint an arbitrator within the time period required, then the arbitrator selected by the other party shall be the sole arbitrator and shall on its own determine the terms of and prepare the Amendment. If the two arbitrators appointed by the parties shall fail within five (5) days to appoint the third arbitrator, then either party may apply to any court of competent jurisdiction to appoint such arbitrator. The expenses of the arbitration shall be shared by Primrose and Landlord equally or in any other manner decided by the third arbitrator, it being the intent of the parties that, if said arbitrator should determine either party to have been unreasonable, then such party shall bear all of the costs of the arbitration. The parties hereto agree to sign all documents and to do all other things necessary to submit the determination of the terms of the Amendment to the aforesaid arbitrators, and further agree, and hereby do, waive any and all rights they may have to revoke this agreement. Prior to entry into the Amendment, during the aforesaid negotiation and arbitration periods and thereafter, the terms of the Amendment first proposed by Primrose shall govern the relationship between Primrose and Landlord and the rental due shall be the rental set out in said proposed Amendment. Upon actual execution of the Amendment, an equitable adjustment shall be made between Primrose and Landlord to reflect the rental that would have been due if the Amendment finally executed had been executed on the date Primrose elected to have the Lease amended as aforesaid.

d. Franchise Materials. Upon the termination of the Lease for any reason, Landlord will assist Primrose in retrieving for Primrose any and all Primrose School materials which the Franchisee is required to return to Primrose under the Franchise Agreement, including, without limitation, the Primrose School Confidential Operations Manual(s) and any other confidential information and trade secret information of Primrose, as defined in the Franchise Agreement. Landlord acknowledges Primrose's ownership rights in such materials and agrees that Landlord is not entitled to retain such materials as its property.

e. Franchise Improvements. Upon the termination of the Lease for any reason, Primrose shall be entitled, within thirty (30) days after any such termination, to delete or remove any signs and other improvements containing the trademarks, service marks, symbols, logos, emblems and other distinctive features of the Primrose School system, so long as Primrose promptly repairs, at its sole expense, any damage caused thereby.

f. Subleasing; Miscellaneous. Notwithstanding any provision of the Lease, Landlord agrees that Primrose may sublease or assign all or any of its interest in the Lease to a franchisee of Primrose which meets Primrose's franchisee qualifications. Upon taking possession of the Premises under Section 4 hereof, Primrose shall, notwithstanding any provision of the Lease to the contrary, have the full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Primrose. In such event, Primrose may also offset against any rents, income, and other amounts profits due Landlord (i) any and all amounts due Primrose by Landlord and (ii) if Landlord is now or later becomes an affiliate (as defined in Sections 5.b and 5.c hereof) of Franchisee, any and all amounts due Primrose

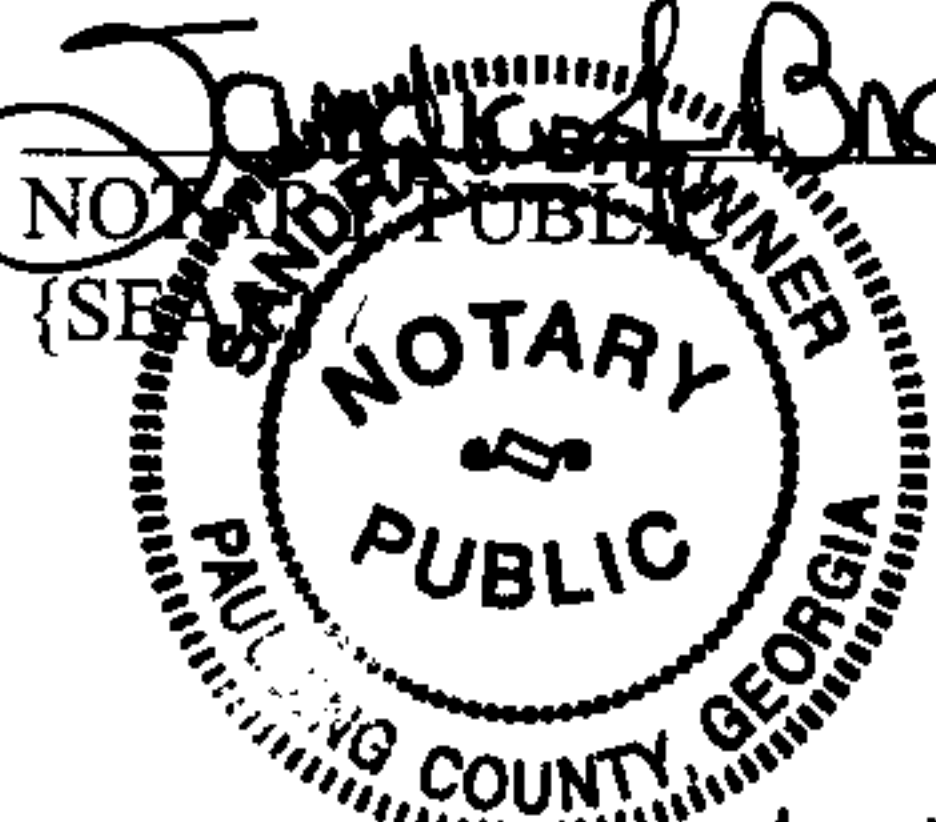
by Franchisee or its affiliate pursuant to any of the Obligations or otherwise, together with all costs and attorneys' fees related to any of items (i) or (ii) described above.

6. Governing Law. This Collateral Assignment is to be construed in all respects and enforced according to the laws of the State of Alabama.

IN WITNESS WHEREOF, the undersigned parties have hereto set their hands and affixed their seals on the date and year first above written.

Signed, sealed and delivered in the presence of:

Martin J. Barker  
WITNESS

Jamie L. Brainerd  
NOTARY PUBLIC  
{SEAL}  
  
My Commission Expires 4/29/05

PRIMROSE  
PRIMROSE SCHOOL FRANCHISING  
COMPANY

BY: [Signature] (SEAL)  
Name: JO KIRCHNER  
Title: PRESIDENT

{CORPORATE SEAL}



Signed, sealed and delivered in the presence of:

Steve E. Mante  
WITNESS

Carlene H. Palmer

NOTARY PUBLIC  
{SEAL}

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: May 28, 2003  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

**LANDLORD**

A J ASSOCIATES HOLDINGS, L.L.C.,  
an Alabama limited liability company

By: Augustine Angrisano  
Name: AUGUSTINE ANGRISANO  
Title: MANAGER

{CORPORATE SEAL}

Signed, sealed and delivered in the presence of:

Steve E. Mante  
WITNESS

Carlene H. Palmer

NOTARY PUBLIC  
{SEAL}

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: May 28, 2003  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

**FRANCHISEE**

EARLY EDUCATIONAL CONCEPTS, INC.  
an Alabama corporation,  
d/b/a Primrose School of Meadowbrook

By: Augustine Angrisano  
Name: AUGUSTINE ANGRISANO  
Title: PRESIDENT

{CORPORATE SEAL}

As of the date hereof, Landlord and Franchisee [are] ~~[are not]~~ affiliates of one another for purposes of Sections 5.b, 5.c, and 5.f hereof.

To be initialed by the parties: AA

# EXHIBIT A

## LEASE AGREEMENT

THIS LEASE, made this 29 day of JUNE, 2001, by and between A J ASSOCIATES HOLDINGS, L.L.C., an Alabama limited liability company, ("Lessor") and EARLY EDUCATIONAL CONCEPTS, INC., an Alabama corporation, ("Lessee");

### WITNESSETH:

1. (a) Premises.

Lessor, for and in consideration of the rents to be paid hereunder by Lessee and the covenants, agreements, and stipulations to be kept and performed by Lessee, has leased and rented, and by these presents does lease and rent unto Lessee, and Lessee hereby agrees to lease and take upon the terms and conditions which hereinafter appear, the following described property, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO

Together with all buildings and other improvements located on the above described property (hereinafter referred to as the "Improvements") (said land and Improvements being hereinafter referred to as the "Premises").

(b) Construction of Improvements.

Lessor agrees to construct, at no cost to Lessee, all Improvements in substantially the manner required by the Primrose Plans and Specifications approved by Primrose School Franchising Company and dated \_\_\_\_\_ and the Site Plan prepared by \_\_\_\_\_ and dated \_\_\_\_\_, all of which Lessee has reviewed. All such work shall be done in a good and workmanlike manner and so as to conform to all governmental regulations and shall meet the requirements and have the approval of Primrose School Franchising Company (hereinafter referred to as "Franchisor"). It shall be Lessor's obligation to obtain all permits and approvals for construction. The Improvements shall not be deemed "substantially completed" until (i) a certificate of completion has been delivered to Lessee by Lessor's inspecting architect and (ii) a temporary, or permanent, Certificate of Occupancy has been delivered for the Premises and the Improvements are suitable so that Lessee can be licensed by the appropriate agency of the State of Alabama to operate a Primrose School franchise child care facility therein. Improvements shall include all Equipment set forth on Exhibit "C" attached hereto and made a part here of and the "basic" Playground Equipment package as required by the Franchisor, as of the execution date of this Lease.

2. Term.

The term of this Lease shall commence (the "Commencement Date") on the date on which delivery is made to Lessee of the substantially completed Improvements or on the date Lessee actually commences business operations and is opened for business on the Premises, whichever occurs first. The term shall end at midnight ten (10) years from the Commencement Date, unless sooner terminated pursuant to the terms herein set forth herein. Lessee shall have the option to extend the term of this Lease for two (2) ten (10) year options as provided in Paragraph 31 hereof. Commencement date is set to be \_\_\_\_\_.

3. Rental.

(a) Lessee agrees to pay Lessor annual rent as set forth on Exhibit "B" attached hereto. Rental shall be paid in twelve (12) equal monthly installments, in advance on the first day of each and every month during the term of this Lease; provided however, the first monthly installment shall be paid upon the execution of this Lease Agreement. If the Commencement Date does not fall on the first day of the month, rental for the second and last calendar months of the term of the Lease shall be prorated.

(b) The rent shall be absolutely net to Lessor. Lessor shall not be required to make any repairs or improvements to the Premises, nor to maintain the Premises nor to incur any expense in connection therewith. Lessee shall pay as additional rent hereunder all charges against the Premises, including all charges for water, gas, electricity, fuel, light, power and sewer relating to the Premises or used by Lessee or parties claiming under Lessee.



(c) If Lessee does not promptly pay on or within five (5) business days after the due date thereof the monthly rental referred to in Paragraph 3(a), Lessee shall pay, in addition to such monthly rental, a late payment premium of five percent (5%) of the monthly rental owing.

(d) If Lessee does not promptly pay on or before the due date thereof any of the charges referred to in Paragraph 3(b), or if Lessee does not promptly pay on or before the date specified in Paragraph 3(a) any Imposition to be paid by Lessee as provided in Paragraph 3(a), or if Lessee does not, within the time provided, pay any other amount required to be paid by Lessee under the provisions of this Lease, then, ten (10) days after giving written notice to Lessee, if Lessee fails to pay such amounts within the same ten (10) day period, Lessor may, at Lessor's option, pay the same, together with any interest or penalty, and Lessee shall immediately upon demand, pay all such amounts to Lessor, including reasonable attorney's fees, which shall not exceed fifteen percent (15%) of the amount so paid as additional rent, together with interest thereon at the rate of twelve percent (12%) per annum.

(e) The Rent commencement date shall occur upon delivery to Lessee the "substantial completion" of the Improvements or the date that Lessee actually commences business operations and is open for business on the Leased Premises, whichever occurs first.

(f) At Lessor's request, Lessee shall establish arrangements where by each rental payment is transferred on or before the due date, by wire or other means, directly to Lessor's account as designated from time-to-time by Lessor.

(g) All rent and additional charges shall be mailed to Lessor, on or before the due date, at Lessor's address as designated under paragraph 22, or to such address provided by Lessor to Lessee in writing.

4. Real Estate Taxes and Personal Property Taxes and Assessments.

(a) Lessee shall pay or cause to be paid on or before the last day on which they may be paid without penalty or interest all real estate and taxes and assessments and other governmental levies and fees which may be levied or assessed upon or which relate to the Premises during the term of this Lease, including any tax imposed in lieu of existing ad valorem taxes, and including, without limitation, any assessment for sewer tap fee, all of which are herein collectively called "Impositions"; provided that if any Imposition may be paid in installments, Lessee may pay or cause to be paid each such installment on or before the last day upon which it may be paid without penalty. Lessee shall provide to Lessor for examination, promptly following request by Lessor, all receipts of payment for all Impositions.

(b) Notwithstanding anything to the contrary herein contained, if Lessee deems any Imposition to be excessive or illegal, Lessee may defer payment thereof so long as the validity or the amount thereof is contested by Lessee in good faith and with due diligence; provided, however, that payment may be deferred only if the proceeding to contest the same shall operate to suspend the collection of such Imposition and if Lessee shall provide Lessor with such security for the payment thereof as Lessor may require, including but not limited to a cash deposit at least equal to the total amount assessed or levied. Any contest, whether before or after payment, may be made in the name of Lessor or Lessee or both, as Lessee shall determine, and Lessor agrees to join with Lessee, promptly upon request by Lessee, in any such contest. Lessee shall be entitled to any refund of any Imposition which has been paid by Lessee and any penalties or interest thereon. Lessee shall pay any and all costs and expenses incurred in any such contest, and shall indemnify and hold Lessor harmless for any and all costs, including reasonable attorney's fees, incurred by Lessor as a result of such contest by Lessee.

(c) Nothing contained in Paragraph 4(a) hereof shall be construed to require Lessee to pay any estate, inheritance, succession, or transfer tax of Lessor growing out of or connected with this Lease or Lessor's rights in the Premises, or any income tax or excess profits tax upon the income received by Lessor, all of which shall be paid by Lessor, and if the same shall become a lien upon Lessee's interest in the Premises or any part thereof, or if Lessee shall be required by law to pay any such tax, or interest or penalty thereof, Lessee may pay the same and Lessor shall reimburse Lessee in the amount thereof on demand and any additional costs incurred by Lessee, including reasonable attorney's fees.



(d) All Impositions for the year in which the term of this Lease commences and for the year in which this Lease expires or terminates (unless termination occurs by reason of Lessee's default or other grounds for termination specified in Paragraph 14) shall be pro-rated between Lessor and Lessee as of the Commencement Date and the date of expiration or termination, respectively.

(e) Personal Property Taxes: Rent Tax: and Taxes and Assessments Related to the Property:

Lessee shall be responsible for and shall pay before delinquency all municipal, county or state taxes, levies and fees of every kind and nature, including, but not limited to, general or special assessments assessed during the Term against any personal property of any kind owned by Lessee or placed in, upon or about the Premises by the Lessee and also all taxes due in regard to the equipment owned by Lessor. Lessee shall likewise be responsible for, and pay, all taxes assessed on the basis of Lessee's occupancy thereof, including, but not limited to, taxes measured by Rent due from Lessee hereunder, however, Lessee shall not be responsible for ( i ) any income tax or similar tax imposed upon Lessor, (ii) any municipal, state or federal capital levy, gift, estate, succession, inheritance or transfer tax of Lessor, or (iii) corporation excess profits or franchise or business license taxes imposed upon Lessor. Lessee shall pay as additional rent all taxes, public charges and assessments of whatsoever nature directly or indirectly assessed or imposed upon the Property and the buildings, equipment and improvements located on the Property and the rents therefrom, including but not limited to all real property taxes, rates, duties and assessments, local improvement taxes, whether general or special, that are levied, charged or assessed against the Property and/or the Premises by any lawful taxing authority whether federal, state, county, municipal, school or otherwise (other than income, inheritance and franchise taxes thereon), such payment to be made promptly upon transmittal of invoice therefore from Lessor or directly to the taxing authority prior to the date same becomes overdue if tax bills are received by Lessee directly, Lessee shall have the right to contest taxes in a lawful manner. (a) all costs and expenses of such contest are borne by Lessee and (b) Lessee shall post a bond or provide other security reasonably satisfactory to Lessor; Lessor will cooperate with such tax contest by Lessee to the extent necessary, as long as such cooperation is at no cost or expense to Lessor.

(f) At Lessor's request, Lessee shall pay estimated real estate ad valorem taxes to Lessor in twelve (12) equal monthly installments on the first day of each calendar month in advance in an amount estimated by Lessor based upon prior year's taxes, to be readjusted upon receipt of actual tax bills; provided, estimated real estate ad valorem taxes to be paid during the year 20\_\_ prior to the issuance of 20\_\_ tax bills shall be \$\_\_\_\_\_/per month. Lessor will determine the amount of deficiency or overpayment in taxes upon receipt of actual tax bills and any deficiency by Lessee shall be paid within ten (10) days after demand by Lessor and any overpayment will be credited to Lessee. Lessor will adjust monthly installments accordingly.

5. Use of Premises.

The Premises shall be used only for the operation of a Primrose School child care franchise. The Premises shall not be used for any illegal purpose, nor in any manner to create any nuisance or trespass. Lessor specifically agrees and consents to the display by Lessee or its assigns of all of Franchisor's trademarks, service marks and signage as may be required by the Franchisor.

6. Repairs and Maintenance by Lessee.

Other than as provided in 6(a), Lessee agrees, as part of its additional rent, to keep and maintain the Premises in as good a state of repair as the same are turned over to it, and in a clean, safe and sanitary condition, and agrees to make all necessary repairs and/or replacements to the interior, exterior, structural, Equipment, Playground Equipment, playgrounds, landscaping and other to said Premises during the term of this Lease; and to maintain all standards as required by Franchisor and/or State or local government authorities.

(a) Repairs by Lessor:

During the first twelve (12) months of the term of this Lease, the Lessor shall correct any defect which may appear to the Improvements. Normal shrinkage, wear and expansion of materials are specifically excluded, as well as all Equipment listed in Exhibit "C". After the first year, Lessor shall not be required to make any repairs of any kind and Lessor will thereupon assign to Lessee all construction warranties then remaining in effect.

7. Insurance.

(a) So long as this Lease remains in effect, Lessee, at its expense, will maintain, or cause to be maintained with insurers approved by Lessor and Franchisor, which approval shall not be unreasonably withheld, such insurance on the Premises and in such amounts as may from time to time be reasonably required by Lessor and Franchisor against such insurable hazards as at the time are commonly insured against in the case of premises similarly situated.

(b) All insurance required to be maintained pursuant to Paragraph 7(a) shall: (1) name Lessor, Lessor's lender, Primrose School Franchising Company, and Lessee as their respective interests may appear; (2) provide that all insurance proceeds shall be payable jointly to Lessor, Lessor's lender and Lessee; and (3) provide that no cancellation thereof shall be effective until at least thirty (30) days after receipt by Lessor, Lessor's lender and Lessee.

(c) Lessee hereby releases Lessor from any and all liability or responsibility to Lessee or anyone claiming through or under Lessee by way of subrogation or otherwise for any loss or damage to property caused by fire or other casualty against which insurance is to be provided hereunder, even if such fire or other casualty shall have been caused by the fault or negligence of Lessor, or anyone for whom Lessor may be responsible. Lessee agrees that any policy carried which relates to the Premises shall include a clause or endorsement to the effect that such release shall not adversely affect or impair the coverage thereunder or prejudice the right of Lessee to recover thereunder.

(d) Lessee shall upon request deliver proof reasonably satisfactory to Lessor of all insurance policies with respect to the Premises which Lessee is required to maintain pursuant to this paragraph.

(e) At Lessor's request, should Lessor determine it necessary to purchase real estate insurance due to Lessee's failure to maintain required insurance policy, Lessee shall pay estimated insurance premiums to Lessor in twelve (12) equal monthly installments due on the first day of each month in advance. Lessor will adjust monthly installments accordingly to actual premiums.

8. Destruction or Damage of Premises.

(a) If, any time during the term hereof, the Improvements or any part thereof, shall be damaged or destroyed by fire or other casualty (including any casualty for which insurance coverage was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Lessee, at Lessee's sole cost and expense, and whether or not the insurance proceeds hereinafter referred to, if any, shall be sufficient for the purpose, shall proceed with reasonable diligence (subject to unavoidable delays and a reasonable time for the purpose of adjusting such loss) to repair, alter, restore, replace or rebuild the same as nearly as possible to its value, condition and character immediately prior to such damage or destruction, subject to such changes or alterations as Lessee may elect to make, if such changes or alterations be approved by Lessor and Franchisor, such approval not to be unreasonably withheld. Such repairs, alterations, restoration, replacement or rebuilding, including such changes and alterations as aforementioned and including temporary repairs or the protection of other property pending the completion of any thereof, are sometimes referred to in this Paragraph as the "Work".

(b) All insurance proceeds received by Lessor on account of any damage to or destruction of the Improvements or any part thereof (less the costs, fees, and expenses incurred by the Lessor in the collection thereof, including, without limitation, adjusters' fees and expenses and attorneys' fees and expenses) shall be applied as follows: Unless Lessee is in default hereunder or if any ground for termination specified in Paragraph 13 shall have occurred and be continuing (regardless of any right which Lessee may have, if any, to notice or an opportunity to cure same), such proceeds shall be paid to Lessee or as Lessee may direct, from time to time as the Work progresses, to pay (or reimburse Lessee for) the cost of the Work, upon written request of Lessee accompanied by evidence satisfactory to Lessor that the amount requested has been paid or is then due and payable and is properly a part of such cost, that there are no mechanics' or similar liens, whether inchoate or otherwise, for labor, services or materials theretofore supplied in connection with the Work and that all other bills have been paid and that the balance of said proceeds after making the payment requested will be sufficient to pay the balance of the cost of the Work. Notwithstanding the above, Lessor may disburse such proceeds directly to the persons entitled to same. Upon receipt by Lessor of evidence satisfactory to Lessor that the Work has been completed and the cost thereof paid in full, and that there are no mechanics' or other similar liens, whether inchoate or otherwise, for labor, services or materials supplied in connection therewith, then, unless Lessee is in default hereunder or if any ground for termination specified in Paragraph 13 shall have occurred and



be continuing (regardless of any right which Lessee may have, if any, to notice or an opportunity to cure same), the balance, if any, of such proceeds shall be paid to Lessee or as Lessee may direct; otherwise, the net insurance proceeds may be first used to cure such default or such ground for termination if susceptible to being so used, and the balance applied to any future rentals in the order determined by Lessor with any balance thereafter remaining paid to Lessee. If the net insurance proceeds shall be insufficient to pay the entire cost of the Work, Lessee shall supply the amount of such deficiency and shall first apply the same to the payment of the cost of the Work before calling upon Lessor for disbursement of the insurance proceeds as herein provided.

(c) Under no circumstances shall Lessor be obligated to make any payment, disbursement or contribution toward the cost of the Work other than making available such proceeds. If Lessee shall fail to comply with any of the provisions of subsections (a) or (b) above, Lessor shall notify Lessee of such default and thereafter, in addition to any other remedies Lessor may have, may refuse to make any payment hereunder and may apply such proceeds in any order Lessor may in his sole discretion elect, toward the payment of all or any part of the cost of the Work or the discharge of any obligation of Lessee under this Lease.

9. Net Lease.

The intention of the parties is that this Lease shall be absolutely net to Lessor; Lessee shall pay all costs, expense, investments and other outlays with respect to taxes, assessments, insurance, repairs, maintenance, replacements and all other aspects of the Premises during the Term. In some instances said costs and expenses shall be by way of Lessee's reimbursement of Lessor as hereinafter provided. All of such costs, expenses, investments or other outlays shall be deemed to be additional rent under this Lease and part of the above-defined Rent.

10. Indemnity.

Lessee agrees to indemnify and save harmless the Lessor against all claims relating to damage to persons or property by reason of Lessee's use or occupancy of the Premises, and all expenses incurred by Lessor with respect thereto, including but not limited to attorney's fees and court costs.

11. Governmental Orders.

Lessee agrees, at its own expense, promptly to comply with all requirements of any legally constituted public authority.

12. Condemnation.

If the whole of Premises, or such portion thereof as will make Premises unusable for the purposes herein leased, be condemned or taken by any legally constituted authority for any public use or purpose, then in either of such events this Lease shall terminate from the time when possession thereof is taken by public authorities, and rent and other charges hereunder shall be accounted for as between Lessor and Lessee as of that date. Such termination, however, shall be without prejudice to the rights of both Lessor and Lessee to recover compensation and damage caused by condemnation from the condemnor.

13. Removal of Personal Property.

Lessee may (if not in default hereunder) prior to, and within ten (10) days after the expiration of the term hereof, remove all personal property which Lessee has placed in the Premises, provided Lessee repairs all damage to the Premises caused by such removal, and shall leave the Premises in good and clean condition and as in the commencement of this Lease, normal and reasonable wear and tear excepted. Lessee may not remove any other property from the Premises without prior written approval from Lessor.

14. Cancellation of Lease.

In the event the Lessee shall default in the payment of any rent or any additional rent, when due, and fails to cure said default within ten (10) days after receipt of written notice thereof from Lessor; or if Lessee shall default in any other obligation under this Lease, and shall fail to cure said default within thirty (30) days after receipt of written notice thereof from Lessor, or if Lessee is adjudicated bankrupt; or if a permanent receiver is appointed for Lessee's property and such receiver is not removed within sixty (60) days after written notice from Lessor to Lessee to obtain such removal; or if, whether voluntarily or involuntarily, Lessee takes advantage of any debtor relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, or may be, reduced or payment

thereof deferred; or if Lessee makes an assignment for benefit of creditors; or if Lessee's effects should be levied upon or attached under process against Lessee, which is not satisfied or dissolved within thirty (30) days after written notice from Lessor to Lessee to obtain satisfaction thereof; or if Lessee shall be in default of any of Lessee (or Lessee's affiliates) obligations or failure to comply with the terms, covenants or promises of that certain Franchise Agreement between and/or to Primrose School Franchising Company (Franchisor), and if Franchisor gives Lessor written notice by certified mail of such default then and in any of said events, Lessor, at its option, may at once, or at any time during the continuance of such default or condition, terminate this Lease by written notice to Lessee; whereupon this Lease shall end. If Lessee shall be in default in performing any of the terms or provisions of this Lease, other than the provisions requiring the payment of rent or additional rent, and shall fail to cure any such default within thirty (30) days (or such longer period as may be reasonably necessary) after receipt of written notice of default from the other party, Lessor may perform or procure the performance of the obligation of Lessee and all costs incurred in curing such default, including reasonable attorney's fees, shall be payable on demand. After an assignment of this entire Lease, the occurring of any of the foregoing defaults or events shall affect this Lease only if caused by, or happening to, the assignee. Upon such termination by Lessor, Lessee will at once surrender possession of the Premises to Lessor and upon demand of Lessor, will remove all of Lessee's effects therefrom; and Lessor may forthwith re-enter the Premises and repossess Lessor thereof, and remove all persons and effects therefrom, using such force as may be necessary without being guilty to trespass, forcible entry, detainer or other tort. All notices required hereunder shall be given to Franchisor as provided in paragraph 22 herein.

15. Survival of Lessee's Obligations; Damages.

(a) No expiration or termination of this Lease pursuant to Paragraph 14 or by operation of law or otherwise shall relieve Lessee of its liabilities and obligations hereunder, all of which shall survive such expiration or termination.

(b) In the event of any such expiration or termination, or reletting pursuant to Paragraph 14, Lessee will pay to Lessor all rent, additional rent and other sums required to be paid by Lessee up to the time of such expiration, termination or repossession, and thereafter Lessee, until the end of what would have been the term hereof in the absence of such expiration or termination, and whether or not the Premises or any part thereof shall have been relet, shall be liable to Lessor for, and shall pay to Lessor, as liquidated and agreed current damages for Lessee's default, (a) all rent, additional rent and other sums which would be payable under this Lease by Lessee in the absence of such expiration or termination, less (b) the net proceeds, if any, of any reletting effected for the account of Lessee pursuant to Paragraph 15 after deducting from such proceeds all Lessor's expenses in connection with such reletting (including, without limitation, all repossession costs, brokerage commissions, legal and accounting expenses, attorney's fees and expenses, employees' expenses, promotional expenses, reasonable alteration costs, and expenses of preparation for such reletting). Lessee will pay such current damages monthly on the payment dates applicable in the absence of such expiration or termination and Lessor shall be entitled to recover the same from Lessee on each such date.

(c) At any time after any such expiration or termination, or any reletting pursuant to Paragraph 14, whether or not Lessor shall have collected any current damages as aforesaid, Lessor shall be entitled to recover from Lessee and Lessee will pay to Lessor on demand, as and for liquidated and agreed final damages for Lessee's default and in lieu of all current damages beyond the date of such demand, an amount equal to the excess, if any, of (a) all rent, additional rent and other unpaid sums thereof payable or which might become payable under this Lease during the then unexpired portion of the term thereof in the absence of such expiration, termination or repossession over (b) the then fair net rental value of the Premises for the same period. Upon the payment of such final damages, this Lease, if not already terminated, shall be deemed terminated. If any statute or rule of law shall validly limit the amount of such liquidated final damages to less than the amount above agreed upon, Lessor shall be entitled to the maximum amount allowable under such statute or rule of law.

16. Reletting by Lessor.

If at any time Lessor is entitled to terminate this Lease pursuant to Paragraph 14, Lessor may, at Lessor's option, without prejudice to Lessor's right thereafter to terminate this Lease, enter upon and rent the Premises without advertising and by private negotiations and for any term and upon such rentals and other conditions as Lessor may determine.



17. Entry for Carding, Etc..

Lessor may card the Premises "For Rent" or "For Sale" thirty (30) days before the expiration or termination of this Lease. Lessor may enter the Premises at reasonable hours to exhibit same to prospective purchasers or tenants and to make repairs or to make repairs to Lessor's adjoining property, if any.

18. Quiet Enjoyment.

Lessor covenants that so long as Lessee pays the rent and any additional rent hereunder and performs and observes all of the other covenants and provisions hereof, Lessee shall quietly enjoy the Premises for the term of this Lease.

19. Holding Over.

If Lessee remains in possession of Premises after expiration or termination of the term hereof, with Lessor's acquiescence and without any express agreement of the parties, Lessee shall be a tenant at will at the rent in effect at the end of this Lease, and there shall be no renewal of this Lease by operation of law.

20. Rights Cumulative.

All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative but not restrictive of those given by law or otherwise provided in this Lease.

21. Mortgage.

Lessor shall have the right to place a mortgage or other security instrument against the Premises as security for a loan to be obtained by Lessor. Lessee agrees to execute such documents as may be reasonably required by the lender making such loans including specifically, but without limitation, such documents as are necessary to make this Lease and the rights of Lessee hereunder subject and subordinate to such mortgage or security instrument and any and all renewals, modifications, consolidations, replacements, extensions or substitutions thereof. In addition, if a security instrument for a loan is placed on the Premises, the Lessee, Lessor and lender shall execute Primrose Documents in the same form as those required by Primrose School Franchising Company, Franchisor, in its Offering Circular material presented to Lessee, or its assigns, as a requirement for the execution of its Franchise Agreement. Those agreements are the Subordination Agreement and the Non-Disturbance and Attornment Agreement.

22. Notices.

Any notice given pursuant to this Lease shall be in writing and sent by facsimile or registered mail to:

LESSOR: A J ASSOCIATES HOLDINGS, L.L.C.,  
Attn: Mr. Augustine Angrisano and Ms. Joann Angrisano  
1030 Watermill Circle  
Birmingham, Alabama 35242

LESSEE: EARLY EDUCATIONAL CONCEPTS, INC.  
Attn: Mr. Augustine Angrisano and Ms. Joann Angrisano  
1030 Watermill Circle  
Birmingham, Alabama 35242

FRANCHISOR: PRIMROSE SCHOOL FRANCHISING COMPANY  
Attn: Ms. Jo Kirchner  
199 S. Erwin Street  
Cartersville, GA 30120

Lessee, Lessor or Franchisor may change their address for notice hereunder by giving the other party hereto written notice of such change in the manner provided herein.

23. Waiver of Rights.

No failure of Lessor to exercise any power given Lessor hereunder, or to insist upon strict compliance by Lessee with Lessee's obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's right to demand exact compliance with the terms hereof.

24. No Set Off.

Lessee shall have no right to withhold rent or to refuse to perform any other obligation owed to Lessor under this Lease, because of disputes which Lessee may have arising out of the Primrose School franchise and other agreement between Primrose School Franchising Company and Lessee.

25. Time of Essence.

Time is of the essence of this Lease.

26. Definitions.

"Lessor" as used in this Lease shall include the herein named Lessor and said Lessor's heirs, representatives, successors and assigns in title to the premises. "Lessee" shall include the herein named Lessee and said Lessee's heirs, representatives, successors and assigns. "Franchisor" shall mean Primrose School Franchising Company and its successors and assigns. "Franchise Agreement" shall mean that certain Primrose School Franchising Company Franchise Agreement of even date between Franchisor and Lessee as Franchisee. "Primrose Documents" shall mean collectively that certain Collateral Assignment of Tenant's Interest in Lease by and between Lessor, Lessee and Franchisor, that certain Non-Disturbance and Attornment Agreement to which Lessor and Lessee are a party and a Subordination Agreement of even date and also a Memorandum of Option between Franchisee and Franchisor of even date. (Collectively "Primrose Documents")

27. Assignment Subletting and Franchise Agreement and Primrose Documents, Information and Deidentification.

(a) It is acknowledged that the within Lease is subject to the terms of the Primrose Documents. It is specifically acknowledged by Lessor and Lessee that all rights and remedies afforded either Lessor and Lessee under this Lease are subject to the rights afforded to Primrose School Franchising Company either as Franchisor or as Assignee of Lessee's interest in the Lease and to the extent that the terms of the within Lease conflicts with the terms of the Franchise Agreement and/or the Primrose Documents the terms of such Franchise Agreement and the Primrose Documents shall control. Except as specifically provided in such in the Primrose Documents and the Franchise Agreement, Lessee or its successor in interest may not sub-lease the premises, or any part thereof to others, or assign this Lease of any Lease hereunder without the prior written consent of Lessor and Franchisor.

(b) Lessee does specifically authorize Lessor to provide Primrose School Franchising Company with any and all information that it has relating to the operation of the Primrose Facility located at the Premises including specifically, but not limited to, all revenue figures.

(c) Lessor and Lessee agree that if the Franchise Agreement is terminated for any reason, and Franchisor or its assigns does not take possession of the Premises pursuant to the terms of the Collateral Assignment of Tenant's Interest in Lease, Lessor and Lessee jointly and severally agree to take all actions necessary to remove all signs, symbols, logos, marks or devices associated with the primrose System (reference to the Franchise Agreement being hereby made for a definition of the term "System"), and Lessor and Lessee further agree to remove all distinctive physical and structural features identifying the System.

28. Entire Agreement.

This Lease contains the entire agreement of the parties hereto and no representation, inducement, promise or agreement, oral or otherwise, between the parties, not embodied herein, shall be of any force or effect.

29. Captions.

The captions provided in this Lease are for reference purposes only and shall not in any way affect the meaning, content or interpretation hereof.

30. Severability.

If any provision of this Lease or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid or unenforceable, the validity and enforceability of the remainder of this Lease, and of the application of any such circumstances, shall not be affected thereby, it being intended that all rights, powers and privileges of Lessor hereunder shall be enforceable to the fullest extent permitted by law.

31. Option to Extend Lease.

Any option for Lessee to extend this Lease is expressly conditioned upon the absence of the existence of any default by Lessee, or its assigns or other grounds for termination of this Lease specified in Paragraph 14 hereof at the



time of the exercise of such option. If the Lessee is not then in default, with the Lessor, its assigns and/or Primrose School Franchising Company (Franchisor), under the terms of this Lease, Lessee shall have two (2) individual, ten (10) year options to extend the term of this Lease on the same terms and conditions as the original term hereunder except that the annual Rentals during the ten (10) year option periods shall be stated in Exhibit "B" to this Lease Indenture. Lessee shall give Lessor a minimum of six-months prior written notice of the extension of this Lease if it desires the such extensions.

32. Option to Purchase.

Lessee shall have the option to purchase the Premises at any time during the term of this Lease upon written notification to the Lessor; provided, however, that Lessee's right to purchase the premises is expressly conditioned on the absence of the existence of any default by Lessee or other ground for termination of this lease specified in Paragraph 14 hereof at the time of the exercise of such option and at the time when such purchase should take place. Closing of said sale shall be on or before sixty (60) days after written notification to the Lessor and shall be pursuant to the following terms and conditions:

- (a) The Premises shall be conveyed free and clear of all liens and other title defects, except for easements, restrictions, and rights of way of record.
- (b) Lessee's counsel shall have the thirty (30) day period prior to closing to examine the title to the Premises;
- (c) Lessor shall take action to correct any title defects, other than easements, restrictions, and rights of way of record. Lessee may refuse to close if the said title defects are not corrected at or by the time of closing;
- (d) The purchase price shall be that price specified as the Option Price in paragraph XVIII( i ) of the Franchise Agreement, reference to which is hereby made. Such price shall be determined as therein specified.
- (e) Lessor shall pay the state transfer tax on the warranty deed, and Lessee shall be responsible for all other closing costs.
- (f) Such other provisions as both parties agree to.

Rights and duties of the parties with respect to the Premises under this Lease shall, in the event of Lessee exercising its options to purchase under this paragraph, continue until the time of closing.

33. Right of First Refusal.

(a) If Lessor, during the lease term, or any extension thereof, elects to sell the Premises, Lessee shall have the right of first refusal to purchase the same at the Option Price specified in paragraph 32. If Lessor elects to sell the Premises Lessor shall give written notification of such fact to Lessee and Lessee shall have thirty (30) days after such notice to elect whether to purchase such Premises. If Lessee elects to purchase such Premises, Lessee shall give written notice to Lessor within such thirty (30) day period and Closing shall take place within sixty (60) days after said notice. Paragraph 32 (a)-(f) shall apply in regard to Closing.

(b) In regard to the Option under paragraph 32 and the Right of First Refusal in this paragraph it is acknowledged the Lessee shall have the right to assign its rights under such provisions to an affiliate of Franchisee since the Franchise Agreement prohibits Franchisee-Lessee from owning the Leased Premises.

IN WITNESS WHEREOF, the parties herein have hereunto set their hands and seals the day and year first above written.

Steve & Marge

Witness

Carlene H. Palmer

Notary Public

Commission Expires

{SEAL}

NOTARY PUBLIC STATE OF ALABAMA AT LARGE

MY COMMISSION EXPIRES: May 28, 2003

BONDED THRU NOTARY PUBLIC UNDERWRITERS

LESSEE:

EARLY EDUCATIONAL CONCEPTS, INC.,

an Alabama corporation, d/b/a

Primrose School of Meadowbrook

By: Augustine Angrisano

Name: Augustine Angrisano

Title: President

{CORPORATE SEAL}

LESSOR:

A J ASSOCIATES HOLDINGS, L.L.C.,

an Alabama limited liability company

By: Augustine Angrisano

Name: Augustine Angrisano

Title: Manager

{CORPORATE SEAL}

Shirley H. Ellis

Witness

Carlene H. Palmer

Notary Public

Commission Expires

{SEAL}

NOTARY PUBLIC STATE OF ALABAMA AT LARGE

MY COMMISSION EXPIRES: May 28, 2003

BONDED THRU NOTARY PUBLIC UNDERWRITERS



# EXHIBIT A

## LEGAL DESCRIPTION OF PROPERTY PRIMROSE SCHOOL OF MEADOW BROOK

Lot 11A-2, according to Meadow Brook Corporate Park South, Phase II, Resurvey No. 9, being a resurvey of Lot 11A-1 (being a resurvey of Lots 11-A and 11-B) as recorded in Map Book 28, Page 59 in the Office of the Judge of Probate of Shelby, County, Alabama.

**EXHIBIT B**

**RENTAL**

**PRIMROSE SCHOOL OF MEADOWBROOK**

Fair market rental - and if monthly rental cannot be agreed to, then such fair market rental shall be determined in accordance with the provisions of paragraph 5 (c) of the Collateral Assignment of Tenant's Interest in Lease of even date from A J ASSOCIATES HOLDINGS, L.L.C., an Alabama limited liability company, (Lessor) to Primrose School Franchising Company.



**EXHIBIT B**

**RENTAL**

**PRIMROSE SCHOOL OF MEADOWBROOK**

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**EXHIBIT C**

**EQUIPMENT LIST**

**PRIMROSE SCHOOL OF MEADOWBROOK**

All equipment required under Primrose School Franchising Company Franchising Agreement.



**EXHIBIT D**

**SITE PLAN**

**PRIMROSE SCHOOL OF MEADOWBROOK**

**EXHIBIT E**

**PLAYGROUND EQUIPMENT**

**PRIMROSE SCHOOL OF MEADOWBROOK**

**Inst # 2001-27029**

**07/02/2001-27029  
09:11 AM CERTIFIED**

**SHELBY COUNTY JUDGE OF PROBATE  
DEC 18 77.00**