

CHALLENGER LEARNING CENTER AGREEMENT

This Challenger Learning Center Agreement ("Agreement") is entered into as of September 27, 2001 between the Challenger Learning Center of New York's Capital Region, hereinafter referred to as the "Learning Center," and Challenger Center for Space Science Education, 1250 North Pitt Street, Alexandria, VA 22314, a Texas not for profit organization [501(c)(3)] hereinafter referred to as "Challenger Center."

I. SALE OF SIMULATOR AND RELATED HARDWARE

1. Challenger Center will fabricate or arrange for the fabrication of one Learning Center Simulator (the "Simulator") at a purchase price of \$725,000 (U.S. dollars) (the "Purchase Price"). The Purchase Price shall be f.o.b. Lorton, Virginia. (The Challenger Learning Center of New York's Capital Region is responsible for the cost of shipping the Simulator from Lorton, Virginia to its destination point in Schenectady, NY.) The Simulator will be delivered complete with operating systems and related software necessary to run one (1) of Challenger Center's licensed mission simulations chosen by the Learning Center prior to installation. Installation of the Simulator will be carried out according to the scope of work described in Schedule A of this Agreement.

2. a. Upon execution of this Agreement, the Learning Center shall remit a fifty-thousand dollar (\$50,000.00) Reservation Fee. The Reservation Fee is refundable to the Learning Center less any costs incurred by Challenger Center in the development of the project if the project does not move forward.

b. Upon receipt of the Reservation Fee Challenger Center will adjust the purchase price to reflect the \$50,000 Reservation Fee. The Adjusted Purchase Price is \$675,000. The Learning Center shall make a 40% down payment of the Adjusted Purchase Price in U.S. dollars upon notice to proceed with fabrication; an additional 30% of the Adjusted Purchase Price shall be due from the Learning Center upon its inspection and approval of the Simulator at the assembly facility of the fabricator; an additional 20% of the Adjusted Purchase Price shall be due upon the earlier of: (i) the date indicated for completion of the installation of the Simulator at the Learning Center described in Schedule B, or (ii) the twentieth day following the Delivery Date (as defined in Schedule B); and the remaining ten percent (10%) shall be paid upon final acceptance ("Final Acceptance") of the Simulator upon certification by Challenger Center and the Learning Center that the Simulator, operating systems, related software and curriculum materials are functioning in accordance with specifications. The Learning Center shall have no more than thirty (30) working days after the Installation Completion Date (as defined in Schedule B) to confirm that the Simulator, operating systems, related software and curriculum materials are in working order. If the Simulator is not installed within the date set forth in Schedule B, Challenger Center shall be permitted to subject the Learning Center to a standard price increase for the cost of the Simulator, not to exceed 10% per calendar year.

3. As security for payment in full of the Purchase Price, the Learning Center hereby grants Challenger Center a security interest in the Simulator in accordance with Article 9 of the Uniform Commercial Code. This security interest shall terminate 120 days after payment in full of the Purchase Price.

4. a. Challenger Center hereby warrants to the Learning Center, subject to paragraph 4 b, that the Simulator will be free of defects in materials and workmanship for a period of one year from acceptance by the Learning Center. The sole responsibility of Challenger Center under the foregoing warranty will be to remedy promptly any such defects which are brought to its attention during such one year period. **THE FOREGOING WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY PROVIDED BY CHALLENGER CENTER, AND ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXPRESSLY DISCLAIMED.**

b. With respect to electronic or other pre-manufactured components which are purchased for inclusion in the Simulator, Challenger Center hereby assigns the Learning Center all applicable manufacturer's warranties, and the Learning Center agrees that it shall look solely to such manufacturers for repair or replacement of such components after the one year period. Challenger Center agrees to assist the Learning Center in processing any warranty claims against such manufacturers.

c. Challenger Center will maintain the integrity of the software, as installed and updated by the Challenger Center through technical support and access to the Simulator's computer software through dedicated telephone and data lines to be installed by the Learning Center. The Learning Center agrees to maintain dedicated telephone and data lines and provide accessibility to the Simulator's network of computer software for purposes of making modifications, alterations, including additions, or enhancements to the overall software that is used to run all mission simulations in the Simulator. In addition, Challenger Center will request prior approval from the Learning Center at least three days in advance of such changes indicated above. Challenger Center can not maintain the integrity of software that is developed or modified by the Learning Center or other learning centers in the network without its prior written consent and approval.

5. The Learning Center Simulator will be available for inspection at the location of the assembly facility on the date set forth on the attached Schedule B. Upon approval of the Simulator by the Learning Center, Challenger Center shall promptly arrange for delivery and installation of the Simulator at the site designated by the Learning Center in accordance with the dates set forth in Schedule B. In the event that the Learning Center requests any changes to the dates set forth in Schedule B, the original payment schedule set forth in paragraph 1.2. will not be affected, and all payments will be due on the dates specified herein, and the Learning Center will pay or reimburse Challenger Center for all costs and expenses incurred by Challenger Center in connection with such changes. In the event that Challenger Center delays any of the dates set forth in Schedule B, the payment schedule will be revised accordingly.

II. LICENSE OF NAME AND MISSION SIMULATIONS AND EDUCATIONAL CURRICULUM

1. The Learning Center is hereby granted a non-exclusive license (the "License") regarding (i) the use and display of the various logos and designs of Challenger Center, all subject to approval by the Challenger Center and (ii) the use of mission simulations software and all related educational materials created and distributed or sold to the Learning Center by or through Challenger Center. In addition, the Learning Center shall refer to itself as "*Challenger Learning Center of New York's Capital Region*" with no additions or modifications thereto without the prior written consent of Challenger Center.
2. To renew the License each year, the Learning Center will pay to Challenger Center a license fee (the "License Fee"), established by Challenger Center for each year of the effectiveness of the License ("each, a License Year") on the terms hereinafter set forth, commencing as of January, 2004. The License Fee shall be the standard annual License Fee charged to comparable members of the Learning Center Network on the date of the Learning Center's first public mission. For each full License Year thereafter during which this Agreement is effective, Challenger Center shall be permitted to increase the License Fee by not more than 15% per each License Year. Failure to pay the License Fee shall terminate the License in accordance with section II, paragraph 6 in the Agreement.
3. Payment of the License Fee will entitle the Learning Center to participate as a member of the Challenger Learning Center Network (the "Learning Center Network") and to have access to educational materials, program updates, made available by Challenger Center for use in learning centers after the effectiveness of this Agreement. The Learning Center shall nominate a senior Flight Director who will be responsible for maintaining operational standards in all mission simulations and, in addition, ensure that at least one Flight Director trained by Challenger Center be present for all missions in which members of the public are engaged in an educational experience. The Learning Center further agrees to send one or more Flight Directors to participate in at least Flight Directors Meetings convened by Challenger Center each calendar year.
4. For the benefit of the Network, the Learning Center agrees to make freely available to Challenger Center and to all other learning centers affiliated with the Challenger Center all modifications and alterations, including additions or enhancements it may develop with respect to the Simulator and all materials subject to the License, provided, in all events such modifications and alterations are made in accordance with part II, paragraph 5 of this agreement.

5. a. The Learning Center hereby acknowledges and agrees that the name "Challenger Center" and all related logos and designs, the design of the Simulator and related hardware and software operating systems, all mission simulations, educational materials and promotional materials distributed or sold to the Learning Center by or under the direction of Challenger Center, and all materials related to the solicitation of the Learning Center by Challenger Center preceding this Agreement (collectively, the "Challenger Center Materials") shall remain the exclusive property of Challenger Center and are or will be distributed or sold to the Learning Center only as a license of such Challenger Center Materials. The Learning Center hereby agrees that it will neither (1) modify or alter any of the Challenger Center Materials without the written permission of Challenger Center, nor (2) copy, sell, distribute or otherwise appropriate for its own use any such Challenger Center Materials, except as permitted hereunder in connection with the operations of the Simulator.

b. The Learning Center shall obtain written permission from Challenger Center regarding the use of the Challenger Center logo and any printed materials that reference the Challenger Center name and mission statement prior to the publication of such items.

6. a. The Learning Center recognizes that it is a purpose of Challenger Center to foster space science education of all children, and accordingly, the Learning Center shall pursue relationships with inner city schools, centers of minority education and other underrepresented populations. In order to maintain a high-quality educational experience for all participants serviced by the Learning Center, the Learning Center agrees to adopt and adhere to the "Standards of Excellence" attached hereto as Appendix A.

b. If the Learning Center does not operate the Simulator in accordance with the "Standards of Excellence" as applicable to all Learning Centers and promulgated from time to time by Challenger Center, Challenger Center will have the right to terminate the License, to require the immediate return of all Challenger Center Materials, and to revoke all rights of the Learning Center to hold itself out as affiliated with Challenger Center. Challenger Center shall give written notice to the Learning Center of the exercise of this right to terminate the License, specifying the reasons for termination, in which event the Learning Center shall have 60 days to cure the reasons for termination to the satisfaction of Challenger Center. If the reasons for termination exist after the end of the 60 day cure period, Challenger Center may declare the Agreement and the License terminated immediately. Upon termination of this Agreement, Challenger Center shall also have the right to repurchase the Simulator for the Purchase Price less 10% per calendar year. Challenger Center shall exercise this right of repurchase by the delivery of cash or cash equivalent to the Learning Center for the repurchase price, and the Learning Center shall afford Challenger Center during regular business hours access to the facility housing the Simulator for the purpose of disassembly and removal of the Simulator.

III. RECORDS, REPORTING, AND ACCESS

1. The Learning Center shall maintain complete and accurate records, of the utilization of and attendance and evaluation information at the Simulator. The Learning Center shall provide reports as requested by Challenger Center and as provided by all other Learning Centers on a monthly basis not later than 15 days following the end of the calendar month as to which the report relates, on a form supplied or approved by Challenger Center and similar to that used by all other Learning Centers.
2. The Learning Center will make available the use of the Simulator to Challenger Center for purposes of evaluation and promotion upon the request of Challenger Center at such times as are mutually agreed upon. All evaluation instruments generated in connection with evaluations shall be promptly returned to Challenger Center.
3. Challenger Center shall have right of access to the Simulator at all reasonable times. This right of access shall be extended to external evaluation staff on request.

IV. MISCELLANEOUS PROVISIONS

1. The Learning Center hereby agrees to operate the Simulator in a prudent and careful manner consistent with sound museum or public facility management practices.
2. The Learning Center hereby agrees to maintain comprehensive general liability insurance in an amount of at least \$1,000,000 (U.S. dollars) per occurrence, which amount shall be increased upon written request of Challenger Center by not more than 10% per each calendar year during which this Agreement is effective. The Learning Center will deliver to Challenger Center each year by the anniversary of the effective date of this Agreement a certificate from the insurance carrier acknowledging payment in full of one year's premium and naming Challenger Center as co-insured.
3. The Learning Center agrees to indemnify and hold Challenger Center harmless against any loss, damage, expense (including, without limitation, legal and other related fees and expenses), liability or claim arising out of the operation or maintenance of the Simulator by the Learning Center. Challenger Center hereby agrees to advise the Learning Center of any claim potentially resulting in a claim for indemnification hereunder promptly after receipt of notice thereof, and the Learning Center shall have the option, to be exercised within 20 days of receipt of such notice, of defending such claim at its expense with council reasonably acceptable to Challenger Center. The indemnification contained in this paragraph shall survive the term of this Agreement.

4. Challenger Center agrees to indemnify and hold the Learning Center harmless against any loss, damage, expenses (including, without limitation, legal and other related fees and expenses), liability or claim arising out of the assembly or installation of the Simulator or defects in the design of the Simulator existing at the date of acceptance of the Simulator by the Learning Center. The Learning Center hereby agrees to advise Challenger Center of any claim potentially resulting in a claim for indemnification hereunder promptly after receipt of any notice thereof, and Challenger Center shall have the option, to be exercised within 20 days of receipt of such notice, of defending such claim at its expense with counsel reasonably acceptable to the Learning Center. The indemnification contained in this paragraph shall survive the term of this Agreement.

5. Challenger Center shall defend and indemnify the Learning Center against any and all claims and damages pertaining to patent, trademark or copyright infringement, or to violation of any trade secret, license, or proprietary rights arising from the intended use of the licensed services by the Learning Center.

V. GENERAL

1. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach of any provision thereof, shall be settled by arbitration to be held in the Commonwealth of Virginia in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

2. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the purchase and sale of the Simulator and the License of the Challenger Center Materials and supersedes any prior agreements between the parties, whether oral or written.

3. Amendments. Any amendment to this Agreement shall be made in writing and signed by both parties hereto.

4. Assignments. Neither party to this Agreement may assign or transfer its interests in or obligations under this Agreement without the prior written consent of the other party.

5. Enforceability. If any provision of this Agreement shall be found by a court with proper jurisdiction to be invalid or unenforceable, in whole or in part, then such provision shall be deemed to be modified, narrowed, or restricted only to the limited extent and in the manner necessary to render the same valid and enforceable, as the case may require, and this Agreement shall be construed and enforced to the maximum extent permitted by law as if such provision had been originally incorporated herein as so modified, narrowed, or restricted.

6. Waivers. A waiver by one party of any breach of or failure to comply with any provision of this Agreement by the other party shall not be construed as a waiver of any other provision, or a waiver of a breach of any other provisions, of this Agreement.

7. Inability to Perform. Challenger Center shall not be responsible for any performance or delay in performance of any of the requirements set forth in this Agreement due to any law, ordinance, regulation, order, judgment, or decree, any earthquake, flood, fire, or other act of God, any accident or casualty, any lockout, boycott, strike, or other labor controversy, and riot, civil disturbance, or act of war or armed conflict, any act of the Learning Center, any act of embargo or delay of a common carrier, or any other inability to obtain sufficient equipment, labor, transportation, or other required commodity or service beyond the control of Challenger Center.

8. Counterparts. This Agreement may be separately executed in several counterparts, all of which together shall constitute one Agreement, notwithstanding that all signatories have not signed the same counterpart.

9. Governing Law. The parties agree that this Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Virginia which would otherwise apply to contracts made and performed therein.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date set forth above.

CHALLENGER CENTER FOR SPACE SCIENCE EDUCATION

By: Vance R. Ablott

Name: Vance Ablott

Title: President

Date: Oct. 29, 2001

CHALLENGER LEARNING CENTER OF NEW YORK'S CAPITAL REGION

By: Norman L. Miller

Name: NORMAN L. MILLER

Title: PRESIDENT

Date: OCT 19, 2001