



Norman Public Schools
Minutes of the CANCELLED: Special Meeting of the
Board of Education

Dr. Joseph N. Siano Administrative Services Center Room A
131 S Flood Avenue
Norman, OK 73069

Tuesday, November 7, 2023

The meeting was called to order at 2:30 PM

- I. **Call to Order and Establish a Quorum**
- II. **Pledge of Allegiance**
- III. **Agreements with the University of Oklahoma for the creation of a facility for the Oklahoma Aviation Academy** (Teaching and Learning) Presented by Justin Milner and Presented by Sean Reiger, Reiger Law Group, PLLC
- IV. **Adjournment**

Dirk O'Hara, Board of Education President

Cathy Sasser, Board Clerk

(Seal)

DEVELOPMENT AGREEMENT

between

THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA,

a constitutionally created state entity

organized under the laws of the State of Oklahoma, University

and

INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA.,

a.k.a.

NORMAN PUBLIC SCHOOLS, NPS

dated as of

_____, 2023

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THIS DOCUMENT IS IN ALL RESPECTS SUBORDINATE AND SUBJECT TO THE RIGHTS AND REMEDIES AND TERMS AND CONDITIONS CONTAINED IN THE FINANCING OBLIGATIONS. THE TRUSTEE BANK SHALL HAVE THE NECESSARY AUTHORITY TO ENTER INTO THE PREMISES AND OPERATE, LEASE, OR SELL THE FACILITY AND IMPROVEMENTS AND RIGHTS UNDER THE GROUND LEASE IN ORDER TO PROTECT THE TRUSTEE BANK'S INTEREST IN THE PREMISES.

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (the “**Agreement**”), dated as of the ____ day of _____, 2023 (the “**Commencement Date**”), is entered into between THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, a constitutionally-created entity organized under the laws of the State of Oklahoma, (“**University**”) and INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA., a.k.a. NORMAN PUBLIC SCHOOLS (“**NPS**”, and, together with University, each a “**Party**” and collectively referred to herein as the “**Parties**”).

RECITALS:

WHEREAS, NPS wishes to establish an aviation high school program, the Oklahoma Aviation Academy (the “**Academy**”), at the University of Oklahoma Max Westheimer Airport to initiate an early introduction to young men and women of the many benefits of careers in the aviation industry;

WHEREAS, the University wishes to cooperate in the plan to expand and accelerate the formal education related to the aviation industry and University programs;

WHEREAS, the University and NPS have entered into a long term Ground Lease, of even date herewith (the “**Ground Lease**”), in which NPS acquired long term possession, control, and occupancy of the Land as herein described;

WHEREAS, NPS desires to plan, develop, and construct Improvements on the Land in collaboration and cooperation with the University in accordance with the terms in this Agreement;

WHEREAS, NPS plans to complete the Improvements and subsequently operate Facilities that will accommodate the Academy; and

WHEREAS, the Parties intend for this Agreement to set forth the terms upon which the Facilities and Academy will be developed on the Land.

WITNESSETH:

In consideration of the covenants made herein, the sufficiency of which is acknowledged, University and NPS, for themselves, and their permitted successors and assigns, hereby agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.01 Definitions. The following terms, as used in this Agreement, shall have the meanings set forth below:

“**Airport**” shall mean the University of Oklahoma Max Westheimer Airport and the Airport Property.

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“**Airport Property**” shall mean that certain tract of real property owned by University and located in the City of Norman, County of Cleveland, State of Oklahoma and as generally depicted on **EXHIBIT A** attached hereto, upon which the Airport is located.

“**Alteration**” or “**Alterations**” shall mean any alterations, replacements, or remodeling of any Improvements upon the Premises.

“**Approvals**” shall mean all approvals of Governmental Authorities required for the construction of the Facility and for any Alteration, as applicable, including, but not limited to approval of the FAA. The parties understand and agree that this Agreement is conditional and contingent upon NPS receiving all necessary Approvals, such as but not limited to all Approvals from all Governmental Authorities, the FAA, the Department of Education, and the Airport administration.

“**Business Day**” shall mean any day that is not a Saturday, Sunday, or a day observed as a holiday by either the State or federal government.

“**Certificate of Occupancy**” shall mean a certificate issued by the appropriate Governmental Authority permitting the occupancy of the Facility. For purposes hereof, a temporary Certificate of Occupancy shall be deemed to be a Certificate of Occupancy but shall be replaced with a permanent Certificate of Occupancy before the expiration of such temporary Certificate of Occupancy.

“**Change Order**” shall have the meaning set forth in **Section 4.06** hereof.

“**Commencement Date**” shall have the meaning set forth in the first paragraph of this Agreement.

“**Commencement of Construction**” shall mean the date on which on-site construction of the Facility shall commence, including any excavation or pile driving but not including soil analysis, test borings, test pilings, surveys, environmental studies, and similar preconstruction activities.

“**Completion Date**” shall mean twenty four (24) months following the Construction Commencement Date, subject to Unavoidable Delays.

“**Construction Agreement**” shall mean that certain agreement to be entered into with Contractor for the construction of the Facility. A copy of the form of the Construction Agreement will be provided as it becomes available for review.

“**Construction Commencement Date**” shall mean (1) year following the Commencement Date, subject to Unavoidable Delays.

“**Contract Documents**” shall have the meaning set forth in **Section 4.04** hereof.

“**Contractor**” shall mean the company that shall enter into the Construction Agreement with NPS for the construction and development of the Facility.

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"Declaration" shall mean the Declaration of Covenants, Conditions, and Restrictions made and entered into by and between the University and NPS of even date herewith.

"Environmental Laws" shall mean all Laws: (a) relating to the environment, human health, or natural resources; (b) regulating, controlling, or imposing liability or standards of conduct concerning any Hazardous Materials; (c) relating to Remedial Action; and (d) requiring notification or disclosure of releases of Hazardous Materials or of the existence of any Hazardous Materials on or at the Premises, as any of the foregoing may be amended, supplemented, or supplanted from time to time. Environmental Laws shall include, but not be limited to, the following: the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; the Clean Air Act, 42 U.S.C. Section 7401 *et seq.* For purposes of Environmental Laws, to the extent authorized by law, NPS is and shall be deemed to be the responsible party, including without limitation, the "owner" and "operator" of the Facility and the "owner" of all Hazardous Materials brought on the Premises by NPS, its agents, employees, contractors, or invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom. Similarly, to the extent authorized by law, University is and shall be deemed to be the responsible party, including without limitation, the "owner" and "operator" of the Land and the "owner" of all Hazardous Materials to the extent such are brought on the Premises by University, its agents, employees, contractors, or invitees (other than NPS and parties claiming by, through or under NPS), and the wastes, by-products, or residues generated, resulting, or produced therefrom.

"Environmental Liabilities" shall mean any loss, cost, expense, claim, demand, liability, obligation, action, or other responsibility of whatever kind, based upon or required under Environmental Laws or otherwise relating to: (a) any environmental, health, or safety matter or condition (including, but not limited to, on-site or off-site pollution or contamination, the welfare, safety, and health of people at the Premises or elsewhere, and the regulation of chemical substances or products); (b) fines, penalties, judgments, awards, settlements, legal or administrative proceedings, damages, losses, claims, demands, responses, and remedial, investigative, or inspection costs and expenses arising under or caused by application of Environmental Laws (including, but not limited to, fees for attorneys, engineers, and other professionals); (c) financial responsibility under Environmental Laws for Remedial Action or for any damages to natural resources; or (d) any other Remedial Actions required under Environmental Laws.

"Event of Default" shall have the meaning set forth in **Section 9.01** hereof.

"Expiration Date" shall mean the last day of the month in which occurs the fiftieth (50th) yearly anniversary of the Commencement Date, as same may be extended pursuant to the Ground Lease, or such earlier date on which the Term shall sooner end pursuant to any of the terms, covenants, or conditions of this Agreement or pursuant to Law.

"FAA" shall mean the Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function.

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“**Facility**” shall mean the building to be constructed on the Land by NPS pursuant to this Agreement which is an Aviation Academy, together with all fixtures now or in the future installed or erected upon the Land or Improvements (including but not limited to elevators, boilers, escalators, pipes, conduits, wiring, septic tanks, and heating, ventilation and air conditioning systems).

“**Facility Value**” shall have the meaning set forth in **Section 9.03** hereof.

“**FAR**” shall mean the Federal Aviation Regulations, the regulations promulgated by the FAA pursuant to the US Transportation Code, as amended, which FARs are found at 14 CFR Section 1 *et seq.*

“**Financing Issuer**” shall mean the issuer of a Financing Obligations, preliminarily stated as the Cleveland County Educational Facilities Authority, and its successors and assigns, for the benefit of the bond holders and Trustee Bank.

“**Financing Obligations**” shall consist of the following:

(a) A Ground Lease Agreement made and entered into as of the Commencement Date, by and between NPS and the Financing Issuer;

(b) A Sublease Agreement made and entered into as of the Commencement Date, by and between the Financing Issuer and NPS;

(c) A Bond Indenture dated as of _____ 1, 2023, by and between the Financing Issuer and Trustee Bank;

(d) An Assignment of Rents and Leases, dated as of _____ 1, 2023, by and between the Financing Issuer and Trustee Bank; and

(e) The Financing Issuer's Educational Facilities Lease Revenue Bonds, Series 2023, issued pursuant to the Bond Indenture.

“**Financing Obligations Date**” shall mean one (1) year following the Commencement Date, subject to Unavoidable Delays, but in no event later than two (2) years following the Commencement Date.

“**Financing Security**” shall have the meaning set forth in **Section 8.06** hereof.

“**Force Majeure Event**” means any of the following events: (a) acts of God; (b) rain, snow, ice, sleet, tornados, severe weather events, lightning, wind, hail, wildfires, floods, fires, earthquakes, explosions, or other natural disasters or similar weather related events outside the control of the Parties; (c) war, invasions, hostilities (whether war is declared or not), terrorist threats or acts, riots or other civil unrest; (d) governmental authority, proclamations, orders, laws, actions, or requests; (e) embargoes or blockades; (f) epidemics, pandemics, or other national or regional public health emergencies; (g) strikes,

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labor stoppages or slowdowns, labor shortages, or other industrial disturbances; (h) shortages of supplies or materials, adequate power, or transportation facilities; and (i) other similar events beyond the reasonable control of the Parties.

“Governmental Authority or Governmental Authorities” shall mean the United States of America, the State of Oklahoma, the County of Cleveland, the City of Norman, any political subdivision of any of the foregoing, and any other governmental or regulatory authority, agency, board, department, or any other public or quasi-public authority, having jurisdiction over the Premises or the matter at issue, including, but not limited to the FAA.

“Hazardous Materials” shall mean any and all substances, materials, chemicals, or wastes that now or hereafter are classified or considered to be hazardous or toxic under any Environmental Law, or that are or become regulated by any Governmental Authority because of toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness, or reactivity under any Environmental Law applicable to the Premises, and shall also include: (a) gasoline, diesel fuel, and any other petroleum hydrocarbons; (b) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (c) polychlorinated biphenyls; (d) radon gas; and (e) flammable liquids and explosives.

“Improvements” shall mean all buildings and other improvements now located, or hereafter erected, on the Land (including the Facility), together with all fixtures now or in the future installed or erected in or upon the Land or such improvements owned or leased by University or NPS.

“Initial Construction” shall mean the design, development, and construction of the Facility, including all related demolition and excavation.

“Land” shall mean all that certain plot, piece, or parcel of land out of the Airport Property with a street address located in the City of Norman, County of Cleveland, State of Oklahoma and which land is described and generally depicted as “Tract 1” on **EXHIBIT A-1** attached hereto and incorporated herein.

“Law” or **“Laws”** shall mean any present or future applicable law, statute, ordinance, regulation (including FAR and zoning regulations), code, building code, judgment, injunction, arbitration award, order, rule, directive, common law, codes and ordinances of any Governmental Authorities, easement, covenant, restriction, or other agreement of record affecting the Premises as of the date of this Agreement or subsequent thereto.

“Liabilities” shall mean all losses, claims, suits, demand, costs, liabilities, and expenses, including reasonable attorneys’ fees, penalties, interest, fines, judgment amounts, fees, and damages, of whatever kind or nature.

“Party” or **“Parties”** shall have the meaning set forth in the Preamble.

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“**Permittees**” shall mean, for a particular Person, its employees, agents, tenants, subtenants, officers, employees, agents, customers, and invitees.

“**Person**” shall mean any individual, corporation, partnership, firm, or other legal entity.

“**Personalty**” shall mean all machinery, equipment, appliances, furniture, and any other personal property of any kind or description owned or leased by University or NPS located on the Premises and used in the operation of the Premises, excluding trucks and cars.

“**Plans**” shall have the meaning set forth in **Section 4.05** hereof.

“**Premises**” shall mean the Land, any Improvements thereon (including the Facility, as applicable), and any and all rights, privileges, easements, and appurtenances to the Land and the Improvements and any development rights.

“**Prevailing Party**” shall have the meaning set forth in **Section 14.04** hereof.

“**Property Reports**” shall have the meaning set forth in **Section 4.14** hereof.

“**Release**” shall mean the release or threatened release of any Hazardous Materials into or upon or under or above any land, water, or air, or otherwise into the environment, including by means of burial, disposal, discharge, emission, spillage, leakage, seepage, leaching, or dumping.

“**Remedial Action**” shall mean the investigation, response, clean up, remediation, prevention, mitigation, or removal of any Hazardous Materials necessary to comply with any Environmental Laws.

“**Rent**” shall mean Base Rent (as defined in the Ground Lease) owed under the Ground Lease.

“**Schedule of Performance**” shall have the meaning set forth in **Section 4.04** hereof.

“**State**” shall mean the State of Oklahoma.

“**Substantial Completion, Substantially Complete, and Substantially Completed**” shall mean, with respect to the Initial Construction and all Alterations, the satisfaction of the following conditions: (a) NPS shall have obtained and delivered to University all Approvals required by Law to be issued in connection with the Initial Construction or Alteration, as applicable, including any Certificate of Occupancy or amendment of the Certificate of Occupancy; and (b) NPS delivers to University a final release and waiver of mechanics liens covering all the Initial Construction or Alteration, as applicable, in form and substance reasonably satisfactory to University, executed by each of the general contractor, construction manager, design builder, contractors, and subcontractors.

“**Term**” shall mean the term of this Agreement commencing on the Commencement Date and ending on the Expiration Date.

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“**Transaction Documents**” shall mean this Agreement, the Ground Lease, the Declaration, and all other agreements, instruments, certificates and other documents to be entered into or delivered by a party hereto pursuant to this Agreement or any of the foregoing.

“**Trustee Bank**” shall mean BancFirst, Oklahoma City, Oklahoma, a state banking corporation duly organized and doing business under the laws of the State of Oklahoma and authorized to exercise corporate trust powers.

“**Unavoidable Delays**” shall mean delays incurred by NPS due to a Force Majeure Event; provided: (a) NPS shall have notified University not later than ninety (90) days after the commencement of the Force Majeure Event, explaining the nature or cause of the delay and stating the period of time the delay is expected to continue; and (b) NPS uses commercially reasonable efforts to end the delay and ensure the effects of such Force Majeure Event are minimized.

“**Valuation Resolution**” shall mean in such cases where this this Agreement expressly provides for the resolution of a question by Valuation Resolution, and only in such cases, each Party shall promptly appoint a Qualified Appraiser on its behalf and shall give notice thereof to the other Party. The two (2) Qualified Appraisers shall together appoint a third Qualified Appraiser within thirty (30) days after the appointment of University's and NPS's Qualified Appraisers, and the three (3) Qualified Appraisers shall, within the applicable time period specified in this this Agreement, or if no time period is specified, as promptly as possible, determine the matter which is the subject of Valuation Resolution and the decision of the majority of them shall be a conclusive, final, decision binding on all parties. The expenses of Valuation Resolution shall be shared equally by University and NPS, but each Party shall be responsible for the fees and disbursements of its own attorneys and the expenses of its own proof, including its Qualified Appraiser.

ARTICLE II CONDITION OF LAND

Section 2.01 Condition of Premises. NPS previously inspected the Land and accepted possession and control of the Land in its “**AS-IS**” condition on the Commencement Date through the Ground Lease. Except as otherwise expressly provided in this Agreement, NPS has full responsibility, obligation, and control over the preparation of the Land for the construction of the Facility, and the repair, alteration, maintenance, development, construction, installation, and replacement of the Facility on the Land. NPS expressly acknowledges and agrees that University has not made and is not making, and NPS is not relying upon, any warranties or representations regarding the Land, except to the extent same are expressly set forth in the Agreement or in the Ground Lease. To the extent that it is necessary for NPS to extend critical utilities such as gas, water, sewer, storm water, fiber optic, telecommunications, and the like, from the new Facility to the nearest applicable utilities off site from the Premises, University will reasonably cooperate at NPS's cost to allow for extensions along the existing streets and right of ways adjacent to such utilities. University agrees that NPS may, at NPS's sole cost, clear the Land of all existing structures and improvements in order to construct the new Facility and Improvements. With University's

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prior written consent and cooperation, which shall not be unreasonably withheld, NPS may relocate active University utilities or remove inactive University utilities located on the Land, such as but not limited to water, gas, sewer, electricity, that cross within the interior of the Land, at NPS's cost, in order to allow for development of the Facility and Premises on the Land; provided that, the timing and operation of any such permitted relocation or removal is coordinated with the University in advance and NPS does not unreasonably interrupt any surrounding University utilities services. In the event that it would be a more viable option for NPS to connect into existing University utilities at or near the Land, instead of extending much farther to connect to other public City of Norman utilities, then University agrees to allow NPS to connect the Facility and Improvements on this Ground Lease to the University utilities, all at NPS's sole cost, and the parties come to agreement on reasonable payment by NPS to University for such ongoing utility services. University agrees that it will not assert any claims with respect to any right to use Mendel Place road and that University will cooperate with NPS, at NPS's cost, should NPS seek to formally vacate Mendel Place road and remove all remaining improvements that were associated with Mendel Place road. Further, the University shall grant non-exclusive easement rights of vehicular and pedestrian access over and across the private University streets of Goddard Avenue, Lexington Avenue, Dalton Place, and Priestly Avenue (or such other private University roads) as may exist from time to time to and from the Land in order to allow for ingress and egress to and from North Flood Avenue (similar to the Grant of Public Access Easement that the University granted to the City of Norman in a document filed on 7-14-2022 at Book 4887, Page 1017 of the Cleveland County Records – Exception Number 28 on the Commitment for Title Insurance with an effective date of April 24, 2023, as revised on October 23, 2023, issued by First American Title Insurance Company National Commercial Services under File No. NCS-1176179-OKC).

Section 2.02 Financing Conditions and Contingencies. The University agrees that to the extent that Oklahoma law requires specific terms of this Agreement, or affiliated agreements such as but not limited to the Ground Lease or otherwise, to address the obligations of NPS as to issuance of general obligation bonds or lease revenue bonds and utilization of American Rescue Plan Act (ARPA) monies through the Oklahoma Center for the Advancement of Science and Technology, State of Oklahoma, as issued through the NEDC, in order to finance and construct the Improvements on the Land, University will reasonably cooperate in agreeing to such provisions such as through amendments to this Agreement; provided such provisions do not materially change the terms described in this Agreement or the financial obligation of University. Further, to the extent that state or federal law, or other Government Authority, requires either party to agree to specific terms or requirements for eligibility or compliance with possible funding sources (e.g., American Rescue Plan Act, general obligation bonds, or lease revenue bonds) that affect the other party, the parties agree to reasonably cooperate in meeting any such terms and requirements; provided the affected party shall be provided reasonable written notice in advance and provided an opportunity to review and consider the applicable terms or requirements.

(a) This Agreement is conditional and contingent upon the NPS, the Norman Economic Development Coalition (“NEDC”), and the Moore Norman Technology Center (“MNTC”), separately or jointly, obtaining and providing the necessary funding and resources support for the

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Facility's initial development and construction and subsequent operation. As an example, the NPS may rely upon funding through the American Rescue Plan Act ("ARPA") funds as administered by the State of Oklahoma. The applicant for the ARPA funds may be through the NEDC or other parties. The NEDC is in the process of applying for twenty to thirty million dollars (\$20,000,000 to \$30,000,000) of such ARPA funding for use in construction of the Facility and other Improvements on the Land. NPS and University both understand and acknowledge that ARPA funding may include specific requirements and obligations upon recipients or benefactors of the ARPA funding, and therefore NPS and University agree to reasonably cooperate in fulfilling such requirements and obligations.

(b) The parties understand and agree that this Agreement is conditional and contingent upon NPS receiving all necessary Approvals, such as but not limited to all Approvals from all Governmental Authorities, the FAA, the Department of Education, and the Airport administration.

(c) The Parties understand and agree that public financing bonds being used for the financing of the Facility shall not allow for any private enterprise usage of the Facility, and thus the parties understand that any uses in the Facility cannot involve private party usage, or anything that would include any for-profit functions.

ARTICLE III (INTENTIONALLY OMITTED)

ARTICLE IV CONSTRUCTION OF FACILITY

Section 4.01 Preconditions to Commencing Construction. NPS shall not commence construction of the Facility until NPS has satisfied all the following conditions:

(a) If NPS is obtaining financing for the construction of the Facility, such as public bond financing or otherwise, NPS has provided to University:

(i) a copy of a financing commitment letter from the applicable lender, or such other evidence of financing as would be applicable; and

(ii) a written certification from NPS that the financing commitment is in full force and effect. The parties understand and agree that this Agreement is conditional and contingent upon NPS obtaining and providing the necessary funding and resources support for the Facility's initial development and construction and subsequent operation. Notwithstanding any other provisions herein, University agrees to allow NPS a reasonable amount of time to secure all such funding and resources.

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(b) NPS has provided to University written evidence that NPS has sufficient funds available to it to complete the construction of the Facility, such as the verification of financing.

(c) University shall approve the final Plans for construction of the Facility pursuant to terms herein. University agrees not to unreasonably withhold, condition, or delay its approval of such Plans.

(d) NPS shall deliver to University a fully-executed Construction Agreement meeting the requirements of this Agreement.

(e) NPS, with University's assistance as needed, shall obtain all Approvals required by all applicable Governmental Authorities for the construction of the Facility. University shall assist and cooperate with all such Approvals as reasonably necessary upon NPS's request and at NPS's expense.

(f) Subject to and contingent upon the requirements of any Financing Issuer, an assignment of all NPS's right, title, and interest in and to the Construction Agreement, the Plans, the Contract Documents, and all intellectual property rights related thereto, such assignment to be in form and substance reasonably acceptable to University. University agrees to not exercise its rights with respect to such assignment unless and until this Agreement has been terminated and Financing Issuer has failed to exercise its rights to a Financing Security.

(g) NPS shall obtain, and shall cause its general contractors, construction managers, architects, and subcontractors to obtain, the insurance required under this Agreement and shall delivered to University certificates (or certified copies of policies, if requested by University) evidencing such insurance.

NPS shall diligently and in good faith pursue the satisfaction of the foregoing conditions.

Section 4.02 Construction of Facility. NPS shall enter a Construction Agreement for the design, development, and construction of the Facility. NPS agrees to promptly provide to University copies of the final form of the Construction Agreement for University's commercially reasonable approval. University agrees not to unreasonably withhold, condition, or delay its approval of each of said agreement.

Section 4.03 Default in Construction. In the event of a default by the Contractor in connection with the Initial Construction, NPS shall endeavor in good faith to exercise the rights and remedies available to NPS in each such agreement in a commercially reasonable manner.

Section 4.04 Commencement of Construction. NPS shall commence and pursue the Initial Construction to Substantial Completion in accordance with the contract documents specified in the Construction Agreement (the "**Contract Documents**") and in accordance with the construction schedule

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set forth in the Construction Agreement (subject to Unavoidable Delays) (the “**Schedule of Performance**”).

Section 4.05 Construction Approvals by University. The Parties acknowledge and agree that the Facility shall consist of approximately 114,000 gross square feet, and shall be designed in a manner suitable for the Permitted Use. Prior to commencing any excavation, construction, paving, or any other work associated with the Initial Construction, NPS shall deliver to University for its approval electronic copies of the preliminary design documents and the construction documents (the “**Plans**”), fully identifying and describing all mechanical, electrical, and plumbing systems. University shall have a period of thirty (30) Business Days after receipt to commercially reasonably approve or reject such submissions. Failure to approve or reject any submissions within such time period shall be deemed rejection by University. Upon any rejection or deemed rejection of any submissions, University shall simultaneously provide a fully detailed written description of all commercially reasonable measures to be taken by NPS that shall result in approval on resubmission (or why resubmission of any similar proposal would be rejected). University agrees not to unreasonably withhold, condition, or delay the approvals required by this Agreement. Further, University agrees to exercise approval review rights with regard to the parameters of the adopted budget for the Facility. For purposes of clarity, the approval process described herein shall not apply to any other approval rights or obligations of University in this Agreement or the other Transaction Documents.

Section 4.06 Change Order. Once the Plans are submitted to and approved by University, NPS may, with the prior commercially reasonable written consent or approval of University, order, authorize, or perform any change, substitute work, or materials in prosecuting the construction of the Improvements (“**Change Order**”). University agrees not to unreasonably withhold, condition, or delay the approvals required by this Agreement.

Section 4.07 Construction According to Approved Plans. All building materials for the Facility must be new and of good quality in accordance with the Contract Documents and Plans. All construction shall be performed in a good and workmanlike manner and only by contractors and subcontractors that are properly licensed in the State of Oklahoma to perform their respective work. University reserves the right to monitor the Initial Construction, from its inception to its completion. Access to the construction site shall be limited to NPS's representatives, contractors, subcontractors, consultants, agents, employees, and any others involved with the work. Prior to commencing construction, NPS shall provide a construction security fence at the perimeter of the construction site and staging area.

Section 4.08 Liens Subordinate to University. NPS shall not create or permit to be created or to remain, and shall promptly discharge, any lien, encumbrance, or charge levied on account of any mechanics, laborer's, or materialman's lien which might or does constitute a lien, encumbrance, or charge upon the Premises, or any part thereof, or the income therefrom, having a priority or preference over or ranking on a parity with the estate, rights, or interest of University in the Premises or any part thereof, or the income therefrom. Nothing in this Agreement shall be deemed or construed in any way as constituting the consent or request of University, express or implied, by inference or otherwise, to the filing of any lien

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against the Premises by any contractor, subcontractor, laborer, materialman, architect, engineer, or other Person for the performance of any labor or the furnishing of any materials or services for or in connection with the Premises or any part thereof.

Section 4.09 Completion of Construction by University. NPS's failure to commercially reasonably comply with the requirements of the Schedule of Performance and to Substantially Complete the Facility by the Completion Date shall be deemed to be a material default under this Agreement and University shall have the right to pursue any and all its remedies as set forth herein and any and all its rights and remedies at law and in equity. NPS covenants and agrees that in the event: (a) NPS abandons or fails to Substantially Complete the Facility by the Completion Date; (b) such failure is not primarily the result of University's being in material default under this Agreement; and (c) the Financing Issuer does not elect to complete construction of the Facility, and Trustee Bank grants its consent and approval, University may, at its option (but without any obligation so to do and without prejudice to any other rights University may have under this Agreement) complete the construction of the Facility undertaken by NPS as an expense of the Premises and, as nearly as practicable, according to the Plans previously approved by the University.

Section 4.10 Title to the Improvements and the Personalty. The title to all Improvements and Personalty now or hereafter located on the Premises, including those to be constructed in accordance with the Plans and Contract Documents, shall be vested solely in NPS until either the expiration or the termination of the Ground Lease, at which time all title to and ownership of the Improvements and Personalty shall automatically and immediately vest in University, subject to the provisions of **Section 9.03**.

Section 4.11 Architects, Engineers, Contractors, Specialists, and Consultants. NPS shall require any architects, engineers, contractors, subcontractors, specialists, and consultants engaged in connection with the construction of the Facility to perform their respective obligations under the terms of the Contract Documents, to be licensed in accordance with the Laws of the State, and to obtain and maintain for a period of five (5) years after the Substantial Completion of the Facility errors and omissions insurance, and payment and performance bonds pursuant to the terms of this Agreement.

Section 4.12 Permits, Laws, and Ordinances; University Marks. NPS shall, at its sole cost and expense, comply and cause its contractors and subcontractors to comply in all material respects with all Laws of all Governmental Authorities which may now or hereafter, from time to time, be established and which are or shall be applicable to NPS or University as they relate to the Premises and shall take, as otherwise provided herein, all action necessary to cause the Premises to comply in all material respects with all provisions of the Contract Documents, the loan documents evidencing and securing the Financing Obligations, and this Agreement applicable to NPS. University agrees to cooperate with NPS to execute such applications and submittals as may be necessary for NPS to secure any permits or certificates required in connection with NPS's use or construction of the Facility. In addition to the foregoing, NPS shall reasonably comply with all published University marketing, branding, and design standards, unless otherwise expressly agreed in writing by the parties. Subject to University policies and prior written

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approval of University, University shall allow NPS reasonable methods of publicly marketing, branding, and identifying the Oklahoma Aviation Academy and Norman Public Schools on and in the Facility; provided however, NPS shall not use any University mark without the prior written consent of University.

Section 4.13 Payment and Performance Bonds. NPS shall provide or cause to be provided to University payment and performance bonds from a surety approved by University, in accordance with the Contract Documents, to include requiring the contractor and appropriate subcontractors to provide payment and performance bonds. The bonds shall be dual obligee surety bonds payable to and in favor of NPS as obligee and University as additional obligee.

Section 4.14 Reports and Information. NPS shall deliver or cause to be delivered to University copies of all soil reports, surveys, hazardous wastes or toxic materials reports, feasibility studies, and other similar written materials prepared for NPS pursuant to the Contract Documents with respect to the Premises (collectively, the “**Property Reports**”) within thirty (30) days after receipt by NPS. University shall promptly provide NPS with copies of all existing Property Reports that are within University’s possession or control.

Section 4.15 Substantial Completion of Facility. As soon as practicable (however, in no event to exceed thirty (30) days after the Substantial Completion of the Facility), NPS shall furnish to the University:

- (a) One complete set of final “as-built” plans and specifications of the completed Improvements in auto-CAD® or Revit format; and
- (b) A current, accurate, properly labeled, and certified (by the hereafter stated surveyor or engineer), “as-built” plat of survey prepared by an Oklahoma registered land surveyor or professional engineer depicting to scale the location of the completed Improvements, as the same have been constructed.

ARTICLE V INSURANCE

Section 5.01 Insurance. It is the intent of the Parties that all risk of loss for the Premises be shifted to insurance to the maximum extent practicable. Accordingly, unless University otherwise agrees in its sole discretion, NPS shall maintain, or cause to be maintained, insurance covering the risks enumerated below. The premiums for such insurance shall be paid by NPS, except for the coverages set forth in **Section 5.9** below, which shall be the responsibility of the Party providing such insurance coverage. Such insurance shall be written on an occurrence basis unless University otherwise consents in writing, but for errors and omissions insurance issued on a claims-made basis. The policy shall provide that: (a) such insurance shall be primary coverage without reduction or right of offset or contribution on account of any insurance provided by University to itself or its officers, officials, or employees; (b) such insurance shall not be altered or cancelled without thirty (30) days' written notice to University; and (c)

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such insurance shall name the Financing Issuer and the University as certificate holders; with the understanding as applicable to all provisions in this **Article V**, that during the time upon which the Financing Obligations remain outstanding, that the Financing Issuer shall be the first priority recipient of insurance proceeds during such time. The insurance policies purchased by NPS must be issued by a company authorized to conduct business in the State or by a company acceptable to University and which has a rating of A or better by AM Best.

Section 5.02 Workers' Compensation and Employer's Liability. At all times prior to the expiration or earlier termination of this Agreement during any construction or Alteration conducted by or on behalf of NPS in or on the Premises, NPS shall maintain, and cause its contractors to maintain, Workers' Compensation Insurance as required by the Laws of the State. NPS shall require all subcontractors performing work under this Agreement to obtain an insurance certificate showing proof of Workers' Compensation and Employer's Liability Insurance.

Section 5.03 Property/Business Interruption. NPS shall, at its sole cost and expense throughout the entire Term of this Agreement:

(a) Keep the Improvements insured against loss or damage by fire, windstorm, flood, earthquake, and such other, further and additional risks as now are or hereafter may be embraced by the ISO special form and Builder's Risk extended coverage form or endorsements, with a \$100,000,000 loss limit (layered property tower), \$100,000 AOP deductible / 3% Wind & Hail Deductible, \$10,000,000 EQ Coverage: \$100,000 deductible, \$10,000,000 Flood Coverage: \$100,000 deductible, per occurrence, in each case in amounts equal to the full replacement cost of the Improvements from time to time and full insurable value thereof for any damages to the Premises and Improvements; and

(b) Maintain business interruption insurance covering loss of revenues or other income by NPS by reason of total or partial suspension of, or interruption in, the operation of the Premises caused by damage or destruction of the Premises in a reasonable amount sufficient to meet rent payments and other recurring payments for twelve (12) months, subject to the reasonable discretion of University.

Section 5.04 Public Liability. At all times during the Term of this Agreement, NPS shall maintain a primary commercial general liability insurance ("CGL") policy covering all claims for bodily injury (including death) and property damage, including loss of use thereof, and personal injuries in any way related to the Premises, Improvements, Facility, or Land, in an amount not less than One Million and 00/100 Dollars (\$1,000,000) per occurrence and Five Million and 00/100 Dollars (\$5,000,000) aggregate, with deductible provisions not to exceed Zero and 00/100 Dollars (\$0) per occurrence, to include personal and advertising injury, general aggregate, products, and completed operations aggregate insurance beginning at the completion of each project component, and contract liability to cover all insurable obligations in this Agreement. Coverage shall be specific for this project or, upon approval of University, covered under umbrella or pooled policies. The CGL policy or policies must be on an "occurrence" basis

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unless waived by the University. The CGL policy shall include contractual liability coverage, which shall be endorsed to state that indemnity obligations specified in this Agreement are insured by the carrier.

Section 5.05 Errors and Omissions. NPS shall obtain and maintain or cause to be obtained and maintained Professional Errors and Omissions Insurance covering all architects, engineers, specialists, and consultants in an amount and with coverage subject to the reasonable approval of University. Coverages shall be specific for this project and not aggregated with insurance for other undertakings of the insureds.

Section 5.06 Umbrella. NPS shall obtain and maintain an additional umbrella or all-risk coverage in an amount of Four Million and 00/100 Dollars (\$4,000,000) for any one occurrence and Four Million and 00/100 Dollars (\$4,000,000) in the aggregate, which shall include all insured coverages required by this **Article V**. The policy limits shall be reviewed and/or adjusted every year from the Commencement Date.

Section 5.07 Delivery of Insurance Certificates. Upon the Commencement Date of this Agreement and at each policy renewal date, NPS shall furnish to University, at the addresses set forth in **Section 10.01** of this Agreement, insurance certificates or renewal certificates or, if requested by University, copies of policies, evidencing all insurance required to be carried by NPS in accordance with the Agreement. Such certificates or policies shall list the Financing Issuer and the University as a certificate holders, in accordance with the requirements contained in this **Article V**. The insurance certificate or policies, as applicable, must document that the liability insurance coverage purchased by the NPS includes contractual liability coverage to insure the indemnity agreement as stated.

Section 5.08 Evidence of Payment of Premiums. NPS shall within thirty (30) days of payment furnish to University duplicate receipts or satisfactory evidence of the payment of all premiums on any and all insurance required to be carried by NPS in accordance with this Agreement. The insurance carrier shall give University thirty (30) days' prior notice (with respect to nonpayment of premiums) of cancellation, modification, or nonrenewal.

Section 5.09 Insurance Requirements for Contractors. NPS shall also carry construction liability insurance at all times when demolition, excavation or construction work is in progress on the Premises and Improvements. NPS also shall require the Persons described below to carry the following insurance:

- (a) NPS shall require all its contractors, subcontractors, design-builders, construction managers, consultants, and other entities providing services, materials, or labor to all or any portion of the Premises to:
 - (i) Include NPS as additional insureds in their commercial general liability policies and the Financing Issuer and the University as certificate holders; and

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(ii) Obtain a waiver of subrogation endorsement in all policies in favor of University and NPS.

Section 5.10 Insurance Requirements as to Financing Issuer. On the execution of this Agreement, and on each annual anniversary date of this Agreement and on request by the Financing Issuer and its Trustee Bank, NPS must provide the Financing Issuer and its Trustee Bank with certificates of or original policies of insurance required by this Section 5. If NPS fails to keep insurance in full force, Financing Issuer may, at its option, but upon written notice to University, take out or pay the premiums on the insurance needed to fulfill NPS's obligations. On Financing Issuer's demand, NPS must reimburse Financing Issuer the full amount of any insurance premiums paid by Financing Issuer. Further:

(a) To the extent permitted by applicable law, all required insurance policies must name the Financing Issuer, and its Trustee Bank, as named insured, be issued by one or more insurance companies duly authorized or admitted to transact business in Oklahoma and approved by Financing Issuer, and its Trustee Bank, provide coverage in amounts approved by Financing Issuer, and its Trustee Bank, and have waiver of subrogation provisions acceptable to Financing Issuer, and its Trustee Bank.

(b) Notwithstanding any provision contained herein to the contrary, the provisions of the Financing Obligations, shall control in all respects the receipt, handling and application of any and all insurance proceeds, it being acknowledged and agreed that the Financing Issuer by way of its Trustee Bank shall have a first and prior security interest therein and will determine whether any insurance proceeds will be applied to redeem the bonded Financing Obligations or will be otherwise applied. The Financing Issuer's Trustee Bank must be named as co-insured with NPS, and any collection of insurance proceeds by NPS must first be provided to the Financing Issuer's Trustee Bank, so long as the bonded Financing Obligations are outstanding.

Section 5.11 Each of the required coverages, excluding the professional liability insurance, fidelity insurance, and automobile liability insurance, shall contain a waiver of subrogation endorsement, in form and substance reasonably satisfactory to University, in favor of University and NPS.

ARTICLE VI INTENTIONALLY OMITTED

ARTICLE VII ASSIGNMENTS BY NPS

Section 7.01 NPS Public Trust. NPS may assign this Agreement and all necessary rights to construct the Facility to the Financing Issuer, pursuant to the Financing Obligations, as the tenant and/or subtenants in order to allow for the issuance of public bonds on behalf of NPS, or in the event that it is necessary for NPS to assign, sublet, co-locate, or jointly construct or operate with other agencies or funding partners, such as the Moore Norman Technology Center ("MNTC") and the Norman Economic

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Development Coalition (“NEDC”), or other similarly situated agencies, provided that, NPS shall provide notice to University of any such permitted assignment. Notwithstanding the foregoing or **Section 8.01** below, any permitted assignment of this Agreement or the other Transaction Documents or any rights therein, including without limitation by a separate agreement, ground lease, sublease, or otherwise, shall be subject to the terms of this Agreement and the other Transaction Documents, and in no event shall such assignment affect or disturb the University’s fee interest in the Land or the University’s rights under the Transaction Documents.

ARTICLE VIII FINANCING

Section 8.01 Financing of the Facility Construction. In order to facilitate the financing of the construction of the Facility, NPS, and every permitted successor and assign of NPS, including the Financing Issuer, shall have the right to encumber its leasehold interest in the Ground Lease without University’s prior consent, provided that: (a) no Event of Default has occurred and remains uncured under this Agreement or the Ground Lease and (b) all rights acquired under the Financing Obligations shall be subject to each of the provisions set forth in the Ground Lease, this Agreement, and the other Transaction Documents, and to all rights and interests of the Parties therein. **NOTWITHSTANDING THE FOREGOING, THE UNIVERSITY AGREES AND CONSENTS THAT DURING THE DURATION OF THE FINANCING OBLIGATIONS AND THE OUTSTANDING INDEBTEDNESS THEREUNDER, THAT THIS AGREEMENT AND THE TRANSACTION DOCUMENTS ARE SUBORDINATE AND SUBJECT TO IN ALL RESPECTS TO THE RIGHTS AND REMEDIES AND TERMS AND CONDITIONS OF THE FINANCING ISSUER AND TRUSTEE BANK PURSUANT TO THE FINANCING OBLIGATIONS.** If, from time to time, NPS or NPS’s permitted successors or assigns shall encumber the Ground Lease with Financing Obligations, and if the Financing Issuer or NPS delivers to University a true and correct copy(s) of an executed counterpart of such Financing Obligations, together with each assignment thereof certified by either NPS or Financing Issuer to be true, together with written notice specifying the name and address of the Financing Issuer and the pertinent recording data with respect to the Financing Obligations, University agrees that, anything in this Agreement to the contrary notwithstanding, from and after the date of receipt by University of such notice and for the duration of such Financing Obligations, the provisions of the Ground Lease and Financing Obligations shall apply.

Section 8.02 Consent to Amendment. There shall be no cancellation, surrender, modification, or amendment to this Agreement by University or NPS without the prior written consent of Financing Issuer. There shall be no material modification in the Financing Obligations or related documentation without prior written notice to University. Notwithstanding the foregoing (but, in any event, subject to Financing Issuer’s applicable curative rights), nothing herein shall be deemed to prohibit University from terminating this Agreement in accordance with its terms, including but not limited to the provisions of **Section 9.03**.

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Section 8.03 Notices to Financing Issuers. If the Financing Issuer or NPS has provided a notice address to University, then University, upon serving NPS with any notice of default or termination, shall simultaneously serve a copy of such notice on Financing Issuer. The Financing Issuer shall then have the same period of time after service of the notice on it as was given to the NPS under this Agreement, at its option and sole discretion, to remedy or cause to be remedied NPS's default under this Agreement, and University shall accept performances by, or at the instigation of, Financing Issuer as if it had been done by NPS. Financing Issuer, upon serving NPS with any notice of default or termination under the Financing Obligations, shall simultaneously serve a copy of such notice on University. Any notice required to be given to Financing Issuer or University shall be provided as set forth in this Agreement.

Section 8.04 Curative Rights of Financing Issuers. In addition to the rights granted to Financing Issuer under this Agreement, Financing Issuer shall have an additional period of thirty (30) days, at its option and sole discretion to remedy or cause to be remedied any default of which it receives notice, provided such Financing Issuer shall reimburse University, at the time of so remedying the default, for all reasonable costs and expenses to University of maintaining, protecting, insuring, and operating the Premises during the additional thirty (30)-day period payable solely from the Trustee Bank trust estate relating to the Financing Obligations.

Section 8.05 Limitation Upon Termination Rights of University. If University shall elect to terminate this Agreement by reason of any default of NPS, Financing Issuer shall also have the right, at its option and sole discretion, to postpone and extend the date of termination as fixed by the provisions of this Agreement for a period of not more than thirty (30) days from the expiration of the thirty (30)-day period specified herein, provided that Financing Issuer (i) shall have cured, or shall have caused to be cured, any then-existing money or nonmonetary defaults (with the exception of NPS's nonmonetary defaults of such a nature that they cannot be cured by Financing Issuer) and meanwhile shall pay charges required to be paid under this Agreement and (ii) Financing Issuer shall have taken steps necessary to acquire NPS's interest and estate in this Agreement by foreclosure of its Financing Obligations, or otherwise, and shall prosecute such action to completion with due diligence. If at the end of the thirty (30) day period, Financing Issuer shall be actively engaged in steps to acquire NPS's interest in this Agreement, and all monetary defaults and nonmonetary defaults have been cured (with the exception of NPS's nonmonetary defaults of such a nature that they cannot be cured by Financing Issuer), the time for Financing Issuer to comply with the provisions of this Agreement shall be extended for such period as shall be reasonably necessary to complete these steps with reasonable diligence and continuity. In no event shall Financing Issuer have any obligation to cure any default of NPS under this Agreement.

Section 8.06 Financing Security. University agrees that in the event of a termination of this Agreement by reason of any default by NPS, or if NPS rejects the Ground Lease in a bankruptcy proceeding, and subject to the rights granted to Financing Issuer under the Financing Obligations, University may enter into a lease (the "**Financing Security**") of the Premises with the Financing Issuer with consent of the Trustee Bank for the remainder of the Term effective as of the date of termination, upon the same terms, provisions, covenants, and agreements as contained in this Agreement, provided:

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(a) Financing Issuer shall make written request upon University for the execution of such a Financing Security within ten (10) days after the date of termination and shall, within ten (10) days after its receipt from University of a written statement of all sums then due to University under this Agreement, pay to University all such sums (with the exception of sums due by reason of NPS's indemnification obligations set forth herein).

(b) Financing Issuer shall pay to University at the time of the execution and delivery of the Financing Security any sums that at the time of such execution and delivery would be due pursuant to this Agreement but for the termination, and in addition, all reasonable attorneys' fees and expenses which University shall have actually incurred.

(c) Financing Issuer shall perform and observe all covenants contained in the Financing Security on NPS's part to be performed during such period of time commencing with the date of the execution of the Financing Security and terminating upon the expiration or earlier termination of the Financing Security or the abandonment or surrender of possession of the Premises under the Financing Security and shall further remedy any other conditions that NPS was obligated to perform under the terms of this Agreement.

(d) Financing Issuer, as NPS under the Financing Security, shall have the same right, title, and interest in and to the Premises, the right to use the Improvements thereon as NPS had under this Agreement.

Section 8.07 No Merger. So long as any Financing Obligations remains outstanding, the fee title and the leasehold estate created by this Agreement shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in either the University or the NPS or a third party, by purchase or otherwise.

ARTICLE IX DEFAULT; REMEDIES

Section 9.01 Events of Default. Each of the following events shall be an event of default ("Event of Default"):

(a) If NPS shall fail to pay any item of NPS's cost required in this Agreement, or any part thereof, when the same shall become due and payable and such failure shall continue for thirty (30) days after written notice and opportunity to cure from University to NPS.

(b) If (i) Commencement of Construction shall not have occurred on or before the Construction Commencement Date and such failure shall continue for one hundred eighty (180) days after written notice and opportunity to cure from University to NPS or (ii) Substantial Completion of the Facility shall not have occurred on or before the Completion Date and such

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failure shall continue for one hundred eighty (180) days after written notice and opportunity to cure from University to NPS.

(c) If NPS shall fail to observe or perform one or more of the other terms, conditions, covenants, or agreements contained in this Agreement, and such failure shall continue for a period of thirty (30) days after written notice and opportunity to cure thereof by University to NPS specifying in full detail such failure unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be performed, done, or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as NPS shall have commenced curing the same within such thirty (30)-day period and shall, subject to Unavoidable Delays, diligently, continuously, and in good faith prosecute the same to completion.

(d) If NPS shall make an assignment for the benefit of creditors.

(e) The filing of any voluntary petition in bankruptcy by NPS, or the filing of any involuntary petition by NPS's creditors, which involuntary petition remains undischarged for a period of sixty (60) days.

(f) If within sixty (60) days after the commencement of any proceeding against NPS seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed.

(g) If NPS shall formally abandon the Premises by passing a resolution declaring NPS's abandonment, or by effectively abandoning the Premises if the Premises become uninhabitable; however, the NPS shall not be deemed to have abandoned the Premises if the Premises become uninhabitable as a result of a casualty or Condemnation (as defined in the Declaration) proceeding.

(h) If a levy under execution or attachment shall be made against the Premises, not caused by or due to any action, use or operation of University, and such execution or attachment shall not be vacated or removed by court order, bonding or otherwise within a period of ninety (90) days.

(i) If NPS fails to close on the Financing Obligations by the Financing Obligations Date.

(j) If NPS defaults under any of the other Transaction Documents.

Upon the occurrence of an Event of Default, University shall give written notice of such Event of Default to NPS and to Financing Issuer. Except for an Event of Default under Subsections (a), (b) (c), (e),

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(h), and (i), NPS shall have a period of thirty (30) days to cure such Event of Default. If the Event of Default is not cured, University may, at its option, give notice to NPS of the termination of this Agreement and, upon thirty (30) days after service of such notice, this Agreement, the Term, and subject to and subordinate to the rights of Financing Issuer contained in this Agreement, the Ground Lease and the Financing Obligations, NPS's leasehold estate shall terminate (whether or not the Commencement Date shall have occurred) and shall end with the same force and effect as if that day were the day fixed for the expiration of this Agreement, **EXCEPT THAT THE UNIVERSITY AGREES AND CONSENTS THAT DURING THE DURATION OF THE FINANCING OBLIGATIONS AND THE OUTSTANDING INDEBTEDNESS THEREUNDER, THAT THIS AGREEMENT AND THE TRANSACTION DOCUMENTS ARE SUBORDINATE AND SUBJECT TO IN ALL RESPECTS TO THE RIGHTS AND REMEDIES AND TERMS AND CONDITIONS OF THE FINANCING ISSUER AND TRUSTEE BANK PURSUANT TO THE FINANCING OBLIGATIONS, AND THAT UNDER NO CIRCUMSTANCES SHALL THE LEASEHOLD ESTATE TERMINATE WHILE ANY PUBLIC INDEBTEDNESS INCURRED BY OR FOR THE BENEFIT OF NPS UNDER THE FINANCING OBLIGATIONS REMAINS OUTSTANDING.** Notwithstanding the foregoing, NPS shall remain liable for any damages as provided in this Agreement and the other Transaction Documents and University may enforce any of the remedies provided in this Agreement and the other Transaction Documents. Notwithstanding, any termination of the Transaction Documents shall be subject to the provisions of **Section 9.03**.

Section 9.02 Remedies. In the event that this Agreement is breached through an Event of Default, all the following provisions may apply:

(a) NPS shall promptly pay to University all amounts payable to the date on which this Agreement is terminated.

(b) University may, at NPS's sole cost and expense: (i) complete all construction required to be performed by NPS hereunder; (ii) repair and alter the Premises in such manner as University may deem reasonably necessary to correct the default; or (iii) undertaken any such action as University may deem reasonably necessary to correct the default hereunder.

(c) University may elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce the performance or observance by NPS of the applicable provisions of this Agreement, and of the Ground Lease, or to recover damages for breach thereof. Each right and remedy of University provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement, and the exercise or beginning of the exercise by University of any one or more of the rights or remedies provided for in this Agreement, shall not preclude the simultaneous or later exercise by University of any or all other rights or remedies provided for in this Agreement.

(i) Further, the parties recognize that the University shall have all rights and remedies available to it through the procedures for collection of a judgment as put forth in

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62 O.S. §361-365.6, which include but are not limited to the payment of all claims out of the NPS sinking fund.

(ii) Additionally, the parties recognize that the University shall have all rights and remedies available to it through actions of equity including but not limited to injunctive relief as may be necessary to enforce the terms of this Agreement or the other Transaction Documents, which may result in a prohibition against NPS for using the Premises for any purpose and thus constituting a constructive abandonment of the Land and Premises.

(d) In the event of abandonment by NPS pursuant to **Section 9.01(g)** or **Section 9.02(c)(ii)** hereof, or upon NPS's failure to close on the Financing Obligations pursuant to **Section 9.01(i)** hereof, University shall have the right to terminate the Transaction Documents by giving NPS written notice thereof and upon such termination, the Parties will have no further obligations under the Transaction Documents except for those obligations that expressly survive the termination of thereof, such as but not limited to the provisions of **Section 9.03**.

Section 9.03 Facility Value at Termination. Notwithstanding anything contained herein to the contrary, in the event the Ground Lease is terminated, for any cause (except as provided below), after the Substantial Completion of the Facility but prior to the expiration of the initial term of the Ground Lease, and thus resulting in the University acquiring title to the Improvements and Facility after termination, University shall pay as complete compensation for NPS's interest in the Facility, an amount equivalent to the fair market value of the Facility at the time of such termination, as adjusted by the remaining useful life of the leasehold estate, which shall be equal to the number of days remaining in the initial term of the Ground Lease ("Facility Value"), which shall be determined by Valuation Resolution. Notwithstanding the foregoing, nothing herein shall be construed to limit University's right to separately pursue any and all its remedies as set forth herein and all other rights and remedies at law and in equity. Further, NPS will not be entitled to payment should NPS (i) elect to terminate or (ii) be found by a court of competent jurisdiction to have acted in bad faith with the intention of forcing the University to terminate in order to obtain compensation for the Facility as provided herein. For purposes of clarity, any amounts payable to NPS pursuant to this **Section 9.03** or Section 9.03 of the Declaration shall be paid without duplication, and in no event shall NPS be entitled to payment under the Declaration or any of the other Transaction Documents for any amounts that have already been paid or otherwise taken into account under this Agreement, such that NPS shall be limited to a single recovery for all of the Transaction Documents. This obligation shall survive any termination of this Agreement or the other Transaction Documents.

Section 9.04 NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, ANY UNIVERSITY RIGHTS TO TERMINATE IN ANY MANNER THAT WOULD NOT RESULT IN THE FULFILLMENT AND FINAL PAYOFF OF ALL THE FINANCING OBLIGATIONS, SHALL BE SUBORDINATED AND SUBJECT TO IN ALL RESPECTS TO THE RIGHTS OF THE FINANCING ISSUER THROUGH THE PROVISIONS OF THE FINANCING OBLIGATIONS. IN SUCH CASE, IF THE PAYMENT OF FACILITY VALUE WOULD NOT BE SUFFICIENT TO PAY OFF ALL FINANCING OBLIGATIONS,

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NPS:

INDEPENDENT SCHOOL DISTRICT NUMBER 29
OF CLEVELAND COUNTY, OKLA., a.k.a.
NORMAN PUBLIC SCHOOLS
131 South Flood Avenue
Norman, OK 73069405-364-1339
Attention: Superintendent
Email: nickm@normanps.org; and
jmilner@normanps.org

with a copy to:

Rieger Law Group, PLLC
136 Thompson Drive
Norman, OK 73069
Attention: Sean Paul Rieger
Email: sp@riegerllc.com

ADD ISSUER ADDRESS

Notwithstanding anything contained in this Agreement to the contrary, any notice required to be given by University or NPS hereunder shall be deemed to be effective as of the date such notice is received or refused as reflected on said notice.

ARTICLE XI SUBMISSION OF MATTERS TO UNIVERSITY FOR APPROVAL

Section 11.01 Submission of Matters to University for Approval. Any matter which must be submitted to and consented to or approved in writing by University or any matter which must be submitted to University which may become effective if not denied by University, as required under this Agreement, shall be submitted to University in the manner and to the address of University designated for the giving of notice to University under terms of this Agreement and shall either be approved or rejected by University within thirty (30) days after receipt unless a shorter period of time is expressly stated elsewhere in this Agreement. If University should fail so to approve or reject within such thirty (30)-day period as provided for herein, University's approval shall be deemed rejected. Upon NPS's written request, University shall inform NPS in writing of its rejection or approval of such submitted matter in the manner and to the address of NPS designated for the giving of notice to NPS under terms of this Agreement. Any review by University of any matter submitted to University is for University's own convenience and purpose only. By undertaking such a review, University does not incur or have any liability to NPS or any other person, including, without limitation, the insurers and lenders of NPS.

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**ARTICLE XII
COMPLIANCE WITH LAWS; ENVIRONMENTAL LAWS**

Section 12.01 Compliance with Laws. The Parties warrant and agree that, during the entire Term of this Agreement and at their own separate expense: (a) Each Party shall conduct their respective business and activities on or related to the Premises only in full compliance with all applicable Laws; (b) Each Party shall neither do nor permit any act or omission which could cause the Premises and either Party's use thereof to fail to be in full compliance with all applicable Laws; and (c) Each Party shall neither do nor permit any act or omission which could cause any Liabilities, including Environmental Liabilities, to exist or be asserted against either Party or the Premises. Without limiting the foregoing, the responsible Party shall promptly cure all violations of Law for which said Party has caused and received notice or a public notice of violation has been issued and pay all fines, penalties, interest, or other costs imposed by any Governmental Authorities in connection with any violation or requirement of any Law.

Section 12.02 Environmental Laws.

(a) Each Party warrants and agrees that, during the entire Term of this Agreement and at their own separate expense, each Party shall comply with all Environmental Laws. Such compliance shall include an obligation to take Remedial Action when required by Law and to pay all fines, penalties, interest, or other costs imposed by any Governmental Authorities in connection with any violation or requirement of any Law.

(b) Each Party shall notify the other Party promptly in writing if: (i) either Party becomes aware of the presence or Release of any Hazardous Material at, on, under, over, emanating from, or migrating to the Premises in any quantity or manner which could reasonably be expected to violate in any material respect any Environmental Law or give rise to any material Liability or the obligation to take Remedial Action; or (ii) either Party receives any written notice, claim, demand, request for information, or other communication from a Governmental Authority regarding the presence or Release of any Hazardous Material at, on, under, over, emanating from, or migrating to the Premises.

(c) The Party responsible for such Remedial Action shall take and complete said Remedial Action with respect to the Premises in full compliance with all Laws and shall, when such Remedial Action is completed, submit to the other Party written confirmation from the applicable Governmental Authority that no further Remedial Action is required.

(d) The Party responsible for the presence or Release of any Hazardous Materials shall provide the other Party with copies of all tests, studies, notices, claims, demands, requests for information, or other communications relating to the presence or Release of any Hazardous Materials at, on, under, over, emanating from, or migrating to the Premises.

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ARTICLE XIII LIMITATION OF LIABILITY

Section 13.01 Limitation of Liability.

(a) If University sells, assigns, or otherwise transfers (whether by operation of Law or otherwise) all or part of its interests in the Premises or this Agreement: (i) University shall be relieved of all obligations and Liabilities of University under this Agreement accruing after the effective date of such transfer; and (ii) the transferee shall be deemed to have assumed all University's obligations and Liabilities under this Agreement effective from and after the effective date of the transfer.

(b) Each Party's individual representatives, employees, directors, officers, members, managers, board members, staff, regents, and agents shall have no personal liability under or in connection with this Agreement. NPS agrees that it shall look solely to the University's interest in the Land, and this Agreement, as may be applicable, for the satisfaction of remedies or to collect any judgment requiring payment of any money by University.

(c) NPS agrees that, to the extent not expressly prohibited by Law, University and University's lenders, officers, agents, servants, and employees ("**University Parties**") shall not be liable for any direct or consequential damage (including damage claimed for actual or constructive eviction) either to person or property sustained by NPS, its respective permitted assigns, officers, servants, employees, agents, invitees, or guests due to the Premises or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident in or about the Premises, or due to any act or neglect of any tenant or occupant of the Premises or of any other person. This provision shall apply particularly (but not exclusively) to damage caused by water, snow, frost, steam, sewage, gas, electricity, sewer gas, or odors or by the bursting, leaking, or dripping of pipes, faucets, and plumbing fixtures, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the causes specifically enumerated above or to some other cause of an entirely different kind. NPS further agrees that all the Improvements, trade fixtures, equipment, and all other Personalty in the Premises shall be at the risk of NPS only, and that University shall not be liable for any loss or damage thereto or theft thereof.

The provisions of this **Section 13.01** shall survive the expiration or earlier termination of this Agreement.

ARTICLE XIV MISCELLANEOUS

Section 14.01 University and NPS Representations and Warranties. University and NPS each represent and warrant that:

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(a) This Agreement has been duly authorized, executed, and delivered by such Party and constitutes the legal, valid, and binding obligation of such Party.

(b) There are no actions, suits, or proceedings pending or, to the knowledge of such Party, threatened against or affecting such Party, at law or at equity, or before any Governmental Authority that would impair such Party's ability to perform its obligations under this Agreement.

(c) The consummation of the transactions hereby contemplated, and the performance of this Agreement by such Party shall not result in any breach or violation of, or constitute a default under, any lease or financing agreement to which said Party is a party thereto.

The Parties agree that they shall provide to the other Party, if requested, evidence that the execution and delivery of this Agreement have been duly authorized by said Party.

Section 14.02 Confidentiality. University and NPS shall maintain the confidentiality of the terms and conditions of this Agreement to the extent permitted by Law and shall not disclose such terms and conditions to third parties except if such third party owes a duty of confidentiality to said Party or as otherwise required by Law, including the Oklahoma Open Records Act (51 O.S. 1991 Sec. 24A.1. *et seq.*), or by mutual agreement of the parties.

Section 14.03 No Waiver.

(a) No failure of either Party to exercise any power given hereunder or to insist upon strict compliance to the undertakings, duties, and obligations hereunder, and no custom or practice of the Parties hereto at variance with the provisions hereof shall constitute a waiver of either Party's right to demand exact compliance with the provisions contained in this Agreement.

(b) All rights, powers, and privileges conferred herein upon both Parties hereto are cumulative and are in addition to and not in substitution for any other rights and remedies available at law, in equity, or otherwise.

Section 14.04 Attorneys' Fees. If any action is brought by either Party against the other in connection with or arising out of this Agreement, the Prevailing Party shall be entitled to recover from the other Party its reasonable out-of-pocket costs and expenses, including, without limitation, reasonable attorneys' fees, incurred in connection with the prosecution or defense of such action. The term, "**Prevailing Party**" shall include, without limitation, a Party that substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, University shall be entitled to attorneys' fees, costs, and expenses incurred in the preparation and service of notices of default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such default.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THIS DOCUMENT IS IN ALL RESPECTS SUBORDINATE AND SUBJECT TO THE RIGHTS AND REMEDIES AND TERMS AND CONDITIONS CONTAINED IN THE FINANCING OBLIGATIONS. THE TRUSTEE BANK SHALL HAVE THE NECESSARY AUTHORITY TO ENTER INTO THE PREMISES AND OPERATE, LEASE, OR SELL THE FACILITY AND IMPROVEMENTS AND RIGHTS UNDER THE GROUND LEASE IN ORDER TO PROTECT THE TRUSTEE BANK'S INTEREST IN THE PREMISES.

Section 14.05 Provisions Are Binding Upon Successors and Assigns. It is mutually covenanted, understood, and agreed by and between the parties hereto, that each of the provisions of this Agreement shall apply to, extend to, be binding upon, and inure to the benefit or detriment of not only the parties hereto, but also the legal representatives, and permitted successors and assigns of University and NPS hereto, and shall be deemed and treated as covenants running with the Premises during the Term of this Agreement. Whenever a reference to the parties hereto is made, such reference shall be deemed to include the legal representatives, successors, and assigns of said Party, the same as if in each case expressed. Except as provided in **Section 7.01**, and as may be provided in the other Transaction Documents, NPS shall not have the right to assign NPS's right, title and interest in this Agreement or the other Transaction Documents without University's prior written consent, which may be granted or withheld at University's sole discretion. No assignment of this Agreement or the other Transaction Documents shall relieve NPS from its obligations under this Agreement or the other Transaction Documents absent an express written release by University. Further, any permitted assignment of this Agreement or the other Transaction Documents or any rights therein, including without limitation by a separate agreement, ground lease, sublease, or otherwise, shall be subject to the terms of this Agreement and the other Transaction Documents, and in no event shall such assignment affect or disturb the University's fee interest in the Land or the University's rights under the Transaction Documents.

Section 14.06 Applicable Law. This Agreement shall be governed, construed, performed, and enforced in accordance with the Laws of the State of Oklahoma.

Section 14.07 Interpretation and Construction. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. Any captions or headings used in this Agreement are for convenience only and do not define or limit the scope of this Agreement. The singular of any term, including any defined term, shall include the plural and the plural of any term shall include the singular. Whenever the singular or plural number, or masculine or feminine gender is used in this Agreement, it shall equally apply to, extend to, and include the other.

Section 14.08 Severability. In the event any provision, or any portion of any provision of this Agreement is held invalid, the other provisions of this Agreement and the remaining portion of said provision, shall not be affected thereby and shall continue in full force and effect.

Section 14.09 Time is of the Essence. All time limits stated in this Agreement are of the essence of this Agreement.

Section 14.10 No Agency. Nothing in this Agreement is intended, or shall in any way be construed, so as to create any form of partnership or agency relationship between the parties. The parties hereby expressly disclaim any intention of any kind to create any partnership or agency relationship between themselves. Nothing in this Agreement shall be construed to make either Party liable for any of the indebtedness of the other, except as specifically provided in this Agreement.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THIS DOCUMENT IS IN ALL RESPECTS SUBORDINATE AND SUBJECT TO THE RIGHTS AND REMEDIES AND TERMS AND CONDITIONS CONTAINED IN THE FINANCING OBLIGATIONS. THE TRUSTEE BANK SHALL HAVE THE NECESSARY AUTHORITY TO ENTER INTO THE PREMISES AND OPERATE, LEASE, OR SELL THE FACILITY AND IMPROVEMENTS AND RIGHTS UNDER THE GROUND LEASE IN ORDER TO PROTECT THE TRUSTEE BANK'S INTEREST IN THE PREMISES.

Section 14.11 Entire Agreement. The making, execution, and delivery of this Agreement by each Party has not been induced by any representations, statements, covenants, or warranties by either Party except for those contained in this Agreement and the other Transaction Documents. This Agreement and the other Transaction Documents contain the full, complete, and entire agreement between and among the parties hereto; no agent, employee, officer, representative, or attorney of the parties hereto has authority to make, or has made, any statement, agreement, representation, or contemporaneous agreement, oral or written, in connection herewith modifying, adding to, or changing the provisions of this Agreement or the other Transaction Documents. No amendment of this Agreement shall be binding unless such amendment shall be in writing, signed by both parties hereto and attached to, incorporated in and by reference made a part of this Agreement.

Section 14.12 Further Agreements. The Parties intend and anticipate that additional agreements, operating agreements, contracts, commitments, and memorandums of understanding may be necessary for the successful establishment, construction, and operation of the Academy and Facility. The Parties agree to work together in good faith to negotiate all such future agreements, provided any agreement requiring approval of the NPS or University governing boards, whether by law or by policy, shall not take effect without said approval. It is further contemplated by the Parties that the terms and conditions surrounding the operation, conditions, and control of their respective spaces within the Facility shall be included in separate operating agreement(s) to be negotiated by the parties before completion of the Facility.

Section 14.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, University and NPS have executed this Agreement as of the Commencement Date.

UNIVERSITY:

THE BOARD OF REGENTS OF THE
UNIVERSITY OF OKLAHOMA,
a constitutional entity of the State of Oklahoma

By _____
Name: Brian Holderread
Title: Vice President for Campus Operations

NPS:

INDEPENDENT SCHOOL DISTRICT
NUMBER 29 OF CLEVELAND COUNTY,
OKLA., a.k.a.
NORMAN PUBLIC SCHOOLS, NPS

By _____
Name: Dirk O'Hara
Title: President of the Board of Education

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EXHIBITS

<u>EXHIBIT A</u>	Depiction of Airport Property
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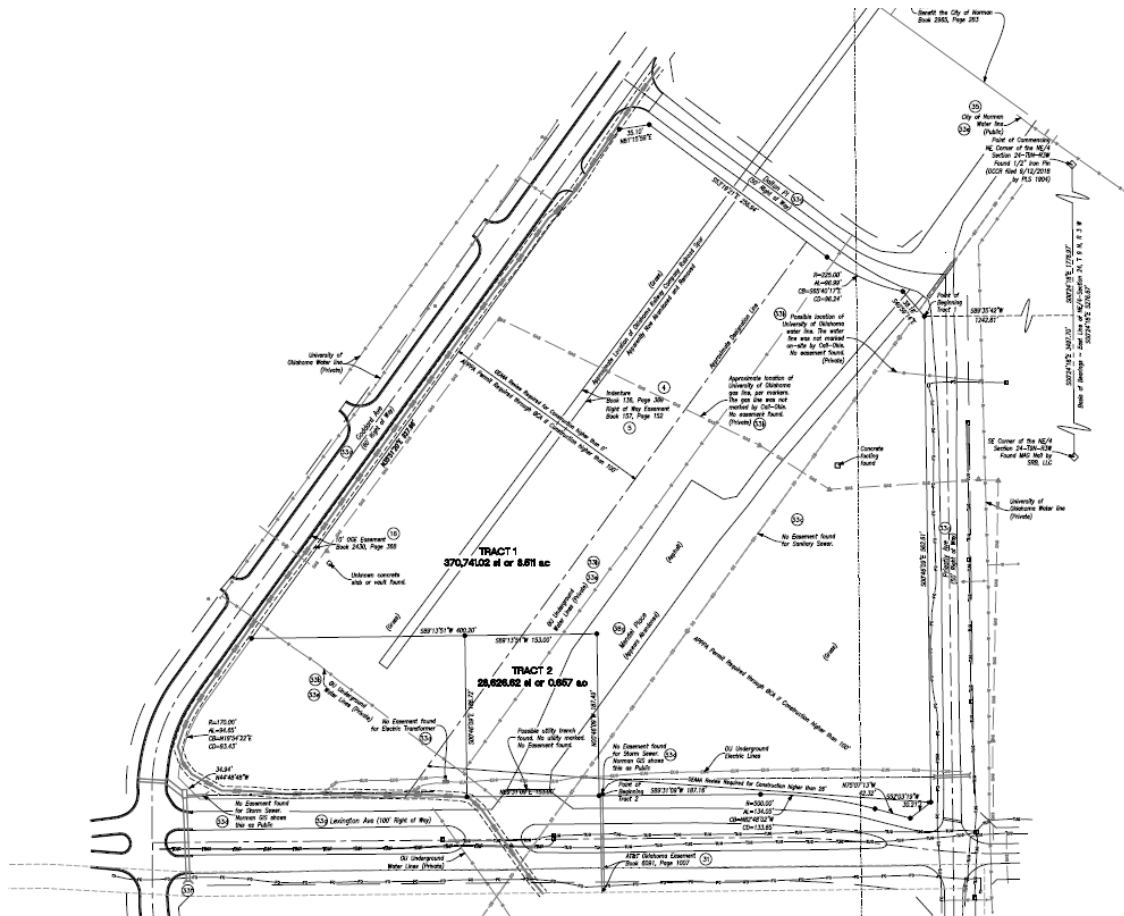


<u>EXHIBIT A-1</u>	Legal Description and Depiction of Land
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TRACT 1 DESCRIPTION

A tract of land that is a part of the Northeast Quarter of Section 24, Township 9 North, Range 3 West, City of Norman, Cleveland County, Oklahoma, Indian Meridian, more particularly described as follows: COMMENCING at the Northeast Corner of said Northeast Quarter; THENCE S 00°24'18" E, along the east line of said Northeast Quarter, a distance of 1778.97 feet; THENCE S 89°35'42" W, perpendicular to the east line of said Northeast Quarter, a distance of 1242.81 feet to the POINT OF BEGINNING; THENCE S 00°46'09" E a distance of 562.61 feet; THENCE S 52°03'19" W a distance of 30.21 feet; THENCE N 75°07'13" W a distance of 42.32 feet; THENCE along a tangent curve to the left with a radius of 500.00 feet, an arc length of 134.05', a chord bearing of N 82°48'02" W, and a chord distance of 133.65 feet; THENCE S 89°31'09" W a distance of 187.16 feet; THENCE N 00°46'09" W a distance of 187.49 feet; THENCE S 89°13'51" W a distance of 400.20 feet; THENCE N 35°51'20" E a distance of 727.46 feet; THENCE N 81°15'59" E a distance of 35.10 feet; THENCE S 53°19'21" E a distance of 256.94 feet; THENCE along a tangent curve to the left with a radius of 225.00 feet, an arc length of 96.99 feet; a chord bearing of S 65°40'17" E, and a chord distance of 96.24 feet; THENCE S 40°59'14" E a distance of 38.18 feet to the POINT OF BEGINNING, Above described tract contains 370,741.02 square feet or 8.511 acres.



GROUND LEASE

between

THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA,

a constitutionally created state entity

organized under the laws of the State of Oklahoma, Landlord

and

INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA.,

a.k.a.

NORMAN PUBLIC SCHOOLS, Tenant

dated as of

_____, 2023

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THIS DOCUMENT IS IN ALL RESPECTS SUBORDINATE AND SUBJECT TO THE RIGHTS AND REMEDIES AND TERMS AND CONDITIONS CONTAINED IN THE FINANCING OBLIGATIONS. THE TRUSTEE BANK SHALL HAVE THE NECESSARY AUTHORITY TO ENTER INTO THE PREMISES AND OPERATE, LEASE, OR SELL THE FACILITY AND IMPROVEMENTS AND RIGHTS UNDER THIS GROUND LEASE IN ORDER TO PROTECT THE TRUSTEE BANK'S INTEREST IN THE PREMISES.

GROUND LEASE

This GROUND LEASE (the “**Ground Lease**”), dated as of the ___ day of _____, 2023 (the “**Commencement Date**”), is entered into between THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, a constitutionally-created entity organized under the laws of the State of Oklahoma, (“**Landlord**” or “**University**”) and INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA., a.k.a. NORMAN PUBLIC SCHOOLS (“**Tenant**” or “**NPS**”, and, together with Landlord, each a “**Party**” and collectively referred to herein as the “**Parties**”).

RECITALS:

WHEREAS, NPS wishes to establish an aviation high school program, the Oklahoma Aviation Academy (the “**Academy**”), at the University of Oklahoma Max Westheimer Airport (“**Airport**”) to initiate an early introduction to young men and women of the many benefits of careers in the aviation industry; and

WHEREAS, the University wishes to cooperate in the plan to expand and accelerate the formal education related to the aviation industry and University programs.

WITNESSETH:

In consideration of the rents and covenants made herein, the sufficiency of which is acknowledged, Landlord and Tenant, for themselves, and their permitted successors and assigns, hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 Definitions. The following terms, as used in this Ground Lease, shall have the meanings set forth below:

“**Airport**” shall mean the University of Oklahoma Max Westheimer Airport and the Airport Property.

“**Airport Property**” shall mean that certain tract of real property owned by Landlord and located in the City of Norman, County of Cleveland, State of Oklahoma and as generally depicted on **EXHIBIT A** attached hereto, upon which the Airport is located.

“**Approvals**” shall mean all approvals of Governmental Authorities required for the construction of the Facility, including, but not limited to approval of the FAA.

“**Base Rent**” shall have the meaning set forth in **Section 3.01** hereof.

“**Commencement Date**” shall have the meaning set forth in the first paragraph of this Ground Lease.

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“**Expiration Date**” shall mean the last day of the month in which occurs the fiftieth (50th) yearly anniversary of the Commencement Date, as same may be extended pursuant to **Section 9.01** hereof, or such earlier date on which the Term shall sooner end pursuant to any of the terms, covenants, or conditions of this Ground Lease, or pursuant to Law. Notwithstanding anything to the contrary contained herein, under no circumstances shall this Ground Lease terminate while any public indebtedness incurred by or on behalf of NPS with respect to this Ground Lease remains outstanding.

“**Extension Term**” shall have the meaning set forth in **Section 9.01** hereof.

“**FAA**” shall mean the Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function.

“**Facility**” shall mean any building that is constructed on the Land by Tenant to serve the Academy, together with all fixtures now or in the future installed or erected upon the Land or Improvements (including but not limited to elevators, boilers, escalators, pipes, conduits, wiring, septic tanks, and heating, ventilation and air conditioning systems).

“**FAR**” shall mean the Federal Aviation Regulations, the regulations promulgated by the FAA pursuant to the US Transportation Code, as amended, in which FARs are found at 14 CFR Section 1 *et seq.*

“**Financing Issuer**” shall mean the issuer of a Financing Obligations, preliminarily stated as the Cleveland County Educational Facilities Authority, and its successors and assigns, for the benefit of the bond holders and Trustee Bank.

“**Financing Obligations**” shall consist of the following:

(a) A Ground Lease Agreement made and entered into as of the Commencement Date, by and between NPS and the Financing Issuer;

(b) A Sublease Agreement made and entered into as of the Commencement Date, by and between the Financing Issuer and NPS;

(c) A Bond Indenture dated as of _____ 1, 2023, by and between the Financing Issuer and Trustee Bank;

(d) An Assignment of Rents and Leases, dated as of _____ 1, 2023, by and between the Financing Issuer and Trustee Bank; and

(e) The Financing Issuer's Educational Facilities Lease Revenue Bonds, Series 2023, issued pursuant to the Bond Indenture.

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“Governmental Authority or Governmental Authorities” shall mean the United States of America, the State of Oklahoma, the County of Cleveland, the City of Norman, any political subdivision of any of the foregoing, and any other governmental or regulatory authority, agency, board, department, or any other public or quasi-public authority, having jurisdiction over the Premises or the matter at issue, including, but not limited to the FAA.

“Improvements” shall mean all buildings and other improvements now located, or hereafter erected, on the Land (including the Facility), together with all fixtures now or in the future installed or erected in or upon the Land or such improvements owned or leased by Landlord or Tenant.

“Land” shall mean all that certain plot, piece, or parcel of land out of the Airport Property with a street address located in the City of Norman, County of Cleveland, State of Oklahoma and which land is described and generally depicted as “Tract 1” on EXHIBIT A-1 attached hereto and incorporated herein.

“Law” or **“Laws”** shall mean any present or future applicable law, statute, ordinance, regulation (including FAR and zoning regulations), code, building code, judgment, injunction, arbitration award, order, rule, directive, common law, codes and ordinances of any Governmental Authorities, easement, covenant, restriction, or other agreement of record affecting the Premises as of the date of this Ground Lease or subsequent thereto.

“Permitted Use” shall mean all not-for-profit and governmental legal operations for AVIATION RELATED EDUCATIONAL USES ONLY, and ancillary uses as would normally affiliate with aviation education, including the operation of an Oklahoma Aviation Academy for high school students consisting of educational classrooms, lecture halls, training facilities, meeting spaces, offices, cafeteria and school owned, operated, or contracted food service facilities (but only to the extent such food service facilities follow revenue procedures that provide sufficient safe harbor conditions under which such contract(s) do not result in private business use of property financed with governmental tax-exempt bonds), labs, assembly areas, work shops, hangars, warehouse space, storage areas, and other similar educational facilities related to NPS's desired operation of the Academy, including incidental or auxiliary uses related thereto.

“Permitted Exceptions” shall mean any matters reflected in the Commitment for Title Insurance with an effective date of April 24, 2023, as revised on October 23, 2023, issued by First American Title Insurance Company National Commercial Services under File No. NCS-1176179-OKC.

“Person” shall mean any individual, corporation, partnership, firm, or other legal entity.

“Personalty” shall mean all machinery, equipment, appliances, furniture, and any other personal property of any kind or description owned or leased by Landlord or Tenant located on the Premises and used in the operation of the Premises, excluding trucks and cars.

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“**Premises**” shall mean the Land, any Improvements thereon (including the Facility, as applicable), and any and all rights, privileges, easements, and appurtenances to the Land and the Improvements and any development rights.

“**Rent**” shall mean Base Rent and all other amounts payable by NPS under this Ground Lease.

“**State**” shall mean the State of Oklahoma.

“**Term**” shall mean the term of this Ground Lease commencing on the Commencement Date and ending on the Expiration Date.

“**Trustee Bank**” shall mean BancFirst, Oklahoma City, Oklahoma, a state banking corporation duly organized and doing business under the laws of the State of Oklahoma and authorized to exercise corporate trust powers.

ARTICLE II LEASE OF PREMISES

Section 2.01 Lease of Premises. Subject to the terms and conditions of this Ground Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises for a Term that shall commence on the Commencement Date and end on the Expiration Date (as such Term may be extended from time to time pursuant to **Section 9.01** hereof).

Section 2.02 Condition of Premises. Tenant has inspected the Premises and accepts possession of the Premises in its “**AS-IS**” condition on the Commencement Date. Landlord shall deliver vacant possession of the Premises as of the Commencement Date. Except as otherwise expressly provided in this Ground Lease, Tenant has full responsibility, control, and obligation of the repair, alteration, maintenance, improvement, and replacement of the Premises.

Section 2.03 End of Lease Term. Upon the Expiration Date of this Ground Lease, Tenant shall quit and surrender the Premises to Landlord in good order and repair, ordinary wear and tear excepted.

Section 2.04 Title to the Improvements. Title to the Improvements shall be vested in the Tenant during the Term of the Ground Lease. On the Expiration Date, title to and ownership of the Improvements shall automatically vest in the Landlord.

ARTICLE III BASE RENT; RENT PAYABLE TO LANDLORD; NET LEASE; CONSIDERATION

Section 3.01 Base Rent.

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(a) Tenant covenants and agrees to pre-pay all required Base Rent as applicable to the entirety of the Term of this Ground Lease (“**Base Rent**”) in an amount equal to One Dollar and 00/100 Dollars (\$1.00) *per annum*, payable in advance on the Commencement Date; and

(b) If the parties mutually agree to extend the Term of the Ground Lease in accordance with the terms of **Section 9.01** of this Ground Lease and the Ground Lease Term is extended, the Base Rent payable with respect to such Extension Term shall be the same amount or set forth in subsection (a) above.

Section 3.02 Rent Payable to Landlord. Tenant shall pay Base Rent to Landlord in advance, commencing on the Commencement Date, without notice or demand and without setoff, counterclaim, abatement, suspension, deduction, or defense, except as otherwise expressly provided in this Ground Lease.

Section 3.03 Net Lease. This Ground Lease is an absolute net lease. Tenant shall be directly responsible and obligated for control over all expenses of every kind and nature whatsoever relating to or arising from the Premises, and all expenses arising from the possession, improvement, operation, management, construction, maintenance, repair, use, and occupancy of the Premises.

ARTICLE IV NOTICES

Section 4.01 Notices. Until a different address is provided in a notice to the other Party, all notices, demands or requests made by either Party to the other which are required or permitted by the provisions of this Ground Lease shall be in writing and shall be deemed sufficiently given if: (a) delivered by hand (against a signed receipt); (b) mailed by U.S. certified or registered mail, return receipt requested, postage prepaid; (c) sent via email as long as the sending party does not receive an error, non-deliverable, or similar bounce-back notification and receipt can be verified; or (d) sent by nationally recognized commercial overnight delivery service at the following address:

Landlord: The Board of Regents for the University of Oklahoma
660 Parrington Oval, Rm. 204
Norman, OK 73019
Attention: Chief Financial Officer
Email: matt.brockwell@ou.edu

with a copy to: The Board of Regents for the University of Oklahoma
510 East Chesapeake St., Rm. 105
Norman, OK 73019
Attention: Real Estate Operations
Email: beau.jennings@ou.edu

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with a copy to:

The Board of Regents for the University of Oklahoma
660 Parrington Oval, Rm. 213
Norman, OK 73019
Attention: General Counsel
Email: apaliotta@ou.edu

Tenant:

INDEPENDENT SCHOOL DISTRICT NUMBER 29
OF CLEVELAND COUNTY, OKLA., a.k.a.
NORMAN PUBLIC SCHOOLS
131 South Flood Avenue
Norman, OK 73069
Attention: Superintendent
Email: nickm@normanps.org; and
jmilner@normanps.org

with a copy to:

Rieger Law Group, PLLC
136 Thompson Drive
Norman, OK 73069
Attention: Sean Paul Rieger
Email: sp@riegerllc.com

Notwithstanding anything contained in this Ground Lease to the contrary, any notice required to be given by Landlord or Tenant hereunder shall be deemed to be effective as of the date such notice is received or refused as reflected on said notice.

ARTICLE V BROKERS

Section 5.01 Brokers. Landlord and Tenant each represent and warrant to the other that they have not dealt with any broker in connection with this Ground Lease. Landlord and Tenant shall each indemnify and hold harmless the other from and against any and all claims for any brokerage fee or commission with respect to this Ground Lease transaction by any broker with whom either Landlord or Tenant has dealt with or is alleged to have dealt with in connection with this Ground Lease. The provisions of this **Section 5.01** shall survive any termination of this Ground Lease.

ARTICLE VI QUIET ENJOYMENT

Section 6.01 Quiet Enjoyment. Landlord covenants and agrees that, if and so long as Tenant observes and performs each and every covenant, agreement, provision, and condition of this Ground Lease on the part of Tenant to be observed and performed throughout the Term of this Ground Lease, Tenant may peaceably and quietly enjoy the Premises for the Permitted Uses, and further hold possession, control,

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and occupancy of the Land, without hindrance or molestation of Landlord or any Person acting through Landlord, subject to the Permitted Exceptions. The Landlord shall not have any right to participate in the operations of the Facility or Improvements.

ARTICLE VII LIMITATION OF LIABILITY

Section 7.01 Limitation of Liability.

(a) If Landlord sells, assigns, or otherwise transfers (whether by operation of Law or otherwise) all or part of its interests in the Premises or this Ground Lease: (i) Landlord shall be relieved of all obligations and Liabilities of Landlord under this Ground Lease accruing after the effective date of such transfer; and (ii) the transferee shall have assumed all Landlord's obligations and Liabilities under this Ground Lease effective from and after the effective date of the transfer.

(b) Each Party's individual representatives, employees, directors, officers, members, managers, and agents shall have no personal liability under or in connection with this Ground Lease.

(c) The Parties agrees that, to the extent not expressly prohibited by Law, the Parties and their respective lenders, officers, agents, servants, and employees shall not be liable for (nor shall Rent abate as a result of) any direct or consequential damage either to person or property sustained by either Party, their respective permitted assigns, officers, servants, employees, agents, invitees, or guests due to the Premises or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident in or about the Premises, or due to any act or neglect of any tenant or occupant of the Premises or of any other person. This provision shall apply particularly (but not exclusively) to damage caused by water, snow, frost, steam, sewage, gas, electricity, sewer gas, or odors or by the bursting, leaking, or dripping of pipes, faucets, and plumbing fixtures, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the causes specifically enumerated above or to some other cause of an entirely different kind. Tenant further agrees that all the Improvements, trade fixtures, equipment, and all other Personalty in the Premises shall be at the risk of Tenant only, and that Landlord shall not be liable for any loss or damage thereto or theft thereof.

ARTICLE VIII RECORDATION

Section 8.01 Recordation. Following execution of this Ground Lease, the Parties agree to record this Ground Lease in the real property records of the County Clerk of Cleveland County. On the Expiration Date, Tenant covenants that it will, at the request of Landlord, execute, acknowledge, and deliver to Landlord an appropriate cancellation, in a form proper for recording in the real property records

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of the County Clerk of Cleveland County. If Tenant wrongfully fails or refuses to execute, acknowledge, and deliver such instrument of cancellation, then Tenant hereby appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge, and deliver such instrument of cancellation on Tenant's behalf.

**ARTICLE IX
EXTENSION OPTIONS**

Section 9.01 Option to Extend. As long as Tenant has not committed an uncured event of default under the provisions of this Ground Lease, upon mutual agreement of the Parties, the Parties shall have the right to extend the Term of the Ground Lease for two (2) separate additional Terms for a period of twenty-five (25) years each on the same terms and provisions of this Ground Lease then in effect (each such additional term being referred to as an "**Extension Term**"). In the event the Ground Lease is extended for the first Extension Term, and Tenant has not committed an uncured event of default hereunder, then the Parties shall have the right to extend the Ground Lease for a second Extension Term on the same terms and conditions. Any such Extension Term shall require the mutual written agreement of the parties at least one hundred eighty (180) days prior to the expiration of the Term or, if applicable, the first Extension Term.

Section 9.02 Failure to Extend. If the Parties fail to timely agree to extend the Ground Lease for any such Extension Term in the manner set forth above, this Ground Lease shall terminate on the last day of the Term or, if applicable, the first Extension Term.

**ARTICLE X
MISCELLANEOUS**

Section 10.01 Landlord and Tenant Representations and Warranties. Landlord and Tenant each represent and warrant that:

(a) This Ground Lease grants a long term leasehold interest to Tenant and thereby conveys possession and control of the Land onto Tenant, for possession and control of the Land and Premises through the Tenant and its Board of Education, pursuant to the terms of this Ground Lease and the title to all Improvements including the Facility located on the Premises shall be vested solely in Tenant as long as the Ground Lease remains in effect.

(b) This Ground Lease grants a long term ground leasehold interest to Tenant for the Permitted Use only, including but not limited to improving a school site, constructing, repairing, remodeling or equipping buildings, or acquiring school furniture, fixtures or equipment to be placed upon the Land, pursuant to the terms of this Ground Lease.

(c) This Ground Lease has been duly authorized, executed, and delivered by such Party and constitutes the legal, valid, and binding obligation of such Party.

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(d) There are no actions, suits, or proceedings pending or, to the knowledge of such Party, threatened against or affecting such Party, at law or at equity, or before any Governmental Authority that would impair such Party's ability to perform its obligations under this Ground Lease.

(e) The consummation of the transactions hereby contemplated, and the performance of this Ground Lease by such Party shall not result in any breach or violation of, or constitute a default under, any lease or financing agreement to which said Party is a party thereto.

The Parties agree that they shall provide to the other Party, if requested, evidence that the execution and delivery of this Ground Lease have been duly authorized by said Party.

Section 10.02 No Waiver.

(a) No failure of either Party to exercise any power given hereunder or to insist upon strict compliance to the undertakings, duties, and obligations hereunder, and no custom or practice of the Parties hereto at variance with the provisions hereof shall constitute a waiver of either Party's right to demand exact compliance with the provisions contained in this Ground Lease.

(b) All rights, powers, and privileges conferred herein upon both Parties hereto are cumulative and are in addition to and not in substitution for any other rights and remedies available at law, in equity, or otherwise.

Section 10.03 Attorneys' Fees. If any action is brought by either Party against the other in connection with or arising out of this Ground Lease, the Prevailing Party shall be entitled to recover from the other Party its reasonable out-of-pocket costs and expenses, including, without limitation, reasonable attorneys' fees, incurred in connection with the prosecution or defense of such action. The term, "**Prevailing Party**" shall include, without limitation, a Party that substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Landlord shall be entitled to attorneys' fees, costs, and expenses incurred in the preparation and service of notices of default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such default.

Section 10.04 Provisions Are Binding Upon Successors and Assigns. It is mutually covenanted, understood, and agreed by and between the parties hereto, that each of the provisions of this Ground Lease shall apply to, extend to, be binding upon, and inure to the benefit or detriment of not only the parties hereto, but also the legal representatives, and permitted successors and assigns of Landlord and Tenant hereto, and shall be deemed and treated as covenants running with the Premises during the Term of this Ground Lease. Whenever a reference to the parties hereto is made, such reference shall be deemed to include the legal representatives, successors, and assigns of said Party, the same as if in each case

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expressed. Tenant shall not assign this Ground Lease or sublease all or any portion of the Premises without the prior written consent of Landlord, which may be granted or withheld at Landlord's sole discretion. No assignment of this Ground Lease or sublease of all or any part of the Ground Lease Premises shall relieve Tenant from its obligations under this Ground Lease absent an express written release by Landlord. Notwithstanding, Landlord acknowledges and consents to Tenant leasing the Premises to a public trust by separate agreement for the purpose of facilitating the issuance of public indebtedness for the purposes stated herein under a leaseback arrangement for the duration of any public financing obligation. Tenant shall remain responsible and obligated to Landlord for all terms of the Ground Lease. Further, any permitted assignment of this Ground Lease or any rights herein, including without limitation by a separate agreement, ground lease, sublease, or otherwise, shall be subject to the terms of this Ground Lease.

Section 10.05 Applicable Law. This Ground Lease shall be governed, construed, performed, and enforced in accordance with the Laws of the State of Oklahoma.

Section 10.06 Interpretation and Construction. This Ground Lease shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. Any captions or headings used in this Ground Lease are for convenience only and do not define or limit the scope of this Ground Lease. The singular of any term, including any defined term, shall include the plural and the plural of any term shall include the singular. Whenever the singular or plural number, or masculine or feminine gender is used in this Ground Lease, it shall equally apply to, extend to, and include the other.

Section 10.07 Severability. In the event any provision, or any portion of any provision of this Ground Lease is held invalid, the other provisions of this Ground Lease and the remaining portion of said provision, shall not be affected thereby and shall continue in full force and effect.

Section 10.08 Time is of the Essence. All time limits stated in this Ground Lease are of the essence of this Ground Lease.

Section 10.09 No Agency. Nothing in this Ground Lease is intended, or shall in any way be construed, so as to create any form of partnership or agency relationship between the parties. The parties hereby expressly disclaim any intention of any kind to create any partnership or agency relationship between themselves. Nothing in this Ground Lease shall be construed to make either Party liable for any of the indebtedness of the other, except as specifically provided in this Ground Lease.

Section 10.10 Amendments. No amendment of this Ground Lease shall be binding unless such amendment shall be in writing, signed by both parties hereto and attached to, incorporated in and by reference made a part of this Ground Lease.

Section 10.11 Counterparts. This Ground Lease may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

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[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, Landlord and Tenant have executed this Ground Lease as of the Commencement Date.

LANDLORD:

THE BOARD OF REGENTS OF THE
UNIVERSITY OF OKLAHOMA,
a constitutional entity of the State of Oklahoma

By _____

Name: Brian Holderread

Title: Vice President of Campus Operations

STATE OF OKLAHOMA)
) ss:
COUNTY OF CLEVELAND)

This instrument was acknowledged before me on _____, 2023, by Brian Holderread, Vice President of Campus Operations of The Board of Regents of the University of Oklahoma, a constitutional entity of the State of Oklahoma.

(Seal)

Notary Public
My Commission Expires: _____
Commission # _____

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TENANT:

INDEPENDENT SCHOOL DISTRICT
NUMBER 29 OF CLEVELAND COUNTY,
OKLA., a.k.a. NORMAN PUBLIC SCHOOLS

By _____

Name: Dirk O'Hara

Title: President of the Board of Education

STATE OF OKLAHOMA)
) ss:
COUNTY OF CLEVELAND)

This instrument was acknowledged before me on _____, 2023, by Dirk O'Hara , as President of the Board of Education of Independent School District Number 29 of Cleveland County, Okla., a.k.a. Norman Public Schools.

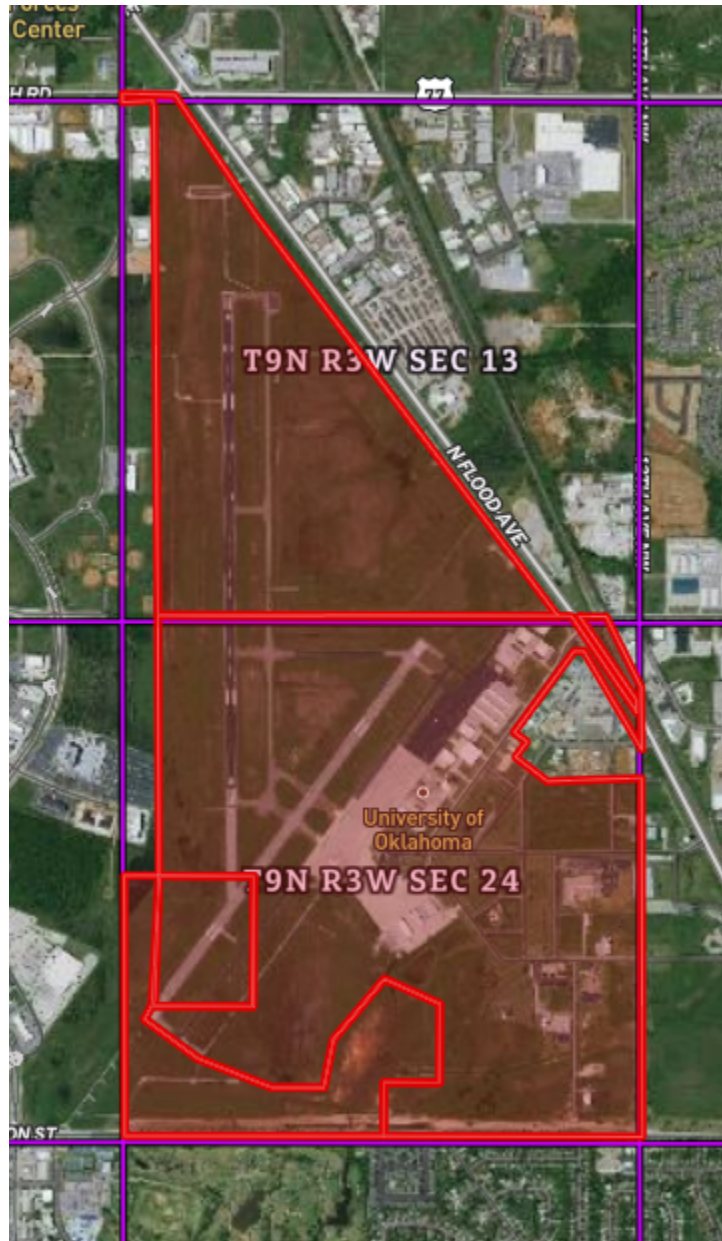
(Seal)

Notary Public
My Commission Expires: _____
Commission # _____

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EXHIBITS

<u>EXHIBIT A</u>	Depiction of Airport Property
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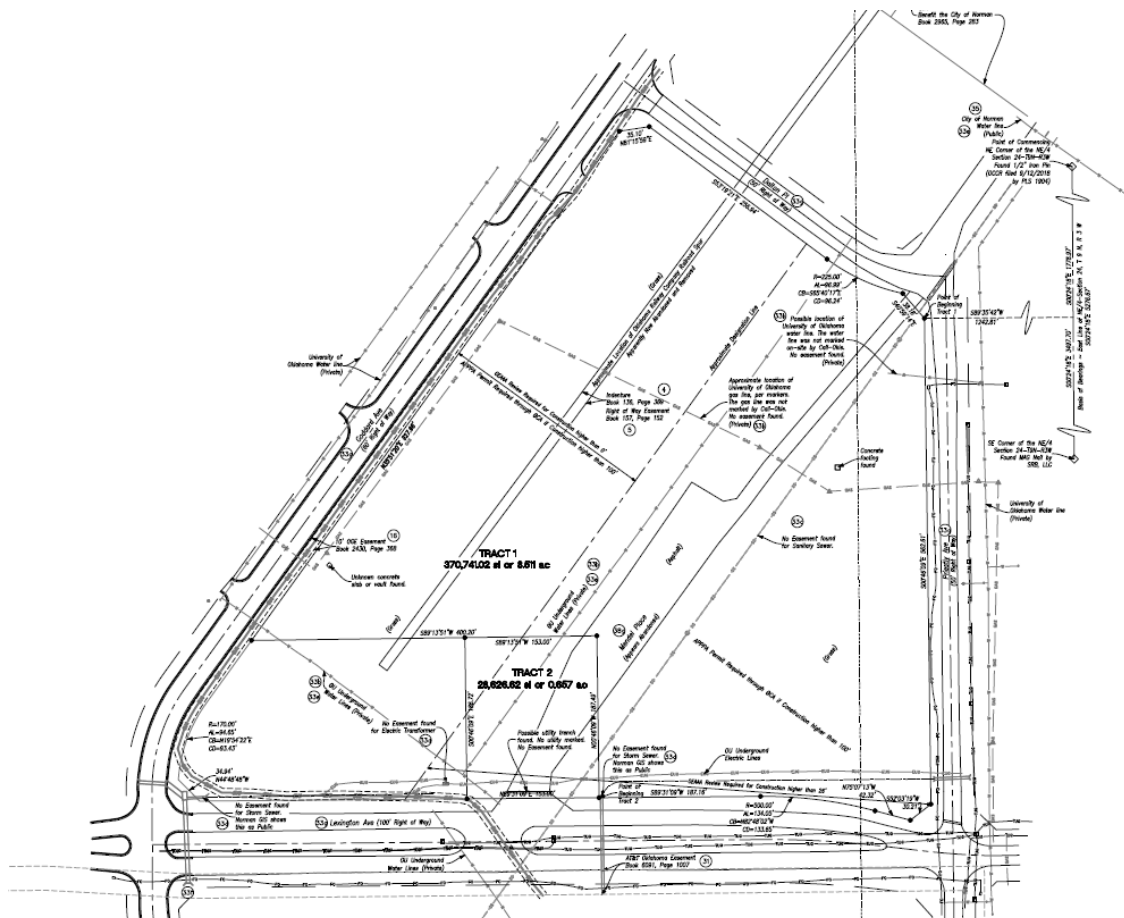


<u>EXHIBIT A-1</u>	Legal Description and Depiction of Land
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TRACT 1 DESCRIPTION

A tract of land that is a part of the Northeast Quarter of Section 24, Township 9 North, Range 3 West, City of Norman, Cleveland County, Oklahoma, Indian Meridian, more particularly described as follows: COMMENCING at the Northeast Corner of said Northeast Quarter; THENCE S 00°24'18" E, along the east line of said Northeast Quarter, a distance of 1778.97 feet; THENCE S 89°35'42" W, perpendicular to the east line of said Northeast Quarter, a distance of 1242.81 feet to the POINT OF BEGINNING; THENCE S 00°46'09" E a distance of 562.61 feet; THENCE S 52°03'19" W a distance of 30.21 feet; THENCE N 75°07'13" W a distance of 42.32 feet; THENCE along a tangent curve to the left with a radius of 500.00 feet, an arc length of 134.05', a chord bearing of N 82°48'02" W, and a chord distance of 133.65 feet; THENCE S 89°31'09" W a distance of 187.16 feet; THENCE N 00°46'09" W a distance of 187.49 feet; THENCE S 89°13'51" W a distance of 400.20 feet; THENCE N 35°51'20" E a distance of 727.46 feet; THENCE N 81°15'59" E a distance of 35.10 feet; THENCE S 53°19'21" E a distance of 256.94 feet; THENCE along a tangent curve to the left with a radius of 225.00 feet, an arc length of 96.99 feet; a chord bearing of S 65°40'17" E, and a chord distance of 96.24 feet; THENCE S 40°59'14" E a distance of 38.18 feet to the POINT OF BEGINNING, Above described tract contains 370,741.02 square feet or 8.511 acres.



DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

By Declarant

THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA,

**a constitutionally created state entity
organized under the laws of the State of Oklahoma,**

through agreement with Land possessor

**INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA.,
a.k.a.**

NORMAN PUBLIC SCHOOLS,

dated as of

_____, 2023

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (the "**Declaration**"), effective as of the ____ day of _____, 2023 ("the "**Commencement Date**"), is entered into between THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, a constitutionally-created entity organized under the laws of the State of Oklahoma, ("**Declarant**" or "**University**"), in agreement with INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA., a.k.a. NORMAN PUBLIC SCHOOLS ("**NPS**" , and, together with University, each a "**Party**" and collectively referred to herein as the "**Parties**").

RECITALS:

WHEREAS, NPS wishes to establish an aviation high school program, the Oklahoma Aviation Academy (the "**Academy**"), at the University of Oklahoma Max Westheimer Airport to initiate an early introduction to young men and women of the many benefits of careers in the aviation industry;

WHEREAS, the University wishes to cooperate in the plan to expand and accelerate the formal education related to the aviation industry and University programs;

WHEREAS, the University and NPS intend to enter into a long term Ground Lease, of even date herewith (the "**Ground Lease**"), in which NPS acquired long term possession, control, and occupancy of the Land as herein described;

WHEREAS, the State of Oklahoma vests its public research institutions, including the University, with the function of promoting the economic development of the State of Oklahoma;

WHEREAS, NPS desires to plan, develop, and construct Improvements on the Land in collaboration and cooperation with the University in accordance with the terms in this Declaration;

WHEREAS, NPS will plan, develop, and construct Improvements on the Land in accordance with the terms of a Development Agreement of even date herewith (the "**Development Agreement**");

WHEREAS, NPS plans to complete the Improvements and subsequently operate Facilities that will accommodate the Academy and thereafter the Land, Improvements, and Facilities will be subject to the terms and conditions set forth herein.

WITNESSETH:

In consideration of the covenants made herein, the sufficiency of which is acknowledged, University and NPS, for themselves, and their permitted successors and assigns, hereby agree as follows as to the application of this Declaration against the Land:

**ARTICLE I
DEFINITIONS**

Section 1.01 Definitions. The following terms, as used in this Declaration, shall have the meanings set forth below:

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“**Airport**” shall mean the University of Oklahoma Max Westheimer Airport and the Airport Property.

“**Airport Property**” shall mean that certain tract of real property owned by University and located in the City of Norman, County of Cleveland, State of Oklahoma and as generally depicted on **EXHIBIT A** attached hereto, upon which the Airport is located.

“**Alteration**” or “**Alterations**” shall have the meaning set forth in **Section 6.02** hereof.

“**Approvals**” shall mean all approvals of Governmental Authorities required for the construction of the Facility and for any Alteration, as applicable, including, but not limited to approval of the FAA. The parties understand and agree that this Declaration is conditional and contingent upon NPS receiving all necessary Approvals, such as but not limited to all Approvals from all Governmental Authorities, the FAA, the Department of Education, and the Airport administration.

“**Business Day**” shall mean any day that is not a Saturday, Sunday, or a day observed as a holiday by either the State or federal government.

“**Certificate of Occupancy**” shall mean a certificate issued by the appropriate Governmental Authority permitting the occupancy of the Facility. For purposes hereof, a temporary Certificate of Occupancy shall be deemed to be a Certificate of Occupancy but shall be replaced with a permanent Certificate of Occupancy before the expiration of such temporary Certificate of Occupancy.

“**Commencement Date**” shall have the meaning set forth in the first paragraph of this Declaration.

“**Condemnation**” shall mean the taking or appropriation of all or any part of the Premises, or any interest therein or right accruing thereto including any right of access, by or on behalf of any Governmental Authority or by any entity granted the authority to take property in the exercise of the power or right of eminent domain granted by statute, or any agreement that conveys to the condemning authority all or any part of the Premises as the result of, in lieu of, or in anticipation of, the exercise of a right of condemnation or eminent domain. Such term shall also be deemed to include, to the extent not otherwise defined herein, a temporary taking of the Premises or any part thereof or the Improvements thereon for a period of six (6) months or more, and the taking of the leasehold interest created herein.

“**Consideration**” shall have the meaning set forth in **Section 2.01** hereof.

“**Consumer Price Index**” shall mean the monthly index of the National Consumer Price Index for All Urban Consumers (U.S. City Average - All Items; 1982-1984 = 100) issued by the U.S. Department of Labor, Bureau of Labor Statistics, or any successor agency of the United States that shall issue such indices. If the manner in which the Index is determined by the Bureau of Labor Statistics shall be substantially revised, or if the Index shall become unavailable to the public or discontinued, University will substitute therefor a comparable index based on changes in the cost of living or the purchasing power

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of the consumer dollar published by another governmental agency or, if no such index shall be available, a comparable index published by a major bank or financial institution or by a university or recognized financial publication.

“Date of Taking” shall mean the earlier of the date, pursuant to the provisions of applicable State or Federal Law, on which: (a) actual possession of all or part of the Premises, as the case may be, is acquired by the appropriate Governmental Authority; or (b) title to all or part of the Premises, as the case may be, is vested in the appropriate Governmental Authority.

“Depository” shall mean a savings bank, savings and loan association, commercial bank, or trust company designated by NPS and approved by University, which approval shall not be unreasonably withheld, conditioned, or delayed, to serve as Depository pursuant to an agreement reasonably acceptable to University and NPS (the **“Depository Agreement”**). If NPS shall fail to designate a Depository within thirty (30) Business Days after the written request of University, University shall have the right to designate such Depository.

“Environmental Laws” shall mean all Laws: (a) relating to the environment, human health, or natural resources; (b) regulating, controlling, or imposing liability or standards of conduct concerning any Hazardous Materials; (c) relating to Remedial Action; and (d) requiring notification or disclosure of releases of Hazardous Materials or of the existence of any Hazardous Materials on or at the Premises, as any of the foregoing may be amended, supplemented, or supplanted from time to time. Environmental Laws shall include, but not be limited to, the following: the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; the Clean Air Act, 42 U.S.C. Section 7401 *et seq.* For purposes of Environmental Laws, to the extent authorized by law, NPS is and shall be deemed to be the responsible party, including without limitation, the “owner” and “operator” of the Facility and the “owner” of all Hazardous Materials brought on the Premises by NPS, its agents, employees, contractors, or invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom. Similarly, to the extent authorized by law, University is and shall be deemed to be the responsible party, including without limitation, the “owner” and “operator” of the Land and the “owner” of all Hazardous Materials to the extent such are brought on the Premises by University, its agents, employees, contractors, or invitees (other than NPS and parties claiming by, through or under NPS), and the wastes, by-products, or residues generated, resulting, or produced therefrom.

“Environmental Liabilities” shall mean any loss, cost, expense, claim, demand, liability, obligation, action, or other responsibility of whatever kind, based upon or required under Environmental Laws or otherwise relating to: (a) any environmental, health, or safety matter or condition (including, but not limited to, on-site or off-site pollution or contamination, the welfare, safety, and health of people at the Premises or elsewhere, and the regulation of chemical substances or products); (b) fines, penalties, judgments, awards, settlements, legal or administrative proceedings, damages, losses, claims, demands, responses, and remedial, investigative, or inspection costs and expenses arising under or caused by application of Environmental Laws (including, but not limited to, fees for attorneys, engineers, and other

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professionals); (c) financial responsibility under Environmental Laws for Remedial Action or for any damages to natural resources; or (d) any other Remedial Actions required under Environmental Laws.

“**Event of Default**” shall have the meaning set forth in Section 9.01 hereof.

“**Expiration Date**” shall mean the last day of the month in which occurs the fiftieth (50th) yearly anniversary of the Commencement Date, as same may be extended pursuant to the terms of the Ground Lease, or such earlier date on which the Term shall sooner end pursuant to any of the terms, covenants, or conditions of this Declaration or pursuant to Law.

“**FAA**” shall mean the Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function.

“**Facility**” shall mean the building to be constructed on the Land by NPS for the Academy pursuant to this Declaration, together with all fixtures now or in the future installed or erected upon the Land or Improvements (including but not limited to elevators, boilers, escalators, pipes, conduits, wiring, septic tanks, and heating, ventilation and air conditioning systems).

“**FAR**” shall mean the Federal Aviation Regulations, the regulations promulgated by the FAA pursuant to the US Transportation Code, as amended, which FARs are found at 14 CFR Section 1 *et seq.*

“**Financing Issuer**” shall mean the issuer of a Financing Obligations, preliminarily stated as the Cleveland County Educational Facilities Authority, and its successors and assigns, for the benefit of the bond holders and Trustee Bank.

“**Financing Obligations**” shall consist of the following:

- (a) A Ground Lease Agreement made and entered into as of the Commencement Date, by and between NPS and the Financing Issuer;
- (b) A Sublease Agreement made and entered into as of the Commencement Date, by and between the Financing Issuer and NPS;
- (c) A Bond Indenture dated as of _____ 1, 2023, by and between the Financing Issuer and Trustee Bank;
- (d) An Assignment of Rents and Leases, dated as of _____ 1, 2023, by and between the Financing Issuer and Trustee Bank; and
- (e) The Financing Issuer’s Educational Facilities Lease Revenue Bonds, Series 2023, issued pursuant to the Bond Indenture.

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“Force Majeure Event” means any of the following events: (a) acts of God; (b) rain, snow, ice, sleet, tornados, severe weather events, lightning, wind, hail, wildfires, floods, fires, earthquakes, explosions, or other natural disasters or similar weather related events outside the control of the Parties; (c) war, invasions, hostilities (whether war is declared or not), terrorist threats or acts, riots or other civil unrest; (d) governmental authority, proclamations, orders, laws, actions, or requests; (e) embargoes or blockades; (f) epidemics, pandemics, or other national or regional public health emergencies; (g) strikes, labor stoppages or slowdowns, labor shortages, or other industrial disturbances; (h) shortages of supplies or materials, adequate power, or transportation facilities; and (i) other similar events beyond the reasonable control of the Parties.

“Governmental Authority or Governmental Authorities” shall mean the United States of America, the State of Oklahoma, the County of Cleveland, the City of Norman, any political subdivision of any of the foregoing, and any other governmental or regulatory authority, agency, board, department, or any other public or quasi-public authority, having jurisdiction over the Premises or the matter at issue, including, but not limited to the FAA.

“Hazardous Materials” shall mean any and all substances, materials, chemicals, or wastes that now or hereafter are classified or considered to be hazardous or toxic under any Environmental Law, or that are or become regulated by any Governmental Authority because of toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness, or reactivity under any Environmental Law applicable to the Premises, and shall also include: (a) gasoline, diesel fuel, and any other petroleum hydrocarbons; (b) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (c) polychlorinated biphenyls; (d) radon gas; and (e) flammable liquids and explosives.

“Impositions” shall mean any and all, if any are applicable: (a) property taxes of every kind and nature (including payments in lieu of taxes); (b) property assessments (whether general, special, business improvement district, or otherwise); (c) personal property taxes; (d) occupancy and rent taxes; (e) water, water meter, sewer rents, rates, and charges; and (f) any and all other governmental levies, fees, rents, assessments, or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, and any interest or costs with respect thereto, which at any time during the Term are, or, if the Premises or any part thereof or the owner thereof were not exempt therefrom, would have been assessed, levied, confirmed, imposed upon, or would have become due and payable out of or in respect of, or would have been charged with respect to, the Premises.

“Improvements” shall mean all buildings and other improvements now located, or hereafter erected, on the Land (including the Facility), together with all fixtures now or in the future installed or erected in or upon the Land or such improvements owned or leased by University or NPS.

“Initial Construction” shall mean the design, development, and construction of the Facility, including all related demolition and excavation.

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“**Land**” shall mean all that certain plot, piece, or parcel of land out of the Airport Property with a street address located in the City of Norman, County of Cleveland, State of Oklahoma and which land is described and generally depicted as “Tract 1” on EXHIBIT A-1 attached hereto and incorporated herein.

“**Law**” or “**Laws**” shall mean any present or future applicable law, statute, ordinance, regulation (including FAR and zoning regulations), code, building code, judgment, injunction, arbitration award, order, rule, directive, common law, codes and ordinances of any Governmental Authorities, easement, covenant, restriction, or other agreement of record affecting the Premises as of the date of this Declaration or subsequent thereto.

“**Liabilities**” shall mean all losses, claims, suits, demand, costs, liabilities, and expenses, including reasonable attorneys’ fees, penalties, interest, fines, judgment amounts, fees, and damages, of whatever kind or nature.

“**Party**” or “**Parties**” shall have the meaning set forth in the Preamble.

“**Permitted Use**” shall mean all not-for-profit legal operations for AVIATION RELATED EDUCATIONAL USES ONLY, and ancillary uses as would normally affiliate with aviation education, including the operation of the Academy for high school students consisting of educational classrooms, lecture halls, training facilities, meeting spaces, offices, cafeteria and food service facilities (but only to the extent such food service facilities follow revenue procedures that provide sufficient safe harbor conditions under which such contract(s) do not result in private business use of property financed with governmental tax-exempt bonds), labs, assembly areas, work shops, hangers, warehouse space, storage areas, and other similar educational facilities related to NPS’s desired operation of the Academy, including incidental or auxiliary uses related thereto.

“**Permittees**” shall mean, for a particular Person, its employees, agents, tenants, subtenants, officers, employees, agents, customers, and invitees.

“**Person**” shall mean any individual, corporation, partnership, firm, or other legal entity.

“**Personalty**” shall mean all machinery, equipment, appliances, furniture, and any other personal property of any kind or description owned or leased by University or NPS located on the Premises and used in the operation of the Premises, excluding trucks and cars.

“**Premises**” shall mean the Land, any Improvements thereon (including the Facility, as applicable), and any and all rights, privileges, easements, and appurtenances to the Land and the Improvements and any development rights.

“**Prevailing Party**” shall have the meaning set forth in Section 19.05 hereof.

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“**Release**” shall mean the release or threatened release of any Hazardous Materials into or upon or under or above any land, water, or air, or otherwise into the environment, including by means of burial, disposal, discharge, emission, spillage, leakage, seepage, leaching, or dumping.

“**Remedial Action**” shall mean the investigation, response, clean up, remediation, prevention, mitigation, or removal of any Hazardous Materials necessary to comply with any Environmental Laws.

“**Rent**” shall mean Base Rent (as defined in the Ground Lease) owed under the Ground Lease and all other amounts payable by NPS under this Declaration or the other Transaction Documents.

“**Restoration**” shall have the meaning set forth in Section 11.01 hereof.

“**Restoration Funds**” shall have the meaning set forth in Section 11.02 hereof.

“**Restore**” shall have the meaning set forth in Section 11.01 hereof.

“**State**” shall mean the State of Oklahoma.

“**Substantial Completion, Substantially Complete, and Substantially Completed**” shall mean, with respect to the Initial Construction and all Alterations, the satisfaction of the following conditions: (a) NPS shall have obtained and delivered to University all Approvals required by Law to be issued in connection with the Initial Construction or Alteration, as applicable, including any Certificate of Occupancy or amendment of the Certificate of Occupancy; and (b) NPS delivers to University a final release and waiver of mechanics liens covering all the Initial Construction or Alteration, as applicable, in form and substance reasonably satisfactory to University, executed by each of the general contractor, construction manager, design builder, contractors, and subcontractors.

“**Substantially all the Premises**” shall mean: (a) that portion of the Premises in excess of ninety percent (90%) of the total useable area of the Improvements; or (b) if the Improvements include a parking lot or parking facility, more than ninety percent (90%) of the total number of parking spaces available at the Premises.

“**Term**” shall mean the term of this Declaration commencing on the Commencement Date and ending on the Expiration Date.

“**Threshold Amount**” shall mean the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00) adjusted annually on each anniversary of the Commencement Date by the percentage increase of the Consumer Price Index from the Commencement Date to the anniversary in question.

“**Transaction Documents**” shall mean this Declaration, the Ground Lease, the Development Agreement, and all other agreements, instruments, certificates and other documents to be entered into or delivered by a party hereto pursuant to this Declaration or any of the foregoing.

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“**Trustee Bank**” shall mean BancFirst, Oklahoma City, Oklahoma (the “Trustee Bank”), a state banking corporation duly organized and doing business under the laws of the State of Oklahoma and authorized to exercise corporate trust powers.

“**Unavoidable Delays**” shall mean delays incurred by NPS due to a Force Majeure Event; provided: (a) NPS shall have notified University not later than ninety (90) days after the commencement of the Force Majeure Event, explaining the nature or cause of the delay and stating the period of time the delay is expected to continue; and (b) NPS uses commercially reasonable efforts to end the delay and ensure the effects of such Force Majeure Event are minimized.

“**Valuation Resolution**” shall mean in such cases where this Declaration expressly provides for the resolution of a question by Valuation Resolution, and only in such cases, each Party shall promptly appoint a Qualified Appraiser on its behalf and shall give notice thereof to the other Party. The two (2) Qualified Appraisers shall together appoint a third Qualified Appraiser within thirty (30) days after the appointment of University’s and NPS’s Qualified Appraisers, and the three (3) Qualified Appraisers shall, within the applicable time period specified in this Declaration, or if no time period is specified, as promptly as possible, determine the matter which is the subject of Valuation Resolution and the decision of the majority of them shall be a conclusive, final, decision binding on all parties. The expenses of Valuation Resolution shall be shared equally by University and NPS, but each Party shall be responsible for the fees and disbursements of its own attorneys and the expenses of its own proof, including its Qualified Appraiser.

ARTICLE II CONSIDERATION

Section 2.01 Consideration. In addition to the payment of Rent through the Ground Lease and other agreements of the Parties related hereto, in return for the possession, occupancy, and control of the Land, NPS agrees to adhere to the covenants, conditions, and restrictions governing the Land as expressed herein (the “**Consideration**”).

ARTICLE III PAYMENT OF IMPOSITIONS; REDUCTION OF ASSESSED VALUATION

Section 3.01 Payment of Impositions.

(a) During the term of the Ground Lease, NPS shall pay or shall cause to be paid all Impositions directly to any applicable Governmental Authority charged with the collection thereof. Each Imposition, or installment thereof, during the Term shall be paid not later than thirty (30) days prior to the due date thereof. However, if, by Law, any Imposition may at the option of the payor be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), NPS may exercise the option to pay the same in such installments and shall be responsible for the payment of such installments only, together with applicable interest, if any,

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provided that all such installment payments together with applicable interest, if any, relating to periods prior to the Expiration Date shall be made prior to the Expiration Date. NPS shall promptly notify University if NPS shall have elected to pay any such Imposition in installments.

(b) NPS shall, within thirty (30) days following each due date, or reasonable time thereafter, furnish to University official receipts of the appropriate Governmental Authority, or other evidence reasonably satisfactory to University, evidencing the payment of such Impositions.

(c) Any Imposition relating to a period, a part of which is included within the Term and a part of which is included in a period of time before the Commencement Date or after the Expiration Date shall be apportioned between University and NPS as of the Commencement Date or Expiration Date (other than an Expiration Date arising by reason of NPS's default), as the case may be, so that NPS shall pay only that portion of such Imposition which that part of such fiscal period included in the period of time after the Commencement Date or before the Expiration Date bears to such fiscal period, and University shall pay the remainder thereof.

(d) NPS shall have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith, in which event, notwithstanding the provisions of this section, payment of such Imposition shall be postponed if, and only as long as:

(i) Neither the Premises nor any part thereof, or interest therein or any income therefrom (except to the extent covered by security deposited in accordance with this section would by reason of such postponement or deferment, be, in the commercially reasonable judgment of University, in imminent danger of being forfeited or lost or subject to any lien, encumbrance, or charge, and neither University nor NPS would by reason thereof be subject to any civil or criminal liability;

(ii) NPS shall have deposited with Depository cash or a letter of credit in a form and from an issuer reasonably satisfactory to University in the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Premises or any part thereof in such proceedings, or such other security as shall be reasonably satisfactory to University; and

(iii) No Event of Default has occurred and is continuing (in which event only University may commence such proceedings but shall have no obligation to do so).

(e) Upon the termination of such proceedings, it shall be the obligation of NPS to pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including reasonable attorneys' fees and disbursements), interest, penalties,

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or other liabilities in connection therewith. Upon such payment, Depository shall return, with interest, if any, any amount deposited with it as aforesaid; provided, however, that Depository at NPS's request or upon NPS's failure to do so in a timely manner, at University's request, shall disburse said moneys on deposit with it directly to the Governmental Authority to whom such Imposition is payable and any remaining monies, with interest, if any, shall be returned promptly to NPS.

(f) University shall not be required to join in any proceedings referred to in this Declaration unless the provisions of any Law at the time in effect shall require that such proceedings be brought by or in the name of University, in which event, University shall join and reasonably cooperate in such proceedings or permit the same to be brought in its name but shall not be liable for the payment of any costs or expenses in connection with any such proceedings and NPS shall reimburse University for any and all costs or expenses which University may reasonably sustain or incur in connection with any such proceedings, including reasonable attorneys' fees and disbursements.

(g) If there shall be any refunds or rebates on account of any Impositions paid by University or NPS, such refund or rebate shall belong to the Party that paid the Imposition.

Section 3.02 Reduction of Assessed Valuation. NPS may, at NPS's sole cost and expense, endeavor from time to time to reduce the assessed valuation of the Premises, to the extent such Premises are assessed, if any, for the purpose of reducing the Impositions payable by NPS. University agrees to offer no objection to such contest or proceeding and, at the request of NPS, to reasonably cooperate with NPS in pursuing such contest or proceeding, but without expense to University. NPS agrees to indemnify and hold University harmless from all Liabilities arising by reason of or in connection with any such contest or proceeding. If all or any part of an Imposition is refunded to either University or NPS (whether through cash payment or credit against Impositions), the Party who paid the Imposition to which the refund relates shall be entitled to such refund to the extent such refund relates to any Imposition paid by such Party.

ARTICLE IV PERMITTED USE

Section 4.01 Permitted Use.

(a) Subject to all applicable Laws and this Declaration, NPS shall use the Premises only for the Permitted Use.

(b) In no event, however, shall NPS use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful, illegal, or extra hazardous business, use, or purpose, or in such manner as to constitute a nuisance of any kind (public or private), or for any purpose or in any way in violation of the Certificate of Occupancy or of any Laws, or

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which may make void or voidable any insurance then in force on the Premises. NPS shall take, immediately upon the discovery of any such unpermitted, unlawful, illegal, or extra hazardous use, all necessary actions, legal and equitable, to compel the discontinuance of such use.

(c) NPS and NPS's Permittees shall comply with the Airport rules and regulations, and directives of the FAA and other Governmental Authorities from time to time in effect, relating to the safety and security of the Airport. The Parties shall work together in good faith to obtain any and all required Approvals from the FAA for construction and development of the Facility.

(d) NPS covenants and agrees that it will not allow any condition on the Premises, nor permit the conduct of any activity on the Premises, which shall materially or adversely affect the development, improvement, operation, or maintenance of the Airport or its facilities; nor will NPS use or permit the Premises to be used in any manner which might interfere with the landing and take-off of aircraft from the Airport or otherwise constitute a hazard. If any proscribed or prohibited condition or activity, as described above, shall be permitted to exist on the Premises, or if NPS's use or operation of the Premises violates FAR or any related Laws, University shall give written notice of such condition to NPS and NPS shall have a reasonable time to challenge, seek approval of, or cease such condition. If, after the passage of a reasonable time, NPS has failed to procure approval, permission, or has otherwise failed to terminate the condition, University may pursue all rights and remedies available to it pursuant to the terms herein. Provided, however, should the condition create a health, safety or welfare condition necessitating immediate abatement or correction of the condition interfering with operation of Airport, University may immediately abate or correct the condition at NPS's expense without any prior notice.

(e) The parties understand and agree that public financing bonds being used for the financing of the Facility may not allow for any private enterprise usage of the Facility, and thus the parties understand that any uses in the Facility cannot involve private party usage, such as but not limited to private economic development incubators, or anything that would include any for-profit functions.

ARTICLE V OPERATION OF THE PREMISES

Section 5.01 NPS's Operation of the Premises. Upon completion of construction of the Facility, the Parties shall operate within and use the Premises in accordance with all Laws governing the Premises and this Declaration.

Section 5.02 Mechanics Liens. NPS shall keep the Premises and the Land free from any lien or other encumbrance filed or recorded in favor of any mechanic, materialman, architect, or engineer engaged by NPS.

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Section 5.03 Utilities. NPS shall obtain and pay for all utilities directly from and to the utilities and vendors serving the Premises, including fuel, gas, electric, water and sewer service, trash collection, telephone, and internet service.

ARTICLE VI MAINTENANCE, REPAIRS, AND ALTERATIONS

Section 6.01 Maintenance and Repair of the Premises. NPS shall, at all times during the Term of this Declaration, at NPS's sole cost and expense, keep and maintain the Premises, including the Improvements, appurtenances, and every part thereof that may exist on, in, or be made a part of the Premises, in good order and condition, ordinary wear and tear excepted, and make all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, and foreseen and unforeseen. If NPS fails to keep and maintain the Premises and the Improvements as required by this Declaration, University may (but shall not be required to) perform and satisfy same, and NPS hereby agrees to reimburse University, for the reasonable cost thereof promptly upon demand. NPS shall not permit any material waste of the Premises. NPS shall keep the entire Premises, including adjoining sidewalks, substantially free of any accumulation of dirt, rubbish, snow, and ice.

Section 6.02 Alterations. NPS may, at its sole cost and expense and only after obtaining University's prior written consent (University agrees not to unreasonably withhold, condition, or delay its consent), alter, replace, or remodel any Improvements upon the Premises ("**Alterations**"), provided that the foregoing: (a) are made in compliance with all local, state, and federal Laws; (b) are completed in accordance with general accepted construction standards; (c) any remodeling shall not materially diminish the value of Improvements or the Premises; and (d) NPS shall not allow mechanics or materialmen's liens to affix to the Premises because of the Alterations.

ARTICLE VII INSURANCE

Section 7.01 Insurance. It is the intent of the Parties that all risk of loss for the Premises be shifted to insurance to the maximum extent practicable. Accordingly, unless University otherwise agrees in its sole discretion, NPS shall maintain, or cause to be maintained, insurance covering the risks enumerated below. The premiums for such insurance shall be paid by NPS, except for the coverages set forth in **Section 7.9** below, which shall be the responsibility of the Party providing such insurance coverage. Such insurance shall be written on an occurrence basis unless University otherwise consents in writing, but for errors and omissions insurance issued on a claims-made basis. The policy shall provide that: (a) such insurance shall be primary coverage without reduction or right of offset or contribution on account of any insurance provided by University to itself or its officers, officials, or employees; (b) such insurance shall not be altered or cancelled without thirty (30) days' written notice to University; and (c) such insurance shall name the Financing Issuer and the University as certificate holders; with the understanding as applicable to all provisions in this **Article VII**, that during the time upon which the Financing Obligations remain outstanding, that the Financing Issuer shall be the first priority recipient of

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insurance proceeds during such time. The insurance policies purchased by NPS must be issued by a company authorized to conduct business in the State or by a company acceptable to University and which has a rating of A or better by AM Best.

Section 7.02 Workers' Compensation and Employer's Liability. At all times prior to the expiration or earlier termination of this Declaration during any construction or Alteration conducted by or on behalf of NPS in or on the Premises, NPS shall maintain, and cause its contractors to maintain, Workers' Compensation Insurance as required by the Laws of the State. NPS shall require all subcontractors performing work under this Declaration to obtain an insurance certificate showing proof of Workers' Compensation and Employer's Liability Insurance.

Section 7.03 Property/Business Interruption. NPS shall, at its sole cost and expense throughout the entire Term of this Declaration:

(a) Keep the Improvements insured against loss or damage by fire, windstorm, flood, earthquake, and such other, further and additional risks as now are or hereafter may be embraced by the ISO special form and Builder's Risk extended coverage form or endorsements, with a \$100,000,000 loss limit (layered property tower), \$100,000 AOP deductible / 3% Wind & Hail Deductible, \$10,000,000 EQ Coverage: \$100,000 deductible, \$10,000,000 Flood Coverage: \$100,000 deductible, per occurrence, in each case in amounts equal to the full replacement cost of the Improvements from time to time and full insurable value thereof for any damages to the Premises and Improvements;; and

(b) Maintain business interruption insurance covering loss of revenues or other income by NPS by reason of total or partial suspension of, or interruption in, the operation of the Premises caused by damage or destruction of the Premises in a reasonable amount sufficient to meet rent payments and other recurring payments for twelve (12) months, subject to the reasonable discretion of University.

Section 7.04 Public Liability. At all times during the Term of this Declaration, NPS shall maintain a primary commercial general liability insurance ("CGL") policy covering all claims for bodily injury (including death) and property damage, including loss of use thereof, in an amount not less than One Million and 00/100 Dollars (\$1,000,000) per occurrence and Five Million and 00/100 Dollars (\$5,000,000) aggregate, with deductible provisions not to exceed Zero and 00/100 Dollars (\$0) per occurrence, to include personal and advertising injury, general aggregate, products, and completed operations aggregate insurance beginning at the completion of each project component, and contract liability to cover all insurable obligations in this Declaration. Coverage shall be specific for this project or, upon approval of University, covered under umbrella or pooled policies. The CGL policy or policies must be on an "occurrence" basis unless waived by the University. The CGL policy shall include contractual liability coverage, which shall be endorsed to state that indemnity obligations specified in this Declaration are insured by the carrier.

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Section 7.05 Errors and Omissions. NPS shall obtain and maintain or cause to be obtained and maintained Professional Errors and Omissions Insurance covering all architects, engineers, specialists, and consultants in an amount and with coverage subject to the reasonable approval of University. Coverages shall be specific for this project and not aggregated with insurance for other undertakings of the insureds.

Section 7.06 Umbrella. NPS shall obtain and maintain an additional umbrella or all-risk coverage in an amount of Four Million and 00/100 Dollars (\$4,000,000) for any one occurrence and Four Million and 00/100 Dollars (\$4,000,000) in the aggregate, which shall include all insured coverages required by this **Article V**. The policy limits shall be reviewed and/or adjusted every year from the Commencement Date.

Section 7.07 Delivery of Insurance Certificates. Upon the Commencement Date of this Declaration and at each policy renewal date, NPS shall furnish to University, at the addresses set forth in **Section 14.01** of this Declaration, insurance certificates or renewal certificates or, if requested by University, copies of policies, evidencing all insurance required to be carried by NPS in accordance with the Declaration. Such certificates or policies shall list the Financing Issuer and the University as certificate holders, in accordance with the requirements contained in this **Article VII**. The insurance certificate or policies, as applicable, must document that the liability insurance coverage purchased by the NPS includes contractual liability coverage to insure the indemnity agreement as stated.

Section 7.08 Evidence of Payment of Premiums. NPS shall within thirty (30) days of payment furnish to University duplicate receipts or satisfactory evidence of the payment of all premiums on any and all insurance required to be carried by NPS in accordance with this Declaration. The insurance carrier shall give University thirty (30) days' prior notice (with respect to nonpayment of premiums) of cancellation, modification, or nonrenewal.

Section 7.09 Insurance Requirements for Contractors. NPS shall also carry construction liability insurance at all times when demolition, excavation or construction work is in progress on the Premises and Improvements. NPS also shall require the Persons described below to carry the following insurance:

- (a) NPS shall require all its contractors, subcontractors, design-builders, construction managers, consultants, and other entities providing services, materials, or labor to all or any portion of the Premises to:
 - (i) Include NPS as additional insureds in their commercial general liability policies and the Financing Issuer and the University as certificate holders; and
 - (ii) Obtain a waiver of subrogation endorsement in all policies in favor of University and NPS.

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Section 7.10 Insurance Requirements as to Financing Issuer. On the execution of this Declaration, and on each annual anniversary date of this Declaration and on request by the Financing Issuer and its Trustee Bank, NPS must provide the Financing Issuer and its Trustee Bank with certificates of or original policies of insurance required by this Article VII. If NPS fails to keep insurance in full force, Financing Issuer may, at its option, take out or pay the premiums on the insurance needed to fulfill NPS's obligations. On Financing Issuer's demand, NPS must reimburse Financing Issuer the full amount of any insurance premiums paid by Financing Issuer. Further:

(a) To the extent permitted by applicable law, all required insurance policies must name the Financing Issuer, and its Trustee Bank, as named insured, be issued by one or more insurance companies duly authorized or admitted to transact business in Oklahoma and approved by Financing Issuer, and its Trustee Bank, provide coverage in amounts approved by Financing Issuer, and its Trustee Bank, and have waiver of subrogation provisions acceptable to Financing Issuer, and its Trustee Bank.

(b) Notwithstanding any provision contained herein to the contrary, the provisions of the Financing Obligations, shall control in all respects the receipt, handling and application of any and all insurance proceeds, it being acknowledged and agreed that the Financing Issuer by way of its Trustee Bank shall have a first and prior security interest therein and will determine whether any insurance proceeds will be applied to redeem the bonded Financing Obligations or will be otherwise applied. The Financing Issuer's Trustee Bank must be named as co-insured with NPS, and any collection of insurance proceeds by NPS must first be provided to the Financing Issuer's Trustee Bank, so long as the bonded Financing Obligations are outstanding.

Section 7.11 Each of the required coverages, excluding the professional liability insurance, fidelity insurance, and automobile liability insurance, shall contain a waiver of subrogation endorsement, in form and substance reasonably satisfactory to University, in favor of University and NPS.

ARTICLE VIII INTENTIONALLY OMITTED

ARTICLE IX DEFAULT; REMEDIES

Section 9.01 Events of Default. Each of the following events shall be an event of default ("Event of Default"):

(a) If NPS shall fail to pay any item of Rent under the Ground Lease, or any part thereof, when the same shall become due and payable and such failure shall continue for thirty (30) days after written notice and opportunity to cure from University to NPS.

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(b) If NPS shall fail to observe or perform one or more of the other terms, conditions, covenants, or agreements contained in this Declaration, and such failure shall continue for a period of thirty (30) days after written notice and opportunity to cure thereof by University to NPS specifying in full detail such failure unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be performed, done, or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as NPS shall have commenced curing the same within such thirty (30)-day period and shall, subject to Unavoidable Delays, diligently, continuously, and in good faith prosecute the same to completion.

(c) If NPS shall make an assignment for the benefit of creditors.

(d) The filing of any voluntary petition in bankruptcy by NPS, or the filing of any involuntary petition by NPS's creditors, which involuntary petition remains undischarged for a period of sixty (60) days.

(e) If within sixty (60) days after the commencement of any proceeding against NPS seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed.

(f) If NPS shall formally abandon the Premises by passing a resolution declaring NPS's abandonment; however, the NPS shall not be deemed to have abandoned the Premises if the Premises become uninhabitable as a result of a casualty or Condemnation proceeding.

(g) If a levy under execution or attachment shall be made against the Premises, not caused by or due to any action, use or operation of University, and such execution or attachment shall not be vacated or removed by court order, bonding or otherwise within a period of ninety (90) days.

(h) If NPS defaults under any of the other Transaction Documents.

Upon the occurrence of an Event of Default, University shall give written notice of such Event of Default to NPS and to Financing Issuer. Except for an Event of Default under Subsections (a), (b) (d), (e), and (g), NPS shall have a period of thirty (30) days to cure such Event of Default. If the Event of Default is not cured, University may, at its option, pursue any and all remedies available to it pursuant to the terms herein, subject to and subordinate to the rights of Financing Issuer contained in this Agreement and the Financing Obligations. Notwithstanding the foregoing, NPS shall remain liable for any damages as provided in this Declaration and the other Transaction Documents and University may enforce any of the remedies provided in this Declaration and the other Transaction Documents, EXCEPT THAT THE UNIVERSITY AGREES AND CONSENTS THAT DURING THE DURATION OF THE FINANCING OBLIGATIONS AND THE OUTSTANDING INDEBTEDNESS THEREUNDER, THAT THIS

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AGREEMENT AND THE TRANSACTION DOCUMENTS ARE SUBORDINATE IN ALL RESPECTS TO THE RIGHTS AND REMEDIES OF THE FINANCING ISSUER AND TRUSTEE BANK PURSUANT TO THE FINANCING OBLIGATIONS, AND UNDER NO CIRCUMSTANCES SHALL THE LEASEHOLD ESTATE TERMINATE WHILE ANY PUBLIC INDEBTEDNESS INCURRED BY OR FOR THE BENEFIT OF NPS UNDER THE FINANCING OBLIGATIONS REMAINS OUTSTANDING. Notwithstanding, any remedies exercised in relation to the Transaction Documents shall be subject to the provisions of **Section 9.03**.

Section 9.02 Remedies. In the event that this Declaration is breached through an Event of Default, all the following provisions may apply:

(a) NPS shall promptly pay to University all amounts payable to the date on which this Declaration is breached.

(b) University may, at NPS's sole cost and expense: (i) complete all construction required to be performed by NPS hereunder; (ii) maintain, repair and alter the Premises in such manner as University may deem reasonably necessary to correct the default (and may apply to the foregoing all funds, if any, then held by Depository pursuant to this Declaration without relieving NPS of any liability under this Declaration or otherwise affecting any such liability); or (iii) undertaken any such action as University may deem reasonably necessary to correct the default hereunder.

(c) University may elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce the performance or observance by NPS of the applicable provisions of this Declaration, and of the Ground Lease, or to recover damages for breach thereof. Each right and remedy of University provided for in this Declaration shall be cumulative and shall be in addition to every other right or remedy provided for in this Declaration, and the exercise or beginning of the exercise by University of any one or more of the rights or remedies provided for in this Declaration, shall not preclude the simultaneous or later exercise by University of any or all other rights or remedies provided for in this Declaration.

(i) Further, the Parties recognize that the University shall have all rights and remedies available to it through the procedures for collection of a judgment as put forth in 62 O.S. §361-365.6, which include but are not limited to the payment of all claims out of the NPS sinking fund.

(ii) Additionally, the Parties recognize that the University shall have all rights and remedies available to it through actions of equity including but not limited to injunctive relief as may be necessary to enforce the terms of this Declaration or the other Transaction Documents, which may result in a prohibition against NPS for using the Premises for any purpose and thus constituting a constructive abandonment of the Land and Premises.

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(d) In the event of abandonment by NPS pursuant to Section 9.01(f) or Section 9.02(c)(ii) hereof, University shall have the right to terminate the Transaction Documents by giving NPS written notice thereof and upon such termination, the Parties will have no further obligations under the Transaction Documents except for those obligations that expressly survive the termination of thereof, such as but not limited to the provisions of Section 9.03.

Section 9.03 Facility Value at Termination. Notwithstanding anything contained herein to the contrary, in the event the Ground Lease is terminated, for any cause (except as provided below), after the Substantial Completion of the Facility but prior to the expiration of the initial term of the Ground Lease, and thus resulting in the University acquiring title to the Improvements and Facility after termination, University shall pay as complete compensation for NPS's interest in the Facility, an amount equivalent to the fair market value of the Facility at the time of such termination, as adjusted by the remaining useful life of the leasehold estate, which shall be equal to the number of days remaining in the initial term of the Ground Lease ("**Facility Value**"), which shall be determined by Valuation Resolution. Notwithstanding the foregoing, nothing herein shall be construed to limit University's right to separately pursue any and all its remedies as set forth herein and all other rights and remedies at law and in equity. Further, NPS will not be entitled to payment should NPS (i) elect to terminate or (ii) be found by a court of competent jurisdiction to have acted in bad faith with the intention of forcing the University to terminate in order to obtain compensation for the Facility as provided herein. For purposes of clarity, any amounts payable to NPS pursuant to this Section 9.03 or Section 9.03 of the Development Agreement shall be paid without duplication, and in no event shall NPS be entitled to payment under the Development Agreement or any of the other Transaction Documents for any amounts that have already been paid or otherwise taken into account under this Agreement, such that NPS shall be limited to a single recovery for all of the Transaction Documents. This obligation shall survive any termination of this Declaration or the other Transaction Documents.

Section 9.04 NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, ANY UNIVERSITY RIGHTS TO TERMINATE IN ANY MANNER THAT WOULD NOT RESULT IN THE FULFILLMENT AND FINAL PAYOFF OF ALL THE FINANCING OBLIGATIONS, SHALL BE SUBORDINATED IN ALL RESPECTS TO THE RIGHTS OF THE FINANCING ISSUER THROUGH THE PROVISIONS OF THE FINANCING OBLIGATIONS. IN SUCH CASE, IF THE PAYMENT OF FACILITY VALUE WOULD NOT BE SUFFICIENT TO PAY OFF ALL FINANCING OBLIGATIONS, THEN THE GROUND LEASE MAY NOT BE TERMINATED UNTIL SUCH TIME, however, the University shall have all other rights and remedies available to it including but not limited pursuing all other applicable legal and equitable damages and remedies for any NPS Events of Default. such as through collections against the sinking fund of NPS as further provided in Section 9.02(c)(i).

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**ARTICLE X
EXPIRATION OR TERMINATION**

Section 10.01 Extinguishment of NPS's Rights. SUBJECT TO AND EXCEPT FOR THE PROVISIONS OF SECTION 9.03 and 9.04, upon any termination or expiration of NPS's possession, tenancy, and control of the Land and Premises, from any cause, all rights and interests of NPS, and all persons whomsoever claiming by, through, or under NPS (with the exception of and fully subordinate to the rights of Financing Issuer arising under this Declaration and the Financing Obligations, and with the exception of the rights of University arising under this Declaration), shall immediately cease and terminate, and the Premises, and all Improvements, shall thence forward constitute and belong to and be the absolute property of University or University's successors and assigns, without further act or conveyance, and without liability to make such compensation to NPS or to anyone whomsoever (except for pursuant to Section 9.03 and 9.04), and free and discharged from all and every lien, encumbrance, claim, and charge of any character created or attempted to be created by NPS at any time. NPS agrees, at the termination of this Declaration, to surrender unto University, all and singular the Premises with the then existing Improvements constructed and located thereon and therein, in the then existing working, habitable, and operable condition, unless NPS shall be relieved of NPS's obligation to repair, reconstruct, restore, or replace damaged or destroyed buildings, other structures, or Improvements pursuant to these terms hereof.

Section 10.02 Prepaid Items Assigned. SUBJECT TO AND EXCEPT FOR THE PROVISIONS OF SECTION 9.03 and 9.04, upon the expiration of the Term of this Declaration, or upon the prior termination of the Ground Lease from any cause, all expense items prepaid by NPS with respect to constructing, operating, maintaining, and protecting the Premises, including, but not limited to, prepaid insurance premiums, any tax and utility deposits, shall inure to the benefit of and become the property of University, and to this extent NPS does hereby transfer, assign, and convey any such prepaid expense items to University.

**ARTICLE XI
DAMAGE AND DESTRUCTION**

Section 11.01 Damage and Destruction. If all or any part of the Premises shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, NPS shall give to University notice thereof within thirty (30) days after such casualty occurs, except that no notice shall be required if the estimated cost of repairs, alterations, restorations, replacements, and rebuilding the Premises or portion thereof so damaged or destroyed (collectively, "**Restoration**") shall be less than the Threshold Amount. NPS shall, whether or not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose of such Restoration, with reasonable diligence (subject to Unavoidable Delays) repair, alter, restore, replace, and rebuild the Premises or portion thereof so damaged or destroyed (collectively, "**Restore**") the same, at least to the extent of the value and as nearly as commercially feasible to the condition, quality and class of the

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Premises existing immediately prior to such occurrence. University in no event shall be obligated to Restore the Premises or any portion thereof or to pay any of the costs or expenses thereof. If NPS shall fail or neglect to Restore with reasonable diligence (subject to Unavoidable Delays) the Premises or the portion thereof so damaged or destroyed, or having so commenced such Restoration, shall fail to complete the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Declaration, and in either case such failure or neglect continues for thirty (30) days after notice from University, or if prior to the completion of any such Restoration by NPS, the Ground Lease shall expire or be terminated for any reason, University, upon notice to NPS, may, but shall not be required to, complete such Restoration at NPS's expense. Each such Restoration shall be done in accordance with the provisions of this Declaration. NPS's obligations under this Section shall survive the expiration or earlier termination of the Ground Lease.

Section 11.02 Restoration Funds.

(a) Subject to the provisions of this Declaration and the Depository Agreement, Depository shall pay over to NPS from time to time, upon the following terms, any monies which may be received by Depository from insurance provided by NPS (other than business interruption insurance) or cash, or the proceeds of any security deposited with Depository (collectively, the "**Restoration Funds**"); provided, however, that Depository, before paying such moneys over to NPS, shall be entitled to reimburse itself, University, and Financing Issuer therefrom to the extent, if any, of the necessary, reasonable and proper expenses (including, without limitation, reasonable attorneys' fees) paid or incurred by Depository, University, and Financing Issuer in the collection of such monies. Depository shall pay to NPS, as hereinafter provided, the Restoration Funds, for the purpose of the Restoration.

(b) Prior to commencing any Restoration, NPS shall furnish University with an estimate of the cost of such Restoration, prepared by a licensed professional engineer or registered architect selected by NPS and approved by University. University may engage a licensed professional engineer or registered architect to prepare its own estimate of the cost of such Restoration. If there is any dispute as to the estimated cost of the Restoration, such dispute shall be resolved by Valuation Resolution.

(c) Subject to the provisions of this Declaration and the Depository Agreement, the Restoration Funds shall be paid to NPS in installments as the Restoration progresses, less retainage equal to ten percent (10%) of such installment until completion of fifty percent (50%) of the Restoration and ten percent (10%) of each installment thereafter until completion of the Restoration, upon application to be submitted by NPS to Depository and, for information only, to University, showing the cost of labor and materials purchased and delivered to the Premises for incorporation in the Restoration, or incorporated therein since the last previous application, and due and payable or paid by NPS. If any vendor's, mechanics, laborer's, or materialman's lien is filed against the Premises or any part thereof, or if any public improvement lien relating to the Restoration of the Premises are created or permitted to be created by NPS and is filed against

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University, or any assets of, or funds appropriated to, University, NPS shall not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise). Notwithstanding the foregoing, the existence of any such lien shall not preclude NPS from receiving any installment of Restoration Funds, provided: (i) such lien shall be discharged with funds from such installment; or (ii) if Depository shall be holding funds for the Restoration: (A) Depository certifies that it is retaining, in addition to amounts required to be retained hereunder, an amount equal to the funds required to satisfy or discharge such lien; and (B) failure to pay or discharge such lien shall not result in the imminent loss or forfeiture of the Premises or the termination of NPS's interest under the Ground Lease and shall not subject NPS or University to any civil or criminal penalty or liability.

(d) Upon completion of and payment for the Restoration by NPS, the balance of the Restoration Funds shall be paid over to NPS.

(e) Notwithstanding the foregoing, if University makes the Restoration at NPS's expense, as provided in this Declaration, then Depository shall pay over the Restoration Funds to University, upon request, to the extent not previously paid to NPS, and NPS shall pay to University, within ten (10) Business Days after demand, any sums in excess of the portion of the Restoration Funds received by University necessary to complete the Restoration.

Section 11.03 Restoration Costs Exceed the Threshold Amount. If any loss, damage, or destruction occurs, the cost of Restoration of which equals or exceeds the Threshold Amount in the aggregate, in addition to the other requirements contained herein, NPS shall furnish to University the documents and shall comply with the requirements set forth in this Declaration as required for the Initial Construction of the Facility.

Section 11.04 Excess Costs of Restoration. If the cost of any Restoration exceeds both: (a) the Threshold Amount; and (b) the net insurance proceeds, then, prior to the commencement of such Restoration, NPS shall deposit with Depository, as security for completion of the Restoration, a bond, cash, or other security reasonably satisfactory to University in the amount of such excess, to be held and applied by Depository in accordance with the provisions of this Declaration and the Depository Agreement.

Section 11.05 Depository Agreement. Notwithstanding anything contained in this Declaration to the contrary, all obligations of the Depository under this Declaration shall be subject to the terms and conditions to be agreed upon by the Parties in the Depository Agreement, including without limitation, instructions concerning the disbursement and application of funds as contemplated herein.

Section 11.06 Subordination to Financing Obligations. **NOTWITHSTANDING THE ABOVE PROVISIONS OF THIS ARTICLE XI, FOR SO LONG AS THE FINANCING OBLIGATIONS REMAIN OUTSTANDING, ANY UNIVERSITY RIGHTS TO TERMINATE, DIRECT INSURANCE PROCEEDS, OR DIRECT RESTORATIONS FUNDS, IN ANY MANNER**

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THIS DOCUMENT IS IN ALL RESPECTS SUBORDINATE AND SUBJECT TO THE RIGHTS AND REMEDIES AND TERMS AND CONDITIONS CONTAINED IN THE FINANCING OBLIGATIONS. THE TRUSTEE BANK SHALL HAVE THE NECESSARY AUTHORITY TO ENTER INTO THE PREMISES AND OPERATE, LEASE, OR SELL THE FACILITY AND IMPROVEMENTS AND RIGHTS UNDER THE GROUND LEASE IN ORDER TO PROTECT THE TRUSTEE BANK'S INTEREST IN THE PREMISES.

THAT WOULD INHIBIT THE FIRST PRIORITY OF FULFILLMENT AND FINAL PAYOFF OF ALL THE FINANCING OBLIGATIONS, SHALL BE SUBORDINATED TO THE RIGHTS OF THE FINANCING ISSUER THROUGH THE PROVISIONS OF THE FINANCING OBLIGATIONS.

ARTICLE XII CONDEMNATION

Section 12.01 Total Taking.

(a) If all or Substantially all the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of Condemnation, eminent domain, or by agreement among University, NPS, and those authorized to exercise such right, the Term shall terminate on the Date of Taking and the Rent payable by NPS hereunder shall be equitably apportioned as of the date of such taking. Termination of the Term shall not affect the NPS's right to any award or damages from the condemning authority.

(b) Except as provided in Subsection (c) below, if all or Substantially all the Premises shall be taken or condemned, the awards, or damages in respect thereof shall be apportioned as follows: (i) there shall first be paid to University so much of the award which is for or attributable to the Ground Lease Value; (ii) there shall next be paid to Financing Issuer so much of the balance of such award as shall equal the unpaid principal indebtedness secured by such Financing Obligations with interest thereon at the rate specified therein to the date of payment (such payments to be made in order of lien priority and *pari passu* to Financing Issuer with liens of the same priority); and (iii) subject to rights of any Financing Issuer, NPS shall receive the balance, if any, of the award (but if the taking occurs prior to Completion of the Facility, the balance, if any, shall be paid to University). If there be any dispute as to which portion of the award is attributable to the Land and which portion is attributable to the Improvements, such dispute shall be resolved by Valuation Resolution (unless the condemning authority or a court of competent jurisdiction has made such determination, in which case its determination shall control).

(c) In the event that the taking party is the University or an affiliate thereof, the provisions of **Section 9.03 and 9.04** shall apply, and any such compensation thereunder shall be apportioned as follows: (i) there shall first be paid to Financing Issuer so much of the balance of such payment as shall equal the unpaid principal indebtedness secured by such Financing Obligations with interest thereon at the rate specified therein to the date of payment (such payments to be made in order of lien priority and *pari passu* to Financing Issuer with liens of the same priority); and (ii) subject to rights of any Financing Issuer, NPS shall receive the balance, if any, of such payment.

(d) Each of the Parties shall execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

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Section 12.02 Partial Taking. If less than Substantially all the Premises shall be so taken, this Declaration and the Term shall continue as to the portion of the Premises remaining without diminution of any of NPS's obligations hereunder, but the Base Rent shall be changed to the Base Rent reduced by the percentage of rentable area of the Premises taken and not rebuilt. NPS, whether or not the award or awards, if any, shall be sufficient for the purpose shall (subject to Unavoidable Delays) proceed diligently to Restore any remaining part of the Premises not so taken so that the latter shall be a complete, operable, and self-contained architectural unit in good condition and repair in conformity with this Land. In the event of any taking, the entire award for or attributable to the Land taken and the Ground Lease Value thereof, shall be first paid to University, and the balance of the award, if any, shall be paid to Depository, except that if such balance shall be less than the Threshold Amount, such balance shall be payable, in trust, to NPS for application to the cost of Restoration of the part of the Premises not so taken. Subject to the provisions and limitations in this Declaration, Depository shall make available to NPS as much of that portion of the award actually received and held by Depository, if any, less all necessary and proper expenses paid or incurred by Depository, the Financing Issuer most senior in lien and University in the Condemnation proceedings, as may be necessary to pay the cost of Restoration of the part of the Premises remaining. Such Restoration shall be done in accordance with and subject to the provisions of this Declaration. Payments to NPS as aforesaid shall be disbursed in the manner and subject to the conditions set forth in this Declaration. Any balance of the award held by Depository and any cash and the proceeds of any security deposited with Depository remaining after completion of the Restoration shall be paid to NPS. Each of the Parties shall execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

Section 12.03 Depository. With respect to any Restoration required, the cost of which exceeds both: (a) the Threshold Amount; and (b) the balance of the Condemnation award after payment of the expenses, then, prior to the commencement of such Restoration, NPS shall deposit with Depository a bond, cash or other security reasonably satisfactory to University in the amount of such excess, to be held and applied by Depository as security for the completion of the Restoration.

Section 12.04 Temporary Taking. If the temporary use of the whole or any part of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of Condemnation or eminent domain or by agreement between NPS and those authorized to exercise such right, NPS shall give prompt notice thereof to University and the Term shall not be reduced or affected in any way and NPS shall continue to pay in full the Rent payable by NPS hereunder without reduction or abatement, and NPS shall be entitled to receive for itself any award or payments for such use; provided, however, that:

- (a) If the taking is for a period not extending beyond the Term and if such award or payment is made less frequently than in monthly installments, the same shall be paid to and held by Depository as a fund which Depository shall apply from time to time to the payment of Rent, except that, if such taking results in changes or alterations in the Premises which would necessitate an expenditure to Restore the Premises to their former condition, then, a portion of such award or

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payment considered by University, in its reasonable opinion, as appropriate to cover the expenses of the Restoration shall be retained by Depository, without application as aforesaid, and applied and paid over toward the Restoration of the Premises to their former condition, substantially in the same manner and subject to the same conditions as provided in elsewhere herein, and any portion of such award or payment which shall not be required to be applied to the Restoration of the Building or to the payment of Rent until the end of the Term (or, if the taking is for a period terminating prior to the end of the Term, until the end of such period), shall be paid to NPS.

(b) If the taking is for a period extending beyond the Term, such award or payment shall be apportioned between University and NPS as of the Expiration Date, and University's and NPS's share thereof, if paid less frequently than in monthly installments, shall be paid to Depository and applied in accordance with the provisions of this Declaration and the Depository Agreement; provided, however, that the amount of any award or payment allowed or retained for the Restoration of the Premises and not previously applied for such purpose shall remain the property of University if this Declaration shall expire prior to such Restoration.

Section 12.05 Negotiated Sale in Lieu of Condemnation. In the event of a negotiated sale of all or a portion of the Premises in lieu of Condemnation, the proceeds shall be distributed as provided in cases of Condemnation.

Section 12.06 Participation in Condemnation Proceeding. University, NPS, and any Financing Issuer shall be entitled to file a claim and otherwise participate in any Condemnation or similar proceeding and all hearings, trials, and appeals in respect thereof.

Section 12.07 Rights of NPS to File Claims. Notwithstanding anything to the contrary contained in this Declaration, in the event of any permanent or temporary taking of all or any part of the Premises, NPS shall have the exclusive right to assert claims for any trade fixtures and personal property so taken which were the property of NPS and for relocation expenses of NPS, and all awards and damages in respect thereof shall belong to NPS, and University hereby waives any and all claims to any part thereof, provided, however, that if there shall be no separate award or allocation for such trade fixtures or personal property, then such claims of NPS, or awards and damages, shall be subject and subordinate to University's claims under this Declaration.

Section 12.08 Subordination to Financing Obligations. NOTWITHSTANDING THE ABOVE PROVISIONS OF THIS ARTICLE XII, FOR SO LONG AS THE FINANCING OBLIGATIONS REMAIN OUTSTANDING, ANY UNIVERSITY RIGHTS TO TERMINATE, OR APPORTION AWARDS OR DAMAGES OF CONDEMNATION, IN ANY MANNER THAT WOULD INHIBIT THE FIRST PRIORITY OF FULFILLMENT AND FINAL PAYOFF OF ALL THE FINANCING OBLIGATIONS, SHALL BE SUBORDINATED TO THE RIGHTS OF THE FINANCING ISSUER THROUGH THE PROVISIONS OF THE FINANCING OBLIGATIONS.

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**ARTICLE XIII
ESTOPPEL CERTIFICATES**

Section 13.01 Estoppel Certificates. University and NPS shall execute, acknowledge, and deliver to the other promptly upon request, a certificate certifying as to the following:

- (a) That this Declaration, the Development Agreement, or the Ground Lease, is unmodified and in full force and effect (or, if there have been modifications, that said lease is in full force and effect, as modified, and stating the modifications).
- (b) The dates through which the Rent under the Ground Lease has been paid.
- (c) The amount of the Rent then payable.
- (d) That no notice has been given by University to NPS of any default under this Declaration, the Development Agreement, or the Ground Lease that has not been cured and to the best of its knowledge and belief no default exists (or, if there has been any notice given or a default exists, describing the same).

Certificates from University and NPS pertaining to the same matters may be relied upon by any prospective Financing Issuer.

**ARTICLE XIV
NOTICES**

Section 14.01 Notices. Until a different address is provided in a notice to the other Party, all notices, demands or requests made by either Party to the other which are required or permitted by the provisions of this Declaration shall be in writing and shall be deemed sufficiently given if: (a) delivered by hand (against a signed receipt); (b) mailed by U.S. certified or registered mail, return receipt requested, postage prepaid; (c) sent via email as long as the sending party does not receive an error, non-deliverable, or similar bounce-back notification and receipt can be verified; or (c) sent by nationally recognized commercial overnight delivery service at the following address:

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University: The Board of Regents for the University of Oklahoma
660 Parrington Oval, Rm. 204
Norman, OK 73019
Attention: Chief Financial Officer
Email: matt.brockwell@ou.edu

with a copy to: The Board of Regents for the University of Oklahoma
510 East Chesapeake St., Rm. 105
Norman, OK 73019
Attention: Real Estate Operations
Email: beau.jennings@ou.edu

The Board of Regents for the University of Oklahoma
660 Parrington Oval, Rm. 213
Norman, OK 73019
Attention: General Counsel
Email: apaliotta@ou.edu

NPS: INDEPENDENT SCHOOL DISTRICT NUMBER 29
OF CLEVELAND COUNTY, OKLA., a.k.a.
NORMAN PUBLIC SCHOOLS
131 South Flood Avenue
Norman, OK 73069405-364-1339
Attention: Superintendent
Email: nickm@normanps.org; and
jmilner@normanps.org

with a copy to: Rieger Law Group, PLLC
136 Thompson Drive
Norman, OK 73069
Attention: Sean Paul Rieger
Email: sp@riegerllc.com

Notwithstanding anything contained in this Declaration to the contrary, any notice required to be given by University or NPS hereunder shall be deemed to be effective as of the date such notice is received or refused as reflected on said notice.

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**ARTICLE XV
SUBMISSION OF MATTERS TO UNIVERSITY FOR APPROVAL**

Section 15.01 Submission of Matters to University for Approval. Any matter which must be submitted to and consented to or approved in writing by University or any matter which must be submitted to University which may become effective if not denied by University, as required under this Declaration, shall be submitted to University in the manner and to the address of University designated for the giving of notice to University under this Declaration and shall either be approved or rejected by University within thirty (30) days after receipt unless a shorter period of time is expressly stated elsewhere in this Declaration. If University should fail so to approve or reject within such thirty (30)-day period as provided for herein, University's approval shall be deemed rejected. Upon NPS's written request, University shall inform NPS in writing of its rejection or approval of such submitted matter in the manner and to the address of NPS designated for the giving of notice to NPS under this Declaration. Any review by University of any matter submitted to University is for University's own convenience and purpose only. By undertaking such review, University does not incur or have any liability to NPS or any other person, including, without limitation, the insurers and lenders of NPS.

**ARTICLE XVI
COMPLIANCE WITH LAWS; ENVIRONMENTAL LAWS**

Section 16.01 Compliance with Laws. The Parties warrant and agree that, during the entire term of the Ground Lease and at their own separate expense: (a) Each Party shall conduct their respective business and activities on or related to the Premises only in full compliance with all applicable Laws; (b) Each Party shall neither do nor permit any act or omission which could cause the Premises and either Party's use thereof to fail to be in full compliance with all applicable Laws; and (c) Each Party shall neither do nor permit any act or omission which could cause any Liabilities, including Environmental Liabilities, to exist or be asserted against either Party or the Premises. Without limiting the foregoing, the responsible Party shall promptly cure all violations of Law for which said Party has caused and received notice or a public notice of violation has been issued and pay all fines, penalties, interest, or other costs imposed by any Governmental Authorities in connection with any violation or requirement of any Law.

Section 16.02 Environmental Laws.

(a) Each Party warrants and agrees that, during the entire term of the Ground Lease and at their own separate expense, each Party shall comply with all Environmental Laws. Such compliance shall include obligations to take Remedial Action when required by Law and to pay all fines, penalties, interest, or other costs imposed by any Governmental Authorities in connection with any violation or requirement of any Law.

(b) Each Party shall notify the other Party promptly in writing if: (i) either Party becomes aware of the presence or Release of any Hazardous Material at, on, under, over, emanating from, or migrating to the Premises in any quantity or manner which could reasonably

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be expected to violate in any material respect any Environmental Law or give rise to any material Liability or the obligation to take Remedial Action; or (ii) either Party receives any written notice, claim, demand, request for information, or other communication from a Governmental Authority regarding the presence or Release of any Hazardous Material at, on, under, over, emanating from, or migrating to the Premises.

(c) The Party responsible for such Remedial Action shall take and complete said Remedial Action with respect to the Premises in full compliance with all Laws and shall, when such Remedial Action is completed, submit to the other Party written confirmation from the applicable Governmental Authority that no further Remedial Action is required.

(d) The Party responsible for the presence or Release of any Hazardous Materials shall provide the other Party with copies of all tests, studies, notices, claims, demands, requests for information, or other communications relating to the presence or Release of any Hazardous Materials at, on, under, over, emanating from, or migrating to the Premises.

ARTICLE XVII NO IMPAIRMENT OF UNIVERSITY'S TITLE

Section 17.01 No Impairment of University's Title. NPS shall not permit the Premises to be used by any Person at any time or times during the Term of the Ground Lease in such a manner as would impair University's title to or interest in the Premises or in such a manner as would cause a claim or claims of adverse possession, adverse use, prescription, or other similar claims of, in, to, or with respect to the Premises.

ARTICLE XVIII LIMITATION OF LIABILITY

Section 18.01 Limitation of Liability.

(a) If University sells, assigns, or otherwise transfers (whether by operation of Law or otherwise) all or part of its interests in the Premises or the Ground Lease: (i) University shall be relieved of all obligations and Liabilities of University under this Declaration and the Ground Lease accruing after the effective date of such transfer; and (ii) the transferee shall be deemed to have assumed all University's obligations and Liabilities under this Declaration and the Ground Lease effective from and after the effective date of the transfer.

(b) Each Party's individual representatives, employees, directors, officers, members, managers, board members, staff, regents, and agents shall have no personal liability under or in connection with this Declaration. NPS agrees that it shall look solely to University's interest in the Land and this Declaration, as may be applicable, for the satisfaction of remedies or to collect any judgment requiring payment of any money by University.

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(c) NPS agrees that, to the extent not expressly prohibited by Law, University and University's lenders, officers, agents, servants, and employees ("University Parties") shall not be liable for (nor shall Rent abate as a result of) any direct or consequential damage (including damage claimed for actual or constructive eviction) either to person or property sustained by NPS, its permitted assigns, officers, servants, employees, agents, invitees, or guests due to the Premises or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident in or about the Premises, or due to any act or neglect of any tenant or occupant of the Premises or of any other person. This provision shall apply particularly (but not exclusively) to damage caused by water, snow, frost, steam, sewage, gas, electricity, sewer gas, or odors or by the bursting, leaking, or dripping of pipes, faucets, and plumbing fixtures, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the causes specifically enumerated above or to some other cause of an entirely different kind. NPS further agrees that all the Improvements, trade fixtures, equipment, and all other Personalty in the Premises shall be at the risk of NPS only, and that University shall not be liable for any loss or damage thereto or theft thereof.

The provisions of this **Section 18.01** shall survive the expiration or earlier termination of this Declaration.

ARTICLE XIX MISCELLANEOUS

Section 19.01 University and NPS Representations and Warranties. University and NPS each represent and warrant that:

(a) This Declaration has been duly authorized, executed, and delivered by such Party and constitutes the legal, valid, and binding obligation of such Party.

(b) There are no actions, suits, or proceedings pending or, to the knowledge of such Party, threatened against or affecting such Party, at law or at equity, or before any Governmental Authority that would impair such Party's ability to perform its obligations under this Declaration.

(c) The consummation of the transactions hereby contemplated, and the performance of this Declaration by such Party shall not result in any breach or violation of, or constitute a default under, any lease or financing agreement to which said Party is a party thereto.

The Parties agree that they shall provide to the other Party, if requested, evidence that the execution and delivery of this Declaration have been duly authorized by said Party.

Section 19.02 Recordation. Following execution of this Declaration, the Parties agree to record this Declaration in the real property records of the County Clerk of Cleveland County. Upon the expiration or sooner termination of this Declaration, NPS covenants that it will, at the request of University, execute,

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acknowledge, and deliver to University an appropriate cancellation, in a form proper for recording in the real property records of the County Clerk of Cleveland County. If NPS wrongfully fails or refuses to execute, acknowledge, and deliver such instrument of cancellation, then NPS hereby appoints University as NPS's attorney-in-fact, coupled with an interest, to execute, acknowledge, and deliver such instrument of cancellation on NPS's behalf.

Section 19.03 Confidentiality. University and NPS shall maintain the confidentiality of the terms and conditions of this Declaration to the extent permitted by Law and shall not disclose such terms and conditions to third parties except if such third party owes a duty of confidentiality to said Party or as otherwise required by Law, including the Oklahoma Open Records Act (51 O.S. 1991 Sec. 24A.1. *et.seq.*), or by mutual agreement of the parties.

Section 19.04 No Waiver.

(a) No failure of either Party to exercise any power given hereunder or to insist upon strict compliance to the undertakings, duties, and obligations hereunder, and no custom or practice of the Parties hereto at variance with the provisions hereof shall constitute a waiver of either Party's right to demand exact compliance with the provisions contained in this Declaration.

(b) All rights, powers, and privileges conferred herein upon both Parties hereto are cumulative and are in addition to and not in substitution for any other rights and remedies available at law, in equity, or otherwise.

Section 19.05 Attorneys' Fees. If any action is brought by either Party against the other in connection with or arising out of this Declaration, the Prevailing Party shall be entitled to recover from the other Party its reasonable out-of-pocket costs and expenses, including, without limitation, reasonable attorneys' fees, incurred in connection with the prosecution or defense of such action. The term, "**Prevailing Party**" shall include, without limitation, a Party that substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, University shall be entitled to attorneys' fees, costs, and expenses incurred in the preparation and service of notices of default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such default.

Section 19.06 Provisions Are Binding Upon Successors and Assigns. It is mutually covenanted, understood, and agreed by and between the parties hereto, that each of the provisions of this Declaration shall apply to, extend to, be binding upon, and inure to the benefit or detriment of not only the parties hereto, but also the legal representatives, and permitted successors and assigns of University and NPS hereto, and shall be deemed and treated as covenants running with the Premises during the Term of this Declaration. Whenever a reference to the parties hereto is made, such reference shall be deemed to include the legal representatives, successors, and assigns of said Party, the same as if in each case expressed.

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Section 19.07 Applicable Law. This Declaration shall be governed, construed, performed, and enforced in accordance with the Laws of the State of Oklahoma.

Section 19.08 Interpretation and Construction. This Declaration shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. Any captions or headings used in this Declaration are for convenience only and do not define or limit the scope of this Declaration. The singular of any term, including any defined term, shall include the plural and the plural of any term shall include the singular. Whenever the singular or plural number, or masculine or feminine gender is used in this Declaration, it shall equally apply to, extend to, and include the other.

Section 19.09 Severability. In the event any provision, or any portion of any provision of this Declaration is held invalid, the other provisions of this Declaration and the remaining portion of said provision, shall not be affected thereby and shall continue in full force and effect.

Section 19.10 Time is of the Essence. All time limits stated in this Declaration are of the essence of this Declaration.

Section 19.11 No Agency. Nothing in this Declaration is intended, or shall in any way be construed, so as to create any form of partnership or agency relationship between the Parties. The Parties hereby expressly disclaim any intention of any kind to create any partnership or agency relationship between themselves. Nothing in this Declaration shall be construed to make either Party liable for any of the indebtedness of the other, except as specifically provided in this Declaration.

Section 19.12 Entire Agreement. The making, execution, and delivery of this Declaration by each Party has not been induced by any representations, statements, covenants, or warranties by either Party except for those contained in this Declaration and the other Transaction Documents. This Declaration and the other Transaction Documents contain the full, complete, and entire agreement between and among the parties hereto; no agent, employee, officer, representative, or attorney of the parties hereto has authority to make, or has made, any statement, agreement, representation, or contemporaneous agreement, oral or written, in connection herewith modifying, adding to, or changing the provisions of this Declaration or the other Transaction Documents. No amendment of this Declaration shall be binding unless such amendment shall be in writing, signed by both parties hereto and attached to, incorporated in and by reference made a part of this Declaration.

Section 19.13 Counterparts. This Declaration may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THIS DOCUMENT IS IN ALL RESPECTS SUBORDINATE AND SUBJECT TO THE RIGHTS AND REMEDIES AND TERMS AND CONDITIONS CONTAINED IN THE FINANCING OBLIGATIONS. THE TRUSTEE BANK SHALL HAVE THE NECESSARY AUTHORITY TO ENTER INTO THE PREMISES AND OPERATE, LEASE, OR SELL THE FACILITY AND IMPROVEMENTS AND RIGHTS UNDER THE GROUND LEASE IN ORDER TO PROTECT THE TRUSTEE BANK'S INTEREST IN THE PREMISES.

IN WITNESS WHEREOF, University and NPS have executed this Declaration as of the Commencement Date.

UNIVERSITY:

THE BOARD OF REGENTS OF THE
UNIVERSITY OF OKLAHOMA,
a constitutional entity of the State of Oklahoma

By _____
Name: Brian Holderread
Title: Vice President for Campus Operations

STATE OF OKLAHOMA)
) ss:
COUNTY OF CLEVELAND)

This instrument was acknowledged before me on _____, 2023, by Brian Holderread, Vice President for Campus Operations of The Board of Regents of the University of Oklahoma, a constitutional entity of the State of Oklahoma.

(Seal)

Notary Public
My Commission Expires: _____
Commission # _____

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IN WITNESS WHEREOF, University and NPS have executed this Declaration as of the Commencement Date.

NPS:

INDEPENDENT SCHOOL DISTRICT
NUMBER 29 OF CLEVELAND COUNTY,
OKLA., a.k.a. NORMAN PUBLIC SCHOOLS

By _____

Name: Dirk O'Hara
Title: President of the Board of Education

STATE OF OKLAHOMA)
) ss:
COUNTY OF CLEVELAND)

This instrument was acknowledged before me on _____, 2023, by Dirk O'Hara, as President of Independent School District Number 29 of Cleveland County, Okla., a.k.a. Norman Public Schools.

(Seal)

Notary Public
My Commission Expires: _____
Commission # _____

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EXHIBITS

EXHIBIT A	Depiction of Airport Property
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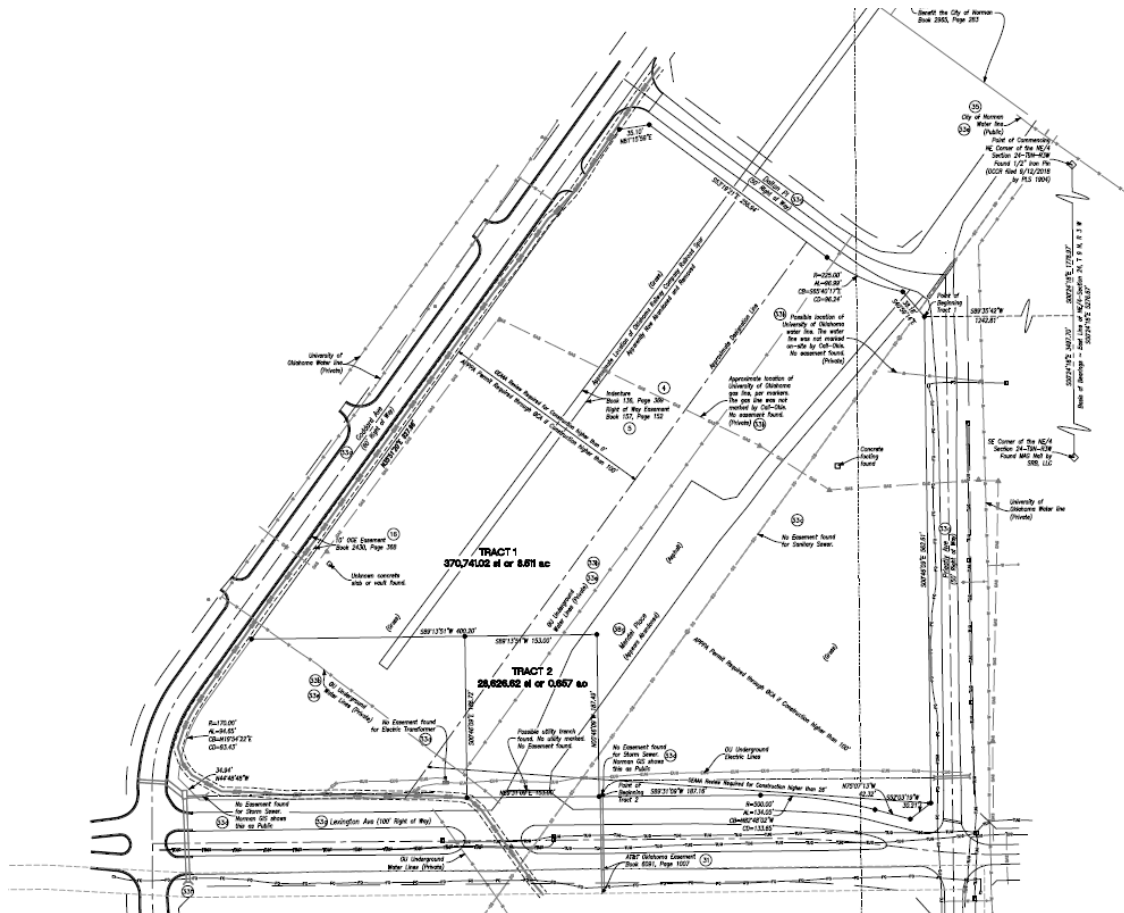


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EXHIBIT A-1	Legal Description and Depiction of Land
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TRACT 1 DESCRIPTION

A tract of land that is a part of the Northeast Quarter of Section 24, Township 9 North, Range 3 West, City of Norman, Cleveland County, Oklahoma, Indian Meridian, more particularly described as follows: COMMENCING at the Northeast Corner of said Northeast Quarter; THENCE S 00°24'18" E, along the east line of said Northeast Quarter, a distance of 1778.97 feet; THENCE S 89°35'42" W, perpendicular to the east line of said Northeast Quarter, a distance of 1242.81 feet to the POINT OF BEGINNING; THENCE S 00°46'09" E a distance of 562.61 feet; THENCE S 52°03'19" W a distance of 30.21 feet; THENCE N 75°07'13" W a distance of 42.32 feet; THENCE along a tangent curve to the left with a radius of 500.00 feet, an arc length of 134.05', a chord bearing of N 82°48'02" W, and a chord distance of 133.65 feet; THENCE S 89°31'09" W a distance of 187.16 feet; THENCE N 00°46'09" W a distance of 187.49 feet; THENCE S 89°13'51" W a distance of 400.20 feet; THENCE N 35°51'20" E a distance of 727.46 feet; THENCE N 81°15'59" E a distance of 35.10 feet; THENCE S 53°19'21" E a distance of 256.94 feet; THENCE along a tangent curve to the left with a radius of 225.00 feet, an arc length of 96.99 feet; a chord bearing of S 65°40'17" E, and a chord distance of 96.24 feet; THENCE S 40°59'14" E a distance of 38.18 feet to the POINT OF BEGINNING, Above described tract contains 370,741.02 square feet or 8.511 acres.



GROUND LEASE

between

THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA,

a constitutionally created state entity

organized under the laws of the State of Oklahoma, Landlord

and

INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA.,

a.k.a.

NORMAN PUBLIC SCHOOLS, Tenant

dated as of

___ 2023

GROUND LEASE

This GROUND LEASE (the “**Ground Lease**”), dated as of the ___ day of _____, 2023 (“the “**Commencement Date**”), is entered into between THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, a constitutionally-created entity organized under the laws of the State of Oklahoma, (“**Landlord**” or “**University**”) and INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA., a.k.a. NORMAN PUBLIC SCHOOLS (“**Tenant**” or “**NPS**”, and, together with University, each a “**Party**” and collectively referred to herein as the “**Parties**”).

RECITALS:

WHEREAS, NPS wishes to establish an aviation high school program, the Oklahoma Aviation Academy (the “**Academy**”), at the University of Oklahoma Max Westheimer Airport (“**Airport**”) to initiate an early introduction to young men and women of the many benefits of careers in the aviation industry; and

WHEREAS, the University wishes to cooperate in the plan to expand and accelerate the formal education related to the aviation industry and University programs.

WITNESSETH:

In consideration of the rents and covenants made herein, the sufficiency of which is acknowledged, University and NPS, for themselves, and their permitted successors and assigns, hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 Definitions. The following terms, as used in this Ground Lease, shall have the meanings set forth below:

“**Airport**” shall mean the University of Oklahoma Max Westheimer Airport and the Airport Property.

“**Airport Property**” shall mean that certain tract of real property owned by University and located in the City of Norman, County of Cleveland, State of Oklahoma and as generally depicted on **EXHIBIT A** attached hereto, upon which the Airport is located.

“**Alteration**” or “**Alterations**” shall have the meaning set forth in **Section 8.02** hereof.

“**Approvals**” shall mean all approvals of Governmental Authorities required for the construction of the Facility and for any Alteration, as applicable, including, but not limited to approval of the FAA. The parties understand and agree that this Ground Lease is conditional and contingent upon NPS receiving all necessary Approvals, such as but not limited to all Approvals from all Governmental Authorities, the FAA, the Department of Education, and the Airport administration.

“**Base Rent**” shall have the meaning set forth in **Section 3.01** hereof.

“**Business Day**” shall mean any day that is not a Saturday, Sunday, or a day observed as a holiday by either the State or federal government.

“**Certificate of Occupancy**” shall mean a certificate issued by the appropriate Governmental Authority permitting the occupancy of the Facility. For purposes hereof, a temporary Certificate of Occupancy shall be deemed to be a Certificate of Occupancy but shall be replaced with a permanent Certificate of Occupancy before the expiration of such temporary Certificate of Occupancy.

“**Change Order**” shall have the meaning set forth in Section 6.06 hereof.

“**Commencement Date**” shall have the meaning set forth in the first paragraph of this Ground Lease.

“**Commencement of Construction**” shall mean the date on which on-site construction of the Facility shall commence, including any excavation or pile driving but not including soil analysis, test borings, test pilings, surveys, environmental studies, and similar preconstruction activities.

“**Completion Date**” shall mean twenty-four (24) months following the Construction Commencement Date, subject to Unavoidable Delays.

“**Condemnation**” shall mean the taking or appropriation of all or any part of the Premises, or any interest therein or right accruing thereto including any right of access, by or on behalf of any Governmental Authority or by any entity granted the authority to take property in the exercise of the power or right of eminent domain granted by statute, or any agreement that conveys to the condemning authority all or any part of the Premises as the result of, in lieu of, or in anticipation of, the exercise of a right of condemnation or eminent domain. Such term shall also be deemed to include, to the extent not otherwise defined herein, a temporary taking of the Premises or any part thereof or the Improvements thereon for a period of six (6) months or more, and the taking of the leasehold interest created herein.

“**Consideration**” shall have the meaning set forth in Section 3.04 hereof.

“**Construction Agreement**” shall mean that certain agreement to be entered into with Contractor for the construction of the Facility. A copy of the form of the Construction Agreement will be provided as it becomes available for review.

“**Construction Commencement Date**” shall mean (1) year following the Commencement Date, subject to Unavoidable Delays.

“**Contract Documents**” shall have the meaning set forth in Section 6.04 hereof.

“**Contractor**” shall mean the company that shall enter into the Construction Agreement with NPS for the construction and development of the Facility.

“**Consumer Price Index**” shall mean the monthly index of the National Consumer Price Index for All Urban Consumers (U.S. City Average - All Items; 1982-1984 = 100) issued by the U.S. Department of Labor, Bureau of Labor Statistics, or any successor agency of the United States that shall issue such indices. If the manner in which the Index is determined by the Bureau of Labor Statistics shall be substantially revised, or if the Index shall become unavailable to the public or discontinued, University will substitute therefor a comparable index based on changes in the cost of living or the purchasing power of the consumer dollar published by another governmental agency or, if no such index shall be available,

a comparable index published by a major bank or financial institution or by a university or recognized financial publication.

“Date of Taking” shall mean the earlier of the date, pursuant to the provisions of applicable State or Federal Law, on which: (a) actual possession of all or part of the Premises, as the case may be, is acquired by the appropriate Governmental Authority; or (b) title to all or part of the Premises, as the case may be, is vested in the appropriate Governmental Authority.

“Depository” shall mean a savings bank, savings and loan association, commercial bank, or trust company designated by NPS and approved by University, which approval shall not be unreasonably withheld, conditioned, or delayed, to serve as Depository pursuant to an agreement reasonably acceptable to University and NPS (the **“Depository Agreement”**). If NPS shall fail to designate a Depository within thirty (30) Business Days after the written request of University, University shall have the right to designate such Depository.

“Environmental Laws” shall mean all Laws: (a) relating to the environment, human health, or natural resources; (b) regulating, controlling, or imposing liability or standards of conduct concerning any Hazardous Materials; (c) relating to Remedial Action; and (d) requiring notification or disclosure of releases of Hazardous Materials or of the existence of any Hazardous Materials on or at the Premises, as any of the foregoing may be amended, supplemented, or supplanted from time to time. Environmental Laws shall include, but not be limited to, the following: the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; the Clean Air Act, 42 U.S.C. Section 7401 *et seq.* For purposes of Environmental Laws, to the extent authorized by law, NPS is and shall be deemed to be the responsible party, including without limitation, the “owner” and “operator” of the Facility and the “owner” of all Hazardous Materials brought on the Premises by NPS, its agents, employees, contractors, or invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom. Similarly, to the extent authorized by law, University is and shall be deemed to be the responsible party, including without limitation, the “owner” and “operator” of the Land and the “owner” of all Hazardous Materials to the extent such are brought on the Premises by University, its agents, employees, contractors, or invitees (other than NPS and parties claiming by, through or under NPS), and the wastes, by-products, or residues generated, resulting, or produced therefrom. NPS shall not be the responsible party for any Hazardous Materials or Environmental Liabilities, to the extent brought onto the Premises or arising prior to the Commencement Date.

“Environmental Liabilities” shall mean any loss, cost, expense, claim, demand, liability, obligation, action, or other responsibility of whatever kind, based upon or required under Environmental Laws or otherwise relating to: (a) any environmental, health, or safety matter or condition (including, but not limited to, on-site or off-site pollution or contamination, the welfare, safety, and health of people at the Premises or elsewhere, and the regulation of chemical substances or products); (b) fines, penalties, judgments, awards, settlements, legal or administrative proceedings, damages, losses, claims, demands, responses, and remedial, investigative, or inspection costs and expenses arising under or caused by application of Environmental Laws (including, but not limited to, fees for attorneys, engineers, and other professionals); (c) financial responsibility under Environmental Laws for Remedial Action or for any damages to natural resources; or (d) any other Remedial Actions required under Environmental Laws.

“Event of Default” shall have the meaning set forth in **Section 10.01** hereof.

“**Expiration Date**” shall mean the last day of the month in which occurs the fiftieth (50th) yearly anniversary of the Commencement Date, as same may be extended pursuant to **Section 24.01** hereof, or such earlier date on which the Term shall sooner end pursuant to any of the terms, covenants, or conditions of this Ground Lease, or pursuant to Law.

“**Extension Term**” shall have the meaning set forth in **Section 24.01** hereof.

“**FAA**” shall mean the Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function.

“**Facility**” shall mean the building to be constructed on the Land by NPS as an important part of the Oklahoma Aviation Academy project vision to co-locate functions of the University’s School of Aviation, and thus for the exclusive use of the University in connection with its School of Aviation in immediate adjacency to the Oklahoma Aviation Academy, together with all fixtures now or in the future installed or erected upon the Land or Improvements (including but not limited to elevators, boilers, escalators, pipes, conduits, wiring, septic tanks, and heating, ventilation and air conditioning systems).

“**FAR**” shall mean the Federal Aviation Regulations, the regulations promulgated by the FAA pursuant to the US Transportation Code, as amended, in which FARs are found at 14 CFR Section 1 *et seq.*

“**Force Majeure Event**” means any of the following events: (a) acts of God; (b) rain, snow, ice, sleet, tornados, severe weather events, lightning, wind, hail, wildfires, floods, fires, earthquakes, explosions, or other natural disasters or similar weather related events outside the control of the Parties; (c) war, invasions, hostilities (whether war is declared or not), terrorist threats or acts, riots or other civil unrest; (d) governmental authority, proclamations, orders, laws, actions, or requests; (e) embargoes or blockades; (f) epidemics, pandemics, or other national or regional public health emergencies; (g) strikes, labor stoppages or slowdowns, labor shortages, or other industrial disturbances; (h) shortages of supplies or materials, adequate power, or transportation facilities; and (i) other similar events beyond the reasonable control of the Parties.

“**Governmental Authority or Governmental Authorities**” shall mean the United States of America, the State of Oklahoma, the County of Cleveland, the City of Norman, any political subdivision of any of the foregoing, and any other governmental or regulatory authority, agency, board, department, or any other public or quasi-public authority, having jurisdiction over the Premises or the matter at issue, including, but not limited to the FAA.

“**Hazardous Materials**” shall mean any and all substances, materials, chemicals, or wastes that now or hereafter are classified or considered to be hazardous or toxic under any Environmental Law, or that are or become regulated by any Governmental Authority because of toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness, or reactivity under any Environmental Law applicable to the Premises, and shall also include: (a) gasoline, diesel fuel, and any other petroleum hydrocarbons; (b) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (c) polychlorinated biphenyls; (d) radon gas; and (e) flammable liquids and explosives.

“**Impositions**” shall mean any and all, if any are applicable: (a) property taxes of every kind and nature (including payments in lieu of taxes); (b) property assessments (whether general, special, business improvement district, or otherwise); (c) personal property taxes; (d) occupancy and rent taxes; (e) water,

water meter, sewer rents, rates, and charges; and (f) any and all other governmental levies, fees, rents, assessments, or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, and any interest or costs with respect thereto, which at any time during the Term are, or, if the Premises or any part thereof or the owner thereof were not exempt therefrom, would have been assessed, levied, confirmed, imposed upon, or would have become due and payable out of or in respect of, or would have been charged with respect to, the Premises.

“**Improvements**” shall mean all buildings and other improvements now located, or hereafter erected, on the Land (including the Facility), together with all fixtures now or in the future installed or erected in or upon the Land or such improvements owned or leased by Landlord or NPS.

“**Initial Construction**” shall mean the design, development, and construction of the Facility, including all related demolition and excavation.

“**Land**” shall mean all that certain plot, piece, or parcel of land out of the Airport Property with a street address located in the City of Norman, County of Cleveland, State of Oklahoma and which land is described and generally depicted as “Tract 2” on **EXHIBIT A-1** attached hereto and incorporated herein.

“**Law**” or “**Laws**” shall mean any present or future applicable law, statute, ordinance, regulation (including FAR and zoning regulations), code, building code, judgment, injunction, arbitration award, order, rule, directive, common law, codes and ordinances of any Governmental Authorities, easement, covenant, restriction, or other agreement of record affecting the Premises as of the date of this Ground Lease or subsequent thereto.

“**Liabilities**” shall mean all losses, claims, suits, demand, costs, liabilities, and expenses, including reasonable attorneys’ fees, penalties, interest, fines, judgment amounts, fees, and damages, of whatever kind or nature.

“**Party**” or “**Parties**” shall have the meaning set forth in the Preamble.

“**Permitted Use**” shall mean all not-for-profit and governmental legal operations for AVIATION RELATED EDUCATIONAL USES ONLY, and additionally for ancillary uses as would normally affiliate with aviation education, including the operation of an Oklahoma Aviation Academy for high school students and college career center students, consisting of educational classrooms, lecture halls, training facilities, meeting spaces, offices, cafeteria and school owned, operated, or contracted food service facilities, labs, assembly areas, work shops, hangers, warehouse space, storage areas, and other similar educational facilities related to NPS’s desired operation of the Academy, including incidental or auxiliary uses related thereto.

“**Permitted Exceptions**” shall mean any matters reflected in the Commitment for Title Insurance with an effective date of April 24, 2023, as revised on October 23, 2023, issued by First American Title Insurance Company National Commercial Services under File No. NCS-1176179-OKC.

“**Permittees**” shall mean, for a particular Person, its employees, agents, tenants, subtenants, officers, employees, agents, customers, and invitees.

“**Person**” shall mean any individual, corporation, partnership, firm, or other legal entity.

“**Personalty**” shall mean all machinery, equipment, appliances, furniture, and any other personal property of any kind or description owned or leased by University or NPS located on the Premises and used in the operation of the Premises, excluding trucks and cars.

“**Plans**” shall have the meaning set forth in Section 6.05 hereof.

“**Premises**” shall mean the Land, any Improvements thereon (including the Facility, as applicable), and any and all rights, privileges, easements, and appurtenances to the Land and the Improvements and any development rights.

“**Prevailing Party**” shall have the meaning set forth in Section 25.03 hereof.

“**Property Reports**” shall have the meaning set forth in Section 6.14 hereof.

“**Release**” shall mean the release or threatened release of any Hazardous Materials into or upon or under or above any land, water, or air, or otherwise into the environment, including by means of burial, disposal, discharge, emission, spillage, leakage, seepage, leaching, or dumping.

“**Remedial Action**” shall mean the investigation, response, clean up, remediation, prevention, mitigation, or removal of any Hazardous Materials necessary to comply with any Environmental Laws.

“**Rent**” shall mean Base Rent and all other amounts payable by NPS under this Ground Lease.

“**Restoration**” shall have the meaning set forth in Section 12.01 hereof.

“**Restoration Funds**” shall have the meaning set forth in Section 12.02 hereof.

“**Restore**” shall have the meaning set forth in Section 12.01 hereof.

“**Schedule of Performance**” shall have the meaning set forth in Section 6.04 hereof.

“**State**” shall mean the State of Oklahoma.

“**Substantial Completion, Substantially Complete, and Substantially Completed**” shall mean, with respect to the Initial Construction and all Alterations, the satisfaction of the following conditions: (a) NPS shall have obtained and delivered to University all Approvals required by Law to be issued in connection with the Initial Construction or Alteration, as applicable, including any Certificate of Occupancy or amendment of the Certificate of Occupancy; and (b) NPS delivers to University a final release and waiver of mechanics liens covering all the Initial Construction or Alteration, as applicable, in form and substance reasonably satisfactory to University, executed by each of the general contractor, construction manager, design builder, contractors, and subcontractors.

“**Substantially all the Premises**” shall mean: (a) that portion of the Premises in excess of ninety percent (90%) of the total useable area of the Improvements; or (b) if the Improvements include a parking lot or parking facility, more than ninety percent (90%) of the total number of parking spaces available at the Premises.

“**Term**” shall mean the term of this Ground Lease commencing on the Commencement Date and ending on the Expiration Date.

“**Threshold Amount**” shall mean the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00) adjusted annually on each anniversary of the Commencement Date by the percentage increase of the Consumer Price Index from the Commencement Date to the anniversary in question.

“**Tract 1 Ground Lease**” shall mean that certain Ground Lease made and entered into by and between University and NPS of even date herewith for the premises located adjacent to the Land and used in the operation of the Academy.

“**Unavoidable Delays**” shall mean delays incurred by NPS due to a Force Majeure Event; provided: (a) NPS shall have notified University not later than ninety (90) days after the commencement of the Force Majeure Event, explaining the nature or cause of the delay and stating the period of time the delay is expected to continue; and (b) NPS uses commercially reasonable efforts to end the delay and ensure the effects of such Force Majeure Event are minimized.

“**University Sublease**” shall have the meaning set forth in **Section 17.01** hereof.

“**Valuation Resolution**” shall mean in such cases where this Ground Lease expressly provides for the resolution of a question by Valuation Resolution, and only in such cases, each Party shall promptly appoint a Qualified Appraiser on its behalf and shall give notice thereof to the other Party. The two (2) Qualified Appraisers shall together appoint a third Qualified Appraiser within thirty (30) days after the appointment of University’s and NPS’s Qualified Appraisers, and the three (3) Qualified Appraisers shall, within the applicable time period specified in this this Ground Lease, or if no time period is specified, as promptly as possible, determine the matter which is the subject of Valuation Resolution and the decision of the majority of them shall be a conclusive, final, decision binding on all parties. The expenses of Valuation Resolution shall be shared equally by University and NPS, but each Party shall be responsible for the fees and disbursements of its own attorneys and the expenses of its own proof, including its Qualified Appraiser.

ARTICLE II LEASE OF PREMISES

Section 2.01 Lease of Premises. Subject to the terms and conditions of this Ground Lease, University leases to NPS, and NPS leases from University, the Premises for a Term that shall commence on the Commencement Date and end on the Expiration Date (as such Term may be extended from time to time pursuant to **Section 24.01** hereof).

Section 2.02 Condition of Premises. NPS has inspected the Premises and accepts possession of the Premises in its “**AS-IS**” condition on the Commencement Date. University shall deliver vacant possession of the Premises as of the Commencement Date. Except as otherwise expressly provided in this Ground Lease, and except as may be otherwise addressed in the University Sublease, Tenant has full responsibility, control, and obligation of the repair, alteration, maintenance, improvement, and replacement of the Premises and full responsibility, obligation, and control over the preparation of the Land for the construction of the Facility, and the repair, alteration, maintenance, development, construction, installation, and replacement of the Facility on the Land. NPS expressly acknowledges and agrees that University has not made and is not making, and NPS is not relying upon, any warranties or

representations regarding the Land, except to the extent same are expressly set forth in the Tract 1 Ground Lease and its related documents or in this Ground Lease. To the extent that it is necessary for NPS to extend critical utilities such as gas, water, sewer, storm water, fiber optic, telecommunications, and the like, from the new Facility to the nearest applicable utilities off site from the Premises, University will reasonably cooperate at NPS's cost to allow for extensions along the existing streets and right of ways adjacent to such utilities. University agrees that NPS may, at NPS's sole cost, clear the Land of all existing structures and improvements in order to construct the new Facility and Improvements. With University's prior written consent and cooperation, which shall not be unreasonably withheld, NPS may relocate active University utilities or remove inactive University utilities located on the Land, such as but not limited to water, gas, sewer, electricity, that cross within the interior of the Land, at NPS's cost, in order to allow for development of the Facility and Premises on the Land; provided that, the timing and operation of any such permitted relocation or removal is coordinated with the University in advance and NPS does not unreasonably interrupt any surrounding University utilities services. In the event that it would be a more viable option for NPS to connect into existing University utilities at or near the Land, instead of extending much farther to connect to other public City of Norman utilities, then University agrees to allow NPS to connect the Facility and Improvements on both Tract 1 Ground Lease and this Ground Lease to the University utilities, all at NPS's sole cost, and the parties come to agreement on reasonable payment by NPS to University for such ongoing utility services. University agrees that it will not assert any claims with respect to any right to use Mendel Place road and that University will cooperate with NPS, at NPS's cost, should NPS seek to formally vacate Mendel Place road and remove all remaining improvements that were associated with Mendel Place road. Further, the University shall grant non-exclusive easement rights of vehicular and pedestrian access over and across the private University streets of Goddard Avenue, Lexington Avenue, Dalton Place, and Priestly Avenue (or such other private University roads) as may exist from time to time to and from the Land in order to allow for ingress and egress to and from North Flood Avenue (similar to the Grant of Public Access Easement that the University granted to the City of Norman in a document filed on 7-14-2022 at Book 4887, Page 1017 of the Cleveland County Records – Exception Number 28 on the Commitment for Title Insurance with an effective date of April 24, 2023, as revised on October 23, 2023, issued by First American Title Insurance Company National Commercial Services under File No. NCS-1176179-OKC).

ARTICLE III

BASE RENT; RENT PAYABLE TO UNIVERSITY; NET LEASE; CONSIDERATION

Section 3.01 Base Rent.

(a) NPS covenants and agrees to pre-pay all required Base Rent as applicable to the entirety of the Term of this Ground Lease (“**Base Rent**”) in an amount equal to One Dollar and 00/100 Dollars (\$1.00) *per annum*, payable in advance on the Commencement Date; and

(b) If the parties mutually agree to extend the Term of this Ground Lease in accordance with the terms of **Section 24.01** of this Ground Lease and this Ground Lease Term is extended, the Base Rent payable with respect to such Extension Term shall be the same amount or set forth in subsection (a) above.

Section 3.02 Rent Payable to University. NPS shall pay Base Rent to University in advance, commencing on the Commencement Date, without notice or demand and without setoff, counterclaim,

abatement, suspension, deduction, or defense, except as otherwise expressly provided in this Ground Lease.

Section 3.03 Net Lease. This Ground Lease is an absolute net lease. Except as may be otherwise addressed in the University Sublease, NPS shall be directly responsible and obligated for control over all expenses of every kind and nature whatsoever relating to or arising from the Premises, and all expenses arising from the possession, improvement, operation, management, construction, maintenance, repair, use, and occupancy of the Premises.

Section 3.04 Consideration. It is the intent of the parties that in exchange for the University granting NPS this Ground Lease and the Tract 1 Ground Lease, and in addition to the payment of Rent, NPS will construct and provide for the exclusive use of the University as a subtenant to NPS during the term of this Ground Lease pursuant to the University Sublease, an approximately 10,000 square foot building and other improvements on the Land for the University to house a part of its School of Aviation (the “**Facility**”), which shall be constructed consistent with (general specifications) design and construction quality comparable to the facilities constructed in accordance with the Tract 1 Ground Lease, and the parties will work together in good faith to determine all aspects of the Facility as part of the consideration provided herein (the “**Consideration**”). The parties further acknowledge and agree that the combined valuation of this Ground Lease and the Tract 1 Ground Lease granted by the University and the valuation of the University Sublease granted by NPS are sufficiently equal in order to support their respective agreements to enter into such arrangements.

ARTICLE IV

PAYMENT OF IMPOSITIONS; REDUCTION OF ASSESSED VALUATION

Section 4.01 Payment of Impositions.

(a) Except as may be otherwise addressed in the University Sublease, during the term of this Ground Lease, NPS shall pay or shall cause to be paid all Impositions directly to any applicable Governmental Authority charged with the collection thereof. Each Imposition, or installment thereof, during the Term shall be paid not later than thirty (30) days prior to the due date thereof. However, if, by Law, any Imposition may at the option of the payor be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), NPS may exercise the option to pay the same in such installments and shall be responsible for the payment of such installments only, together with applicable interest, if any, provided that all such installment payments together with applicable interest, if any, relating to periods prior to the Expiration Date shall be made prior to the Expiration Date. NPS shall promptly notify University if NPS shall have elected to pay any such Imposition in installments.

(b) NPS shall, within thirty (30) days following each due date, or reasonable time thereafter, furnish to University official receipts of the appropriate Governmental Authority, or other evidence reasonably satisfactory to University, evidencing the payment of such Impositions.

(c) Any Imposition relating to a period, a part of which is included within the Term and a part of which is included in a period of time before the Commencement Date or after the Expiration Date shall be apportioned between University and NPS as of the Commencement Date or Expiration Date (other than an Expiration Date arising by reason of NPS’s default), as the case

may be, so that NPS shall pay only that portion of such Imposition which that part of such fiscal period included in the period of time after the Commencement Date or before the Expiration Date bears to such fiscal period, and University shall pay the remainder thereof.

(d) NPS shall have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith, in which event, notwithstanding the provisions of this section, payment of such Imposition shall be postponed if, and only as long as:

(i) Neither the Premises nor any part thereof, or interest therein or any income therefrom (except to the extent covered by security deposited in accordance with this section would by reason of such postponement or deferment, be, in the commercially reasonable judgment of University, in imminent danger of being forfeited or lost or subject to any lien, encumbrance, or charge, and neither University nor NPS would by reason thereof be subject to any civil or criminal liability;

(ii) NPS shall have deposited with Depository cash or a letter of credit in a form and from an issuer reasonably satisfactory to University in the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Premises or any part thereof in such proceedings, or such other security as shall be reasonably satisfactory to University; and

(iii) No Event of Default has occurred and is continuing (in which event only University may commence such proceedings but shall have no obligation to do so).

(e) Upon the termination of such proceedings, it shall be the obligation of NPS to pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including reasonable attorneys' fees and disbursements), interest, penalties, or other liabilities in connection therewith. Upon such payment, Depository shall return, with interest, if any, any amount deposited with it as aforesaid; provided, however, that Depository at NPS's request or upon NPS's failure to do so in a timely manner, at University's request, shall disburse said moneys on deposit with it directly to the Governmental Authority to whom such Imposition is payable and any remaining monies, with interest, if any, shall be returned promptly to NPS.

(f) University shall not be required to join in any proceedings referred to in this Ground Lease unless the provisions of any Law at the time in effect shall require that such proceedings be brought by or in the name of University, in which event, University shall join and reasonably cooperate in such proceedings or permit the same to be brought in its name but shall not be liable for the payment of any costs or expenses in connection with any such proceedings and NPS shall reimburse University for any and all costs or expenses which University may reasonably sustain or incur in connection with any such proceedings, including reasonable attorneys' fees and disbursements.

(g) If there shall be any refunds or rebates on account of any Impositions paid by University or NPS, such refund or rebate shall belong to the Party that paid the Imposition.

Section 4.02 Reduction of Assessed Valuation. NPS may, at NPS's sole cost and expense, endeavor from time to time to reduce the assessed valuation of the Premises, to the extent such Premises are assessed, if any, for the purpose of reducing the Impositions payable by NPS. University agrees to offer no objection to such contest or proceeding and, at the request of NPS, to reasonably cooperate with NPS in pursuing such contest or proceeding, but without expense to University. NPS agrees to indemnify and hold University harmless from all Liabilities arising by reason of or in connection with any such contest or proceeding. If all or any part of an Imposition is refunded to either University or NPS (whether through cash payment or credit against Impositions), the Party who paid the Imposition to which the refund relates shall be entitled to such refund to the extent such refund relates to any Imposition paid by such Party.

ARTICLE V PERMITTED USE

Section 5.01 Permitted Use.

(a) Subject to all applicable Laws and this Lease, NPS shall use the Premises only for the Permitted Use.

(b) In no event, however, shall NPS use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful, illegal, or extra hazardous business, use, or purpose, or in such manner as to constitute a nuisance of any kind (public or private), or for any purpose or in any way in violation of the Certificate of Occupancy or of any Laws, or which may make void or voidable any insurance then in force on the Premises. NPS shall take, immediately upon the discovery of any such unpermitted, unlawful, illegal, or extra hazardous use, all necessary actions, legal and equitable, to compel the discontinuance of such use.

(c) NPS and NPS's Permittees shall comply with the Airport rules and regulations, and directives of the FAA and other Governmental Authorities from time to time in effect, relating to the safety and security of the Airport. The Parties shall work together in good faith to obtain any and all required Approvals from the FAA for construction and development of the Facility.

(d) NPS covenants and agrees that it will not allow any condition on the Premises, nor permit the conduct of any activity on the Premises, which shall materially or adversely affect the development, improvement, operation, or maintenance of the Airport or its facilities; nor will NPS use or permit the Premises to be used in any manner which might interfere with the landing and take-off of aircraft from the Airport or otherwise constitute a hazard. If any proscribed or prohibited condition or activity, as described above, shall be permitted to exist on the Premises, or if NPS's use or operation of the Premises violates FAR or any related Laws, University shall give written notice of such condition to NPS and NPS shall have a reasonable time to challenge, seek approval of, or cease such condition. If, after the passage of a reasonable time, NPS has failed to procure approval, permission, or has otherwise failed to terminate the condition, University may pursue all rights and remedies available to it pursuant to the terms herein. Provided, however, should the condition create a health, safety or welfare condition necessitating immediate abatement

or correction of the condition interfering with operation of Airport, University may immediately abate or correct the condition at NPS's expense without any prior notice.

ARTICLE VI CONSTRUCTION OF FACILITY

Section 6.01 Preconditions to Commencing Construction. NPS shall not commence construction of the Facility until NPS has satisfied all the following conditions:

(a) NPS has obtained American Rescue Plan Act (“ARPA”) monies through the Oklahoma Center for the Advancement of Science and Technology, State of Oklahoma, as issued through the Norman Economic Development Coalition (“NEDC”), in order to finance and construct the Improvements on the Land, and NPS has provided to University:

(i) a copy of a financing commitment letter from the applicable lender, or such other evidence of financing as would be applicable; and

(ii) a written certification from NPS that the financing commitment is in full force and effect. The parties understand and agree that this Ground Lease is conditional and contingent upon NPS obtaining and providing the necessary funding and resources support for the Facility's initial development and construction and subsequent operation, and that no public financing bonds shall be used for the financing of the Facility. Notwithstanding any other provisions herein, University agrees to allow NPS a reasonable amount of time to secure all such funding and resources.

(b) NPS has provided to University written evidence that NPS has sufficient funds available to it to complete the construction of the Facility, such as the verification of financing.

(c) University shall approve the final Plans for construction of the Facility pursuant to terms herein. University agrees not to unreasonably withhold, condition, or delay its approval of such Plans.

(d) NPS shall deliver to University a fully-executed Construction Agreement meeting the requirements of this Ground Lease.

(e) NPS, with University's assistance as needed, shall obtain all Approvals required by all applicable Governmental Authorities for the construction of the Facility. University shall assist and cooperate with all such Approvals as reasonably necessary upon NPS's request and at NPS's expense.

(f) An assignment of all NPS's right, title, and interest in and to the Construction Agreement, the Plans, the Contract Documents, and all intellectual property rights related thereto, such assignment to be in form and substance reasonably acceptable to University. University agrees to not exercise its rights with respect to such assignment unless and until this Ground Lease has been terminated.

(g) NPS shall obtain, and shall cause its general contractors, construction managers, architects, and subcontractors to obtain, the insurance required under this Ground Lease and shall

delivered to University certificates (or certified copies of policies, if requested by University) evidencing such insurance.

NPS shall diligently and in good faith pursue the satisfaction of the foregoing conditions.

Section 6.02 Construction of Facility. NPS shall enter a Construction Agreement for the design, development, and construction of the Facility. NPS agrees to promptly provide to University copies of the final form of the Construction Agreement for University's commercially reasonable approval. University agrees not to unreasonably withhold, condition, or delay its approval of each of said agreement.

Section 6.03 Default in Construction. In the event of a default by the Contractor in connection with the Initial Construction, NPS shall endeavor in good faith to exercise the rights and remedies available to NPS in each such agreement in a commercially reasonable manner.

Section 6.04 Commencement of Construction. NPS shall commence and pursue the Initial Construction to Substantial Completion in accordance with the contract documents specified in the Construction Agreement (the "**Contract Documents**") and in accordance with the construction schedule set forth in the Construction Agreement (subject to Unavoidable Delays) (the "**Schedule of Performance**").

Section 6.05 Construction Approvals by University. The Parties acknowledge and agree that the Facility total project budget shall consist of approximately 10,000 square feet, and shall be designed in a manner suitable for the Permitted Use. Prior to commencing any excavation, construction, paving, or any other work associated with the Initial Construction, NPS shall deliver to University for its approval electronic copies of the preliminary design documents and the construction documents (the "**Plans**"), fully identifying and describing all mechanical, electrical, and plumbing systems. University shall have a period of thirty (30) Business Days after receipt to commercially reasonably approve or reject such submissions. Failure to approve or reject any submissions within such time period shall be deemed rejection by University. Upon any rejection or deemed rejection of any submissions, University shall simultaneously provide a fully detailed written description of all commercially reasonable measures to be taken by NPS that shall result in approval on resubmission (or why resubmission of any similar proposal would be rejected). University agrees not to unreasonably withhold, condition, or delay the approvals required by this Ground Lease. Further, University agrees to exercise approval review rights with regard to the parameters of the adopted budget for the Facility. For purposes of clarity, the approval process described herein shall not apply to any other approval rights or obligations of University in this Ground Lease.

Section 6.06 Change Order. Once the Plans are submitted to and approved by University, NPS may, with the prior commercially reasonable written consent or approval of University, order, authorize, or perform any change, substitute work, or materials in prosecuting the construction of the Improvements ("**Change Order**"). University agrees not to unreasonably withhold, condition, or delay the approvals required by this Ground Lease.

Section 6.07 Construction According to Approved Plans. All building materials for the Facility must be new and of good quality in accordance with the Contract Documents and Plans. All construction shall be performed in a good and workmanlike manner and only by contractors and

subcontractors that are properly licensed in the State of Oklahoma to perform their respective work. University reserves the right to monitor the Initial Construction, from its inception to its completion. Access to the construction site shall be limited to NPS's representatives, contractors, subcontractors, consultants, agents, employees, and any others involved with the work. Prior to commencing construction, NPS shall provide a construction security fence at the perimeter of the construction site and staging area.

Section 6.08 Liens Subordinate to University. NPS shall not create or permit to be created or to remain, and shall promptly discharge, any lien, encumbrance, or charge levied on account of any mechanics, laborer's, or materialman's lien which might or does constitute a lien, encumbrance, or charge upon the Premises, or any part thereof, or the income therefrom, having a priority or preference over or ranking on a parity with the estate, rights, or interest of University in the Premises or any part thereof, or the income therefrom. Nothing in this Ground Lease shall be deemed or construed in any way as constituting the consent or request of University, express or implied, by inference or otherwise, to the filing of any lien against the Premises by any contractor, subcontractor, laborer, materialman, architect, engineer, or other Person for the performance of any labor or the furnishing of any materials or services for or in connection with the Premises or any part thereof.

Section 6.09 Completion of Construction by University. Subject to Unavoidable Delays NPS's failure to commercially reasonably comply with the requirements of the Schedule of Performance and to Substantially Complete the Facility by the Completion Date shall be deemed to be a material default under this Ground Lease and University shall have the right to pursue any and all its remedies as set forth herein and any and all its rights and remedies at law and in equity. NPS covenants and agrees that in the event: (a) NPS abandons or fails to Substantially Complete the Facility by the Completion Date; (b) such failure is not primarily caused by Unavoidable Delays; and (c) such failure is not primarily the result of University's being in material default under this Ground Lease, University may, at its option (but without any obligation so to do and without prejudice to any other rights University may have under this Ground Lease) and at NPS's sole cost and expense, complete the construction of the Facility undertaken by NPS and, as nearly as practicable, according to the Plans previously approved by the University.

Section 6.10 Title to the Improvements and the Personality. The title to all Improvements now or hereafter located on the Premises, including those to be constructed in accordance with the Plans and Contract Documents, shall be vested solely in NPS until either the expiration or the termination of this Ground Lease, at which time all title to and ownership of the Improvements shall automatically and immediately vest in University.

Section 6.11 Architects, Engineers, Contractors, Specialists, and Consultants. NPS shall require any architects, engineers, contractors, subcontractors, specialists, and consultants engaged in connection with the construction of the Facility to perform their respective obligations under the terms of the Contract Documents, to be licensed in accordance with the Laws of the State, and to obtain and maintain for a period of five (5) years after the Substantial Completion of the Facility errors and omissions insurance, and payment and performance bonds pursuant to the terms of this Ground Lease

Section 6.12 Permits, Laws, and Ordinances; University Marks. NPS shall, at its sole cost and expense, comply and cause its contractors and subcontractors to comply in all material respects with all Laws of all Governmental Authorities which may now or hereafter, from time to time, be established and which are or shall be applicable to NPS or University as they relate to the Premises and shall take, as otherwise provided herein, all action necessary to cause the Premises to comply in all material respects

with all provisions of the Contract Documents, and this Ground Lease applicable to NPS. University agrees to cooperate with NPS to execute such applications and submittals as may be necessary for NPS to secure any permits or certificates required in connection with NPS's use or construction of the Facility. In addition to the foregoing, NPS shall reasonably comply with all published University marketing, branding, and design standards, unless otherwise expressly agreed in writing by the parties. Subject to University policies and prior written approval of University, University shall allow NPS reasonable methods of publicly marketing, branding, and identifying the Oklahoma Aviation Academy and Norman Public Schools on and in the Facility.

Section 6.13 Payment and Performance Bonds. NPS shall provide or cause to be provided to University payment and performance bonds from a surety approved by University, in accordance with the Contract Documents, to include requiring the contractor and appropriate subcontractors to provide payment and performance bonds. The bonds shall be dual obligee surety bonds payable to and in favor of NPS as obligee and University as additional obligee.

Section 6.14 Reports and Information. NPS shall deliver or cause to be delivered to University copies of all soil reports, surveys, hazardous wastes or toxic materials reports, feasibility studies, and other similar written materials prepared for NPS pursuant to the Contract Documents with respect to the Premises (collectively, the "**Property Reports**") within thirty (30) days after receipt by NPS. University shall promptly provide NPS with copies of all existing Property Reports that are within University's possession or control.

Section 6.15 Substantial Completion of Facility. As soon as practicable (however, in no event to exceed thirty (30) days after the Substantial Completion of the Facility), NPS shall, at its sole cost and expense, furnish to the University:

(a) One complete set of final "as-built" plans and specifications of the completed Improvements in auto-CAD® or Revit format; and

(b) A current, accurate, properly labeled, and certified (by the hereafter stated surveyor or engineer), "as-built" plat of survey prepared by an Oklahoma registered land surveyor or professional engineer depicting to scale the location of the completed Improvements, as the same have been constructed.

ARTICLE VII OPERATION OF THE PREMISES

Section 7.01 NPS's Operation of the Premises. Upon completion of construction of the Facility, the Parties shall operate within and use the Premises in accordance with all Laws governing the Premises, this Ground Lease, and the University Sublease.

Section 7.02 Mechanics Liens. NPS shall keep the Premises and the Land free from any lien or other encumbrance filed or recorded in favor of any mechanic, materialman, architect, or engineer engaged by NPS.

Section 7.03 Utilities. Except as may be addressed otherwise in the University Sublease, NPS shall obtain and pay for all utilities directly from and to the utilities and vendors serving the Premises, including fuel, gas, electric, water and sewer service, trash collection, telephone, and internet service.

**ARTICLE VIII
MAINTENANCE, REPAIRS, AND ALTERATIONS**

Section 8.01 Maintenance and Repair of the Premises. Except as may be addressed otherwise in the University Sublease, NPS shall, at all times during the Term of this Ground Lease, at NPS's sole cost and expense, keep and maintain the Premises, including the Improvements, appurtenances, and every part thereof that may exist on, in, or be made a part of the Premises, in good order and condition, ordinary wear and tear excepted, and make all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, and foreseen and unforeseen. If NPS fails to keep and maintain the Premises and the Improvements as required by this Ground Lease, University may (but shall not be required to) perform and satisfy same, and NPS hereby agrees to reimburse University, for the reasonable cost thereof promptly upon demand. NPS shall not permit any material waste of the Premises. NPS shall keep the entire Premises, including adjoining sidewalks, substantially free of any accumulation of dirt, rubbish, snow, and ice. Notwithstanding the terms in this Section 8.01, the University Sublease may modify and alter the terms of this Section as to the University's area of occupancy in the Facility.

Section 8.02 Alterations. NPS may, at its sole cost and expense and only after obtaining University's prior written consent (University agrees not to unreasonably withhold, condition, or delay its consent), alter, replace, or remodel any Improvements upon the Premises ("**Alterations**"), provided that the foregoing: (a) are made in compliance with all local, state, and federal Laws; (b) are completed in accordance with general accepted construction standards; (c) any remodeling shall not materially diminish the value of Improvements or the Premises; and (d) NPS shall not allow mechanics or materialmen's liens to affix to the Premises because of the Alterations.

**ARTICLE IX
INSURANCE**

Section 9.01 Insurance. It is the intent of the Parties that all risk of loss for the Premises be shifted to insurance to the maximum extent practicable. Accordingly, unless University otherwise agrees in its sole discretion, NPS shall maintain, or cause to be maintained, insurance covering the risks enumerated below. The premiums for such insurance shall be paid by NPS, except for the coverages set forth in **Section 9.09** below, which shall be the responsibility of the Party providing such insurance coverage. Such insurance shall be written on an occurrence basis unless University otherwise consents in writing, but for errors and omissions insurance issued on a claims-made basis. The policy shall provide that: (a) such insurance shall be primary coverage without reduction or right of offset or contribution on account of any insurance provided by University to itself or its officers, officials, or employees; (b) such insurance shall not be altered or cancelled without thirty (30) days' written notice to University; and (c) such insurance shall name the University as certificate holders. The insurance policies purchased by NPS must be issued by a company authorized to conduct business in the State or by a company acceptable to University and which has a rating of A or better by AM Best.

Section 9.02 Workers' Compensation and Employer's Liability. At all times prior to the expiration or earlier termination of this Ground Lease during any construction or Alteration conducted by or on behalf of NPS in or on the Premises, NPS shall maintain, and cause its contractors to maintain, Workers' Compensation Insurance as required by the Laws of the State. NPS shall require all subcontractors performing work under this Ground Lease to obtain an insurance certificate showing proof of Workers' Compensation and Employer's Liability Insurance.

Section 9.03 Property/Business Interruption. NPS shall, at its sole cost and expense throughout the entire Term of this Ground Lease:

(a) Keep the Improvements insured against loss or damage by fire, windstorm, flood, earthquake, and such other, further and additional risks as now are or hereafter may be embraced by the ISO special form and Builder's Risk extended coverage form or endorsements, with a \$100,000,000 loss limit (layered property tower), \$100,000 AOP deductible / 3% Wind & Hail Deductible, \$10,000,000 EQ Coverage: \$100,000 deductible, \$10,000,000 Flood Coverage: \$100,000 deductible, per occurrence, in each case in amounts equal to the full replacement cost of the Improvements from time to time and full insurable value thereof for any damages to the Premises and Improvements; and

(b) Maintain business interruption insurance covering loss of revenues or other income by NPS by reason of total or partial suspension of, or interruption in, the operation of the Premises caused by damage or destruction of the Premises in a reasonable amount sufficient to meet rent payments and other recurring payments for twelve (12) months, subject to the reasonable discretion of University.

Section 9.04 Public Liability. At all times during the Term of this Ground Lease, NPS shall maintain a primary commercial general liability insurance ("CGL") policy covering all claims for bodily injury (including death) and property damage, including loss of use thereof, and personal injuries in any way related to the Premises, Improvements, Facility, or Land, in an amount not less than One Million and 00/100 Dollars (\$1,000,000) per occurrence and Five Million and 00/100 Dollars (\$5,000,000) aggregate, with deductible provisions not to exceed Zero and 00/100 Dollars (\$0) per occurrence, to include personal and advertising injury, general aggregate, products, and completed operations aggregate insurance beginning at the completion of each project component, and contract liability to cover all insurable obligations in this Ground Lease. Coverage shall be specific for this project or, upon approval of University, covered under umbrella or pooled policies. The CGL policy or policies must be on an "occurrence" basis unless waived by the University. The CGL policy shall include contractual liability coverage, which shall be endorsed to state that indemnity obligations specified in this Ground Lease are insured by the carrier.

Section 9.05 Errors and Omissions. NPS shall obtain and maintain or cause to be obtained and maintained Professional Errors and Omissions Insurance covering all architects, engineers, specialists, and consultants in an amount and with coverage subject to the reasonable approval of University. Coverages shall be specific for this project and not aggregated with insurance for other undertakings of the insureds.

Section 9.06 Umbrella. NPS shall obtain and maintain an additional umbrella or all-risk coverage in an amount of Four Million and 00/100 Dollars (\$4,000,000) for any one occurrence and Four Million and 00/100 Dollars (\$4,000,000) in the aggregate, which shall include all insured coverages required by this **Article V**. The policy limits shall be reviewed and/or adjusted every year from the Commencement Date.

Section 9.07 Delivery of Insurance Certificates. Upon the Commencement Date of this Ground Lease and at each policy renewal date, NPS shall furnish to University, at the addresses set forth in **Section 15.01** of this Ground Lease, insurance certificates or renewal certificates or, if requested by

University, copies of policies, evidencing all insurance required to be carried by NPS in accordance with the Agreement. Such certificates or policies shall list the University as a certificate holder, in accordance with the requirements contained in this **Article V**. The insurance certificate or policies, as applicable, must document that the liability insurance coverage purchased by the NPS includes contractual liability coverage to insure the indemnity agreement as stated.

Section 9.08 Evidence of Payment of Premiums. NPS shall within thirty (30) days of payment furnish to University duplicate receipts or satisfactory evidence of the payment of all premiums on any and all insurance required to be carried by NPS in accordance with this Ground Lease. The insurance carrier shall give University thirty (30) days' prior notice (with respect to nonpayment of premiums) of cancellation, modification, or nonrenewal.

Section 9.09 Insurance Requirements for Contractors. NPS shall also carry construction liability insurance at all times when demolition, excavation or construction work is in progress on the Premises and Improvements. NPS also shall require the Persons described below to carry the following insurance:

(a) NPS shall require all its contractors, subcontractors, design-builders, construction managers, consultants, and other entities providing services, materials, or labor to all or any portion of the Premises to:

(i) Include NPS as additional insureds in their commercial general liability policies and the University as certificate holders; and

(ii) Obtain a waiver of subrogation endorsement in all policies in favor of University and NPS.

Section 9.10 Each of the required coverages, excluding the professional liability insurance, fidelity insurance, and automobile liability insurance, shall contain a waiver of subrogation endorsement, in form and substance reasonably satisfactory to University, in favor of University and NPS.

ARTICLE X DEFAULT; REMEDIES

Section 10.01 Events of Default. Each of the following events shall be an event of default (“Event of Default”):

(a) If NPS shall fail to pay any item of Rent under this Ground Lease, or any part thereof, when the same shall become due and payable and such failure shall continue for thirty (30) days after written notice and opportunity to cure from University to NPS.

(b) If NPS shall fail to observe or perform one or more of the other terms, conditions, covenants, or agreements contained in this Ground Lease, and such failure shall continue for a period of thirty (30) days after written notice and opportunity to cure thereof by University to NPS specifying in full detail such failure unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be performed, done, or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as NPS shall have commenced

curing the same within such thirty (30)-day period and shall, subject to Unavoidable Delays, diligently, continuously, and in good faith prosecute the same to completion.

(c) If NPS shall make an assignment for the benefit of creditors.

(d) The filing of any voluntary petition in bankruptcy by NPS, or the filing of any involuntary petition by NPS's creditors, which involuntary petition remains undischarged for a period of sixty (60) days.

(e) If within sixty (60) days after the commencement of any proceeding against NPS seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed.

(f) If NPS shall formally abandon the Premises by passing a resolution declaring NPS's abandonment; however, the NPS shall not be deemed to have abandoned the Premises if the Premises become uninhabitable as a result of University's default under this Ground Lease or the University Sublease, or as a result of a casualty or Condemnation proceeding.

(g) If a levy under execution or attachment shall be made against the Premises, not caused by or due to any action, use or operation of University, and such execution or attachment shall not be vacated or removed by court order, bonding or otherwise within a period of ninety (90) days.

(h) Except for delay primarily caused by Unavoidable Delays, if (i) Commencement of Construction shall not have occurred on or before the Construction Commencement Date and such failure shall continue for one hundred eighty (180) days after written notice and opportunity to cure from University to NPS or (ii) Substantial Completion of the Facility shall not have occurred on or before the Completion Date and such failure shall continue for one hundred eighty (180) days after written notice and opportunity to cure from University to NPS.

(i) If NPS defaults under the Tract 1 Ground Lease and/or the Tract 1 Ground Lease is terminated for any reason.

Upon the occurrence of an Event of Default, University shall give written notice of such Event of Default to NPS. Except for an Event of Default under Subsections (a), (b) (d), (e), (g), (h) and (i), NPS shall have a period of thirty (30) days to cure such Event of Default. If the Event of Default is not cured, University may, at its option, pursue any and all remedies available to it pursuant to the terms herein. Notwithstanding the foregoing, NPS shall remain liable for any damages as provided in this Ground Lease and University may enforce any of the remedies provided in this Ground Lease.

Section 10.02 Remedies. In the event that this Ground Lease is breached through an Event of Default, all the following provisions may apply:

(a) NPS shall promptly pay to University all amounts payable to the date on which this Ground Lease is breached.

(b) University may, at NPS's sole cost and expense: (i) complete all construction required to be performed by NPS hereunder; (ii) maintain, repair and alter the Premises in such manner as University may deem reasonably necessary to correct the default (and may apply to the foregoing all funds, if any, then held by Depository pursuant to this Ground Lease without relieving NPS of any liability under this Ground Lease or otherwise affecting any such liability); or (iii) undertaken any such action as University may deem reasonably necessary to correct the default hereunder.

(c) University may elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce the performance or observance by NPS of the applicable provisions of this Ground Lease or to recover damages for breach thereof. Each right and remedy of University provided for in this Ground Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Ground, and the exercise or beginning of the exercise by University of any one or more of the rights or remedies provided for in this Ground Lease, shall not preclude the simultaneous or later exercise by University of any or all other rights or remedies provided for in this Ground Lease.

(i) Further, the Parties recognize that the University shall have all rights and remedies available to it through the procedures for collection of a judgment as put forth in 62 O.S. §361-365.6, which include but are not limited to the payment of all claims out of the NPS sinking fund.

(ii) Additionally, the Parties recognize that the University shall have all rights and remedies available to it through actions of equity including but not limited to injunctive relief as may be necessary to enforce the terms of this Ground Lease, which may result in a prohibition against NPS for using the Premises for any purpose and thus constituting a constructive abandonment of the Land and Premises.

(d) In the event of abandonment by NPS pursuant to **Section 10.01(f)** or **Section 10.02(c)(ii)** hereof, University shall have the right to terminate this Ground Lease by giving NPS written notice thereof and upon such termination, the Parties will have no further obligations under this Ground Lease except for those obligations that expressly survive the termination of hereof.

(e) In the Event of Default by NPS pursuant to **Section 10.01(h)** or **Section 10.01(i)** hereof, University shall have the right to terminate this Ground Lease by giving NPS written notice thereof and upon such termination, the Parties will have no further obligations under this Ground Lease except for those obligations that expressly survive the termination of hereof.

ARTICLE XI EXPIRATION OR TERMINATION

Section 11.01 Extinguishment of NPS's Rights. Upon any termination or expiration of NPS's possession, tenancy, and control of the Land and Premises, from any cause, all rights and interests of NPS, and all persons whomsoever claiming by, through, or under NPS (with the exception of the rights of University arising under this Ground Lease), shall immediately cease and terminate, and the Premises, and all Improvements, shall thence forward constitute and belong to and be the absolute property of University or University's successors and assigns, without further act or conveyance, and without liability

to make such compensation to NPS or to anyone whomsoever, and free and discharged from all and every lien, encumbrance, claim, and charge of any character created or attempted to be created by NPS at any time. NPS agrees, at the termination of this Ground Lease, to surrender unto University, all and singular the Premises with the then existing Improvements constructed and located thereon and therein, in the then existing working, habitable, and operable condition, unless NPS shall be relieved of NPS's obligation to repair, reconstruct, restore, or replace damaged or destroyed buildings, other structures, or Improvements pursuant to the terms hereof.

Section 11.02 Prepaid Items Assigned. Upon the expiration of the Term of this Ground Lease, or upon the prior termination of this Ground Lease from any cause, all expense items prepaid by NPS with respect to constructing, operating, maintaining, and protecting the Premises, including, but not limited to, prepaid insurance premiums, any tax and utility deposits, shall inure to the benefit of and become the property of University, and to this extent NPS does hereby transfer, assign, and convey any such prepaid expense items to University.

ARTICLE XII DAMAGE AND DESTRUCTION

Section 12.01 Damage and Destruction. If all or any part of the Premises shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, NPS shall give to University notice thereof within thirty (30) days after such casualty occurs, except that no notice shall be required if the estimated cost of repairs, alterations, restorations, replacements, and rebuilding the Premises or portion thereof so damaged or destroyed (collectively, "**Restoration**") shall be less than the Threshold Amount. NPS shall, whether or not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose of such Restoration, with reasonable diligence (subject to Unavoidable Delays) repair, alter, restore, replace, and rebuild the Premises or portion thereof so damaged or destroyed (collectively, "**Restore**") the same, at least to the extent of the value and as nearly as commercially feasible to the condition, quality and class of the Premises existing immediately prior to such occurrence. University in no event shall be obligated to Restore the Premises or any portion thereof or to pay any of the costs or expenses thereof. If NPS shall fail or neglect to Restore with reasonable diligence (subject to Unavoidable Delays) the Premises or the portion thereof so damaged or destroyed, or having so commenced such Restoration, shall fail to complete the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Ground Lease, and in either case such failure or neglect continues for thirty (30) days after notice from University, or if prior to the completion of any such Restoration by NPS, this Ground Lease shall expire or be terminated for any reason, University, upon notice to NPS, may, but shall not be required to, complete such Restoration at NPS's expense. Each such Restoration shall be done in accordance with the provisions of this Ground Lease. NPS's obligations under this Section shall survive the expiration or earlier termination of this Ground Lease.

Section 12.02 Restoration Funds.

(a) Subject to the provisions of this Ground Lease and the Depository Agreement, Depository shall pay over to NPS from time to time, upon the following terms, any monies which may be received by Depository from insurance provided by NPS (other than business interruption insurance) or cash, or the proceeds of any security deposited with Depository (collectively, the

“**Restoration Funds**”); provided, however, that Depository, before paying such moneys over to NPS, shall be entitled to reimburse itself, and University therefrom to the extent, if any, of the necessary, reasonable and proper expenses (including, without limitation, reasonable attorneys’ fees) paid or incurred by Depository, and University in the collection of such monies. Depository shall pay to NPS, as hereinafter provided, the Restoration Funds, for the purpose of the Restoration.

(b) Prior to commencing any Restoration, NPS shall furnish University with an estimate of the cost of such Restoration, prepared by a licensed professional engineer or registered architect selected by NPS and approved by University. University may engage a licensed professional engineer or registered architect to prepare its own estimate of the cost of such Restoration. If there is any dispute as to the estimated cost of the Restoration, such dispute shall be resolved by Valuation Resolution.

(c) Subject to the provisions of this Ground Lease and the Depository Agreement, the Restoration Funds shall be paid to NPS in installments as the Restoration progresses, less retainage equal to ten percent (10%) of such installment until completion of fifty percent (50%) of the Restoration and ten percent (10%) of each installment thereafter until completion of the Restoration, upon application to be submitted by NPS to Depository and, for information only, to University, showing the cost of labor and materials purchased and delivered to the Premises for incorporation in the Restoration, or incorporated therein since the last previous application, and due and payable or paid by NPS. If any vendor’s, mechanics, laborer’s, or materialman’s lien is filed against the Premises or any part thereof, or if any public improvement lien relating to the Restoration of the Premises are created or permitted to be created by NPS and is filed against University, or any assets of, or funds appropriated to, University, NPS shall not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise). Notwithstanding the foregoing, the existence of any such lien shall not preclude NPS from receiving any installment of Restoration Funds, provided: (i) such lien shall be discharged with funds from such installment; or (ii) if Depository shall be holding funds for the Restoration: (A) Depository certifies that it is retaining, in addition to amounts required to be retained hereunder, an amount equal to the funds required to satisfy or discharge such lien; and (B) failure to pay or discharge such lien shall not result in the imminent loss or forfeiture of the Premises or the termination of NPS’s interest under this Ground Lease and shall not subject NPS or University to any civil or criminal penalty or liability.

(d) Upon completion of and payment for the Restoration by NPS, the balance of the Restoration Funds shall be paid over to NPS.

(e) Notwithstanding the foregoing, if University makes the Restoration at NPS’s expense, as provided in this Ground Lease, then Depository shall pay over the Restoration Funds to University, upon request, to the extent not previously paid to NPS, and NPS shall pay to University, within ten (10) Business Days after demand, any sums in excess of the portion of the Restoration Funds received by University necessary to complete the Restoration.

Section 12.03 Restoration Costs Exceed the Threshold Amount. If any loss, damage, or destruction occurs, the cost of Restoration of which equals or exceeds the Threshold Amount in the aggregate, in addition to the other requirements contained herein, NPS shall furnish to University the

documents and shall comply with the requirements set forth in this Ground Lease as required for the Initial Construction of the Facility.

Section 12.04 Excess Costs of Restoration. If the cost of any Restoration exceeds both: (a) the Threshold Amount; and (b) the net insurance proceeds, then, prior to the commencement of such Restoration, NPS shall deposit with Depository, as security for completion of the Restoration, a bond, cash, or other security reasonably satisfactory to University in the amount of such excess, to be held and applied by Depository in accordance with the provisions of this Ground Lease and the Depository Agreement.

Section 12.05 Depository Agreement. Notwithstanding anything contained in this Ground Lease to the contrary, all obligations of the Depository under this Ground Lease shall be subject to the terms and conditions to be agreed upon by the Parties in the Depository Agreement, including without limitation, instructions concerning the disbursement and application of funds as contemplated herein.

ARTICLE XIII CONDEMNATION

Section 13.01 Total Taking. If all or Substantially all the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of Condemnation, eminent domain, or by agreement among University, NPS, and those authorized to exercise such right, the Term shall terminate on the Date of Taking and the Rent payable by NPS hereunder shall be equitably apportioned as of the date of such taking. Termination of the Term shall not affect the NPS's right to any award or damages from the condemning authority per Section 13.06.

Section 13.02 Partial Taking. If less than Substantially all the Premises shall be so taken, and such taking materially interferes with any aspect of University's use and operations thereon as subtenant under the University Sublease, then University may elect to either (a) immediately terminate this Ground Lease, or (b) continue in possession under the University Sublease and this Ground Lease and the Term shall continue as to the portion of the Premises remaining without diminution of any of NPS's obligations hereunder, but the Base Rent shall be changed to the Base Rent reduced by the percentage of rentable area of the Premises taken. Termination of the Term shall not affect the NPS's right to any award or damages from the condemning authority per Section 13.06.

Section 13.03 Condemnation Award. In the event of a Condemnation during the term of the University Sublease, in accordance with Section 13.07 of this Ground Lease and Section 9 of the University Sublease any Condemnation award shall be allocated entirely to University as compensation for University's current possessory interest as subtenant under the University Sublease for the remainder of such term of the University Sublease and the University's reversionary interest in the Land and Improvements under this Ground Lease. However, in the event of a Condemnation at a time which the University Sublease is no longer in effect, the condemnation award shall be allocated to NPS to the extent related to the remainder of the Term and the condemnation award shall be allocated to the University to the extent related to its reversionary interest in the Land and Improvements under this Ground Lease. Each of the Parties shall execute any and all documents that may be reasonably required in order to facilitate collection of such awards.

Section 13.04 Participation in Condemnation Proceeding. University, and NPS, shall be entitled to file a claim and otherwise participate in any Condemnation or similar proceeding and all hearings, trials, and appeals in respect thereof.

Section 13.05 Rights of NPS to File Claims. Notwithstanding anything to the contrary contained in this Ground Lease, in the event of any taking of all or any part of the Premises, NPS shall have the right to assert claims for any trade fixtures and personal property so taken which were the property of NPS and for relocation expenses of NPS, and all awards and damages in respect thereof shall belong to NPS, and University hereby waives any and all claims to any part thereof, provided, however, that if there shall be no separate award or allocation for such trade fixtures or personal property, then such claims of NPS, or awards and damages, shall be subject and subordinate to University's claims under this Ground Lease.

Section 13.06 University as the Condemning Authority. Notwithstanding anything to the contrary contained in this Ground Lease, in the event that the condemning authority is the University or an affiliate thereof, then the University agrees that the condemning authority shall provide just compensation to NPS or the University in accordance with Section 13.07.

Section 13.07 Condemnation During Term of Sublease. If any condemnation shall take place during the term of the University Sublease, the University and NPS acknowledge and agree that in accordance with Section 13.03 of this Ground Lease, their respective rights to any compensation payable with respect to the remainder of the then-current term of such University Sublease shall be determined in accordance with such University Sublease and any balance of such compensation shall be payable to the University on account of its reversionary interest under this Ground Lease.

ARTICLE XIV ESTOPPEL CERTIFICATES

Section 14.01 Estoppel Certificates. University and NPS shall execute, acknowledge, and deliver to the other promptly upon request, a certificate certifying as to the following:

- (a) That this Ground Lease or the University Sublease, is unmodified and in full force and effect (or, if there have been modifications, that said lease is in full force and effect, as modified, and stating the modifications).
- (b) The dates through which the Rent under this Ground Lease has been paid.
- (c) The amount of the Rent then payable.
- (d) That no notice has been given by University to NPS of any default under this Ground Lease that has not been cured and to the best of its knowledge and belief no default exists (or, if there has been any notice given or a default exists, describing the same).

ARTICLE XV NOTICES

Section 15.01 Notices. Until a different address is provided in a notice to the other Party, all notices, demands or requests made by either Party to the other which are required or permitted by the provisions of this Ground Lease shall be in writing and shall be deemed sufficiently given if: (a) delivered

by hand (against a signed receipt); (b) mailed by U.S. certified or registered mail, return receipt requested, postage prepaid; (c) sent via email as long as the sending party does not receive an error, non-deliverable, or similar bounce-back notification and receipt can be verified; or (d) sent by nationally recognized commercial overnight delivery service at the following address:

University: The Board of Regents for the University of
Oklahoma
660 Parrington Oval, Rm. 204
Norman, OK 73019
Attention: Chief Financial Officer
Email: matt.brockwell@ou.edu

with a copy to: The Board of Regents for the University of
Oklahoma
510 East Chesapeake St., Rm. 105
Norman, OK 73019
Attention: Real Estate Operations
Email: beau.jennings@ou.edu

with a copy to: The Board of Regents for the University of
Oklahoma
660 Parrington Oval, Rm. 213
Norman, OK 73019
Attention: General Counsel
Email: apaliotta@ou.edu

NPS: INDEPENDENT SCHOOL DISTRICT NUMBER 29
OF CLEVELAND COUNTY, OKLA., a.k.a.
NORMAN PUBLIC SCHOOLS
131 South Flood Avenue
Norman, OK 73069405-364-1339
Attention: Superintendent
Email: nickm@normanps.org; and
jmilner@normanps.org

with a copy to: Rieger Law Group, PLLC
136 Thompson Drive
Norman, OK 73069
Attention: Sean Paul Rieger
Email: sp@riegerllc.com

Notwithstanding anything contained in this Ground Lease to the contrary, any notice required to be given by University or NPS hereunder shall be deemed to be effective as of the date such notice is received or refused as reflected on said notice.

ARTICLE XVI
SUBMISSION OF MATTERS TO UNIVERSITY FOR APPROVAL

Section 16.01 Submission of Matters to University for Approval. Any matter which must be submitted to and consented to or approved in writing by University or any matter which must be submitted to University which may become effective if not denied by University, as required under this Ground Lease, shall be submitted to University in the manner and to the address of University designated for the giving of notice to University under this Ground Lease and shall either be approved or rejected by University within thirty (30) days after receipt unless a shorter period of time is expressly stated elsewhere in this Ground Lease. If University should fail so to approve or reject within such thirty (30)-day period as provided for herein, University's approval shall be deemed rejected. Upon NPS's written request, University shall inform NPS in writing of its rejection or approval of such submitted matter in the manner and to the address of NPS designated for the giving of notice to NPS under this Ground Lease. Any review by University of any matter submitted to University is for University's own convenience and purpose only. By undertaking such review, University does not incur or have any liability to NPS or any other person, including, without limitation, the insurers and lenders of NPS.

ARTICLE XVII
UNIVERSITY SUBLEASE

Section 17.01 Sublease. Simultaneous with the execution of this Ground Lease, NPS, as sublandlord, and University, as subtenant, have entered into that certain sublease agreement (the "**University Sublease**"), whereby NPS shall construct and lease the Facility to University for the exclusive use of University during the term of this Ground Lease. It is the intent of the parties that the execution of the University Sublease shall not create or result in a merger of the estates.

ARTICLE XVIII
COMPLIANCE WITH LAWS; ENVIRONMENTAL LAWS

Section 18.01 Compliance with Laws. The Parties warrant and agree that, during the entire term of this Ground Lease and at their own separate expense: (a) Each Party shall conduct their respective business and activities on or related to the Premises only in full compliance with all applicable Laws; (b) Each Party shall neither do nor permit any act or omission which could cause the Premises and either Party's use thereof to fail to be in full compliance with all applicable Laws; and (c) Each Party shall neither do nor permit any act or omission which could cause any Liabilities, including Environmental Liabilities, to exist or be asserted against either Party or the Premises. Without limiting the foregoing, the responsible Party shall promptly cure all violations of Law for which said Party has caused and received notice or a public notice of violation has been issued and pay all fines, penalties, interest, or other costs imposed by any Governmental Authorities in connection with any violation or requirement of any Law.

Section 18.02 Environmental Laws.

(a) Each Party warrants and agrees that, during the entire term of this Ground Lease and at their own separate expense, each Party shall comply with all Environmental Laws. Such compliance shall include obligations to take Remedial Action when required by Law and to pay

all fines, penalties, interest, or other costs imposed by any Governmental Authorities in connection with any violation or requirement of any Law.

(b) Each Party shall notify the other Party promptly in writing if: (i) either Party becomes aware of the presence or Release of any Hazardous Material at, on, under, over, emanating from, or migrating to the Premises in any quantity or manner which could reasonably be expected to violate in any material respect any Environmental Law or give rise to any material Liability or the obligation to take Remedial Action; or (ii) either Party receives any written notice, claim, demand, request for information, or other communication from a Governmental Authority regarding the presence or Release of any Hazardous Material at, on, under, over, emanating from, or migrating to the Premises.

(c) The Party responsible for such Remedial Action shall take and complete said Remedial Action with respect to the Premises in full compliance with all Laws and shall, when such Remedial Action is completed, submit to the other Party written confirmation from the applicable Governmental Authority that no further Remedial Action is required.

(d) The Party responsible for the presence or Release of any Hazardous Materials shall provide the other Party with copies of all tests, studies, notices, claims, demands, requests for information, or other communications relating to the presence or Release of any Hazardous Materials at, on, under, over, emanating from, or migrating to the Premises.

ARTICLE XIX NO IMPAIRMENT OF UNIVERSITY'S TITLE

Section 19.01 No Impairment of University's Title. NPS shall not permit the Premises to be used by any Person at any time or times during the Term of this Ground Lease in such a manner as would impair University's title to or interest in the Premises or the University Sublease, or in such a manner as would cause a claim or claims of adverse possession, adverse use, prescription, or other similar claims of, in, to, or with respect to the Premises.

ARTICLE XX BROKERS

Section 20.01 Brokers. University and NPS each represent and warrant to the other that they have not dealt with any broker in connection with this Ground Lease. University and NPS shall each indemnify and hold harmless the other from and against any and all claims for any brokerage fee or commission with respect to this Ground Lease transaction by any broker with whom either University or NPS has dealt with or is alleged to have dealt with in connection with this Ground Lease. The provisions of this **Section 20.01** shall survive any termination of this Ground Lease.

ARTICLE XXI QUIET ENJOYMENT

Section 21.01 Quiet Enjoyment. University covenants and agrees that, if and so long as NPS observes and performs each and every covenant, agreement, provision, and condition of this Ground Lease on the part of NPS to be observed and performed throughout the Term of this Ground Lease, NPS may peaceably and quietly enjoy the Premises for the Permitted Uses, and further hold possession, control, and

occupancy of the Land, without hindrance or molestation of University or any Person acting through University, subject to the Permitted Exceptions.

ARTICLE XXII LIMITATION OF LIABILITY

Section 22.01 Limitation of Liability.

(a) If University sells, assigns, or otherwise transfers (whether by operation of Law or otherwise) all or part of its interests in the Premises or this Ground Lease: (i) University shall be relieved of all obligations and Liabilities of University under this Ground Lease accruing after the effective date of such transfer; and (ii) the transferee shall have assumed all University's obligations and Liabilities under this Ground Lease effective from and after the effective date of the transfer.

(b) Each Party's individual representatives, employees, directors, officers, members, managers, and agents shall have no personal liability under or in connection with this Ground Lease.

(c) The Parties agrees that, to the extent not expressly prohibited by Law, the Parties and their respective lenders, officers, agents, servants, and employees shall not be liable for (nor shall Rent abate as a result of) any direct or consequential damage either to person or property sustained by either Party, their respective permitted assigns, officers, servants, employees, agents, invitees, or guests due to the Premises or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident in or about the Premises, or due to any act or neglect of any tenant or occupant of the Premises or of any other person. This provision shall apply particularly (but not exclusively) to damage caused by water, snow, frost, steam, sewage, gas, electricity, sewer gas, or odors or by the bursting, leaking, or dripping of pipes, faucets, and plumbing fixtures, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the causes specifically enumerated above or to some other cause of an entirely different kind. The Parties further agree that all the Improvements, trade fixtures, equipment, and all other Personalty in the Premises shall be at the risk of only then-applicable owner of such items, and that the non-owning Party shall not be liable for any loss or damage thereto or theft thereof.

ARTICLE XXIII RECORDATION

Section 23.01 Recordation. Following execution of this Ground Lease, the Parties agree to record a mutually agreeable memorandum of this Ground Lease in the real property records of the County Clerk of Cleveland County. On the Expiration Date, NPS covenants that it will, at the request of University, execute, acknowledge, and deliver to University an appropriate cancellation, in a form proper for recording in the real property records of the County Clerk of Cleveland County. If NPS wrongfully fails or refuses to execute, acknowledge, and deliver such instrument of cancellation, then NPS hereby appoints University as NPS's attorney-in-fact, coupled with an interest, to execute, acknowledge, and deliver such instrument of cancellation on NPS's behalf.

**ARTICLE XXIV
EXTENSION OPTIONS**

Section 24.01 Option to Extend. As long as NPS has not committed an uncured event of default under the provisions of this Ground Lease, upon mutual agreement of the Parties, the Parties shall have the right to extend the Term of this Ground Lease for two (2) separate additional Terms for a period of twenty-five (25) years each on the same terms and provisions of this Ground Lease then in effect (each such additional term being referred to as an “**Extension Term**”). In the event this Ground Lease is extended for the first Extension Term, and NPS has not committed an uncured event of default hereunder, then the Parties shall have the right to extend this Ground Lease for a second Extension Term on the same terms and conditions. Any such Extension Term shall require the mutual written agreement of the parties at least one hundred eighty (180) days prior to the expiration of the Term or, if applicable, the first Extension Term.

Section 24.02 Failure to Extend. If the Parties fail to timely agree to extend this Ground Lease for any such Extension Term in the manner set forth above, this Ground Lease shall terminate on the last day of the Term or, if applicable, the first Extension Term.

**ARTICLE XXV
MISCELLANEOUS**

Section 25.01 University and NPS Representations and Warranties. University and NPS each represent and warrant that:

(a) This Ground Lease grants a long term leasehold interest to NPS and thereby conveys possession and control of the Land onto NPS, for possession and control of the Land and Premises through the NPS and its Board of Education, pursuant to the terms of this Ground Lease and the title to all Improvements including the Facility located on the Premises shall be vested solely in NPS as long as this Ground Lease remains in effect.

(b) This Ground Lease grants a long term ground leasehold interest to NPS for the Permitted Use only, including but not limited to improving a school site, constructing, repairing, remodeling or equipping buildings, or acquiring school furniture, fixtures or equipment to be placed upon the Land, pursuant to the terms of this Ground Lease.

(c) This Ground Lease has been duly authorized, executed, and delivered by such Party and constitutes the legal, valid, and binding obligation of such Party.

(d) There are no actions, suits, or proceedings pending or, to the knowledge of such Party, threatened against or affecting such Party, at law or at equity, or before any Governmental Authority that would impair such Party’s ability to perform its obligations under this Ground Lease.

(e) The consummation of the transactions hereby contemplated, and the performance of this Ground Lease by such Party shall not result in any breach or violation of, or constitute a default under, any lease or financing agreement to which said Party is a party thereto.

The Parties agree that they shall provide to the other Party, if requested, evidence that the execution and delivery of this Ground Lease have been duly authorized by said Party.

Section 25.02 No Waiver.

(a) No failure of either Party to exercise any power given hereunder or to insist upon strict compliance to the undertakings, duties, and obligations hereunder, and no custom or practice of the Parties hereto at variance with the provisions hereof shall constitute a waiver of either Party's right to demand exact compliance with the provisions contained in this Ground Lease.

(b) All rights, powers, and privileges conferred herein upon both Parties hereto are cumulative and are in addition to and not in substitution for any other rights and remedies available at law, in equity, or otherwise.

Section 25.03 Attorneys' Fees. If any action is brought by either Party against the other in connection with or arising out of this Ground Lease, the Prevailing Party shall be entitled to recover from the other Party its reasonable out-of-pocket costs and expenses, including, without limitation, reasonable attorneys' fees, incurred in connection with the prosecution or defense of such action. The term, "**Prevailing Party**" shall include, without limitation, a Party that substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, University shall be entitled to attorneys' fees, costs, and expenses incurred in the preparation and service of notices of default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such default.

Section 25.04 Provisions Are Binding Upon Successors and Assigns. It is mutually covenanted, understood, and agreed by and between the parties hereto, that each of the provisions of this Ground Lease shall apply to, extend to, be binding upon, and inure to the benefit or detriment of not only the parties hereto, but also the legal representatives, and permitted successors and assigns of University and NPS hereto, and shall be deemed and treated as covenants running with the Premises during the Term of this Ground Lease. Whenever a reference to the parties hereto is made, such reference shall be deemed to include the legal representatives, successors, and assigns of said Party, the same as if in each case expressed. Except as provided herein, NPS shall not assign this Ground Lease or sublease all or any portion of the Premises without the prior written consent of University, which may be granted or withheld at University's sole discretion. Notwithstanding the foregoing, NPS may assign this Ground Lease and all necessary rights to construct the Facility in the event that it is necessary for NPS to assign, sublet, collocate, or jointly construct or operate with other agencies or funding partners, such as MNTC and NEDC, or other similarly situated agencies, provided that, NPS shall provide notice to University of any such permitted assignment. No permitted assignment of this Ground Lease or sublease of all or any part of the Premises shall relieve NPS from its obligations under this Ground Lease absent an express written release by University. Notwithstanding, University does approve of NPS subleasing a portion of the Premises back to University pursuant to the University Sublease. NPS shall remain responsible and obligated to University for all terms of this Ground Lease. Further, any permitted assignment of this Ground Lease or any rights herein, including without limitation by a separate agreement, ground lease, sublease, or otherwise, shall be subject to the terms of this Ground Lease, and in no event shall such assignment affect or disturb University's rights under the University Sublease.

Section 25.05 Applicable Law. This Ground Lease shall be governed, construed, performed, and enforced in accordance with the Laws of the State of Oklahoma.

Section 25.06 Interpretation and Construction. This Ground Lease shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. Any captions or headings used in this Ground Lease are for convenience only and do not define or limit the scope of this Ground Lease. The singular of any term, including any defined term, shall include the plural and the plural of any term shall include the singular. Whenever the singular or plural number, or masculine or feminine gender is used in this Ground Lease, it shall equally apply to, extend to, and include the other.

Section 25.07 Severability. In the event any provision, or any portion of any provision of this Ground Lease is held invalid, the other provisions of this Ground Lease and the remaining portion of said provision, shall not be affected thereby and shall continue in full force and effect.

Section 25.08 Time is of the Essence. All time limits stated in this Ground Lease are of the essence of this Ground Lease.

Section 25.09 No Agency. Nothing in this Ground Lease is intended, or shall in any way be construed, so as to create any form of partnership or agency relationship between the parties. The parties hereby expressly disclaim any intention of any kind to create any partnership or agency relationship between themselves. Nothing in this Ground Lease shall be construed to make either Party liable for any of the indebtedness of the other, except as specifically provided in this Ground Lease.

Section 25.10 Amendments. No amendment of this Ground Lease shall be binding unless such amendment shall be in writing, signed by both parties hereto and attached to, incorporated in and by reference made a part of this Ground Lease.

Section 25.11 Counterparts. This Ground Lease may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, University and NPS have executed this Ground Lease as of the Commencement Date.

UNIVERSITY:

THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, a constitutional entity of the State of Oklahoma

By _____ Name: Brian Holderread Title: Vice President of Campus Operations

STATE OF OKLAHOMA)) ss: COUNTY OF CLEVELAND)

This instrument was acknowledged before me on _____, 2023, by Brian Holderread, Vice President of Campus Operations of The Board of Regents of the University of Oklahoma, a constitutional entity of the State of Oklahoma.

(Seal)

Notary Public
My Commission Expires: _____
Commission # _____

NPS:

INDEPENDENT SCHOOL DISTRICT
NUMBER 29 OF CLEVELAND COUNTY,
OKLA., a.k.a. NORMAN PUBLIC SCHOOLS

By _____
Name: Dirk O'Hara
Title: President of the Board of Education

STATE OF OKLAHOMA)
) ss:
COUNTY OF CLEVELAND)

This instrument was acknowledged before me on _____, 2023, by Dirk O'Hara , as President of the Board of Education of Independent School District Number 29 of Cleveland County, Okla., a.k.a. Norman Public Schools.

(Seal)

Notary Public
My Commission Expires: _____
Commission # _____

EXHIBITS

EXHIBIT A	Depiction of Airport Property
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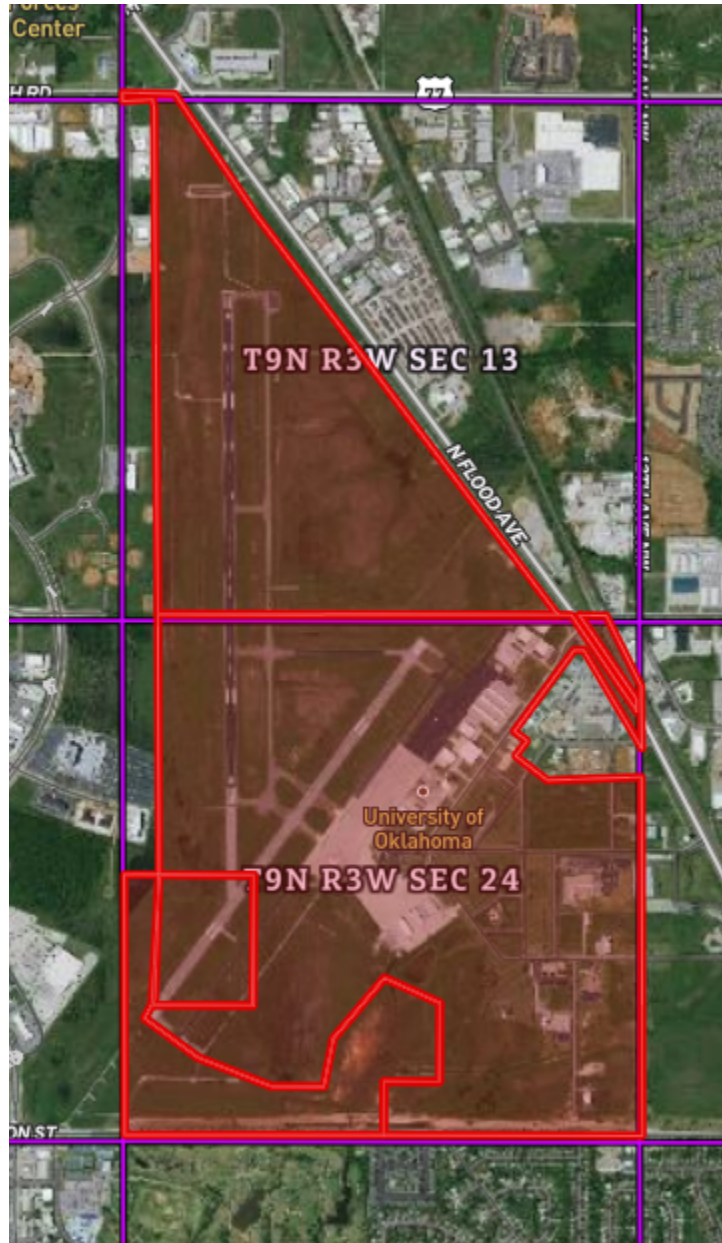
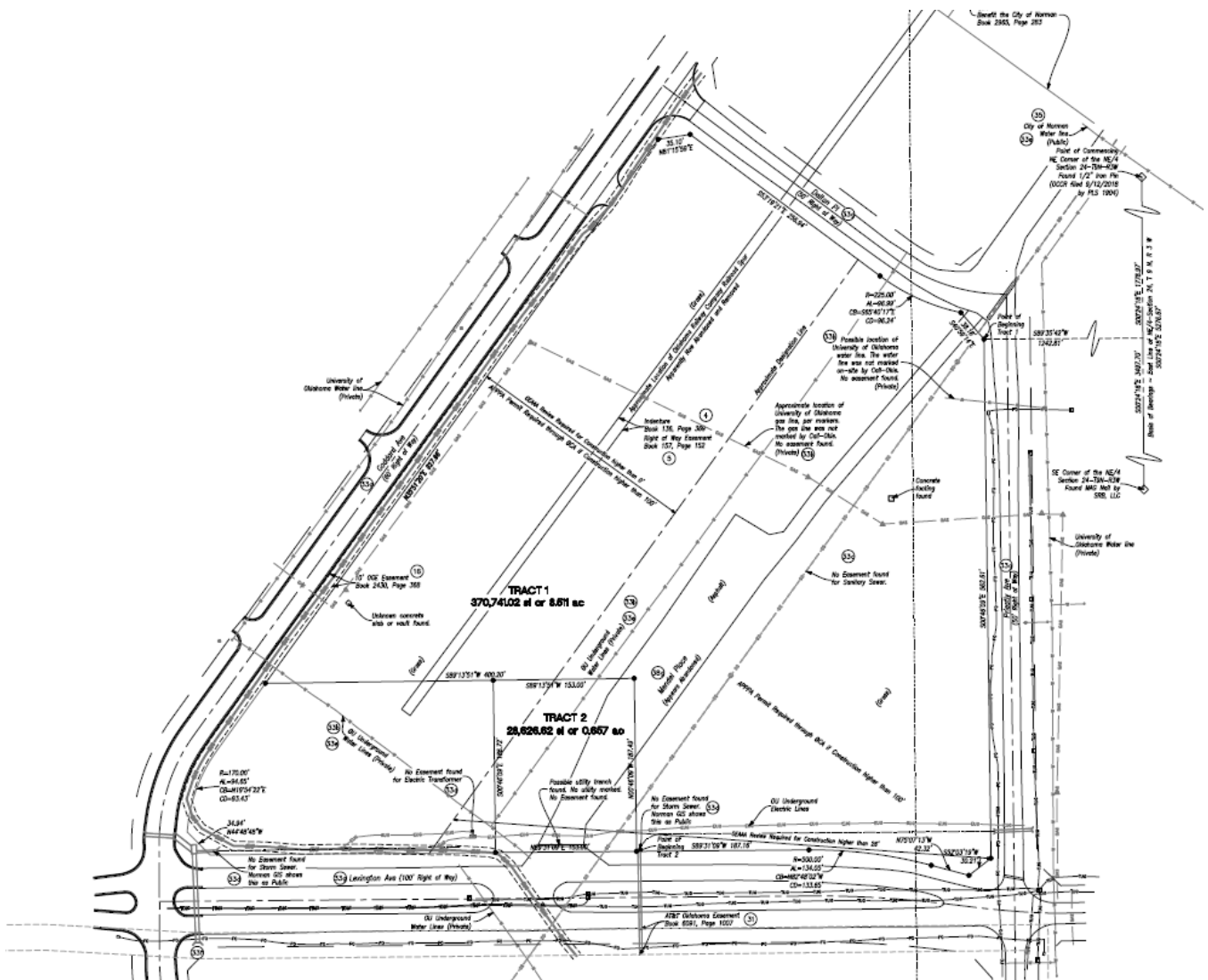


EXHIBIT A-1

Legal Description and Depiction of Land

TRACT 2 DESCRIPTION

A tract of land that is a part of the Northeast Quarter of Section 24, Township 9 North, Range 3 West, City of Norman, Cleveland County, Oklahoma, Indian Meridian, more particularly described as follows: COMMENCING at the Northeast Corner of said Northeast Quarter; THENCE S 00°24'18" E, along the east line of said Northeast Quarter, a distance of 1778.97 feet; THENCE S 89°35'42" W, perpendicular to the east line of said Northeast Quarter, a distance of 1242.81 feet; THENCE S 00°46'09" E a distance of 562.61 feet; THENCE S 52°03'19" W a distance of 30.21 feet; THENCE N 75°07'13" W a distance of 42.32 feet; THENCE along a tangent curve to the left with a radius of 500.00 feet, an arc length of 134.05', a chord bearing of N 82°48'02" W, and a chord distance of 133.65 feet; THENCE S 89°31'09" W a distance of 187.16 feet to the POINT OF BEGINNING; THENCE N 00°46'09" W a distance of 187.49 feet; THENCE S 89°13'51" W a distance of 153.00 feet; THENCE S 00°46'09" E a distance of 186.72 feet; THENCE N 89°31'09" E a distance of 153.00 feet to the POINT OF BEGINNING. Above described tract contains 28,626.62 square feet or 0.657 acres.



SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT (this “**Sublease**”) is made and effective as of the ____ day of _____, 2023 (the “**Effective Date**”), by and between INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF CLEVELAND COUNTY, OKLA., a.k.a. NORMAN PUBLIC SCHOOLS (“**Sublandlord**” or “**NPS**”) and THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, a constitutionally-created entity organized under the laws of the State of Oklahoma (“**Subtenant**” or “**University**” and, together with Sublandlord, each a “**Party**” and collectively referred to herein as the “**Parties**”).

WHEREAS, NPS, as tenant, and University, as landlord, are parties to that certain Ground Lease dated _____, 2023 (the “**Ground Lease**”), in which NPS acquired long term possession, control, and occupancy of the Premises as defined in the Ground Lease and as more particularly depicted as “Tract 2” on the site plan attached hereto as **Exhibit A** (the “**Site Plan**”). Terms used herein but not otherwise defined shall have the meanings given to them in the Ground Lease;

WHEREAS, as part of the consideration for the rights granted under the Ground Lease and the Tract 1 Ground Lease, whereby NPS acquired long term possession, control and occupancy of the parcel adjacent to the Premises which is depicted on the Site Plan as “Tract 1” (“**Tract 1**”), NPS has agreed to sublease to University, and University has agreed to sublease from NPS, the Premises, including the Facility and other Improvements to be constructed on the Land by NPS in accordance with the terms and conditions of the Ground Lease (the “**Subleased Premises**”), for the University to occupy as part of the University’s School of Aviation, on the terms and conditions set forth in this Sublease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

The parties agree as follows:

1. Sublease; Term.

1.1 Grant of Sublease. Sublandlord subleases the Subleased Premises to Subtenant, and Subtenant subleases the Subleased Premises from Sublandlord, pursuant to the terms and conditions of this Sublease.

1.2 Access Easement. In addition, Sublandlord further grants to Subtenant, for the duration of the Term, a non-exclusive easement for continued, uninterrupted access for pedestrian and vehicular ingress, egress, passage, and traffic over and across those certain portions of Tract 1 used as driveways, drive lanes, and curb cuts (collectively, the “**Access Easement**”), with the right to cross onto Tract 1 solely for ingress and egress to and from the Subleased Premises. The Access Easement is for the benefit of Subtenant and its occupants, customers, employees, licensees, permittees, students and invitees. The foregoing easement is granted subject to all existing easements, encumbrances and restrictions of record. The Access Easement shall be used and enjoyed in such a manner as to cause the least possible interference with the conduct and operations of any business at any time on Tract 1. The Access Easement shall not allow for cross-

parking. Access onto Tract 1 by Subtenant or Subtenant's occupants, customers, employees, licensees, permittees, students and invitees shall not cause injuries or damages to persons or property on Tract 1, and subject to the limitations in the Oklahoma Governmental Tort Claims Act Subtenant shall be responsible to remedy and repair any such injuries or damages to persons or property.

1.3 Term. The term of this Sublease shall commence upon Substantial Completion of the Facility (the "**Commencement Date**") and continue for the term of the Ground Lease, as the same may be extended, unless sooner terminated pursuant to the terms of this Sublease or the Ground Lease (the "**Term**").

2. Delivery of Subleased Premises. Subject to the completion of the Facility in accordance with the Ground Lease, Sublandlord shall deliver possession of the Subleased Premises to Subtenant on the Commencement Date in its "as is, where-is" condition. Following the Commencement Date, the parties shall attach an updated depiction of the Site Plan and the Subleased Premises as Exhibit A.

3. Payment of Rent. Subtenant hereby agrees to pre-pay all required Rent as applicable to the entirety of the Term of this Sublease ("**Rent**") in an amount equal to One Dollar and 00/100 Dollars (\$1.00) *per annum*, payable in advance on the Commencement Date. The foregoing rental shall be in the nature of a "gross rent" and shall be the only rental payable by Subtenant to Sublandlord hereunder.

4. Utilities. Sublandlord shall cause the Subleased Premises to be separately metered. Subtenant shall pay for all utilities and services provided to the Subleased Premises during the Term of this Sublease, including but not limited to fuel, gas, electric, water, sewer service, trash collection, telephone, security, janitorial, fiber optic, and internet service.

5. Permitted Use of Subleased Premises. Subject to the provisions of Section 5.01 of the Ground Lease, Subtenant may use the Subleased Premises for the operation of the University's School of Aviation for collegiate students and incidental or auxiliary uses related thereto (the "**Permitted Use**") and shall not use the Subleased Premises for any other purpose without the prior written consent of Sublandlord, which may be granted or withheld in Sublandlord's sole discretion. Subtenant shall not intentionally commit waste and shall repair any damage to the Subleased Premises caused by Subtenant's use and occupancy of the Subleased Premises.

6. Maintenance.

6.1 Subtenant's Maintenance. Subtenant shall be responsible for all repair and maintenance of its personal property, trade fixtures, equipment, and systems, at its sole cost and expense. Subtenant shall, at its sole cost and expense, maintain and repair the all portions of the Subleased Premises in good condition and repair and keep the Subleased Premises in a safe, clean, and neat condition, except for only the roof, foundation, and structural components of the Subleased Premises which shall be the responsibility of the Sublandlord.

6.2 Sublandlord's Maintenance. Sublandlord shall be responsible for all repair and maintenance of the roof, foundation, and structural components of the Subleased Premises.

Notwithstanding the foregoing but subject to the provisions of Section 8, Subtenant shall be responsible for the cost of any repairs to the Subleased Premises that are necessary by reason of negligence or misuse by Subtenant or Subtenant's occupants, customers, employees, licensees, permittees, students, and invitees.

7. Improvements and Alterations. Except as provided below, Subtenant shall not expand or make or install any other additions, renovations, alterations, improvements, or changes in or to the Subleased Premises, or any part thereof without Sublandlord's prior written consent, which shall not be unreasonably withheld. Any permitted work shall be performed in a good and workmanlike manner at the sole expense of Subtenant. Subtenant shall not permit, create, incur or impose or cause or suffer others to permit, create, incur or impose any lien or other obligation against the Subleased Premises or any interest therein by reason of any work upon the Subleased Premises, and Subtenant shall indemnify and hold Sublandlord harmless of and from any and all claims or demands by any contractor, subcontractor, materialman, laborer or any other third person against the Facility, Subtenant's interest in the Subleased Premises or any interest therein relating to or arising because of any work thereon. Notwithstanding the foregoing, Sublandlord acknowledges and agrees that Subtenant shall have the right to perform initial improvements to the Subleased Premises as necessary and desirable for Subtenant's operation of the Subleased Premises in accordance with the Permitted Use.

8. Taxes; Insurance. It is anticipated that the Subleased Premises will be exempt from real estate ad valorem and property taxes; however, Sublandlord shall be responsible for any and all real estate ad valorem or property taxes, levied, assessed, or imposed by a governmental authority with respect to the Subleased Premises. Subtenant shall be responsible for all personal property ad valorem taxes, assessments, license fees imposed, charges levied, assessed or imposed on Subtenant's personal property and fixtures during the Term of this Sublease. Subtenant shall maintain commercial insurance policies, or self-insurance, as reasonably necessary to insure replacement value of all of Subtenant's personal property within the Facility, as Sublandlord shall not be responsible or liable to the Subtenant for any damage or loss of such personal property with respect to matters typically covered by property and casualty insurance policies covering such personal property. Sublandlord shall continue to be responsible for all insurance required to be obtained by it pursuant to the Ground Lease including, specifically, the property and casualty insurance with respect to the Improvements. All such policies of insurance maintained by Subtenant or Sublandlord shall include a clause or endorsement denying the insurer any rights of subrogation or recovery against the other party and Subtenant and Sublandlord expressly waive any right to recover against the other party with respect to matters typically covered by such property and casualty insurance policies.

9. Condemnation. If all of the Subleased Premises are taken by the exercise of the power of eminent domain (or conveyed by Sublandlord or the University in lieu of such exercise) or such portion thereof as to substantially interfere with Subtenant's use and enjoyment thereof, this Sublease shall terminate on the date that is the earlier of the date on which the condemning authority takes possession of the Subleased Premises or the date on which title to the Subleased Premises is vested in the condemning authority. The award of any such taking shall be paid to Subtenant to the extent the same relates to any remainder of then-existing term of the Sublease prior to such termination and the balance of such award shall be paid in accordance with the Ground Lease. If such portion of the Subleased Premises are taken so as not result in a termination of the Sublease, the award from such taking shall be paid to the Subtenant to the extent the same

Sublandlord: INDEPENDENT SCHOOL DISTRICT NUMBER 29 OF
CLEVELAND COUNTY, OKLA., a.k.a.
NORMAN PUBLIC SCHOOLS
131 South Flood Avenue
Norman, OK 73069405-364-1339
Attention: Superintendent
Email: nickm@normanps.org; and jmilner@normanps.org

with a copy to: Rieger Law Group, PLLC
136 Thompson Drive
Norman, OK 73069
Attention: Sean Paul Rieger
Email: sp@riegerllc.com

Notwithstanding anything contained in this Sublease to the contrary, any notice required to be given by Sublandlord or Subtenant hereunder shall be deemed to be effective as of the date such notice is received or refused as reflected on said notice.

15. Miscellaneous.

15.1 Recording. Neither Party shall record this Sublease.

15.2 Construction of Agreement. In the construction and interpretation of the terms of this Sublease, the rule of construction that a document is to be construed most strictly against the Party who prepared it shall not be applied because both Sublandlord and Subtenant have participated in the preparation of this Sublease.

15.3 No Waiver. The waiver by Sublandlord or Subtenant of any agreement, condition, or provision in this Sublease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision in this Sublease, nor will any custom or practice that may develop between the parties in the administration of the terms of this Sublease be construed to waive or to lessen the right of Sublandlord or Subtenant to insist upon the performance by the other in strict accordance with the terms of this Sublease.

15.4 Written Amendment Required. No amendment, alteration, modification of, or addition to this Sublease will be valid or binding unless expressed in writing and signed by Sublandlord and Subtenant.

15.5 Captions. The captions of the various articles and sections of this Sublease are for convenience only and do not necessarily define, limit, describe, or construe the contents of such articles or sections.

15.6 Binding Effect. The covenants, conditions, and agreements in this Sublease will bind and inure to the benefit of Sublandlord and Subtenant and their respective heirs, successors, and, except as otherwise provided in this Sublease, their assigns.

15.7 Entire Agreement. The making, execution, and delivery of this Sublease by each Party has not been induced by any representations, statements, covenants, or warranties by either

Party except for those contained in this Sublease and the Ground Lease. This Sublease and the Ground Lease contain the full, complete, and entire agreement between and among the parties hereto; no agent, employee, officer, representative, or attorney of the parties hereto has authority to make, or has made, any statement, agreement, representation, or contemporaneous agreement, oral or written, in connection herewith modifying, adding to, or changing the provisions of this Sublease or the Ground Lease.

15.8 Counterpart Execution. This Sublease may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Signature Page to Follow]

EXECUTED as of the day and year first written above.

SUBTENANT:

THE BOARD OF REGENTS OF THE
UNIVERSITY OF OKLAHOMA,
a constitutional entity of the State of Oklahoma

By _____

Name: Brian Holderread

Title: Vice President of Campus Operations

SUBLANDLORD:

INDEPENDENT SCHOOL DISTRICT
NUMBER 29 OF CLEVELAND COUNTY,
OKLA., a.k.a. NORMAN PUBLIC SCHOOLS

By _____

Name: Dirk O'Hara

Title: President of the Board of Education

