

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

FINANCE COMMITTEE

September 3, 2020

- Item H.1.** **Grambling State University's** request to approve and authorize Grambling State University to accept the offered deferment of the principal and interest payments for the Future and Advance Project Funding Bonds Series 2016-4 offered by the United States Department of Education (DOE) and to authorize President Rick Gallot to execute all necessary documents to do so.

EXECUTIVE SUMMARY

The HBCU Capital Financing Act U.S.C. Sect. 1066, inter alia, authorized financial relief to Historically Black Colleges and Universities through access to capital financing or refinancing for the repair, renovation, and construction of infrastructures offered at an extremely low interest rate. In 2016, the Board of Supervisors for the University of Louisiana System, with and on behalf of Grambling State University, applied for and received a loan for ninety-two million dollars (\$92,000,000.00) pursuant to that authority, and the Board with and on behalf of GSU executed all necessary documents to complete the loan, receiving full approval by all State agencies required under law.

The United States Secretary of Education has proposed to modify the terms and conditions of that HBCU loan pursuant to the further Continuing Appropriations Act 2020, Pub. L. No. 116-69, Sect. 2, Div. A, Title III. The modification to the terms and conditions of the loan defers the payment of principal and interest due under the original schedules of the loan, with no penalties or increased cost to the University. The University applied for the modification, pursuant to the modification authority guidelines under the Cares Act and is now approved to receive the deferment.

The provided written option exercisable under this process will proceed from October 1, 2019, to September 30, 2020, and will result in a return advance of all the funds paid by GSU pursuant to the original loan terms during that period. The deferment will not result in any penalties, any defaults, or any increased amounts costs due under the loan. The funds returned may be used as the University needs. The deferment will include all principal and interest during that time period. Once the deferment ends, the University will return to the payment schedule and comply with the other terms of the agreement.

The deferment is initially granted for one year during the term of October 1, 2019, through September 30, 2020, but may be extended, subject to appropriation of funds by the Congress of the United States of America, for the period beginning October 1, 2020, through September 30, 2021, and the period extending between October 1, 2021, and September 30, 2022.

Grambling State University respectfully requests approval by the Board to authorize its President, Rick Gallot, Jr., to execute all documents required to obtain this deferment granted by the United States Department of Education.

RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves Grambling State University's request to accept the offered deferment of the principal and interest payments for the Future and Advance Project Funding Bonds Series 2016-4 offered by the United States Department of Education (DOE) and to authorize President Rick Gallot to execute all necessary documents to do so.

H.1.



August 31, 2020

Dr. James B. Henderson, President
University of Louisiana System
1201 North Third Street, Suite 7-300
Baton Rouge, Louisiana 70802

RE: Grambling State University
Request for Approval to Execute all United States Department of Education Deferment Documents

Dear Dr. Henderson,

Grambling State University (GSU) is proud to announce that our application to the United States Department of Education to defer our debt service payments on Series A 2016-4 Bonds was approved.

We respectfully request that the authorizing resolution for deferment to be added to the Board meeting agenda. Highlights of the deferment are enclosed in the executive summary for review. We also request authorization to accept the offered deferment and ask that as President, I, Richard J. Gallot, Jr., be granted authority to execute all necessary documents.

Your favorable consideration of this request will be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'RJ Gallot', written over a horizontal line.

Richard J. Gallot, Jr.
President

cc: Mr. Martin Lemelle, Executive Vice President and Chief Operating Officer
Dr. Marcus Jones, ULS Executive Vice President and Chief Operating Officer
Dr. Edwin Litolff, ULS Vice President for Business and Finance

CLOSING DOCUMENT LIST

Deferment and Modification of
\$92,000,000
Rice Capital Access Program, LLC
Future Advance Project Funding Bond
Series A 2016-4
(The Board of Supervisors for the University of Louisiana System
with and on behalf of Grambling State University Project)
(Long-Term Fixed-Rate Bond)

Parties

United States Department of Education (“ED”)

Rice Capital Access Program, LLC (“RCAP”)

The Federal Financing Bank (“FFB”)

Regions Bank (“Trustee”)

The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University (“University”)

Bryant Miller Olive P.C. (“BMO”)

Document

Amendments

1. Capital Project Loan Agreement
2. First Amendment of Capital Project Loan Agreement
3. Reimbursement Note of the Borrower to the Department Relating to Series A 2016-4 Bond
4. First Amendment of Promissory Note Relating to Series A 2016-4 Bond

Certificates

5. Certificate of the University as to Trustees and Officers and Certain other Matters
 - Exhibit A – Act Establishing the University
 - Exhibit B – By-Laws
 - Exhibit C – Board Resolution
 - Exhibit D – Voting Members of Board of Trustees
6. Trustee's Certificate

Consents

7. Acknowledgement and Consent of Borrower to Amendment of Loan Agreement
8. Acknowledgement and Consent of Trustee to Amendment of Loan Agreement
9. Acknowledgement and Consent of Department to Amendment of Loan Agreement
10. Acknowledgement and Consent of RCAP to Amendment of Loan Agreement

Opinions

11. Opinion of Borrower's Counsel
12. Opinion of Bond Counsel
13. Reliance Letter of Bond Counsel to Trustee regarding Bond Counsel Opinion

Miscellaneous

14. Capital Project Loan Deferment Option Letter
15. Excerpt from the Further Continuing Appropriations Act, 2020, Pub. L. No. 116-69, Section 2, Division A, Title III
16. Memorandum of Understanding

**CERTIFICATE OF THE BOARD OF SUPERVISORS FOR THE UNIVERSITY OF
LOUISIANA SYSTEM WITH AND ON BEHALF OF GRAMBLING STATE UNIVERSITY
AS TO TRUSTEES AND OFFICERS AND CERTAIN OTHER MATTERS**

I, Carol Slaght, Secretary to The Board of Supervisors for the University of Louisiana System (the “Board”) with and on behalf of Grambling State University (the “Borrower”), do hereby certify, as of the date of this Certificate, the following:

1. All capitalized terms used herein without definition shall have the respective meanings therefor set forth in that certain Capital Project Loan Agreement, dated as of November 30, 2016 (the “Original Agreement”) by and between the Borrower and Rice Capital Access Program, LLC (“RCAP”) as Designated Bonding Authority under the Historically Black Colleges and Universities Capital Financing Program, as amended by the First Amendment of Capital Project Loan Agreement, dated as of September 11, 2020 (the “First Amendment,” and together with the Original Agreement, the “Agreement”).

2. The Borrower is a public instrumentality, duly organized and validly existing under the laws of the State of Louisiana, with full legal capacity, right, power and authority to execute and deliver, and carry out and perform its obligations under the Loan Documents.

3. Attached as Exhibit A hereto and incorporated herein by reference is a true and correct copy of the act establishing The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University, Louisiana Constitution of 1974, Article 8, Section 6 and Louisiana Revised Statutes Title 17, Sections 3217, 3218 and 3351, as amended (the “Authorizing Act”).

4. Attached as Exhibit B hereto and incorporated herein by reference is a true and correct copy of the By-Laws of the Borrower (the “By-Laws”). Except as described therein, there have been no amendments to the By-Laws and the same remain in full force and effect.

5. Attached as Exhibit C hereto and incorporated herein by reference is a true and correct copy of the resolution duly adopted by the Board of Supervisors of the Borrower (the “Board Resolution”) and dated and effective September 3, 2020.

6. No authority or proceedings for the execution and delivery of the First Amendment or documents executed in connection therewith (collectively, the “Modification Documents”) have been repealed, revoked, rescinded, amended or superseded.

7. Mark Romero is the duly chosen and qualified Chair of the Board, James Carter is the duly chosen and qualified Vice Chair of the Board and Richard Gallot, Jr. is the duly chosen and qualified President of the University, and they are the persons authorized under the Board Resolution and the By-Laws to execute and deliver the First Amendment and the Modification Documents on behalf of the Borrower and are the duly designated Representatives of the Borrower with regard to the Agreement, the First Amendment and the Modification Documents.

8. Attached as Exhibit D hereto and incorporated herein by reference is a true and correct copy of the names of the voting members of the Board of Supervisors of the Borrower as of the date the Board Resolution was adopted.

9. The officers of the Borrower as of the date hereof are:

President of the University	Mr. Richard Gallot, Jr.
Chair of the Board	Mark Romero
Vice Chair of the Board	James Carter
Secretary of the Board	Ms. Carol Slaght

Each such person has been duly elected to the office opposite his/her name and each continues to hold the office opposite his/her name at the present time.

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10. The following persons are duly elected and acting officers of the Borrower holding the office indicated next to their name below, the signature appearing opposite their name and office is their true and genuine signature, and such officer is duly authorized to execute, deliver and perform on behalf of the Borrower the First Amendment and each of the Modification Documents to which the Borrower is a party and any other agreement, instrument or document to be delivered by the Borrower pursuant to the Modification Documents.

<u>Name</u>	<u>Title</u>	<u>Specimen Signature</u>
Mr. Richard Gallot, Jr.	President of the University	_____
Mr. Mark Romero	Chair of the Board	_____
Mr. James Carter	Vice Chair of the Board	_____
Ms. Carol Slaght	Secretary of the Board	_____

11. To the knowledge of the undersigned, no officer or employee of the Borrower has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Borrower for the sale of any land, materials, supplies or services (other than the employment contracts of the Borrower's employees) to the Borrower or to any contractor supplying the Borrower, relating to the First Amendment, the authorizing document and/or the Modification Documents. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than five percent (5%) of the particular business enterprise contract.

12. No authorization, approval, license or permit, including without limitation zoning permit, is required, and no other action by, notice to, or filing with any governmental authority or judicial or regulatory body is required (or, if required, such authorization, approval, license, permit, action, notice or filing has been or will be duly made or obtained) for the due execution and delivery and performance of the obligations of the Borrower under the First Amendment and other Modification Documents and each of the representations and warranties therein contained is true and correct in all material respects as of the date of this Certificate, as if made on and as of the date hereof, and each of the agreements to be complied with and obligations to be performed by the Borrower under the Modification Documents at or prior to the date hereof have been complied with or performed.

[Signature Page Follows]

**THE BOARD OF SUPERVISORS FOR
THE UNIVERSITY OF LOUISIANA
SYSTEM WITH AND ON BEHALF OF
GRAMBLING STATE UNIVERSITY**

By: _____
Carol Slaght
Secretary to the Board

Dated: September ____, 2020

Exhibit A

Authorizing Act

Exhibit B

By-Laws

Exhibit C

Board Resolution

Exhibit D

List of Voting Members of the Board of Supervisors

CERTIFICATION

I, the undersigned Secretary of **THE BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM WITH AND ON BEHALF OF GRAMBLING STATE UNIVERSITY** (hereinafter referred to as the “Corporation”), do hereby certify that I am the Secretary of the Corporation and the keeper of the corporate records and minutes of the proceedings of the Board of Supervisors of said Corporation, and that the following resolution was duly and lawfully adopted by the Board of Supervisors at its special meeting conducted on September 3, 2020, in accordance with the laws of the State of Louisiana and the bylaws of the Corporation:

RESOLUTION OF THE BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM WITH AND ON BEHALF OF GRAMBLING STATE UNIVERSITY

WHEREAS, for the purposes described in the HBCU Capital Financing Act, 20 USC, Section 1066, *inter alia*, the United States Congress authorized financial relief to historically black colleges and universities through access to capital financing or refinancing for the repair, renovation and construction of infrastructure (“HBCU Capital Financing”);

WHEREAS, in 2016 the Board of Supervisors for the University of Louisiana System (the “Board”) with and on behalf of Grambling State University applied for HBCU Capital Financing in the amount of \$92,000,000 (the “HBCU Loan”);

WHEREAS, the Board of Supervisors of the Corporation, at its October 27, 2016 meeting, adopted a resolution authorizing the President of the University, the Chair of the Board and the Vice Chair of the Board, jointly and severally, to execute such documentation as necessary to secure the HBCU Loan;

WHEREAS, the Corporation did receive the HBCU Loan on November 30, 2016;

WHEREAS, the United States Secretary of Education has proposed and the Corporation desires to modify the terms and conditions of the HBCU Loan (the “Modification”);

WHEREAS, the President has presented the general terms and conditions of the Modification to the Board of Supervisors;

WHEREAS, the Board of Supervisors desires to authorize the President of the University, the Chair of the Board and the Vice Chair of the Board, jointly and severally, to execute and deliver such documentation as necessary to enter into the Modification.

NOW, THEREFORE BE IT RESOLVED, the President of the University, the Chair of the Board and the Vice Chair of the Board, jointly and severally, are hereby authorized and directed to prepare, execute and deliver such documents as are necessary to effectuate the Modification.

I further certify the above and foregoing to be a true and correct copy of the resolution adopted by the Board of Supervisors of the Corporation at its September 3, 2020 special meeting, and that said resolution has not been rescinded, altered, modified or changed and remains in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto set my hand as Secretary of the Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University on this ____ day of September, 2020.

Carol Slaght, Secretary to the Board

[Signature Page to Resolution of the Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University]

**Acknowledgment and Consent of Borrower
With Respect to the Deferment and Modification of the**

\$92,000,000

**Rice Capital Access Program, LLC
Future Advance Project Funding Bond
Series A 2016-4**

**(The Board of Supervisors for the University of Louisiana System
with and on behalf of Grambling State University Project)
(Long-Term Fixed-Rate Bond)**

WHEREAS, in its capacity as Designated Bonding Authority for the United States Department of Education (the “**Department**”), Rice Capital Access Program, LLC (the “**Lender**”) (as successor-in-interest to Commerce Capital Access Program Corporation (“**CCAPC**”) which was successor-in-interest to Educational Direct Loan Mortgage Corporation, the original Designated Bonding Authority), has made to The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University (the “**Borrower**”) a Capital Project Loan (the “**Loan**”), as defined in the Trust Indenture, dated as of September 19, 1996, between the Lender and Regions Bank, as trustee (the “**Trustee**”) (as successor-in-interest to Commerce Bank, National Association, which was successor-in-interest to SouthTrust Bank of Georgia, N.A., the original trustee), as amended and supplemented, and specifically as amended by that certain Amended and Restated First Amendment to Trust Indenture, dated as of November 24, 2003, and the Second Amendment to Trust Indenture, dated as of September 25, 2009, each between the Lender and the Trustee (collectively, the “**Indenture**”), through the issuance of its \$92,000,000 Future Advance Project Funding Bond, Series A 2016-4 (The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University Project) (Long-Term Fixed-Rate Bond) (the “**Series A 2016-4 Bond**”); and

WHEREAS, in connection with the authorization and issuance of the Series A 2016-4 Bond, the Lender entered into a Capital Project Loan Agreement with the Borrower, dated as of November 30, 2016 (the “**Original Loan Agreement**”) that provided certain terms and details relating to the Loan; and

WHEREAS, pursuant to the Further Continuing Appropriations Act, 2020, Pub. L. No. 116-69, Section 2, Division A, Title III (the “**2020 Modification Authority**”), the Secretary of the Department (the “**Secretary**”) has been authorized to modify the terms and conditions of the Loan, to defer the payment of principal and interest on the Loan; and

WHEREAS, the Borrower applied for a modification of its Loan pursuant to the 2020 Modification Authority (the “**Modification**”); and

WHEREAS, the Secretary determined that the Borrower meets the requirements for the Modification pursuant to the 2020 Modification Authority; and

WHEREAS, the Borrower has accepted the Modification, and has submitted the items due from it as prerequisites to execution of the documents necessary to effectuate the

Modification; and

WHEREAS, pursuant to the Modification, the Original Loan Agreement is being amended as of the date hereof by a First Amendment of Capital Project Loan Agreement by and between the Lender and the Borrower, with the Original Loan Agreement as amended thereby referred to herein as the “**Agreement**”; and

WHEREAS, the Trustee, the Lender, the Secretary and the Borrower (the “**Principal Parties**”) desire to have the unanimous consent of the Principal Parties to the First Amendment of Capital Project Loan Agreement, the other Modification Documents (as described in the First Amendment of Capital Project Loan Agreement) and the Modification;

NOW, THEREFORE, for and in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower hereby agrees as follows:

1. The definitions and recitals set forth hereinabove are incorporated herein by reference to the same extent and with the same force and effect as if fully hereinafter set forth. Any terms not defined herein shall have the meanings set forth in the Indenture and the Agreement.

2. The undersigned, on behalf of the Borrower, does hereby consent to the Modification and the execution and delivery of all of the Modification Documents.

[Signature Page Follows]

IN WITNESS WHEREOF, this Consent of The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University has been executed as of September ____, 2020.

**THE BOARD OF SUPERVISORS FOR
THE UNIVERSITY OF LOUISIANA
SYSTEM WITH AND ON BEHALF OF
GRAMBLING STATE UNIVERSITY**

By: _____
Richard Gallot, Jr.
President

FIRST AMENDMENT OF CAPITAL PROJECT LOAN AGREEMENT

THIS FIRST AMENDMENT OF CAPITAL PROJECT LOAN AGREEMENT is dated as of September 11, 2020, and is by and between **The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University** (the “Borrower”), an Eligible Institution (as defined in 20 U.S.C. §1061(2)) and **Rice Capital Access Program, LLC** (the “Lender”) (the “First Amendment of Capital Project Loan Agreement”), as Designated Bonding Authority (within the meaning of 20 U.S.C. § 1066a(8)), amending the Capital Project Loan Agreement, dated as of November 30, 2016, by and between the Lender and the Borrower (the “Original Capital Project Loan Agreement,” and, together with this First Amendment of Capital Project Loan Agreement, the “Agreement”):

WITNESSETH:

WHEREAS, the Lender has made a Loan (as defined in the Agreement) to the Borrower through the issuance of its \$92,000,000 Future Advance Project Funding Bond, Series A 2016-4 (The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University Project) (Long-Term Fixed-Rate Bond) (the “Series A 2016-4 Bond”); and

WHEREAS, in connection with the authorization and issuance of the Series A 2016-4 Bond, the Lender and the Borrower entered into the Original Capital Project Loan Agreement to provide certain terms and details relating to the Loan; and

WHEREAS, pursuant to the Further Continuing Appropriations Act, 2020, Pub. L. No. 116-69, Section 2, Division A, Title III (the “2020 Modification Authority”), the Secretary of the United States Department of Education (the “Secretary”) has been authorized to modify the terms and conditions of the Loan, to defer the payment of principal and interest on the Loan; and

WHEREAS, the Borrower has applied for a modification of its Loan pursuant to the 2020 Modification Authority (the “Modification”); and

WHEREAS, the Secretary determined that the Borrower meets the requirements for the Modification pursuant to the 2020 Modification Authority; and

WHEREAS, on August 20, 2020, the Secretary provided the Borrower with a written option, exercisable in the manner described therein through September 4, 2020 or such period thereafter as determined by the Secretary (the “Option”), whereby the Borrower could choose to implement the Modification by submitting the documentation described in the Option as prerequisites to closing and by duly executing the transactional documents provided with the Option; and

WHEREAS, the Borrower has timely exercised the Option to the satisfaction of the Secretary and has chosen to implement the Modification; and

WHEREAS, as part of implementing the Modification, it is necessary to amend the Original Capital Project Loan Agreement as set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the parties to this First Amendment of Capital Project Loan Agreement hereby agree as follows:

1. Definitions and Recitals. The recitals set forth herein are incorporated herein by reference to the same extent and with the same force and effect as if fully hereinafter set forth. Any terms not defined herein shall have the meanings set forth in the Original Capital Project Loan Agreement.

2. Amendments. The Original Capital Project Loan Agreement is hereby amended as follows:

(A) In Section 1.1 the definition of “Advance” is hereby amended, replaced and substituted in its entirety with the following:

“Advance” shall have the meaning ascribed thereto in Section 2.1 hereof, but shall also include amounts deferred under Section 2.19(a) hereof, but only to the extent and for the purposes set forth in Section 2.19 hereof and without being subject to the requirements and conditions of Section 3.2 and Section 3.3 hereof.

(B) In Section 1.1 the definition of “Loan Documents” is hereby amended, replaced and substituted in its entirety with the following:

“Loan Documents” means, collectively, the Agreement, the Note, as amended, the Reimbursement Note, and any other agreement, document or instrument made or executed pursuant to the Loan or the Modification.

(C) In Section 1.1, the definition of “Obligation” is hereby amended, replaced and substituted in its entirety with the following:

“Obligation” means any liability of the Borrower to the Lender, to the Secretary (outside of its capacity as Guarantor) or to the Guarantor for the payment of money, arising under any Loan Document (other than Loan Deposits and the principal of, and interest on, the Loan), including, but not limited to, the amounts that must be paid pursuant to Section 2.14 hereof to replenish the Grambling State University Escrow Account (Series A 2016-4). For the avoidance of doubt, and without limiting the foregoing, Obligations include

amounts paid by the Secretary on behalf of the Borrower during the Deferment Period pursuant to Section 2.19(a) hereof.

(D) The following definitions are hereby added to Section 1.1:

“Deferred” or “deferral” means a postponement, on the terms and conditions described in Section 2.19 hereof, of payments of principal and interest on the Loan that are otherwise due to be made by the Borrower to the Trustee under Section 2.6 hereof during the Deferment Period.

“Deferred Interest” means the interest portion (excluding Deferred Principal) of any Deferment Advance.

“Deferred Principal” means the principal portion (excluding Deferred Interest) of any Deferment Advance.

“Deferment Advance” means each Advance made by the Secretary on behalf of the Borrower as provided in Section 2.19(d) hereof.

“Deferment Period” means the time period beginning on October 1, 2019 and ending on September 30, 2020, and subject to appropriation of funds by the Congress of the United States of America, the period beginning October 1, 2020 and ending on September 30, 2021, the period beginning October 1, 2021 and ending on September 30, 2022, the period beginning October 1, 2022 and ending on September 30, 2023, the period beginning October 1, 2023 and ending on September 30, 2024, and the period beginning October 1, 2024 and ending on September 30, 2025, except as shortened through pre-payment or default as provided in Section 2.9 and Article 7 hereof.

“FFB Loan Amortization Schedule” means the schedule attached as Schedule I to the Series A 2016-4 Bond and made a part hereof by reference. The FFB Loan Amortization Schedule reflects the principal payments scheduled to be made to the Federal Financing Bank in respect of the Series A 2016-4 Bond on the Payment Dates listed thereon, with all such payments due on Payment Dates preceding the execution of the First Amendment of Capital Project Loan Agreement having been made by the Borrower when and as they became due and all such payments succeeding the Deferment Period being the responsibility of the Borrower as well.

“First Amendment of Capital Project Loan Agreement” means this First Amendment of Capital Project Loan Agreement, dated as of September 11, 2020, by and between the Borrower and the Lender.

“Loan Reamortization Schedule” means the reamortization schedule prepared by the Secretary and provided to the Lender, the Trustee and the Borrower pursuant to Section 2.19(c) hereof, or any substitute or replacement reamortization schedule thereof prepared by the Secretary and provided to the Lender, the Trustee and the Borrower under Section 7.2(a)(iv) hereof.

“Modification” has the meaning ascribed thereto in the preamble to the First Amendment of Capital Project Loan Agreement.

“Modification Documents” means all documents executed as of the date of the First Amendment of Capital Project Loan Agreement to implement the Modification.

“Prepayment Date” means the date of prepayment as specified by the Borrower in a written notice submitted under Section 2.9(a) hereof.

“Reimbursement Note” means the Reimbursement Promissory Note relating to the Series A 2016-4 Bond executed and delivered by the Borrower to the Secretary on September 11, 2020.

“Secretary” means the Secretary of the United States Department of Education.

(E) Section 2.2 is hereby amended, replaced and substituted in its entirety as follows:

Section 2.2. The Note. The Borrower has executed and delivered to the Lender a Promissory Note in the principal amount of \$92,000,000 (relating to the Series A 2016-4 Bond) (the “Note”), plus the dollar amount of any Obligations due and owing under this Agreement. The Loan is evidenced by the Note dated the date of the Loan, with interest on each Advance being determined as provided in Section 2.3, Section 2.4 and Section 2.19 hereof and payable on the dates provided in Section 2.3, Section 2.4, Section 2.6 and Section 2.19 hereof, and providing for payments of principal on the dates and in the amounts provided in Section 2.5, Section 2.6, and Section 2.19 hereof. The Note will mature on July 1, 2045.

(F) Section 2.6 is hereby amended, replaced and substituted in its entirety as follows:

Section 2.6. Loan Deposits.

(a) On each Loan Deposit Date, with respect to the Series A 2016-4 Bond, the Borrower shall pay to the Trustee for deposit to the Grambling State University Revenue Account (Series A 2016-4) an amount such that after the Trustee distributes such moneys in accordance with Section 502 of the Indenture,

except as deferred under Section 2.19(a) hereof, and pays the Servicing Fee and the FFB Fee to the Department of Education, both fees as described in subsection (b) below of this Section 2.6: (i) the amount on deposit in the Grambling State University Interest Subaccount (Series A 2016-4) is equal to the product of (A) the number of months since the last Interest Payment Date on the Series A 2016-4 Bond plus two (2) months, and (B) one-sixth (1/6th) the amount of interest payable on the Series A 2016-4 Bond on the next applicable Interest Payment Date, minus (C) any interest portion of each applicable Deferment Advance required to be paid by the Secretary on that Interest Payment Date under Section 2.19(d) hereof, and (ii) the amount on deposit in the Grambling State University Principal Subaccount (Series A 2016-4) is equal to the product of (A) the number of months since the last Principal Payment Date on the Series A 2016-4 Bond plus two (2) months and (B) one-sixth (1/6th) of the amount of principal payable on the Series A 2016-4 Bond on the next applicable Principal Payment Date, minus (C) any Deferred Principal to be paid by the Secretary on that Principal Payment Date under Section 2.19(d) hereof, such that the aggregate amount of Loan Deposits which shall be due sixty (60) days in advance of such Payment Date, is not less than the amount of the interest and principal due on the Series A 2016-4 Bond on such Payment Date.

(b) On each Loan Deposit Date, the Borrower shall also pay to the Trustee for deposit to the Grambling State University Revenue Account (Series A 2016-4) an amount (the "Servicing Fee" which shall be included as part of the Loan Deposit) equal to the product of (i) 0.0000833 and (ii) the principal amount of the Loan outstanding on the day prior to such Loan Deposit Date; plus an amount (the "FFB Fee" which shall be included as part of the Loan Deposit) equal to the product of (A) 0.00125, (B) the actual number of days elapsed from the last Loan Deposit Date to the current Loan Deposit Date divided by three hundred sixty-five (365) and (C) the principal amount of the Loan outstanding on the day prior to such Loan Deposit Date. The Trustee shall pay: (1) to the Lender the portion of each Loan Deposit comprising the Servicing Fee and (2) to the Department of Education the portion of each Loan Deposit comprising the FFB Fee.

(G) The following Section 2.19 shall be added to Article 2:

Section 2.19. Repayment Modification.

(a) Deferment; Payments by the Secretary. During the Deferment Period, except as provided under Article 7 hereof with respect to an Event of Default, deposits of principal and interest required to be made by the Borrower under Section 2.3, Section 2.5 and Section 2.6(a) hereof, shall be deferred, and shall not

be considered by reason of such deferral to be “Late Payments” under Section 2.4 hereof or “Events of Default” under Article 7 hereof. For avoidance of doubt, during the Deferment Period, the Borrower shall continue to pay the fees described in Section 2.6(b) hereof and any other fees and expenses due and owing hereunder. Except as provided under Article 7 hereof with respect to an Event of Default, during the Deferment Period, on such dates as are necessary to cause the requisite amount of funds to be on deposit with the Trustee not less than sixty (60) days prior to each Payment Date, the Secretary will pay to the Trustee, on behalf of the Borrower, (1) the principal amount specified for the corresponding Principal Payment Date in the FFB Loan Amortization Schedule; and (2) the interest payable on that Payment Date to the FFB under the Series A 2016-4 Bond on that Payment Date. Notwithstanding anything in this Section 2.19(a) to the contrary, for avoidance of doubt, on and after the first Loan Deposit Date immediately following the Deferment Period, the Borrower shall commence making Loan Deposits in satisfaction of the requirements of Section 2.6 hereof and the Agreement.

(b) Repayment of Deferment Advances Made by the Secretary. Effective on the day after the first Payment Date following the Deferment Period, the sum of Deferment Advances shall be added to the outstanding principal of the Loan, but shall not be added to the outstanding principal amount of the Series A 2016-4 Bond. Notwithstanding anything in the Loan Documents to the contrary, Deferment Advances under this Section 2.19(b) are each considered an “Advance” made on the day after all Obligations other than Deferment Advances have been satisfied pursuant to the Agreement for purposes of Section 2.2 hereof; *provided* that Deferment Advances are not considered “Advances” for purposes of the Series A 2016-4 Bond; and *provided, further*, that the Deferment Advances shall not accrue interest, but shall be repaid, in full, as set forth in Section 2.19(c) below.

(c) Loan Reamortization Schedule. Except in the event of default by the Borrower then existing and exercise of a remedy therefor by the Lender, the Trustee or the Secretary under Article 7 hereof, by the first Business Day immediately following the end of the Deferment Period, the Secretary shall prepare and provide the Borrower, the Lender and the Trustee with a Loan Reamortization Schedule, setting forth Payment Dates of January 1 and July 1 for each year beginning on January 1, 2040 with respect to the Series A 2016-4 Bond, through and including the date of repayment of all of the Deferred Principal and the Deferred Interest, and setting forth the amounts due for each such Payment Date, which amounts reflect each payment of Deferred Interest and Deferred Principal paid by the Secretary during the Deferment Period in exact

chronological order, and beginning on the first Payment Date after the Deferment Period, payable in such order over a repayment period of no less than the number of years in the Deferment Period. However, the final and conclusive Loan Reamortization Schedule shall be dependent upon intervening events that could occur during the Deferment Period, including the length of the Deferment Period, the amount of Deferred Principal paid by the Secretary and any prepayments made by the Borrower. The final Loan Reamortization Schedule shall constitute the controlling schedule and conclusive evidence of any amounts due and owing to the Secretary as a result of the Deferment.

Notwithstanding the foregoing, the FFB Loan Amortization Schedule shall constitute the controlling schedule and conclusive evidence of any amounts of principal due and owing to the Federal Financing Bank on each Payment Date.

(d) Deferment Advances. Except as provided in Article 7 hereof with respect to an Event of Default, during the Deferment Period, for so long as the Borrower is found eligible for Deferment Advances by the Secretary, the Borrower's payments and deposits of principal and interest due under Section 2.3, Section 2.5, and Section 2.6 hereof, shall be deferred for the Borrower and paid by the Secretary in the manner described in this Section 2.19 hereof and applied by the Trustee to principal and interest on the Series A 2016-4 Bond in accordance with Section 502 of the Indenture. During the Deferment Period, on each of the Payment Dates that immediately follow the Loan Deposit Dates, the Secretary shall make payments on the Series A 2016-4 Bond to the Trustee in amounts that total the amounts due to the FFB for such Payment Date under the Series A 2016-4 Bond and the FFB Loan Amortization Schedule. Payments and deposits deferred in accordance with this Section 2.19(d), shall not be considered by reason of such deferral to be "Late Payments" under Section 2.4 hereof or "Events of Default" under Article 7 hereof but Deferment Advances shall be considered "Advances" by the Secretary for purposes of Section 2.3 hereof. The Secretary will notify the Borrower, the Lender, the Trustee and the Federal Financing Bank in writing that Deferment Advances will be made ninety (90) days prior to the date that the upcoming principal and interest payment on the Series A 2016-4 Bond is due.

(e) Prepayment or Default Prior to Delivery by the Secretary of a Loan Reamortization Schedule Under Section 2.19(c).

(1) For purposes of prepayment in full under Section 2.9 hereof prior to delivery by the Secretary of a Loan Reamortization Schedule under Section 2.19(c) hereof, the amount owing by the Borrower under the Loan Documents

shall include the principal and interest payable by the Borrower, FFB Fees, Servicing Fees, and the Deferment Advances as of the Prepayment Date.

(2) Solely for purposes of issuing a notice under Section 7.2(a)(i) hereof following a default by the Borrower prior to delivery by the Secretary of a Loan Reamortization Schedule under Section 2.19(c) hereof, the amount owing by the Borrower under the Loan Documents as set forth in such notice shall include the principal and interest payable by the Borrower, FFB Fees, Servicing Fees, and the Deferment Advances as of the date of the notice.

(f) Prepayment or Default after Deferment Advance(s).

(1) For purposes of prepayment in full under Section 2.9 hereof after one or more Deferment Advances has been made by the Secretary under Section 2.19(d) hereof, the amount owing by the Borrower shall include, but not be limited to, the Deferred Principal and Deferred Interest paid made by the Secretary under Section 2.19(d) hereof.

(2) Solely for purposes of issuing a notice under Section 7.2(a)(i) hereof following a default by the Borrower after one or more Deferment Advances have been made by the Secretary under Section 2.19 hereof, the amount owing by the Borrower as set forth in such notice shall include, but not be limited to, the Deferred Principal and Deferred Interest paid by the Secretary under Section 2.19(d) hereof.

(H) The following Section 5.22 is hereby added to Article 5:

Section 5.22. Certificate of Borrower Regarding Deferment Periods. Annually, following the approval of any Deferment Period by the United States Congress ("Congress") and at the request of the Secretary or the Lender, furnish the Secretary and the Lender a certificate of the President of the Borrower (A) acknowledging the congressional authority for the then-current or upcoming Deferment Period, as applicable, (B) acknowledging that any future Deferment Period remains subject to appropriation of funds by Congress and is not guaranteed by the Secretary, the Lender or the Trustee, (C) certifying as to status of Events of Default under the Agreement and (D) acknowledging that the Agreement remains in full force and effect.

(I) The following subsection (b) is hereby added to Section 7.2:

(b) At the direction of the Secretary, end the Borrower's eligibility for deferral under Section 2.19(a) hereof of payments and deposits due during the Deferment Period, and require repayment by the Borrower, in substantially level

payments over the then-remaining term of the Capital Project Loan, of all Obligations, including the amounts deferred during the Deferment Period, pursuant to a Loan Reamortization Schedule provided to the Lender, the Borrower and the Trustee by the Secretary.

(J) The following Section 8.18 is hereby added to Article 8:

Section 8.18. Termination of Loan Agreement. For the avoidance of doubt, the parties hereby agree that this Agreement and the Note shall not be terminated and shall remain in full force and effect until all of the following have been satisfied or forgiven: (i) Loan Deposits; (ii) Loan Payments; and (iii) Obligations.

3. First Amendment of Capital Project Loan Agreement Authorized. The Borrower represents and warrants that the execution and delivery of this First Amendment of Capital Project Loan Agreement by the Borrower and the performance of its obligations hereunder: (i) has been duly authorized by all necessary action of the Borrower's Board of Trustees; (ii) does not require the consent or approval of, or any declaration or filing with, any governmental body, regulatory authority, court or official, not already obtained; (iii) does not violate or contravene or constitute a default under any provision of law or regulation or the charter or bylaws of the Borrower or of any judgment, injunction, order, or mortgage, security agreement, indenture or other agreement or instrument, to which the Borrower is a party or by which the Borrower, the Project or any of its other property may be bound or affected; and (iv) will not result in the creation or imposition of any lien or security interest on any property of the Borrower, other than the lien created pursuant to the Agreement.

4. Force and Effect. The Original Capital Project Loan Agreement remains in full force and effect, except as modified by this First Amendment of Capital Project Loan Agreement.

5. Counterparts. This First Amendment of Capital Project Loan Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all of the parties hereto, notwithstanding that all the parties are not signatories to the original or the same counterpart.

6. Severability. In case any provision in this First Amendment of Capital Project Loan Agreement or in the Note, as amended, is invalid, illegal or unenforceable in any jurisdiction, such provision is severable from the remainder thereof as to such jurisdiction and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired in any jurisdiction.

7. Captions. The captions or headings in this First Amendment of Capital Project Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this First Amendment of Capital Project Loan Agreement.

8. Governing Law. This First Amendment of Capital Project Loan Agreement and the Note, as amended, will be construed in accordance with, and governed by, the laws of the District of Columbia, except that the provisions relating to administrative offset set forth in Section 7.4 of the Original Capital Project Loan Agreement shall be construed in accordance with, and governed by, Federal law.

9. First Amendment Construed with Original Agreement. All of the provisions of this First Amendment of Capital Project Loan Agreement shall be deemed to be and construed as part of the Original Capital Project Loan Agreement to the same extent as if fully set forth therein.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment of Capital Project Loan Agreement to be duly executed all as of the date and year first above written.

RICE CAPITAL ACCESS PROGRAM, LLC,
as Designated Bonding Authority

By: _____
William F. Fisher
Chief Executive Officer

**THE BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM
WITH AND ON BEHALF OF GRAMBLING
STATE UNIVERSITY, as Borrower**

By: _____
Richard Gallot, Jr.
President

**FIRST AMENDMENT OF
PROMISSORY NOTE RELATING TO SERIES A 2016-4 BOND**

THIS FIRST AMENDMENT OF PROMISSORY NOTE RELATING TO SERIES A 2016-4 BOND is dated as of September 11, 2020 (this “**First Amendment**”), and is by **THE BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM WITH AND ON BEHALF OF GRAMBLING STATE UNIVERSITY** (the “**Borrower**”), a public instrumentality, duly organized and validly existing under the laws of the State of Louisiana, for the benefit of **RICE CAPITAL ACCESS PROGRAM, LLC**, as Designated Bonding Authority (within the meaning of 20 U.S.C. § 1066(a)(8)) (the “**Lender**”), and amending the Promissory Note relating to the Series A 2016-4 Bond, dated as of November 30, 2016 (the “**Original Promissory Note**”), and issued by the Borrower in connection with the making of the Loan made by the Lender to the Borrower pursuant to the Capital Project Loan Agreement, dated as of November 30, 2016, by and between the Lender and the Borrower, as the same has been or will be amended from time to time (the “**Loan Agreement**”).

WHEREAS, the Lender and the Borrower have amended the Loan Agreement pursuant to that certain First Amendment of Capital Project Loan Agreement, dated as of September 11, 2020, in order to effectuate the Modification (as defined in the First Amendment to Capital Project Loan Agreement); and

WHEREAS, as part of implementing the Modification, it is necessary to amend the Original Promissory Note as set forth herein.

NOW, THEREFORE, for and in consideration of the covenants hereinafter contained, and the mutual covenants contained in the Loan Agreement, the Borrower hereby agrees as follows:

1. Definitions. All terms not otherwise defined herein shall have the meanings ascribed to them in the Original Promissory Note or the Loan Agreement.
2. Amendments.
 - (a) In the “Final Maturity Date” on the face of the Original Promissory Note, the date “July 1, 2039” shall be deleted and replaced with the date “July 1, 2045.”
 - (b) In the first paragraph of the Original Promissory Note, the number “\$92,000,000” shall be deleted and replaced with the following language:

“\$84,802,594, being the principal amount outstanding as of October 1, 2019, plus the dollar amount of any Obligations due and owing under the Agreement (as hereinafter defined)”

- (c) The following paragraph shall be added at the end of the Original Promissory Note, but prior to the signature and attestation of the Borrower:

For the avoidance of doubt, the Borrower hereby agrees that this Note shall not be terminated and shall remain in full force and effect until all of the following have been satisfied or forgiven: (i) Loan Deposits, (ii) Loan Payments and (iii) Obligations (including, but not limited to the payments of Deferred Principal and Deferred Interest made by the Secretary on behalf of the Borrower during the Deferment Period pursuant to Section 2.19 of the Loan Agreement).

3. First Amendment Authorized. The making and performance by the Borrower of this First Amendment: (i) have been duly authorized by all necessary action of the Board of Trustees, (ii) do not require the consent or approval of, or any declaration or filing with, any governmental body, regulatory authority, court or official, not already obtained (iii) do not violate or contravene or constitute a default under any provision of law or regulation or the charter or bylaws of the Borrower or of any judgment, injunction, order, or mortgage, security agreement, indenture or other agreement or instrument, to which the Borrower is a party or by which the Borrower, the Project or any of its other property may be bound or affected, and (iv) will not result in the creation or imposition of any lien or security interest on any property of the Borrower, other than the lien created pursuant to the Loan Agreement, the Original Promissory Note, as amended hereby.
4. Force and Effect. The Original Promissory Note remains in full force and effect, except as modified by this First Amendment.
5. Counterparts. This First Amendment may be executed in several counterparts, and all so executed shall constitute one agreement binding on all of the parties hereto, notwithstanding that all the parties are not signatories to the original or the same counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University has caused this First Amendment of Promissory Note Relating to Series A 2016-4 Bond to be executed by its duly authorized officer all as of September ____, 2020.

**THE BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM
WITH AND ON BEHALF OF GRAMBLING
STATE UNIVERSITY**

Attest:

Mark Romero
Chair of the Board of Supervisors

By:

Richard Gallot, Jr.
President

September 11, 2020

THE BOARD OF SUPERVISORS THE UNIVERSITY OF LOUISIANA SYSTEM WITH
AND ON BEHALF OF GRAMBLING STATE UNIVERSITY

REIMBURSEMENT PROMISSORY NOTE
RELATING TO SERIES A 2016-4 BOND

The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University, an Eligible Institution (as defined in 20 U.S.C. §1061(2)) (the “Borrower,” which term includes any successors or assigns), a public instrumentality, duly organized and validly existing under the laws of the State of Louisiana, has entered into that certain First Amendment of Capital Project Loan Agreement, dated as of September 11, 2020 (the “First Amendment of Capital Project Loan Agreement”), by and between the Borrower and **Rice Capital Access Program, LLC** (the “Lender”), as Designated Bonding Authority (within the meaning of 20 U.S.C. § 1066a(8)), amending the Capital Project Loan Agreement, dated as of November 30, 2016, by and between the Lender and the Borrower (the “Original Capital Project Loan Agreement,” and, together with the First Amendment of Capital Project Loan Agreement, the “Agreement”). The Borrower has executed and delivered this Reimbursement Promissory Note (this “Note”) to further evidence and secure its obligations to the Secretary of the United States Department of Education (the “Secretary”) under the Agreement. Capitalized terms used herein and not defined herein have the meanings ascribed thereto in the Agreement.

Pursuant to the Agreement, subject to the terms and conditions in the Agreement, the Secretary has contractually agreed to pay certain Deferred Principal and Deferred Interest for the Borrower during the Deferment Period. Further, pursuant to the Agreement, the Borrower agreed to repay the Secretary for such payments of Deferred Principal and Deferred Interest. Now therefore, for value received, the Borrower promises to pay on demand to the order of the Secretary a sum equal to:

- (1) all amounts of Deferred Principal;
- (2) all amounts of Deferred Interest;
- (3) administrative costs and penalty charges assessed in accordance with the Agreement; and
- (4) any and all costs and expenses incurred in connection with the exercise of rights or the enforcement of remedies, as set forth in the Agreement.

The obligations of the Borrower hereunder are absolute and unconditional, irrespective of any defense or any right to set off, recoupment or counterclaim the Borrower might otherwise have against the Secretary.

The Borrower shall make payments on this Note on the dates and in the amounts specified herein and in the Agreement. Upon an Event of Default, as defined in any of the Financing Documents, the principal of and interest on this Note may be declared immediately due and payable as provided in the Agreement. Upon any such declaration the Borrower shall pay all costs, disbursements, expenses and reasonable counsel fees of the Lender, the Secretary and the Trustee in seeking to enforce their rights under any of the Financing Documents.

Nothing herein shall limit the Secretary's rights of subrogation which may arise as a result of payments made by the Secretary during the Deferment Period or as Guarantor.

This Note is permitted to be executed and delivered by, and is entitled to the benefits and security of, the Agreement.

Neither the execution and delivery of this Note by the Borrower to the Secretary, nor the failure of the Secretary to exercise any of its rights, powers, privileges or remedies under the \$92,000,000 original not to exceed amount Future Advance Project Funding Bond, Series A 2016-4 (The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University Project) (Long-Term Fixed-Rate Bond) (the "Bond") or the Agreement shall be deemed to be a waiver of any right, power, privilege or remedy of the Secretary, under the Bond or the Agreement.

All obligations of the Borrower herein are obligations of the Borrower and not of its officers, directors or employees.

THE BORROWER ACKNOWLEDGES THAT THE LOAN EVIDENCED BY THIS NOTE IS A COMMERCIAL TRANSACTION AND WAIVES ITS RIGHTS TO NOTICE AND HEARING AS ALLOWED UNDER ANY STATE OR FEDERAL LAW WITH RESPECT TO ANY PREJUDGMENT REMEDY WHICH THE HOLDER HEREOF MAY DESIRE TO USE. The Borrower further (1) waives diligence, demand, presentment for payment, notice of nonpayment, protest and notice of protest, notice of any renewals or extension of this Note, and all rights under any statute of limitations, (2) agrees that the time for payment of this Note may be changed and extended at the sole discretion of the Trustee without impairing its liability hereon, and (3) consents to the release of all or any part of the security for the payment thereof at the discretion of the Trustee or the release of any party liable for this obligation without affecting the liability of the other parties hereto. Any delay on the part of the Lender or the Trustee in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

This Note will be construed in accordance with, and governed by, the law of the District of Columbia.

[Signature Page Follows]

IN WITNESS WHEREOF, the Borrower has caused this Note to be signed in its corporate name as of the day and year first above written.

**THE BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM
WITH AND ON BEHALF OF GRAMBLING
STATE UNIVERSITY**, as Borrower

By: _____
Richard Gallot, Jr.
President

MEMORANDUM OF UNDERSTANDING
(For Public Institution Borrowers Entering Deferment in Fiscal Year 2020)

This **MEMORANDUM OF UNDERSTANDING** (“MOU”), entered into as of September 11, 2020, is by and between the **SECRETARY OF THE UNITED STATES DEPARTMENT OF EDUCATION** (the “Secretary”), and **REGIONS BANK**, an Alabama banking corporation duly organized and existing under the laws of the State of Alabama and authorized to exercise corporate trust powers in the State of Georgia, and having its designated corporate trust office located in Atlanta, Georgia (the “Trustee”), as successor trustee to The Bank of New York Mellon Trust Company, N.A., which was successor trustee to TD Bank National Association (formerly Commerce Bank, National Association), which was successor trustee to U.S. Bank, National Association, which was successor trustee to SouthTrust Bank of Georgia, N.A., the original trustee under the Indenture (as hereinafter defined) (each, a “Party” and together, the “Parties”).

Purpose

The purpose of this MOU is to provide for the involvement of the Trustee in facilitating repayment of amounts owed to the Secretary as a result of the Modifications after the Deferred Bonds are no longer Outstanding and the Supplemental Indentures have been satisfied and discharged (each as hereinafter defined).

The terms and conditions under which the Parties shall work together during the term of this MOU are set forth below:

1. **Words and Phrases.** All terms defined in this MOU have the meaning so given wherever used in this MOU. Capitalized terms used herein and not otherwise defined in this MOU have the meanings ascribed thereto in the Agreement to Insure (hereinafter defined) or the Indenture (hereinafter defined). In the event of a conflict between how a term is defined in the Agreement to Insure and in the Indenture, the definition of such term in the Indenture shall prevail. Such meanings are equally applicable to both the singular and plural forms of the terms defined. Accounting terms not otherwise defined herein or in the Indenture or the Agreement to Insure shall be interpreted in accordance with generally accepted accounting principles. The following terms have the following meanings:

“Agreement to Insure” means the Agreement to Insure dated as of August 19, 2009, as between the Department of Education of the United States of America and Rice Securities, LLC, d/b/a/ Rice Financial Products Company, acting as the Designated Bonding Authority, which has been duly and legally assigned in part to the Lender.

“Borrowers” means, collectively, (a) The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University and (b) The University of the Virgin Islands.

“Deferment Amendments” means, together, the Deferment Loan Agreement Amendments and the Deferment Note Amendments.

“Deferment Loan Agreement Amendments” means, collectively, each of those Deferment Loan Agreement Amendments set forth on Exhibit A-1 hereto.

“Deferment Note Amendments” means, collectively, each of those Deferment Note Amendments set forth on Exhibit A-2 hereto.

“Deferment Period” has the meaning ascribed thereto in each of the respective Deferment Loan Agreement Amendments.

“Deferred Bonds” means, collectively, each of those Deferred Bonds set forth on Schedule I hereto.

“Indenture” means the Trust Indenture dated as of September 19, 1996, between the Lender and the Trustee, as amended and supplemented.

“Lender” means Rice Capital Access Program, LLC, as the legal assignee of Rice Securities, LLC, d/b/a Rice Financial Products Company, in its capacity as Designated Bonding Authority (“DBA”) under the Agreement to Insure.

“Loans” means, collectively, the loans made to each respective Borrower by the Lender from the proceeds of the sale of the Deferred Bonds.

“Modifications” means the modifications of each of the Borrowers’ repayment obligations on the Original Notes pursuant to the 2020 Modification Authority.

“Original Notes” means, collectively, each of those Original Notes set forth on Schedule II hereto.

“Original Loan Agreements” means, collectively, each of those Original Loan Agreements set forth on Schedule III hereto.

“Supplemental Indentures” means, collectively, each of those Supplemental Indentures set forth on Schedule IV hereto.

“2020 Modification Authority” means The Further Continuing Appropriations Act, 2020, Pub. L. No. 116-69, Section 2, Division A, Title III.

2. Background.

(a) The Lender made the Loans to the Borrowers as evidenced by the Original Notes.

(b) In connection with the authorization and issuance of the Deferred Bonds, the Lender and the Borrower entered into the Original Loan Agreements to provide certain terms and details relating to the Loans.

(c) Pursuant to the 2020 Modification Authority, the Secretary has been authorized to modify the terms and conditions of the Loans, and to defer the payment of principal and interest on the Original Notes.

(d) The Borrowers applied for Modifications.

(e) The Secretary determined that each of the Borrowers meet the requirements for Modifications pursuant to the 2020 Modification Authority.

(f) On August 20, 2020, the Secretary provided each of the Borrowers with a written option, exercisable in the manner described therein through September 4, 2020 or such period thereafter as determined by the Secretary (collectively, the “Option”), whereby each Borrower can choose to implement its Modification by submitting the documentation described in the Option as prerequisites to closing and by duly executing the transactional documents provided with the Option.

(g) Each Borrower timely exercised its Option and has chosen to implement the Modification.

(h) As part of implementing the Modification, each Borrower and the Lender have entered or will enter into the respective Deferment Loan Agreement Amendments.

(i) As a consequence of the Modifications, the Secretary and the Trustee desire to enter into this MOU to set forth the framework under which the Parties may facilitate repayment of amounts owed to the Secretary as a result of the Modifications after the Deferred Bonds are no longer Outstanding and after the satisfaction and discharge of the Supplemental Indentures, as set forth herein.

3. Applicability. This MOU shall be effective with respect to each Borrower’s Loan on the date of execution of the related Deferment Amendments as set forth on Exhibit A-1 and Exhibit A-2 hereto. The parties hereby agree that Exhibit A-1 and Exhibit A-2 shall be updated at the time of execution of each Deferment Loan Agreement Amendment and each Deferment Note Amendment, until such time as each Borrower’s Deferment Amendments are thereon reflected, without further action on the part of the parties.

4. Receipt of and Compliance with Deferment Loan Agreement Amendments. The Trustee acknowledges that it has received an executed copy of each of the Deferment Loan Agreement Amendments at the time of the execution of each such amendment and accepts and agrees to the provisions thereof, and agrees that it will take all such actions as are required or contemplated of it under the Deferment Loan Agreement Amendments, if any, and that it will not take any action in contravention thereunder. The provisions of this Paragraph 4 shall survive the termination or expiration of the Loan Agreement Amendments and the related Supplemental Indentures.

5. Payments Made by Borrowers After the Deferred Bonds Are No Longer Outstanding; Security. As described in Section 2(G) of each of the Deferment Loan Agreement Amendments, after the conclusion of each of the respective Deferment Periods, the Secretary will prepare and provide the Borrower, the Lender, and the Trustee with a Loan Reamortization Schedule, setting forth each Borrowers' repayment obligations as a result of the Deferment. Such payment obligations are expected to commence after the Deferred Bonds are no longer Outstanding. At the request of the Lender, the Secretary and the Borrower, the Trustee and the Secretary agree that notwithstanding the repayment of the Deferred Bonds and the satisfaction and discharge of the Supplemental Indentures, the Trustee shall continue to receive, on behalf of the Lender and the Secretary, payments directly from the Borrower and will process those payments in accordance with the related Original Notes (each as amended by the related Deferment Note Amendments), the related Original Loan Agreements (each as amended by the related Deferment Loan Agreement Amendments) and the related Supplemental Indentures, except that in lieu of distributing any funds to the FFB, such funds will be distributed to the Secretary, until such time as the Borrowers' Obligations (as defined in the related Original Loan Agreements (each as amended by the related Deferment Loan Agreements)) are fully paid and satisfied. The Trustee and the Secretary acknowledge that, to the extent of any Deferred Principal and Deferred Interest paid by the Secretary pursuant to each Borrowers' Deferment Loan Agreement Amendments and Deferment Note Amendments, the Secretary, in its capacity as a holder of each of the Deferred Obligations and as the Guarantor, shall be entitled to the full benefit of the security for each Borrower's Obligations, whatever that may be, provided for in each Borrowers' Loan Documents, including revenues, real property, personal property and accounts, as applicable, (the "Collateral"). The Trustee agrees to discharge its responsibilities as trustee relative to the Collateral on behalf of the Secretary in its capacity as holder of each of the Deferred Obligations to the same extent as if the Secretary were the holder of each Deferred Bond. Notwithstanding the forgoing, at such time as all Obligations under the applicable Original Loan Agreements, as amended by the applicable Deferred Loan Agreement Amendments, of each Borrower, other than the Deferred principal and any interest accrued thereon of such Borrower, are satisfied in full and no longer Outstanding, the Trustee may, but only at the written request of the Secretary, assign any and all rights in the Collateral to the Secretary and shall execute any and all documents and instruments necessary to effectuate any such assignment. *All capitalized terms used in this paragraph 5 and not otherwise defined herein shall have meanings ascribed thereto in the related Original Loan Agreements (each as amended by the related Deferment Loan Agreement Amendments).*

6. Liberal Construction. It is the intent of the Parties, the Borrowers and the Lender that the provisions of this MOU be liberally construed to effectuate the Modifications and the repayment of the Borrowers' Obligations to the Secretary in substantially the same manner as if the Modifications had not occurred.

7. Binding Effect. Sections 4, 8, 9 and 16 hereof will survive the termination of this MOU and continue to be binding upon the Parties.

8. Concerning the Trustee; Articles IX and X of the Indenture Applicable. The provisions of Articles IX and X of the Indenture with respect to the Trustee shall apply to the

Trustee's ongoing obligations under this MOU. The Trustee shall be entitled to compensation, reimbursement and indemnification by the Borrowers with respect to its obligations under this MOU as set forth in the Indenture and the respective Original Loan Agreements, as amended, which shall survive the termination or expiration of the respective Loan Agreement Amendments and the respective Supplemental Indentures.

9. Remedies. Each Party agrees that money damages would not be a sufficient remedy for any breach of this MOU and that a Party shall be entitled to injunctive or other equitable relief to remedy or prevent any breach or threatened breach of this MOU. Such remedy will not be the exclusive remedy for any breach of this MOU, but will be in addition to all other rights and remedies available at law or in equity. Notwithstanding the foregoing, the Parties' liability in connection with this MOU and any activities undertaken in connection with the evaluation of the Projects is limited to direct damages and excludes any other liability, including liability for special, indirect, punitive or consequential damages in contract, tort, warranty, strict liability or otherwise, and the Secretary shall not be liable or responsible for any money damages whatsoever.

10. Parties in Interest. Except as herein otherwise specifically provided, nothing in this MOU expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Secretary, the Lender and the Trustee any right, remedy or claim under or by reason of this MOU, this MOU being intended to be for the sole and exclusive benefit of the Secretary, the Lender and the Trustee.

11. Conflicts. While the Deferred Bonds remain Outstanding, in the event of any inconsistency among the provisions of this MOU, the Indenture, any Supplemental Indenture and any Bond Form (as defined in each Supplemental Indenture), the provisions of the Bond Form shall control. After the Deferred Bonds are no longer Outstanding, in the event of any inconsistency among the provisions of this MOU, the Indenture, any Supplemental Indenture and any Bond Form, this MOU shall control.

12. Costs and Expenses. The Borrower shall bear all costs and expenses of the Parties (including fees of counsel and outside advisors) in connection with the preparation, negotiation and execution of this MOU and for the payment of any ongoing fees and costs associated with the administration of the duties described herein, in the matter provided for in Section 1005 of the Indenture and Section 5.10 of the Original Loan Agreements.

13. Amendment, Modification or Waiver. This MOU may be amended or modified and any term of this MOU may be waived if such amendment, modification or waiver is in writing and signed by all Parties, the Borrowers and the Lender, with the consent of the Secretary.

14. No Assignment. No assignment of the interest of either of the Parties hereto shall be binding in the absence of the written consent of the other Party.

15. Non-Waiver. No waiver of any provision of this MOU will be deemed to be nor will constitute a waiver of any other provision whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the Party making the waiver.

16. State Law Governs. This MOU shall be governed by and construed in accordance with the laws of the State of Georgia.

17. Entire Agreement. This MOU constitutes the full and entire agreement between the Parties with respect to the subject matter hereof.

18. Execution in Counterparts. This MOU may be signed in counterparts and may be delivered electronically or by facsimile, each of which may be deemed an original, and all of which together constitute one and the same agreement.

19. Authorization and Binding Obligations. Each Party represents to the other Party that the execution, delivery and performance of this MOU have been duly authorized, and this MOU has been duly executed and delivered by the signatory so authorized, and the obligations contained herein constitute the valid and binding obligations of such Party.

20. Notices. Any notice, direction or request to be given in connection with any of the terms or provisions of this MOU shall be in writing and be given in person, by facsimile transmission, courier delivery service, email or by first-class registered or certified mail, and shall become effective (a) on delivery if given in person, (b) on the date of delivery if sent by facsimile, email or by courier delivery service, or (c) four business days after being deposited in the mails, with proper postage for first-class registered or certified mail, prepaid.

Until notified in writing by the appropriate party of a change to a different address, notices shall be addressed as provided in Section 8.2 of each of the Original Loan Agreements, as such addresses have been updated, in writing, by any of the Parties as of the date of this MOU.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding for Public Institution Borrowers Entering Deferment in Fiscal Year 2020 as of the date first set forth above.

ATTEST:

REGIONS BANK, as Trustee

[SEAL]

Authorized Officer

By: _____
Mary A. Willis
Vice President

**SECRETARY OF THE UNITED STATES
DEPARTMENT OF EDUCATION**

By: _____
Robert L. King
Assistant Secretary for Postsecondary
Education

Schedule I

List of Deferred Bonds

- \$92,000,000 original not to exceed amount Rice Capital Access Program, LLC Future Advance Project Funding Bond, Series A 2016-4 (The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University Project), dated November 30, 2016.
- \$44,000,000 original not to exceed amount Rice Capital Access Program, LLC Future Advance Project Funding Bond, Series A 2011-2 (The University of the Virgin Islands Project), dated June 21, 2011.
- \$32,000,000 original not to exceed amount Rice Capital Access Program, LLC Future Advance Project Funding Bond, Series A 2019-7 (The University of the Virgin Islands Project), dated November 13, 2019.

Schedule II

List of Original Notes

- That certain Promissory Note relating to the Series A 2016-4 Bond, dated November 30, 2016, executed by The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University and delivered to the Lender in the original principal amount of \$92,000,000.
- That certain Promissory Note relating to the Series A 2011-2 Bond, dated June 21, 2011, executed by The University of the Virgin Islands and delivered to the Lender in the original principal amount of \$44,000,000.
- That certain Promissory Note relating to the Series A 2019-7 Bond, dated November 13, 2019, executed by The University of the Virgin Islands and delivered to the Lender in the original principal amount of \$32,000,000.

Schedule III

List of Original Loan Agreements

- That certain Capital Project Loan Agreement, by and between the Lender and The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University, dated as of November 30, 2016.
- That certain Capital Project Loan Agreement, by and between the Lender and The University of the Virgin Islands, dated as of June 21, 2011.
- That certain Capital Project Loan Agreement, by and between the Lender and The University of the Virgin Islands, dated as of November 13, 2019.

Schedule IV

List of Supplemental Indentures

- That certain Sixtieth Supplemental Trust Indenture, by and between the Lender and Regions Bank, as trustee, dated as of November 30, 2016.
- That certain Thirty-First Supplemental Indenture, by and between the Lender and The Bank of New York Mellon Trust Company, N.A., as trustee, dated as of June 21, 2011.
- That certain Seventy-First Supplemental Trust Indenture, by and between the Lender and Regions Bank, as trustee, dated as of November 13, 2019.

EXHIBIT A-1

DEFERMENT LOAN AGREEMENT AMENDMENTS

- First Amendment of Capital Project Loan Agreement, by and between the Lender and The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University, dated as of September 11, 2020.
- First Amendment of 2011 Capital Project Loan Agreement, by and between the Lender and The University of the Virgin Islands, dated as of September 11, 2020.
- First Amendment of 2019 Capital Project Loan Agreement, by and between the Lender and The University of the Virgin Islands, dated as of September 11, 2020.

EXHIBIT A-2

DEFERMENT NOTE AMENDMENTS

- First Amendment of Promissory Note relating to the Series A 2016-4 Bond, executed by The Board of Supervisors for the University of Louisiana System with and on behalf of Grambling State University, dated September 11, 2020.
- First Amendment of Promissory Note relating to the Series A 2011-2 Bond, executed by The University of the Virgin Islands, dated September 11, 2020.
- First Amendment of Promissory Note relating to the Series A 2019-7 Bond, executed by The University of the Virgin Islands, dated September 11, 2020.

EXHIBIT B

ACKNOWLEDGMENT, AUTHORIZATION, DIRECTION AND CONSENT (LENDER) TO MEMORANDUM OF UNDERSTANDING (For Public Institution Borrowers Entering Deferment in Fiscal Year 2020)

The undersigned, Rice Capital Access Program, LLC (“RCAP”), as Designated Bonding Authority (within the meaning of 20 U.S.C. § 1066a(8)), hereby certifies that it is (a) the issuer of all of the Deferred Bonds and the lender of all of the proceeds of all of the Loans (each as hereafter defined). The undersigned hereby (i) acknowledges and consents to the execution and delivery of the Memorandum of Understanding for Public Institution Borrowers Entering Deferment in Fiscal Year 2020, dated as of September 11, 2020, between the Secretary of the Department of Education and Regions Bank, as trustee (the “Trustee”), to which this Acknowledgement, Authorization, Direction, and Consent is attached (the “MOU”), and (ii) authorizes and directs the Trustee to execute and deliver the MOU. Capitalized terms used but undefined herein shall have the respective meanings ascribed thereto in the MOU.

Date: September ___, 2020

RICE CAPITAL ACCESS PROGRAM, LLC,
as Designated Bonding Authority

By: _____
William F. Fisher
Chief Executive Officer

EXHIBIT C-1

**ACKNOWLEDGMENT, AUTHORIZATION, DIRECTION,
AGREEMENT AND CONSENT (THE BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM WITH AND ON BEHALF OF GRAMBLING
STATE UNIVERSITY)**

The undersigned hereby (a) certifies that it is a Borrower, as defined in the Memorandum of Understanding for Public Institution Borrowers Entering Deferment in Fiscal Year 2020, dated as of September 11, 2020, between the Secretary of the Department of Education and Regions Bank, as trustee (the "Trustee"), to which this Acknowledgement, Authorization, Direction, and Consent is attached (the "MOU"), (b) acknowledges and consents to the execution and delivery of the MOU for any and all purposes as may be required under the Deferment Loan Agreement Amendments (as defined in the MOU) and otherwise, and (c) authorizes and directs the Trustee to execute and deliver the MOU.

Date: September ____, 2020

**THE BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM
WITH AND ON BEHALF OF GRAMBLING
STATE UNIVERSITY, as Borrower**

By: _____
Richard Gallot, Jr.
President

EXHIBIT C-2

ACKNOWLEDGMENT, AUTHORIZATION, DIRECTION, AGREEMENT AND CONSENT (THE UNIVERSITY OF THE VIRGIN ISLANDS)

The undersigned hereby (a) certifies that it is a Borrower, as defined in the Memorandum of Understanding for Public Institution Borrowers Entering Deferment in Fiscal Year 2020, dated as of September 11, 2020, between the Secretary of the Department of Education and Regions Bank, as trustee (the "Trustee"), to which this Acknowledgement, Authorization, Direction, and Consent is attached (the "MOU"), (b) acknowledges and consents to the execution and delivery of the MOU for any and all purposes as may be required under the Deferment Loan Agreement Amendments (as defined in the MOU) and otherwise, and (c) authorizes and directs the Trustee to execute and deliver the MOU.

Date: September __, 2020

**THE UNIVERSITY OF THE VIRGIN
ISLANDS**, as Borrower

By: _____
Dr. David Hall
President

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

FINANCE COMMITTEE

September 3, 2020

Item H.2. **McNeese State University's** request to approve a reduction in the per credit hour charge for its electronic learning fee assessment.

EXECUTIVE SUMMARY

In 2004, McNeese State University requested implementation of an electronic learning fee to be applied to appropriate courses to cover the costs associated with software licensing, bandwidth costs, hardware maintenance and upgrades, and server administration and support, etc. The initial fee was \$20 per credit hour for courses offered in a 100% online format. Based on current enrollment figures, the fee generates revenues totaling \$1,117,616.

Electronic learning and electronic access for the campus has changed considerably since 2004. Use of electronic resources for student learning has become the standard with all classes now utilizing a Course Management System (CMS) for some component of the class and has allowed greater flexibility for both the students and the University. During emergencies, such as hurricanes or the current pandemic, the University has had the capability to be flexible and adjust its mode of content delivery. Students have benefited from this flexibility with the alternatives for multiple modes of content delivery that match their other demands in life.

Given the ongoing trend of greater use of the CMS and electronic technology by all students, the University proposes to change the \$20 per credit hour fee for online only classes to a \$7 per credit hour fee for all classes (with no credit hour cap) – dual enrollment courses are exempt from this fee and will remain under their existing fee structure. Based on current enrollment numbers, the revised fee is expected to net \$1,267,119.

RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves McNeese State University's request for approval of a reduction in the per credit hour charge for its electronic learning fee assessment.



H.2.

August 6, 2020

Dr. James B. Henderson, President
University of Louisiana System
1201 North Third Street
Suite 7-300
Baton Rouge, LA 70802

Dear Dr. Henderson:

McNeese State University requests approval to adjust the electronic learning fee assessment.

Please place this item on the ULS Board of Supervisors' agenda for consideration and approval at the August 27, 2020 meeting.

Thank you for your attention in this matter.

Sincerely,

Dr. Daryl V. Burckel
President

Attachments



Office of
Academic Affairs
and Enrollment
Management


Box 93220
Lake Charles, LA 70609

Burton Business Center
Rm 427, 450 Lawton Dr.
Lake Charles, LA 70605

Phone: 337-475-5508
1-800-622-3352 ext. 5508
Fax: 337-475-5511

[www.mcneese.edu/
academic-affairs](http://www.mcneese.edu/academic-affairs)

MEMORANDUM

To: Daryl Burckel, President
From: C. Mitchell Adrian, Provost and Vice President 
Subject: Electronic Learning Fee
Date: July 21, 2020


I am requesting a change in our fee schedule that will more evenly spread the cost of infrastructure for electronic learning to all students.

Back in 2004 we made a request to implement an electronic learning fee to appropriate courses to cover costs associated with software licensing, bandwidth costs, hardware maintenance and upgrades, server administration and support, etc. This fee was set at \$20 per credit hour for courses offered 100% in an online format. At current enrollment numbers, this generates \$1,117,616 in revenue.

Electronic learning and electronic access for the campus has changed considerably since 2004. Use of electronic resources for student learning has become the standard with all classes now utilizing a CMS (Course Management System) for some component of the class. This increase in electronic use has allowed greater flexibility for both the university and the students. During emergencies such as hurricanes or the current pandemic, we have had the capability to be flexible and adjust our mode of content delivery. Students have also benefited from this flexibility and have alternatives for multiple modes of content delivery that match their other demands in life.

Given the ongoing trend of greater use of the CMS and electronic technology by all students, I propose we change the \$20 per credit hour fee for online only classes to a \$7 per credit hour fee for all classes* (with no credit hour cap). At current enrollment numbers, this would net \$1,267,119, an amount very comparable to what is collected under the current structure. *Note: dual enrollment courses are exempt and will remain under their existing fee structure

The change in fee assessment would begin with the spring 2021 courses and will remain marked as the Electronic Learning Fee. Please let me know if I can help with any questions.


APPROVED
Dr. Daryl V. Burckel, President
McNeese State University
Date: 7-21-20

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

FINANCE COMMITTEE

September 3, 2020

Item H.3. **McNeese State University's** request for approval of the Board of Supervisors for the University of Louisiana System for the execution of leases between the Board, on behalf of the University, and Cowboy Facilities Inc., a private 501(c)(3) nonprofit corporation, in connection with the lease and lease-back of a portion of the University's campus to finance the cost of acquiring immovable property and financing the construction, renovation, and equipping of a new student union.

EXECUTIVE SUMMARY

McNeese State University is seeking the approval of the Board of Supervisors for the execution of leases with Cowboy Facilities, Inc. (CFI), in connection with the acquisition, addition, repair, maintenance, renovation, expansion and equipping of a new student union to be located on the campus of University. The proposed new student union will be a modern and open concept of not to exceed 75,000 gross square feet including spaces for dining/catering, event/function spaces, student and meeting space, general management space, postal services, and student government space (Project).

The University, through CFI, proposes to use the proceeds of revenue bonds issued through the Louisiana Local Government Environmental Facilities and Community Development Authority and the proceeds of a promissory note with McNeese State University Foundation to finance the Project. The total principal amount of the bonds is not expected to exceed \$10,000,000, and the total principal amount of the note is not expected to exceed \$8,000,000, which, with a University contribution, will be sufficient to pay Project costs, fund necessary reserve funds, and pay the costs of issuance of the bonds. The net interest cost of the transaction is not expected to exceed 6.0%. The note is expected to be in the form of an interest free loan.

The land and the existing improvements thereon will be leased to CFI by the Board, on behalf of the University, pursuant to the Ground and Buildings Lease Agreement (Ground Lease), which Ground Lease may be supplemented and amended by one or more supplements in order to complete the Project. CFI will complete the Project and lease the completed Project back to the Board pursuant to the Agreement to Lease with Option to Purchase (Facilities Lease), which Facilities Lease may be supplemented and amended by additional supplements in order to complete the Project.

Annual debt service for the proposed bonds and the note will be secured and payable from lease payments paid by the Board, on behalf of the University, to CFI pursuant to the Facilities Lease. The payments will be derived from the lease payments paid by the Board, on behalf of the

University, to the Corporation which payments will be derived from the University's pledged revenues. The pledged revenues include a self-assessed Student Union Fee approved by the Board and by an election of the students of the University in April 2020, and of the revenues derived from operation of the completed Project. The Board and University have not and will not pledge its full faith and credit or State appropriated funds to make any debt service payments on the bonds. The University's land and property will not be used as security for the bonds.

RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves McNeese State University's request for approval of the form of and authorization to execute and to enter into Ground Lease Agreements and Facilities Leases, each between the Board, acting on behalf of the University, and Cowboy Facilities, Inc., in connection with the issuance of the Bonds and the Note described herein to finance the Project.

BE IT FURTHER RESOLVED, that McNeese State University shall obtain final review from University of Louisiana System staff and legal counsel to the Board, and shall secure all other appropriate approvals from agencies/parties of processes, documents, and administrative requirements prior to execution of documents.

BE IT FURTHER RESOLVED, that the President of McNeese State University, and his or her designee, are hereby authorized and directed to execute the leases described herein and any and all documents necessary in connection with the issuance of the bonds described herein.

AND FURTHER, that McNeese State University will provide the University of Louisiana System office with copies of all final executed documents for the Board's files.



H.3.

August 6, 2020

Dr. James B. Henderson, President
University of Louisiana System
1201 North Third Street
Suite 7-300
Baton Rouge, LA 70802

Dear Dr. Henderson:

McNeese State University requests approval of leases required to provide financing for the not to exceed \$8,000,000 McNeese State University Foundation Subordinate Revenue Promissory Note (McNeese State University – Cowboy Facilities, Inc. Student Union Project) Series 2020 (the “*Note*”) and the not to exceed \$10,000,000 Louisiana Local Government Environmental Facilities and Community Development Authority Revenue Bonds (McNeese State University – Cowboy Facilities, Inc. Student Union Project) Series 2020 (the “*Bonds*”).

The proceeds of the Bonds and the Note will be used to finance the acquisition, additions, repairs, maintenance, renovation, expansion and equipping of a new student union, to be located at 4250 Vernon Drive on the campus of the University and are payable from lease revenues.

You will receive from Mr. Joseph A. Delafield, Bond Counsel, a form of resolution to be considered, with forms of the leases attached, as well as an executive summary regarding this matter. Representatives from the University, the financial advisor and bond counsel will be available for the August meeting to answer any questions you may have.

Please place this item on the ULS Board of Supervisors’ agenda for consideration and approval at the August 27, 2020 meeting.

Thank you for your attention in this matter.

Sincerely,

Dr. Daryl V. Burckel
President

cc: Mr. Joseph A. Delafield, APC – Bond Counsel
Mr. Lawrence Sisung, Sisung Securities – Financial Advisor

BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM

The following resolution was offered by _____:

RESOLUTION

A RESOLUTION APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION OF ONE OR MORE GROUND LEASE AGREEMENTS AND ONE OR MORE AGREEMENTS TO LEASE WITH OPTION TO PURCHASE IN CONNECTION WITH THE LEASE AND LEASE BACK OF PORTIONS OF THE CAMPUS OF MCNEESE STATE UNIVERSITY TO COWBOY FACILITIES, INC., AND THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF A NEW STUDENT UNION; APPROVING THE EXECUTION OF ANY AND ALL DOCUMENTS AND CERTIFICATES IN CONNECTION THEREWITH; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Board of Supervisors for the University of Louisiana System (the “*Board*”) is a public constitutional corporation organized and existing under the laws of the State of Louisiana and McNeese State University (the “*University*”), in Lake Charles, Louisiana is a university under its management pursuant to Louisiana Revised Statutes 17:3217;

WHEREAS, the Board is authorized pursuant to La. R.S. 17:3361 through 17:3366 (the “*Act*”), and other constitutional and statutory authority supplemental thereto, to lease portions of the campus of the University to Cowboy Facilities, Inc., a nonprofit corporation (the “*Corporation*”) in order to enable the Corporation to acquire, construct, renovate and equip a student union;

WHEREAS, the Board desires to approve and authorize the execution of (a) a Ground and Building Lease Agreement by and between the Board and the Corporation (the “*Ground Lease*”) and (b) an Agreement to Lease with Option to Purchase (the “*Facilities Lease*”), by and between the Board and the Corporation, relative to the lease and lease-back of a portion of the University’s campus to the Corporation for the acquisition, construction, renovation and equipping of a certain student union on the main campus of the University as shall be further described on Exhibit A to the Facilities Lease (the “*Facilities*”);

WHEREAS, the Corporation has requested that the Louisiana Local Government Environmental Facilities and Community Development Authority (the “*Authority*”) issue its Revenue Bonds (McNeese State University – Cowboy Facilities, Inc. Student Union Project), taxable and/or tax-exempt, in one or more series (the “*Bonds*”), for the purpose of (i) financing acquisition, additions, repairs, maintenance, renovation and/or expansions and equipping of a new student union on the campus of the University, which shall be owned by the Corporation and leased to the University; (ii) paying costs of issuance of the Bonds, including the premiums for a bond insurance policy and a debt service reserve fund surety policy, if necessary (collectively, the “*Project*”);

WHEREAS, the McNeese State University Foundation (the “*Foundation*”) intends to make a loan to the Corporation in an amount not to exceed \$8,000,000 through the issuance of a McNeese State University Foundation Subordinate Revenue Promissory Note (McNeese State University – Cowboy Facilities, Inc. Student Union Project) Series 2020 (the “*Note*”);

WHEREAS, the Corporation intends to finance the Project using the proceeds of one or more series of the Bonds, the proceeds of the Note, and together with other funds available to the University;

WHEREAS, the University has requested that the Board approve the issuance of the Bonds to finance the Project.

WHEREAS, the Board now desires to authorize the execution of one or more Ground Leases and one or more Facilities Leases.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors for the University of Louisiana System that:

SECTION 1. The forms of each Ground Lease and each Facilities Lease, are hereby approved in substantially the forms attached hereto as Exhibit A and Exhibit B, respectively, with such amendments, supplements, additions, omissions, and changes as may be approved by counsel to the Board and bond counsel to the Authority.

SECTION 2. There is hereby approved the issuance by the Issuer of the Bonds for the purposes of financing the Project.

SECTION 3. The Chairman, Vice Chairman, Secretary of the Board, the System President, or the President of the University shall be authorized to execute one or more Ground Leases and one or more Facilities Leases, and any certificates, documents, agreements or other items necessary to complete the lease of the land to the Corporation, the Project, and the issuance of the Bonds.

SECTION 4. This resolution shall take effect immediately.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

SECTION 4. This Resolution shall become effective immediately upon adoption hereof.

This Resolution having been submitted to a vote, the vote thereon was as follows:

YEAS:

NAYS:

ABSENT:

ABSTAINING:

The Resolution was declared to be adopted on the _____ day of September, 2020.

(Other items not pertinent hereto are omitted)

Upon motion duly made, seconded and unanimously carried, the meeting was adjourned.

Certified to be a true copy:

Secretary

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

I, the undersigned Assistant Secretary to the Board of the Board of Supervisors for the University of Louisiana System (the “*Board*”), do hereby certify that the foregoing constitutes a true and correct copy of a resolution adopted by the Board on September 3, 2020 captioned as follows:

A RESOLUTION APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION OF ONE OR MORE GROUND LEASE AGREEMENTS AND ONE OR MORE AGREEMENTS TO LEASE WITH OPTION TO PURCHASE IN CONNECTION WITH THE LEASE AND LEASE BACK OF PORTIONS OF THE CAMPUS OF MCNEESE STATE UNIVERSITY TO COWBOY FACILITIES, INC., AND THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF A NEW STUDENT UNION; APPROVING THE EXECUTION OF ANY AND ALL DOCUMENTS AND CERTIFICATES IN CONNECTION THEREWITH; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

which resolution was duly adopted by the Board at a meeting duly called, noticed and held and at which meeting a quorum was present and voting.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of said Board on this the _____ day of September, 2020.

[SEAL]

Name: Carol Slaght

Title: Assistant to the Board

EXHIBIT A

FORM OF
GROUND LEASE AGREEMENTS

EXHIBIT B

FORM OF
AGREEMENTS TO LEASE WITH OPTION TO PURCHASE

AGREEMENT TO LEASE WITH OPTION TO PURCHASE

by and between

COWBOY FACILITIES, INC.
(as Lessor)

and

BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM
(as Lessee)

Dated as of November 1, 2020

in connection with:

Louisiana Local Government Environmental Facilities and
Community Development Authority Revenue Bonds
(McNeese State University - Cowboy Facilities, Inc. Student Union Project)
Series 20__

\$8,000,000

McNeese State University Foundation Subordinate Revenue Promissory Note
(McNeese State University – Cowboy Facilities, Inc. Student Union Project)
Series 2020

TABLE OF CONTENTS

	Page
Section 1. Definitions	2
Section 2. Agreement to Lease; Term of Facilities Lease	9
Section 3. Acknowledgments, Representations and Covenants of the Board.....	9
Section 4. Representations and Covenants of the Corporation.....	11
Section 5. Waiver and Disclaimer of Warranties.....	11
Section 6. Rental	12
Section 7. Operation, Alterations, Maintenance, Repair, Replacement, and Security Service	15
Section 8. Utilities	15
Section 9. Insurance.....	16
Section 10. Condemnation, Casualty and Other Damage.....	17
Section 11. Application of Insurance Proceeds: Condemnation Award.....	18
Section 12. Encumbrances	19
Section 13. Assignment and Sublease	19
Section 14. Additions and Improvements.....	20
Section 15. Right of Entry.	20
Section 16. Mortgage Prohibition.....	20
Section 17. Sale of Facilities; Attornment; and Conveyance and Transfer of the Corporation's Interest	20
Section 18. Quiet Enjoyment.....	21
Section 19. Environmental Compliance and Indemnity	21
Section 20. The Corporation's and the Bond Insurer's Reservation of Rights.....	22
Section 21. Default by the Board.....	22
Section 22. Cumulative Remedies	23
Section 23. Option to Purchase.....	24
Section 24. Severability	26
Section 25. Redemption of Bonds	26
Section 26. Additional Debt.....	26
Section 27. Execution	26
Section 28. Law Governing	27
Section 29. Approval of Budget	27
Section 30. Exculpatory Provision.....	27
Section 31. Amendments	28
Section 32. Recording.....	28
Section 33. No Construction Against Drafting Party.....	28
Section 34. Time of the Essence	28
Section 35. No Waiver.....	28
Section 36. Survival.....	28
Section 37. Estoppel Certificates	28
Section 38. Waiver of Jury Trial.....	29
Section 39. Written Amendment Required.....	29
Section 40. Entire Agreement.....	29
Section 41. Signs	29
Section 42. Litigation Expenses.....	29
Section 43. Brokers	29
Section 44. No Easements for Air or Light.....	29
Section 45. Binding Effect.....	29

Section 46.	Rules of Interpretation	30
Section 47.	Relationship of Parties	30
Section 48.	Law Between the Parties.....	30
Section 49.	Essentially	30
Section 50.	Notices	30
Section 51.	Conflict	31
Section 52.	No Merger.....	31
Section 53.	Lease to Constitute a Contract.	31
Section 54.	Bond Insurance Provisions.	31

EXHIBITS

EXHIBIT A	FACILITIES DESCRIPTION
EXHIBIT B	MEMORANDUM OF FACILITIES LEASE

AGREEMENT TO LEASE WITH OPTION TO PURCHASE

This AGREEMENT TO LEASE WITH OPTION TO PURCHASE (together with any amendment hereto or supplement hereof, the “*Facilities Lease*”), dated as of November 1, 2020 is entered into by and between COWBOY FACILITIES, INC., a Louisiana nonprofit corporation represented herein by its Chairman, Larry R. Derouen (the “*Corporation*”) and the BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM, a public constitutional corporation organized and existing under the laws of the State of Louisiana, represented herein by its duly authorized Board Representative, Dr. Daryl V. Burckel (the “*Board*”), acting herein on behalf of McNeese State University (the “*University*”);

WITNESSETH:

WHEREAS, the Board is a public constitutional corporation organized and existing under the laws of the State of Louisiana and the University is a university under its management pursuant to Louisiana Revised Statutes 17:3217;

WHEREAS, the Board owns, or has under its supervision and management, the ground on which the University’s proposed new student union and related facilities are to be located;

WHEREAS, the Corporation is a private nonprofit corporation organized and existing under the Louisiana Nonprofit Corporation Law (La. R.S. 12:201 *et seq.*) and an organization exempt from federal income tax under Section 501(a) of the Code as an organization designated in Section 501(c)(3) of the Code, whose purpose is to support and benefit the educational, scientific, research, and public service missions of the University;

WHEREAS, pursuant to La. R.S. 17:3361 through 17:3366, the Board is authorized to lease to a non-profit corporation, such as the Corporation, any portion of the campus or other immovable property under the supervision and management of the Board;

WHEREAS, the Board and the Corporation have agreed to enter into a Ground Lease Agreement dated of even date herewith (the “*Ground Lease*”) whereby the Board will lease the Property (as defined therein) to the Corporation;

WHEREAS, the Corporation shall further these functions of the Board, by causing the development, design, construction, renovation, and equipping of a new student union and related facilities (the “*Facilities*”) on the University campus and all furnishings, fixtures, and equipment incidental or necessary in connection therewith on immovable property owned by or under the supervision and management of the Board and causing provision of maintenance and repairs with respect to all such facilities and all facilities leased thereto, in the City of Lake Charles, Calcasieu Parish, Louisiana, which Facilities shall be leased to the Board on behalf of the University;

WHEREAS, the Corporation and the Board have agreed that the Corporation, for the benefit of the Board, shall develop and construct or cause to be developed and constructed the Facilities in accordance with the Contract (as defined herein), and will lease the Facilities back to the Board;

WHEREAS, pursuant to a Trust Indenture dated as of ____ 1, 20__ (the “*Indenture*”), between Louisiana Local Government Environmental Facilities and Community Development Authority (the “*Issuer*” or the “*Authority*”) and the Trustee, the Authority has authorized the issuance of its Revenue Bonds (McNeese State University - Cowboy Facilities, Inc. Student Union Project) Series 20__ (the

“Bonds”) to fund a loan to the Corporation pursuant to a Loan and Assignment Agreement dated as of ____ 1, 20__ between the Authority and the Corporation (the “Agreement”);

WHEREAS, pursuant to that certain McNeese State University Foundation Subordinate Revenue Promissory Note (McNeese State University – Cowboy Facilities, Inc. Student Union Project) Series 2020 (the “Note”) by and between the Corporation and McNeese State University Foundation, a Louisiana non-profit corporation (the “Foundation”), the Foundation has agreed to loan not to exceed \$8,000,000 to the Corporation in order to finance a portion of the development, design, construction, renovation, and equipping of the Facilities; and

WHEREAS, in order to secure repayment of the Bonds the Corporation will assign to the Trustee the Corporation’s interest in the Facilities pursuant to an Assignment of Agreements and Documents by the Corporation in favor of the Trustee dated as of ____ 1, 20__ (the “Assignment”).

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of and as used in this Facilities Lease, have the meanings as set forth below. All other capitalized terms used herein without definition shall have the meanings as set forth in the Indenture (as hereinafter defined). Other terms shall have the meanings assigned to them in other Sections of this Facilities Lease.

“Accountant” shall mean an independent, nationally recognized certified public accountant or nationally recognized firm of independent certified public accountants.

“Additional Bonds” means bonds, if any, issued in one or more series on a parity with the Bonds pursuant to Article V of the Indenture.

“Additional Rental” shall mean the amounts specified as such in Section 6(c) of this Facilities Lease.

“Administrative Expenses” shall mean the necessary, reasonable, and direct out-of-pocket expenses incurred by the Authority or the Trustee pursuant to the Indenture and the Agreement, as applicable, the compensation of the Trustee under the Indenture (including, but not limited to, any annual administrative fee charged by the Trustee), all amounts due and owing to the Bond Insurer and the Surety Provider, the compensation of the Authority, and the necessary, reasonable, and direct out-of-pocket expenses of the Trustee incurred by the Trustee, as applicable, in the performance of its duties under the Indenture.

“Agreement” shall mean the Loan and Assignment Agreement dated as of ____ 1, 20__ between the Corporation and the Authority, including any amendments and supplements thereof and thereto as permitted thereunder.

“Assignment” means the Assignment of Agreements and Documents dated as of ____ 1, 20__ between the Corporation and the Trustee, as assignee.

“Authority” shall mean the Louisiana Local Government Environmental Facilities and Community Development Authority, a political subdivision of the State of Louisiana, created by the provisions of the Act, or any agency, board, body, commission, department, or officer succeeding to the

principal functions thereof or to whom the powers conferred upon the Authority by said provisions shall be given by law.

“Base Rental” shall mean the amounts referred to as such in Section 6(b) of this Facilities Lease (as such amounts may be adjusted from time to time in accordance with the terms hereof) but does not include Additional Rental, Note Rental, or Extraordinary Rental.

“Board” shall mean the Board of Supervisors for the University of Louisiana System, or its legal successor as management board of the University, acting herein on behalf of the University and on its own behalf.

“Board Documents” shall mean the Ground Lease and this Facilities Lease.

“Board Representative” shall mean any one of the persons designated and authorized in writing from time to time by the Board to represent the Board in exercising the Board’s rights and performing the Board’s obligations under this Facilities Lease or the Ground Lease; the Board Representative shall be the President of the Board of Supervisors for the University of Louisiana System, or his or her designee, the Vice President of Business and Finance or his or her designee, the President of the University, the Vice President of Finance and Administration of the University, or any other representative designated by the resolution of the Board, of whom the Corporation has been notified in writing.

“Bond Documents” shall mean the Indenture, the Assignment, and the Agreement.

“Bond Insurer,” if any, shall mean _____, or any successor thereto or assignee thereof.

“Bonds” shall mean the Authority’s Revenue Bonds (McNeese State University - Cowboy Facilities, Inc. Student Union Project) Series 2021 issued pursuant to the terms of the Indenture, any Additional Bonds and any Refunding Bonds.

“Budget” shall mean the University’s budget as approved by the Board for any Fiscal Year during the Term.

“Business Day” shall mean any day other than (i) a Saturday, (ii) a Sunday, (iii) any other day on which banking institutions in New York, New York, or Ruston, Louisiana, are authorized or required not to be open for the transaction of commercial banking business, or (iv) a day on which the New York Stock Exchange or Federal Reserve is closed.

“Casualty” has the meaning set forth in Section 10 hereof.

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§9601, et seq.).

“Claim” collectively shall mean any claim, liability, demand, loss, damage, deficiency, litigation, cause of action, penalty, fine, judgment, defense, imposition, fee, lien, bonding cost, settlement, disbursement, penalty, cost, or expenses of any and every kind and nature (including without limitation Litigation Expenses), whether known or unknown, incurred or potential, accrued, absolute, direct, indirect, contingent, or otherwise and whether imposed by strict liability, negligence, or otherwise, and consequential, punitive, and exemplary damage claims.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations and rulings promulgated thereunder.

“*Commencement Date*” shall mean the date on which the Bonds are delivered and payment therefor is received by the Authority.

“*Construction Team*” shall mean all construction professionals performing services under the Contract.

“*Contract*” shall mean that certain contract or those certain contracts between the Corporation and the Design Team and the Corporation and the Construction Team for the design and construction of the Facilities.

“*Corporation*” shall mean Cowboy Facilities, Inc., a nonprofit corporation organized and existing under the laws of the State and an organization exempt from the payment of federal income tax under Section 501(a) of the Code, as an organization described in Section 501(c)(3) of the Code, for the benefit of the University and also includes every successor corporation and transferee of the Corporation until such time as payment or provision for the payment of all of the Bonds.

“*Current Expenses*” means all necessary and reasonable expenses of maintaining and operating the Facilities, including all necessary current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance and all other expenses incidental to the operation of the Facilities, including the cost of services, utilities and personnel and all allocated general administrative expenses of the Board and any fee or charge imposed by the Board on the Facilities in connection with the issuance of Bonds, but shall exclude depreciation, Costs of Issuance and deposits to the Maintenance Reserve Fund.

“*Date of Opening*” shall mean the date the Facilities that are financed by the Bonds are occupied or available for use by students of the University.

“*Debt Service Coverage Ratio*” shall mean for the period in question, while any Bonds are Outstanding, the ratio determined by the University Representative by dividing the Pledged Revenues, including the revenues of the Facilities, less the operating and administrative expenses, for such period by the maximum annual debt service and payments on all Bonds outstanding. For purpose of the calculation of the Debt Service Coverage Ratio for the Bonds, insurance proceeds (other than business interruption insurance) and condemnation proceeds shall not be deemed to be Pledged Revenues. For purposes of the calculations required by Section 26 hereof, any Policy Costs due and owing the Surety Provider shall be added to the maximum annual debt service and payments on all Bonds outstanding.

“*Debt Service Fund*” shall mean the Debt Service Fund created by Section 4.1 of the Indenture.

“*Debt Service Requirements*” shall mean for any particular Fiscal Year an amount equal to the sum of (a) all interest payable during such Fiscal Year on all Outstanding Bonds, plus (b) the Principal Installment of Outstanding Bonds falling due during such Fiscal Year. Such interest and Principal Installments for the Bonds shall be calculated on the assumption that no Bonds Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment of each Principal Installment on the due date thereof.

“*Default or Delay Rental*” shall mean and shall consist of: (i) all amounts, fees, or expenses that the Corporation may be legally obligated to pay to Other Parties by reason of any default of the Board hereunder or any delay in payment of any sums due by the Board hereunder; and (ii) all costs, expenses, and charges, including reasonable counsel fees, incurred by the Corporation whether by suit or otherwise, in collecting sums payable hereunder or in enforcing any covenant or agreement of the Board contained in

this Facilities Lease or incurred in obtaining possession of the Facilities after default by the Board that shall be due not later than thirty (30) days from notification that such Default or Delay Rentals are owed.

“Defeasance Obligations” has the meaning given that term in the Indenture.

“Design Team” shall mean all design professionals performing services under the Contract.

“Encumbrance” shall mean any lien, mortgage, encumbrance, privilege, charge, option, right of first refusal, conditional sales contract, security interest, mechanic’s and materialmen’s liens, or any lien or encumbrance securing payment of any Claims, including environmental Claims, or of any charges for labor, materials, supplies, equipment, taxes, or utilities, excluding the Option granted to the Board herein.

“Environmental Requirements” shall mean all State, federal, local, municipal, parish, and regional environmental laws, statutes, rules, regulations, ordinances, codes, permits, approvals, plans, authorizations, concessions, investigation results, and guidance documents; all legislative, judicial, and administrative environmental judgments, decrees, orders, rules, rulings, and regulations; and all agreements and other restrictions and requirements relating to environmental matters, whether in effect on, prior to or after the Commencement Date, of any Governmental Authority, including, without limitation, federal, state, and local authorities, relating to the regulation or protection of human health and safety, natural resources, conservation, the environment, or the storage, treatment, disposal, processing, release, discharge, emission, use, remediation, transportation, handling, or other management of industrial, gaseous, liquid, or solid waste, hazardous waste, hazardous or toxic substances or chemicals, pollutants, petroleum, petroleum wastes, petroleum-based materials, asbestos, radioactive materials, polychlorinated biphenyls (“PCBs”), pesticides, biohazards or other materials that are potentially harmful to humans or the environment or the release of which could trigger any reporting or remediation obligations and including without limitation the following environmental laws: The Clean Air Act (42 U.S.C.A. §7401); the Federal Water Pollution Control Act (33 U.S.C. §1251); the Resource Conservation and Recovery Act of 1976, (42 U.S.C. §6901); CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, 100 Stat. 1613); the Toxic Substances Control Act (15 U.S.C. §2601); the Clean Water Act (33 U.S.C. §1251); the Safe Drinking Water Act (42 U.S.C. §3007); the Occupational Safety and Health Act (29 U.S.C. §651); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136); the Louisiana Environmental Quality Act (La. R.S. 30:2001); and the Louisiana Air Quality Regulations (La. C. 33:III.2595) including any amendments or extensions thereof and any rules, regulations, standards or guidelines issued pursuant to or promulgated under any of the foregoing.

“Event of Default” shall mean any default specified in and defined as such by Section 20 hereof.

“Expiration Date” shall mean the earlier of November 1, 2055 or the date that all amounts owed under the Indenture have been paid.

“Expropriation” has the meaning set forth in Section 10 hereof.

“Extraordinary Rental” shall mean the amounts specified as such in Section 6(k) of this Facilities Lease.

“Facilities” shall mean the facilities described in Exhibit A attached hereto and to the Agreement, as amended and supplemented in accordance therewith, that are to be designed, constructed, renovated, and equipped with the proceeds of the Bonds and the Note, including all furnishings, fixtures, and equipment incidental or necessary in connection therewith, on the campus of the University.

“*Facilities Lease*” shall mean this Agreement to Lease with Option to Purchase, including the Exhibits attached hereto, and any amendment or supplement hereto entered into from time to time in accordance with the terms hereof.

“*Fiscal Year*” shall mean the fiscal year of the University, which at the date of this Facilities Lease is the period from July 1 to and including the following June 30.

“*Foundation*” shall mean the McNeese State University Foundation, a nonprofit corporation organized and existing under the laws of the State and an organization exempt from the payment of federal income tax under Section 501(a) of the Code, as an organization described in Section 501(c)(3) of the Code, for the benefit of the University.

“*Governmental Authority*” shall mean any federal, State, parish, regional, or local government, political subdivision, any governmental agency, department, authority, instrumentality, bureau, commission, board, official, or officer, any court, judge, examiner, or hearing officer, any legislative, judicial, executive, administrative, or regulatory body or committee or official thereof or private accrediting body.

“*Governmental Regulations*” shall mean any and all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, writs, injunctions, rules, regulations, restrictions, permits, plans, authorizations, concessions, investigation, reports, guidelines, and requirements or accreditation standards of any Governmental Authority having jurisdiction over the Corporation and/or the Board, or affecting the Facilities.

“*Ground Lease*” shall mean that certain Ground Lease Agreement dated as of November 1, 2020, by and between the Board, as Lessor, and the Corporation, as Lessee, whereby the Property (as defined therein) is leased by the Board to the Corporation, including any amendment or supplement thereto entered into from time to time in accordance with the terms thereof.

“*Hazardous Substance*” shall mean any substance or material that is described as a toxic or hazardous substance, waste or material or a pollutant or contaminant or infectious waste, or words of similar import, in any case of the Environmental Requirements, and includes, without limitation, asbestos, petroleum, or petroleum products (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), polychlorinated biphenyls, pesticides, urea formaldehyde, radon gas, radioactive matter, and medical waste and any other substance or waste that is potentially harmful to human health, natural resources, or the environment or the presence of which in the environment could trigger a remediation obligation or other liability under Environmental Requirements or any constituent of the foregoing.

“*Indenture*” shall mean the Trust Indenture dated as of ____ 1, 20__, between the Authority and the Trustee, pursuant to which the Bonds have been issued and are secured, as the same may be supplemented and amended from time to time.

“*Interest Payment Date*” or “*interest payment date*” when used with respect to the Bonds, shall mean each __ 1 and __ 1, commencing ____ 1, 2021.

“*Legal Expenses*” shall mean the reasonable fees and charges of attorneys and of legal assistants, paralegals, law clerks, and other persons and entities used by attorneys and under attorney supervision and all costs incurred or advanced by any of them irrespective of whether incurred in or advanced prior to the initiation of any legal, equitable, arbitration, administrative, bankruptcy, trial, or similar proceedings and any appeal from any of same.

“*Litigation Expenses*” shall mean all out-of-pocket costs and expenses incurred as a result of a Default, or in connection with an indemnification obligation, including Legal Expenses, the reasonable fees and charges of experts and/or consultants, and all court costs and expenses.

“*Maintenance Reserve Fund*” shall mean the fund of that name established pursuant to Section 4.1 of the Indenture.

“*Note*” shall mean that certain \$8,000,000 McNeese State University Foundation Subordinate Revenue Promissory Note (McNeese State University – Cowboy Facilities, Inc. Student Union Project) Series 2020 by and between the Corporation and the Foundation.

“*Note Rental*” shall mean shall mean the amounts referred to as such in Section 6(f) of this Facilities Lease (as such amounts may be adjusted from time to time in accordance with the terms hereof).

“*Notice*” shall have the meaning set forth in Section 50 hereof.

“*Option to Purchase*” or “*Option*” shall mean the option to purchase the Corporation’s interest in the Facilities granted in Section 23 of this Facilities Lease.

“*ORM*” has the meaning set forth in Section 9(b) hereof.

“*Other Parties*” shall mean a Person other than the Parties.

“*Outstanding*” or “*outstanding*” when used with reference to Bonds, shall mean all Bonds that have been authenticated and issued under the Indenture except:

- (a) Bonds canceled by the Trustee pursuant to the Indenture;
- (b) Bonds for the payment of which moneys or Defeasance Obligations shall be held in trust for their payment by the Trustee as provided in the defeasance provisions of the Indenture;
- (c) Bonds that have been duly called for redemption and for which the redemption price thereof is held in trust by the Trustee as provided in the Indenture;
- (d) Bonds in exchange for which other Bonds shall have been authenticated and delivered by the Trustee as provided in the Indenture; and
- (e) for all purposes regarding consents and approvals or directions of Bondholders under the Agreement or the Indenture, Bonds held by or for the Authority, the Corporation or any person controlling, controlled by or under common control with either of them.

“*Parties*” shall mean, collectively, the Corporation and the Board.

“*Permitted Sublessees*” shall mean Persons who lease, license or otherwise use any portion of the Facilities in connection with their trade or business and as to which the Board has received the written approval of the Bond Insurer and an opinion of Bond Counsel that such lease, license or other use will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for federal income tax purposes. Persons who lease the Facilities in accordance with their Permitted Use shall automatically be “*Permitted Sublessees*”.

“*Permitted Use*” shall mean the operation of the Facilities as a student union for the University.

“*Person*” shall mean all juridical persons, whether corporate or natural, including individuals, firms, trusts, corporations, associations, joint ventures, partnerships, and limited liability companies or partnerships.

“*Pledged Revenues*” shall mean the Revenues and the Student Union Fees.

“*Principal Installment*” shall mean, for any Fiscal Year, as of any date of calculation, the principal amount of Outstanding Bonds coming due in that Fiscal Year.

“*Principal Payment Date*” or “*principal payment date*,” when used with respect to the Bonds, means each ____ 1, commencing ____ 1, 20__.

“*Project Fund*” shall mean the Project Fund created by Section 4.1 of the Indenture.

“*Property*” shall mean the immovable property more particularly described on Exhibit A attached to the Ground Lease and all improvements now or thereafter located thereon, including the Facilities as they are constructed thereon, together with all other rights and interests leased pursuant thereto.

“*Purchase Price*” shall have the meaning set forth in Section 23(e) hereof.

“*Remediation*” shall mean any and all costs and expenses incurred directly or indirectly due to any investigation of the Facilities or any remediation, response, cleanup, removal, or restoration required by any Governmental Regulation or Governmental Authority or by Environmental Requirements.

“*Rental*” shall mean and includes the Base Rental, the Extraordinary Rental and the Additional Rental.

“*Revenues*” shall mean all revenues from the operation, ownership and leasing of the Facilities and the Property, including without limitation, all collected rents and other charges for the use or occupancy of the Facilities, parking charges and revenues, utility charges, vending machine machine revenues obtained from the operation of the Facilities, condemnation awards and insurance proceeds, including, without limitation, rental or business interruption insurance proceeds and all rights to receive the same, whether in the form of accounts, general intangibles or other rights, whether now existing or owned or hereafter coming into existence or acquired, if any, and investment earnings thereon; all issues, receipts and profits accruing and to accrue and due and to become due and payable and to be payable pursuant to this Facilities Lease, excluding tenants’ Security Deposit unless and until applied in satisfaction of tenants’ obligations.

“*Security Deposits*” shall mean the amount of money collected by the Board from the tenants of the Facilities to pay for repairs pursuant to the applicable tenant/student lease.

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

“*Student Union Fees*” shall mean those self-assessed and approved fees of the students attending the University in the amount of \$160 for the fall and spring semesters and \$80 for the summer semester for all full-time and part-time students enrolled at the University, as approved by an election of the students of the University at an election held from April 6-8, 2020.

“*Term*” shall mean the term of this Facilities Lease, as provided in Section 2 hereof.

“*Trustee*” shall mean the state banking corporation or national banking association with corporate trust powers qualified to act as Trustee under the Indenture which may be designated (originally or as a successor) as Trustee for the Bonds issued and secured under the terms of the Indenture, initially ____, ____, Louisiana.

“*University*” shall mean McNeese State University.

“*University Representative*” shall mean the Vice President for Business Affairs of the University.

“*Utility Service*” shall have the meaning set forth in Section 8 hereof.

“*Work*” shall have the meaning set forth in Section 12(a) hereof.

Section 2. Agreement to Lease; Term of Facilities Lease. The Corporation hereby leases the Facilities to the Board and the Board hereby leases the Facilities from the Corporation effective as of the Commencement Date of this Facilities Lease, and the Board agrees upon completion of construction of the Facilities to accept possession of the Facilities, as constructed and agrees to pay the Base Rental, the Extraordinary Rental and the Additional Rental as provided herein for the use and occupancy of the Facilities, all on the terms and conditions set forth herein. The Board agrees that it will take immediate possession of the Facilities, as constructed under the terms and provisions of the Ground Lease upon the Date of Opening. The Board understands and agrees that Rental shall accrue from the Commencement Date hereof in consideration of the mutual covenants and agreements entered by the Parties under the Ground Lease and the Agreement, notwithstanding the fact that the Facilities have yet to be constructed or renovated. No delay in the Date of Opening of the Facilities beyond the time set forth in the Ground Lease will extend the Term. The Term of this Facilities Lease begins on the Commencement Date and ends on the Expiration Date; but this Facilities Lease is automatically renewable for an additional term of up to five (5) years in the event that on the Expiration Date there is outstanding any unpaid principal and premium, if any, or interest on the Bonds, or any amount due and owing to the Bond Insurer or the Surety Provider, provided, however, this Facilities Lease shall terminate prior to the Expiration Date upon the happening of any of the following events:

(a) repayment of the Bonds in full, including principal, premium, if any, interest and all Administrative Expenses with respect to the Bonds as set forth in the Indenture and the discharge of the lien and security interest of the Indenture pursuant to the terms of the Indenture;

(b) the exercise by the Board of the Option to Purchase and the purchase of the Corporation’s interest in the Facilities pursuant to the Option; or

(c) the Bond Insurer or the Corporation’s exercise of its option to terminate upon the happening of any event described in this Facilities Lease with respect to which the Corporation has such option, including without limitation a Default by the Board, as set forth in Section 21 hereof.

Section 3. Acknowledgments, Representations and Covenants of the Board. The Board represents, covenants, and agrees as follows:

(a) The Board has full power and authority to enter into the Board Documents and the transactions contemplated thereby and agrees to perform all of its obligations under the Board Documents;

(b) The Board has been duly authorized to execute and deliver the Board Documents and further represents and covenants that the Board Documents constitute the valid and binding obligations of the Board enforceable against the Board in accordance with their terms and that all requirements have

been met and procedures have occurred in order to ensure the enforceability of the Board Documents and the Board has complied with all constitutional and other statutory requirements as may be applicable to the Board in the authorization, execution, delivery, and performance of the Board Documents;

(c) The execution and delivery of the Board Documents, and compliance with the provisions thereof, will not conflict with or constitute on the part of the Board a violation of, breach of, or default under any constitutional provision, statute, law, resolution, bond indenture, or other financing agreement or any other agreement or instrument to which the Board is a party or by which the Board or its properties is bound, or any order, rule or regulation of any court or Governmental Authority or body having jurisdiction over the Board or any of its activities or properties; and all consents, approvals, or authorizations required of the Board for the consummation of the transactions contemplated hereby have been obtained or timely will be obtained;

(d) Other than that which was previously disclosed to the Corporation, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, public board, or body pending or threatened against or affecting the Board, wherein an unfavorable decision, ruling, or finding would materially and adversely affect the transactions contemplated hereunder or that in any way would adversely affect the validity or enforceability of the Board Documents;

(e) The Board will not take or permit to be taken any action that would have the effect, directly or indirectly, of causing interest on any of the Bonds to be included in gross income for federal income tax purposes;

(f) The Board agrees to cause the Facilities to be used for the Permitted Use and shall not allow the Facilities to be used for any other use. No more than five percent (5%) of the gross area of the Facilities will be subleased by the Board or by any Permitted Sublessee or assigns of the Board to, or otherwise used by, private business and the Board agrees to take all action, to the extent it is legally authorized and able to do so, necessary to prevent the Bonds from being deemed "private activity bonds" within the meaning of Section 141 of the Code;

(g) The use of the Facilities is essential to the operation of the University by providing modern housing facilities for students of the University. The Board presently intends to make all payments for use of the Facilities. There are no alternative facilities available for use as contemplated for the Facilities;

(h) The Board, on behalf of the University, hereby authorizes its fiscal agent bank to make transfers from the Bonded Revenue Fund in accordance with the Indenture and the Agreement.

(i) The Board covenants and agrees that, so long as any bonds, notes or lease obligations remain outstanding that are payable from the Pledged Revenues (including, without limitation, its obligations under this Supplemental Facilities Lease), it will continue to require that the University establish and maintain such fees, rentals, rates and charges relative to the Facilities, and revise or cause to be revised the same, as necessary, as will be necessary to produce and assure for each Fiscal Year, a Debt Service Coverage Ratio for the Bonds of at least __:1.00. For purposes of the foregoing, when establishing such fees, rentals, rates and charges and calculating the Debt Service Coverage Ratio for the Bonds for this Section, the Board shall take into account payments required to be made into the Debt Service Reserve Fund. The Board further covenants that it will seek any required legislative approval necessary in order to comply with the provisions of the Indenture, the Ground Lease, and this Supplemental Facilities Lease;

(j) The Board covenants to make the Rental payments, unless excluded from the Budget by the Board as described in Section 6(g) hereof, before any other payments are made from the Bonded Revenue Fund; and

Section 4. Representations and Covenants of the Corporation. The Corporation makes the following representations and covenants:

(a) The Corporation has been validly created under the Louisiana Nonprofit Corporation Law, is currently in good standing under the laws of the State, has the power to enter into the transactions contemplated by, and to carry out its obligations under the Board Documents and Bond Documents. The Corporation is not in breach of or in default under any of the provisions contained in any contract, instrument or agreement to which it is a party or in any other instrument by which it is bound. By proper action of its Board of Directors, the Corporation has been duly authorized to execute and deliver the Board Documents and the Agreement;

(b) The execution and delivery of the Board Documents, and compliance with the provisions thereof and hereof, will not conflict with or constitute on the part of the Corporation a violation of, breach of, or default under any statute, indenture, mortgage, declaration or deed of trust, agreement, or other agreement or instrument to which the Corporation is a party or by which the Corporation or its properties is bound or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Corporation or any of its activities or properties; and all consents, approvals, and authorizations that are required of the Corporation for the consummation of the transactions contemplated thereby and hereby have been or timely will be obtained;

(c) There is no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, public board, or body pending or threatened against or affecting the Corporation, wherein an unfavorable decision, ruling, or finding would materially and adversely affect the transactions contemplated hereunder or that in any way would adversely affect the validity or enforceability of the Board Documents, the Agreement, or any agreement or instrument to which the Corporation is a party; and

(d) The Corporation will not take or permit to be taken any action which would have the effect, directly or indirectly, of causing interest on any of the Bonds to be included in gross income for federal income tax purposes.

Section 5. Waiver and Disclaimer of Warranties.

(a) The Board acknowledges that the Corporation has not made any representations or warranties as to the suitability or fitness of the Facilities for the needs and purposes of the Board or for any other purpose. The Board further declares and acknowledges that the Corporation in connection with this Facilities Lease, does not warrant that the Facilities will be upon completion of construction free from redhibitory or latent defects or vices and releases the Corporation of any liability for redhibitory or latent defects or vices under Louisiana Civil Code Articles 2520 through 2548 and Louisiana Civil Code Articles 2696 and 2697. The Board declares and acknowledges that it does hereby waive the warranty of fitness for intended purposes and guarantee against hidden or latent redhibitory defects and vices under Louisiana law, including Louisiana Civil Code Articles 2520 through 2548 and Louisiana Civil Code Articles 2696 and 2697, and the warranty imposed by Louisiana Civil Code Articles 2475, 2696, 2697 and 2700, and waives all rights in redhibition pursuant to Louisiana Civil Code Articles 2520, et seq. The Board further declares and acknowledges that this waiver has been brought to the attention of the Board and explained in detail and that the Board has voluntarily and knowingly consented to this waiver of warranty of fitness and/or warranty against redhibitory defects and vices for the Facilities. The

Corporation disclaims and the Board waives any warranties and representations with respect to compliance with Governmental Regulations, including Environmental Requirements, or the disposal of, or existence in, on, under, or about the Facilities of any Hazardous Substance. The Board acknowledges that the Corporation reserves in this Facilities Lease all rights to recover from the Board all costs and expenses imposed on the Corporation to bring the Facilities into compliance with any Environmental Requirement, and all costs of Remediation or cleanup of such Hazardous Substance imposed on the Corporation or the Board, which shall be payable by the Board as Additional Rental hereunder to the extent imposed upon the Corporation. The Board affirmatively reserves its rights against all parties except the Corporation in this regard.

Section 6. Rental The Board, for and in consideration of the Corporation entering into the Ground Lease, constructing the Facilities in accordance with the Ground Lease and subleasing the Facilities to the Board pursuant to the terms hereof, hereby covenants and agrees to pay the Base Rental, Note Rental, Extraordinary Rental and Additional Rental in the amounts, at the times and in the manner set forth herein, such amounts constituting in the aggregate the total of the rental payable under this Facilities Lease. The obligation of the Board to make Base Rental, Note Rental, Extraordinary Rental and Additional Rental payments shall commence on the Commencement Date and shall not be subject to abatement, set-off, or reduction as a result of a failure by the Corporation to complete construction of the Facilities on a timely basis.

(b) Payments of Base Rental shall be due on the dates and in the amounts and in the priority as hereinafter provided:

(i) Semiannually, on or before each ____ 15 and ____ 15 during the term of this Facilities Lease, commencing ____ 15, 2021, in an amount equal to the sum of the principal of, premium, if any, and interest due and payable on the Bonds on the following ____ 1 or ____ 1, as the case may be;

(ii) Beginning on the last day of the calendar month following any drawing on the Debt Service Reserve Fund Surety Policy, in twelve (12) equal monthly installments due on the last day of each calendar month an amount necessary to repay the Surety Provider any draws under the Debt Service Reserve Fund Surety Policy plus any other Policy Costs in accordance with Section 4.8 of the Indenture;

(iii) Prior to the dates required in the Indenture, into the Maintenance Reserve Fund an amount sufficient to meet the requirements of the Indenture; and

(iv) If necessary, the amount required to pay for the construction and initial furnishings and equipment of the Facilities.

(c) In addition to the Base Rental set forth herein, the Board agrees to pay as Additional Rental any and all costs and expenses, of every nature, character, and kind whatsoever, of the Corporation under the Agreement or the Assignment and/or incurred in the management, operation, ownership, and/or maintenance of the Facilities, including but not limited to the following costs and expenses:

(i) all taxes, assessments, and impositions against the Facilities or the Property, including without limitation *ad valorem* taxes attributed to the Corporation on behalf of the Board or to the Board (and any tax levied in whole or in part in lieu of or in addition to *ad valorem* taxes);

(ii) any costs incurred by the Corporation, if any, in maintaining the Facilities for the Board and making any alterations, restorations, and replacements to the Facilities;

(iii) insurance premiums and other charges for insurance obtained with respect to the Facilities including insurance premiums, if any, on all insurance required under the provisions of Section 9 of this Facilities Lease;

(iv) any Default or Delay Rentals;

(v) all costs incurred by the Corporation in connection with its performance of its obligations relating to the Facilities and/or the Property under the Ground Lease;

(vi) all Administrative Expenses owed to the Authority, the Bond Insurer, and the Trustee;

(vii) Litigation Expenses, if any, incurred pursuant to Section 42 hereof;

(viii) any reimbursement amounts payable pursuant to Section 20 hereof or pursuant to any other provision hereof;

(ix) all costs sustained or incurred by the Corporation resulting from any and all Encumbrances, demands, or liabilities arising on account of the Work;

(x) any and all professional fees and expenses incurred by the Corporation, including legal fees;

(xi) any other costs, charges, and expenses commonly regarded as ownership, maintenance, and operating expenses, if any, incurred by the Corporation under this Facilities Lease;

(xii) if necessary, that portion of the completion costs of the Facilities that may be in excess of the money available in the Project Fund (as defined in the Indenture); and

(xiii) any amounts required to be deposited to the Rebate Fund.

(d) Amounts constituting Additional Rental payable hereunder shall be paid by the Board directly to the person or persons to whom such amounts shall be due. The Board shall pay all such amounts when due or within thirty (30) days after notice in writing from the Corporation or the Trustee to the Board stating the amount of the Additional Rental then due and the purpose thereof.

(e) The Board shall be entitled to a credit against and reduction of each Base Rental payment in an amount equal to any amounts derived from the following sources:

(xiv) Accrued interest derived from the sale of the Bonds;

(xv) Capitalized interest; and

(xvi) Surplus moneys (including investment earnings) contained in the Funds and Accounts held by the Trustee under the Indenture, including the Debt Service Fund.

(f) After payment of Base Rental and Additional Rental, as provided herein, the Board agrees to pay, as Note Rental, the amounts owed to the Foundation under the Note. Amounts constituting Note Rental payable hereunder shall be paid by the Board directly to the Foundation and shall be paid after the payment of Base Rental constituting principal owed on the Bonds in any Fiscal Year and in the

amounts set forth in the Note. The obligation of the Board to make payments of Note Rental shall be subordinate to the obligation to make Base Rental payments.

(g) Notwithstanding any other provision of this Facilities Lease, the Board shall make payments under this Facilities Lease, including, without limitation, payments of Base Rental, from Pledged Revenues or any other funds available to the Board, on behalf of the University. The Vice President of Business and Finance of the Board shall cause the University to include in the Budget and, if necessary, any amendments to the Budget, an amount sufficient to make the payments of Base Rental, Note Rental and Additional Rental described herein and, if such Budget is approved by the Board, Rental payments shall be made hereunder on behalf of the University in accordance with the Budget. Absent express action by the Board not approving a budget item for Base Rental, Note Rental and Additional Rental payable hereunder, each Budget shall conclusively be deemed to include such amounts. The Board shall make transfers to the Trustee and Foundation in accordance with this Facilities Lease and the Indenture. Subject to the foregoing, the obligations of the Board to make payments pursuant to this Facilities Lease, and to perform and observe the other agreements and covenants on its part contained herein, shall be absolute and unconditional and shall not be subject to any diminution, abatement, set-off, or counterclaim. Subject to the foregoing, until such time as the principal of, premium, if any, and interest on the Bonds and the Note shall have been fully paid or provision for the payment thereof shall have been made in accordance with this Facilities Lease, the Board shall not suspend or discontinue payment of Rental or any other payments pursuant to this Facilities Lease for any cause, and shall continue to perform and observe all of its agreements contained in this Facilities Lease. The Corporation and the Board acknowledge and agree that the obligation of the Board to pay Rental shall constitute a current expense of the Board payable by the Board from funds budgeted and approved by the Board in accordance with law for and in consideration of the right to use the Facilities during the Term and that such obligation shall not in any manner be construed to be a debt of the Board in contravention of any constitutional or statutory limitations or requirements concerning indebtedness of the Board and nothing contained herein shall constitute a pledge, lien or encumbrance upon any specific tax or other revenues of the Board.

(h) The payments of Base Rental, Note Rental and Additional Rental under this Facilities Lease for each Fiscal Year or portion thereof during the Term shall constitute the total Rental for such Fiscal Year or portion thereof and shall be paid by the Board for and in consideration of the construction by the Corporation of the Facilities and the right to the use and occupancy of the Facilities by the Board for and during such Fiscal Year or portion thereof.

(i) Amounts necessary to pay each Base Rental payment shall be deposited by the Board on the dates set forth in Section 6(b) hereof in lawful money of the United States of America at the office of the Trustee, as applicable, or at such other place or places as may be established by the Corporation and/or the Trustee in accordance with the Indenture. Any amount necessary to pay any Base Rental payment or portion thereof which is not so deposited shall remain due and payable until received by the Trustee. Notwithstanding any dispute between the Board and the Corporation hereunder, the Board shall make all Rental payments when due and shall not withhold payment of any Rental pending the final resolution of such dispute or for any other reason whatsoever.

(j) This Facilities Lease is intended to be a triple net lease. The Board agrees that the Rental provided for herein shall be an absolute net return to the Corporation free and clear of any expenses, charges, taxes, or set-offs whatsoever of any kind, character, or nature; it being understood and agreed by the Board that the Board shall bear responsibility for the payment of all costs and expenses associated with the ownership, operation, and maintenance of the Facilities. Under no circumstances will the Corporation be required to make any payment on the Board's behalf or for the Board's benefit under this Facilities Lease, or assume any monetary obligation of the Board under this Facilities Lease, or with respect to the Facilities.

(k) In addition to the Rental payments required hereby, the Board reserves the right to make Extraordinary Rental payments to the Corporation to be deposited in the Project Fund held by the Trustee, from funds on hand or collected by the Board during the term of this Facilities Lease in an aggregate amount not to exceed \$12,000,000.

Section 7. Operation, Alterations, Maintenance, Repair, Replacement, and Security Service The Board and/or the University shall be responsible for procuring and maintaining or causing to be procured and maintained all services necessary or required in order to adequately operate the Facilities in accordance with the Permitted Use. The Board and/or the University shall continuously operate or cause to be operated the Facilities from the Date of Opening and continuing for the remainder of the Term for the Permitted Use and in accordance with all Governmental Regulations.

(b) The Board and/or the University shall be responsible for maintaining the Facilities and shall make or contract or cause to be made or contracted with a suitable contractor for the making of all alterations, repairs, restorations, and replacements to the Facilities, including without limitation the heating, ventilating, air conditioning, mechanical, electrical, elevators, plumbing, fire, sprinkler, and theft systems, air and water pollution control and waste disposal facilities, structural roof, walls, and foundations, fixtures, equipment, and appurtenances to the Facilities as and when needed to preserve them in good working order, condition, and repair (ordinary wear and tear excepted), regardless of whether such repairs, alterations, restorations, or replacements are ordinary or extraordinary, foreseeable or unforeseeable, or are at the fault of the Corporation or some Other Party. All alterations, repairs, restorations, or replacements shall be of a quality and class equal to or better than the quality and class presently located in the Facilities.

(c) The Board and/or the University shall have the right during the Term to cause the Corporation or some other party to make or construct any additions or improvements to the Facilities, alter the Facilities, attach fixtures, structures, or signs to or on the Facilities, and affix personal property to the Facilities without the Corporation's prior written consent to the extent allowed under the terms of any insurance covering the Facilities. All such alterations, improvements, additions, attachments, repairs, restorations, and replacements of all or any portion of the Facilities shall: (i) be at the sole cost and expense of the Board; (ii) not reduce the then fair market value of the Facilities; (iii) be constructed in a good and workmanlike manner; and (iv) be in compliance with all Governmental Regulations.

(d) The Board and/or the University shall provide or cause to be provided all security service, custodial service, janitorial service, trash disposal, maintenance of grounds, and all other services necessary for the proper upkeep and maintenance of the Facilities as required herein. The Board acknowledges that the Corporation has made no representation or warranty with respect to systems and/or procedures for the security of the Facilities, any persons occupying, using, or entering the Facilities, or any equipment, furnishings, or contents of the Facilities. It is the responsibility of the Board, through the University, to cause to be provided or to provide for the security of persons on or entering the Facilities and/or property located at the Facilities, in accordance with reasonable and prudent business practices.

Section 8. Utilities All utilities which are used or consumed in or upon or in connection with the Facilities during the Term, including, without limitation water, gas, electricity, sewerage, garbage, or trash removal, light, cable, heat, telephone, power, computer data, and other utilities necessary for the operation of the Facilities ("*Utility Service*") shall be the responsibility of the Board and/or the University. Payments for Utility Services provided to the entire Facilities under such contract or contracts therefor as the Board or the University may make shall be made by the Board or the University directly to the respective utility companies furnishing such Utility Services. The Corporation shall not be in Default under this Facilities Lease or be liable to the Board or any other Person for direct or consequential

damage, or otherwise, for any failure in supply of any Utility Service, heat, air conditioning, elevator service, cleaning service, lighting, security, or for surges or interruptions of electricity.

Section 9. Insurance. The Board shall cause to be secured and maintained, when the Bonds are issued, at the Board's expense:

(i) A policy or policies of insurance covering the Facilities against loss or damage by fire, lightening, earthquake, collapse, vandalism and malicious mischief, flood and storm surge, and against such other perils as are included in so-called "extended coverage" and against such other insurable perils as, under good insurance practice, from time to time are insured for properties of similar character and location, which insurance will be not less than one hundred percent (100%) of the full replacement cost of the Facilities, without deduction for depreciation, but in no event will the amount of the insurance be at any time less than the full replacement cost of the Facilities, adjusted to comply with any applicable co-insurance provisions of any such insurance policy. If certain Facilities are damaged and the Board, through the Corporation, elects not to rebuild or replace, property coverage will revert to actual cash value of the particular Facility.

(ii) A policy of comprehensive public liability insurance with respect to the Facilities and the operations related thereto, whether conducted on or off the Facilities, against liability for personal injury (including bodily injury and death) and property damage, of not less than \$5,000,000 in combined single limit liability coverage. Such comprehensive public liability insurance will specifically include, but will not be limited to, sprinkler leakage and water damage legal liability each with respect to property of third parties.

(iii) Boiler and machinery insurance coverage against loss or damage by explosion of steam boilers, pressure vessels and similar apparatus now or hereafter installed on the Facilities, in an amount not less than \$15,000,000 with deductible provisions not exceeding \$100,000 per accident. Such boiler and machinery insurance will specifically include, but will not be limited to, business interruption insurance.

(iv) Workers' compensation insurance issued by a responsible carrier authorized under the laws of the State to insure employers against liability for compensation under the Labor Code of the State, or any act hereafter enacted as an amendment thereto or in lieu thereof, such workers' compensation insurance to cover all persons employed by the State or any agency thereof in connection with the particular Facilities and to cover full liability for compensation under any such act aforesaid, in an amount not less than \$500,000.

(v) Business income or business interruption insurance against loss of business income, including rental value, from the Facilities in the amounts currently provided in the insurance policies for the Facilities and as updated on a regular basis.

(b) Participation by the Board in the State's Office of Risk Management ("ORM") plan for self-insurance will be deemed to be compliance with the requirements of the Indenture and this Facilities Lease. Except in the case of such self-insurance, all insurance required in the Indenture and all renewals of such insurance will be issued by companies authorized to transact business in the State, and rated at least A - Class VIII by Best's Insurance Reports (property liability). All insurance policies provided by the Board will expressly provide that the policies will not be canceled or altered without thirty (30) days' prior written notice to the Trustee and the Bond Insurer; and will provide that no act or omission of the Board that would otherwise result in forfeiture or reduction of the insurance will affect or limit the obligation of the insurance company to pay the amount of any loss sustained. The Board may satisfy its obligation under the Indenture by appropriate endorsements of its blanket or excess insurance policies.

(c) If the Board has made a good faith effort to obtain the above required coverages for the specified limits but is unable to secure such coverage levels because of unfavorable insurance market conditions, lower limits may be substituted with the consent of the Bond Insurer.

(d) All policies of liability insurance that the Board is obligated to maintain according to this Facilities Lease (other than any policy of worker's compensation insurance) will name the Corporation, the Trustee, the Bond Insurer, and such other Persons or firms as the Board may be required to name from time to time as additional insureds. All public liability, property damage liability, and casualty policies maintained by the Board shall be written as primary policies.

(e) Proceeds of insurance received and/or the amount of any loss that is self-insured through the State's Office of Risk Management with respect to destruction of or damage to any portion of the Facilities by fire, earthquake or other casualty or event shall be paid to the Trustee (or, in the case of ORM insurance, to the Board for delivery in full to the Trustee and the Board hereby agrees to deliver all such insurance proceeds to the Trustee) for application in accordance with the provisions of Section 11 of this Facilities Lease and the Indenture.

(i) The provisions of the Indenture as to insurance required to be procured and maintained will not limit or prohibit, or be construed as limiting or prohibiting, the Board from obtaining any other insurance with the permission of the State's Office of Risk Management or as otherwise required by law with respect to the Facilities or the use and occupancy thereof that it may wish to carry, but in the event the Board will procure or maintain any such insurance not required by the Indenture, the cost thereof will be at the expense of the Board.

(ii) The Corporation shall cause the Design Team and/or the Construction Team (as applicable) to secure and maintain:

- (1) Comprehensive or Commercial General Liability insurance;
- (2) Errors and Omissions insurance;
- (3) Automobile Liability insurance;
- (4) Worker's Compensation insurance;
- (5) an all Risk Builder's Policy upon the construction on the Property; and
- (6) boiler and machinery or additional property insurance;

all as required by the terms of the Construction Contract.

Section 10. Condemnation, Casualty and Other Damage. The risk of loss or decrease in the enjoyment and beneficial use of the Facilities due to any damage or destruction thereof by acts of God, fire, flood, natural disaster, the elements, casualties, thefts, riots, civil strife, lockout, war, nuclear explosion or otherwise (collectively "*Casualty*") or in consequence of any foreclosures, attachments, levies or executions; or the taking of all or any portion of the Facilities by condemnation, expropriation, or eminent domain proceedings (collectively "*Expropriation*") is expressly assumed by the Board. The Corporation and the Trustee shall in no event be answerable, accountable or liable therefor, nor shall any of the foregoing events entitle the Board to any abatements, set-offs or counter claims with respect to its

Base Rental, Note Rental, Additional Rental or any other obligation hereunder. The Board shall continue to be obligated to pay Base Rental, Note Rental and Additional Rental following the occurrence of any of the foregoing events.

Section 11. Application of Insurance Proceeds: Condemnation Award. If during construction, all or any portion of the Facilities is damaged or destroyed by a Casualty, or is taken by Expropriation proceedings, the Board shall instruct the Corporation, as expeditiously as possible, to continuously and diligently prosecute or cause to be prosecuted the repair, restoration, or replacement thereof; provided however, that the Corporation shall in no way be liable for any costs of the repair, restoration or replacement of the Facilities in excess of the proceeds of any insurance or of any Expropriation award received because of such Casualty or Expropriation. Following the completion of construction and acceptance of the Facility by the Board on behalf of the Corporation, the Board shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted, the repair, restoration, or replacement thereof. The proceeds of any insurance, including the proceeds of any self-insurance fund, or of any Expropriation award or payment in lieu of Expropriation, received on account of any damage, destruction or taking of all or any portion of the Facilities shall be delivered to the Trustee (or in the case of self-insurance, as set forth in paragraph (b) below) and held by the Trustee in a special account to be established upon receipt of any such funds and held by the Trustee in trust, and shall be made available for, and to the extent necessary be applied to, such restoration, repair and replacement. Any amounts so held by the Trustee shall be disbursed to pay the costs of restoration, replacement and repair of the Facilities with respect to which they are held, in each case promptly after receipt of a written request of the Corporation stating that the amount to be disbursed pursuant to such request will be used to pay costs of replacing or repairing or restoring the Facilities and that no amount previously has been disbursed by the Trustee for payment of the costs to be so paid. In making such payments, the Trustee may conclusively rely upon such written requests and shall have no liability or responsibility to investigate any matter stated therein, or for any inaccuracy or misstatement therein. In no event shall the Trustee be responsible for the adequacy of the plans and specifications or construction contract relating to the replacement, restoration, or repair of the Facilities, or for the improper use of moneys properly disbursed pursuant to request made under this Section. Any proceeds remaining on deposit with the Trustee following completion of the repairs, restoration or replacement of the Facilities shall be paid by the Trustee in accordance with the terms of the Indenture.

(b) In the event that ORM insures the Facilities, the Board shall cause the Corporation to use the insurance proceeds received from ORM in accordance with Policy and Procedure Memorandum Number 10 (requiring invoices to be submitted to ORM for payment to vendors, or alternatively, production of invoices paid by the Board to ORM for reimbursement of vendor payments) to effect the repair, restoration or replacements of the Facilities.

(c) In the event the proceeds of any insurance, and any additional funds deposited with the Trustee, are insufficient to fully repair, restore or replace the Facilities, the proceeds shall be paid to the Trustee and used to redeem the Outstanding Bonds in accordance with the Indenture. In the event the proceeds are insufficient to redeem all Outstanding Bonds, the Board shall be responsible for such shortfall.

(d) In the event it is necessary to restore or replace the Facilities in a different location because of the Expropriation of all or a portion of the Facilities, the Corporation and the Board agree to amend or enter into a new Facilities Lease and Ground Lease in accordance with Sections 13.02 and 13.03 of the Ground Lease. In the event the Board, pursuant to the Ground Lease, decides not to repair, restore or replace the Facilities for any reason, all insurance proceeds received or payable as a result of such Casualty or all proceeds received or payable as a result of Expropriation proceedings (including payments received or payable in lieu of Expropriation) shall be paid to the Trustee and applied to the

prepayment of the Bonds in accordance with the terms of the Indenture, and, upon the repayment of the Bonds in full and the discharge of the lien of the Indenture, this Facilities Lease and the Ground Lease shall terminate.

Section 12. Encumbrances.*Payment by the Board.* (i) The Board shall pay or cause to be paid all costs and charges for alterations, improvements, additions, repairs and maintenance (“Work”) done by the Board or caused to be done by the Board in or to the Facilities, and for all materials furnished for or in connection with such Work. The Corporation reserves all rights to collect for any loss or damage sustained or incurred by the Corporation resulting from any and all Encumbrances, demands or liabilities arising on account of the Work, which shall be payable by the Board as Additional Rental pursuant to Section 6 hereof.

(ii) The Board shall, or shall cause the University to, cause the Facilities at all times to be free from all encumbrances that would materially affect the receipt of the Auxiliary Revenues, provided that the University may in good faith contest any liens filed or established against the Facilities, and, in such event, may permit the items so contested to remain undischarged and unsatisfied during the period of such contest only if the Board obtains an injunction prohibiting, or otherwise prevents, the enforcement of such liens, assessments or other charges and any appeal therefrom, unless by nonpayment of any such items the Pledged Revenues would be materially endangered or the Facilities or any part thereof will be subject to loss or forfeiture to such an extent that Revenues are materially adversely affected, in which event the University will promptly pay and cause to be satisfied and discharged all such unpaid items.

(b) *Failure to Discharge.* If the Board fails to pay any charge for which an Encumbrance has been filed, and the Facilities or any portion thereof is placed in imminent danger of being seized, the Corporation may, but shall not be obligated to, pay such charge and related costs and interest, and the amount so paid, together with reasonable Legal Expenses incurred in connection with such Encumbrance, will be immediately due from the Board to the Corporation as Additional Rental. Nothing contained in this Lease will be deemed the consent or agreement of the Corporation to subject the Corporation’s interest in the Facilities to liability under any Encumbrance, or any mechanics’, materialman’s or other lien law. If the Board receives written notice that an Encumbrance has been or is about to be filed against the Facilities, or that any action affecting title to the Facilities has been commenced on account of Work done by or for the Board or for materials furnished to or for the Board, it shall immediately give the Corporation Notice of such notice.

(c) *Notice of Non-responsibility.* The Corporation will have the right to post notices of Non-responsibility or similar written notices on the Facilities in order to protect the Facilities against any such claimants.

Section 13. Assignment and Sublease. Neither this Facilities Lease nor any interest of the Board herein shall be mortgaged, pledged, assigned, or transferred by the Board by voluntary act or by operation of law, or otherwise; provided, however, the Board may sublease all or any portion of the Facilities, or grant concessions involving the use of all or any portion of the Facilities, whether such concessions purport to convey a leasehold interest or a license to use all or a portion of the Facilities, to any Permitted Sublessee. The Board shall, however, at all times remain liable for the performance of the covenants and conditions on its part to be performed under this Facilities Lease (including, without limitation, the payment of Base Rental and Additional Rental), notwithstanding any subletting or granting of concessions which may be made. Nothing herein contained shall be construed to relieve the Board from its obligations to pay Base Rental and Additional Rental as provided in this Facilities Lease or to relieve the Board from any other obligations contained herein. In no event will the Board sublease or permit the use of all or any part of the Facilities to any Permitted Sublessee without an opinion of Bond

Counsel that such will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for federal income tax purposes.

(b) The Board acknowledges and agrees that the Corporation shall, concurrently with the execution hereof, assign all of its right, title and interest in and to this Facilities Lease, including without limitation its right to receive Base Rental payable hereunder, to the Authority pursuant to the Agreement, and the Authority will in turn assign its rights under this Facilities Lease to the Trustee pursuant to the Indenture. The parties hereto further agree to execute any and all documents necessary and proper in connection therewith. Anything required or permitted to be done by the Corporation under this Facilities Lease may be done by the Trustee under the Indenture.

(c) Except as set forth in Section 13(b) above and the Assignment, the Corporation shall not sell or assign its interest in the Facility or this Facilities Lease without the prior written consent of the Board.

Section 14. Additions and Improvements. At the expiration of the Term or the earlier termination of this Facilities Lease, all alterations, fixtures, improvements, and additions made to, in, or on the Facilities by the Board or the University, and all equipment placed upon the Facilities that are incorporated into or made component parts of the Facilities shall remain on the Facilities without compensation to the Corporation.

(b) Title to all property, furniture, equipment, fixtures, and other property installed at or placed upon the Facilities by the Board that is not incorporated into or made a component part of the Facilities shall remain the property of the Board. The Board hereby agrees to replace such property from time to time as such property becomes worn out, obsolete, inadequate, unsuitable or undesirable. The Board may add to or remove such property from time to time, provided that the Board repairs any damage to the Facilities caused by such removal.

Section 15. Right of Entry. Representatives of the Corporation shall, subject to reasonable security precautions, and upon giving the Board not fewer than twenty-four (24) hours advance Notice, have the right to enter upon the Facilities during reasonable business hours (and in emergencies without Notice and at all times) accompanied by a Board Representative or a University Representative (i) to inspect the same, (ii) for any purpose connected with the rights or obligations of the Corporation under this Supplemental Facilities Lease, or (iii) for all other lawful purposes.

Section 16. Mortgage Prohibition. Except as set forth in the Indenture or the Ground Lease, the Corporation shall not be entitled to mortgage or grant a security interest in the Facilities.

Section 17. Sale of Facilities; Attornment; and Conveyance and Transfer of the Corporation's Interest. If a person other than the Corporation shall succeed to the rights of the Corporation hereunder (in any case with the prior written consent of the Board as required hereby), upon the declaration of the successor to the Corporation's interest in this Facilities Lease, the Board agrees to fully attorn to and recognize any such successor as the Board's landlord under this Facilities Lease upon the then existing terms of this Facilities Lease, provided that such successor shall agree in writing to accept the Board's attornment and not to disturb the Board's possession so long as the Board shall observe the provisions and all covenants of this Facilities Lease. This attornment provision shall inure to the benefit of any such successor and shall be self-operative upon the election and declaration by such successor, and no further instrument shall be required to give effect to the provisions. However, the Board agrees to evidence and confirm the foregoing attornment provisions by the execution and delivery of instruments in recordable form satisfactory to such successor.

(b) If the Facilities, or any part thereof, shall be sold or otherwise transferred by sale, assignment, transfer or other contract, or by operation of law or otherwise (with the prior written consent

of the Board as required herein, and with an opinion of Bond Counsel that such action will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for federal income tax purposes), and if such written consent specifically so provides, the Corporation shall be automatically and entirely released and discharged to the extent of the interest in or the portion of the Facilities sold, assigned or transferred from and after the effective date of such sale, assignment or transfer of all liability for the performance of any of the covenants of this Facilities Lease on the part of the Corporation thereafter to be performed. The purchaser, assignee or other transferee of the Facilities shall be deemed to have agreed to perform such covenants of the Corporation from and after the date of such assignment or sale during such transferee's period of ownership of the Corporation's interest under this Facilities Lease all without further agreement between the Corporation, its successor and the Board, including to operate the Facilities as housing facilities for the University. The Corporation's transferee shall not be held responsible for the performance of any of the covenants of this Facilities Lease on the part of the Corporation required to be performed prior to such sale and transfer, the Board reserving its rights against the Corporation for any unperformed covenants prior to such sale or transfer.

Section 18. Quiet Enjoyment. The Corporation covenants that the Board, on paying the Rental and performing and observing all of the covenants and agreements herein contained and provided to be performed by the Board or the University, shall and may peaceably and quietly have, hold, occupy, use, and enjoy the Facilities during the Term and may exercise all of its rights hereunder; and the Corporation agrees to warrant and forever defend the Board's right to such occupancy, use, and enjoyment of the interest in the Facilities against the claims of any and all persons whomsoever lawfully claiming the same, or any part thereof subject only to the provisions of this Facilities Lease.

Section 19. Environmental Compliance and Indemnity.*Environmental Compliance.* The Board or the University shall operate or cause to be operated the Property and the Facilities in compliance with all Environmental Requirements continuously during the Term, and for such periods of time prior to the Commencement Date and after the Expiration Date, as long as the Board is in possession of the Facilities, in whole or in part. The Board shall not cause or permit any Hazardous Substance to be brought upon, kept, or used in or about the Property or the Facilities, except for such Hazardous Substance as is necessary or useful to the operation of the Facilities and in strict compliance with the Environmental Requirements and directions of Governmental Authority. The Board shall not cause or permit any disposal or Release upon, in or about the Property or the Facilities, other than Releases involving only de minimis amounts of Hazardous Substance that could not lead to liability under Environmental Requirements.

(b) *The Board's Liability.* If the Board fails to comply with any of the foregoing warranties, representations, and covenants, and removal or Remediation of any Hazardous Substance found on the Property or the Facilities is required by Environmental Requirements or Governmental Authority, the Board shall promptly undertake the removal or Remediation of such Hazardous Substance, at the Board's sole cost and expense and in strict compliance with the Environmental Requirements and directions of Governmental Authority. In the event the Board fails or refuses to undertake such removal or Remedial actions, the Corporation may cause the removal or Remediation (or other cleanup reasonable acceptable to the Corporation) of any such Hazardous Substance from the Property or the Facilities. The reasonable costs of removal, Remediation, or any other cleanup (including transportation and storage costs) will be considered as Additional Rental under this Facilities Lease, whether or not a court has ordered the cleanup, and those costs will become due and payable within ninety (90) days of written demand by the Corporation. In connection therewith, the Board will give the Corporation, its agents, and employees access to the Property and the Facilities to remove, remediate, or otherwise clean up any Hazardous Substance. The Corporation, however, has no affirmative obligation to remove, remediate, or otherwise clean up any Hazardous Substance, and this Facilities Lease will not be construed as creating any such obligation. The Board hereby agrees that it shall be fully liable for all costs and expenses related to the

use, storage, presence, release, disposal, removal or Remediation of any Hazardous Substance located in or about the Facilities whether occurring before or during the Term or otherwise arising from the acts or omissions of the Board.

(c) The Board shall indemnify, defend and hold the Corporation and the Bond Insurer harmless from and against any and all losses, claims, demands, actions, suits, damages, expenses and costs which are brought or recoverable against, or suffered or incurred by the Corporation or the Bond Insurer resulting or arising from the breach of or noncompliance by the Board with the provisions of this Section 19.

Section 20. The Corporation's and the Bond Insurer's Reservation of Rights. The Corporation and the Bond Insurer hereby reserve all of their rights to recover from the Board for any and all Claims asserted against the Corporation or the Bond Insurer, including Litigation Expenses arising out of or by reason of:

(i) any injury to or death of any person or damage to property occurring on or about the Facilities occasioned by or growing out of or arising or resulting from any tortious or negligent act on the part of the Board in connection with the lease, the operation and management of the Facilities; or

(ii) any failure, breach, or default on the part of the Board in the performance of or compliance with any of the obligations of the Board under the terms of this Facilities Lease.

(b) Notwithstanding the fact that it is the intention of the parties that the Corporation and the Bond Insurer shall not incur any pecuniary liability by reason of the terms of this Facilities Lease or the undertakings required of the Corporation hereunder, nevertheless, if the Corporation or the Bond Insurer should incur any such pecuniary liability, then in that event, the Corporation and the Bond Insurer shall be entitled to assert all rights and remedies granted in law or in equity to recover from the Board the amount of any pecuniary liability incurred by the Corporation or the Bond Insurer, plus all Litigation Expenses incurred in defense of such liability to the extent subject to indemnification pursuant to subsection (a) above.

(c) No recourse shall be had for the enforcement of any obligation, covenant, or agreement of the Corporation contained in this Facilities Lease or any Claim based thereon against the Corporation or of any successor thereto or member thereof, either directly or through the Corporation whether by virtue of any constitutional provision, statute, or rule of law. This Facilities Lease and the obligations of the Corporation thereunder, and any Claim asserted against the Corporation are solely corporate obligations, and the enforcement of any obligation or Claim shall be limited solely to the Corporation's interest in the Facilities. No personal liability shall attach to, or be incurred by, any officer, director, agent, employee or member of the Corporation and the Board acknowledges that all personal liability of any character against every such officer, director, agent, employee or member by the execution of this Facilities Lease, is expressly waived and released, except to the extent that such liability relates to any criminal acts, intentional misconduct, or fraud. The immunity of any officer, director, agent, employee or member of the Corporation under the provisions contained in this Section 20 shall survive any acquisition of the Facilities by the Board and the expiration or other termination of this Facilities Lease.

Section 21. Default by the Board. If (i) the Board, on behalf of the University, shall fail to deposit with the Trustee any Base Rental payment required to be so deposited pursuant to Section 6 hereof by the close of business on the day such deposit is required pursuant to Section 6 hereof; or (ii) the Board shall fail to pay or discharge any monetary obligation under this Facilities Lease (other than the payment of Base Rental) as and when due, or within thirty (30) days after receipt of Notice from the Trustee or the Corporation that such sums are due and owing; or (iii) any warranty, representation or other

statement by or on behalf of the Board contained in this Facilities Lease or in any instrument furnished in compliance with or in reference to this Facilities Lease is false or misleading in any material respect; or (iv) a petition is filed against the Board under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within sixty (60) days after such filing, but the Trustee shall have the right to intervene in the proceedings prior to the expiration of such sixty (60) days to protect their interests and the interests of the owners of the Bonds; or (v) the Board filed a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or (vi) the Board admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Board for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests and the interests of the owners of the Bonds; or (vii) the Board shall breach any non-monetary terms, covenants or conditions herein, and shall fail to remedy any such breach with all reasonable dispatch within thirty (30) days (or such longer period as the Trustee may approve) with the approval of the Bond Insurer after written Notice thereof from the Corporation, the Trustee, the Bond Insurer and/or the University to the Board, provided, however that if the breach be of a nature that it cannot be cured in thirty (30) days, the 30 day period will be extended so long as the Board promptly commences action to cure such breach and proceeds diligently to completion of such cure but only if such extension would not materially adversely affect the interest of the Corporation or the Bondholders. If an Event of Default by the Board shall occur and be continuing, the Corporation shall have the right with the approval of the Bond Insurer but without any further demand or Notice, to terminate this Facilities Lease on the earliest date permitted by law or on any later date specified in any Notice given to the Board, in which case the Board's right to possession of the Facilities will cease and this Facilities Lease will be terminated, without, however, waiving the Corporation's right to collect all Rental and other payments due or owing for the period up to the time the Corporation regains possession (and which Revenues have not been paid to the Corporation), and to enforce other obligations of the Board which survive termination of this Facilities Lease, and in such event the Corporation may without any further demand or notice re-enter the Facilities and eject all parties in possession thereof. The foregoing remedies of the Corporation are in addition to and not exclusive of any other remedy of the Corporation available at law or in equity. Any such re-entry shall be allowed by the Board without hindrance, and the Corporation shall not be liable in damages for any such re-entry or be guilty of trespass. The Corporation understands and agrees that upon its termination of the Board's right to possession of the Facilities or termination of this Facilities Lease, the Corporation upon its re-entry of the Facilities shall only be allowed to use the Facilities for the Permitted Use and shall be subject to all applicable Governmental Regulations heretofore or hereafter enacted by any Governmental Authority relating to the use and operation of the Facilities.(b) Notwithstanding any other provision of this Facilities Lease, in no event shall the Corporation have the right to accelerate the payment of any Base Rental payment hereunder.

(c) Notwithstanding any other provision of this Facilities Lease to the contrary, the failure of the Board to pay Note Rental as required hereunder shall not constitute an Event of Default under this Facilities Lease.

Section 22. Cumulative Remedies. Each right and remedy provided for in this Facilities Lease is cumulative and is in addition to every other right or remedy provided for in this Facilities Lease or now or after the Commencement Date existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Corporation of any one or more of the rights or remedies provided for

in this Facilities Lease or now or after the Commencement Date existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the Corporation of any or all other rights or remedies provided for in this Facilities Lease or now or after the Commencement Date existing at law or in equity or by statute or otherwise. All costs incurred by the Corporation, the Bond Insurer, or the Trustee in collecting any amounts and damages owing by the Board pursuant to the provisions of this Facilities Lease or to enforce any provision of this Facilities Lease, including reasonable Litigation Expenses from the date any such matter is turned over to an attorney, whether or not one or more actions are commenced by the Corporation, the Bond Insurer, or the Trustee, will also be recoverable by the Corporation, the Bond Insurer, or the Trustee from the Board. The waiver by the Corporation, the Bond Insurer, or the Trustee of any breach by the Board and the waiver by the Board of any breach by the Corporation, of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

(b) In the event of termination of this Facilities Lease, the Board agrees to peaceably surrender possession of the Facilities to the Corporation on the date of such termination in its original condition (normal wear and tear excepted). The Corporation (at the direction of the Bond Insurer) will have all legal and equitable rights and remedies to take possession of the Facilities and re-let or sell the Facilities as the Corporation determines and as granted in this Facilities Lease.

Section 23. Option to Purchase. For and in consideration of the obligations of the Board under this Facilities Lease, the mutual undertakings of the parties, the receipt and adequacy of which is hereby acknowledged, the Corporation grants to the Board an exclusive and irrevocable option to purchase for the price and on the terms, provisions, stipulations and conditions hereinafter set forth, all but not less than all of the Corporation's interest in the Facilities.

(a) *Effective Date.* The effective date of this Option to Purchase shall be the Commencement Date.

(b) *Term of Option.* The Option shall expire at midnight Central Time, on the Expiration Date, or upon the termination of this Facilities Lease, whichever occurs first.

(c) *Limitation on Exercise of Option.* The Board may not exercise the Option, and the Option shall be voidable, at the sole election of the Corporation, if an Event of Default by the Board has occurred and is continuing under this Facilities Lease, and the applicable time period in which the Board may cure such default has expired. Notwithstanding any provision of this Option to the contrary, the Board shall be entitled to exercise the Option as long as the Board is legally obligated to make payments of Base Rental under this Facilities Lease.

(d) *Exercise of Option.* The Board may exercise the Option herein granted at any time on or before expiration of the Term of the Option, on any Interest Payment Date on or after the date the Bonds are defeased pursuant to Article XII of the Indenture, by Notice to the Corporation of its election to exercise the Option and purchase the Corporation's interest in the Facilities given not fewer than sixty (60) days prior to the date on which the Board desires to purchase the Facilities and deposit the Purchase Price (as hereinafter defined) with the Trustee.

(e) *Purchase Price.* The purchase price shall be equal to the principal of all Bonds then Outstanding plus the interest to accrue on such Bonds until the purchase date, plus any prepayment penalties, charges or costs for early prepayment or defeasance of the Bonds and to discharge the Indenture pursuant to Section 12.1 of the Indenture and any Administrative Expenses owed prior to the purchase date (collectively, the "*Purchase Price*").

(f) *Effect on Facilities Lease and Ground Lease.* Upon the purchase of the Corporation's interest in the Facilities by the Board pursuant to this Option, this Facilities Lease and the Ground Lease shall terminate and all of the Corporation's interest in the Property shall terminate.

(g) *Payment of Purchase Price.* The Board, concurrently with the giving of notice of its intention to exercise the Option herein granted, shall deposit an amount equal to the Purchase Price with the Trustee, as applicable.

(i) *Conveyance.* In the event of and upon the payment of the Purchase Price and any other sums due under this Facilities Lease by the Board, the Corporation will on the purchase date execute and deliver to the Board a written cancellation of the Ground Lease and this Facilities Lease.

(ii) *Assignment of Contract Rights and Obligations.* The conveyance of the Corporation's interest in the Facilities shall also effect a transfer and assignment of all rights, warranties and liability of the Corporation under then existing contracts of any nature with respect to the Facilities.

(h) *Closing.* In the event that the Board elects to exercise the Option timely, notice of the Board's election to the Corporation shall constitute an irrevocable conversion of the Option into a binding obligation of the Corporation to sell its interest in the Facilities and of the Board to buy the same under the terms and conditions set forth in this Section 23, and in such event, the Corporation and the Board shall have the right to demand specific performance of this agreement by the other. The Closing shall occur at the offices of the Board or its counsel, or at such other place as agreed upon by the Corporation and the Board.

(i) *Closing Costs.* The Board shall pay all closing costs and charges incident to the conveyance of the Facilities.

(j) *No Warranty.* The Corporation shall convey its interest in the Facilities without any warranty whatsoever of any nature. The conveyance shall be without any warranty as to fitness and condition, as set forth in Section 5 of this Facilities Lease. Language substantially similar to the language contained in Section 5 of this Facilities Lease shall be incorporated into and made a part of any act translative of title. In no event shall the Corporation be responsible for any defects in title.

(k) *Default under the Option:*

(i) In the event the Option is exercised, and the Corporation fails to consummate the transactions contemplated herein for any reason, except default by the Board or the failure of the Board to satisfy any of the conditions set forth herein, the Board may, in addition to any other rights and remedies which may otherwise be available to the Board, enforce this agreement by specific performance. The Board's remedies under this Section are expressly subject to the provisions of Section 21 of this Facilities Lease.

(ii) In the event the Option is exercised, and the Board fails to consummate the transactions contemplated herein for any reason, except default by the Corporation or the failure of the Corporation to satisfy any of the conditions set forth herein, the Corporation (a) may enforce this agreement by specific performance and in such action shall have the right to recover damages suffered by reason of the Board's delay, or (b) may bring suit for damages for breach of this agreement.

(iii) No delay or omission in the exercise of any right or remedy accruing to either party upon any breach by the other party under this Section 23 shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by either party of

any condition or any subsequent breach of the same or any other term, covenant or condition contained in this Section 23 shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition contained in this Section 23.

(l) *Attorney's Fees.* Should either party employ an attorney or attorneys to enforce any of the provisions of this Section 23, or to protect its interest in any matter arising under this Section 23, or to recover damages for the breach of this Section 23, the party prevailing in any final judgment shall have the right to collect from the losing party all Litigation Expenses incurred in enforcing such rights.

(m) *Notices.* Any notices required or permitted under this Section 23 shall be in writing and delivered either in person to the other party, or the other party's authorized agent, or by United States Certified Mail, return receipt requested, postage prepaid, to the address set forth in Section 50 of this Facilities Lease, or to such other address as either party may designate in writing and delivered as provided in Section 50 of this Facilities Lease.

(n) *Assignability.* Except as set forth in the Indenture, the Assignment, or the Ground Lease, the Option may not be assigned by the Corporation or the Facilities sold to any Person or entity without the Board's prior written consent, which consent may be withheld by the Board in its sole discretion.

(o) *Time of Essence.* Time is of the essence of the Option.

(p) *Binding Effect.* The Option shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, successors and assigns.

Section 24. Severability. If any provisions of this Facilities Lease shall be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable, to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections contained in this Facilities Lease shall not affect the remaining portions of this Facilities Lease, or any part thereof.

Section 25. Redemption of Bonds. The Corporation agrees that it will not exercise its option to redeem any Bonds pursuant to the Agreement unless the Board consents to such redemption or such redemption is to be effected with moneys derived from a source other than payments made by the Board under this Facilities Lease, however, in no event shall the mandatory redemption of any Bonds pursuant to the Indenture require the consent of the Board. The Corporation further agrees that if requested by the Board it will take all actions necessary to redeem all or any portion of the Bonds designated by the Board on the first date that it may do so under the terms of the Indenture so long as the Board agrees to provide funds in an amount, and at the time, required to effect such redemption.

Section 26. Additional Debt. Upon the request and at the expense of the Board with the consent of the Bond Insurer, the Corporation shall take action as may be required to effect issuance of Additional Bonds in such amount as the Board may request as permitted by and in accordance with the provisions of the Indenture for any purpose permitted thereby.

Section 27. Execution. This Facilities Lease may be simultaneously executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and all of which together shall constitute one and the same Facilities Lease.

Section 28. Law Governing. This Facilities Lease is made in the State under the constitution and laws of the State and is to be governed by the laws of the State.

Section 29. Approval of Budget. In the event in any Fiscal Year the Board expressly refuses to approve the Budget containing sufficient funds to enable the payment of Base Rental, Note Rental and Additional Rental due during the next succeeding Fiscal Year, the Board will immediately notify the Corporation of such occurrence. On the first day of the month following the Base Rental payment date on which the last payment of Base Rental can be made in full from budgeted funds, the Board shall no longer be obligated to make Rental Payments hereunder and the Corporation shall have the right, at its option, to terminate this Facilities Lease without penalty or expense to the Board of any kind whatsoever, except as to the portions of Base Rental, Note Rental and Additional Rental payments herein agreed upon for Fiscal Years for which sufficient funds have been lawfully approved. In the event of such termination, the Board agrees peaceably to surrender possession of the Facilities to the Corporation on the date of such termination in its original condition (normal wear and tear excepted). The Corporation will have all legal and equitable rights and remedies to take possession of the Facilities and re-let or sell the Facilities as the Corporation determines and as granted in this Facilities Lease. The Board acknowledges that the Corporation's rights to take possession and to re-let or sell the Facilities under this Section 29 may be assigned to the Trustee for the benefit of the owners of the Bonds, as applicable, and the Board agrees that the Trustee shall be entitled to exercise all of the rights of the Corporation under this Section 29. This provision is operative notwithstanding any provisions of this Facilities Lease to the contrary. The Board shall be considered in default hereunder if sufficient funds are lawfully approved for the payment of Rental required under this Facilities Lease and the Board fails to use lawfully approved funds for the payment of Rental. In such event, the Corporation shall be entitled to the rights and remedies set forth in Sections 21 and 22 hereof.

(b) Upon the termination of this Facilities Lease and in the event the University is no longer operating the Facilities, all Revenues shall be collected by or on behalf of the Corporation. The Corporation shall or shall cause all Revenues collected by it to be deposited with the Trustee no later than the Business Day immediately following the day of collection.

Section 30. Exculpatory Provision. In the exercise of the powers of the Corporation and its trustees, officers, directors, employees and agents under this Facilities Lease and the Indenture, the Corporation shall not be accountable or liable to the Board (i) for any actions taken or omitted by it or its officers, directors, employees or agents in good faith and believed by it or them to be authorized or within their discretion or rights or powers conferred upon them, or (ii) for any claims based on this Facilities Lease against any officer, director, employee or agent of the Corporation in his or her personal capacity, all such liability, if any, being expressly waived by the Board by the execution of this Facilities Lease, except to the extent that such liability relates to any criminal act, intentional misconduct or fraud. Nothing in this Facilities Lease or the Indenture is intended to require or obligate, nor shall anything herein or therein be interpreted to require or obligate, the Corporation for any purpose or at any time whatsoever, to provide, apply or expend any funds coming into the hands of the Corporation other than the funds derived from the issuance of the Bonds under the Indenture, moneys derived pursuant to the Indenture and this Facilities Lease and any other Revenues derived from the Facilities.

(b) The Board specifically agrees to look solely to the Corporation's interest in the Facilities for the recovery of any judgments from the Corporation. It is agreed that the Corporation will not be personally liable for any such judgments, or incur any pecuniary liability as a result of this Facilities Lease to the Board, or the breach of its obligations hereunder. The Corporation's liability under this Facilities Lease is "in rem" as to its interest in the Facilities. The provisions contained in the preceding sentences are not intended to and will not limit any right that the Board might otherwise have to obtain

injunctive relief against the Corporation or relief in any suit or action in connection with enforcement or collection of amounts that may become owing or payable under or on account of insurance maintained by the Corporation.

Section 31. Amendments. This Facilities Lease may be amended only as permitted in Article VIII of the Agreement.

Section 32. Recording. The Corporation covenants and agrees that it will promptly record and from time to time re-record a memorandum in recordable form of this Facilities Lease and the Indenture and all supplements thereto and hereto in such manner and in such places as may be required by law in order to fully protect and preserve the security of the Trustee for the benefit of the holders or owners of the Bonds. The Board and the Corporation agree to execute in recordable form a memorandum of this Facilities Lease in the form of Exhibit B attached hereto to be filed for record in Calcasieu Parish, Louisiana.

Section 33. No Construction Against Drafting Party. The Corporation and the Board acknowledge that each of them and their counsel have had an opportunity to review this Facilities Lease and that each Party was responsible for the drafting thereof.

Section 34. Time of the Essence. Time is of the essence of each and every provision of this Facilities Lease.

Section 35. No Waiver. The waiver by the Corporation of any agreement, condition, or provision contained in this Facilities Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision contained in this Facilities Lease, nor will any custom or practice that may arise between the Parties in the administration of the terms of this Facilities Lease be construed to waive or to lessen the right of the Corporation to insist upon the performance by the Board in strict accordance with the terms of this Facilities Lease. The subsequent acceptance of Rental by the Corporation will not be deemed to be a waiver of any preceding breach by the Board of any agreement, condition, or provision of this Facilities Lease, other than the failure of the Board to pay the particular Rental so accepted, regardless of the Corporation's knowledge of such preceding breach at the time of acceptance of such Rental.

Section 36. Survival. To the extent permitted by law and to the extent such will not constitute the incurrence of debt by the Board, all of the Corporation's and the Bond Insurer's remedies and rights of recovery under Sections 10, 11, 19, 20, and 26 of this Facilities Lease shall survive the Term, the termination of this Facilities Lease and/or the purchase of the Corporation's interest in the Facilities by the Board under the Option.

Section 37. Estoppel Certificates. At any time and from time to time but within ten (10) days after prior written request by the Corporation, the Board will execute, acknowledge, and deliver to the Corporation, promptly upon request but only to the extent accurate, a certificate certifying: (i) that this Facilities Lease is unmodified and in full force and effect or, if there have been modifications, that this Facilities Lease is in full force and effect, as modified, and stating the date and nature of each modification; (ii) the date, if any, to which Rental and other sums payable under this Facilities Lease have been paid; (iii) that no Notice of any default has been delivered to the Corporation which default has not been cured, except as to defaults specified in said certificate; (iv) that there is no Event of Default under this Facilities Lease or an event which, with Notice or the passage of time, or both, would result in an Event of Default under this Facilities Lease, except for defaults specified in said certificate; and (v) such other matters as may be reasonably requested by the Corporation. Any such certificate may be relied upon by any prospective purchaser or existing or prospective mortgagee of the Facilities or any part thereof.

The Board's failure to notify the Corporation of any inaccuracies in the proposed certificate within the specified time period shall be conclusive evidence that the matters set forth in the certificate are accurate and correct.

Section 38. Waiver of Jury Trial. The Corporation waives trial by jury in any action, proceeding, or counterclaim brought by either of the Parties to this Facilities Lease against the other on any matters whatsoever arising out of or in any way connected with this Facilities Lease, the relationship of the Corporation and the Board, the Board's or the University's use or occupancy of the Facilities, or any other Claims arising hereunder.

Section 39. Written Amendment Required. No amendment, alteration, modification of, or addition to this Facilities Lease will be valid or binding unless expressed in writing and signed by the Corporation and the Board.

Section 40. Entire Agreement. This Facilities Lease and the exhibits and addenda, if any, contain the entire agreement between the Corporation and the Board. No promises or representations, except as contained in this Facilities Lease, have been made to the Board respecting the condition or the manner of operating the Facilities.

Section 41. Signs. The Board or the University may attach any sign on any part of the Facilities, or in the halls, lobbies, windows, or elevator banks of the Facilities, without the Corporation's approval. The Board may name the Facilities and change the name, number, or designation of the Facilities, without the Corporation's prior consent.

Section 42. Litigation Expenses. The Board will pay the Corporation as Additional Rental all reasonable Litigation Expenses and all other reasonable expenses which may be incurred by the Corporation in enforcing any of the obligations of the Board under this Facilities Lease, in exercising its rights to recover against the Board for loss or damage sustained in accordance with the provisions of this Facilities Lease, or in any litigation or negotiation in which the Corporation shall, without its fault, become involved through or because of this Facilities Lease.

Section 43. Brokers. The Corporation and the Board respectively represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Facilities. The Corporation agrees to indemnify and hold the Board harmless from and against any claims by any other broker, agent or other Person claiming a commission or other form of compensation by virtue of having dealt with the Corporation with regard to the leasing of the Facilities hereunder. The Board agrees to indemnify and hold the Corporation harmless from and against any claims by any broker, agent or other Person claiming a commission or other form of compensation by virtue of having dealt with the Board with regard to the leasing of the Facilities hereunder.

Section 44. No Easements for Air or Light. Any diminution or shutting off of light, air, or view by any structure that may be erected on any of the lands constituting the Facilities, or on lands adjacent to the Facilities, will in no way affect this Facilities Lease or impose any liability on the Corporation. This Facilities Lease does not grant any rights to light, view and/or air over the Facilities whatsoever.

Section 45. Binding Effect. The covenants, conditions, and agreements contained in this Facilities Lease will bind and inure to the benefit of the Corporation and the Board and their respective permitted successors and assigns.

Section 46. Rules of Interpretation. The following rules shall apply to the construction of this Facilities Lease unless the context requires otherwise: (a) the singular includes the plural and the plural includes the singular; (b) words importing any gender include the other genders; (c) references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute to which reference is made and all regulations promulgated pursuant to such statutes; (d) references to "writing" include printing, photocopy, typing, lithography and other means of reproducing words in a tangible visible form; (e) the words "including," "includes" and "include" shall be deemed to be followed by words "without limitation;" (f) references to the introductory paragraph, preliminary statements, articles, sections (or subdivision of sections), exhibits, appendices, annexes or schedules are to those of this Facilities Lease unless otherwise indicated; (g) references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments; (h) references to Persons include their respective successors and assigns to the extent successors or assigns are permitted or not prohibited by the terms of this Facilities Lease; (i) any accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles; (j) "or" is not exclusive; (k) provisions apply to successive events and transactions; (l) references to documents or agreements which have been terminated or released or which have expired shall be of no force and effect after such termination, release, or expiration; (m) references to mail shall be deemed to refer to first-class mail, postage prepaid, unless another type of mail is specified; (n) all references to time shall be to Central time; (o) references to specific persons, positions, or officers shall include those who or which succeed to or perform their respective functions, duties, or responsibilities; and (p) the terms "herein," "hereunder," "hereby," "hereof," and any similar terms refer to this Facilities Lease as a whole and not to any particular articles, section or subdivision hereof.

Section 47. Relationship of Parties. The relationship of the Parties shall be one of lessor and lessee only, and shall not be considered a partnership, joint venture, license arrangement or unincorporated association. The Corporation is not controlled by the Board or under the control of any Person also in control of the Board.

Section 48. Law Between the Parties. This Facilities Lease shall constitute the law between the Parties, and if any provision of this Facilities Lease is in conflict with the provisions of "Title IX - Of Lease" of the Louisiana Civil Code, Articles 2669 through 2777, inclusive, the provisions of this Facilities Lease shall control.

Section 49. Essentially. The Board hereby represents that the Facilities are essential to the operation of the University.

Section 50. Notices. All notices, filings and other communications ("Notice") shall be in writing and shall be sufficiently given and served upon the other parties if delivered by hand directly to the persons at the addresses set forth below, or shall be sent by first class mail, postage prepaid, addressed as follows:

The Corporation:

Cowboy Facilities, Inc.
c/o Facilities and Plant Operations
P. O. Box 90460
Lake Charles, Louisiana 70609-9460
Attention: Chairman
Joseph A. Delafield
Whitney Bank Building
3401 Ryan Street, Suite 307
Lake Charles, Louisiana 70605

with copies at the same time to:

The Board	Board of Supervisors for the University of Louisiana System 1201 North Third Street, Suite 7-300 Baton Rouge, Louisiana 70802 Attention: Vice President of Business and Finance
The University	McNeese State University P. O. Box 93300 Lake Charles, Louisiana 70609 Attention: Vice President for Business Affairs
The Trustee	Hancock Whitney Bank 445 North Boulevard, Suite 201 Baton Rouge, Louisiana 70802 Attention: John C. Shiroda
The Bond Insurer	[TO COME]

Section 51. Conflict. In the event of a conflict between the provisions of this Facilities Lease and the Bond Documents, the terms of the Bond Documents shall control.

Section 52. No Merger. There shall be no merger of the leasehold estate created by this Facilities Lease with the fee simple estate of the Board in the Property nor shall there be any merger of the leasehold estate created by this Facilities Lease or the fee simple estate of the Board in the Property with the leasehold estate created by the Ground Lease because one party or such party's transferee may acquire or shall hold directly or indirectly (a) fee simple interest in or to the Property (b) any interest in the leasehold estate created by or granted by the Ground Lease and/or (c) the leasehold estate created by this Facilities Lease, and no such merger shall occur unless all entities having (i) any fee simple interest in or to the Property, (ii) any interest in the leasehold estate created or granted by the Ground Lease and (iii) any interest in the leasehold estate created by this Facilities Lease, shall join in a written instrument effecting such merger and shall duly record same in the land records of the jurisdiction in which the Property is located.

Section 53. Lease to Constitute a Contract. This Facilities Lease, upon execution by the Board and the Corporation shall constitute a third party beneficiary contract between the Board and the Corporation for the benefit of the Bond Insurer, if any, and of the owners of all Bonds issued hereunder.

Section 54. Bond Insurance Provisions. [TO COME]

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IN WITNESS WHEREOF, the undersigned representative has signed this Agreement to Lease with Option to Purchase on behalf of the Board of Supervisors for the University of Louisiana System on the ____ day of _____, 2020.

WITNESSES:

BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM

Print Name:_____

By: _____
Dr. Daryl V. Burckel, President
McNeese State University
Board Representative

Print Name:_____

NOTARY PUBLIC

Name: _____
Notary ID/Bar Roll No. _____
My Commission Expires _____

IN WITNESS WHEREOF, the undersigned representative has signed this Agreement to Lease with Option to Purchase on behalf of Cowboy Facilities, Inc., on the ____ day of _____, 2020.

WITNESSES:

COWBOY FACILITIES, INC.

Print Name:_____

By: _____
Larry R. Derouen, Chairman

Print Name:_____

NOTARY PUBLIC

Name: _____

Notary ID/Bar Roll No. _____

My Commission Expires _____

EXHIBIT A

DESCRIPTION OF THE FACILITIES

The Facilities will consist of a new multi-story, multi-use student union complex on a site immediately adjacent to the current student union complex to be located at 4250 Vernon Drive on the campus of McNeese State University in Lake Charles, Calcasieu Parish, Louisiana. The new student union will be approximately 68,000 gross square feet encompassing spaces for dining/catering, event/function spaces, student and meeting space, general management space, postal services and Student Government space. The Facilities will also include the renovation of approximately 5,000 square feet for a student open computer lab.

EXHIBIT B

FORM OF MEMORANDUM OF
AGREEMENT TO LEASE WITH OPTION TO PURCHASE

STATE OF LOUISIANA §
 § KNOW ALL MEN BY THESE PRESENTS:
PARISH OF CALCASIEU §

MEMORANDUM OF LEASE

This Memorandum of Lease (this “*Memorandum*”) is entered into by and between Cowboy Facilities, Inc. (the “*Lessor*”) and the Board of Supervisors for the University of Louisiana System (the “*Lessee*”).

RECITALS

A. Lessor and Lessee have entered into an Agreement to Lease with Option to Purchase dated as of November 1, 2020 (the “*Lease*”), whereby Lessor did lease to Lessee, and Lessee did lease from Lessor, the immovable property more particularly described on Exhibit A attached hereto (the “*Land*”) and the student union facilities located thereon (the “*Facilities*”).

B. Lessor and Lessee desire to enter into this Memorandum, which is to be recorded in order that third parties may have notice of the parties’ rights under the Lease.

LEASE TERMS

Specific reference is hereby made to the following terms and provisions of the Lease:

1. The term of the Lease commenced on November 1, 2020 and shall continue until midnight on November 1, 2055, unless sooner terminated or extended as provided in the Lease.
2. Lessor has the right under the Lease to purchase Lessee’s leasehold interest in the Facilities at any time during the term of the Lease in accordance with the provisions thereof.
3. Additional information concerning the provisions of the Lease can be obtained from the parties at the following addresses:

Lessor: Cowboy Facilities, Inc.
c/o Facilities and Plant Operations
P. O. Box 90460
Lake Charles, LA 70609-9460

Lessee: Board of Supervisors for the University of Louisiana System
1201 North 3rd Street, Suite 7-300
Baton Rouge, Louisiana 70802
Attention: Vice President of Business and Finance

This Memorandum is executed for the purpose of recordation in the public records of Calcasieu Parish, Louisiana in order to give notice of all the terms and provisions of the Lease and is not intended and shall not be construed to define, limit, or modify the Lease. All of the terms, conditions, provisions and covenants of the Lease are incorporated into this Memorandum by reference as though fully set forth herein, and both the Lease and this Memorandum shall be deemed to constitute a single instrument or document.

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THUS DONE AND PASSED on the ____ day of _____, 2020, in Lake Charles, Louisiana in the presence of the undersigned, both competent witnesses, who herewith sign their names with Larry R. Derouen, Chairman of Cowboy Facilities, Inc., and me, Notary.

WITNESSES:

COWBOY FACILITIES, INC.

By: _____
Larry R. Derouen, Chairman

NOTARY PUBLIC

Print Name: _____

Notary ID # _____

My Commission is for Life

THUS DONE AND PASSED on the ____ day of _____, 2020, in Lake Charles, Louisiana in the presence of the undersigned, both competent witnesses, who herewith signs his name as Authorized Representative of the Board of Supervisors for the University of Louisiana System and me, Notary.

WITNESSES:

BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM

By: _____
Dr. Daryl V. Burckel, President
McNeese State University
Board Representative

NOTARY PUBLIC

Print Name: _____

Notary ID # _____

My Commission is for Life

GROUND AND BUILDINGS LEASE AGREEMENT

by and between

BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM
(as Lessor)

and

COWBOY FACILITIES, INC.
(as Lessee)

Dated as of November 1, 2020

in connection with:

Louisiana Local Government Environmental Facilities and
Community Development Authority Revenue Bonds
(McNeese State University - Cowboy Facilities, Inc. Student Union Project)
Series 20__

\$8,000,000

McNeese State University Foundation Subordinate Revenue Promissory Note
(McNeese State University - Cowboy Facilities, Inc. Student Union Project)
Series 2020

TABLE OF CONTENTS

	Page
ARTICLE 1 LEASE OF PROPERTY - TERMS OF LEASE.....	2
Section 1.1 <u>Lease of Property</u>	2
Section 1.2 <u>Habendum</u>	2
Section 1.3 <u>Term</u>	2
ARTICLE 2 DEFINITIONS	2
Section 2.1 Definitions	2
ARTICLE 3 RENT	6
Section 3.1 <u>Rent</u>	6
Section 3.2 <u>Additional Obligations</u>	6
ARTICLE 4 USE OF PROPERTY	7
Section 4.1 <u>Purpose of Ground Lease</u>	7
Section 4.2 <u>Benefit of the Board and the University</u>	7
Section 4.3 <u>Data and Voice Communication Systems</u>	7
Section 4.4 <u>Compliance with Statutory Requirements</u>	7
Section 4.5 <u>Oversight by the Office of Facility Planning and Control</u>	7
ARTICLE 5 CONSTRUCTION, RENOVATION, IMPROVEMENT AND EQUIPPING OF THE FACILITIES	8
Section 5.1 <u>The Corporation's Obligations</u>	8
ARTICLE 6 ENCUMBRANCES	10
Section 6.1 <u>Mortgage of Ground Leasehold or the Facilities</u>	10
ARTICLE 7 MAINTENANCE AND REPAIR	10
Section 7.1 <u>Maintenance and Repairs</u>	10
ARTICLE 8 CERTAIN LIENS PROHIBITED	11
Section 8.1 <u>No Mechanics' Liens</u>	11
Section 8.2 <u>Release of Recorded Liens</u>	11
Section 8.3 <u>Memorandum of Recitals</u>	11
ARTICLE 9 OPERATION AND MANAGEMENT OF FACILITIES	11
Section 9.1 <u>Management of Facilities</u>	11
Section 9.2 <u>Reserved</u>	11
Section 9.3 <u>Audits</u>	11
ARTICLE 10 INDEMNIFICATION	12
Section 10.1 <u>Indemnification by the Corporation</u>	12
Section 10.2 <u>Contributory Acts</u>	12
Section 10.3 <u>Indemnification by the Board</u>	12
ARTICLE 11 TERMINATION, DEFAULT AND REMEDIES	12
Section 11.1 <u>Events of Default</u>	12
Section 11.2 <u>The Board's Rights Upon Default</u>	13

Section 11.3 <u>Termination of Right of Occupancy</u>	13
Section 11.4 <u>Rights of The Board Cumulative</u>	13
ARTICLE 12 TITLE TO THE FACILITIES	14
Section 12.1 <u>Title to Facilities</u>	14
Section 12.2 <u>Insurance Proceeds</u>	14
Section 12.3 <u>The Board's Option to Require Demolition</u>	14
Section 12.4 <u>Termination of Facilities Lease</u>	14
ARTICLE 13 CONDEMNATION	14
Section 13.1 <u>Condemnation</u>	14
Section 13.2 <u>Partial Condemnation if Facilities Lease is No Longer in Effect</u>	14
Section 13.3 <u>Partial or Total Condemnation if Facilities Lease is in Effect</u>	15
Section 13.4 <u>Payment of Awards - If Facilities Lease is in Effect</u>	15
Section 13.5 <u>Payment of Awards - If Facilities Lease is not in Effect</u>	15
Section 13.6 <u>Bond Documents Control</u>	15
ARTICLE 14 ASSIGNMENT, SUBLETTING, AND TRANSFERS OF THE CORPORATION'S INTEREST.....	15
Section 14.1 <u>Assignment of Leasehold Interest</u>	15
Section 14.2 <u>Subletting</u>	15
Section 14.3 <u>Transfers of the Corporation's Interest</u>	16
Section 14.4 <u>Assignment to Trustee</u>	16
ARTICLE 15 COMPLIANCE CERTIFICATES	16
Section 15.1 <u>The Corporation's Compliance</u>	16
Section 15.2 <u>The Board's Compliance</u>	16
ARTICLE 16 TAXES AND LICENSES	16
Section 16.1 <u>Payment of Taxes</u>	16
Section 16.2 <u>Contested Tax Payments</u>	17
ARTICLE 17 FORCE MAJEURE	17
Section 17.1 <u>Discontinuance During Force Majeure</u>	17
ARTICLE 18 MISCELLANEOUS	17
Section 18.1 <u>Nondiscrimination, Employment and Wages</u>	17
Section 18.2 <u>Notices</u>	17
Section 18.3 <u>Relationship of Parties</u>	18
Section 18.4 <u>Memorandum of Ground Lease</u>	18
Section 18.5 <u>Legal Proceedings</u>	19
Section 18.6 <u>Louisiana Law to Apply</u>	19
Section 18.7 <u>Warranty of Peaceful Possession</u>	19
Section 18.8 <u>Curative Matters</u>	19
Section 18.9 <u>Non-waiver</u>	19
Section 18.10 <u>Terminology</u>	19
Section 18.11 <u>Counterparts</u>	20
Section 18.12 <u>Severability</u>	20
Section 18.13 <u>Authorization</u>	20
Section 18.14 <u>Ancillary Agreements</u>	20
Section 18.15 <u>Amendment</u>	20

Section 18.16	<u>Successors and Assigns</u>	20
Section 18.17	<u>Entire Agreement</u>	20
Section 18.18	<u>Release of Excess Property</u>	20
Section 18.19	<u>No Merger</u>	20
Section 18.20	<u>Ground Lease to Constitute a Contract</u>	21

EXHIBITS

EXHIBIT A	PROPERTY DESCRIPTION
EXHIBIT B	FORM OF MEMORANDUM OF LEASE

GROUND AND BUILDINGS LEASE AGREEMENT

This GROUND AND BUILDINGS LEASE AGREEMENT (together with any amendment hereto or supplement hereof, the “*Ground Lease*”) dated as of November 1, 2020, is entered into by and between the BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM, a public constitutional corporation organized and existing under the laws of the State of Louisiana, acting herein on behalf of McNeese State University (the “*University*”), represented herein by its duly authorized Board Representative, Dr. Daryl V. Burckel (the “*Board*”), and COWBOY FACILITIES, INC., a Louisiana a nonprofit corporation represented herein by its Chairman, Larry R. Derouen (the “*Corporation*”).

WITNESSETH:

WHEREAS, the Board is a public constitutional corporation organized and existing under the laws of the State of Louisiana and the University is a university under its management pursuant to Louisiana Revised Statutes 17:3217;

WHEREAS, the Corporation is a private, nonprofit corporation organized and existing under the Louisiana Nonprofit Corporation Law (La. R.S. 12:201 et seq.), whose purpose is to support and benefit the educational, scientific, research and public service missions of the University;

WHEREAS, pursuant to La. R.S. 17:3361 through 17:3366, the Board is authorized to lease to a non-profit corporation, such as the Corporation, any portion of the campus of the University or other immovable property under its supervision and management;

WHEREAS, in order to further the functions of the Board, the Corporation shall cause the development, design, construction, renovation and equipping of a new student union and related facilities (the “*Facilities*”) for the University and all furnishings, fixtures, and equipment incidental or necessary in connection therewith, and to cause provision of maintenance and repairs with respect to all such facilities and all facilities leased thereto, including the immovable property described on Exhibit A attached hereto and owned by, or under the supervision and management of the Board in the City of Lake Charles, Calcasieu Parish, Louisiana;

WHEREAS, the Board shall lease such immovable property to the Corporation;

WHEREAS, the Board and the Corporation have agreed that the Corporation, for the benefit of the Board, shall develop and construct the Facilities generally in accordance with Plans and Specifications, (as defined herein) on such immovable property and the Corporation shall lease the Facilities to the Board pursuant to an Agreement to Lease With Option to Purchase of even date herewith (the “*Facilities Lease*”) for use by students, faculty and staff of the University and such other persons as set forth in the Facilities Lease;

WHEREAS, pursuant to a Trust Indenture dated as of ____ 1, 20__ (the “*Indenture*”), between Louisiana Local Government Environmental Facilities and Community Development Authority (the “*Issuer*” or the “*Authority*”) and the Trustee, the Authority has authorized the issuance of its Revenue Bonds (McNeese State University - Cowboy Facilities, Inc. Student Union Project) Series 20__ (the “*Bonds*”) to fund a loan to the Corporation pursuant to a Loan and Assignment Agreement dated as of ____ 1, 20__ between the Authority and the Corporation (the “*Agreement*”);

WHEREAS, pursuant to that certain McNeese State University Foundation Subordinate Revenue Promissory Note (McNeese State University – Cowboy Facilities, Inc. Student Union Project) Series

2020 (the “*Note*”) by and between the Corporation and McNeese State University Foundation, a Louisiana non-profit corporation (the “*Foundation*”), the Foundation has agreed to loan not to exceed \$8,000,000 to the Corporation in order to finance a portion of the development, design, construction, renovation, and equipping of the Facilities; and

WHEREAS, in order to secure repayment of the Bonds the Corporation will assign to the Trustee the Corporation’s interest in the Facilities obtained under this Ground Lease pursuant to an Assignment of Agreements and Documents by the Corporation in favor of the Trustee dated as of ____ 1, 20__ (the “*Assignment*”).

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and agreements which follow, the parties hereby agree as follows:

ARTICLE 1 LEASE OF PROPERTY - TERMS OF LEASE

Section 1.1 Lease of Property. The Board does hereby lease, let, demise, and rent unto the Corporation, and the Corporation does hereby rent and lease from the Board, the Property and the right of uninterrupted access to and from all streets and roads now or hereafter adjoining the Property for vehicular and pedestrian ingress and egress. The Corporation, by execution of this Ground Lease, accepts the leasehold estate herein demised. Notwithstanding Article 8 of the Agreement, the Board shall have the right to release from this Ground Lease any portion of the Property in the event that no portion of the Facilities is thereafter constructed thereon.

Section 1.2 Habendum. To have and to hold the Property together with all and singular the rights, privileges, and appurtenances thereto attaching or anywise belonging, exclusively unto the Corporation, its successors and assigns, for the term set forth in Section 1.3 below, subject to the covenants, agreements, terms, provisions, and limitations herein set forth.

Section 1.3 Term. Unless sooner terminated as herein provided, this Ground Lease shall continue and remain in full force and effect for a term commencing on the Commencement Date hereof and ending on the earlier of (i) November 1, 2055 or (ii) the date that all amounts owed under the Indenture (as hereinafter defined) have been paid (the “*Expiration Date*”). Notwithstanding the foregoing, this Ground Lease shall terminate prior to the Expiration Date upon the happening of either the events set forth in Section 2(a) and (b) of the Facilities Lease.

ARTICLE 2 DEFINITIONS

Section 2.1 Definitions. All capitalized terms not otherwise defined herein shall have meanings assigned thereto in preamble hereto or in the Indenture. In addition to words and terms elsewhere defined in this Ground Lease, the following words and terms as used in this Ground Lease shall have the following meanings, unless some other meaning is plainly intended:

“*Advisory Committee*” shall mean those persons appointed by the Corporation to advise the Corporation regarding design and construction issues of the Facilities and other issues as well as selection of the Design Team and the Construction Team.

“*Agreement*” shall mean the Loan and Assignment Agreement dated as of _____ 1, 20__, between the Corporation and the Authority, including any amendments and supplements thereof and thereto as permitted thereunder.

“Applicable Laws” shall mean all present and future statutes, regulations, ordinances, resolutions and orders of any Governmental Authority that are applicable to the parties performing their obligations under this Ground Lease.

“Assignment” means the Assignment of Agreements and Documents by the Corporation in favor of the Trustee.

“Authority” shall mean the Louisiana Local Government Environmental Facilities and Community Development Authority.

“Award” shall mean any payment or other compensation received or receivable as a consequence of a Taking from or on behalf of any Governmental Authority or any other Person vested with the power of eminent domain.

“Board” shall mean Board of Supervisors for the University of Louisiana System, or its legal successor as the management board of the University, acting on behalf of the University and on its own behalf.

“Board Representative” shall mean any one of the persons designated and authorized in writing from time to time by the Board to represent the Board in exercising the Board’s rights and performing the Board’s obligations under this Ground Lease; the Board Representative shall be the President of the Board of Supervisors for the University of Louisiana System, or his or her designee, the Vice President of Business and Finance, or his or her designee, the President of the University, the Vice President for Finance and Administration of the University, or any other representative designated by resolution of the Board, of whom the Corporation has been notified in writing.

“Board’s Interest” shall mean the Board’s ownership interest in and to the Property and the Facilities.

“Bond Documents” shall mean, collectively, the Indenture, the Assignment, and the Agreement.

“Bond” or *“Bonds”* shall mean the Authority’s Revenue Bonds (McNeese State University - Cowboy Facilities, Inc. Student Union Project) Series 20__ issued pursuant to the terms of the Indenture, any Additional Bonds and any Refunding Bonds.

“Bond Insurer,” if any, shall mean ____, or any successor thereto or assignee thereof.

“Business Day” shall mean any day other than (i) a Saturday, (ii) a Sunday, (iii) any other day on which banking institutions in New York, New York or Ruston, Louisiana are authorized or required not to be open for the transaction of regular banking business, or (iv) a day on which the New York Stock Exchange is closed.

“Commencement of Construction” shall mean the date on which the design, construction, and equipping of the Facilities is begun.

“Commencement Date” shall mean the date on which the Bonds are delivered and payment therefor is received by the Authority.

“Construction Team” shall mean all construction professionals performing services under the Contract.

“*Contract*” shall mean that contract or those certain contracts between the Corporation and the Design Team and the Corporation and the Construction Team for the design and construction of the Facilities.

“*Corporation*” shall mean Cowboy Facilities, Inc., a nonprofit corporation organized and existing under the laws of the State for the benefit of the University, and also includes every successor corporation and transferee of the Corporation until payment or provision for payment of all of the Bonds.

“*Design Team*” shall mean all design professionals performing services under the Contract.

“*Environmental Requirements*” shall mean all State, federal, local, municipal, parish, and regional environmental laws, statutes, rules, regulations, ordinances, codes, permits, approvals, plans, authorizations, concessions, investigation results and guidance documents; all legislative, judicial, and administrative environmental judgments, decrees, orders, rules, rulings, and regulations; and all agreements and other restrictions and requirements relating to environmental matters, whether in effect on, prior to or after the Commencement Date, of any Governmental Authority, including, without limitation, federal, state, and local authorities, relating to the regulation or protection of human health and safety, natural resources, conservation, the environment, or the storage, treatment, disposal, processing, release, discharge, emission, use, remediation, transportation, handling, or other management of industrial, gaseous, liquid or solid waste, hazardous waste, hazardous or toxic substances or chemicals, pollutants, petroleum, petroleum wastes, petroleum-based materials, asbestos, radioactive materials, polychlorinated biphenyls, pesticides, biohazards or other materials that are potentially harmful to humans or the environment or the release of which could trigger any reporting or remediation obligations and including without limitation the following environmental laws: The Clean Air Act (42 U.S.C.A. §7401); the Federal Water Pollution Control Act (33 U.S.C. §1251); the Resource Conservation and Recovery Act of 1976, (42 U.S.C. §6901); CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub.L. 99-499, 100 Stat. 1613); the Toxic Substances Control Act (15 U.S.C. §2601); the Clean Water Act (33 U.S.C. §1251); the Safe Drinking Water Act (42 U.S.C. §3007); the Occupational Safety and Health Act (29 U.S.C. §651); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136); the Louisiana Environmental Quality Act (La. R.S. 30:2001); and the Louisiana Air Quality Regulations (La. C. 33:III.2595) including any amendments or extensions thereof and any rules, regulations, standards or guidelines issued pursuant to or promulgated under any of the foregoing.

“*Event of Default*” shall mean any matter identified as an event of default under Section 11.1 hereof.

“*Expiration Date*” shall mean the earlier of November 1, 2055, or the date that all amounts owed under the Indenture have been paid.

“*Facilities*” shall mean the facilities described in Exhibit A to the Agreement and the Facilities Lease, as amended and supplemented in accordance therewith, that are to be designed, constructed and equipped with the proceeds of the Bonds, including all furnishings, fixtures and equipment incidental or necessary in connection therewith on the campus of the University.

“*Facilities Lease*” shall mean that certain Agreement to Lease with Option to Purchase dated as of November 1, 2020 by and between the Board, as Lessee, and the Corporation, as Lessor, whereby the Corporation will lease the Facilities to the Board, on behalf of the University, and any amendment or supplement thereto entered into from time to time in accordance with the terms thereof.

“*Force Majeure*” shall mean any: (a) act of God, landslide, lightning, earthquake, hurricane, tornado, blizzard and other adverse and inclement weather, fire, explosion, flood, act of a public enemy,

act of terrorism, war, blockade, insurrection, riot, or civil disturbance; (b) labor dispute, strike, work slowdown, or work stoppage; (c) order or judgment of any Governmental Authority, if not the result of willful or negligent action of the Corporation; (d) adoption of or change in any Applicable Laws after the date of execution of this Ground Lease; (e) any actions by the Board which may cause delay; or (f) any other similar cause or similar event beyond the reasonable control of the Corporation.

“Foundation” shall mean the McNeese State University Foundation, a nonprofit corporation organized and existing under the laws of the State and an organization exempt from the payment of federal income tax under Section 501(a) of the Code, as an organization described in Section 501(c)(3) of the Code, for the benefit of the University.

“Governmental Authority” shall mean any federal, State, parish, regional, or local government, political subdivision, any governmental agency, department, authority, instrumentality, bureau, commission, board, official, or officer, any court, judge, examiner, or hearing officer, any legislative, judicial, executive, administrative, or regulatory body or committee or official thereof or private accrediting body.

“Governmental Regulation” shall mean all present and future statutes, regulations, ordinances, resolutions and orders of any Governmental Authority that are applicable to the parties performing their obligations under this Ground Lease.

“Ground Lease” shall mean this Ground and Buildings Lease Agreement, including the exhibits attached hereto, and any amendment or supplement hereto entered into from time to time in accordance with the terms hereof.

“Hazardous Substance” shall mean any substance or material that is described as a toxic or hazardous substance, waste or material or a pollutant or contaminant or infectious waste, or words of similar import, in any case of the Environmental Requirements, and includes, without limitation, asbestos, petroleum, or petroleum products (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), polychlorinated biphenyls, pesticides, urea formaldehyde, radon gas, radioactive matter, and medical waste and any other substance or waste that is potentially harmful to human health, natural resources, or the environment or the presence of which in the environment could trigger a remediation obligation or other liability under Environmental Requirements or any constituent of the foregoing.

“Indenture” shall have the meaning set forth in the recitals of this Ground Lease, including any amendments and supplements thereof and thereto as permitted thereunder.

“Issuer” means the Louisiana Local Government Environmental Facilities and Community Development Authority, a political subdivision of the State of Louisiana created by the provisions of the Act (as defined in the Indenture), or any agency, board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Issuer by said provisions shall be given by law.

“Note” shall mean that certain \$8,000,000 McNeese State University Foundation Subordinate Revenue Promissory Note (McNeese State University – Cowboy Facilities, Inc. Student Union Project) Series 2020 by and between the Corporation and the Foundation.

“Person” shall mean an individual, a trust, an estate, a Governmental Authority, partnership, joint venture, corporation, company, firm or any other entity whatsoever.

“*Plans and Specifications*” shall mean the plans and specifications for the construction of the Facilities approved by the Advisory Committee and the Corporation, as amended from time to time as permitted in Section 5.1 hereof.

“*Project*” shall mean the lease of the Property to the Corporation by the Board, the design, construction and renovation of the Facilities thereon, the sublease back to the Board of the Facilities and payment of all fees and expenses relative to the financing, planning and design thereof.

“*Property*” shall mean the immovable property more particularly described on Exhibit A attached to this Ground Lease, and all improvements now or thereafter located thereon, including the Facilities as they are constructed and located thereon, together with all other rights and interests leased pursuant to Section 1.1 hereof.

“*Refunding Bonds*” shall mean parity bonds, if any, issued in one or more series pursuant to Section 5.2 of the Indenture.

“*Remediation*” shall mean any and all costs and expenses incurred directly or indirectly due to any investigation of the Facilities or Property or any remediation, response, cleanup, removal, or restoration required by any Governmental Regulation or Governmental Authority or by Environmental Requirements.

“*Rent*” has the meaning given to such term in Section 3.1 of this Ground Lease.

“*RFQ*” shall mean the Request for Qualifications relating to the selection of the Construction Team that will construct the Facilities.

“*Taking*” shall mean the actual or constructive condemnation, or the actual or constructive acquisition by condemnation, eminent domain, or similar proceeding by or at the direction of any Governmental Authority or other Person with the power of eminent domain.

“*Term*” shall mean the term of this Ground Lease as set forth in Section 1.3 hereof.

“*Trustee*” shall mean the state banking corporation or national banking association with corporate trust powers qualified to act as Trustee under the Indenture which may be designated (originally or as a successor) as Trustee for the Bonds issued and secured under the terms of the Indenture, initially _____, _____, Louisiana.

“*University*” shall mean McNeese State University.

ARTICLE 3 RENT

Section 3.1 Rent. Commencing on the Commencement Date and continuing throughout the Term the Corporation shall pay to the Board, at the address set forth in Section 18.2 or such other place as the Board may designate from time to time in writing, as annual rent for the Property (“*Rent*”), the sum of \$1.00 per year. Rent shall be due and payable annually in advance, with the first such payment of Rent being due on the Commencement Date and a like installment due on each anniversary thereafter during the Term.

Section 3.2 Additional Obligations. As further consideration for the entering into of this Ground Lease by the Board, the Corporation agrees to perform its construction obligations as set forth in

Article 5 herein, and to execute and perform its obligations under the Facilities Lease and all other documents contemplated by and ancillary to this Ground Lease and the Facilities Lease.

ARTICLE 4 USE OF PROPERTY

Section 4.1 Purpose of Ground Lease. The Corporation enters into this Ground Lease for the purpose of developing and constructing the Facilities for the Board generally in accordance with the Plans and Specifications and, for so long as the Facilities Lease remains in full force and effect, leasing the Facilities to the Board in accordance with the Facilities Lease. Except as otherwise provided herein, the Facilities are to be used for no other purpose.

Section 4.2 Benefit of the Board and the University. The Board shall own the Facilities, subject to the Corporation's rights under this Ground Lease and, for so long as the Facilities Lease remains in full force and effect, the Board shall lease back the Facilities from the Corporation for the support, maintenance, and benefit of the Board and the University. The Facilities shall be owned and leased for a public purpose related to the performance of the duties and functions of the Board and the University.

Section 4.3 Data and Voice Communication Systems. The Board, at its expense, agrees to provide or cause to be provided to the Facilities appropriate cabling to tie its computer system into the Facilities. The Board, at its expense, shall provide to the Facilities or cause to be provided to the Facilities access to its computer system. The internal installation of such computer wiring within the Facilities in accordance with the Plans and Specifications shall be at the expense of the Corporation. The Corporation agrees that its computer system wiring shall be compatible with the system and wiring currently in use by the University.

Section 4.4 Compliance with Statutory Requirements. Section 3361, *et seq.*, of Title 17 of the Louisiana Revised Statutes prescribes the legal requirements for leases of any portion of the campus by a college or university. By execution of this Ground Lease, the Board represents that it has complied with applicable statutory requirements of such Title 17 including, without limitation:

(a) the waiver by written consent of the formulation and adoption of rules, regulations and requirements, if any, relative to the erection, construction, and maintenance of the Facilities referenced in Section 3362(A) of Title 17 of the Louisiana Revised Statutes, other than those set forth in this Ground Lease or specifically referenced in this Ground Lease;

(b) the waiver by written consent of the Board's right to require removal of the Facilities referenced in Section 3362(B) of Title 17 of the Louisiana Revised Statutes, except as set forth in this Ground Lease; and

(c) the waiver by written consent of the Board's right to adopt such rules or regulations as it deems necessary or desirable relative to the conduct and social activities of people in structures erected on the leased grounds referenced in Section 3364 of Title 17 of the Louisiana Revised Statutes of 1950, as amended, except as may be specified in this Ground Lease.

Section 4.5 Oversight by the Office of Facility Planning and Control. Pursuant to La. R.S. 17:3361(A)(2), this Ground Lease is subject to design and construction oversight by the Office of Facility Planning and Control within the State's Division of Administration ("OFPC"). As used in this Section 4.5, the phrase "design and construction oversight" means (a) the right to review and approve plans and specifications prior to the commencement of construction and to require such changes as may be

necessary to comply with the applicable building codes, space standards, where appropriate, and standards ensuring quality of construction, and (b) the right to conduct periodic inspections during construction to ensure that work is being performed in compliance with the approved plans and specifications.

ARTICLE 5 CONSTRUCTION, RENOVATION, IMPROVEMENT AND EQUIPPING OF THE FACILITIES

Section 5.1 The Corporation's Obligations. The Corporation will develop, design, construct, and equip as well as repair and maintain the Facilities on the Property at its own cost and expense. The Corporation shall lease the Facilities to the Board pursuant to the Facilities Lease. The Board shall not have any financial obligation or other obligation of any kind under this Ground Lease except to review and approve the Corporation's activities and as specifically set forth herein.

(a) The Corporation shall furnish or cause to be furnished all supervision, tools, implements, machinery, labor, materials, and accessories such as are necessary and proper for the construction of the Facilities, shall pay all applicable permit and license fees, and shall construct, build, and complete the Facilities in a good, substantial, and workmanlike manner all in accordance with this Ground Lease and generally in compliance with the Plans and Specifications and all documents executed pursuant hereto and thereto. The Corporation and the Board agree to cooperate fully to the end that fee and permit exemptions available with respect to the Facilities under applicable law are obtained by the party or parties entitled thereto.

(b) Subject to the provisions of this Section 5.1, all decisions regarding design and construction matters shall be made by the Corporation. The Corporation shall select the Design Team and the Construction Team, the members of which shall comply with licensing requirements of Louisiana law. All construction, alterations, or additions to the Facilities undertaken by the Corporation shall be in conformance with all Governmental Regulation and amendments thereto, including the International Building Code, ANSIA 1117.1 1986 Edition, and NFPA 101 Life Safety Code and all local and state building codes. The Corporation shall have the right to contest any such codes for reasonable grounds by ordinary and proper procedures.

(c) Changes in work and materials are subject to review and approval of the Advisory Committee; however minor changes in work or materials, not affecting the general character of the Facilities or increasing the cost of development and construction may be made in the Plans and Specifications at any time without the approval of the Advisory Committee, but a copy of the altered Plans and Specifications shall promptly be furnished to the Advisory Committee. The Corporation shall notify the Advisory Committee of any changes in work or materials that require the Advisory Committee's approval and the Advisory Committee shall either approve or disapprove any such changes within ten (10) Business Days after receipt of such notice from the Corporation. Notification shall include sufficient information for the Advisory Committee to make a determination and to approve or disapprove any changes in work or materials.

(d) The parties hereto acknowledge that the Advisory Committee and any other party whose consent is necessary to the Board's authority will review and approve the form of the Contract for the Facilities. After completion of the Facilities, at least sixty (60) days prior to undertaking any construction, structural alteration, or remodeling of the Facilities during the Term, the Corporation shall submit plans for such remodeling to the Advisory Committee for approval, which approval must be obtained prior to the Corporation making or causing to be made any such structural alteration, or remodeling of the

Facilities. The Advisory Committee shall either approve or disapprove any such alteration within thirty (30) days after receipt of such plans from the Corporation.

(e) Subject to Force Majeure, the Corporation covenants that the Corporation shall proceed with diligence to complete the construction of the Facilities as soon as practically possible.

(f) Prior to the Commencement of Construction, the Corporation, the Design Team and the Construction Team selected by the Corporation in accordance with the RFQ, shall meet with the Advisory Committee to coordinate the construction activity. Upon Commencement of Construction, the Corporation shall deliver to the Advisory Committee, (1) a copy of the signed Contract, and (2) a copy of the labor and materials payment and performance bonds in an amount equal to the cost of construction set forth in the Contract issued by a company qualified, permitted or admitted to do business of the State of Louisiana and approved by the Board. The Corporation shall take the action specified by La. R.S. 9:4802(C) to be taken by an Owner to protect the premises from any liens related to the design or construction of the Facilities.

(g) Prior to Commencement of Construction any architect whose services have been retained with respect to the Contract shall provide a standard errors and omissions policy, with such additional provisions as may be approved by counsel to the Corporation.

(h) Any performance bond, labor and material payment bond, or completion bond provided by any member of the Design Team or the Construction Team hired by the Corporation shall be for 100% of the amount of the contract with such contractor, and shall contain a dual obligee rider in favor of the Board; subject, however, to the reasonable underwriting guidelines of the surety issuing the bond and rules of the Governmental Authorities regulating the surety.

(i) The Corporation shall, upon written request of the Board, make, in such detail as may reasonably be required, and forward to the Advisory Committee, reports in writing as to the actual progress of the construction of the Facilities. During such period, the construction work shall be subject to inspection by the Advisory Committee in order to verify reports of construction, determine compliance with safety, fire, and building codes, determine compliance with approved construction plans, or such other inspections as may be necessary in the reasonable opinion of the Advisory Committee.

(j) The Corporation shall inspect the Property and arrange for boundary surveys, topographical surveys, soil borings, and other site investigations at its expense to the extent these things have not been done by the Board. The Board does not guarantee that the Property is suitable for the Facilities. The Corporation accepts the Property in its present condition. However, the Board represents that there are no Hazardous Substances or other materials on or under the Property that would materially impact the construction of the Facilities. If the Board fails to comply with any of the foregoing warranties, representations, and covenants, and removal or Remediation of any Hazardous Substances found on the Property or the Facilities is required by Environmental Requirements or Governmental Authority, the Board shall promptly undertake the removal or Remediation of such Hazardous Substances, at the Board's sole cost and expense and in strict compliance with the Environmental Requirements and directions of Governmental Authority. In the event the Board fails or refuses to undertake such removal or Remedial actions, the Corporation may cause the removal or Remediation (or other cleanup reasonable acceptable to the Corporation) of any such Hazardous Substances from the Property or the Facilities. The reasonable costs of removal, Remediation, or any other cleanup (including transportation and storage costs) will be considered as Additional Rental under the Facilities Lease, whether or not a court has ordered the cleanup, and those costs will become due and payable within ninety (90) days of written demand by the Corporation. In connection therewith, the Board will give the Corporation, its agents, and employees access to the Property and the Facilities to remove, remediate, or otherwise clean up any

Hazardous Substances. The Corporation, however, has no affirmative obligation to remove, remediate, or otherwise clean up any Hazardous Substances, and the Facilities Lease will not be construed as creating any such obligation. The Board hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage, presence, release, disposal, removal or Remediation of any Hazardous Substances located in or about the Facilities whether occurring before or during the Term or otherwise arising from the acts or omissions of the Board.

(k) Except as provided in Section 4.3 hereof, the cost of construction and renovation of the Facilities shall include all costs necessary for the Design Team, the Construction Team or applicable utility company to bring lines for all such utilities to the Facilities so that such utilities will be available when required for construction and operation of the Facilities.

ARTICLE 6 ENCUMBRANCES

Section 6.1 Mortgage of Ground Leasehold or the Facilities. Except for the Assignment required by the Agreement, the Corporation shall not mortgage, lien, or grant a security interest in the Corporation's interest in the Property or any other right of the Corporation hereunder without the prior written consent of the Board and the Bond Insurer except as may be necessary, in the sole discretion of the Corporation, to sell the Bonds or otherwise in accordance with the provisions of this Article 6.

ARTICLE 7 MAINTENANCE AND REPAIR

Section 7.1 Maintenance and Repairs.

(a) For so long as the Facilities Lease has not been terminated, the Board shall maintain and repair the Facilities in accordance with Section 7 of the Facilities Lease.

(b) In the event that the Facilities Lease has been terminated, the Corporation will: (1) maintain or cause to be maintained the Facilities, and will keep the Facilities in good repair and in good operating condition and make from time to time all necessary repairs thereto and renewals and replacements thereof; and (2) make from time to time any additions, modifications, or improvements to the Facilities the Corporation may deem desirable for its business purposes that do not materially impair the effective use of the Facilities, provided that all such additions, modifications, and improvements will become a part of the Facilities.

(c) For so long as the Facilities Lease has not been terminated, neither the Board nor the University will be under any obligation to renew, repair or replace any item of inadequate, obsolete, worn out, unsuitable, undesirable, unprofitable, or unnecessary equipment or other property not required for the sound operation and maintenance of the physical condition of the Facilities. In any instance where the Board, in its sound discretion, determines that any items of Facilities have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary, the Board, for so long as the Facilities Lease has not been terminated, may remove such items of Facilities and sell, trade in, exchange, donate, throw away, or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the Trustee or the Bondholders, provided that the collection of Pledged Revenues does not fall below the level required to be maintained pursuant to the provisions of the Facilities Lease.

ARTICLE 8 CERTAIN LIENS PROHIBITED

Section 8.1 No Mechanics' Liens. Except as permitted in Section 8.2 hereof, the Corporation shall not suffer or permit any mechanics' liens or other liens to be enforced against the Board's ownership interest in the Property nor against the Corporation's leasehold interest in the Property by reason of a failure to pay for any work, labor, services, or materials supplied or claimed to have been supplied to the Corporation or to anyone holding the Property or Facilities or any part thereof through or under the Corporation.

Section 8.2 Release of Recorded Liens. If any such mechanics' liens or materialmen's liens shall be recorded against the Property or Facilities because of the activities of the Corporation described in Section 8.1, the Corporation shall cause the same to be released of record or, in the alternative, if the Corporation in good faith desires to contest the same, the Corporation shall be privileged to do so, but in such case the Corporation hereby agrees to indemnify and save the Board harmless from all liability for damages occasioned thereby and shall in the event of a judgment of foreclosure on said mechanics' lien, cause the same to be discharged and released prior to the execution of such judgment. In the event the Board reasonably should consider the Board's Interest endangered by any such liens and should so notify the Corporation and the Corporation should fail to provide adequate security for the payment of such liens, in the form of a surety bond, cash deposit or cash equivalent, or indemnity agreement reasonably satisfactory to the Board within thirty (30) days after such notice, then the Board, at the Board's sole discretion, may discharge such liens and recover from the Corporation immediately as additional Rent under this Ground Lease the amounts paid, with interest thereon from the date paid by the Board until repaid by the Corporation at the rate of ten percent (10%) per annum.

Section 8.3 Memorandum of Recitals. The memorandum of lease to be filed pursuant to Section 18.4 of this Ground Lease shall state that any third party entering into a contract with the Corporation for improvements to be located on the Property, or any other party claiming under said third party, shall be on notice that neither the Board nor the Board's property shall have any liability for satisfaction of any claims of any nature in any way arising out of a contract with the Corporation.

ARTICLE 9 OPERATION AND MANAGEMENT OF FACILITIES

Section 9.1 Management of Facilities. The Board shall operate and manage the Facilities or cause the Facilities to be operated and managed in accordance with Section 7 of the Facilities Lease. In the event the Facilities Lease is terminated, neither the Board nor the University shall operate or manage the Facilities.

Section 9.2 Reserved.

Section 9.3 Audits. The Board may, at its option and at its own expense, and during customary business hours, conduct internal audits of the books, bank accounts, records and accounts of the Corporation. Audits may be made on either a continuous or a periodic basis or both, and may be conducted by employees of the Board, by the Louisiana Legislative Auditor or by independent auditors retained by the Board desiring to conduct such audit, but any and all such audits shall be conducted without materially or unreasonably or unnecessarily interrupting or interfering with the normal conduct of business affairs by the Corporation.

ARTICLE 10 INDEMNIFICATION

Section 10.1 Indemnification by the Corporation. Excluding the acts or omissions of the Board, its employees, agents, or contractors, the Corporation shall and will indemnify and save harmless the Board, its agents, officers, and employees, from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions, and causes of action of any and every kind and nature arising or growing out of or in any way connected with the Corporation's construction of the Facilities. This obligation to indemnify shall include reasonable fees of legal counsel and third-party investigation costs and all other reasonable costs, expenses, and liabilities from the first notice that any claim or demand has been made; however, the Corporation and the Board shall use the same counsel if such counsel is approved by the Board, which approval shall not be unreasonably withheld or delayed. If the Board does not approve such counsel then the Board may retain independent counsel at the Board's sole cost and expense. It is expressly understood and agreed that the Corporation is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that the Board shall in no way be responsible therefor.

Section 10.2 Contributory Acts. Whenever in this Ground Lease any party is obligated to pay an amount or perform an act because of its negligence or misconduct (or that of its agents, employees, contractors, guests, or invitees), such obligations shall be mitigated to the extent of any comparative fault or misconduct of the other party (or that of its agents, employees, contractors, guests, or invitees) as determined by a court of law, and in any disputes damages shall be apportioned based on the relative amounts of such negligence or willful misconduct as determined by a court of law.

Section 10.3 Indemnification by the Board. The Board shall indemnify the Trustee and the Authority and shall hold the Trustee, the Bond Insurer, and the Authority harmless from and shall reimburse the Trustee, the Bond Insurer, and the Authority for any and all claims, demands, judgments, penalties, liabilities, whether based on strict liability or otherwise, fines, costs, damages, and expenses, including court costs and attorneys' fees directly or indirectly incurred by the Trustee, the Bond Insurer, or the Authority and the payee and holder of any Bond (prior to trial, at trial and on appeal) in any action against or involving the Trustee, the Bond Insurer, or the Authority, resulting from any breach of the representations, warranties, or covenants of the Board, or from the discovery of any Hazardous Substances in, upon, under, or over, or emanating from, the Property or the Facilities, whether or not the Board is responsible therefor and regardless of when such Hazardous Substances come to be present at or were Released from the Property or the Facilities, it being the intent of the Board that the Trustee and the Authority, shall have no liability or responsibility for damage or injury to human health, the environment or natural resources caused by, for abatement and/or clean-up of, or with respect to Hazardous Substances by virtue of their interests, if any, in the Property and the Facilities created by the Indenture, and the Agreement or otherwise, or hereafter created, or as the result of the Trustee or the Authority exercising any instrument, including but not limited to becoming the owner thereof by foreclosure or conveyance in lieu of foreclosure.

ARTICLE 11 TERMINATION, DEFAULT AND REMEDIES

Section 11.1 Events of Default. Any one of the following events shall be deemed to be an "*Event of Default*" by the Corporation under this Ground Lease.

(a) The Corporation shall fail to pay any sum required to be paid to the Board under the terms and provisions of this Ground Lease and such failure shall not be cured within thirty (30) days after the Corporation's receipt of written notice from the Board of such failure.

(b) The taking by execution of the Corporation's leasehold estate for the benefit of any Person, except for any Person exercising remedies due to a default by the Board under the Facilities Lease or a default due to non-payment of the Bonds.

(c) The Corporation shall fail to perform any other covenant or agreement, other than the payment of money, to be performed by the Corporation under the terms and provisions of this Ground Lease and such failure shall not be cured within ninety (90) days after receipt of written notice from the Board of such failure; provided that if during such ninety (90) day period, the Corporation takes action to cure such failure but is unable, by reason of the nature of the work involved, to cure such failure within such period and continues such work thereafter diligently and without unnecessary delays, such failure shall not constitute an Event of Default hereunder until the expiration of a period of time after such ninety (90) day period as may be reasonably necessary to cure such failure.

(d) The Corporation, after Commencement of Construction but prior to substantially completing construction of the Facilities, abandons (with no intent to continue) construction for a period of forty-five (45) consecutive days.

Section 11.2 The Board's Rights Upon Default. Upon the occurrence and during the continuance of an Event of Default, the Board may at its option seek any and all damages occasioned by the Event of Default or may seek any other remedies available at law or in equity, including specific performance.

Section 11.3 Termination of Right of Occupancy. Notwithstanding any provision of law or of this Ground Lease to the contrary, except as set forth in Section 1.3 hereof, the Board shall not have the right to terminate this Ground Lease prior to the Expiration Date hereof. However, in the event there is an Event of Default by the Corporation hereunder, and subject to the provisions of Article 6 hereof, the Board shall have the right to terminate the Corporation's right to occupancy of the Property, except that the Facilities, at the option of the Board, shall remain thereon. The Board shall have the right to take possession of the Property and to re-let the Property or take possession in its own right for the remaining Term of the Ground Lease upon such terms and conditions as the Board is able to obtain. Upon such re-letting, the Corporation hereby agrees to convey all of its right, title, and interest in and to the Facilities and all of its rights under this Ground Lease and the Facilities Lease to the new lessee of the Property or to the Board, if the Board wishes to remain in possession on its own behalf in consideration for the new lessee (or the Board as applicable) agreeing to assume all of the Corporation's obligations under the Ground Lease, the Facilities Lease and under any debt incurred by the Corporation in connection with the construction of the Facilities.

Section 11.4 Rights of The Board Cumulative. All rights and remedies of the Board provided for and permitted in this Ground Lease shall be construed and held to be cumulative, and no single right or remedy shall be exclusive of any other which is consistent with the former. The Board shall have the right to pursue any or all of the rights or remedies set forth herein, as well as any other consistent remedy or relief which may be available at law or in equity, but which is not set forth herein. No waiver by the Board of a breach of any of the covenants, conditions or restrictions of this Ground Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or of any other covenant, condition or restriction herein contained. The failure of the Board to insist in any one or more cases upon the strict performance of any of the covenants of this Ground Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment of future breaches of such covenant or option.

ARTICLE 12 TITLE TO THE FACILITIES

Section 12.1 Title to Facilities. Title to the Facilities as they are constructed and upon completion thereof shall be vested in the Board during the Term of this Ground Lease. The Board's right to obtain title to the Facilities unencumbered by the leasehold interest of the Corporation granted hereunder shall be set forth in the Facilities Lease. All furniture, fixtures, equipment, and furnishings permanently affixed to the Facilities shall be the property of the Board upon termination of the Ground Lease whether such termination is by expiration of the Term or an earlier termination under any provision of this Ground Lease.

Section 12.2 Insurance Proceeds. Notwithstanding the fact that title to the Facilities is vested in the Board, if the Facilities Lease is no longer in force and effect, and all or any portion of the Facilities is damaged or destroyed by acts of God, fire, flood, natural disaster, the elements, casualties, thefts, riots, civil strife, lockout, war, nuclear explosion, or otherwise (collectively "*Casualty*"), the proceeds of any insurance received on account of any such Casualty shall be disbursed in accordance with the provisions of the Bond Documents, or if the Bond Documents are no longer in effect shall be disbursed to the Corporation as though the Corporation were the owner of the Facilities.

Section 12.3 The Board's Option to Require Demolition. Upon the Expiration Date of the Term or earlier termination hereof, in the event the Facilities are no longer suitable for the Board's purposes, the Board in its sole discretion may require the Corporation to demolish the Facilities and remove the Facilities from the Property, and restore the Property to substantially the same condition as it existed on the date of this Ground Lease, to be accomplished within one hundred eighty (180) days of such Expiration Date or earlier Termination hereof. However, such demolition and removal of the Facilities shall be at the Board's sole cost and expense. In the event of such election upon the expiration of the Term, the Board shall notify the Corporation no later than six (6) months prior to the expiration of the Term. If this Ground Lease is terminated earlier, the Board shall notify the Corporation within thirty (30) days after the termination.

Section 12.4 Termination of Facilities Lease. Upon the termination of the Facilities Lease as a result of the Board's exercise of its option to purchase the Facilities granted under the Facilities Lease, all right and interest of the Corporation in and to this Ground Lease, the Facilities Lease and the Facilities shall be transferred to the Board, and the Corporation hereby agrees to execute any documents necessary to effectuate such transfer, or the Board may require the demolition of the Facilities as set forth in Section 12.3 above.

ARTICLE 13 CONDEMNATION

Section 13.1 Condemnation. Upon the permanent Taking of all the Property and the Facilities, this Ground Lease shall terminate and expire as of the date of such Taking, and both the Corporation and the Board shall thereupon be released from any liability thereafter accruing hereunder except for Rent and all other amounts secured by this Ground Lease owed to the Board apportioned as of the date of the Taking or the last date of occupancy, whichever is later. The Corporation shall receive notice of any proceedings relating to a Taking and shall have the right to participate therein.

Section 13.2 Partial Condemnation if Facilities Lease is No Longer in Effect. Upon a temporary Taking or a Taking of less than all of the Property and the Facilities and if the Facilities Lease is no longer in effect, the Corporation, at its election, may terminate this Ground Lease by giving the Board notice of its election to terminate at least sixty (60) days prior to the date of such termination. Upon

any such termination, the Rent accrued and unpaid hereunder shall be apportioned to the date of termination. In the event there is a partial condemnation of the Property and the Corporation decides not to terminate this Ground Lease, the Board and the Corporation shall either amend this Ground Lease or enter into a new lease so as to cover an adjacent portion of property, if necessary to restore or replace any portion of the Property and/or Facilities.

Section 13.3 Partial or Total Condemnation if Facilities Lease is in Effect. If this Ground Lease is terminated under Section 13.1 or in the event of a Taking of less than all of the Property and the Facilities while the Facilities Lease is in force and effect, and the Board decides to restore or replace the Facilities in accordance with the Facilities Lease, the Board and the Corporation agree to enter into a new lease (in form and substance substantially the same as this Ground Lease) of a portion of property necessary to place thereon the Facilities and to enter into a new Facilities Lease (in form and substance substantially the same as the Facilities Lease) covering such replacement Facilities.

Section 13.4 Payment of Awards - If Facilities Lease is in Effect. Upon the Taking of all or any portion of the Property or the Facilities while the Facilities Lease remains in full force and effect (a) the proceeds of the Award allocable to the value of the Facilities shall be disbursed in accordance with the provisions of the Facilities Lease and the Bond Documents, and (b) the Board shall be entitled (free of any claim by the Corporation) to the Award for the value of the Board's Interest (such value to be determined as if this Ground Lease were in effect and continuing to encumber the Board's Interest); and (c) the Corporation shall be entitled to the Award for the value of the Corporation's interest in the Property under this Ground Lease that is the subject of the Taking.

Section 13.5 Payment of Awards - If Facilities Lease is not in Effect. Upon the Taking of all or any portion of the Property or the Facilities at any time after the Facilities Lease is no longer in force and effect, (a) the proceeds of the Award allocable to the value of the Facilities shall be disbursed in accordance with the provisions of the Bond Documents, or if the Bond Documents are no longer in effect shall be disbursed to the Corporation, (b) the Board shall be entitled (free of any claim of the Corporation) to the Award for the value of the Board's Interest in the Property (such value to be determined as if this Ground Lease were in effect and continuing to encumber the Board's Interest) and (c) the Corporation shall be entitled to the Award for the value of the Corporation's interest in the Property under this Ground Lease that is the subject of the Taking.

Section 13.6 Bond Documents Control. Notwithstanding anything in this Ground Lease to the contrary, in the event of a Casualty or a Taking of all of any portion of the Facilities, the provisions in the Bond Documents shall control the division, application and disbursement of any insurance proceeds or Award paid as a result thereof for so long as the Bond Documents remain in effect.

ARTICLE 14 ASSIGNMENT, SUBLETTING, AND TRANSFERS OF THE CORPORATION'S INTEREST

Section 14.1 Assignment of Leasehold Interest. Except as expressly provided for in Article 6 and in this Article 14, the Corporation shall not have the right to sell or assign the leasehold estate created by this Ground Lease or the other rights of the Corporation hereunder to any Person without the prior written consent of the Board and the Bond Insurer.

Section 14.2 Subletting. The Corporation is not authorized to sublet the leasehold estate to any entity other than the Board, except as provided in Article 6.

Section 14.3 Transfers of the Corporation's Interest. Except as otherwise expressly provided herein, any Person succeeding to the Corporation's interest as a consequence of any permitted conveyance, transfer or assignment shall succeed to all of the obligations of the Corporation hereunder and shall be subject to the terms and provisions of this Ground Lease.

Section 14.4 Assignment to Trustee. The Corporation shall, concurrently with the execution hereof, assign all of its right, title, and interest in and to this Ground Lease to the Trustee pursuant to the Indenture and the Agreement, as applicable (each as defined in the Facilities Lease). The parties hereto further agree to execute any and all documents necessary and proper in connection therewith.

ARTICLE 15 COMPLIANCE CERTIFICATES

Section 15.1 The Corporation's Compliance. The Corporation agrees, at any time and from time to time upon not fewer than thirty (30) days prior written notice by the Board, to execute, acknowledge, and deliver to the Board or to such other party as the Board shall request, a statement in writing certifying: (a) that this Ground Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications); (b) to the best of its knowledge, whether or not there are then existing any offsets or defenses against the enforcement of any of the terms, covenants, or conditions hereof upon the part of the Corporation to be performed (and if so specifying the same); (c) the dates to which the Rent and other charges have been paid; and (d) the dates of commencement and expiration of the Term, it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser of the Board's Interest or by any other Person.

Section 15.2 The Board's Compliance. The Board agrees, at any time and from time to time, upon not fewer than thirty (30) days prior written notice by the Corporation, to execute, acknowledge, and deliver to the Corporation a statement in writing addressed to the Corporation or to such other party as the Corporation shall request, certifying: (a) that this Ground Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications); (b) the dates to which the Rent and other charges have been paid; (c) to the best of its knowledge after due inquiry, whether an Event of Default has occurred and is continuing hereunder (and stating the nature of any such Event of Default); (d) during the construction period, the status of construction of the Facilities and the estimated date of completion thereof; and (e) the dates of commencement and expiration of the Term, it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective (and permitted) assignee, sublessee, or mortgagee of this Ground Lease or by any assignee or prospective assignee of any such permitted mortgage or by any undertenant or prospective undertenant of the whole or any part of the Facilities, or by any other Person, as approved by the Board.

ARTICLE 16 TAXES AND LICENSES

Section 16.1 Payment of Taxes. The Board shall pay, and, upon request by the Corporation, shall provide evidence of payment to the appropriate collecting authorities of, all federal, state, and local taxes and fees, which are now or may hereafter be, levied upon the Corporation's interest in the Property or in the Facilities or upon any of the Corporation's property used in connection therewith or upon the Board or the Board's Interest. The Board may pay any of the above items in installments if payment may be so made without penalty other than the payment of interest. The obligations of the Board to pay taxes and fees under this Section 16.1 shall apply only to the extent that the Board or the Corporation are not exempt from paying such taxes and fees and to the extent that such taxes and fees are not otherwise

abated. The Board and the Corporation agree to cooperate fully with each other to the end that tax exemptions available with respect to the Property and the Facilities under applicable law are obtained by the party or parties entitled thereto.

Section 16.2 Contested Tax Payments. The Board shall not be required to pay, discharge, or remove any such taxes or assessments so long as the Board is contesting the amount or validity thereof by appropriate proceeding which shall operate to prevent or stay the collection of the amount so contested. The Corporation shall cooperate with the Board in completing such contest and the Corporation shall have no right to pay the amount contested during the contest. The Corporation, at the Board's expense, shall join in any such proceeding if any law shall so require.

ARTICLE 17 FORCE MAJEURE

Section 17.1 Discontinuance During Force Majeure. Whenever a period of time is herein prescribed for action to be taken by the Corporation, the Corporation shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to Force Majeure. The Board shall not be obligated to recognize any delay caused by Force Majeure unless the Corporation shall within ten (10) days after the Corporation is aware of the existence of an event of Force Majeure, notify the Board thereof.

ARTICLE 18 MISCELLANEOUS

Section 18.1 Nondiscrimination, Employment and Wages. Any discrimination by the Corporation or its agents or employees on account of race, color, sex, age, religion, national origin, or handicap, in employment practices or in the performance of the terms, conditions, covenants, and obligations of this Ground Lease, is prohibited.

Section 18.2 Notices. Notices or communications to the Board or the Corporation required or appropriate under this Ground Lease shall be in writing, sent by (a) personal delivery, or (b) expedited delivery service with proof of delivery, or (c) registered or certified United States mail, postage prepaid, or (d) prepaid telecopy if confirmed by expedited delivery service or by mail in the manner previously described, addressed as follows:

If to the Board:

Board of Supervisors for the University of Louisiana System
1201 North Third Street, Suite 7-300
Baton Rouge, Louisiana 70802
Attention: Vice President of Business and Finance

with copies to:

McNeese State University
P. O. Box 93300
Lake Charles, Louisiana 70609
Attention: Vice President for Business Affairs

If to the Corporation:

Cowboy Facilities, Inc.
c/o Facilities and Plant Operations
P. O. Box 90460
Lake Charles, Louisiana 70609-9460
Attention: Chairman

with a copy to:

Joseph A. Delafield
Whitney Bank Building
3401 Ryan Street, Suite 307
Lake Charles, Louisiana 70605

If to the Bond Insurer:

[TO COME]

or to such other address or to the attention of such other person as hereafter shall be designated in writing by such party. Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or mail, as of the date of deposit in the mail in the manner provided herein, or in the case of telecopy, upon receipt.

Section 18.3 Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the parties hereto. It is understood and agreed that no provision contained herein nor any acts of the parties hereto creates a relationship other than the relationship of the Board and the Corporation.

Section 18.4 Memorandum of Ground Lease. Neither the Board nor the Corporation shall file this Ground Lease for record in Calcasieu Parish, Louisiana or in any public place without the written consent of the other. In lieu thereof, the Board and the Corporation agree to execute in recordable form a memorandum of this Ground Lease in the form of Exhibit B attached hereto. Such memorandum shall be filed for record in Calcasieu Parish, Louisiana.

Section 18.5 Legal Proceedings.

(a) If either party is required to commence legal proceedings relating to this Ground Lease, the prevailing party shall be entitled to receive reimbursement for its reasonable attorneys' fees and costs of suit.

(b) The Corporation waives trial by jury in any action, proceeding, or counterclaim brought by either of the Parties to this Ground Lease against the other on any matters whatsoever arising out of or in any way connected with this Ground Lease, the relationship of the Corporation and the Board, the Board's or the University's use or occupancy of the Facilities, or any other Claims arising hereunder.

Section 18.6 Louisiana Law to Apply. This Ground Lease shall be construed under and in accordance with the laws of the State of Louisiana, and all obligations of the parties created hereunder are performable in Lake Charles, Louisiana.

Section 18.7 Warranty of Peaceful Possession. The Board covenants that the Corporation, on paying the Rent and performing and observing all of the covenants and agreements herein contained and provided to be performed by the Corporation, shall and may peaceably and quietly have, hold, occupy, use, and enjoy the Property during the Term and may exercise all of its rights hereunder; and the Board agrees to warrant and forever defend the Corporation's right to such occupancy, use, and enjoyment and the title to the Property against the claims of any and all persons whomsoever lawfully claiming the same, or any part thereof subject only to the provisions of this Ground Lease.

Section 18.8 Curative Matters. Except for the express representations and warranties of the Board set forth in this Ground Lease, any additional matters necessary or desirable to make the Property usable for the Corporation's purpose shall be undertaken, in the Corporation's sole discretion, at no expense to the Board. The Corporation shall notify the Board in writing of all additional matters (not contemplated by the Plans and Specifications) undertaken by the Corporation to make the Property usable for the Corporation's purpose.

Section 18.9 Non-waiver. No waiver by the Board or the Corporation of a breach of any of the covenants, conditions, or restrictions of this Ground Lease shall constitute a waiver of any subsequent breach of any of the covenants, conditions, or restrictions of this Ground Lease. The failure of the Board or the Corporation to insist in any one or more cases upon the strict performance of any of the covenants of the Ground Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenant or option. A receipt by the Board or acceptance of payment by the Board of Rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach. No waiver, change, modification or discharge by the Board or the Corporation of any provision of this Ground Lease shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged.

Section 18.10 Terminology. Unless the context of this Ground Lease clearly requires otherwise: (a) pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character; (b) the singular shall include the plural wherever and as often as may be appropriate; (c) the word "includes" or "including" shall mean "including without limitation;" (d) the word "or" shall have the inclusive meaning represented by the phrase "and/or;" (e) the words "hereof," "herein," "hereunder," and similar terms in this Ground Lease shall refer to this Ground Lease as a whole and not to any particular section or article in which such words appear. The section, article and other headings in this Ground Lease and the Table of Contents to this Ground Lease are for reference purposes and shall not control or affect the construction of this Ground Lease or the interpretation hereof in any respect. Article, section and subsection and exhibit references are

to this Ground Lease unless otherwise specified. All exhibits attached to this Ground Lease constitute a part of this Ground Lease and are incorporated herein. All references to a specific time of day in this Ground Lease shall be based upon Central Standard Time (or the other standard of measuring time then in effect in Lake Charles, Louisiana).

Section 18.11 Counterparts. This agreement may be executed in multiple counterparts, each of which shall be declared an original.

Section 18.12 Severability. If any clause or provision of this Ground Lease is illegal, invalid or unenforceable under present or future laws effective during the term of this Ground Lease, then and in that event, it is the intention of the parties hereto that the remainder of Ground Lease shall not be affected thereby.

Section 18.13 Authorization. By execution of this Ground Lease, the Corporation and the Board each represent to the other that they are entities validly existing, duly constituted and in good standing under the laws of the jurisdiction in which they were formed and in which they presently conduct business; that all acts necessary to permit them to enter into and be bound by this Ground Lease have been taken and performed; and that the persons signing this Ground Lease on their behalf have due authorization to do so.

Section 18.14 Ancillary Agreements. In the event it becomes necessary or desirable for the Board to approve in writing any ancillary agreements or documents concerning the Property or concerning the construction, operation or maintenance of the Facilities or to alter or amend any such ancillary agreements between the Board and the Corporation or to give any approval or consent of the Board required under the terms of this Ground Lease, all agreements, documents or approvals shall be forwarded to the Board Representative.

Section 18.15 Amendment. No amendment, modification, or alteration of the terms of this Ground Lease shall be binding unless the same is in writing dated on or subsequent to the date hereof and duly executed by the parties hereto and consented to, to the extent required by Article 8 of the Agreement.

Section 18.16 Successors and Assigns. All of the covenants, agreements, terms and conditions to be observed and performed by the parties hereto shall be applicable to and binding upon their respective successors and assigns including any successor by merger or consolidation of the University into another educational institution or the Board into another educational management board.

Section 18.17 Entire Agreement. This Ground Lease, together with the exhibits attached hereto, contains the entire agreement between the parties hereto with respect to the Property and contains all of the terms and conditions agreed upon with respect to the Ground Lease of the Property, and no other agreements, oral or otherwise, regarding the subject matter of this Ground Lease shall be deemed to exist or to bind the parties hereto; it being the intent of the parties that neither shall be bound by any term, condition, or representations not herein written.

Section 18.18 Release of Excess Property. Notwithstanding the provisions of Section 18.15 above and Article 8 of the Agreement, in the event any of the Property is not used for the construction of the Facilities (including any parking related thereto), this Ground Lease may be amended to exclude such portion of the Property, with the consent of the Bond Insurer but without the consent of the owners of the Bonds outstanding under the Indenture.

Section 18.19 No Merger. There shall be no merger of the leasehold estate created by this Ground Lease with the fee simple estate of the Board in the Property nor shall there be any merger of the

leasehold estate created by this Ground Lease or the fee simple estate of the Board in the Property with the leasehold estate created by the Facilities Lease because one party or such party's transferee may acquire or shall hold directly or indirectly (a) fee simple interest in or to the Property (b) any interest in the leasehold estate created by or granted by this Ground Lease and/or (c) the leasehold estate created by the Facilities Lease, and no such merger shall occur unless all entities having (i) any fee simple interest in or to the Property, (ii) any interest in the leasehold estate created or granted by this Ground Lease and (iii) any interest in the leasehold estate created by the Facilities Lease, shall join in a written instrument effecting such merger and shall duly record same in the land records of the jurisdiction in which the Property is located.

Section 18.20 Ground Lease to Constitute a Contract. This Ground Lease, upon execution by the Board and the Corporation shall constitute a third party beneficiary contract between the Board and the Corporation for the benefit of the Bond Insurer, if any, and of the owners of all Bonds issued hereunder. The Bond Insurer, if any, may enforce any right, remedy or claim conferred, given or granted to it hereunder.

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IN WITNESS WHEREOF, the undersigned representative has signed this Ground Lease on behalf of Cowboy Facilities, Inc., on the ____ day of _____, 2020.

WITNESSES:

COWBOY FACILITIES, INC.

Print Name:_____

By: _____
Larry R. Derouen, Chairman

Print Name:_____

NOTARY PUBLIC

Name: _____
Notary ID/Bar Roll No. _____
My Commission Expires _____

IN WITNESS WHEREOF, the undersigned representative has signed this Ground Lease on behalf of the Board of Supervisors for the University of Louisiana System on the ____ day of _____, 2020.

WITNESSES:

BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM

Print Name:_____

By: _____
Dr. Daryl V. Burckel, President
McNeese State University and
Board Representative

Print Name:_____

NOTARY PUBLIC

Name: _____
Notary ID/Bar Roll No. _____
My Commission Expires _____

EXHIBIT A

PROPERTY DESCRIPTION

Attached

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

STATE OF LOUISIANA	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
PARISH OF CALCASIEU	§	

MEMORANDUM OF LEASE

This Memorandum of Lease (this “*Memorandum*”) is entered into by and between the Board of Supervisors for the University of Louisiana System (“*Lessor*”) and Cowboy Facilities, Inc. (“*Lessee*”).

RECITALS

A. Lessor and Lessee have entered into a Ground and Buildings Lease Agreement dated as of November 1, 2020 (the “*Lease*”), whereby Lessor did lease to Lessee, and Lessee did lease from Lessor, the immovable property more particularly described on Exhibit A attached hereto and incorporated herein (the “*Land*”).

B. Lessor and Lessee desire to enter into this Memorandum, which is to be recorded in order that third parties may have notice of the parties’ rights under the Ground Lease.

LEASE TERMS

Specific reference is hereby made to the following terms and provisions of the Lease:

1. The term of the Ground Lease commenced on November 1, 2020 and shall continue until midnight on November 1, 2055, unless sooner terminated or extended as provided in the Ground Lease.
2. Lessor has the right as set forth in the Ground Lease to purchase the improvements constructed by Lessee on the Land at any time during the term of the Ground Lease in accordance with the provisions thereof.
3. Additional information concerning the provisions of the Ground Lease can be obtained from the parties at the following addresses:

Lessor: Board of Supervisors for the University of Louisiana System
1201 North 3rd Street, Suite 7300
Baton Rouge, Louisiana 70802
Attention: Vice President of Business and Finance

Lessee: Cowboy Facilities, Inc.
c/o Facilities and Plant Operations
P. O. Box 90460
Lake Charles, LA 70609-9460

This Memorandum is executed for the purpose of recordation in the public records of Calcasieu Parish, Louisiana in order to give notice of all the terms and provisions of the Ground Lease and is not intended and shall not be construed to define, limit, or modify the Ground Lease. All of the terms, conditions, provisions and covenants of the Lease are incorporated into this Memorandum by reference as though fully set forth herein, and both the Ground Lease and this Memorandum shall be deemed to constitute a single instrument or document.

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THUS DONE AND PASSED on the ____ day of _____, 2020, in Lake Charles, Louisiana, in the presence of the undersigned, both competent witnesses, who herewith sign their names with Larry R. Derouen, Chairman of Cowboy Facilities, Inc., and me, Notary.

WITNESSES:

COWBOY FACILITIES, INC.

Print Name:_____

By: _____
Larry R. Derouen, Chairman

Print Name:_____

NOTARY PUBLIC
Print Name:_____
Notary ID # _____
My Commission is for Life

THUS DONE AND PASSED on the ____ day of _____, 2020, in Lake Charles, Louisiana in the presence of the undersigned, both competent witnesses, who herewith signs his name as Authorized Representative of the Board of Supervisors for the University of Louisiana System and me, Notary.

WITNESSES:

BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM

By: _____
Dr. Daryl V. Burckel, President
McNeese State University
Board Representative

NOTARY PUBLIC
Print Name:_____
Notary ID # _____
My Commission is for Life

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

FINANCE COMMITTEE

September 3, 2020

Item H.4. **Southeastern Louisiana University's** request for approval to implement a per credit hour tuition rate for online programs.

EXECUTIVE SUMMARY

Act 426 of the 2013 Legislative Session grants authority to the Board of Supervisors for the University of Louisiana System to impose tuition and attendance fees for students enrolled in an academic degree program offered entirely through distance education. Southeastern Louisiana University is requesting approval to implement a per credit hour tuition rate for online programs. The University proposes implementing a tuition rate of \$375 per undergraduate credit hour for up to 12 hours and \$475 per graduate credit hour for up to nine hours for online programs that do not have a previously established contract rate. This tuition rate will change to \$100 per credit hour for each additional hour. The proposed per credit hour rates do not include textbooks or other program course or lab fees that may apply. In addition, it does not apply to programs that have a previously established contract rate.

RECOMMENDATION

It is recommended that the following resolution be adopted:

***NOW, THEREFORE, BE IT RESOLVED,** that the Board of Supervisors for the University of Louisiana System hereby approves Southeastern Louisiana University's request for approval to implement a per credit hour tuition rate for online programs.*

August 6, 2020

Dr. James B. Henderson
President, University of Louisiana System
1201 North Third Street, Suite 7-300
Baton Rouge, LA 70802

Re: Request for Approval to Implement a Per Credit Hour Tuition Rate for Online Programs

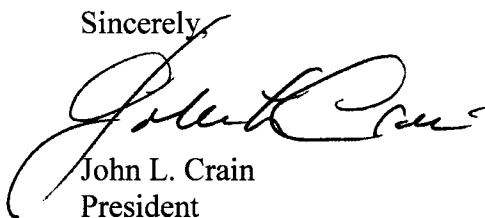
Dear Dr. Henderson:

Southeastern Louisiana University requests approval to implement a per credit hour tuition rate for online programs. Act 426 of the 2013 Legislative Session grants authority to the Board of Supervisors for the University of Louisiana System to impose tuition and attendance fees for students enrolled in an academic degree program offered entirely through distance education. The University proposes implementing a tuition rate of \$375 per undergraduate credit hour for up to 12 hours and \$475 per graduate credit hour for up to nine hours for online programs. This tuition rate will change to \$100 per credit hour for each additional hour. The proposed per credit hour rate does not include textbooks or other program, course or lab fees that may apply. It also does not apply to programs that have a previously established contract rate.

We request that this proposal to implement per credit hour tuition rates for online programs be placed on the agenda for the August meeting of the University of Louisiana System Board of Supervisors.

Your consideration of this request is appreciated.

Sincerely,



John L. Crain
President

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

FINANCE COMMITTEE

September 3, 2020

Item H.5. **University of Louisiana at Lafayette's** request for approval of a revised Internal Audit Charter.

EXECUTIVE SUMMARY

The Internal Audit Charter sets forth the purpose, authority, and responsibility of the internal audit activity for the University of Louisiana at Lafayette. The Charter, which was last revised November 2017, has now been modified to reflect compliance with mandatory guidance of the International Professional Practices Framework (IPPF). Specific updates were made to Standards for the Professional Practice of Internal Auditing to include all four mandatory elements of the Institute of Internal Auditors International Professional Practices Framework.

RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves University of Louisiana at Lafayette's request for approval of a revised Internal Audit Charter.



August 6, 2020

Dr. James B. Henderson
President
University of Louisiana System
1201 North Third Street, Suite 7-300
Baton Rouge, LA 70802

Dear Dr. Henderson:

This is a request for approval of an updated Internal Audit Charter.

Please place this item on the agenda for consideration at the August 2020 meeting of the Board of Supervisors.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'E' followed by a large loop and a horizontal stroke.

E. Joseph Savoie
President

svc

Attachment

Purpose & Mission

The Purpose of the Office of Internal Audit is to provide independent, objective assurance and consulting services designed to add value and improve the University's operations. The mission of Office of Internal Audit is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight. It helps the University accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. The Office of Internal Audit is guided by a value-driven philosophy of partnering with other departmental units to continuously improve the operations of the University. The Office of Internal Audit will service the University by providing assurance and consulting engagements and advisory services in accordance with the Professional Standards for the Practice of Internal Audit as promulgated by the Institute of Internal Auditors. Any perceived or actual conflict of interests will be addressed in accordance with the Standards and the Louisiana State Code of Ethics.

In support of its mission, to provide for the independence, the Internal Audit Director reports to the President of the University. To provide for objectivity, the staff of the Office of Internal Audit shall maintain an appropriate mental attitude in performing engagements. As such, the Internal Audit Director and other internal audit staff will not 1) have direct authority over or responsibility for any of the activities reviewed; 2) prepare or approve records 3) make management decisions; or 4) engage in activities that could be construed to compromise their independence.

A functional reporting relationship with the Finance Committee of the Board of the University of Louisiana System exists via the Board's Director of Internal and External Audit.

Internal audit engagements do not substitute for or relieve other persons in the University of the responsibilities assigned to them.

Standards for the Professional Practice of Internal Auditing

The internal audit activity will govern itself by adherence to the Mandatory Guidance of the Institute of Internal Auditors' International Professional Practices Framework, including the International Standards for the Professional Practice of Internal Auditing and the Code of Ethics., The Chief Audit Executive at the University which in this case is the Internal Audit Director will report periodically to their University Presidents and, through the System Director, to the Board of Supervisors for the University of Louisiana System regarding the internal audit activity's conformance to the Code of Ethics and the Standards, the mandatory elements of the International Professional Practices Framework and the Mission of Internal Audit.

Scope of Work

The scope of work of the Office of Internal Audit is to assess the University's network of risk management, control, and governance processes to ensure they are functioning adequately to facilitate the University in meeting its mission, goals and objectives. The scope of work will include, but is not limited to, the following general objectives:

- Reviewing the University's overall system of internal control, as well as departmental units, to recommend value added improvements or best practices.

- Assessing business processes and information systems to ensure financial, managerial, and operating information is accurate, reliable, and timely.
- Evaluating and consulting administration on business processes, staffing procedures, and best practices to facilitate awareness of, understanding of, and compliance with policies, standards, procedures, and applicable laws, regulations and legislative or regulatory issues. Assess the acquisition and use of resources and assets to facilitate economical acquisition, efficient use, adequacy in the accounting for and safeguarding of such resources and assets.
- Determining the reliability and adequacy of the accounting, financial, and reporting systems and procedures.
- Consulting with administration with regard to the implementation of or modifications to new or existing information technology applications/systems and the related business processes to ensure an adequate, effective, and efficient system of internal control.
- Conducting investigations as required or directed related to the general objectives previously stated.

All work completed by the staff of the Office of Internal Audit will be reasonably coordinated with the Office of the Louisiana Legislative Auditor to avoid unnecessary duplication of effort.

Responsibility

The University's Internal Audit Director and staff have the responsibility to:

- Develop and implement a flexible, risk-based, value added annual engagement plan which will be submitted to the President for approval. Once approved by the President, it will be submitted to the University Of Louisiana System Board Of Supervisors (Board) for approval.
- Maintain a professional audit staff with sufficient knowledge, skills, experience, and professional certifications to meet the requirements of this charter.
- Establish a quality assurance program by which the Internal Audit Director assures the operations of internal auditing activities.
- Perform consulting/advisory services, to assist management in meeting its objectives. Examples may include facilitation, process design, training, and advisory services.
- Submit written and timely reports to the President of the University and appropriate members of administration at the conclusion of each engagement to acknowledge satisfactory performance or to set forth observations and/or recommendations for correction or improvement.

A copy of each engagement report and a summarization will be forwarded to the Board's Director of Internal and External Audit.

Authority

The System or University's internal audit activity is established by the Board. The internal audit activity's responsibilities are defined by the Board as part of their oversight role. To establish, maintain, and assure that the internal audit activities of the System and the Universities within the System have sufficient authority to fulfill their duties, the Board of Supervisors will:

- Approve the internal audit activity's charter.
- Approve the risk based internal audit plan
- Approve the internal audit activity's budget and resource plan.

- Receive communications from the Directors of Internal Audit on the internal audit activity's performance relative to its plan and other matters.
- Approve decisions regarding the appointment and removal of the Directors of Internal Audit.
- Approve the remuneration of the Directors of Internal Audit.
- Make appropriate inquiries of management and the Directors of Internal Audit to determine whether there is inappropriate scope or resource limitations.

Internal Audit will have unrestricted access to and communicate and interact directly with the System Director, the Finance Committee of the Board of Supervisors, and the Board of Supervisors, including in private meetings without management present.

The Board of Supervisors authorizes the internal audit activity to:

- Have full, free, and unrestricted access to all functions, records, property, and personnel pertinent to carrying out any engagement, subject to accountability for confidentiality and safeguarding of records and information.
- Audit or review any function, activity, or unit of the System or Universities within the System and the accounts of all organizations required to submit financial statements to the Universities.
- Have direct and unrestricted access and present to the System President or University President any matter considered to be of sufficient importance to warrant attention or that has been brought to the internal audit activity for review.
- Allocate resources, set frequencies, select subjects, determine scopes of work, and apply the techniques required to accomplish audit objectives.
- Obtain the necessary assistance of personnel of the System or University where they perform audits, as well as other specialized services from within or outside the System or University, in order to complete the engagement.

Accountability

The Internal Audit Director shall be accountable to the University's administration to:

- Assess the adequacy and effectiveness of the University's business processes for controlling its activities and managing its risks in the areas set forth under the mission and scope of work.
- Report significant issues related to the processes for controlling the activities of the University and its affiliates, including potential improvements to those processes, and provide information concerning such issues through resolution.
- Provide information periodically on the status and results of the annual audit plan and the sufficiency of department resources.
- Coordinate with other control and monitoring functions.
- The Office of Internal Audit will adhere to the Institute of Internal Auditors International Standards for the Professional Practice of Internal Auditing.

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

FINANCE COMMITTEE

September 3, 2020

- Item H.6.** **University of New Orleans'** request for approval to enter into a cooperative endeavor agreement with Model Content, LLC (Model Content) for training and support for the University's Advanced Materials Research Institute (AMRI) to develop projects for the entrepreneurial development programs (NSF I-Corp).

EXECUTIVE SUMMARY

The purpose of this agreement is to allow Model Content to work with AMRI to offer workshops on marketing, science writing, and user experience for AMRI faculty and students; to provide internships with science and business students; and to provide training and support for AMRI faculty and students working to develop projects for the NSF I-Corp program. The immediate proximity of Model Content to AMRI readily allows for the exchange of ideas and the education and development for AMRI researchers in the various aspects of marketing as it applies to both academics and industry. Further, the proximity will serve to help in the development of other small businesses based on existing AMRI technologies.

All of these aspects of this collaborative agreement will: 1) serve the public through the development of a marketing company - Model Content will train and employ Louisiana workers including students and graduates from UNO; 2) serve to elevate the research programs of UNO faculty through the development of new collaborative projects; 3) help bring in additional state and federal funding through NSF I-Corp programs and small business development grants (BOR ITRS, STTR, SBIR); and 4) serve to train undergraduate students through internships and graduate students through collaborative projects, workshops and training programs involving AMRI faculty and Model Content.

UNO will provide Model Content a reduced rental rate for space in UNO's Science Building, the cost of which the University estimates is exceeded by the advancement of AMRI programs in the science and engineering of materials, training of undergraduates through internship opportunities, and seminars on the technology and small business aspects of Model Content. No other costs or expenses incurred by Model Content under the agreement shall be paid or reimbursed by the University unless agreed upon in writing by UNO and Model Content.

RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, *that the Board of Supervisors for the University of Louisiana System hereby approves the University of New Orleans' request for approval to enter into a cooperative endeavor agreement with Model Content, LLC (Model Content) for training and support for the University's Advanced Materials Research Institute (AMRI) to develop projects for the entrepreneurial development programs (NSF I-Corp).*



THE UNIVERSITY *of*
NEW ORLEANS
 OFFICE OF THE PRESIDENT

July 20, 2020

Dr. James B. Henderson
 President
 The University of Louisiana System
 1201 North Third Street
 Baton Rouge, LA 70802

Re: Cooperative Endeavor Agreement with Model Content, LLC

Dear Dr. Henderson,

I am requesting approval to enter into a Cooperative Endeavor Agreement with Model Content, LLC.

The purpose of this agreement is to allow Model Content to work with AMRI to offer workshops on marketing, science writing, and user experience for AMRI faculty and students, to provide internships with science and business students, and provide training and support for AMRI faculty and students working to develop projects for the NSF I-Corp program. The immediate proximity of Model Content to AMRI readily allows for the exchange of ideas and the education and development AMRI researchers in the various aspects of marketing as it applies to both academics and industry. Further, the proximity will serve to help in the development of other small businesses based on existing AMRI technologies.

All of these aspects of this collaborative agreement will: 1) serve the public through the development of a marketing company – Model Content will train and employ Louisiana workers including students and graduates from UNO; 2) serve to elevate the research programs of UNO faculty through the development of new collaborative projects; 3) will help bring in additional state and federal funding through entrepreneurial development programs (NSF I-Corp) and small business development grants (BOR ITRS, STTR, SBIR); and 4) will serve to train undergraduate students through internships and graduate students through collaborative projects, workshops and training programs involving AMRI faculty and Model Content.



THE UNIVERSITY *of*
NEW ORLEANS
OFFICE OF THE PRESIDENT

Thank you for your consideration.

Sincerely,

John W. Nicklow
President

UNIVERSITY OF NEW ORLEANS
COOPERATIVE ENDEAVOR AGREEMENT

THIS COOPERATIVE ENDEAVOR, made and entered into this 1st day of October 2020, by and between the University of New Orleans, a member of the University of Louisiana System, hereinafter referred to as "University," and/or "UNO" and Model Content, LLC, hereinafter referred to as "Contracting Party" and/or "Model Content".

ARTICLE I

WITNESSETH:

1.1 WHEREAS, Article VII, Section 14(C) of the Constitution of the State of Louisiana provides that "For a public purpose, the state and its political subdivisions...may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual;" and

1.2 WHEREAS, the University desires to cooperate with the Contracting Party in the implementation of the Project as hereinafter provided;

1.3 WHEREAS, the University has the authority to enter into this Agreement as evidenced by its governmental purpose to perform its public higher education mission of instruction, research and public service.

1.4 WHEREAS, the public purpose of the Project is described as: Model Content is a health and technology marketing, science writing, and user experience expert in both academics and industry and the University's Advanced Materials Research Institute (AMRI) is a recognized world leader in materials research. Model Content will work with AMRI to offer workshops on marketing, science writing, and user experience for AMRI faculty and students, to provide internships with science and business students, and provide training and support for AMRI faculty and students working to develop projects for the NSF I-Corp program. The immediate proximity of Model Content to AMRI readily allows for the exchange of ideas and the education and development AMRI researchers in the various aspects of marketing as it applies to both academics and industry. Further, the proximity will serve to help in the development of other small businesses based on existing AMRI technologies. All of these aspects of this collaborative agreement will: 1) serve the public through the development of a marketing company – Model Content will train and employ Louisiana workers including students and graduates from UNO; 2) serve to elevate the research programs of UNO faculty through the development of new collaborative projects; 3) will help bring in additional state and federal funding through entrepreneurial development programs (NSF I-Corp) and small business development grants (BOR ITRS, STTR, SBIR); and 4) will serve to train undergraduate students through internships and graduate students through collaborative projects, workshops and training programs involving AMRI faculty and Model Content.

1.5 WHEREAS, the University has a reasonable expectation of receiving a benefit or value described in detail that is at least equivalent to or greater than the consideration described in this Agreement;

1.6 WHEREAS, the transfer or expenditure of public funds or property is not a gratuitous donation;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE II

SCOPE OF SERVICES

2.1 The Contracting Party shall:

- a) Provide training in marketing, science writing, and user experience to undergraduate and graduate students as well as AMRI faculty.
- b) Assist AMRI researchers seeking the development of small businesses. This includes coaching faculty on NSF's I-Corp entrepreneurial development program, pitch competitions, and accelerator programs.
- c) Provide internships for UNO undergraduates in marketing, science writing, and user experience.
- d) Give presentations in AMRI at least 1-2 times a year, as part of the AMRI weekly program, and participate in AMRI's annual review each spring.

ARTICLE III

DELIVERABLES

3.1 Deliverables:

- a) Model Content will train undergraduate and graduate students as well as faculty in marketing as it pertains to industry and academics.
- b) Model Content will give seminars, open to all UNO faculty and faculty from other local Universities, on marketing, science writing, user experience, and navigating the NSF entrepreneurial development program.
- c) Model Content will assist AMRI students and faculty researchers in the development of businesses through training for the NSF I-Corp entrepreneurial development program, pitch competitions and accelerator programs.
- d) Model Content will host UNO undergraduates in internships in marketing, promotion, and scientific writing.

ARTICLE IV
BENEFITS TO CONTRACTING PARTY

4.1 In consideration of the services described above, the University hereby agrees to provide benefits to the Contracting Party. Benefits will be received/provided in the following manner:

The Contracting Party will receive a reduced rental rate for space in UNO's Science Building. The benefits received by the University are commensurate with the benefits provided to the Contracting Party because the benefits received by the University are more than worth the value of reduced rent. These benefits include: the advancement in AMRI programs in the science and engineering of materials, training of undergraduates through internship opportunities, and seminars on the technology and small business aspects of Model Content.

4.2 Additional Costs and Expenses. No additional costs or expenses incurred by the Contracting Party in performance of this Agreement shall be reimbursed or paid by the University unless agreed upon in writing by the parties.

ARTICLE V
TERMINATION FOR CAUSE

5.1 See Article XLIV.

ARTICLE VI
NOT USED

6.1 Not used.

ARTICLE VII
OWNERSHIP OF WORK PRODUCT, CONFIDENTIALITY AND COPYRIGHT

7.1 It is understood that any intellectual property developed solely by Contracting Party will be owned by Contracting Party. Any intellectual property developed by University will be owned by University. Any intellectual property jointly developed will be jointly owned by respective party. Both parties will make good faith efforts to identify appropriate ownership regarding jointly developed intellectual property. The University and the Contracting Party will enter into a mutually agreeable collaboration/non-disclosure agreement.

ARTICLE VIII
ASSIGNMENT

8.1 Contracting Party shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the University, provided however, that claims for money due or to become due to Contracting Party from the University may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the University. Additionally, the Contracting Party shall not subcontract any work to any party without the prior written consent of the University.

ARTICLE IX
FINANCIAL DISCLOSURE

9.1 Each recipient shall be audited in accordance with R.S. 24:513. If the amount of public funds received by the provider is below the amount for which an audit is required under R.S. 24:513, the transferring agency shall monitor and evaluate the use of the funds to ensure effective achievement of the project goals and objectives.

ARTICLE X
AUDIT CLAUSE

10.1 It is hereby agreed that the Legislative Auditor of the State of Louisiana, and/or the Office of the Governor, Division of Administration auditors shall have the option of inspecting and auditing all data, records and accounts of the Contracting Party which relate to this Agreement, upon request.

10.2 The Contracting Party and any subcontractors paid under this Agreement shall maintain all books and records pertaining to this Agreement for a period of four years after the date of final payment under the prime contract and any subcontract entered into under this Agreement or four years from the date of termination of the prime contract and any subcontract entered into under this Agreement, whichever is later.

ARTICLE XI
AMENDMENTS IN WRITING

11.1 Any alteration, variation, modification, or waiver of provisions of this Agreement shall be valid only when it has been reduced to writing and executed by all parties.

ARTICLE XII
FISCAL FUNDING (NON-APPROPRIATION) CLAUSE

12.1 In the event funds are not budgeted or appropriated in any fiscal year for payments due under this Agreement for the then current or succeeding fiscal year, this Agreement shall impose no obligation on the University as to such current or succeeding fiscal year, and said Agreement shall become null and void, and no right of action shall accrue to the benefit of the Contracting Party, its successors or assigns for any further payments.

ARTICLE XIII
TERM OF AGREEMENT

13.1 The term of this Agreement shall commence on October 1, 2020 and shall continue in effect until September 30, 2021, unless sooner terminated as provided in Paragraph XLIV. This agreement may be extended for additional periods by mutual agreement of the parties.

ARTICLE XIV
DISCRIMINATION CLAUSE

14.1 The Contracting Party agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, as amended, the Age Act of 1975, as amended, and Contracting Party agrees to abide by the requirements of the Americans with Disabilities Act of 1990, as amended. Contracting Party agrees not to discriminate in its employment practices, and will render services under this Agreement without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities. The Contracting Party acknowledges and agrees that any act of unlawful discrimination committed by Contracting Party, or any other failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

ARTICLE XV
INDEMNIFICATION; INSURANCE

15.1 See Articles XXXVIII and XL.

ARTICLE XVI
PARTIAL INVALIDITY; SEVERABILITY

16.1 If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE XVII
ENTIRE AGREEMENT; MODIFICATION

17.1 This Agreement, including any attachments that are expressly referred to in this Agreement, contains the entire agreement between the parties and supersedes any and all agreements or contracts previously entered into between the parties. No representations were made or relied upon by either party, other than those that are expressly set forth. This Agreement may be modified or amended at any time by mutual consent of the parties, provided that, before any modification or amendment shall be operative and valid, it shall be reduced to writing and signed by both parties.

ARTICLE XVIII
CONTROLLING LAW

18.1 The validity, interpretation, and performance of this Agreement shall be controlled by and construed in accordance with the laws of the State of Louisiana.

ARTICLE XIX
LEGAL COMPLIANCE

19.1 The University shall comply with all federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (R.S. 42:1101, et seq.) in carrying out the provisions of this Agreement.

ARTICLE XX
RELATIONSHIP BETWEEN THE PARTIES; EXCLUSION OF BENEFITS

20.1 The Contracting Party is engaged by the University for the purposes set forth in this Agreement. The relationship between the Contracting Party and the University shall be, and only be, that of an independent contractor and the Contracting Party shall not be construed to be an employee, agent, partner of, or in joint venture with, the University.

ARTICLE XXI
**ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION
COVERAGE**

21.1 The University and the Contracting Party expressly agree that the Contracting Party is an independent contractor as defined in R.S. 23:1021(7) and, as such, expressly agree that the University shall not be liable to the Contracting Party or to anyone employed by the Contracting Party for any benefits or coverage as provided by the Worker's Compensation Law of the State of Louisiana.

ARTICLE XXII
**ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION
COVERAGE**

22.1 The University and the Contracting Party expressly declare and acknowledge that the Contracting Party is an independent contractor and, as such, is being engaged by the University under this Agreement as noted and defined in R.S. 23:1472(12)(E) and, therefore, it is expressly declared and understood between the parties hereto, that for the purposes of unemployment compensation only: A. The Contracting Party has been and will be free from any control or direction by the University over the performance of the services covered by this Agreement; B. The services to be rendered by the Contracting Party are outside the normal course and scope of the University's usual business; and C. The Contracting Party is customarily engaged in an independently established trade, occupation, profession, or business. Consequently, neither the Contracting Party nor anyone employed or contracted by the Contracting Party shall be considered an employee of the University for the purpose of unemployment compensation coverage.

ARTICLE XXIII
FORCE MAJEURE

23.1 Neither party to this Agreement shall be responsible to the other party hereto for any delays or failure to perform caused by any circumstances reasonably beyond the immediate control of the party prevented from performing, including, but not limited to, acts of God.

ARTICLE XXIV
EMPLOYMENT OF STATE PERSONNEL

24.1 The Contracting Party certifies that it has not employed and will not employ any person to engage in the performance of this Agreement who is, presently, or at the time of such employment, an employee of the State of Louisiana.

ARTICLE XXV
COVENANT AGAINST CONTINGENT FEES

25.1 The Contracting Party warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the Contracting Party, to solicit or secure this Agreement, and that it has not paid or agreed to pay any entity or person, other than a bona fide employee working solely for the Contracting Party any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the University shall have the right to annul this Agreement without liability or, in University's discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE XXVI
REMEDIES FOR DEFAULT

26.1 See Article XLIV.

ARTICLE XXVII
NOTICES

27.1 All notices and other communications pertaining to this Agreement shall be in writing and shall be transmitted either by personal hand-delivery (and receipted for) or deposited in the United States mail, as certified mail, return receipt requested and postage prepaid, to the other party, addressed as follows:

John Wiley
President's Research Professor and Director of AMRI
University of New Orleans
Science Building Room 2064
New Orleans, Louisiana 70148

Molly Kramer
Principal (Owner, CEO)
Model Content, LLC
2000 Lakeshore Dr.
New Orleans, LA 70148

ARTICLE XXVIII
PREMISES

28.1 PREMISES. University owns a tract of property with improvements located at 2000 Lakeshore Drive, New Orleans, LA 70148, hereinafter referred to as "University's Tract", and Contracting Party wishes to lease a part thereof. University agrees to lease and does hereby lease to Contracting Party and Contracting Party does hereby agree to lease and does hereby lease from University, delivery of possession of which is hereby acknowledged, a portion of University's Tract, hereinafter referred to as the "Leased Premises". The Leased Premises shall consist of that portion of the University of New Orleans' Science Building ("Science Building"), an improvement located on University's Tract, totaling approximately 116.8 square feet of office space in room 2046F. The Contracting Party will have shared use of Common Areas as described herein.

ARTICLE XXIX
NOT USED

29.1 NOT USED

ARTICLE XXX
RENT

30.1 RENT. Rental rates have been calculated as follows: \$12.60 per square foot for 116.8 square feet of office space. This Agreement is made for an annual rent of \$1471.68. Rent is payable in a monthly amount of ONE HUNDRED TWENTY-TWO AND 64/100 DOLLARS (\$122.64) due on the first day of each month, in advance, to University, at University's permanent mailing address as noted in section 27 of this agreement. Electrical, water, gas, taxes, property insurance, flood insurance, basic ongoing repairs, A/C & heating systems, lawn care, pest control (including termite), fire system maintenance, and waste management are the responsibility of the University. Telephone, internet, cable, janitorial and disposal of waste (other than common trash) are the responsibility of Contracting Party. Parking will be available to Licensee's employees and guests according to UNO's Parking Policies <http://www.uno.edu/upd/docs/UNOParking2014.pdf>

ARTICLE XXXI
COMMON AREAS

31.1 COMMON AREAS. Contracting Party will have the non-exclusive right, along with the other tenants of the Science Building and their employees and invitees, to use the parking areas, landscaped areas, entrance ways, hallways, elevators, fire stairs, restrooms, loading dock

and other areas designated from time to time by University for common tenant use (the "Common Areas"). In using the Common Areas, Contracting Party will not impede the use of the Common Areas by other tenants, and Contracting Party will use its best efforts to prevent its employees and invitees from loitering in the Common Areas or using the Common Areas for other than their intended purpose. University will have exclusive control and management over the Common Areas and will have the right, from time to time, to establish rules and regulations with respect to the use of the Common Areas, to restrict parking by employees of Contracting Party to designated parking areas, to close temporarily any portion of the Common Areas, and to increase, reduce, reconfigure, or change the Common Areas in any way University determines to be necessary or desirable. University will have no liability to Contracting Party by reason of any such closure, increase, reduction, reconfiguring, or other change in the Common Areas.

Contracting Party shall use its best efforts to cause its agents, employees, permittees and invitees to keep the Common Areas in good condition. Any dispute between Contracting Party and any other tenant on University's Tract regarding the repair, upkeep, maintenance, and appearance of the Common Areas or use of the Common Areas shall be resolved by a meeting with the parties and an agreement between the parties. University shall decide what, if any, repairs, upkeep, and maintenance shall be performed to the Common Areas and University shall select the contractor to perform any such repair, upkeep, and maintenance.

ARTICLE XXXII

USE OF PREMISES

32.1 USE OF PREMISES. Contracting Party may use the Leased Premises only for health and technology marketing, science writing, and user experience development in both academics and industry. Contracting Party shall not cause or permit any hazardous or toxic substances to be present on or about University's Tract. The Common Areas are for the use of Contracting Party and University and all of University's tenants on University's Tract. Contracting Party shall not make any use of Leased Premises and Common Areas in violation of any statutes, ordinances, or laws and shall not permit any contamination or pollution on or about the premises or increase the fire or insurance hazard by any use thereof.

ARTICLE XXXIII

REPAIRS, UPKEEP AND MAINTENANCE

33.1 REPAIRS, UPKEEP AND MAINTENANCE. Contracting Party shall keep the Common Areas and Leased Premises in as good condition as they were in when received, caring for them as a prudent administrator would care for his own property.

University shall be responsible for all ordinary upkeep, maintenance, and repairs to the Leased Premises arising from use of the premises except those repairs which are necessitated in whole or in part by the fault or neglect of Contracting Party. University shall select the contractor to perform any such upkeep, maintenance, and repairs. University shall be responsible for extraordinary repairs to the structure and roof of the building except those repairs which are necessitated in whole or in part by the fault or neglect of Contracting Party.

Contracting Party shall provide, install and pay all costs and expenses associated with equipment he may need to conduct his business and operations from the Leased Premises.

At the termination of this Agreement, by expiration of the term or otherwise, Contracting Party shall return Leased Premises in as good an order as they were when received, free from any contamination or pollution.

ARTICLE XXXIV

CONTAMINATION OR POLLUTION

34.1 CONTAMINATION OR POLLUTION. Contracting Party and their employees shall use their best efforts to keep University's Tract free from any and all contamination and pollution, whether resulting from any overfill, discharge, spill, or other release of toxic or hazardous substances or otherwise. Contracting Party agrees to notify University immediately of any and all contamination or pollution on or about University's Tract, including but not limited to, notice of any and all overfills, spills, discharges, or other releases of petroleum products on or about University's Tract irrespective of the cause of such.

Contracting Party and their employees shall conform to any and all federal, state, or local laws or ordinances concerning the storage, handling, transportation, sale, or distribution of all hazardous or toxic substances and shall use their best effort to cause their permittees and invitees to conform thereto, and Contracting Party will save and hold University harmless for any charge or liability resulting from same. Contracting Party shall promptly reimburse University for Contracting Party's pro rata share of any costs, charges or assessments related to any environmental monitoring by any governmental entity or regulatory authority that resulted from contaminants caused by Contracting Party, which shall be considered as additional rent. If contaminants were caused by University, University will pay all of the associated costs listed above.

ARTICLE XXXV

RENOVATIONS, ALTERATIONS AND IMPROVEMENTS

35.1 RENOVATIONS, ALTERATIONS AND IMPROVEMENTS. Contracting Party shall not construct any improvements on or make any renovations or alterations to the Common Areas or Leased Premises without first obtaining the written consent of University. All such renovations, alterations, and improvements constructed by Contracting Party shall become the property of University upon expiration or termination of this Agreement unless University requires removal of all or part of such improvements by Contracting Party, in which event such improvements as may be designated by University shall be removed by Contracting Party, at Contracting Party's expense, within thirty (30) days of the expiration or termination of this Agreement. Damages, if any, caused by such removal shall be repaired at Contracting Party's expense.

Any and all installations, improvements or other work performed by or for Contracting Party to the Leased Premises shall, upon termination of this Agreement, become property of the University.

Prior to the commencement of any of the renovations, alterations, or improvements described herein above, Contracting Party shall promptly notify University, in writing, of all construction work being undertaken or planned, the costs and expenses thereof, all purchase orders or agreements therefore, and the dates upon which Contracting Party shall pay such costs and expenses. Upon request by University, Contracting Party shall promptly furnish University with copies of all such documents. All renovations, alterations, or improvements shall be done in a thoroughly workmanlike manner and at the sole cost and expense of Contracting Party, all of which costs and expenses shall be promptly and timely paid by Contracting Party.

ARTICLE XXXVI **BONDING OUT LIENS**

36.1 BONDING OUT LIENS. In the event Contracting Party makes any renovations, alterations, or improvements as provided herein, and a laborer's or material man's lien is filed against University's Tract or any part thereof as a result of said renovations, alterations or improvements, Contracting Party shall promptly deposit with the recorder of mortgages of Orleans Parish, Louisiana, a bond guaranteeing payment of said lien in accordance with Louisiana Revised Statute 9:4835, as amended.

ARTICLE XXXVII **ASSIGNMENT AND SUBLEASE**

37.1 ASSIGNMENT AND SUBLEASE. Contracting Party shall not have the right to sublease and/or assign any portion of the Leased Premises.

ARTICLE XXXVIII **INSURANCE**

38.1 INSURANCE. University shall obtain and maintain fire and extended coverage insurance on University's Tract and such insurance shall be for the sole benefit of University. All proceeds, payments, and rights to proceeds and payments made by an insurer pursuant to said policies are payable only to University and Contracting Party shall not be a beneficiary of said policies. Any insurance payments or proceeds shall be used to repair and restore, to the extent possible, the Common Areas and Leased Premises to their pre-damage condition; however, University shall not be obligated to make repairs to the extent that the cost of such repairs exceeds the amount of the insurance payments or proceeds actually received.

Contracting Party shall, at their own cost and expense, obtain and maintain such other insurance as it deems desirable on the property and improvements of Contracting Party located on or about the Leased Premises. Contracting Party shall, at all times during the term of this Agreement, at their own cost and expense, fully protect themselves and University against loss or liability by carrying Workers' Compensation and public liability insurance with responsible insurance companies authorized to do business in Louisiana, insuring against all hazards and risks to which they may be subjected in connection with their operations on the Leased Premises and Common Areas. University shall be named as an additional insured. Without limiting the generality of the foregoing:

a) Contracting Party shall carry an Employer's Liability and Workers' Compensation Liability Insurance policy for full coverage and protection against liability to employees.

b) Contracting Party shall secure and keep in force, during the performance of the operations on the Leased Premises and Common Areas, such public liability and property damage insurance as shall protect them and the University from any and all claims for personal injury, including death, as well as claims for property damage, which may arise from Contracting Party's operations on the Leased Premises or Common Areas. The amount of such public liability insurance shall not be less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for injuries, including death, to any one person, and not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) as the result of any one accident. General liability insurance for property damage shall be in an amount not less than ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for any one accident.

Prior to or subsequent to the commencement of this Agreement, Contracting Party, upon demand by University, shall furnish certificates of all insurance policies required in connection with this agreement as aforesaid, which policies shall be issued to Contracting Party and/or University, as their interests may appear, together with certificates certifying to University that all said insurance is in force and that said insurance will not be canceled or otherwise changed or modified during the term of this agreement without notifying University in writing at least thirty (30) days in advance of such cancellation.

Should Contracting Party's insurance be cancelled for any reason, University has the non-exclusive option, but not the obligation, of obtaining insurance coverage for the benefit of Contracting Party, the cost of which Contracting Party must pay and reimburse University promptly upon demand as additional rent.

ARTICLE XXXIX **DESTRUCTION OF PREMISES**

39.1 DESTRUCTION OF PREMISES. If the Leased Premises shall be destroyed or damaged by fire or otherwise during the term of this Agreement, the University shall restore the Leased Premises to substantially its former condition as promptly as is reasonably possible, the cost of which is limited to insurance payments or proceeds actually received as provided above. During any period in which Contracting Party is unable to occupy the premises on account of such damage, the rent due under this Agreement for said period shall be abated. In case the damage by fire or otherwise substantially reduces the use of the Leased Premises by the Contracting Party, but does not wholly prevent the reasonable use thereof, then, in such case, the rents due under this Agreement shall be abated in proportion to the diminished utility of the Leased Premises.

ARTICLE XL **INDEMNITY**

40.1 INDEMNITY. Contracting Party's assuming possession of the Leased Premises and Common Areas constitutes an admission that Contracting Party has examined them and found

them in good and safe condition at that moment. Contracting Party agrees to hold University harmless from any and all responsibility whatsoever for any and all liability for loss, injuries, or damages caused by Contracting Party or others by any vice or defect of the Leased Premises and/or Common Areas caused in whole or in part by any act or omission by Contracting Party. Contracting Party expressly assumes all such liability, and Contracting Party agrees to indemnify and to hold University harmless from any loss, injury, or damage (including costs and reasonable attorney's fees) to any person or persons whomsoever, other than employees or invitees of University caused by Contracting Party, or to the property of any persons whomsoever arising out of the occupancy or use of the Leased Premises or Contracting Party's use of the Common Areas. Likewise, University agrees to indemnify and hold Contracting Party harmless for any loss, injuries, or damages caused by any latent defect in the property that could not be reasonably be detected by Contracting Party

ARTICLE XLI
AMUSEMENT DEVICES AND VENDING MACHINES

41.1 AMUSEMENT DEVICES AND VENDING MACHINES. Contracting Party shall not maintain or otherwise allow any currency, coin or token operated amusement devices or video games on or about the Leased Premises or Common Areas. Contracting Party shall not maintain or otherwise allow any type of vending machine on or about the Leased Premises or Common Areas without University's prior consent.

ARTICLE XLII
IMAGE REQUIREMENT

42.1 IMAGE REQUIREMENT. Contracting Party shall keep the Leased Premises and Common Areas in a clean and orderly condition to the satisfaction of University. Contracting Party shall not make use of outdoor advertising materials without University's prior consent. Contracting Party shall keep the Leased Premises in accordance with the image standards required by University.

ARTICLE XLIII
INSPECTION OF LEASED PREMISES AND OTHER

43.1 INSPECTION OF LEASED PREMISES AND OTHER. The University and his agents shall have the right, but not the obligation, to enter upon and inspect all parts of the Leased Premises at any reasonable time for any lawful purpose; provided, however, that the foregoing shall be done with reasonable notice and without substantial interruption to or interference with the business being transacted therein. University may place any signs or markings on or about the Leased Premises and/or Common Areas relating to the leasing, sale or other disposition of the Leased Premises, University's Tract, or any part thereof. University shall also be entitled to allow others to inspect the Leased Premises in the event of any prospective lease, sale or other disposition of the Leased Premises, University's Tract or any part thereof.

ARTICLE XLIV

DEFAULT

44.1 **DEFAULT.** At the option of University, the rent for the unexpired term of this Agreement shall become due if any of the following listed events occur and Contracting Party fails to remedy same after having been given thirty (30) days prior written notice at the addresses herein designated:

- (a) If Contracting Party fails to pay any installment of rent, additional rent or expenses assumed by Contracting Party in this Agreement promptly, as stipulated.
- (b) If Contracting Party fails to comply with any of the provisions and/or conditions contained herein.
- (c) If the Leased Premises or Common Areas are abandoned or cease to be actively occupied and used for business purposes for a period in excess of thirty (30) days without the University's approval.
- (d) If any lien, privilege or other encumbrance is imposed or is filed against University's Tract or any portion thereof as a result of any act or omission by Contracting Party.

If any event listed above occurs, University shall have the further options to cancel this Agreement immediately, or proceed for past due installments of rent only, reserving the right to proceed for remaining installments later.

If Contracting Party fails or refuses to permit University to reenter the premises, University shall have the right to evict Contracting Party in accordance with the provisions of Louisiana law, without forfeiting any of University's rights under this Agreement. Failure to strictly and promptly enforce any of the conditions of this Agreement shall not operate as a waiver of University's rights hereunder.

ARTICLE XLV

ATTORNEY'S FEES

45.1 **ATTORNEY'S FEES.** On claims by University to collect fees owed by Contracting Party, Contracting Party shall pay University's costs and attorney's fees if University prevails as to any portion of such a claim. If Contracting Party prevails University will pay Consulting Party's costs and attorney's fees. Should either party fail to pay any sums due to other party under this Agreement, such sums shall bear interest at the rate of twelve percent (12%) per annum or the maximum amount allowed by Louisiana law from date due until paid.

ARTICLE XLVI

WAIVER

46.1 **WAIVER.** The waiver by University of any breach of any term, covenant, condition or provision herein contained shall not be deemed to be a waiver of such term, covenant,

condition or provision with respect to any preceding or subsequent breach of the same or any other term, covenant, condition or provision hereunder.

No term, covenant, condition or provision of this Agreement shall be deemed to have been waived by University, unless such waiver is in writing by University.

ARTICLE XLVII

HOLDOVER BY CONTRACTING PARTY

47.1 **HOLDOVER BY CONTRACTING PARTY.** If Contracting Party shall not immediately surrender possession of the Leased Premises or Common Areas upon the expiration of this Agreement, Contracting Party, at the option of University, shall thereafter become a Contracting Party from month-to-month at a monthly rental equal to one and one-tenth times the previous month's rent installment, subject to all other conditions, provisions, and obligations of this Agreement insofar as the same are applicable to a month-to-month tenancy, and Contracting Party shall indemnify University against loss or liability resulting from Contracting Party's delay in so surrendering the Leased Premises or Common Areas including, but not limited to, reasonable attorney's fees and any claim made by a succeeding Contracting Party founded on such delay.

ARTICLE XLVIII

UNIVERSITY'S RIGHT TO CURE DEFAULTS

48.1 **UNIVERSITY'S RIGHT TO CURE DEFAULTS.** University, at any time and without notice, may, but shall not be obligated to, cure any default by Contracting Party of any of Contracting Party's obligations under this Agreement; and whenever University so elects, all costs and expenses incurred by University in curing any default, including, but not limited to, reasonable attorney's fees, together with interest on the amount of costs and expenses so incurred at the legal rate, shall be paid by Contracting Party to University on demand, and shall be recoverable as additional rent.

ARTICLE XLIX

SUBSTITUTION OF PREMISES

49.1 **SUBSTITUTION OF PREMISES.** University reserves the right to substitute for the Leased Premises comparable premises within the UNO campus (University's Tract) upon sixty (60) days prior written notice to Contracting Party. If University elects to make this substitution, the substitute premises will be leased to Contracting Party at the same Rent that Contracting Party is required to pay under this Agreement, and on the other terms of this Agreement, and University will pay all of Contracting Party's reasonable relocation costs, including, but not limited to, moving and telecommunications (including internet services).

ARTICLE L

COMPLIANCE WITH RULES AND REGULATIONS

50.1 **COMPLIANCE WITH RULES AND REGULATIONS.** Contracting Party and Contracting Party's employees, agents, and visitors shall observe and comply with the Rules

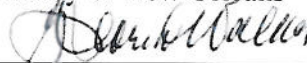
and Regulations that are annexed hereto and made a part hereof as Exhibit "A" and all other reasonable rules and regulations that University may from time to time adopt. Additional rules and regulations will not be binding on Contracting Party until University has given Contracting Party notice of said rules and regulations.

THUS DONE AND SIGNED AT New Orleans, Louisiana, on the 15th day of July, 2020.

WITNESS:



University of New Orleans



Gloria J. Walker, Ed.D., MBA, CPA

Vice President, Business Affairs and CFO

THUS DONE AND SIGNED AT New Orleans, Louisiana, on the 15th day of July, 2020.

WITNESS :

Adam Kramer

Contracting Party

Molly Kramer

Molly Kramer

Principal

EXHIBIT A

Firearm-free Zone <http://www.uno.edu/upd/weapons.aspx>

Tobacco Free Campus Policy <http://www.uno.edu/president/administrative-policies/documents/AP-OP-04.3-Tobacco-Use-Free-Campus.pdf>

Alcohol and Drugs <http://www.uno.edu/president/administrative-policies/documents/AP-SA-02.2-Alcohol-and-Drugs-4-30-14.pdf>

Accident Reports Involving Non-Employees <http://www.uno.edu/president/administrative-policies/documents/AP-OP-12.2-Accident-Reports-Involving-Non-Employees.pdf>

UNO Disaster/Emergency Plans http://www.uno.edu/president/administrative-policies/documents/AP-OP-09.2_UNO_Disaster_Emergency_Plans.pdf

Parking and Traffic Regulations <http://www.uno.edu/upd/docs/UNOParking2014.pdf>