



**Department of
Higher Education**

Mike DeWine, Governor
Randy Gardner, Chancellor

DIRECTIVE 2020-013

February 25, 2020

**RE: JOINT USE AGREEMENT BETWEEN BOWLING GREEN STATE UNIVERSITY AND
ERIE COUNTY PORT AUTHORITY**

Bowling Green State University has been granted appropriations contained in House Bill 529 of 132nd General Assembly in the amount of eight hundred thousand dollars. Bowling Green State University will use the funds to improve the facility owned by Erie County Port Authority. As required by Ohio Administrative Code section 3333-1-03, Bowling Green State University submitted a Joint Use Agreement for consideration and approval by the Chancellor.

The agreement conforms to Ohio Administrative Code as follows –

- The format of the agreement is appropriate
- The commitment extends no less than twenty years
- The value of use to Ohio higher education institutions is reasonably related to the amount of the appropriation

Agency staff reviewed the agreement and posted its recommendations to the Department's website for the purpose of providing a period of public comment before final approval by the Chancellor. The materials posted for comment and the joint use agreement are attached to this document.

Based on my review of staff recommendations, I hereby approve the Joint Use Agreement between Bowling Green State University and Erie County Port Authority.

This directive will take effect immediately.

Randy Gardner
Chancellor

mlc

JOINT USE AGREEMENT

(For capital funds released to institutions for facilities not owned by the institution)

This Joint Use Agreement ("Agreement") is entered into by and between Bowling Green State University ("BGSU"), an instrumentality of the State of Ohio created under Chapter 3341 of the Ohio Revised Code, whose address is 230 McFall Center, Bowling Green, Ohio, 43403; and the Erie County Port Authority (the "Port Authority"), a body corporate and politic and governmental subdivision of the State of Ohio created under § 4582.21 et seq. of the Ohio Revised Code, whose address is 5002 Timber Commons Dr., Sandusky, Ohio 44870.

WHEREAS, BGSU is an instrumentality of the State of Ohio established under Ohio Revised Code Chapter 3341;

WHEREAS, BGSU offers educational opportunities in Ohio at its main campus in Bowling Green, Ohio; its Firelands campus in Erie County, Ohio; in Perrysburg, Wood County, Ohio and throughout the world through its acclaimed on-line programs;

WHEREAS, the Port Authority is a body corporate and politic and governmental subdivision of the State of Ohio established under Ohio Revised Code Chapter 4582; and

WHEREAS, Cedar Fair, L.P., ("Cedar Fair") is a Delaware limited partnership that owns and operates amusement and water parks and hotels in the United States and Canada, including amusement and hospitality venues in Erie County, Ohio;

WHEREAS, Cedar Fair and BGSU have entered into a Cooperative Agreement to establish a public-private education program referred to with the working title of "the Cedar Fair Resort and Attraction Management Program at BGSU" (the "Program") that will provide students with instruction leading to the award of a BGSU Bachelor of Science degree in Resort and Attraction Management;

WHEREAS, the Program will require physical facilities that will be located within a portion of a new building to be constructed and located at 250 E. Market Street, Sandusky, Ohio;

WHEREAS, the Port Authority desires to cooperate in the creation of the Academic Center;

WHEREAS, Resort School LLC is an Ohio limited liability company ("Resort School"), in which an affiliated entity of Cedar Fair is a member;

WHEREAS, the Port Authority has agreed to issue bonds, own the Building, including the Academic Center and cause the construction of same through Resort School pursuant to a Construction Manager Agreement, and lease the Building to Resort School, which will sublease the Academic Center to Cedar Point Park LLC, and Cedar Point Park LLC will in turn sublease it to BGSU;

WHEREAS, in March 2018 the Ohio General Assembly enacted HB 529, an act that made capital appropriations for fiscal years 2019-20 (the "Act");

WHEREAS, in Section 207.30, Line Item C24062 of the Act, the University was appropriated \$800,000 for the BGSU Hospitality Program (the “Funds”);

WHEREAS, BGSU intends to use this appropriation to help fund construction of the Academic Center that will be owned by the Port Authority, leased to Resort School through a Lease Agreement (“Lease”) and to be used for the Program;

WHEREAS, Ohio Administrative Code § 3333-1-03(E) requires a public institution to submit to the Chancellor of the Ohio Department of Higher Education a joint use agreement that contains the requirements in (E)(1) -(11) for review and approval; and

WHEREAS, BGSU has demonstrated that the value of the use of the facility or equipment is reasonably related to the amount of appropriation through the worksheet included in this Agreement as *Exhibit A*.

NOW, THEREFORE, in consideration of the mutual benefits hereunder, it is hereby agreed to between the parties as follows:

1. **Facility or equipment owned, to be built or purchased by nonprofit or public body.** The Port Authority will own, finance, construct and lease to Resort School a new building to be constructed and located at 250 E. Market Street, Sandusky, Ohio (the “Building”). The physical facilities for the Program will include new construction and access to a selected office facility on the Building’s first floor, consisting of approximately 12,753 square feet of first-floor space designed specifically for academic use, the creation of classrooms, conference rooms and computer lab (the “Academic Center” or “Facility”). The entire Building structure, including the Facility, shall be owned by the Port Authority and leased to Resort School, which will sublease the Academic Center to Cedar Point Park LLC, and Cedar Point Park LLC will in turn sublease it to BGSU. A copy of the Master Agreement between Cedar Fair, L.P. and BGSU that will govern the Program and the Academic Center is attached hereto as Attachment 1. The Master Agreement includes the following exhibits: the sublease from Cedar Point Park LLC to BGSU (Exhibit A to Attachment 1); a scholarship agreement between Cedar Fair, L.P. and BGSU (Exhibit B to Attachment 1); a cooperative education agreement between Cedar Fair, L.P. and BGSU (Exhibit C to Attachment 1); a pro forma version of this Joint Use Agreement, which will be replaced by the final version approved by the Chancellor (Exhibit D to Attachment 1); and a pro forma academic calendar (Exhibit E to Attachment 1). For reference purposes, a copy of the Lease between the Port Authority and Resort School appears in the sublease from Cedar Point Park LLC to BGSU (identified as Exhibit D [“ECPA Lease”] to Exhibit A [“Sublease Agreement”] to Attachment 1) and a copy of the Resort School-Cedar Point Park LLC Sublease is attached hereto as Attachment 2.
2. **Use of the Facility or equipment by public institution.** The Port Authority and Resort School agree to provide use of the Academic Center to the faculty, staff, and students of BGSU for the provision of educational opportunities through the Program, as reflected in the Joint Use Agreement Worksheet attached hereto as *Exhibit A*, hereby incorporated. BGSU’s right to use the Academic Center will commence when the Facility is fully ready for the use described in *Exhibit A* and will expire on the 20th annual anniversary of that date.

3. **Reimbursement of funds.**

(a) The State of Ohio shall be reimbursed by the Port Authority subject to Section 3 (b) below if BGSU's right to use the Academic Center is terminated before the expiration of the 20-year term. The State shall be reimbursed the amount calculated by dividing \$800,000 by 20 and multiplying that sum by 20 less the number of full years the Facility is utilized by BGSU.

(b) If any transfer of the Academic Center occurs before the expiration of the 20-year term, the Port Authority shall either (i) require the transferee to be a nonprofit organization or a public body and to accept assignment of this Agreement and be bound by all of its terms and conditions or (ii) provide for reimbursement to the State of Ohio as provided in Section 3(a). It is understood and agreed that this requirement does not apply to the transfer of any other part of the Building. The parties understand that the Port Authority may create a condominium structure for the Building to enable transfer of the Academic Center to a non-profit or other governmental body, yet retaining the right to convey the remainder of the Building to a for-profit entity.

4. **Use of funds.** Funds will only be used for capital improvements as defined in the Act; specifically, to create the Academic Center in the Building suitable for its intended use. Operating costs of any kind will not be funded through this Agreement.

5. **Insurance for facility and hold harmless.** To the extent allowed by Ohio law, the Port Authority shall hold the State of Ohio and BGSU, its officers, trustees, employees, and students harmless from any and all costs, obligations, expenses, liabilities or claims of any kind whatsoever arising out of (1) the construction, operation, and maintenance of the Facility, or (2) an alleged action or omission by the Port Authority, its officers, directors or employees, including, but not limited to the Port Authority's failure or alleged failure to comply with applicable public bidding requirements or any other federal, state or local law, ordinance, rule, order, directive or regulation. The Port Authority will ensure the Facility is fully insured, either directly or through the tenant of the Facility, at market replacement value from and against hazards including, but not limited to, fire and such other forms of property damage as the Port Authority may reasonably determine to be appropriate.

6. **Compliance with federal, state, and local law.** The Port Authority, either directly or through the tenant of the Academic Center, will comply with all pertinent federal, state, and local laws as well as state administrative regulations applicable to the use of the funds hereunder and to the operation of the capital improvement.

7. **Competitive bidding.** For purposes of the expenditure of the \$800,000.00 hereunder, which will be used toward the tenant improvement package portion of the Academic Center to the BGSU-approved design prepared by Vocon Partners LLC, the Port Authority shall follow a competitive bidding process that includes publishing two (2) advertisements in a local newspaper of general circulation in Erie County to seek bids, receiving sealed bids, and awarding contracts to the lowest responsive and responsible bidder as provided in OAC 3333-1-03(E)(9). The Port Authority may utilize an Owner's Representative to administer the competitive bidding process on its behalf. It is understood that the remainder of the Project will follow the Port Authority's designated procedures as provided in R.C. 4582.31(A)(1)(18)(e).

8. **Appropriation Administrative Fee.** BGSU shall receive administrative costs in the amount of

\$12,000, a sum equal to 1.5% of the total amount of Funds.

9. **Amendments.** Any and all amendments made to this Agreement shall be in writing, signed by the Port Authority and BGSU, and shall require approval by the Ohio Department of Higher Education before taking effect.

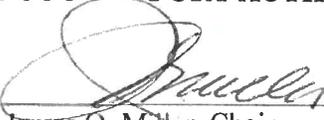
10. **Payment and distribution of funds.** Upon execution of the Agreement, BGSU shall submit to the Controlling Board a formal request for the release of the Funds. After the release of the Funds, the Port Authority and/or Resort School as Construction Manager and agent for the Port Authority shall submit to BGSU requests for payments of amounts along with documentation of contractor invoices or purchase orders related to obligations incurred by the Port Authority for permitted uses of the Funds as described below. BGSU will disburse funds to the Port Authority or its designee pursuant to properly documented requests for payment consisting of: (a) a sequentially numbered request for payment; (b) the amount requested and the cumulative amount requested and paid to date; (c) the estimated percent completion of the Facility; and (d) copies of original source documentation of the costs incurred for which a disbursement of a portion of the Funds is requested.

11. **Terms and conditions of use.** The Facility shall be used by BGSU faculty, staff, and students for the Program as reflected in the Joint Use Agreement Worksheet attached hereto as *Exhibit A*.

12. **Governing law.** This Agreement shall be interpreted, controlled, and enforced in accordance with the laws of Ohio.

IN WITNESS WHEREOF, the parties, intending to be legally bound thereby, have executed this Joint Use Agreement on the date indicated below under their respective signatures.

ERIE COUNTY PORT AUTHORITY

By: 
James O. Miller, Chair

Date: January 10, 2020

BOWLING GREEN STATE UNIVERSITY

By: 

Its: President

Date: 1/10/20

APPROVED AS TO LEGAL FORM



OFFICE OF GENERAL COUNSEL

Joint Use Agreement Worksheet – Exhibit A

The Ohio Department of Higher Education

Project: BGSU Hospitality Program

Date: _____

Section I: State appropriation information.

- 1. Amount of state appropriation provided: \$ 800,000.00
- 2. Estimated annual debt service on the appropriation: \$ 61,500.92
- 3. Term of the state bond, in years: 20 Years

Section II: Estimated value of use of the facility.

| Use(s) of the facility* | Annual value of use | # of years |
|---|----------------------------|-------------------|
| a. <i>Exclusive use of four classrooms, faculty and administrative offices, along with general collaboration/study space for students</i> | \$ 179,294.00 | 1 |
| b. <i>Exclusive use of four classrooms, faculty and administrative offices, along with general collaboration/study space for students</i> | \$ 191,294.00 | 19 |
| c. | \$ | |
| d. | \$ | |
| e. | \$ | |
| f. | \$ | |

(* List additional uses on separate page as needed.)

Section III:

On a separate page, explain how each use listed in Section II was valued for this analysis

Direction: The purpose of this worksheet is to enable a campus to demonstrate how the value of the uses that will be derived from a Joint Use Agreement is reasonably related to the value of the state capital appropriation made to the partner entity. Section I is to be filled out by the staff of the Department of Higher Education. Sections II and III are to be filled out by the partner campus.

EXECUTION VERSION

MASTER AGREEMENT

This Master Agreement (the “**Agreement**”), is made and entered into at Bowling Green, Ohio this 3rd day of September, 2019, by and between **Bowling Green State University** (“**BGSU**”) and Cedar Fair, L.P., a Delaware limited partnership (“**Cedar Fair**”) (each, a “**Party**,” and, collectively, the “**Parties**”).

WHEREAS, Cedar Fair owns and operates amusement and water parks and hotels in the United States and Canada, including amusement and hospitality venues in Erie County, Ohio;

WHEREAS, BGSU is an instrumentality of the State of Ohio established under Ohio Revised Code Chapter 3341;

WHEREAS, BGSU offers educational opportunities in Ohio at its main campus in Bowling Green, Ohio; its Firelands campus in Erie County, Ohio; in Perrysburg, Wood County, Ohio and throughout the world through its acclaimed on-line programs; and

WHEREAS, Cedar Fair and BGSU seek to be recognized as the global leaders in preparing talent for resort and attraction management and believe that the best means to achieve this goal is through an innovative public-private partnership; and

WHEREAS, Cedar Fair and BGSU agree to establish a public-private education program to be named and referred to as “the Cedar Fair Resort and Attraction Management Program at Bowling Green State University” (hereafter, the “**Program**”) that will provide students with instruction leading to the award of a BGSU Bachelor of Science degree; and

WHEREAS, the parties agree that for the Program to accomplish the parties’ purposes, they will need to provide for physical facilities and academic programming to facilitate the establishment of the Program.

WHEREFORE, the Parties enter into this Master Agreement to set forth their binding agreement as to the subject matters contained herein.

AGREEMENTS

In consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

**ARTICLE 1
REPRESENTATIONS AND WARRANTIES**

1.1 Representations and Warranties of Cedar Fair. Cedar Fair hereby makes the following representations and warranties to BGSU, each of which is material and is being relied upon by BGSU:

1.1.1 Entity Status. Cedar Fair is a publicly traded limited partnership duly organized and validly existing and in good standing under the laws of the state of Delaware, and qualified to do business in the state of Ohio.

1.1.2 Authorization. The execution and delivery of this Agreement, and the performance of this Agreement by Cedar Fair, have been duly authorized by all necessary company action, and this Agreement is legally valid and binding against Cedar Fair in accordance with its terms.

1.1.3 Information from Cedar Fair. No representation or warranty by Cedar Fair contained in this Agreement, and no statement contained in any certificate or other instrument furnished or to be furnished by Cedar Fair pursuant to the terms of this Agreement, contains any untrue statement of a material fact, or omits or will omit, in the aggregate, to state all material facts necessary in order to make the statements contained therein not misleading.

1.1.4 Transaction Not a Breach. To the best of Cedar Fair's knowledge, neither the execution nor the delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the performance of its obligations under this Agreement, including the participation in the Program, by Cedar Fair will: (i) to the best of Cedar Fair's knowledge and belief, violate any applicable law (ii) violate any provision of the limited partnership company documents of Cedar Fair, (iii) violate any order, writ, injunction or decree of any court, administrative agency or regulatory body or (iv) result in the breach of any material term or condition of, or constitute a default under, any obligations under any material mortgage, note, bond, indenture, contract, agreement, license or other instrument or obligation to which Cedar Fair is a party or by which it is bound.

1.1.5 Properly Licensed. Cedar Fair has obtained, and will maintain throughout the term of this Agreement, the necessary licenses and certifications from governmental organizations needed to perform its obligations under this agreement.

1.2 Representations and Warranties of BGSU. BGSU hereby makes the following representations and warranties to Cedar Fair, each of which is material and is being relied upon by Cedar Fair:

1.2.1 BGSU's Status. BGSU is a public institution of higher education and a body politic and corporate established under the laws of the State of Ohio.

1.2.2 Authorization. The execution and delivery of this Agreement, and the performance of this Agreement by BGSU, have been duly authorized by the BGSU Board of Trustees at its regular meeting on May 3, 2019, and this Agreement is legally valid and binding against BGSU in accordance with its terms.

1.2.3 Information from BGSU. No representation or warranty by BGSU contained in this Agreement, and no statement contained in any certificate or other instrument furnished

or to be furnished by BGSU pursuant to the terms of this Agreement, contains any untrue statement of a material fact, or omits or will omit, in the aggregate, to state all material facts necessary in order to make the statements contained therein not misleading.

1.2.4 Transaction Not a Breach. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the performance of its obligations under this Agreement by BGSU will (i) to the best of BGSU's knowledge and belief, violate any applicable law; (ii) violate any provision of the organizational documents of BGSU, (iii) violate any order, writ, injunction or decree of any court, administrative agency or regulatory body or (iv) result in the breach of any material term or condition of, or constitute a default under, any obligations under any material mortgage, note, bond, indenture, contract, agreement, license or other instrument or obligation to which BGSU is a party or by which it is bound.

1.2 Related Agreements. The Parties understand and agree that there are other agreements related to the Program and the Program Facility, hereinafter described.

ARTICLE 2 COVENANTS AND AGREEMENTS

2.1 Admission, Curriculum, and Instruction.

2.1.1 BGSU will develop an undergraduate degree program in Resort and Attraction Management that will be of the highest standards and reputation and that will enable graduates to become contributing professionals in the field.

2.1.2 The Program will be a new BGSU Bachelor's degree (2+2 Program; years 3 and 4 of a baccalaureate degree).

2.1.3 BGSU shall, in consultation with Cedar Fair, develop a curriculum for the Program which shall meet or exceed pertinent accreditation requirements.

2.1.4 BGSU and Cedar Fair agree and affirm that the name of the Program shall be the "Cedar Fair Resort and Attraction Management Program at Bowling Green State University."

2.1.5 BGSU and Cedar Fair shall collaborate on the design and implementation of a high-quality student Co-op program that provides students with an excellent Co-op experience and that satisfies all accreditor and university requirements for Co-ops.

2.1.5 BGSU shall, in consultation with Cedar Fair, develop admissions criteria for the Program. BGSU will establish articulation agreements and documented pathways with two-year and four-year institutions whose academic programs align with the Program.

2.1.6 BGSU shall, in consultation with Cedar Fair, develop and make available to admitted Program students financial aid processes, an orientation program, and appropriate student services.

2.1.7 BGSU will select and assign qualified persons to provide instruction to the Program students in accordance with University policies, procedures and best practices for faculty.

2.1.8 BGSU will, in coordination with Cedar Fair, establish and maintain an advisory board to monitor the Program to ensure it is accomplishing the parties' purposes.

2.1.9 Instructional Assistance. Cedar Fair will provide input into the Program's curriculum and will coordinate with BGSU to provide visiting instructors from Cedar Fair for seminars and similar events. The Parties will collaborate in determining the curriculum, faculty, admissions, means and methods of instruction, accreditation and other academic requirements being mindful of their respective areas of operation and expertise.

2.2 Co-operative education/Internships. As provided in the parties' Co-operative Education/Internship Agreement which is attached hereto as Exhibit C, and subject to the actual number of students enrolled in the Program, Cedar Fair will provide a minimum of 200 paid Co-operative education experiences to students in good standing in the Program across the Cedar Fair system each BGSU academic year. Cedar Fair shall give the Program students priority in Co-op selection and assignment.

2.3 Liaison with IAAPA. Cedar Fair will serve as a liaison between the Program and the International Association of Amusement Parks and Attractions for expanded Co-op opportunities.

2.4 Program Facility. Cedar Fair and BGSU agree that the Program's success requires there to be a state-of-the-art facility for the Program students to learn and live and for faculty to deliver instruction and perform other academic activities and spaces for faculty and administrators to have offices and ancillary spaces. Hereinafter, this facility shall be referred to as the "Program Facility". The Program Facility shall be located at 250 E. Market Street, Sandusky, Ohio and consist of a 12,753+/- square foot first-floor facility.

2.4.1 Cedar Fair shall or shall cause through various agreements to acquire, design, construct, furnish, equip and make available to BGSU the Program Facility for BGSU to perform its obligations for the Program and its students in time for the commencement of the Program activities in 2020 and not later than the commencement of the BGSU Fall 2020 semester.

2.4.2 Cedar Fair shall acquire, design, construct, furnish, equip and make available to BGSU the Program Facility, at Cedar Fair's sole expense, directly or in collaboration with a third-party development partner and shall also replace the furnishings and non-IT/AV equipment provided by Cedar Fair when the same reach the end of their useful life

and when otherwise reasonably required. BGSU through its contractors will purchase, install, and maintain all security, IT and AV/teaching aids equipment and related system infrastructure.

2.4.3 BGSU has approved the location, general design, furnishing, and operation of the Program Facility.

2.4.4 BGSU acknowledges that Cedar Fair, through Cedar Point LLC, will enter into a lease agreement to lease the Program Facility. BGSU and Cedar Fair, and/or such other third parties as BGSU and Cedar Fair shall mutually agree, shall enter into a mutually acceptable sublease agreement that sets forth the terms and conditions of BGSU's use of the Program Facility in a form substantially similar to Exhibit A of this Agreement (the "Sublease Agreement").

2.4.5 BGSU shall pay Cedar Fair or a third party rent in accordance with the terms of the Sublease Agreement.

2.4.6 BGSU shall have exclusive use of the Program Facility classrooms, collaborative spaces and like academic spaces during the University's fall, winter and spring semesters. BGSU shall have exclusive use of the Program Facility offices at all times. It is understood and agreed, however, that Cedar Fair shall have the right to use the Program Facility throughout the year for compatible uses during times when it is not being used by BGSU for Program related educational and administrative activity subject to BGSU's approval, which shall not be unreasonably withheld, conditioned, or delayed.

2.4.7 The Parties shall coordinate throughout the design, development and construction process and shall use their best efforts to ensure Cedar Fair's ability to timely complete construction.

2.4.8 BGSU shall provide to enrolled Program students such functions as orientation, on-boarding, Co-ops and related Program activities. The parties acknowledge that such Program activities will occur in the several months preceding the commencement of the BGSU Fall 2020 semester. These functions may be conducted in alternative facilities including, possibly, the BGSU Firelands campus, and under terms to be mutually agreed upon.

2.4.9 The Parties acknowledge that a new residential facility will be constructed simultaneously above the Program Facility and will be available to provide housing to the Program students (the "Residential Facility"). The Parties acknowledge that the Residential Facility is not subject to the Sublease Agreement nor terms of this Agreement other than as provided for herein.

2.4.10 Notwithstanding the foregoing, should the Residential Facility not be available for occupancy in time for the admission of the first cohort of students in the BGSU Fall 2020 semester, Cedar Fair and BGSU shall work cooperatively and make their best efforts to

identify and inform the Program students with alternative housing options pending completion of the Residential Facility.

2.4.11 In the event the Program Facility is not ready for use upon the beginning of the BGSU Fall 2020 semester, and substitute facilities must be obtained for the Program to commence operations in that semester, Cedar Fair shall, with BGSU's input and approval, procure such substitute facilities as are necessary to conduct the Program. Cedar Fair shall be responsible for all costs related thereto. In no event shall BGSU be financially responsible for providing an alternative to the Program Facility.

2.4.12 In no event shall BGSU or Cedar Fair be liable to each other or to any third party for delays resulting from the completion of the Residential Facility.

2.5 Residential Facility

2.5.1 The Residential Facility will include the following design elements: A residential facility with capacity for approximately 124 residents in an attractive residential design of approximately 80 units of single or double occupancy.

2.5.2 Cedar Fair and BGSU shall coordinate to ensure that the Residential Facility is consistent with market demand for apartment-style housing units that are either adjacent to the Program Facility or within a ten-minute drive radius of the Program Facility.

2.5.3 Cedar Fair will not provide dining services to residents of the Residential Facility.

2.5.4 BGSU students enrolled in the Program will have preferred access to the residential units at the Residential Facility. In order to provide for efficient inventory management of the on-site residential housing, a preferred access program ("PAP") will be implemented. The PAP will require that in order to have preferred access to the available onsite housing inventory, first year students will be required to:

- (i) at the time of initial enrollment in the program, elect the on-site housing option at the Residential Facility;
- (ii) make payment of an initial deposit as determined in accordance with prevailing market conditions and such terms as the Residential Facility's property manager (the "Property Manager") shall determine in its sole discretion; and
- (iii) enter into a market based residential lease agreement (the "Residential Lease Agreement") as provided by and in accordance with the terms as the Property Manager shall determine in its sole discretion. In addition, returning and transfer students will be required to make an on-site election on or before January 15th of each year and enter into a Residential Lease Agreement by such time for the next program year.

2.5.5 Cedar Fair through the Property Manager shall charge BGSU student residents of the Residential Facility a monthly rent amount that shall not exceed BGSU's on-campus single or double housing rates (the "BGSU Rates"), unless market-based rent for the

residential units generally consistent with the residential rental rates for similar properties in the Sandusky area rental market exceed such BGSU Rates.

2.5.6 Lease terms will be for a period of 12 months, with the right to sublet upon the written approval of the property manager.

2.5.7 Cedar Fair shall have the right to lease all remaining residential units in the Residential Facility that have not been reserved by participants in the Program in accordance with the PAP as set forth above, as its business needs and the marketplace dictate.

2.5.8 BGSU shall encourage the Program students to consider renting space in the Residential Facility but BGSU shall not require Programs students to rent units in the Residential Facility as a condition of admission into the Program or as a condition of continuing in the Program. BGSU and Cedar Fair will collaborate in the development of the PAP Program materials. BGSU will provide the PAP materials to students as part of enrollment, recruitment, orientation and general student information.

2.5.9 Cedar Fair through the Property Manager shall be solely responsible for entering into Residential Lease Agreement and BGSU shall have no responsibility for leases, collection of rents, or any other management or fiscal responsibilities for the Residential Facility.

2.5.10 Cedar Fair, through the Property Manager, shall ensure that all Residential Lease Agreements conform to local, state and federal housing laws.

2.5.11 Cedar Fair, through the Property Manager, shall develop and distribute rules and procedures for the Residential Facility residents.

2.5.12 Cedar Fair, through the Property Manager, shall not permit an individual's status as a student in the Program to be grounds for denying an individual a lease or for terminating a lease.

2.5.13 Lease terms will include terms customary for the protection of landlords, including any terms for the protection of the property against damage by the tenants and financial guarantees for payment of the rent and evictions.

2.5.14 Cedar Fair may also include in all Residential Lease Agreements involving BGSU students in the Program clauses providing that expulsion or suspension from the Program University or Co-op or the failure to be in academic good standing can be grounds for terminating a student's lease.

2.5.15 Cedar Fair will exercise reasonable and good faith efforts to cause the Program Facility and the Residential Facility to be completed and ready for occupancy and use by the BGSU Fall 2020 semester.

- 2.6 Other Financial Support.** Cedar Fair shall consider having its Foundation make charitable contributions supporting the Program scholarships and other student financial needs related to the Program.
- 2.7 Administration and student services.** BGSU, in consultation with Cedar Fair, will establish an administrative process for the student experience. Those functions will include, but are not limited to, developing admissions standards, application and admissions processes, financial aid, bursar functions, registration, records, and student life similar to the same services provided to BGSU students in Distance and Extended programs.
- 2.8 Approvals.** BGSU shall secure the requisite academic program approvals from the State of Ohio; and shall obtain and maintain accreditation with pertinent accrediting bodies.
- 2.9 Admission into the Program.** BGSU shall recruit, admit, and onboard students into the Program. The Program's enrollment capacity shall be at least 200 students with approximately 100 students in each cohort ("Enrollment Capacity").
- 2.10 Program Start.** The first cohort of the Program students shall be admitted and begin the Program near to the beginning of the BGSU Fall 2020 semester and that the foregoing commitments shall be completed in time for the first cohort to begin the Program at that time.
- 2.11 Scholarships.** As provided in the parties' Scholarship Agreement, a copy of which is attached hereto as Exhibit B, the parties agree to design, fund and implement a scholarship for the Program to support the Program students. The specific terms of the scholarship programs will be consistent with the terms set for in Section 1.2 et seq. of the Cooperative Agreement which are incorporated herein by reference and will be the subject of separate agreement attached hereto as Exhibit B.
- 2.12 Program Director.** BGSU, in consultation with Cedar Fair, will appoint a Program Director who shall be responsible for the Program.
- 2.12.1 Cedar Fair shall appoint an individual who will coordinate issues related to curriculum, instruction, scheduling, space utilization, student issues and like issues with the Program Director.
- 2.12.2 The Program Director will meet with the Cedar Fair representative as necessary to address pertinent issues.
- 2.13 Program Materials.**
- Materials to be developed by the parties include the following:
- (i) A Student Handbook which shall include policies and procedures applicable to the Program;

- (ii) Cedar Fair and the Property Manager will develop and issue, in collaboration with BGSU, a residential policies and procedures Manual;
- (iii) PAP Program materials for on-site residential housing; and
- (iv) Co-Op Program Handbook, which shall include policies and procedures applicable to the Co-Op Program.

2.15 Program Calendar. The program calendar will developed through the collaborative efforts of Cedar Fair and BGSU and will be substantially consistent with the pro forma calendar attached hereto as Exhibit E.

2.16 Marketing. Cedar Fair and BGSU shall together develop a marketing and promotion plan for the Program and the Residential Facility. This plan may include such activities as presentations, including at the annual IAAPA conference; messages on park rides and amusement attractions and amenities; local television and radio ads; open house events at the Residential Facility; and other marketing promotions, all as mutually agreed by Cedar Fair and BGSU. All such marketing and promotion activities must be approved by Cedar Fair and BGSU Marketing and Communications and coordinated through the BGSU and Cedar Fair Representative.

2.17 Student Discipline and Dismissal of the Program Students. Program students shall be subject to the same student policies and procedures as other non-residential BGSU undergraduate student, including but not limited to Policies governing academic conduct, discipline and dismissal from the Program.

2.18 Program Evaluation. During the term of this Agreement, and any renewal period, the parties shall have the right to review performance of this Agreement and shall at a minimum review the program once every three years. The subjects for such review may include by way of example and not limitation:

- (a) Recruitment and retention of BGSU students;
- (b) Student satisfaction;
- (c) Promotion of the Program;
- (d) Co-Operative Education/Internship Program;
- (e) PAP Program; and
- (f) Such other performance measures as are reasonably related to the successful operation of the Program.

2.18.1 The parties shall give reasonable advance written notice of their intention to undertake a review of performance of this Agreement. The parties shall agree on the manner in which a performance evaluation is conducted.

2.18.2 The parties shall review the results with each other and the performance evaluation may be utilized with respect to issues regarding cancellation and/or renewal of this

Agreement.

- 2.19 Articulation Agreements.** BGSU shall enter into articulation agreements with other institutions of higher education to further the purposes of the Program and to provide for the recognition by BGSU of academic credits earned at other institutions in satisfaction of Program admission and matriculation requirements.

ARTICLE 3 CONSIDERATION AND PAYMENT

- 3.1 Sublease Agreement.** BGSU shall use the Program Facility in accordance with the terms of the Sublease Agreement, a copy of which is attached as Exhibit A to this Agreement.

- 3.2 Tuition and Fees.** It is mutually agreed and understood that BGSU students enrolled in the Program will pay tuition and fees at such rates as the Bowling Green State University Board of Trustees shall set for each academic term. Payment shall be made in accordance with BGSU payment policies and procedures. Tuition shall be paid at the usual time of BGSU students' academic registration for a specified course. Tuition and BGSU related fees collectable by BGSU shall not, in any event, include any amounts payable under this Agreement directly to Cedar Fair by BGSU students including but not limited to, residential rent payments.

3.2.1 BGSU and Cedar Fair shall provide for the dissemination of information, document collection and completion of other administrative aspects of the housing process to provide for a "one stop shop" experience for BGSU students that will facilitate utilization of the on-site housing at the Residential Facility.

3.2.2 Cedar Fair shall have no responsibility and shall incur no liability whatsoever in connection with any such tuition and BGSU related fees payable separately to BGSU.

3.2.1 Naming. Pursuant to university naming policies, BGSU shall name and refer to the Program as "the Cedar Fair Resort and Attraction Management Program at Bowling Green State University" or an appropriate abbreviation thereof, in recognition of Cedar Fair providing to BGSU the valuable in-kind contributions set out below:

- (a) Cedar Fair will provide BGSU with the use of the Program Facility set out in Section 2.4 of this Agreement and as provided for by the Sublease Agreement. BGSU shall use the Program Facility for the delivery of instruction and related services. Rent shall be \$1 per year for each of the 20-year term of the Sublease Agreement. Based upon an independent analysis of the fair market value of such space in the relevant region, the value to BGSU of this support has value of as much as \$229,554 per year or \$4,591,080 over the 20-year term of this Agreement and the associated Sublease Agreement;

- (b) For a period of five years commencing in May 2019, Cedar Fair shall provide in-kind marketing support for BGSU by displaying messages on Cedar Fair FunTV, that raise awareness about BGSU in general and the Program in particular.
 - 1. Cedar Fair shall display these promotional messages on FunTV at all of the parks, venues, and other facilities it currently owns and operates, or which it may acquire and operate during the five-year term of this Section.
 - 2. BGSU shall produce the messages and be responsible for the cost of production. Cedar Fair will display the messages on FunTV at no cost to BGSU.
- (c) The in-kind value of general marketing awareness campaign that is valued at \$329,000 per year and a program (RAM) specific campaign (which includes all parks) valued at \$836,000 per year. The cumulative value of these in-kind programs for an initial five-year period is \$5,825,000 to BGSU
- (d) After five years, the parties shall assess the in-kind value of FunTV to BGSU and negotiate for the extension, modification, or termination of this clause. If termination occurs, the naming rights set forth in Section 3.2.1 will be modified accordingly based upon the mutual agreement of the parties.
- (e) The parties estimate that the combined in-kind values of the space and marketing services Cedar Fair will provide to BGSU pursuant to this Section have a combined value to BGSU of approximately \$10,416,080.

ARTICLE 4 TERM; CONDITIONS PRECEDENT

- 4.1 Term.** This Agreement shall commence on the day and year first written above and shall continue in effect for a period of twenty (20) years thereafter, unless earlier terminated in accordance with the terms of this Agreement. This Agreement may renew for three (3) additional terms of five (5) years, provided that, at least twenty-four (24) months prior to the expiration of the then-current term of this Agreement, the Parties shall meet to discuss the renewal terms of the Agreement and, if mutually agreed to, the Agreement shall renew on such terms for an additional term of five (5) years. Nothing in this Section shall be deemed or construed to require the Parties to renew the Agreement.
- 4.2 Conditions Precedent.** The Parties' obligations to perform hereunder are expressly contingent and conditioned upon the satisfaction of the following conditions precedent:
- (a) Approval of the Program by the state of Ohio, required accrediting agencies, and

the respective Boards of Cedar Fair and BGSU;

(b) A suitable building site, with available utilities, at 250 E. Market Street, in Sandusky, Ohio, be procured and permitted for Program use; and

(c) The execution of this Agreement and the related Agreements by both BGSU and Cedar Fair; and if for any reason the conditions precedent have not been satisfied or waived on or before May 10, 2019 then either party shall have the right to terminate this Agreement upon written notice to the other party, without liability to other party and the Parties shall have no further Obligation to one another under this Agreement.

ARTICLE 5 DEFAULTS, REMEDIES AND TERMINATION

5.1 Events of Default. The following shall be “Events of Default” under this Agreement:

5.1.1 A party fails to perform any material obligation under this Agreement or any related Agreement and fails to correct such failure within 30 days after written notice specifying such failure is given.

5.1.2 In the case of any such failure that cannot with due diligence be corrected within 30 days but can be wholly corrected within a period of time not materially detrimental to the rights of the non-defaulting party, it shall not constitute an Event of Default if the defaulting party proposes a remedial plan reasonably acceptable to the non-defaulting party and the parties diligently and in good faith pursue the corrective action in such plan.

5.1.3 A default by either Party shall have occurred under the Lease and shall have continued unremedied beyond the expiration of the applicable cure or grace period with respect to such default.

5.1.4 A party ceases to be properly licensed or accredited to conduct business and the failure thereof shall give the other party the right to immediately terminate this Agreement.

5.1.5 Any material action by Cedar Fair that negatively affects and damages BGSU’s reputation in the field of higher education at a demonstrably significant and substantial level or any material action by BGSU that negatively affects and damages Cedar Fair’s corporate reputation in the resort and attraction industry at a demonstrably significant and substantial level.

5.2 Remedies Upon Default. Upon the occurrence and continuance of an Event of Default beyond the applicable cure or grace period, the non-defaulting Party shall have the right to terminate this Agreement and pursue any remedy available to it at law or in equity. Either Party may bring, in a court of competent jurisdiction, an action for monetary damages directly resulting from such Event of Default or claim a right of set off against any amounts owed by the defaulting Party to the non-defaulting Party or any combination of the foregoing. For the avoidance of doubt, actual damages incurred by BGSU, as the non-

defaulting Party, may include the net reasonable costs of procuring a provider to replace Cedar Fair as the provider of the Program to BGSU students, faculty and staff, or the net reasonable costs of BGSU directly providing such Services; provided further that the actual damages incurred by Cedar Fair, as the non-defaulting Party, may include the net reasonable costs of procuring a provider to replace BGSU as the provider of the Program services to program participants, or the net reasonable costs of Cedar Fair directly providing such services.

5.3 Termination for Danger to Health or Welfare. BGSU shall have the right to terminate this Agreement immediately if the continuation of the Agreement possesses a danger to the health or welfare of BGSU students, faculty, staff or other BGSU employees that is not remedied after notice and a reasonable opportunity to cure of not less than sixty (60) days.

5.4 Termination for Lack of Enrollment. Either party may terminate this Agreement in the event that, after the completion of the first four (4) full academic years, enrollment in the Program fails to achieve an aggregate 50% of its total Enrollment Capacity for three (3) consecutive academic years (i.e., 100 students enrolled in the Program); provided, however, that any termination under this Section shall allow BGSU to perform a “teach-out” as required by the Higher Learning Commission and any other applicable accrediting body.

5.4.1 In the event of termination pursuant to this Section 5.4, BGSU agrees that it will use its best efforts to seek a waiver of any requirement for the reimbursement of the State of Ohio’s Eight Hundred Thousand Dollar (\$800,000) grant as required under the Joint Use Agreement (copy attached hereto as Exhibit D) and seek a replacement use or tenant acceptable to the Ohio Department of Higher Education and Cedar Fair.

5.5 Survival. The provisions of this Article shall continue in effect notwithstanding any termination of this Agreement.

5.6 Buy Back and Acquisition Upon Termination. Cedar Fair must acquire and assign for use at the Program Facility throughout the term of this Agreement and any extension, office furnishings and non-IT/AV equipment (BGSU through its contractors will purchase, install, and maintain all security, IT and AV/teaching aids equipment and related system infrastructure), which shall be the property of Cedar Fair. For purposes of this Agreement, such equipment and furnishings shall be appliances, accessions, furnishings, loose equipment, and other equipment of whatever nature incorporated in, attached to, or associated with any of the foregoing in Cedar Fair’s possession.

5.6.1 In the event of the termination of this Agreement for any reason, BGSU shall have the option to purchase all or a portion of the Cedar Fair equipment and furnishings located in the Program Facility and used to deliver the Program services provided for in this Agreement. For purposes of this Section the equipment which shall be subject to this purchase option right shall be any Cedar Fair equipment or furnishings located in the Program Facility that were used in the last full semester in which any of the services specified in this Agreement were provided. The purchase price for any equipment or

furnishings purchased by BGSU in such instance shall be the depreciated book value of the equipment or furnishings, determined in accordance with GAAP.

5.6.2 In the event it exercises its option to purchase, BGSU shall take immediate possession of all equipment and furnishings it has identified for purchase and may immediately use said equipment or furnishings at its discretion. That the final price calculation and closing of the sale for the equipment and furnishings to be purchased has not been finalized shall not be grounds for Cedar Fair to delay transferring possession of the equipment or furnishings to be purchased to BGSU. During the time between when BGSU notifies Cedar Fair of its intention to exercise its option to purchase, and the closing on such sale and purchase, BGSU shall pay to Cedar Fair as rent for the use of this equipment and furnishings the rental rates then customary in the industry. BGSU shall maintain property and casualty insurance on the equipment and furnishings during this interim period.

ARTICLE 6 INSURANCE

6.1 Insurance Requirements.

- (a) **Worker's Compensation Insurance.** Each Party shall maintain Worker's Compensation insurance for all their respective employees. In the event any work is subcontracted, each Party will require the subcontractor to provide Worker's Compensation insurance in accordance with the statutory requirement of the State of Ohio including Coverage B, Employer's Liability, including all Minimum Limits of Liability; Statutory Minimum Limits for Employers' Liability, Ohio Stop Gap Insurance.
- (b) **Co-op Students.** The parties acknowledge and agree that during the times Program students are participating in Co-op experiences, those students shall be considered employees of Cedar Fair for all insurance and liability purposes.
- (c) **Lease-Related Insurance.** The parties will address any and all insurance requirements for the Program Facility as part of the Sublease Agreement.

ARTICLE 7 MISCELLANEOUS

- 7.1 **Nondiscrimination.** The Parties agree that neither will discriminate against any employee, student or contractor on the basis of race, religion, sex, sexual orientation, sexual identity, age, creed, national origin, disability, or veteran status.
- 7.2 **Third-Party Rights.** This Agreement is intended solely for the mutual benefit of the Parties, and there is no intention, express or implied, to create any rights, privileges, or interest for the benefit of any third party including and especially any student or prospective

student, and no Party will be under any obligation to any third party by reason of this Agreement.

7.3 Notices. Unless otherwise provided, all notices required under this Agreement shall be in writing and shall be addressed to the offices below:

Notices to Cedar Fair:

Cedar Fair, L.P.
One Cedar Point Drive
Sandusky, OH 44870
Attn: General Counsel - Duffield Milkie, Esq.
dmilkie@cedarfair.com

With a copy to:

Cedar Fair, L.P.
One Cedar Point Drive
Sandusky, OH 44870
Attn: Chief Financial Officer - Brian Witherow
Bwitherow@cedarfair.com

Notices to BGSU:

With regard to curricular matters:
Bowling Green State University
230 McFall Center
Bowling Green, OH 43403
Attn: Provost and Vice President of Academic Affairs
provost@bgsu.edu

With regard to all other matters:
Bowling Green State University
308 McFall Center
Bowling Green, OH 43403
Attn: General Counsel
gencounsel@bgsu.edu

All notices shall be deemed to be properly served if delivered to the appropriate address(es) by hand delivery, registered or certified mail (with postage prepaid and return receipt requested), courier, or electronic mail. Date of service of a notice served by mail shall be the second business day after the date of posting; otherwise the date of refusal of receipt.

The Parties may from time to time designate additional representatives to be provided notice.

7.4 Non-Compete. During the term of this Agreement (or any renewal term thereof), Cedar Fair and BGSU and any party that is controlled by or under common control with Cedar Fair or BGSU or any agent, partner or other person affiliated with Cedar Fair shall not, without the prior written consent of the other party directly or indirectly, individually or in concert with any other person or entity, or through a corporation, limited liability company, partnership, or other entity, own, manage, operate, control, provide services on behalf of, invest in, assist (financially or otherwise), or participate in or be interested or connected in or otherwise affiliated in any manner with the ownership, management, operation, promotion, or control of any person, corporation, limited liability company, partnership, or other entity that owns or otherwise operates a Resort and Attraction Management or substantially similar academic or instructional program within the state of Ohio or in an "on line" format that is similar to the BGSU-Cedar Fair Program.

Cedar Fair and BGSU agrees that the provisions of this Section are reasonable and necessary to protect the legitimate business interests of BGSU and Cedar Fair. Cedar Fair and BGSU agree that the remedies at law for a breach of this Section would be inadequate to protect BGSU or Cedar Fair because monetary damages would be difficult if not impossible to ascertain, and therefore, both the parties understand that non-breaching party will shall seek injunctive relief including a temporary restraining order, a preliminary injunction and a permanent injunction for any such breach.

7.5 Independent Contractor Status. It is mutually understood and agreed by the Parties that each Party and its employees and agents are at all times acting and performing as independent contractors with respect to the other Party and nothing in this Agreement is intended nor will be construed to create an employer/employee relationship, a joint venture relationship, a lease or landlord/tenant relationship among the Parties. No Party will have or exercise any control or direction over the manner or method by which the other Party or its employees or agents perform the services that are the subject of this Agreement.

7.6 Governing Law. This Agreement is made and entered into in the State of Ohio and shall be governed and construed in accordance with the laws of Ohio. The Parties hereby irrevocably and unconditionally consent to the jurisdiction of the state courts located in the State of Ohio in connection with any matter relating to or arising out of this Agreement or the breach thereof and waive any objection to venue or the convenience of proceeding in any such court. Cedar Fair acknowledges that BGSU is an entity of the state of Ohio and the application of the Ohio Court of Claims Act to matters involving BGSU.

7.7 Assignment. Neither party shall have the right to assign or transfer this Agreement or any interest under it or any right or privilege appurtenant to it unless the written consent of the other party is first had and obtained, such consent to be given or withheld in the other party's sole discretion. No approved assignment or transfer shall release the assigning Party from its duties and obligations under this Agreement. Any assignment or transfer for which consent is required but which is nevertheless attempted to be made without such consent shall be invalid. For purposes of this Agreement, any change in the individuals who hold

Fifty Percent (50%) or more of the stock or voting rights of Cedar Fair shall constitute an assignment or transfer of this Agreement.

- 7.8 Entire Agreement.** This Agreement together with the Sublease Agreement, Scholarship Agreement, Cooperative Education/Internship Agreement, and Joint Use Agreement contain the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede any and all prior oral and written agreements made with respect thereto.
- 7.9 Joint Preparation.** This Agreement shall be deemed to have been jointly prepared by all Parties hereto, and any ambiguities or uncertainties herein shall not be construed for or against any party.
- 7.10 Counterparts.** This Agreement may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of both Parties hereto be contained on any one counterpart hereof. Additionally, the Parties hereto agree that for purposes of facilitating the execution of this Agreement, (a) the signature pages taken from the separate individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts and (b) signatures provided by facsimile or in Adobe Portable Document Format (PDF) sent by electronic mail shall be deemed to be original signatures for all purposes. All executed counterparts of this Agreement shall be deemed to be originals, but all such counterparts taken together or collectively, as the case may be, shall constitute one and the same agreement.
- 7.11 Amendments, Changes, Modifications.** This Agreement may not be amended, supplemented, changed, modified, or altered except by an instrument in writing executed by all Parties to it.
- 7.12 Severability.** If any provision of this Agreement, or any covenant, stipulation, obligation, agreement, act, or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision or any other covenant, stipulation, obligation, agreement, act or action or part thereof, made, assumed, entered into, or taken, each of which shall be construed and enforced as if such illegal or invalid portion were not contained herein. Nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such provision, covenant, stipulation, obligation, agreement, act, or action, or part shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.
- 7.13 Force Majeure.** Notwithstanding the foregoing, if, by reason of Force Majeure (defined below), either Party to this Agreement is unable to perform or observe any agreement, term or condition hereof which would give rise to a breach under this Agreement, such Party shall not be deemed in default during the continuance of such inability. If a Party claims Force Majeure, such Party shall promptly give notice to the other Party of the existence of an event of Force Majeure and shall use its best efforts to mitigate the effect thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely

within such Party's discretion. If the event of Force Majeure continues for more than 30 days, then the other Party shall be entitled to terminate the Agreement immediately. Such termination shall not be a default or breach of this Agreement.

The term "**Force Majeure**" shall mean, without limitation, acts of God; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State of Ohio or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; explosions; breakage, malfunction or accident to facilities, machinery, partial or entire failure of utilities.

7.14 Compliance. In performing their duties under this Agreement, each Party shall comply with all applicable provisions of law and rules and regulations promulgated by any and all governmental authorities thereunder, including but not limited to laws and regulations applicable to BGSU by virtue of its tax-exempt status. If either Party becomes aware of any fact or circumstance that constitutes or creates a significant risk of a violation of any of the foregoing relating to the subject matter of this Agreement, it shall promptly call it to the attention of the other Party. No part of any consideration paid or provided under this Agreement will be a prohibited payment or consideration for the recommending or arranging for the referral of business or the ordering of items or services, nor will the payments be intended to induce illegal referrals of business. Each Party maintains and adheres to a conflict of interest policy and each Party will either disclose any employees, officers, directors, consultants, or owners of it or its affiliates who are employees, officers or directors of, or serve in any advisory capacity to, the other Party or its affiliates or represent that there are none. If any payments are made to such disclosed Parties, they will be at fair market value.

7.15 Legal Developments. In the event that either Party gives written notice to the other Party that counsel for such Party has determined in good faith that the execution and delivery or performance of this Agreement by such Party, or the performance by such Party of any provision hereof, or any matter contemplated hereby, either separately or in conjunction with other activities by such Party, creates a substantial risk of being deemed in violation of any legal or regulatory requirement applicable to such Party (including but not limited to laws or regulations that may be applicable to such Party by virtue of its participation in any third party payment program or its tax-exempt status) as such requirement is interpreted by any agency or instrumentality of federal, state or local government charged with enforcement of such requirement, including but not limited to a substantial risk that any payment hereunder exceeds fair market value, then the Party giving notice shall have the right to require that the other Party renegotiate the terms of this Agreement, such renegotiated terms to become effective not later than 30 days after receipt of written notice of such request for negotiation. If the Parties fail to reach an agreement satisfactory to both Parties within 30 days of the request for renegotiation, the Party requesting such renegotiation may terminate this Agreement upon 30 days' prior written notice to the other Party or sooner if required by law. Notwithstanding the foregoing, if such risk of illegality applies only to certain provisions of this Agreement, the termination shall be limited to the affected provisions, and shall not affect the duty of the Parties to perform the remaining

provisions of this Agreement unless the failure to perform the affected provisions would defeat the essential purposes of this Agreement.

- 7.16 Severability.** If any of the above provisions of this Section are found to be unenforceable, either in whole or in part, the unenforceable part will be stricken and the remainder of this Section will be construed as valid and enforceable to the extent permitted by law unless the failure to perform the unenforceable provision would defeat the essential purposes of this Agreement.
- 7.17 Press Releases; Use of Names.** Neither Party shall issue any press release or similar publication pertaining to this Agreement or the transactions described herein without the specific prior written consent of an authorized representative of the other Party as to each such issuance. Neither Party will use the name, logo, likeness, trademarks, image or other intellectual property of the other Party for advertising, marketing, endorsement or any other purposes without the specific prior written consent of an authorized representative of the other Party as to each such use.
- 7.18 BGSU as a Public Entity.** The parties acknowledge that BGSU is a public entity of the state of Ohio and as such is subject to various provisions of the state's sunshine laws including, but not limited to, the Ohio Public Records Act. The parties acknowledge that BGSU may have to comply with requests for records related to the subject covered by these agreements and that fulfilling such a request may require Cedar Fair to supply records in its possession. In such instances, BGSU shall inform Cedar Fair of the request and the records being requested and Cedar Fair's obligation to supply the requested records. Cedar Fair shall assist BGSU in complying with a proper records request including by supplying requested records.

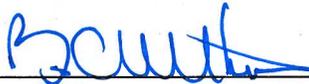
It is understood and agreed that Cedar Fair is not acting as BGSU's agent in any capacity, including the retention of records. BGSU and Cedar Fair each owns and retains their own respective records, and nothing in this Agreement may be interpreted to convert Cedar Fair's documents into public records or create requirements for production of documents or other information not already existent in statutes and other laws of the State of Ohio.

The parties acknowledge in this regard the provisions of Section 7.2 of this Agreement.

- 7.19 Cedar Fair as a Publicly-Traded Entity.** The parties acknowledge that Cedar Fair is a publicly-traded entity with subsidiaries and affiliates. Cedar Fair may perform any of its obligations, duties, and rights hereunder through any of its subsidiaries or affiliates.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

CEDAR FAIR, L.P.

By: 
Name: BRIAN C. WITHEROW
Title: EVP & CFO

BOWLING GREEN STATE UNIVERSITY

By: 
Rodney Rogers, Ph.D. President

APPROVED AS TO LEGAL FORM



OFFICE OF GENERAL COUNSEL

Exhibits:

- Exhibit A: Sublease Agreement
- Exhibit B: Scholarship Agreement
- Exhibit C: Cooperative Education/Internship Agreement
- Exhibit D: Joint Use Agreement
- Exhibit E: Pro-forma Program Calendar

BGSU-CEDAR FAIR
Master Agreement

Exhibit A

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (herein called "Lease" or "Sublease") is entered by and between Cedar Point Park LLC, a Delaware limited liability company (herein called "Landlord"), and Bowling Green State University, an instrumentality of the State of Ohio (herein called "Tenant"), Landlord and Tenant having the following addresses on the date of this Lease:

LANDLORD:

Cedar Point Park, LLC
One Cedar Point Drive
Sandusky, OH 44870
Attn: Duffield Milkie, Esq.
dmilkie@cedarfair.com

TENANT:

Bowling Green State University
230 McFall Center
Bowling Green, OH 43403
Attn: Sherideen S. Stoll, CPA
VP, Finance & Admin
sstoll@bgsu.edu

WHEREAS, Cedar Fair, L.P. and Bowling Green State University ("BGSU") entered into a Cooperative Agreement, effective March 28, 2018, and a Master Agreement, effective _____, 2019, to cooperate in establishing a public-private education program to be named and referred to as the "Cedar Fair Resort and Attraction Management Program at BGSU" (hereinafter, "the Program") that will provide students with instruction leading to the award of a BGSU Bachelor of Science degree in Resort and Attraction Management.

WHEREAS, BGSU committed to establish and operate the Program under the terms of the Cooperative Agreement and the Master Agreement; and

WHEREAS, Cedar Fair committed to provide for the construction of the educational facility in Sandusky, Ohio, for the Program, and BGSU agreed to operate the Program and manage the facility.

In consideration of the premises, the mutual covenants herein contained, and each act to be performed hereunder by the parties, Landlord and Tenant hereby enter into the following ground lease agreement (herein called "Lease").

ARTICLE I

FUNDAMENTAL LEASE PROVISIONS, EXHIBITS AND MEMORANDUM OF LEASE

Section 1.01. Fundamental Lease Provisions. Certain fundamental lease provisions ("Fundamental Lease Provisions") are set forth below:

(a) Site

Shall mean the land situated in the City of Sandusky, County of Erie and State of Ohio, and being a portion of Erie County Parcel No. 56-64051.000, as depicted on the legal description attached hereto as **Exhibit A**.

(b) Demised Premises

The academic space, containing 12,753+/- square feet on the first floor of the New Building and constructed pursuant to the Cooperative Agreement on the portion of land located in Sandusky, Ohio, as depicted on the site plan attached hereto as **Exhibit B** and defined in the Master Agreement as the Program Facility.

(c) New Building

A 78,030+/- square feet building to be constructed and generally known as the Cedar Fair/Bowling Green State University Resort School Academic and Residential Facility, located at 250 E. Market Street, as shown in the site plan attached hereto as **Exhibit B**, which shall include a Residential Facility as defined in Section 2.5.1 of the Master Agreement, and which Residential Facility is not subject of this Lease. The design and construction of the New Building and associated Site improvements are being financed, in part, through bonds issued by the Erie County Port Authority ("ECPA") who will contract with Resort School LLC to act as the Construction Manager of the New Building. The ECPA is anticipated to own the New Building, including the Demised Premises, through the life of the bonds and lease it to Resort School LLC, which will in turn lease the Demised Premises (i.e. Program Facility) only to Landlord during such period. It is further anticipated that at the maturity of the bonds, ECPA may create a condominium structure for the New Building to enable transfer of the Demised Premises to a non-profit or other governmental body under the Joint Use Agreement between ECPA and Lessee, and Landlord will then lease the Demised Premises from the new owner. It is understood and agreed that this Sublease is intended to continue through such transfers of ownership without interruption or the need for amendment caused by such transfer in ownership.

(d) Common Areas

The portions of the New Building used jointly by Resort School LLC and Tenant, including the lobby, entrance area, and parking, as depicted on the attached **Exhibit B**. Upon completion of the New Building, the Landlord shall prepare a detailed list of Common Areas, based on the as-built condition of the New Building, which shall be appended to this Lease as **Exhibit B-2 (Amended)** and shall constitute a formal amendment of this Lease.

(e) ECPA Lease

Shall mean the Lease between Resort School LLC and ECPA for Resort School LLC's lease of the New Building

from ECPA, a copy of which is attached hereto as **Exhibit D.**

(e) Tenant's Use

Use of the Demised Premises for teaching, learning and administration of the Program, including classrooms and administrative offices for Program staff.

It is understood and agreed that, to the extent allowed by Section 2.4.6 of the Master Agreement, Landlord shall also have the right to use the Demised Premises to hold events or other programs during times when the Demised Premises is not being used by Tenant for program related educational and administrative activity; provided, however, that Landlord's use shall be compatible with Tenant's use (e.g., meetings, trainings, and corporate events) and subject to Tenant's prior approval, which shall not unreasonably be withheld, conditioned, or delayed.

The Demised Premises is to be operated by a Property Manager who shall coordinate the scheduling of use and access to the Demised Premises by Tenant and Landlord, with all parties understanding that the use of the Program Facility for the program shall be the primary and priority use as required by Section 2.4.6 of the Master Agreement and this Lease.

(f) Rent Commencement Date:

Thirty (30) days after Lease Commencement Date.

(g) Occupancy Date:

The date on which the contemplated improvements under this Lease are substantially completed. Landlord shall provide Tenant with sixty (60) days' advance written notice of the anticipated Occupancy Date as the construction progresses and shall exercise reasonable care to notify Tenant of any changes to such anticipated date.

(h) Occupancy Year

Shall mean a time period of one year, which shall commence on the first Occupancy Date, and every anniversary thereof for the duration of the Lease.

(i) Original Term:

Twenty (20) years, subject to early termination as provided herein.

(j) Renewal Term:

Three (3) five (5) year terms, subject to mutual agreement of Landlord and Tenant.

(k) Lease Commencement Date:

Shall be the same as the Occupancy Date. Landlord shall deliver a Lease Commencement Letter to Tenant at least

seven (7) calendar days prior to the Lease Commencement Date to notify Tenant of the Lease Commencement Date.

(l) Original Term Base Rent:

An initial payment of Twelve Thousand Dollars (\$12,000) due and payable on the Rent Commencement Date to cover a portion of the cost of tenant improvements at the Demised Premises plus Annual Base Rent during the Initial Term of one dollar (\$1.00) per year, which shall be paid in one installment of twenty dollars (\$20.00) on the Rent Commencement Date (“Base Rent”).

(m) Resort School LLC

Shall mean the company co-owned by Landlord, which is developing the Project. Resort School LLC will own the Site and will lease the New Building from ECPA during ECPA’s ownership of the New Building.

(n) Joint Use Agreement

Shall mean the Joint Use Agreement between ECPA and BGSU under O.A.C. §3333-1-03(E) in connection with the use of the \$800,000 appropriated in Section 207.30, Line Item C24062 of HB 529, for the Program.

(o) Service Rent:

Beginning on the Occupancy Date Tenant shall pay Landlord monthly service rent to cover the costs of maintenance and upkeep of the Common Areas. (“Service Rent”) The Service Rent payable by Tenant shall be reviewed in January of each year during the Term commencing with the initial review in January of 2022, and increased in an amount equal to the product of the Service Rent times a number equal to the percentage increase in the CPI over a twelve month period, calculated by using the most recently published CPI and the CPI published 12 months earlier, for the Consumer Price Index, All Urban Consumers, for the North Region as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(p) Program

Shall mean the public-private education program to be named and referred to as the “Cedar Fair Resort and Attraction Management Program at Bowling Green State University.”

(q) Property Manager

Shall mean, as applicable, Landlord, acting either directly or through a third-party manager, or the manager hired by Resort School LLC to manage the New Building, including the Demised Premises. As part of its duties, the Property

Manager shall prepare annual reports detailing estimates for maintenance of the Common Areas and make suggestions for improvements.

(r) Site Plan

Shall refer to the Site Plan and Design Documents for the design and construction of the New Building and associated improvements on the Demised Premises, including all signage as approved by Landlord. Upon its completion, this Lease shall be amended to add the Site Plan as **Exhibit B-2**.

(s) Environmental Reports

Shall mean collectively the report of a phase I environmental site assessment dated July 2018 prepared by Mannik Smith Group and Focused Phase II Environmental Site Assessment dated July 2018 and prepared by Mannik Smith Group, both relating to the Site.

References appearing in this Section 1.01 designate some of the other places in the Lease where additional provisions applicable to the particular Fundamental Lease Provisions appear. Each reference in this Lease to any of the foregoing Fundamental Lease Provisions shall be construed to incorporate all of the terms provided for under such additional provisions, and the Fundamental Lease Provisions shall be read in conjunction with all other provisions of this Lease applicable thereto. Unless the context otherwise requires, all terms contained in this Section shall have the same meaning when used in this Section as when they are used or defined elsewhere in this Lease.

Section 1.02. Memorandum of Lease. Neither Landlord nor Tenant shall record this Lease, but they shall execute and acknowledge a memorandum of lease (in the form of **Exhibit C** attached hereto), simultaneously with their execution of this Lease and Tenant shall record such memorandum of lease after the Closing. If it becomes necessary to revise such initial memorandum of lease after it is executed, Landlord and Tenant shall, within ten (10) days after request made by either party, execute, acknowledge and record an amended memorandum of lease. Upon termination of this Lease by expiration or otherwise, Landlord and Tenant shall execute, acknowledge and deliver the necessary documents to release of record any such memorandum of lease and/or any supplementary memorandum of lease.

ARTICLE II PREMISES

Section 2.01. Demised Premises. Subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease, Landlord shall on the Lease Commencement Date demise and lease to Tenant, and Tenant shall accept such demise and leases from Landlord on such Lease Commencement Date, certain premises (herein called the "Demised Premises") consisting of the building space described in Subsection 1.01(a) as the "Demised Premises", together with all rights and privileges benefiting, belonging or pertaining thereto, as well as all rights and appurtenances required for the installation, maintenance, operation and service of utilities for the Demised Premises, and for access for vehicular and pedestrian ingress and egress to and from abutting

driveways (whether now existing or hereafter constructed) and public highways, to have and to hold during the Demised Term.

The ECPA Lease is incorporated herein by reference. As between the Parties hereto, To the extent that the ECPA lease conflicts with the express terms of this Sublease, this Sublease shall govern provided that it does not result in a breach of the ECPA lease. Tenant shall not take or fail to take any action, including, but not limited to, failure to comply with the Legal Requirements or Non-Disposal of Hazardous Waste Materials obligations, that will render Resort School LLC in breach of its obligations to ECPA under the ECPA Lease.

Section 2.02. Parking. Throughout the Demised Term, Tenant and its employees, agents, students, contractors, business invitees, subtenants, licensees and concessionaires shall have the non-exclusive right to use designated parking on the lot on the Site adjacent to the Demised Premises on the following terms:

- (a) Parking in the lot directly adjacent to the Demised Premises as depicted on Exhibit B, shall require a paid parking permit, which shall be issued pursuant to a program designed and implemented by the Property Manager; and
- (b) The cost of the parking permit will be based on the then current cost of a parking permit for a lot of similar convenience on the BGSU Main Campus, with appropriate market based adjustments.

For the avoidance of doubt designated areas of lot directly adjacent to the Demised Premises as depicted Exhibit B will be reserved for the use of occupants of the Residential Facility and parking permits and the cost related thereto will be established pursuant to a separate program designed and implemented by the Property Manager of the Residential Facility.

ARTICLE III TERM AND RENEWALS

Section 3.01. Original Term. The "Original Term" of this Lease shall begin on the Lease Commencement Date (as defined in Section 1.01) and extend the number of years set forth in Subsection 1.01(h) hereof from and after the Lease Commencement Date.

Section 3.02. Renewals. So long as Tenant is not then in default hereunder beyond any Applicable Grace Period, Tenant shall have three options to extend the Term, subject to and as set forth in Section 1.01 hereof. Should Tenant elect to exercise any Option, it shall do so by written notice to Landlord at least one hundred eighty (180) days before the expiration of the Original Term or Renewal Term that is in effect at the time of such notice, and Landlord and Tenant shall exercise their best efforts to negotiate and finalize the terms for any such renewal within sixty (60) days of Landlord's receipt of the notice. In the event the Parties are unable to reach a mutually satisfactory renewal agreement the Lease shall then expire consistent with the Original Term or Renewal Term that is in effect at that time.

Section 3.03. Demised Term. The Original Term and any and all Renewal Terms for which an Option is exercised by Tenant are collectively referred to in this Lease as the "Demised Term."

Section 3.04. Holding Over. If Tenant remains in possession of the Demised Premises after the expiration of the Demised Term, it shall be deemed to be occupying the Demised Premises as a tenant from month to month at the Rent herein specified, including Base Rent and Additional Rent as provided in Section 4.01 of this Lease (prorated and paid on a monthly basis) subject to all conditions, provisions and obligations of this Lease insofar as the same are applicable to a month-to-month tenancy.

ARTICLE IV RENT

Section 4.01. Base Rent and Additional Rent.

- (A) Tenant shall pay to Landlord an initial payment of Twelve Thousand Dollars (\$12,000) due and payable on the Rent Commencement Date, to cover a portion of the cost of tenant improvements at the Demised Premises plus Annual Base Rent in the amount of one dollar (\$1.00) per year paid in one lump sum of twenty dollars (\$20.00) on the Rent Commencement for the Original Term, at the office of Landlord or such other place as Landlord may designate, without any set-off, offset, abatement or deduction whatsoever. Tenant shall pay other sums under this Lease, in addition to Base Rent, in the manner as hereinafter provided.
- (B) Beginning on the Occupancy Date, Tenant shall pay to Landlord (in addition to Base Rent) Service Rent in the amount of one thousand and 00/100 dollars (\$1000.00) per month. The amount of Service Rent, and annual adjustments to it, shall be as provided in Section 1.01 of this Lease. Such Service Rent shall be payable by Tenant in advance in equal monthly installments on the first day of each month, at the office of Landlord or such other place as Landlord may designate.
- (C) All other sums and charges due and payable by Tenant to Landlord under this Lease other than Base Rent and Service Rent, but including, without limitation, additional charges and other sums assessed pursuant to this Lease are collectively called "additional rent" or "Additional Rent". Base Rent, Service Rent and Additional Rent are collectively called "rent" or "Rent".
- (D) All payments of Rent shall be made to Landlord when due without notice or demand, in lawful money of the United States of America, except as otherwise expressly provided herein.

(E) If Tenant fails to pay any Rent due under this Lease, and such failure shall continue for a period of five (5) business days following the date such payment is due hereunder, then Tenant shall pay to Landlord a late charge equal to five percent (5%) of the unpaid installment(s) of Rent. The amount of the late charge to be paid by Tenant shall be reassessed and added to Tenant's obligation for each successive monthly period until paid. The provisions of this Section shall in no way relieve Tenant of the obligation to pay the installment(s) of Rent on or before the date on which they are due, nor do the terms of this Section in any way affect Landlord's other remedies under this Lease. Landlord will use commercially reasonable efforts to give Tenant written notice of any late payment to avoid late charges, but the failure to give such notice shall not relieve Tenant of its obligations under this Section.

ARTICLE V
CONSTRUCTION AND MAINTENANCE

Section 5.01. Construction of Improvements on Demised Premises. Landlord shall provide for the construction of the Demised Premises through Resort School LLC and the ECPA as shown in the site plan attached hereto as Exhibit B.

Section 5.02. Title to Improvements on Demised Premises. The academic space and all other improvements installed or constructed upon the Demised Premises, not at Tenant's expense, shall be and remain the sole property of Landlord (or such other party as designated by Landlord as part of financing the construction of the New Building); and Landlord or its designee/assignee shall have all rights and incidents of ownership, including the exclusive right to depreciate (for tax, accounting or any other purpose) all such improvements during the Demised Term.

Section 5.03. Tenant's Fixtures and Equipment. Any and all trade fixtures, movable or removable fixtures, equipment and other personal property purchased by, belonging to or leased from third parties by Tenant and installed on the Demised Premises (whether or not affixed) are herein called "Tenant's Fixtures and Equipment." All of Tenant's Fixtures and Equipment shall remain the sole property of Tenant following the expiration of the Lease, unless abandoned by Tenant.

Section 5.04. Tenant's Financing. Tenant may not mortgage or otherwise grant any other security interest in the Site, the New Building and/or other improvements on the Demised Premises.

Section 5.05. Maintenance of Demised Premises. Tenant, at its sole cost and expense, shall keep the Demised Premises in good condition and repair throughout the Demised Term, reasonable wear and tear, damage caused by the elements, fire or other casualty and/or the effects of time or Landlord's use of the Demised Premises excepted. Tenant's obligation to keep the Demised Premises in good condition and repair shall include all necessary repairs and maintenance, and, if commercially reasonable for the upkeep of the Demised Premises, replacements. All such work shall be done in a good and workmanlike manner, and when completed, be free and clear of all claims for liens by mechanics or materialmen for and on account of labor and material furnished in connection therewith. It is also understood and agreed that Landlord shall be solely responsible for, and its maintenance obligations under this section include, the operation, maintenance, and repair of the mechanical systems in the Demised Premises, including all HVAC systems. This section does not apply to replacement of furnishings and non IT/AV equipment, which shall be replaced pursuant to Sections 2.4.2 and 5.6 of the Master Agreement.

Section 5.06. Entry by Landlord. Landlord may enter the Demised Premises at all reasonable times upon reasonable notice during regular business hours to inspect same and, beginning six (6) months before the end of the Demised Term, to exhibit same to prospective tenants, so long as such entry does not interfere with Tenant's business activities. Nothing herein, however, shall entitle Landlord to enter any "secure" portion of the Demised Premises except in compliance with all security policies and regulations of Tenant and/or applicable governmental

authorities. Landlord shall not display "For Rent," "For Sale" or other similar signs or notices on or about the Demised Premises.

ARTICLE VI
USE

Section 6.01. Use. The Demised Premises may only be used by Tenant for Tenant's Use as defined in Section 1.01, and Tenant may not use the Demised Premises for any other purpose or in any other manner, without Landlord's prior written consent in Landlord's sole discretion. Landlord shall also have the right to use the Demised Premises for events and other programs during hours that the Demised Premises is not being used for educational activity. Tenant, either directly or through its designee, shall coordinate the use and access to the Demised Premises with Tenant and Landlord, with the understanding that the use of the Demised Premises for educational activity is the primary use.

Section 6.02. Conduct of Business. Tenant shall conduct its business at the Demised Premises in accordance with all applicable laws and ordinances and otherwise at such times and in such manner as Tenant deems appropriate, in its sole judgment. Tenant shall not cause injury or waste to the Demised Premises, reasonable wear and tear, effects of time, and damage by the elements or casualty excepted. Tenant shall keep the Demised Premises clean and free from rubbish, trash and garbage, and, at its own expense, arrange for removal of same. Tenant shall store all such rubbish, trash and garbage within the Demised Premises.

Section 6.03. Landlord Interference. Landlord shall use its best efforts to not interfere with Tenant's operations that are permitted in this Lease.

Section 6.04. Failure to Abide by Use Requirements. Tenant's failure to abide by any of the obligations and limitations in this Article VI shall constitute a material default of this Lease by Tenant, entitling Landlord to all available remedies under Article IX of this Lease, including, but not limited to, termination of the Lease.

ARTICLE VII
UTILITY SERVICES

Tenant shall be responsible, at Tenant's expense, for obtaining utilities in the amounts, sizes and pressures as needed by Tenant in the operation of its business on the Demised Premises. Tenant shall have all of its utilities metered separately on separate master metered accounts and shall pay for all utility usage by Tenant in the Demised Premises during the Demised Term. Tenant shall be responsible, at Tenant's expense, for its own refuse removal, or otherwise reimburse Landlord on a reasonable, allocable basis if refuse removal services are shared among Tenant and other tenants of the New Building.

It is understood that Tenant shall also be responsible for obtaining and paying for the monthly service charges related to the all internet, cable, fiberoptic, phone, satellite, or any other such services needed for the operation of the Program and maintenance and management of the Program.

ARTICLE VIII
INSURANCE, WAIVER OF SUBROGATION, TAXES AND LIABILITY

Section 8.01. Insurance.

(a) Liability Insurance. Landlord shall maintain, from and after the Occupancy Date, comprehensive general liability insurance, including public liability insurance, on the Demised Premises and all buildings and improvements located thereon, with limits of at least \$2,000,000.00 for each occurrence, bodily injury and property damage combined, and \$4,000,000.00 in the aggregate, protecting Landlord and Tenant against loss, cost or expense by reason of injury to or death of persons or damage to or destruction of property by reason of the use and occupancy of the Demised Premises by Tenant. Landlord shall name Tenant as an additional insured on all such insurance.

(b) Fire Insurance - Improvements. Landlord shall maintain "all-risk" fire and extended coverage insurance on all improvements constructed by Landlord on the Demised Premises with limits of at least \$10,000,000.00 for each occurrence. Landlord shall name Tenant as an additional insured on all such insurance.

(c) Other BGSU Insurance. Tenant shall also maintain all other insurance coverages for the Demised Premises and the Program that are maintained by BGSU consistent with its other campuses.

(d) Other Insurance. Landlord shall also be responsible for any and all insurance that may be required as part of financing the construction of the New Building, including the Demised Premises, including, but not limited to, business interruption insurance, gap insurance for the retirement of bonds if the construction is financed through the issuance of bonds, or any other such insurance.

(e) General Policy Requirements. The insurance provided by Tenant and Landlord pursuant to Section 8.01 shall (i) be carried with reputable companies licensed to do business in Ohio, (ii) name the counter party as an additional insured, (iii) provide for replacement value of any damaged property, and (iv) not be subject to change, cancellation (if obtainable) or termination without at least thirty (30) days prior written notice to the counter party. Upon written request by the counter party, the other party shall furnish an insurance certificate evidencing such coverage.

(f) Blanket Policies. The insurance required to be carried pursuant to this Section 8.01 may be carried under policies of blanket insurance that may cover other liabilities and locations; provided, however, in all other respects each of such policies shall comply with the provisions of this Section 8.01.

Section 8.02. Waiver of Subrogation. Without affecting any other rights or remedies, Tenant and Landlord each hereby release and relieve each other, and waive their right to recover damages against the other, for loss of or damage to the other party's property arising out of or incident to the perils required to be insured against under paragraph 8.01 (Insurance) hereof. The effect of such release and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required or by any deductibles applicable thereto.

Section 8.03. Taxes.

(a) Tenant's Obligation. Tenant is a tax exempt entity and, provided that Tenant fully cooperates with and supports any petition for real estate tax exemption filed by Landlord, shall not be responsible for any real estate taxes, use taxes, or assessments that accrue during the Demised Term on and are separately assessed against the Demised Premises and any improvements thereon ("Real Estate Taxes"), and any personal property taxes assessed against any personal property therein (and all taxes and assessments that are imposed in lieu of the foregoing).

(b) Payment of Taxes. Landlord agrees that it shall pay, or cause to be paid, all Real Estate Taxes, including all payments in lieu of taxes if taxes are abated for tax-increment financing, prior to their due date.

Section 8.04. Liens. Tenant shall not cause the creation of any lien against the Demised Premises.

ARTICLE IX
DEFAULT AND REMEDIES

Section 9.01. Default by Tenant. If Tenant fails to perform any of its obligations as required by this Lease, and if Tenant fails to cure such failure within the Applicable Grace Period

(as defined in Section 9.03), Landlord, in addition to all other rights and remedies available to Landlord under applicable law, may, at Landlord's option, elect either the following remedies:

(a) Landlord shall have the right to take possession of the Demised Premises pursuant to applicable legal proceedings in the jurisdiction where the Demised Premises is located without such action being deemed an acceptance of a surrender of this Lease or termination of Tenant's liability hereunder:

(i) If Landlord takes possession of the Demised Premises hereunder, it shall make reasonable efforts to relet the Demised Premises on reasonable terms that are consistent with the purposes and use of the facility.

(ii) Tenant shall remain liable to pay the Rent, for the remainder of the Demised Term less the net amount realized from such reletting.

Tenant acknowledges and agrees that (i) Landlord may, but is not required to, fulfill the obligation to relet the Demised Premises hereunder or otherwise imposed by law by engaging a licensed real estate broker for the purpose of listing the Demised Premises, and (ii) Landlord may refuse to re-let the Demised Premises if Landlord determines, in its sole discretion, that the proposed rent for re-letting the Demised Premises is below market rate or that a prospective tenant or proposed use of the Demised Premises by a prospective tenant is not then appropriate for the Demised Premises; or

(b) In the event that Landlord exercises its rights under Section 9.01(a) hereof, Tenant shall remain liable for all Rent and other charges and sums due under this Lease for the remainder of the Term, which liability shall survive the termination of this Lease, the re-entry into the Demised Premises by Landlord, and the issuance of any action to secure possession of the Demised Premises. Landlord shall have the right to maintain successive actions against Tenant for recovery of all damages including, without limitation, an amount equal to all rents and other charges and sums payable under this Lease, as and when said rents and other charges and sums are payable under this Lease and Landlord shall not be required to wait to begin such actions or legal proceedings until the date this Lease would have expired.

(c) If Landlord should re-enter the Demised Premises as a result of any breach of Tenant hereunder without terminating this Lease, Tenant covenants, any other covenant herein to the contrary notwithstanding, that the Demised Premises shall then be in the condition required by all applicable provisions of this Lease, and that Tenant shall perform any covenant contained in this Lease for the restoring or rebuilding any part of the Demised Premises to return it to the required condition. For the breach of either of the foregoing obligations Landlord shall be entitled to recover and Tenant shall pay to Landlord upon demand the cost of performing such obligations.

(d) In the event of a default by Tenant of any of the terms, provisions, covenants, or conditions of this Lease, Landlord shall have the right to invoke any remedy permitted to Landlord at law or in equity.

(e) All remedies available to Landlord are declared to be cumulative and

concurrent. No termination of this Lease nor any taking or recovering of possession of the Demised Premises shall deprive Landlord of any of its remedies or actions against Tenant for all damages resulting from Tenant's default.

(f) In the event that Landlord re-enters and re-lets the property as a result of a Tenant Default, Tenant shall be required to use its best efforts to seek a waiver of any requirement for the reimbursement of the State of Ohio's Eight Hundred Thousand Dollar (\$800,000) grant as required under the Joint Use Agreement and to seek a replacement use or tenant acceptable to the Ohio Department of Higher Education and Landlord.

Section 9.02. Default by Landlord. If Landlord shall fail to perform any of its obligations as required by the Lease, and if Landlord shall fail to cure such failure within the Applicable Grace Period, then Tenant shall have its rights and remedies at law or in equity.

(a) In the event Tenant elects to terminate the Lease as its remedy, Tenant shall use its best efforts to seek a waiver of any requirement for the reimbursement of the State of Ohio's Eight Hundred Thousand Dollar (\$800,000) grant as required under the Joint Use Agreement and, to seek a replacement use or tenant acceptable to the Ohio Department of Higher Education and Landlord.

Section 9.03. Applicable Grace Period. Except as may be provided elsewhere in this Lease, the grace period for curing a party's failure to perform its obligations under this Lease (the "Applicable Grace Period") shall be one of the following time periods:

(a) for failure to perform any covenant to pay money (including Rent) or for any breach that adversely affects the normal operation of Tenant's business at the Demised Premises, fifteen (15) calendar days after the non-performing or breaching party's receipt of notice from the other party specifying such non-performance or breach, provided, however, with respect to any failure to pay Rent by Tenant, such notice period shall be increased to thirty (30) calendar days if such non-payment shall be the first such occurrence within the previous (rolling) twelve month period; and

(b) for failure to perform any other obligation under this Lease, thirty (30) calendar days after the non-performing party's receipt of notice specifying such non-performance; provided, however, failure to perform any such obligation which may not reasonably be cured within thirty (30) days shall not be considered a default if the non-performing party, within said thirty (30) day period, institutes efforts to cure said non-performance and diligently prosecutes said efforts to completion.

Section 9.04. Closure of the Resort and Attractions Management School. Should the Program permanently cease operations as an academic program during the term of the Lease, either Landlord or Tenant shall have the right to terminate this Lease, and both Landlord and Tenant shall be relieved of all their obligations to each other under the Lease. Such event shall constitute a termination and closure under the Lease and shall not be treated as a default thereof.

(a) In lieu of termination, Landlord and Tenant may also amend this Sub Lease Agreement to allow Tenant to remain in possession of the Demised Premises and use the Demised Premises for a comparable replacement BGSU program acceptable to Landlord..

(b) In the event that either party chooses to terminate the Sublease pursuant to this Section 9.04, Tenant shall use its best efforts to seek a waiver of any requirement for the reimbursement of the State of Ohio's Eight Hundred Thousand Dollar (\$800,000) grant as required under the Joint Use Agreement and to seek a replacement use or tenant acceptable to the Ohio Department of Higher Education and Landlord. .

ARTICLE X DAMAGE TO DEMISED PREMISES

Section 10.01. Restoration of the Demised Premises. If the improvements on the Demised Premises are damaged or destroyed during the Demised Term, then, except as otherwise provided in Section 10.02 hereof, Landlord, at its sole cost and expense, shall repair, restore or rebuild the improvements constructed on the Demised Premises to substantially the condition they were in immediately prior to such damage or destruction. All such repair, restoration or rebuilding shall be performed with due diligence in a good and workmanlike manner and in accordance with applicable law and plans and specifications for such work that are substantially similar to those for the pre-casualty improvements, or as reasonably approved by Landlord and Tenant.

ARTICLE XI EMINENT DOMAIN

Section 11.01. The Taking. If Landlord receives notice of the intention of any authority to appropriate, take or condemn any portion of the Site, New Building and/or the Demised Premises for public or quasi-public use under any right of eminent domain, condemnation or other law (collectively, a 'Taking'), Landlord shall promptly notify Tenant thereof. In the event of a Taking or sale under the threat or proposal of a Taking, then any award, settlement or proceeds shall be distributed to the parties in proportion to the value of their respective interests in the Demised Premises. In the event of such Taking or like proceeding, the parties shall represent their own interests and shall present and prosecute their own claims for damages insofar as possible. If the parties are not permitted to proceed as separate parties, they shall jointly select counsel to present and prosecute their claim, and all costs thereof shall be paid by the parties in proportion to the amount of the award, settlement or sale proceeds that each receives.

Section 11.02. Settlement. Any apportionment of the final award or settlement of damages entered into by Landlord and Tenant with the authority over a Taking shall be binding upon the parties. If no such apportionment is made, then the parties shall agree on the value of their respective interests and distribution shall be made in accordance with such agreement. If the parties are unable to agree on the value of their respective interests, the parties agree the matter may proceed to resolution as provided by law, including by suit in a court of competent jurisdiction to litigate the value of the parties' interests, with each party to bear its own costs irrespective of outcome.

ARTICLE XII
LANDLORD'S REPRESENTATIONS AND WARRANTIES

As of the Lease Commencement Date, Landlord represents and warrants to Tenant as follows:

Section 12.01. Title to Demised Premises. That Landlord has full right, power and lawful authority to execute, deliver and perform its obligations under this Lease, in the manner and upon the terms contained herein, and to grant the estate herein demised, with no other person needing to join in the execution hereof in order for this Lease to be binding on all parties having an interest in the Demised Premises; that the Demised Premises shall hereafter be subject to no leases, easements, covenants, restrictions or the like which in any manner would prevent or interfere with Tenant's contemplated use of the Demised Premises; that Landlord will warrant unto Tenant and defend the Demised Premises against the claim of all persons claiming by, through or under Landlord, and if Tenant shall discharge the obligations herein set forth to be performed by Tenant, Tenant shall, during the Demised Term, have lawful, quiet and peaceful possession and occupation of the Demised Premises and shall enjoy all of the rights herein granted without any let, hindrance, ejection, molestation or interference by any person. The person(s) executing this Lease on behalf of Landlord represent and warrant that they are the only person(s) required to execute this Lease in order to bind Landlord.

Section 12.02. Special Assessments; Condemnation. That Landlord has received no written notice of, nor has any knowledge of, any special assessments or pending condemnation action with respect to the Demised Premises.

Section 12.03. Legal Proceedings. That Landlord has received no written notice of any action, suit or proceeding, or threat of any action, suit or proceeding, affecting the Demised Premises or relating to or arising out of the ownership, management or operation of the Demised Premises in any court, or before any federal, state or municipal department, commission, board, bureau or agency or other governmental instrumentality, and no such proceeding is currently pending.

Section 12.04. Environmental Matters. That to the best of Landlord's knowledge, and except as disclosed in Landlord's due diligence materials, (a) the Demised Premises, including, without limitation, soil and groundwater conditions, is not in violation of any law relating to industrial hygiene, environmental conditions, hazardous waste or toxic materials, nor has Landlord received any written notice nor is Landlord otherwise aware of any such violation or alleged violation; (b) to the best of Landlord's knowledge, and except as disclosed in Landlord's due diligence materials, the Environmental Reports, the receipt of which Tenant hereby acknowledges, neither Landlord nor, to Landlord's knowledge, any third party has used, manufactured, stored or disposed of, on, under or about the Demised Premises, or transported to or from the Demised Premises, any flammable explosives, petroleum or petroleum by-products, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixture thereof, radon, radioactive materials or wastes, hazardous materials or wastes, toxic materials or wastes, asbestos, asbestos-containing materials, PCBs, or any other material, substance or waste that is recognized as being

hazardous or dangerous to health or the environment by any federal, state or local agency having environmental protection jurisdiction over the Demised Premises (collectively "Hazardous Materials"); and (c) to the best of Landlord's knowledge and except as disclosed in Landlord's due diligence materials, no underground storage tanks exist on or have been removed from the Demised Premises, nor have the Demised Premises ever been used as a dump or landfill site.

Section 12.05. Financial Condition. That Landlord has not: (a) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Landlord's creditors, (b) suffered the appointment of a receiver to take possession of all, or substantially all, of Landlord's assets which remains pending, (c) suffered the attachment or other judicial seizure of all, or substantially all, of Landlord's assets which remains pending, (e) admitted in writing its inability to pay its debts as they come due, or (d) made an offer of settlement, extension or composition to its creditors generally.

ARTICLE XIII ASSIGNMENT AND SUBLETTING

Section 13.01. Tenant may not assign this Lease or sublease the Demised Premises and/or sell or transfer all of the Improvements on the Demised Premises without Landlord's prior written consent. Notwithstanding this limitation, Tenant may assign this Lease, sublease the Demised Premises, and/or transfer its improvements on the Demised Premises to a wholly owned subsidiary or supporting organization of Tenant without the necessity of Landlord's consent. Landlord may assign or otherwise transfer the Lease or any portion hereof from time to time, to any of its affiliated entities or as part of the sale of all or substantially all of its assets and such transfer shall bind and inure to the benefit of its successors and assigns.

ARTICLE XIV NON-DISTURBANCE, SUBORDINATION, AND ATTORNMENT

Section 14.01. Non-Disturbance Agreement. This Lease shall be conditioned upon:

(a) any party holding a mortgage or deed of trust on any portion of the Demised Premises; and

(b) any party (if other than Landlord) owning or having a leasehold estate in any portion of the Demised Premises executing and delivering to Tenant a non-disturbance, subordination and attornment agreement substantially in the form attached hereto as Exhibit E within, as applicable, (i) thirty (30) days of the date of this Lease, (ii) thirty (30) days after the execution of a mortgage or deed of trust or conveyance that is entered into after the date of this Lease; or (iii) within such longer time as may be acceptable to Tenant. If Landlord requests Tenant to execute such non-disturbance, subordination, and attornment agreement, Tenant shall execute the agreement and return it to Landlord within twenty-one (21) days of its receipt of the request from Landlord.

Section 14.02. Subordination. If Landlord is not in default hereunder beyond the Applicable Cure Period, Tenant shall subordinate this Lease to an existing or future first deed of trust or mortgage covering the Demised Premises by executing and delivering an agreement in the form attached hereto as Exhibit E within ten (10) days after Tenant's receipt of a copy of such agreement. It is understood and agreed that the form of agreement attached hereto as Exhibit E may be modified or replaced by mutual agreement among Landlord, Tenant and Landlord's mortgagee; provided that any alternative provisions or form of agreement confers upon Tenant the same substantive rights and remedies as are conferred by the form attached hereto as Exhibit E and is otherwise reasonably acceptable to Tenant. Except as set forth in this Section 14.02, this Lease shall not be subordinate to any leases, deeds of trust or mortgages, or to any other interest in the Demised Premises arising after the date of this Lease.

Section 14.03. Attornment. Tenant agrees that if the mortgagee, beneficiary or any other person claiming under a mortgage, deed of trust or master lease to which Tenant has subordinated shall succeed to Landlord's interest in this Lease, Tenant will recognize said mortgagee, beneficiary or person as its Landlord under the provisions of this Lease, provided that said mortgagee, beneficiary or other person, during the period in which it is Landlord's successor-in-interest under this Lease, assumes all of the obligations of Landlord hereunder. Any purchaser taking title to the Demised Premises by reason of such sale of the Demised Premises following foreclosure of such mortgage or deed in lieu thereof shall take title subject to this provision and shall be bound by any approvals or consents made or given by Landlord pursuant to this Lease prior to the date on which title to the Demised Premises was transferred.

ARTICLE XV MISCELLANEOUS

Section 15.01. Waivers. No waiver of any condition or covenant in this lease by either party shall be deemed to imply or constitute a future waiver of the same or any other condition or covenant of this Lease.

Section 15.02. Notices. Unless otherwise provided in this Lease, all notices required under this Lease to Landlord or Tenant shall be in writing and shall be addressed to the addresses below:

Notices to Landlord:

Cedar Point Park, LLC
One Cedar Point Drive
Sandusky, OH 44870
Attn: Duffield Milkie, Esq.
dmilkie@cedarfair.com

With a copy to:

Berns, Ockner, & Greenberger, LLC
3733 Park East Drive, Suite 200
Beachwood, OH 44122
Attn: Majeed G. Makhoulf, Esq.
mmakhoulf@bernssockner.com

Notices to Tenant:

Bowling Green State University
Office of the President
230 McFall Center
Bowling Green, OH 43403
Attn:

or to any subsequent address which Landlord or Tenant may designate in writing delivered at least thirty (30) days in advance to the other party for such purpose. Invoices, bills, notices of non-payment and the like from Landlord to Tenant shall, in addition to any other authorized or required form of delivery, also be sent by confirmed facsimile. All notices shall be deemed to be properly served if delivered to the appropriate address(es) by hand delivery, registered or certified mail (with postage prepaid and return receipt requested), courier, or electronic mail. Date of service of a notice served by mail shall be the second business day after the date of posting; otherwise the date of refusal of receipt.

Section 15.03. Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, partnership, joint venture, or any relationship between the parties hereto other than that of Landlord and Tenant.

Section 15.04. Construction. Whenever a word appears herein in its singular form, such word shall include the plural; and the masculine gender shall include the feminine and neuter genders. This Lease shall be construed without reference to titles of Articles, Sections or Clauses, which titles are inserted for convenient reference only. References to specific Articles, Sections or Exhibits shall, unless otherwise expressly stated, refer to the Articles, Sections or Exhibits of this Lease. This Lease shall be construed without regard to any presumption or other rule permitting construction against the party causing this Lease to be drafted and shall not be construed more strictly in favor of or against either of the parties hereto.

Section 15.05. Consent. Whenever it is necessary under the terms of this Lease for either party to obtain the consent or approval of the other party, except as expressly specified herein to the contrary, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

Section 15.06. Certificate of Performance. At any time, either party shall, within twenty one (21) days after receipt of a written request from the other, execute, acknowledge and deliver a

statement in writing certifying whether this Lease is unmodified and in full force and effect (or if modified, whether the same is in full force and effect as so modified), whether any conditions to the full enforceability of this Lease remain unsatisfied, the dates to which rent, charges or other performances have been paid or completed, and such other facts, including the nature of any claim of default on the part of the other, as either party may reasonably request.

Section 15.07. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State of Ohio.

Section 15.08. Invalidity or Inapplicability of Clause. If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term 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 and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 15.09. Excuse for Nonperformance. If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, plan approval or permitting delays, inability to procure materials, restrictive governmental laws or regulations, adverse weather, unusual delay in transportation, delay by the other party hereto or other cause without fault and beyond the control of the party obligated to perform (financial inability excepted), then upon notice to the other party, the performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equal to the period of such delay; provided, however, the party so delayed or prevented from performing shall exercise good faith efforts to remedy any such cause of delay or cause preventing performance, and nothing in this Section shall excuse Tenant from the prompt payment of any rental or other charges required of Tenant except as may be expressly provided elsewhere in this Lease.

Section 15.10. Successors or Assigns. Except as otherwise specified in this Lease, the provisions contained in this Lease shall run with the land and bind and inure to the benefit of Landlord and Tenant and their respective heirs, successors and assigns. Any references in this Lease to Landlord and Tenant shall be deemed to include their respective heirs, successors and assigns.

Section 15.11. Disputes. If a dispute arises from or relates to this contract or the breach thereof, and if the dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle the dispute by mediation. Any dispute not settled by mediation will be resolved by the Ohio Court of Claims or another Ohio state court of competent jurisdiction.

Section 15.12. Entire Agreement; Representations. This Lease embodies the entire agreement between Landlord and Tenant with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral. Landlord and Tenant have neither made nor relied upon any promises, representations or warranties in connection with this Lease

that are not expressly set forth in this Lease. In entering into this Lease, Landlord and Tenant have relied on the representations and warranties contained in this Lease.

Section 15.13. Modification. This Lease may not be modified except by a written agreement signed by the party against whom such modification is sought to be enforced.

Section 15.14. No Broker. Landlord and Tenant represent and warrant that they have not dealt with any real estate agent or broker in connection with this transaction.

Section 15.15. Name and Plans and Specifications. Landlord acknowledges that any plans, specifications and proprietary material provided by Tenant and Tenant's trademarks and service marks are the sole property of Tenant, and Landlord shall have no rights thereto.

Section 15.16. Hazardous Materials. Throughout the term of this agreement, the Lessee or its employees, contractors or agents shall:

(a) not place or permit to be placed any Hazardous Substances at the Demised Premises except as permitted by applicable law or appropriate governmental authorities;

(b) forthwith upon receipt by the Lessee of written notice of the occurrence of any material violation of any Environmental Law in connection with the ownership, occupancy or use of the Demised Premises, or the receipt by the Lessee of any citation, notice of investigation, fine or other assessment in connection therewith, report or other communication from any governmental authority with respect to any violation or alleged violation of any Environmental Law, deliver written notice thereof to the Lessor and the Trustee describing the same and any steps being taken by the Lessee with respect thereto, which notice is to be provided to the Lessor and the Trustee solely to permit the Lessor and the Trustee to protect their security interests in the Demised Premises;

(c) in the event that it obtains, gives or receives written notice of any Release or threat of Release of a reportable quantity of any Hazardous Substances at the Demised Premises (any such event being hereinafter referred to as a "Hazardous Discharge") or receives any written notice of violation, request for information or notification that it is potentially responsible for investigations or cleanup of environmental conditions at the Demised Premises or any demand letter or complaint, order, citation, or other written notice with regard to any Hazardous Discharge or violation of Environmental Laws affecting the Demised Premises or financing thereof (any of the foregoing is referred to herein as an "Environmental Complaint") from any Person or entity, including any state agency responsible in whole or in part for environmental matters in the State or the United States Environmental Protection Agency (any such person or entity hereinafter the "Agency"), then the Lessee shall, within thirty (30) business days, give written notice of same to Lessor and the Trustee detailing facts and circumstances of which the Lessee is aware giving rise to the Hazardous Discharge or Environmental Complaint, provided, such information is not intended to create nor shall it create any obligation upon the Lessor or the Trustee with respect thereto and is provided to the Trustee and the Lessor solely to allow them to protect their respective security interests in the Demised Premises. The Lessee shall promptly forward to the Lessor copies of all documents and reports concerning a Hazardous Discharge at the Demised Premises that the Lessee is required to file under any Environmental Laws;

(d) respond in a timely manner to any Hazardous Discharge or Environmental Complaint to avoid subjecting the Demised Premises to any lien, and if Lessee shall fail to respond in a timely manner to any Hazardous Discharge or Environmental Complaint or the Lessee shall fail to comply in all material respects with any of the requirements of any Environmental Laws, the Lessor and the Trustee may, alone or together, but without the obligation to do so, for the sole purpose of protecting their respective security interests in the Demised Premises: (A) give such notices or (B) after notice of intent to the Lessee to enter, enter the Demised Premises (or authorize third parties to enter the Demised Premises) and take such actions as such parties (or such third parties as directed by those parties) deems reasonably necessary or advisable, to clean up, remove, mitigate or otherwise deal with any such Hazardous Discharge or Environmental Complaint; and

(e) to the full extent permitted by the laws of the State of Ohio, including, but not limited to, Ohio Rev. Code Chapter 2743, be responsible for all loss, liability, damage and expense, claims, costs, fines and penalties, including reasonable attorney's fees to the extent allowed by Ohio Rev. Code § 2335.39, suffered or reasonably incurred by either Landlord, the Resort School LLC, or ECPA under or on account of any threatened, alleged or actual Lessee violation of Environmental Laws, including, without limitation, the assertion of any lien thereunder, with respect to any Hazardous Discharge affecting the Demised Premises or the presence of any Hazardous Substances affecting the Demised Premises arising during the Lease Term. The Lessee's obligations under this Section shall arise upon the discovery by the Lessee of any Hazardous Discharge or the presence of any Hazardous Substances at the Demised Premises causing this paragraph to be applicable, whether or not any federal, state, or local environmental agency has taken or threatened any action in connection with the presence of any Hazardous Substances.

As used herein, the following terms shall have meanings as follows:

- "Environmental Laws" means all applicable federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances and Hazardous Wastes and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto, including, without limitation, CERCLA and Chapter 3734 of the Ohio Revised Code.
- "Hazardous Substance" means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as defined in CERCLA, the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§1801, et seq.), RCRA, or any other applicable Environmental Law and in the regulations adopted pursuant thereto.
- "Hazardous Wastes" includes all waste materials subject to regulation under CERCLA, RCRA or applicable state law, and any other applicable federal and

state laws now in force or hereafter enacted relating to hazardous waste disposal.

- “Legal Requirements” means all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, directions and requirements of all governments and departments, commissions, boards, courts, authorities, agencies, officials and officers of governments, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Demised Premises or any part thereof, or any use or condition of the Demised Premises or any part thereof.

Section 15.17. Calculation of Time. To calculate any time period set forth in this Lease that is stated in days or a longer unit of time: (a) exclude the day of the event that triggers the period (for instance, if a time period is 14 days from an approval, exclude the day of the approval); (b) count every day, including intermediate Saturdays, Sundays, and legal holidays; and (c) include the last day of the period, but if the last day is a Saturday, Sunday, or a Legal Holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or Legal Holiday. This methodology shall apply to such time-period calculations under this Agreement no matter how the period is stated. For instance, a time period that is stated to run 14 days of an event shall be equivalent to a time period that is stated as 14 days after an event.

Section 15.18 Date of Lease. All references to the "date of this Lease," the "date hereof," the "date upon which this Lease is fully executed" and the like shall be deemed to be the last date on which this Lease shall be executed by Landlord and by Tenant. This Lease may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Landlord and Tenant have respectively signed and sealed this Lease.

EXECUTED by Landlord:

EXECUTED by Tenant:

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

List of Exhibits:

Exhibit A: Legal Description

Exhibit B: Site Plan

Exhibit C: Memorandum of Lease

Exhibit D: ECPA Lease

Exhibit E: Subordination, Recognition, and Non-Disturbance Agreement

STATE OF OHIO)
) SS
COUNTY OF ERIE)

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, as _____ of _____, being personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered this said instrument as his/her own free and voluntary act, and as the free and voluntary act of said _____, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF OHIO)
) SS
COUNTY OF ERIE)

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, as _____ of _____, an Ohio _____, being personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered this said instrument as his/her own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2019.

Notary Public

My Commission Expires: _____

EXHIBIT A
Legal Description

(commences on following page)

Know all Men by these Presents

That we, Clark Dunlap, single, and Carrie D. Irvine, Single
 , the Grantors,
 who claim title by or through instrument , recorded in Volume 163 . Page 443, County
 Recorder's Office, for the consideration of
 Eleven Thousand and -----no/100 Dollars (\$11,000.00)
 received to our full satisfaction of

The City of Sandusky, Ohio the Grantee ,
 whose TAX MAILING ADDRESS will be
 City Building, Sandusky, Ohio do
 Give, Grant, Bargain, Sell and Convey unto the said Grantee , its successors
 heirs and assigns, the following described premises, situated in the City of
 Sandusky , County of Erie and State of Ohio:

Being the west thirty-three (33) feet of the
 East ninety-three (93) feet of Lots 7 and 8
 Hancock Street together with and subject to
 easements and rights of way of record, if any,

Rec 12/10



EXHIBIT
 "A"

be the same more or less, but subject to all legal highways.

To Have and to Hold the above granted and bargained premises, with the appurtenances thereof, unto the said Grantee, its successors and assigns forever.

And we Clark Dunlap and Carrie D. Irvine the said Grantors, do for ourselves and our heirs, executors and administrators, current with the said Grantee its successors heirs and assigns, that well seized of the above described premises, as a good and indefeasible estate in FEE SIMPLE, and have good right to bargain and sell the same in manner and form as above written, and that the same are free from all incumbrances whatsoever except taxes and assessments, general and special, commencing with the year 1955,

and that we will Warrant and Defend said premises, with the appurtenances thereto belonging, to the said Grantee its successors heirs and assigns, against all lawful claims and demands whatsoever except as stated.

And for certain consideration

do hereby remise release and forever quit-claim unto the said Grantee its heirs and assigns all right and expectancy of Power in the above described premises.

In Witness Whereof we have hereunto set our hands, the 6th day of September, in the year of our Lord one thousand nine hundred and fifty-five.

Signed and acknowledged in presence of

[Signatures of Clark Dunlap and Carrie D. Irvine]

[Signatures of Carrie D. Irvine and Clark Dunlap]

State of Ohio } Before me, a Notary Public
County, ss. in and for said County and State, personally appeared the above named Clark Dunlap and Carrie D. Irvine

who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

In Testimony Whereof, I have hereunto set my hand and official seal, at [City], Ohio this 6th day of September, A. D. 19 55

[Signature of Notary Public]



My Commission Expires:- GUSTAV M. NAGEL Notary Public Commission Expires May 24, 1956

1955-1956 Erie County Title Co. 1955-1956

TO THE ERIE COUNTY TITLE CO. City of Sandusky, Ohio

City of Sandusky, Ohio

Transferred OCT - 7 1955 1955
Shale S. Schwesfart COUNTY AUDITOR

State of Ohio Erie 55

Recorded for Record on the 7th day of Oct. 1955 at 11 o'clock P. M. and Recorded Oct. 10th, 1955 in Book 284 Page 343

Carl A. Speitz, COUNTY RECORDER. Records fee \$ 1.40

THE ERIE COUNTY TITLE CO. 1955

and that _____ we _____ will forever WARRANT AND DEFEND the same with the appurtenances unto the said _____ THE CITY OF SANDUSKY, OHIO _____

its successors heirs and assigns, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said _____ MABEL HOOVER and ELSA BLAKE _____

_____ right to do and to do the premises, have hereunto set their hand s, this 16th day of September, 19 55

Signed and acknowledged

Mabel Hoover

MABEL HOOVER

in presence of

Elsa Blake

ELSA BLAKE

John P. Speirs
Notary Public

THE STATE OF OHIO ERIE COUNTY, ss.

BE IT REMEMBERED, That on this 16th day of September, 19 55 before me, the subscriber, a Notary Public in and for said County, personally came the above named

MABEL HOOVER and ELSA BLAKE

the Grantors in the foregoing Deed, and acknowledged the signing of the same to be their voluntary act and deed, for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, on the day and year last aforesaid.

John P. Speirs
Notary Public

Warranty Deed

FROM
MABEL HOOVER and
ELSA BLAKE
CARL A. SPEIRS
Notary Public
THE CITY OF SANDUSKY, OHIO

THE CITY OF SANDUSKY, OHIO

Received Oct. 7th, 1955

At 3:11 o'clock P.M.

Recorded Oct. 10th, 19 55

In Erie County

Record of Deeds, Vol. 264

Page 339-339

Carl A. Speirs, Recorder

Recorder's Fee, \$11.00

RECORDED AND TRANSFERRED,

OCT - 7 1955

Carl A. Speirs
Recorder

THE COURTESY BLAKE BROS. & CO., 601 S. G.

THE ERIE COUNTY TIME-66 1955

Know All Men By These Presents,

That, I, George Carroll, unmarried -----

-----the Grantor who claim.s title by or through
instrument recorded in Volume 208 , Pages 76-77 , County Recorder's Office,
for the consideration of Fourteen Thousand Dollars (\$14,000.00)-----

----- received to my full satisfaction of
----- City of Sandusky, Ohio -----

-----the Grantee , whose T.N. MAILING ADDRESS will be

----- City Building, Sandusky, Ohio ----- 710

Give, Grant, Bargain, Sell and Convey unto the said Grantee, its successors
~~and~~ and assigns, the following described premises, situated in the -- City -- of
----- Sandusky -----, County of----- Erie ----- and State of Ohio:

And being the west thirty feet of the East sixty feet of Lots 7 and 8 Hancock
Street and the south one rod of the East thirty feet of Lot 8 Hancock Street.



to the said grantee, its successors and assigns forever.

To Have and to Hold the above granted and bargained premises, with the
appurtenances thereof, unto the said Grantee, its successors ~~and~~ and assigns
forever.

And I , George Carroll -----
the said Grantor , do for -- myself ----- and ----- my heirs, executors and
administrators, covenant with the said Grantee, its successors ~~and~~ and assigns,
that at and until the encasing of these presents, I am ----- I am -----
well seized of the above described premises, as a good and indefeasible estate in
FREE SIMPLE, and have good right to bargain and sell the same in manner and
form as above written, and that the same are free from all incumbrances whatsoever
except taxes and assessments after the date hereof, which are to be assumed and
paid by the Grantee, and valid easements and restrictions, if any, of record -----

and that ----- I will Warrant and Defend said premises, with the appurtenances
thereunto belonging, to the said Grantee, its successors ~~and~~ and assigns, against
all lawful claims and demands whatsoever except as above stated.

In Witness Whereof, I have hereunto set my hand, the day of September, in the year of our Lord one thousand nine hundred and fifty-five.

Signed and acknowledged in presence of [Signatures]

State of Ohio,) ss. Before me, a Notary Public- in and for said County and State, personally appeared the above named George Carroll, unmarried

who acknowledged that -- he did sign the foregoing instrument and that the same is -- his free act and deed.



In Testimony Whereof I have hereunto set my hand and official seal, at Sandusky, Ohio this day of September, A. D. 1955.

EARL C. KRUEGER Notary Public

142541 264711
THE Erie County Recorder

1955 OCT 7
George Carroll SPEIR
CARL A. SPEIR
RECORDER
THE ERIE COUNTY, OHIO

City of Sandusky, Ohio

Transferred OCT - 7 1955
[Signature]
COUNTY RECORDER

STATE OF OHIO
COUNTY OF Erie SS
RECEIVED FOR RECORD ON THE
7th day of Oct. 1955
at 2:11 P.M.
and RECORDED Oct. 10th, 1955 in
Deed Book 264 Page 340-341

Carl A. Speir,
COUNTY RECORDER
RECORDERS FEE \$ 1.40
KRUEGER, MOYER & O'HARA
ATTORNEYS
501 PECK BUILDING
THE ERIE COUNTY, OHIO

1955 10 16

Know all Men by these Presents

Capt. I. Olah F. Walters, widow and unmarried,

, the Grantor ,

do hereby convey unto the said Grantee

for the consideration of Twenty Three Thousand Five
Hundred and -----no/100 Dollars (\$ 23500.00)
received to my full satisfaction of

The City of Sandusky, Ohio

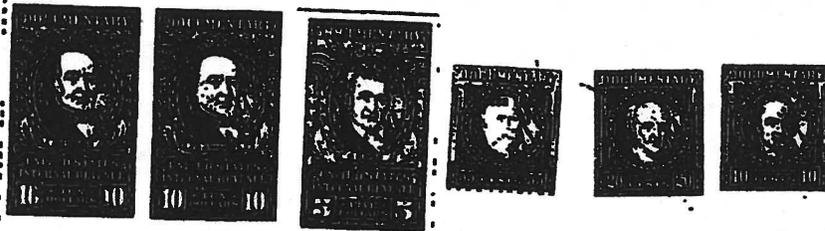
the Grantee ,

whose TAX MAILING ADDRESS will be

City Building, Sandusky, Ohio do

Give, Grant, Convey, Sell and Convey unto the said Grantee ,
and assigns, the following described premises, situated in the City of
Sandusky, , County of Erie and State of Ohio:

Being the easterly two-thirds (2/3) of lot number ten (10) on Hancock Street, excepting therefrom the westerly thirty-nine (39) feet of the northerly one-half (1/2) of said lot number ten (10), and also the northerly one-third (1/3) of lots numbers forty-nine and fifty-one (51) on Washington Street, all in the City of Sandusky, Ohio, subject to easements and rights of way of record.



To Have and to Hold the above granted and bargained premises, with the appurtenances thereof, unto the said Grantee, and assigns forever.

And I, Olah F. Walters, the said Grantor, do for myself and my heirs, executors and administrators, covenant with the said Grantee, and I am well seized of the above described premises, as a good and indefensible estate in FEE SIMPLE, and have good right to bargain and sell the same in manner and form as above written, and that the same are free from all incumbrances whatsoever except taxes and assessments, general and special, commencing with the year 1955.

and that I will Warrant and Defend said premises, with the appurtenances thereunto belonging, to the said Grantee, and assigns, against all lawful claims and demands whatsoever except as above stated.

Handwritten Greek text, likely a translation of the English text above.

In Witness Whereof I have hereunto set my hand, the 18th day of December, in the year of our Lord one thousand nine hundred and fifty-five.

Signed and acknowledged in presence of

Handwritten signatures of F. E. Hunter and Olah F. Walters.

State of Ohio, STARK County, ss. Before me, a Notary Public in and for said County and State, personally appeared the above named Olah F. Walters who acknowledged that she did sign the foregoing instrument and that the same is her free act and deed.



In Testimony Whereof, I have hereunto set my hand and official seal, at Alliance, Ohio, this 18th day of December, A. D. 1955. F. E. Hunter, Notary Public.

123729 (MAM) Warranty Deed

1955 DEC 19 PM 2 14

CARL A. SPEIR, ERIE COUNTY OHIO

The City of Sandusky, Ohio

Transferred DEC 19 1955, State Auditor, Carl A. Speir

County of ERIE, State of Ohio

Received for Record on the 19th day of Dec. 1955 at 2:14 o'clock P. M. and Recorded Dec. 21st, 1955 in Deed Book 266 Page 421-422

Recorder's Fee \$ 1.40 Paid, THE ERIE COUNTY TITLE CO.

Handwritten initials and date: AS AS 21

148983
WARRANTY DEED

Know all Men by These Presents

That we, JANET A. SHIERSON, BARBARA SPROW MORGAN, URSULA A. HAYS, AUGUST W. SPROW and WILLIAM J. SPROW, JR., the GRANTORS, for the consideration of ELEVEN THOUSAND DOLLARS (\$11,000.00), received to our full satisfaction of THE CITY OF SANDUSKY, a municipal corporation in Erie County, Ohio, the GRANTEE, do hereby GIVE, GRANT, BARGAIN, SELL and CONVEY unto said Grantee, its successors and assigns the following described premises, situated in the City of Sandusky, County of Erie, and State of Ohio, and being:

The westerly thirty-nine (39) feet of the easterly two-thirds (2/3) of Lots Numbers Seven (7) and Eight (8) on Hancock Street, and the westerly thirty-nine (39) feet of the easterly two-thirds (2/3) of the northerly one-half (1/2) of Lot Number Ten (10) on Hancock Street.

It is understood and agreed by and between Grantors and Grantee that the premises hereby conveyed shall be construed to exclude any real property which lies westerly of the outside of the easterly wall of the brick building known as the Schmidt Building or as the Schmidt Apartment Building.

Reserving to the Grantors herein, their heirs and assigns, as owners of the westerly one-third (1/3) of Lots Numbers Seven (7), Eight (8), and Ten (10) on Hancock Street, and the whole of Lot Number Eight (8) on Wayne Street and the northerly one-half (1/2) of Lot Number Ten (10) on Wayne Street, in the City of Sandusky, Erie County, Ohio, the joint use of a right of way for driveway purposes over the northerly twelve (12) feet of the easterly two-thirds (2/3) of Lot Number Ten (10) on Hancock Street.

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereof, unto the said Grantee, its successors and assigns, forever.

And we, Janet A. Shierson, Barbara Sprow Morgan, Ursula A. Hays, August W. Sprow and William J. Sprow, Jr., the Grantors, do for ourselves and for our heirs, administrators and executors covenant with said Grantee, its successors and assigns, that at and until the ensealing of these presents, we are well seized of the above described premises, as a good and indefeasible estate in FEE SIMPLE, and have good right to bargain and sell the same in manner and form as above written, and that the same are free from all incumbrances whatsoever except taxes and assessments, if any for the year 1955 and thereafter, and that we will warrant and defend said premises, with the appurtenances thereunto belonging, to the said Grantee, its successors and assigns, against all claims and demands whatsoever except the aforesaid taxes and assessments.

And James K. Shierson (husband of the said Janet A. Shierson), W. D.

Hays (husband of the said Ursula A. Hays), Howard K. Morgan (husband of the said Barbara Sprow Morgan), Jean-B. Sprow (wife of the said August W. Sprow) and Mary H. Sprow (wife of the said William J. Sprow, Jr.) each for valuable consideration do hereby remise, release and forever quitclaim unto the said Grantee, its successors and assigns all their right and expectancy of dower in the above described premises.

IN WITNESS WHEREOF, we have hereunto set our hands this 6th day of January in the year of our Lord Nineteen Hundred and Fifty Six.

Signed and acknowledged in the Presence of:

Wagel W. Butts
Sam Jane Hubbard
Samuel Almonse Tucker Hays
J. M. Graham
Herbert C. Redwell
ST. Plummer
Arma W. Engelsen

Janet A. Shierson
James K. Shierson
Ursula A. Hays
W. D. Hays Jr.
Barbara Sprow Morgan
Howard K. Morgan
August W. Sprow
Jean B. Sprow
William J. Sprow, Jr.
Mary H. Sprow

As to Barbara Sprow Morgan, Howard K. Morgan, August W. Sprow, Jean B. Sprow, William J. Sprow, Jr., and Mary H. Sprow

STATE OF TEXAS)
) ss:
COUNTY OF MIDLAND)

Before me, a Notary Public in and for said county and state, personally appeared the above named URSULA A. HAYS and W. D. HAYS, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Midland, Texas, this 24th day of December, 1956.



Norma McAllister
Notary Public
My commission expires June 1, 1957

STATE OF MICHIGAN)
) ss:
COUNTY OF LENAHEE)

Before me, a Notary Public in and for said county and state, personally appeared the above named JANET A. SHIERSON and JAMES K. SHIERSON, who acknowledged

132

267-132

that they did sign the foregoing instrument and that the same is their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 6th day of January, 1956



Russell A. Ranney
Notary Public
My commission expires *Jan 9-1957*

Before me, a Notary Public in and for said county and state, personally appeared the above named BARBARA SPROW MORGAN, HOWARD K. MORGAN, AUGUST W. SPROW, JEAN E. SPROW, WILLIAM J. SPROW, JR., and MARY H. SPROW, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Sandusky, Ohio, this 6th day of January, 1956

J. C. [Signature]
Notary Public
My commission expires *April 1, 1956*

The foregoing deed was prepared by Russell A. Ranney, 312 Washington Building, Sandusky, Ohio.



MISSISSIPPI WARRANT DEED *CHAM*

JAMES A. SULLIVAN,
BARBARA SPROW MORGAN,
HOWARD K. MORGAN,
AUGUST W. SPROW, and
JEAN E. SPROW, JR.,
WILLIAM J. SPROW, JR.,
MARY H. SPROW,
to

THE CITY OF MORGANVILLE,
SANDUSKY COUNTY OHIO

Russell A. Ranney
Notary Public
My commission expires *Jan 9-1957*

State of Ohio, County of Erie, ss.
Received for Record on the
6th day of Jan. 1956
at 5:30 o'clock P.M.
and Recorded Jan. 13th, 1956
in Deed Book 267, Page 250-251-
138

Carl A. Ranney
County Recorder

Recorder's Fee *2.00 Paid*
R.A.R.

RANNEY and WIDELIUS
Attorneys at Law
Sandusky, Ohio

THE ERIE COUNTY TITLE CO.
1956

EXHIBIT B
Site Plan

(commences on following page)

APPENDIX B – Site Plan

The Project shall be developed on .803 acres of land (“Land”) approximately in accordance with the Site Plan below:

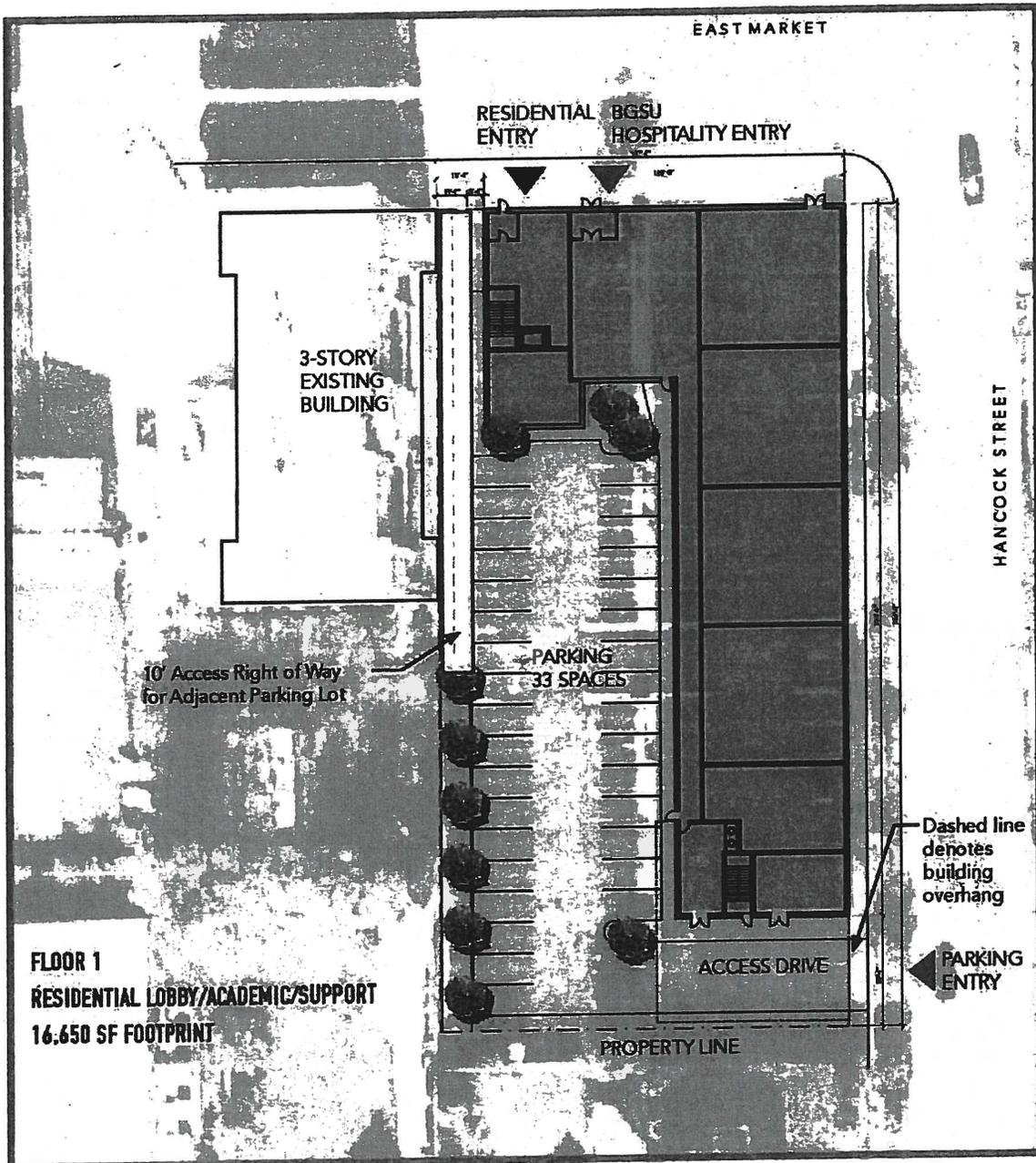


EXHIBIT C

**PREPARED BY AND WHEN
RECORDED RETURN TO:**

[]

MEMORANDUM OF LEASE

This Memorandum of Lease is by and between *, a(n) _____, with offices at * ("Landlord"), and * ("Tenant"), pursuant to which Landlord has demised, and by these presents does demise, to Tenant, and Tenant has accepted, and by these presents does accept, such demise from Landlord, the Leased Premises (defined below) upon the following terms:

| | |
|---------------------------------|---------------------------|
| Date of Lease: | * |
| Description of Leased Premises: | See attached Exhibit "A". |
| Commencement Date: | * |
| Expiration Date: | * |
| Term: | * |
| Extensions: | * |

The purpose of this Memorandum of Lease is to give record notice of the Lease and of the rights created thereby, all of which are hereby confirmed.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the dates set forth in their respective acknowledgments.

TENANT:

LANDLORD:

*

By: _____

By: _____

Its: _____

Its: _____

STATE OF OHIO)
) SS
COUNTY OF ERIE)

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, as _____ of _____, being personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered this said instrument as his/her own free and voluntary act, and as the free and voluntary act of said _____, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2018.

Notary Public

My Commission Expires: _____

EXHIBIT D
ECPA Lease

(commences on following page)

LEASE

between

ERIE COUNTY PORT AUTHORITY

and

RESORT SCHOOL LLC

[\$2,737,000]

Erie County Port Authority
Development Lease Revenue Bonds, Series 2019A
(Resort School Academic Project)

and

[\$9,044,800]

Erie County Port Authority
Development Lease Revenue Bonds, Series 2019B
(Resort School Housing Project)

Dated

as of

_____, 2019

Climaco, Wilcox, Peca, & Garofoli Co., L.P.A.
Bond Counsel

TABLE OF CONTENTS

| | <u>Page</u> |
|---------------------------------------|---|
| ARTICLE I | |
| DEFINITIONS | |
| Section 1.1 | Use of Defined Terms..... 1 |
| Section 1.2 | Definitions..... 1 |
| Section 1.3 | Interpretation..... 7 |
| ARTICLE II | |
| LEASE OF PROJECT | |
| Section 2.1 | Lease; Lease Term Possession and Use..... 9 |
| Section 2.2 | Purposes 9 |
| Section 2.3 | Assignment of Lease..... 9 |
| Section 2.4 | Nature of Transaction 10 |
| ARTICLE III | |
| RENT AND ADDITIONAL PAYMENTS | |
| Section 3.1 | Rent..... 13 |
| Section 3.2 | Additional Payments..... 13 |
| Section 3.3 | Place of Payments 14 |
| Section 3.4 | Obligations Unconditional 14 |
| Section 3.5 | Past Due Rent and Additional Payments 15 |
| Section 3.6 | Prepayment of Rent..... 15 |
| Section 3.7 | Assignment 15 |
| Section 3.8 | No Abatement of Rental Payments..... 15 |
| ARTICLE IV | |
| CONSTRUCTION | |
| Section 4.1 | Construction..... 16 |
| Section 4.2 | Plans and Specifications 17 |
| Section 4.3 | Completion Date 17 |
| Section 4.4 | Remedies Against Contractors, Subcontractors and Sureties..... 17 |
| Section 4.5 | Installation of Lessee’s Own Personal Property 17 |
| Section 4.6 | Additional Construction Requirements..... 18 |
| ARTICLE V | |
| MAINTENANCE AND USE OF PROJECT | |
| Section 5.1 | Compliance with Legal and Insurance Requirements 19 |

TABLE OF CONTENTS

| | <u>Page</u> |
|---|---|
| Section 5.2 | Maintenance and Use of Project 19 |
| Section 5.3 | Additions, Modifications and Improvements 19 |
| Section 5.4 | Reserved..... 19 |
| Section 5.5 | Indemnification..... 19 |
| Section 5.6 | Environmental Matters..... 21 |
| Section 5.7 | Performance by Lessor of Lessee’s Requirements 22 |
| ARTICLE VI ISSUANCE OF BONDS - PAYMENT OF COSTS | |
| Section 6.1 | Issuance of Bonds; Deposit of Bond Proceeds 23 |
| Section 6.2 | Disbursements from the Project Fund..... 23 |
| Section 6.3 | Obligation of the Parties to Cooperate in Furnishing Documents to Trustee..... 24 |
| Section 6.4 | Investment of Fund Moneys 24 |
| Section 6.5 | Lessee Required to Pay Costs in Event Proceeds Insufficient; Escrow of Certain Funds..... 24 |
| Section 6.6 | Covenants and Agreements..... 25 |
| ARTICLE VII TAXES AND MECHANICS’ LIENS AND INSURANCE | |
| Section 7.1 | Payment of Taxes and Other Governmental Charges..... 26 |
| Section 7.2 | Mechanics’ and Other Liens 26 |
| Section 7.3 | Payment by Lessor or Trustee..... 27 |
| Section 7.4 | Insurance 27 |
| ARTICLE VIII DAMAGE, DESTRUCTION AND CONDEMNATION | |
| Section 8.1 | Damage and Destruction..... 28 |
| Section 8.2 | Eminent Domain 28 |
| Section 8.3 | Condemnation of Lessee-Owned Property 29 |
| ARTICLE IX FURTHER REPRESENTATIONS AND AGREEMENTS RESPECTING THE PROJECT AND THE LESSEE | |
| Section 9.1 | Installation and Removal of Personal Property 30 |
| Section 9.2 | No Warranty of Condition or Suitability 30 |
| Section 9.3 | Right of Inspection..... 30 |

TABLE OF CONTENTS

| | <u>Page</u> |
|--|---|
| Section 9.4 | Representations of the Lessee 30 |
| Section 9.5 | 30 |
| Section 9.6 | Notice of Default..... 31 |
| Section 9.7 | Reserved..... 31 |
| Section 9.8 | Reserved..... 31 |
| Section 9.9 | Lessee Bound by Indenture..... 31 |
| Section 9.10 | Title of Project 31 |
| ARTICLE X PREPAYMENT OF BONDS; TERMINATION OF LEASE | |
| Section 10.1 | Optional Prepayment 32 |
| Section 10.2 | Option to Terminate..... 32 |
| Section 10.3 | Option to Purchase Project Prior to Payment of the Bonds..... 32 |
| Section 10.4 | Requirement to Purchase Leased Premises Upon Discharge of Bonds..... 33 |
| Section 10.5 | Conveyance on Exercise of Option to Purchase 33 |
| Section 10.6 | Relative Position of this Article and Indenture..... 34 |
| ARTICLE XI ASSIGNMENT, SUBLEASING AND SELLING | |
| Section 11.1 | Subleasing by Lessee 35 |
| Section 11.2 | Assignment by Lessee..... 35 |
| Section 11.3 | Assignment by Lessor..... 35 |
| Section 11.4 | Restrictions on Transfer and Encumbrance of Leased Premises by Lessor 35 |
| ARTICLE XII EVENTS OF DEFAULT AND REMEDIES | |
| Section 12.1 | Events of Default 36 |
| Section 12.2 | Remedies on Default..... 37 |
| Section 12.3 | No Remedy Exclusive..... 38 |
| Section 12.4 | Agreement to Pay Attorneys' Fees and Expenses 38 |
| Section 12.5 | No Waiver..... 38 |
| Section 12.6 | Notice of Default..... 39 |

TABLE OF CONTENTS

| | | <u>Page</u> |
|---|---------------------------------|-------------|
| ARTICLE XIII MISCELLANEOUS | | |
| Section 13.1 | Quiet Enjoyment | 40 |
| Section 13.2 | Surrender of Project | 40 |
| Section 13.3 | Notices | 40 |
| Section 13.4 | Binding Effect..... | 40 |
| Section 13.5 | Conflict | 40 |
| Section 13.6 | Amendments and Supplements..... | 40 |
| Section 13.7 | Execution Counterparts..... | 40 |
| Section 13.8 | Severability | 40 |
| Section 13.9 | Captions | 41 |
| Section 13.10 | Governing Law | 41 |
| Exhibit A - PROJECT FACILITIES | | |
| Exhibit B - PROJECT SITE | | |
| Exhibit C – INSURANCE REQUIREMENTS | | |

LEASE

THIS LEASE made and entered into as of _____, 2019 between, the ERIE COUNTY PORT AUTHORITY, as lessor (the "Lessor"), a body corporate and politic and a political subdivision of the State of Ohio, and RESORT SCHOOL LLC, as lessee (the "Lessee"), an Ohio limited liability company, under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals being used therein as defined in Article I hereof):

A. The Lessor and the Lessee have entered into the Ground Lease dated _____, 2019, pursuant to which the Lessee, as Ground Lessor, is leasing the Project Site, as more particularly described on Exhibit B hereto, to the Lessor, as Ground Lessee.

B. Pursuant to and in accordance with the Construction Manager Agreement dated _____, 2019, the Lessor has agreed to retain the Construction Manager to construct the Project Facilities on the Project Site.

C. Pursuant to Sections 13 and 16 of Article VIII, Ohio Constitution and Sections 4582.21 through 4582.60, inclusive, Ohio Revised Code, and a resolution adopted by the Legislative Authority on April 26, 2019 the Lessor has determined to issue and sell certain revenue obligations and to use the proceeds derived from the sale thereof to finance the Project to be acquired, constructed, equipped, furnished, installed, improved and owned ("Developed") by the Lessor, including the acquisition of an interest in the Project Site from Lessee by Ground Lease.

E. Upon the terms and conditions hereinafter set forth, the Lessor is willing to lease the Project to the Lessee and the Lessee is willing to lease the Project from the Lessor.

F. The Lessor and the Lessee each has full right and lawful authority to enter into this Lease and to perform and observe the provisions hereof on their respective parts to be performed and observed

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Use of Defined Terms. In addition to the words and terms defined elsewhere in this Lease or by reference to another document, the words and terms set forth in Section 1.2 hereof shall have the meanings therein set forth unless the context or use clearly indicates another meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms defined therein.

Section 1.2 Definitions. As used herein:

“Academic Project” means the academic classrooms and academic space on the first floor of the 78,000 square foot building to be constructed with proceeds of the Series A Bonds and State Grant for use by Bowling Green State University.

“Act” means Sections 4582.21 to 4582.60, both inclusive, Ohio Revised Code, as enacted and amended pursuant to Sections 13 and 16 of Article VIII of the Ohio Constitution.

“Additional Payments” means the amounts required to be paid by the Lessee pursuant to the provisions of Section 3.2 hereof.

“Assignment of Lease” means the Assignment of Rents and Leases from Lessee to Trustee dated the date of the Lease.

“Authorized Lessee Representative” means the person at the time designated to act on behalf of the Lessee by written certificate furnished to Issuer and the Trustee, containing the specimen signature of such person and signed on behalf of the Lessee by the designated Manager of the Lessee. Such certificate may designate an alternate or alternates who shall have the same authority, duties and powers as the Authorized Lessee Representative.

“Authorized Lessor Representative” means the person at the time designated to act on behalf of Lessor by written certificate furnished to the Lessee and Trustee, containing the specimen signature of such person and signed on behalf of Lessor by the Executive or Fiscal Officer as defined in the Indenture. Such certificate may designate an alternate or alternates who shall have the same authority, duties and powers as the Authorized Lessor Representative.

“Bond Fund” means the Bond Funds created in the Indenture.

“Bond Legislation” means the legislation providing for the issuance of the Bonds and approving the Lease and related matters, as amended or supplemented from time to time.

“Bond Purchase Agreement” means, the Bond Purchase Agreement dated as of even date herewith, by and among the Lessor, Lessee and Original Purchaser.

“Bond Service Charges” means, for any period or payable at any time, the principal of and interest and any premium due on the Bonds for that period or payable at that time whether due at maturity or upon acceleration or redemption.

“Bonds” means the Lessor’s Series 2019A Bonds and Series 2019B Bonds issued pursuant to the Bond Legislation.

“Business Day” means any day other than Saturday, Sunday, or other date on which the New York Stock Exchange shall be closed or on which banks in Cleveland, Ohio or New York, New York shall not be open for business.

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

"Closing Date" means the date of transfer of the Project Site and the issuance of the Bonds.

"Completion Date" means the date of completion of the Project certified pursuant to Section 4.3 hereof.

"Construction Manager" means Lessee as construction manager under the Construction Manager Agreement.

"Construction Manager Agreement" means the Construction Manager Agreement by and among Lessor and Construction Manager, dated as of even date herewith, whereby Lessor appoints Construction Manager as Lessor's manager to construct the Project on behalf of Lessor.

"Construction Contract" means the Construction Contract between the Lessee and Contractor, executed or to be executed in connection with the construction of the Project.

"Construction Period" means the period between commencement of the Lease Term and the Completion Date.

"Contractor" means Marous Development Group LLC, licensed to do business in the State of Ohio, or its assigns, and any other contractor or subcontractor engaged by Construction Manager, on behalf of the Lessor, under a Construction Contract.

"Engineer" means an individual or firm acceptable to the Trustee and the Holder and qualified to practice the profession of engineering or architecture under the laws of the State.

"Environmental Complaint" shall have the meaning set forth in Section 5.6(c) hereof.

"Environmental Laws" means all applicable federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances and Hazardous Wastes and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto, including, without limitation, CERCLA and Chapter 3734 of the Ohio Revised Code.

"Environmental Report" means collectively the report of a phase I environmental site assessment dated July 2018 prepared by Mannick Smith Group and Focused Phase II Environmental Site Assessment dated July 2018 and prepared by Mannick Smith Group, both relating to the Project Site.

"Event of Default" means any of the events described as an Event of Default in Section 12.1 hereof.

"Force Majeure" means any of the causes, circumstances or events described as constituting Force Majeure in Section 12.1(e) hereof.

“Hazardous Discharge” shall have the meaning set forth in Section 5.6 hereof.

“Hazardous Substance” means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as defined in CERCLA, the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§1801, et seq.), RCRA, or any other applicable Environmental Law and in the regulations adopted pursuant thereto.

“Hazardous Wastes” includes all waste materials subject to regulation under CERCLA, RCRA or applicable state law, and any other applicable federal and state laws now in force or hereafter enacted relating to hazardous waste disposal.

“Holder” means the person in whose name a Bond is registered on the books kept and maintained for the registration and transfer of Bonds pursuant to the Indenture.

“Housing Project” means the approximately 80 rental housing units on the second through fifth floors and retail space on the first floor of a 78,000 square foot building to be constructed with proceeds of the Series B Bonds and the City Grant.

“Indenture” means the Trust Indenture dated as of even date with this Lease between the Lessor and the Trustee, as amended and supplemented from time to time.

“Independent Counsel” means an attorney acceptable to the Lessor and the Holder duly admitted to practice law before the highest court of the State.

“Insurance Requirements” means the insurance coverage or evidence of self-insurance as described in Exhibit C to this Lease.

“Interest Payment Date” means any date upon which the principal of and premium, if any, or interest on the Bonds shall be payable when due or by reason of call for prepayment or acceleration of maturity, pursuant to the Bond Legislation.

“Interest Rate for Advances” means that rate per annum which is two percentage points in excess of that interest rate per annum announced by the Trustee in its lending capacity as a bank as its “Prime Rate” or its “Base Rate,” whichever is greater and lawfully chargeable, in whole or in part or if it has no such rates, such rates of its largest commercial banking affiliate.

“Issuer” means Lessor as Issuer of the Bonds.

“Issuer Contracting Fee” means the fee payable to Issuer at closing in the amount of \$30,000, or 7.9% of the estimated sales tax savings, and 7.9% of any sales tax savings in excess of \$381,000.

“Joint Use Agreement” means the Joint Use Agreement between Bowling Green State University and the Erie County Port Authority providing for use of the Project for Project Purposes as set forth therein.

“Lease” means this Lease, as amended or supplemented from time to time, in accordance with its terms.

“Lease Term” means the period commencing on the date of delivery of this Lease and ending on October 1, 2025.

“Legal Requirements” means all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, directions and requirements of all governments and departments, commissions, boards, courts, authorities, agencies, officials and officers of governments, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Project or any part thereof, or any use or condition of the Project or any part thereof.

“Lessee” means Resort School LLC, an Ohio limited liability company.

“Lessee Account” means the Equity Accounts in the Project Funds created by the Indenture into which moneys of the Lessee will be deposited pursuant to Section 6.5 hereof.

“Lessor” means the Erie County Port Authority.

“Net Proceeds,” when used with respect to any insurance proceeds or condemnation award, means the gross proceeds thereof less the payment of all expenses, including reasonable attorneys’ fees, incurred in connection with the collection of such gross proceeds.

“Notice Address” means:

- (a) As to the Lessee: Resort School LLC
36933 Vine Street
Willoughby, OH 44094
Attention: Adelbert P. Marous, Jr., Manager
- (b) As to the Lessor: Erie County Port Authority
5002 Timber Commons Dr.
Sandusky, OH 44870
Attention: Chair
- (c) As to the Trustee: The Huntington National Bank
200 Public Square, Suite 600
Cleveland, OH 44114
Attention: Corporate Trust – Biagio Impala,
Vice President

or such different address notice of which is given under Section 10.3 hereof

“Original Purchaser” means Cedar Point Park LLC, a Delaware limited liability company or affiliate thereof.

“Owner’s Representative” means Feick Design Group, Inc. as Owner’s Representative to the Lessor for the State Grant Construction as set forth in the Owner’s Representative Agreement.

“Owner’s Representative Agreement” means the Owner’s Representative Agreement between Lessor and Owner’s Representative to facilitate the competitive bidding for the State Grant construction under ORC §4582.31(A)(18)(b).

“Permitted Encumbrances” means those matters affecting title set forth on Exhibit D attached to this Lease.

“Person” or words importing persons means firms, associations, partnerships (including, without limitation, general and limited partnerships), societies, estates trusts, corporations, public or governmental bodies, other legal entities and natural persons.

“Plans and Specifications” means the plans and specifications describing the Project Facilities as now prepared and as they may be changed as provided in Section 4.2 hereof.

“Proceeds Account” means the Proceeds Accounts in the Project Funds created by the Indenture.

“Project” means, collectively, the Project Site and the Project Facilities together constituting a “project” as defined in the Act. The Project is sometimes referred to herein as the “Leased Premises.”

“Project Facilities” means the facilities consisting of the Academic Project and Housing Project and described in Exhibit A hereto (and more particularly described in the Plans and Specifications), together with any additions, modifications and substitutions to those facilities.

“Project Fund” means the Project Funds created in the Indenture, of which the Proceeds Accounts and the Lessee Accounts are a part.

“Project Purposes” means acquiring, constructing, equipping, furnishing, installing and improving real and personal property comprising “port authority facilities” within the meaning of the Act, to be used as a five (5) floor mixed use development building consisting of approximately 78,000 sq. ft. and related Project Site improvements for use as the site of the Academic Project and Housing Project or such use or uses as may result from a change in the Plans and Specifications authorized by Section 4.2 hereof and as may otherwise be permitted by the Act to aid and promote industry, commerce, education, housing and economic development.

“Project Site” means the real estate described in Exhibit B hereto and any additions thereto, less any removals therefrom, made in the manner and to the extent provided herein.

“RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq.

“Release” shall have the meaning given to that term under CERCLA.

“Rent” means the rent payable pursuant to Section 3.1 hereof.

“Rental Payment Date” means a lump-sum payment to be made on the last day of the Lease Term, provided that Tenant may make early payments of Rent during the life of the Lease to pay down the lump-sum rent due on the Rental Payment Date.

“Revenues” means (a) the Rent, (b) all other moneys received or to be received by the Issuer or the Trustee in respect of repayment of the Bonds, including without limitation, all moneys and investments in the Bond Fund, (c) moneys and investments in the Project Fund, and (d) all income and profit from the investment of the foregoing moneys.

“Series A Bonds” means the not to exceed [\$2,737,000] Erie County Port Authority, Development Lease Revenue Bonds, Series 2019A (Resort School Academic Project) to be issued by Issuer.

“Series B Bonds” means the not to exceed [\$9,044,800] Erie County Port Authority, Development Lease Revenue Bonds, Series 2019B (Resort School Housing Project) to be issued by Issuer.

“State” means the State of Ohio.

“State Grant” means the grant for the Academic Project from the State of Ohio pursuant to the Joint Use Agreement.

“State Grant Construction” means certain Tenant Improvements for the Academic Project paid for by the State Grant and to be competitively bid under the Act.

“Trustee” means The Huntington National Bank, until a successor Trustee shall have become such pursuant to the applicable provisions of the Indenture, and thereafter “Trustee” shall mean the successor Trustee.

“Unassigned Issuer’s Rights”, means all rights of the Lessor to receive Additional Payments under Section 3.2 of this Lease, to be held harmless and indemnified under Sections 4.1, 5.5 and 5.6 of this Lease, to direct the construction of the Project Facilities as provided herein, to receive notices, to be reimbursed for attorneys’ fees under Section 12.4, and to execute amendments to the Lease.

Section 1.3. Interpretation. Any reference herein to the Lessor or to any officers of the Lessor shall include those succeeding to their functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the United States Code, the Constitution of the State or to the Act, or to a section, provision or chapter of the Ohio Revised Code shall include such section, provision or chapter as modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the Lessee, the Trustee or the Lessor under this Lease.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Lease. The term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Lease. Words of the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

(End of Article I)

ARTICLE II

LEASE OF PROJECT

Section 2.1 Lease; Lease Term Possession and Use. Upon and subject to the provisions herein set forth, the Lessor does hereby lease to the Lessee, and the Lessee does hereby lease from the Lessor, the Project for the Lease Term, and subject to the Permitted Encumbrances, possession of the Project shall be delivered by the Lessor and accepted by the Lessee as of the date of this Lease. From and after the commencement of the Lease Term, the Lessee and Construction Manager and their respective agents and independent contractors shall have the right to enter upon the Project Site for purposes of developing, constructing, installing, equipping, and furnishing of the Project Facilities in accordance with the Plans and Specifications, carrying out their duties as Construction Manager for the Lessor in connection with the development, construction, installing, equipping, and furnishing of the Project Facilities and taking any necessary actions preparatory to the occupation, operation and use of the Project Facilities. Upon delivery of possession and during the Lease Term, the Lessee shall have the right to use the Project for Project Purposes or for such other lawful purpose as may be permitted hereby and by the Act, including having Bowling Green State University operate the Academic Project. In this regard, Lessee agrees to continue to permit Bowling Green State University to use the Academic Project for the full term of the Joint Use Agreement and in the manner set forth therein.

Section 2.2 Purposes. The Lessee now intends to use the Leased Premises during the Lease Term for the Project Purposes. The Lessee does not now know of any reason why the Project Facilities, when completed, will not be so used and occupied for the Project Purposes for the Lease Term and any extensions and renewals thereof and now anticipates that it will be so used and occupied. Failure to use and occupy as aforesaid shall in no way abate or reduce Rent payable and shall not be deemed a breach of this Lease in any respect. If such failure to use and occupy the Leased Premises occurs, Lessee, in cooperation with the Lessor, shall use its commercially reasonable efforts to resume such use and occupancy or accomplish an alternative use and occupancy by itself or others (subject to provisions hereof respecting assignment or subleasing).

Section 2.3 Assignment of Lease

(a) This Lease and all of the estate, right, title and interest of the Lessee as lessee hereunder (and any licensees and sublessees) are and shall be subject to the Assignment of Lease.

(b) The Lessee agrees that, in the event of any exercise by the Trustee of any of the Trustee's rights under the Assignment of Lease or Indenture, Lessee shall attorn to and recognize the Trustee as its landlord under the Lease for the remainder of the Lease Term (including all extension periods which have been or are hereafter exercised) upon the same terms and conditions as are set forth in this Lease, and shall cooperate with the Trustee to assure that any sublessee shall attorn to and recognize the Trustee as its overlandlord under the Lease for the remainder of the Lease Term and the Lessee hereby agrees to pay and perform all of the obligations of the Lessee pursuant to the Lease.

(c) The Lessee agrees that, in the event the Trustee exercises its rights under the Assignment of Lease:

(i) The Trustee shall not be liable for any act or omission of any prior landlord (including the Lessor);

(ii) The Trustee shall not be liable for the return of any security deposit or other collateral security, unless such sums or collateral have actually been received by the Trustee as security for the Lessee's performance of this Lease;

(iii) The Trustee shall not be bound by any amendments or modifications or termination of this Lease made without the consent of the Trustee; and

(iv) The Trustee shall not be subject to any offsets or defenses which the Lessee might have against any prior landlord (including the Lessor).

(v) Notwithstanding any provision of this Lease, the Indenture or the Assignment of Lease to the contrary, the terms of this Lease shall continue to govern with respect to the disposition of any insurance proceeds or eminent domain awards, and any obligations of the Lessor to restore the Project shall, insofar as they apply to the Trustee, be limited to any insurance proceeds or eminent domain awards received by the Trustee after the deduction of all costs and expenses incurred in obtaining such proceeds or awards.

(d) The Lessee shall give the Trustee a copy of any notice of default under this Lease served upon the Lessor at the same time as such notice is given to the Lessor. The Lessee further agrees that if the Lessor shall have failed to cure such default within the applicable grace period, if any, provided in this Lease, then the Trustee shall have an additional thirty (30) days within which to cure such default; provided that the Trustee shall have no obligation to cure such default.

(e) The Lessor hereby authorizes the Lessee to rely on any written notice or demand received from the Trustee to make to the Trustee, instead of the Lessor, whenever so demanded by the Trustee under Section 3 of the Assignment of Lease, any payments of rent and other payments to which the Lessor may be entitled.

Section 2.4 Nature of Transaction. (a) It is the intent of the parties hereto that: (i) for federal, State and local income tax purposes, this Lease shall be treated as the repayment and security provisions of a loan by the Lessor to Lessee, Lessee shall be treated as the legal and beneficial owner entitled to any and all benefits of ownership of the Project or any part thereof, and all payments of Rent made during the Lease Term shall be treated as payments of interest and principal, as the case may be, in respect of such loan; and (ii) if a bankruptcy court or other court of competent jurisdiction shall at any time determine that the transaction represented by this Lease either (A) does not constitute a true leasing transaction or (B) shall be treated as a financing or other transaction, then in any such event, this Lease shall be treated as a deed of trust and security agreement, mortgage and security agreement or other similar instrument with a power of sale from Lessee, as mortgagor, to the Lessor, for the benefit of the Trustee as mortgagees encumbering the Project, and the payment by the Lessee of each payment of Rent shall be treated as payments of principal and interest on such loan (all such payments being obligatory payments which shall, to the fullest extent permitted by law, have priority over any and all liens and other encumbrances arising after this Lease, or a memorandum thereof, is recorded).

(b) Specifically, without limiting the generality of subsection (a) of this Section 2.4, the Lessor and the Lessee intend and agree that with respect to the nature of the transactions evidenced by this Lease in the context of the exercise of remedies under the Indenture, Lease, or other related documents, including, without limitation, in the case of any insolvency or receivership proceedings or a petition under the United States bankruptcy laws or any other applicable insolvency laws or statute of the United States of America or any State or Commonwealth thereof affecting the Lessor and the Lessee, or any enforcement or collection actions, the transactions evidenced by this Lease are loans made by the Lessor to the Lessee as described in subsection (a) above secured by the Project it being understood that the Lessee hereby mortgages, grants, bargains, sells, releases, confirms, conveys, assigns, transfers and sets over to the Lessor, and grants a security interest in, the Project consisting of a fee mortgage with respect to all right, title and interest of the Lessee in and to the fee title to, and reversionary interest in, the Project Site and the Project Facilities that do not constitute personalty and a leasehold mortgage on the Lessee's leasehold estate under this Lease, all to secure such loans, effective on the date hereof, to have and to hold such interests in the Project unto the Lessor and its successors and assigns, forever, provided always that these presents are upon the express condition that, if all amounts due under this Lease shall have been paid and satisfied in full, then this instrument and the estate hereby granted shall cease and become void.

(c) Specifically, but without limiting the generality of subsection (a) of this Section 2.4, the Lessor and the Lessee further intend and agree that, with respect to that portion of the Project constituting personal property, for the purpose of securing the Lessee's obligations for the repayment of the above-described loans from the Lessor to the Lessee, (i) this Lease shall also be deemed to be a security agreement and financing statement within the meaning of Article 9 of the Commercial Code; (ii) the conveyance provided for hereby shall be deemed to be a grant by the Lessee to the Lessor of a lien and security interest in all of Lessee's present and future right, title and interest in and to such portion of the Project, including but not limited to Lessee's leasehold estate therein and all proceeds of the conversion, voluntary or involuntary, of the foregoing into cash, investments, securities or other property, whether in the form of cash, investments, securities or other property to secure such loans, effective on the date hereof, to have and to hold such interests in such property unto the Lessor and its successors and assigns, forever, provided always that these presents are upon the express condition that, if all amounts due under this Lease shall have been paid and satisfied in full, then this instrument and the estate hereby granted shall cease and become void; (iii) the possession by the Lessor of notes and such other items of property as constitute instruments, money, negotiable documents or chattel paper shall be deemed to be "possession by the secured party" for purposes of perfecting the security interest pursuant to Section 9-305 of the Commercial Code; and (iv) notifications to Persons holding such property, and acknowledgements, receipts or confirmations from financial intermediaries, bankers or agents (as applicable) of the Lessee shall be deemed to have been given for the purpose of perfecting such security interest under Applicable Law. The Lessor and Lessee shall, to the extent consistent with this Lease, take such actions and execute, deliver, file and record such other documents, financing statements, mortgages and deeds of trust, including, without limitation, a memorandum of this Lease as may be necessary to ensure that, if this Lease were deemed to create a security interest in the Project in accordance with this Section, such security interest would be deemed to be a perfected security interest with priority over all liens other than Permitted Encumbrances, under Applicable Law and will be maintained as such throughout the Lease Term.

(End of Article II)

ARTICLE III

RENT AND ADDITIONAL PAYMENTS

Section 3.1 Rent. On or before each Rental Payment Date the Lessee agrees to and shall pay as Rent hereunder, in such fashion that funds will be available to the Trustee to effect the payment to be made on the applicable Interest Payment Date on the Bonds, a sum which, when added to the balance then in the Bond Funds and available for such purpose, shall be equal to the amount payable as principal of (whether at maturity or by redemption pursuant to any optional or mandatory redemption requirements) and premium, if any, and interest on the Bonds on such Interest Payment Date on the Bonds.

In any event the sum of the Rent payable under this Section shall be sufficient to pay the total amount due with respect to such principal of and interest and any premium on the Bonds as and when due, and if at any time when said payments are due the balance in the Bond Funds are insufficient to make such payments the Lessee will forthwith pay to the Trustee any such deficiency; provided, that any amount at any time held by the Trustee in the Bond Funds shall be credited against the Rent obligations under this Section next required to be met by the Lessee, to the extent such amount is in excess of the amount required for payment of Bonds theretofore matured or theretofore called for redemption and past due interest in all cases where such Bonds have not been presented for payment, and of any amount required to be deposited in the Bond Funds by the Indenture and to be used pursuant thereto for other than the payment of the interest and any premium on and principal of (whether at maturity or by redemption or pursuant to any mandatory redemption requirements) the Bonds on the next date on which interest and/or principal is payable; and provided further, that if at any time all the outstanding Bonds are paid and discharged within the meaning of the Indenture, the Lessee shall not be obligated to pay any further Rent under the provisions of this Section.

Section 3.2 Additional Payments. The Lessee agrees to make Additional Payments as follows:

(a) To Lessor, as reimbursement for any and all costs, expenses and liabilities paid by Lessor in satisfaction of any obligations of the Lessee hereunder not performed in accordance with the terms hereof by the Lessee.

(b) To Lessor, as reimbursement for or prepayment of expenses paid or to be paid by Lessor and requested by the Lessee or required by this Lease or the Indenture and not otherwise required to be paid by the Lessee under this Lease.

(c) To the Trustee, the reasonable fees, charges and expenses of the Trustee as trustee, bond registrar and paying agent, and of any other paying agent on the Bonds under the Indenture all as provided in the Indenture, as and when the same become due, together with any and all reasonable charges and expenses in enforcing the rights of the Trustee under the Indenture and Assignment of Lease; provided that the Lessee may, without creating a default hereunder, contest in good faith the necessity for any Extraordinary Services and Extraordinary Expenses, and the reasonableness of any such fees, charges or expenses.

Section 3.3 Place of Payments. [Additional Payments shall be paid directly to the person or entity to whom or to which they are due.] The Rent shall be paid directly to Original Purchaser or its designee with a copy of said payment sent to the Trustee.

Section 3.4 Obligations Unconditional. The obligations of the Lessee to pay Rent and Additional Payments and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional and the Lessee shall make such payments without abatement, diminution or deduction regardless of any cause, deficiency, counterclaim, or change of circumstance. Until such time as all conditions provided in the Indenture for release of the Indenture are met, the Lessee (a) will not suspend or discontinue payment of any Rent or Additional Payments pursuant to this Lease, (b) will perform and observe all of its other agreements contained in this Lease, and (c) except upon exercise of its termination options as herein provided will not terminate this Lease for any cause including, without limiting the generality of the foregoing: (i) any defect in the condition, quality or fitness for use of the Project or any part thereof; (ii) any damage to, removal, abandonment, salvage, loss, scrapping or destruction of or any requisition or taking of the Project or any part thereof; (iii) any restriction, prevention or curtailment of or interference with any use of the Project or any part thereof; (iv) any defect in title to the Project or any encumbrance on such title; (v) any change, waiver, extension, indulgence or other action or omission in respect of any obligation or liability of Lessor; (vi) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Lessor or Lessee or any action taken with respect to this Lease by any trustee or receiver of Lessor or Lessee, or by any court, in any such proceeding; (vii) any claim which Lessee has or might have against any Person, including, without limitation, Lessor or any Holder; (viii) any failure on the part of Lessor or any other Person to perform or comply with any of the terms hereof or of any other agreement; (ix) any invalidity or unenforceability or disaffirmance of this Lease or any provision hereof; or (x) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Lessee shall have notice or knowledge of any of the foregoing; provided, however, that this provision does not represent a waiver of any claims that Lessee may have against Lessor, any Holder or any other Person. This Lease shall be non-cancelable by Lessee other than through termination of the Lease pursuant to Article X hereof and, to the extent permitted by law, Lessee waives all rights now or hereafter conferred by statute or otherwise to quit, terminate or surrender this Lease or the Project Facilities, or to any diminution or reduction of Rent or Additional Payments payable by Lessee hereunder. All payments by Lessee properly made hereunder as required hereby shall be final, and Lessee will not seek to recover any such payment or any part thereof from Lessor or any other person. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise, Lessee will nonetheless pay an amount equal to each payment of Rent and any other amount payable by Lessee hereunder at the time and in the manner that such Rent payment or other payment would have become due and payable under the terms of this Lease if it had not been terminated in whole or in part. Nothing contained in this Section shall be construed to release the Lessor, the Trustee and the Holders from the performance of any of the agreements on the part of any of them contained in this Lease, and in the event the Lessor, the Trustee and the Holders should fail to perform any such agreement on the part of any of them, the Lessee may institute such action against the nonperforming party as the Lessee may deem necessary or desirable to compel performance or recover its damages for nonperformance so long as such action shall not be inconsistent with the agreements of the Lessee contained in the preceding sentences. The Lessee may, however, at its own cost and expense and in its own name or, to the extent lawful, in the

name of the Lessor, prosecute or defend any action or proceeding or take any other action involving third Persons which the Lessee deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the Lessor hereby agrees to cooperate fully with the Lessee, but at the Lessee's expense, and to take all action necessary to effect the substitution of the Lessee for the Lessor in any such action or proceeding if the Lessee shall so request.

Section 3.5 Past Due Rent and Additional Payments. If the Lessee fails to pay any Rent or any Additional Payment, the item in default shall continue as an obligation of the Lessee until such shall have been fully paid. During the default period any such Rent, any Additional Payment or other payment in default shall bear interest at the Interest Rate for Advances until paid.

Section 3.6 Prepayment of Rent. Subject to the terms and conditions in the Indenture and Bond Purchase Agreement, the Lessee may at any time prepay all or any part of the Rent and the Lessor agrees that it and the Trustee shall accept such prepayments when tendered by the Lessee. Such prepayments shall be credited against the payments of Rent in the order of their due dates. The Lessee may also at any time deliver moneys to the Trustee in addition to the Rent with instructions to use such moneys for the purpose of making Loan Payments as they become due, such prepayments or delivery of moneys shall not in any way alter or suspend the obligations of the Lessee under this Lease.

Section 3.7 Assignment. The Lessee acknowledges that the Lessor has sold, assigned, transferred and conveyed all of its right, title and interest in and to this Lease (other than Unassigned Issuer's Rights), including the Rent, to the Trustee. No subsequent assignment to any Person other than the Trustee may be made without prior written notice to, and consent of, the Lessee.

Section 3.8 No Abatement of Rental Payments. No action pursuant to any provision of this Lease shall abate in any way payment of Rent or any Additional Payments payable hereunder.

(End of Article III)

ARTICLE IV

CONSTRUCTION

Section 4.1 Construction. Pursuant to the Construction Manager Agreement, Lessee, as Construction Manager for Lessor, agrees (a) to diligently prosecute completion of the Project Facilities in accordance with the Plans and Specifications and in such a manner as to conform with all Legal Requirements, (b) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, either in the name of the Lessee solely or as the stated agent for Lessor, or to assign to itself as such Construction Manager any contracts, orders, receipts, writings or instructions heretofore entered into in connection with the Project Facilities, with any other persons, firms or corporations and in general to do all things which may be requested or proper, all for such construction, equipping, and furnishing, with the same powers and with the same validity as Lessor could do if acting in its own behalf, (c) pursuant to the provisions of this Lease, to pay all fees, costs and expenses incurred in such construction, equipping, and furnishing from funds made available therefor in accordance with this Lease, and (d) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, and other demands whatsoever which may be due, owing and payable to Lessor under the terms of any contract, order, receipt, writing and instruction in connection with the construction, equipping, and furnishing, and to enforce the provisions of any contract, agreement, obligation, bond or other performance security. So long as the Lessee is not in default under any of the provisions of this Lease, this appointment of the Lessee to act as construction manager and all authority hereby conferred is granted and conferred irrevocably to the Completion Date and thereafter until all activities in connection with the construction, equipping, and furnishing shall have been completed, and shall not be terminated prior thereto by act of Lessor or of the Lessee or by operation of law.

The Lessee may fulfill its obligations under this Article IV through its agents, provided that the Lessee shall remain primarily responsible for the performance of its obligations hereunder.

For purposes of the State Grant Construction, the Port Authority shall follow a competitive bidding process that includes publishing two (2) advertisements in a local newspaper of general circulation in Erie County to seek bids, receiving sealed bids, and awarding contracts to the lowest responsive and responsible bidder as provided in OAC 3333-1-03(E)(9). The Port Authority may utilize an Owner's Representative to administer the competitive bidding process on its behalf. It is understood that the remainder of the Project will follow the Port Authority's designated procedures as provided in R.C. 4582.31(A)(1)(18)(e).

The Lessor and the Lessee shall cooperate in obtaining any applicable exemptions from sales and use taxes under relevant provisions of the Ohio Revised Code, including Sections 5739.02(B)(13) and 5741.02(C)(2) thereof and the Lessor shall be indemnified and held harmless for all such taxes with respect to the Project in the event that any such exemption is not obtained. In furtherance thereof, Lessor shall issue a construction contract exemption certificate to the Construction Manager, which certificate is expected to exempt all construction materials and services incorporated into the original construction from such sales and use tax; provided, however, Lessor makes no assurances that such exemption will be granted. While Lessor makes no assurances that such exemption will be granted, Lessor will use its best efforts to qualify any such purchase for that exemption.

Section 4.2 Plans and Specifications. The Plans and Specifications are, as of the date hereof, on file with Lessor, and subject to the Bond Purchase Agreement, may be changed from time to time by the Lessee provided that the Plans and Specifications shall not be changed to such an extent that the Project Purposes are such as are not permitted under the Act.

Section 4.3 Completion Date. Completion of the construction, equipping, and furnishing shall be evidenced to the Trustee and Lessor by a certificate signed by the Lessee specifically describing any personal property included in the Project and stating that (i) construction, equipping, and furnishing have been substantially completed in accordance with the Plans and Specifications and all costs then due and payable in connection therewith have been paid, (ii) construction, equipping, and furnishing have been accomplished in such a manner as to conform with all applicable zoning, planning, building, environmental and other regulations of all governmental authorities having jurisdiction, (iii) equipping and furnishing have been accomplished to the satisfaction of the Lessee so as to permit efficient operation for the Project Purposes, and (iv) an occupancy permit has been issued by the City of Sandusky, Ohio. Said certificate shall also specify the date by which the foregoing four events had occurred. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which then exist or may subsequently come into being.

Section 4.4 Remedies Against Contractors, Subcontractors and Sureties. In the event of default of any contractor or subcontractor under any contract made by it or the Lessor in connection with construction, equipping, and furnishing, or in the event of a breach of warranty with respect to any materials, workmanship, or performance guaranty, the Lessee will promptly inform Lessor of the steps it intends to take in connection with any such default, either separately or in conjunction with others, against the contractor or subcontractor so in default and against each such surety for the performance of such contract. If the Lessee shall so inform Lessor, the Lessee may, in its own name or, to the extent lawful, in the name of Lessor, prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor or surety that the Lessee deems reasonably necessary, and in such event Lessor hereby agrees to cooperate fully with the Lessee and to take all action necessary to effect the substitution of the Lessee for Lessor in any such action or proceeding. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, prior to the Completion Date shall be paid into the Proceeds Account of the Project Fund or, if recovered after the Completion Date and full disposition of the Project Fund, shall be paid into the Bond Fund.

Section 4.5 Installation of Lessee's Own Personal Property. The Lessee may from time to time, in its sole discretion and at its own expense using moneys in the Project Fund and/or proceeds from other funding sources, install personal property including without limitation, such fixtures, furnishings and equipment necessary or desirable for the use and operation of the Leased Premises for the Project Purposes and that personalty, which when installed, becomes in whole or in part a fixture, on or upon the Leased Premises. All such property so installed by the Lessee shall remain the sole property of the Lessee in which Lessor and the Trustee shall have no interest, and which shall not be subject to the lien of the Indenture and may be purchased by the Lessee on conditional sale, installment purchase or lease sale contract, or subject to vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof; provided no such lien or security interest shall attach to any part of the Leased Premises. The Lessee shall pay as due the purchase

price of, and all costs and expenses with respect to, the acquisition and installation of any such personal property installed by it pursuant to this Section.

Section 4.6 Additional Construction Requirements.

(a) Prior to distribution of any funds from the respective Proceeds Accounts of the Project Funds, Lessee shall provide to Lessor the following:

(i) Construction Contract. Lessee has delivered to Lessor a general Construction Contract with the Contractor, which is hereby approved by Lessor.

(ii) Environmental Report. Lessee has delivered to Lessor, as of the date hereof, true, accurate and complete copies of the Environmental Report.

(iii) Survey. A survey of the Project prepared and certified by a surveyor licensed in the State and otherwise satisfactory to Lessor showing, through the use of course bearings and distances, (i) all foundations of the Project Facilities, if any, in place; (ii) the dimensions and locations of all easements and roads or rights of way and setback lines, if any, affecting the Project and that the same are unobstructed; (iii) the dimensions, boundaries and square footage of the Project Site and the Project Facilities. Said survey shall be certified to the Lessor and shall include the legal description of the Project Site. This survey requirement may be satisfied by the provision by Construction Manager of a survey for construction purposes certified to Lessor and acceptable to Lessor, and it is understood and agreed that it does not have to be an ALTA/ACSM survey.

(iv) Construction Budget. Lessee has delivered to Lessor, as of the date hereof, a good faith budget for the Project that includes estimates of the amount and categories of the costs and expenses of every kind and nature whatever to be incurred by Lessee in connection with the Project and paid or reimbursed from the Project Fund.

(v) Other. All other material Project-related documents or conditions reasonably required by Lessor, including providing a Project sign for the City of Sandusky's provision of a grant for the Project.

(End of Article IV)

ARTICLE V

MAINTENANCE AND USE OF PROJECT

Section 5.1 Compliance with Legal and Insurance Requirements. The Lessee, at its expense, shall promptly comply or cause compliance with all Legal Requirements and Insurance Requirements, and shall procure, maintain and comply with all permits, licenses and other authorizations required for any use being made of the Project or any part thereof then being made or anticipated to be made, and for the proper construction, installation, operation and maintenance of the Project or any part thereof, and will comply with any instruments of record at the time in force burdening the Project or any part thereof. The Lessee may, at its expense and after prior notice to the Lessor and the Trustee, by any appropriate proceedings diligently prosecuted, contest in good faith any Legal Requirement and postpone compliance therewith pending the resolution or settlement of such contest provided that such postponement does not, in the opinion of Independent Counsel, subject the Project or any part thereof to imminent loss or forfeiture or materially impair the interests of the Lessor or the Trustee under this Lease.

Section 5.2 Maintenance and Use of Project. The Lessee, at its expense, will keep or cause to be kept the Project in good order and condition (ordinary wear and tear excepted) and will make all necessary or appropriate repairs, replacements and renewals thereof, interior, exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen. The Lessee will not do, or permit to be done, any act or thing which might materially impair the value of the Project or the character or significance of the Project as furthering the purposes of the Act, will not commit or permit any material waste of the Project and will not permit any unlawful occupation, business or trade to be conducted on the Project. The Lessee shall also, at its expense, promptly comply with all rights of way or use, privileges, franchises, servitudes, licenses, easements, tenements, hereditaments and appurtenances forming a part of the Project and all instruments creating or evidencing the same, in each case, to the extent compliance therewith is required of the Lessee under the terms thereof.

Section 5.3 Additions, Modifications and Improvements. The Lessee may, in its discretion and at its expense, make from time to time any additions, modifications or improvements to the Project which it may deem desirable for its business purposes provided that no such additions, modifications or improvements shall, in the opinion of an Engineer, adversely affect the structural integrity or strength of any improvements constituting a part of the Project or materially interfere with the use and operation thereof. All additions, modifications and improvements so made by the Lessee shall become or be deemed to constitute a part of the Project.

Section 5.4 Reserved.

Section 5.5 Indemnification. Except as otherwise expressly provided herein, in order to induce the Lessor and the Trustee to undertake the duties, obligations, responsibilities and risks described herein in connection with the Developing and financing of the Project, all as further described herein and in the relevant documents referred to or described herein, the Lessee releases the Lessor and the Trustee (collectively, the "Indemnified Parties") from, agrees that the Indemnified Parties shall not be liable for, and indemnifies the Indemnified Parties against, all

liabilities, obligations, damages, costs and expenses (including, without limitation, reasonable attorney's fees and expenses except as may be limited by law or judicial decision or order, and reasonable expenses incurred in relation to time spent by the Lessor's employees defending or addressing arbitration claims initiated under the Construction Contracts which expenses are demonstrated to the reasonable satisfaction of the Lessee) imposed upon or incurred by the Indemnified Parties without bad faith, or gross negligence on the part of those Indemnified Parties, on account of, (a) any failure of the Lessee to comply with its obligations hereunder; (b) any loss or damage to property or any accident or injury to or disease, sickness or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the acquisition, construction, furnishing, equipping, improving, developing of the Project or any part thereof, the maintenance, operation, use or disuse of the Project or any part thereof or the adjoining sidewalks, streets, curbs, alleyways, pedestrian bridges, vaults or vault space, if any; (c) any failure by the Lessee or any Contractor or subcontractor to comply with its obligations under any provision of federal, state or local governmental law; (d) all loss or any part thereof or on the adjoining sidewalks, streets, curbs, alleyways, pedestrian bridges, vaults or vault space, or expense arising out of the existence in, on or about, beneath or migration or movement to or from the Project or any part thereof or on the adjoining sidewalks, streets, curbs, alley ways, vaults or vault space, of Hazardous Substances or other materials hazardous to persons or property regardless of whether the same arise out of the release by the Indemnified Parties of such substances or materials, and including without limitation civil and criminal fines and penalties and costs of defense or settlement; (e) any loss or expense arising from the Indemnified Parties' ownership of any interest in the Project Site or the Project or the construction and financing thereof; (f) the payment or nonpayment by the Indemnified Parties or the Lessee of any taxes (other than taxes on or measured by items of income received or net worth) relating to the Project, or the acquisition or construction of any part thereof, including any interest or penalty charged on or with respect to any past due payments and costs of compromising such claims; (g) any payments or claims, actions or proceedings arising under the Joint Use Agreement; and (h) any claim, action or proceeding brought with respect to the matters set forth in (a), (b), (c), (d), (e), (f) and (g) above. Lessee shall in a timely manner notify the Indemnified Parties of any knowledge it may receive of any loss or, expense under clause (c) of the next preceding sentence. Nothing contained herein shall indemnify the Lessor with respect to the lawful authority of the Lessor to enter into this Agreement, own any interest in the Project or perform its obligations hereunder.

The Lessee agrees to indemnify the Indemnified Parties for and to hold them harmless against all liabilities, damages, penalties, fines, losses, costs and expenses including reasonable attorneys' fees and expenses incurred without bad faith, gross negligence or wrongdoing on the part of the Indemnified Parties on account of any action taken or omitted to be taken by the Indemnified Parties in accordance with the terms of this Lease, the Indenture or any related instruments or any action taken at the request of or with the consent of the Lessee, including the costs and expenses of the Indemnified Parties in defending themselves against any such claim, action or proceeding brought in connection with the exercise or performance of any of its powers or duties under this Lease or any related instrument.

The Lessee agrees to indemnify the Lessor for and to hold it harmless against all liabilities, costs and expenses incurred without bad faith or gross negligence on Lessor's part arising from the issuance, sale, trading or redemption, tender, servicing or purchase of the Bonds, or performance by the Lessor of its obligations under the Indenture with respect to, the Bonds, and

the provision by the Lessee of any information or certification furnished in connection therewith concerning the Bonds, the Project or the Lessee.

In case any action or proceeding related to the Project is brought against an Indemnified Party in respect of which indemnity may be sought hereunder, the party seeking indemnity shall promptly give written notice of that action or proceeding to Lessee, and Lessee shall, upon receipt of that written notice, have the obligation and the right to assume the defense of the action or proceeding with legal counsel acceptable to the Indemnified Party (and, to the extent that matters affect or may affect any interest of the Holders, acceptable to the Holders); provided that, failure of an Indemnified Party to give that notice shall not relieve Lessee from any of its obligations under this section except to the extent Lessee establishes that the failure increased the amount to be indemnified. At its own expense, any Indemnified Party may employ separate counsel and participate in the defense. No Indemnified Party shall be liable for any settlement made without its consent, and such consent shall not be unreasonably withheld.

The indemnifications set forth herein are intended to and shall include the indemnification of all affected officials, directors, officers and employees of the respective parties. Those indemnifications are intended to and shall be enforceable to the full extent permitted by law and shall survive the termination or expiration of this Agreement and shall not be subject to set-off by Lessee.

Section 5.6 Environmental Matters. Throughout the term of this agreement, the Lessee or its employees, contractors or agents shall:

- (a) not place or permit to be placed any Hazardous Substances at the Project except as permitted by applicable law or appropriate governmental authorities;
- (b) forthwith upon receipt by the Lessee of written notice of the occurrence of any material violation of any Environmental Law in connection with the ownership, occupancy or use of the Project, or the receipt by the Lessee of any citation, notice of investigation, fine or other assessment in connection therewith, report or other communication from any governmental authority with respect to any violation or alleged violation of any Environmental Law, deliver written notice thereof to the Lessor and the Trustee describing the same and any steps being taken by the Lessee with respect thereto, which notice is to be provided to the Lessor and the Trustee solely to permit the Lessor and the Trustee to protect their security interests in the Project;
- (c) in the event that it obtains, gives or receives written notice of any Release or threat of Release of a reportable quantity of any Hazardous Substances at the Project (any such event being hereinafter referred to as a "Hazardous Discharge") or receives any written notice of violation, request for information or notification that it is potentially responsible for investigations or cleanup of environmental conditions at the Project or any demand letter or complaint, order, citation, or other written notice with regard to any Hazardous Discharge or violation of Environmental Laws affecting the Project or financing thereof (any of the foregoing is referred to herein as an "Environmental Complaint") from any Person or entity, including any state agency responsible in whole or in part for environmental matters in the State or the United States Environmental Protection Agency (any such person or entity hereinafter the "Agency"), then the Lessee shall, within thirty (30) business days, give written notice of same to Lessor and the Trustee

detailing facts and circumstances of which the Lessee is aware giving rise to the Hazardous Discharge or Environmental Complaint, provided, such information is not intended to create nor shall it create any obligation upon the Lessor or the Trustee with respect thereto and is provided to the Trustee and the Lessor solely to allow them to protect their respective security interests in the Project. The Lessee shall promptly forward to the Lessor copies of all documents and reports concerning a Hazardous Discharge at the Project that the Lessee is required to file under any Environmental Laws;

(d) respond in a timely manner to any Hazardous Discharge or Environmental Complaint to avoid subjecting the Project to any lien, and if Lessee shall fail to respond in a timely manner to any Hazardous Discharge or Environmental Complaint or the Lessee shall fail to comply in all material respects with any of the requirements of any Environmental Laws, the Lessor and the Trustee may, alone or together, but without the obligation to do so, for the sole purpose of protecting their respective security interests in the Project: (A) give such notices or (B) after notice of intent to the Lessee to enter, enter the Project (or authorize third parties to enter the Project) and take such actions as such parties (or such third parties as directed by those parties) deems reasonably necessary or advisable, to clean up, remove, mitigate or otherwise deal with any such Hazardous Discharge or Environmental Complaint; and

(e) to the full extent permitted by law, defend and indemnify the Indemnified Parties (as defined in Section 5.5), and hold the Indemnified Parties harmless, from and against all loss, liability, damage and expense, claims, costs, fines and penalties, including reasonable attorney's fees, suffered or reasonably incurred by the Indemnified Parties under or on account of any threatened, alleged or actual violation of Environmental Laws, including, without limitation, the assertion of any lien thereunder, with respect to any Hazardous Discharge affecting the Project, the presence of any Hazardous Substances affecting the Project, whether or not the same originates or emerges from the Project or any contiguous real estate, and whether arising prior to or during the Lease Term. The Lessee's obligations under this Section shall arise upon the discovery by the Lessee of any Hazardous Discharge or the presence of any Hazardous Substances at the Project causing this paragraph to be applicable, whether or not any federal, state, or local environmental agency has taken or threatened any action in connection with the presence of any Hazardous Substances.

Section 5.7 Performance by Lessor of Lessee's Requirements. If the Lessee shall fail to do or perform any act or thing required to be done by it under the terms of this Lease, the Lessor may, at its sole option, after thirty (30) days written notice to the Lessee with respect thereto and reasonable opportunity afforded to the Lessee to do and perform the same, itself or by its employees, enter the Project and do and perform the same on the Lessee's behalf and at the Lessee's cost and expense; and the Lessee shall, forthwith upon receipt of notice of the amount of such cost and expense, pay the same to the Lessor as Additional Payments under Section 3.2, together with interest thereon at the Interest Rate for Advances, from the date of each payment by the Lessor to the date of repayment (including such interest) by the Lessee.

(End of Article V)

ARTICLE VI

ISSUANCE OF BONDS - PAYMENT OF COSTS

Section 6.1 Issuance of Bonds; Deposit of Bond Proceeds. In order to provide funds for payment of costs incurred under or in connection with this Lease, Lessor has, concurrently with the delivery of this Lease, issued and delivered the Bonds in such principal amount, bearing interest at the rate or rates, and payable and redeemable, as set forth in the Indenture, and Lessor has deposited the proceeds of said Bonds, or will deposit the proceeds of said Bonds, as provided in the Indenture.

Section 6.2 Disbursements from the Project Funds. Lessor has, in the Indenture, authorized and directed the Trustee to use the moneys in the Project Funds for such disbursements required by the provisions of this Lease. Subject to the Construction Manager Agreement, such disbursements may be for the payment of (or, if paid by Lessor or the Lessee, reimbursement of) the following:

(a) Expenses incurred in connection with acquisition and leasing of and protecting the Lessor's interest in the Project Site, including the cost of title insurance policies, appraisals, environmental reports, transfer taxes, escrow fees, and recording fees and costs and expenses related to any title curative work or documents deemed desirable in order to perfect or protect the title of Lessor to and the interest of the Lessor and the Lessee in the Project Site.

(b) Costs incurred directly or indirectly for or in connection with the Development of the Project including but not limited to those of preliminary planning and studies, architectural, legal, accounting, consulting, financial, engineering and supervisory services, development fees, leasing commissions, franchise and license fees, pre-opening marketing and management expenses and costs, labor, services, materials, furnishing, fixtures, equipment, acquisition and installation.

(c) Insurance, taxes, assessments and other charges referred to in Section 7.1 hereof that may become payable during the Construction Period.

(d) Expenses incurred in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to the Project.

(e) Financial, legal, accounting, and printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including the Issuer Contracting Fee, Owner's Representative Agreement and the preparation and delivery of any contract and instrument by which Lessor obtained title to the Project Site, this Lease, the Indenture and other related documents, subject to the limitation provided in (g) below.

(f) Fees and expenses of the Lessor and Trustee and of any paying agent properly incurred under the Indenture that may become due during the Construction Period;

(g) Any other incidental and necessary costs and expenses relating to the acquisition, leasing, construction, equipping, or furnishing of the Project.

(h) All moneys in the Project Funds (including moneys earned thereon by investment thereof) (other than the Lessee Account) remaining after the Completion Date and payment, or provision for payment, in full of the costs provided for in the preceding subsections of this Section, then due and payable, shall at the direction of the Authorized Lessee Representative be (i) paid into the Bond Fund, or (ii) used to acquire, construct, install, equip, and furnish such additional real and personal property in connection with the Project as are designated by the Lessee and the acquisition, construction, installation, equipping, and furnishing of which will be such as is permitted under the Act, or (iii) retirement or prepayment of debt (other than the Bonds) incurred in connection with developing, constructing, equipping, or furnishing the Project or which otherwise funded expenses otherwise eligible for disbursement or reimbursement hereunder, or (iv) a combination of any or all of the foregoing as is provided in such direction; provided that amounts approved by the Lessor shall be retained by the Trustee in the Project Funds for payment of such costs not then due and payable, and any balance remaining of such retained funds after full payment of all such costs shall be used as directed in writing by the Authorized Lessee Representative in the manner specified in clauses (i), (ii), (iii), (iv) or (v) of this subsection. Any balance remaining in the Lessee Account from the financing for the Project Facilities, except to the extent required to be retained therein as described above, shall, so long as no Event of Default shall be in existence, be promptly delivered to the Lessee.

Section 6.3 Obligation of the Parties to Cooperate in Furnishing Documents to Trustee. Lessor and the Lessee agree to cooperate in furnishing to the Trustee, all documents required by the Trustee related to payments authorized in Section 6.2 hereof that are required to effect payments out of the Project Funds, and to cause such orders to be directed by the Lessor and the Authorized Lessee Representative to the Trustee as may be necessary to effect payments out of the Project Funds in accordance with Section 6.2 hereof. Such obligation is subject to any provisions of this Lease or the Indenture requiring additional documentation with respect to payments and shall not extend beyond the moneys in the Project Funds available for payment under the terms of the Indenture

Section 6.4 Investment of Fund Moneys. Any moneys held as part of the Bond Funds or Project Funds shall be invested or reinvested by the Trustee as specified in the Indenture. The Lessor shall cause to be furnished as provided in the Indenture a true transcript of certified proceedings including all proceedings had with reference to the issuance of the Bonds along with such other information as is necessary or proper with respect to the Bonds.

Section 6.5 Lessee Required to Pay Costs in Event Proceeds Insufficient; Escrow of Certain Funds. If the moneys in the Proceeds Accounts of the Project Funds together with the net proceeds available from the any other funding sources are insufficient to complete the development, construction, equipping, and furnishing of the Project in accordance with the Plans and Specifications, then Lessee, as Construction Manager of the Lessor for purposes of the development of the Project, will for the benefit of the Trustee and the Holders and to fulfill the purposes for which the Bonds have been issued, provide to the Trustee, for deposit into the Lessee Account of the Project Funds, moneys which, together with those in the Proceeds Accounts and the net proceeds available from any other funding sources, will be sufficient to complete acquisition, construction, improvement, furnishing, equipping and development of the Project in accordance with the Plans and Specifications.

(a) For purposes of the preceding paragraph, the moneys in the Proceeds Accounts shall include, without limitation, the amount of investment income from the Proceeds Accounts.

(b) The Lessor does not make any representation or warranty, either express or implied, that the moneys from proceeds of the Bonds and which under the provisions of the Indenture will be available for payment of the costs of the development of the Project, will be sufficient to pay all of the costs thereof or costs and expenses which will be incurred in connection therewith.

Section 6.6 Covenants and Agreements. The Lessee covenants and agrees that, if the Lessee should pay pursuant to this Section any portion of the costs of the acquisition, construction, improvement, furnishing, equipping and development of the Project, the Lessee will not be entitled to any reimbursement therefor from the Lessor, the Trustee or the Holders, except pursuant to and in accordance with the Indenture, subject to the availability of proceeds from the same. The Lessee acknowledges that it will not be entitled in that event to any diminution in or abatement or postponement of any amounts payable pursuant to any covenant, agreement or other obligation under this Lease.

(End of Article VI)

ARTICLE VII

TAXES AND MECHANICS' LIENS AND INSURANCE

Section 7.1 Payment of Taxes and Other Governmental Charges. The Lessee shall pay, promptly when due, and before penalty or interest accrue thereon, all taxes, assessments, whether general or special, and other governmental charges of any kind whatsoever foreseen or unforeseen, ordinary or extraordinary, that now or may hereafter at any time during the Lease Term be assessed or levied against or with respect to the Project (including, without limitation, any taxes levied upon or with respect to the revenues, income or profits of the Lessee from the Project) which, if not paid, may become or be made a lien on the Project, or any part thereof or a charge on such revenues, income and profits.

Notwithstanding the preceding paragraph, the Lessee may, at its expense and after prior written notice to the Lessor and the Trustee, by appropriate proceedings diligently prosecuted, contest in good faith the validity or amount of any such taxes, assessments and other charges, and Lessor will permit such contest with respect to real property to be filed in its name and will cooperate in the preparation of necessary documentation, provided that the contest or application is in good faith with supporting evidence or a professional appraisal. In the event of any such contest (in the name of Lessor or otherwise), and in the event Lessee shall apply for any abatement of real property taxation, then during the period of contest or during the application period, Lessee need not pay the items so contested. During the period when the taxes, assessments or other charges so contested remain unpaid, the Lessee shall set aside on its books adequate reserves with respect thereto.

Section 7.2 Mechanics' and Other Liens. The Lessee shall not suffer or permit any mechanics' or other liens (other than Permitted Encumbrances) to be filed or exist against the Leased Premises, nor against the Lessee's leasehold interest in the Leased Premises, nor against the Project Funds or Bond Funds or any other special fund or account provided for in this Lease or the Indenture or any Rent paid or payable hereunder, by reason of work, labor, services or materials supplied or claimed to have been supplied to, for or in connection with the Leased Premises or the Project or to Lessor or the Lessee or anyone holding the Leased Premises or any part thereof through or under the Lessee. If any such liens shall at any time be filed, the Lessee shall, within one hundred twenty days after notice of the filing thereof but subject to the right to contest hereinafter set forth, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. The Lessee shall have the right in its or, to the extent lawful, Lessor's name, or both, but at the Lessee's own cost and expense, to contest the validity or the amount of any such lien by appropriate proceedings timely instituted, unless the Trustee shall notify the Lessee that, in the opinion of Independent Counsel, by nonpayment of any such items the lien of the Indenture as to any part of the revenues pledged thereunder or the interests of Lessor or the Lessee in the Leased Premises will be materially endangered or the Leased Premises or any part thereof will be subject to loss or forfeiture, in which event the Lessee shall promptly cause such mechanics' or other liens to be discharged as aforesaid. Lessor will cooperate fully with the Lessee, but at the Lessee's expense, in any such contest (except as any such lien is asserted by Lessor in which event the Lessee shall have the right to contest such lien as if it were the Lessor of the Leased Premises). If the Lessee shall fail to cause such lien to be discharged, or to contest the validity or amount thereof, within the period aforesaid, then, in

addition to any other right or remedy of Lessor, Lessor may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding. Any amount paid by Lessor shall be reimbursed by the Lessee to Lessor on demand, and if not so reimbursed on demand may be treated as Additional Payments as provided in Article III hereof and shall be paid by the Lessee with interest on the amount so paid by Lessor at the Interest Rate for Advances.

Section 7.3 Payment by Lessor or Trustee. If the Lessee fails to (i) pay taxes, assessments and other governmental or utility charges as required by Section 7.1 hereof, or (ii) pay or discharge mechanics' or other liens as required by Section 7.2 hereof, the Lessor or the Trustee may (but shall not be obligated to) advance funds to pay any such required charges or items. Any funds so advanced shall be payable on written demand therefor as Additional Payments hereunder and shall bear interest from the date of advancement at the Interest Rate for Advances.

Section 7.4 Insurance. Lessee shall satisfy the Insurance Requirements throughout the Lease Term.

(End of Article VII)

ARTICLE VIII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 8.1 Damage and Destruction. If prior to payment and discharge of the outstanding Bonds in accordance with the provisions of the Indenture, the Project shall be damaged or partially or totally destroyed by fire, flood, windstorm, or other casualty at any time during the Lease Term, no Event of Default shall have occurred and be continuing, and the Lessee shall have not elected to exercise its option to purchase the Project pursuant to the provisions of Section 10.3(a) of this Lease, then there shall be no abatement or reduction in the Rent payable by the Lessee under this Lease and the portion of the Project damaged or destroyed shall be promptly repaired, rebuilt or restored with such changes, alterations and modifications (including the substitution and addition of other property) as may be designated by the Lessee for administration and operation of the Project and as shall not impair the character and significance of the Project as furthering the purposes of the Act. Lessee will complete such repair, rebuilding or restoration and will provide for payment of the costs of such completion from its own moneys.

Section 8.2 Eminent Domain. Unless the Lessee shall have exercised its option to purchase pursuant to the provisions of this Lease, if title to or the temporary use of the Project, or any part thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, then there shall be no abatement or reduction in the Rent payable by the Lessee under this Lease, and (i) the Project shall be promptly restored with such changes, alterations and modifications (including the substitution and addition of other property) as may be designated by the Lessee for administration and operation of the Project and as shall not impair the character and significance of the Project as furthering the purposes of the Act and (ii) any net proceeds received from any award made in such eminent domain proceedings (after payment of expenses incurred in such collection) shall be paid to the Lessee (unless an Event of Default shall have occurred and be continuing, in which case those net proceeds shall be paid to the Trustee) and held in a separate account and applied, together with any additional moneys of the Lessee, for such purpose, invested and disbursed in the manner provided for moneys in the Project Fund. Lessee shall promptly provide to the Trustee and the Lessor such information as those parties may reasonably request regarding the investment and disbursement of any Net Proceeds paid to the Lessee.

Unless the outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, such proceeds shall be applied in one or more of the following ways:

- (a) The restoration of the Project to substantially the same condition as it existed prior to the exercise of said power of eminent domain, or
- (b) The acquisition, by construction or otherwise, of other improvements suitable for the Lessee's operation on the Project Site (which improvements shall be deemed a part of the Project and available for use and occupancy by the Lessee without the payment of any Rent other than as herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby), or

(c) Redemption of the Bonds pursuant to the Indenture; provided, that no part of any such condemnation award may be applied for such redemption unless (1) all of the Bonds are to be redeemed in accordance with the Indenture upon exercise of the option to purchase authorized by Section 10.3(b) of this Lease, or (2) in the event that less than all of the Bonds are to be redeemed, the Lessee shall furnish to Lessor and the Trustee a certificate of an Engineer selected by the Lessee stating (i) that the property forming a part of the Project that was taken by such condemnation is not essential to the character or significance of the Project as furthering the purposes of the Act, or (ii) that the Project has been restored to a condition substantially equivalent to their condition prior to the taking by such condemnation proceedings, or (iii) that improvements have been acquired which are suitable for the operation of the Project not inconsistent with the Act as contemplated by the foregoing subsection (b) of this Section.

Unless the Lessee shall have elected to exercise its option to purchase pursuant to the provisions of Section 10.3(b) of this Lease, within ninety (90) days from the date of entry of a final order in any eminent domain proceedings granting condemnation, the Authorized Lessee Representative shall, so long as no Event of Default shall have occurred and be continuing, notify Lessor and the Trustee in writing as to which of the ways specified in this Section the Lessee elects to have the net proceeds of the condemnation award applied. Any balance of the net proceeds of the award in such eminent domain proceedings not required to be applied for the purposes specified in subsections (a), (b) or (c) above shall be transferred to the Trustee and deposited into the appropriate Bond Fund. Upon the occurrence and continuation of an Event of Default, the Lessee shall immediately pay all Net Proceeds to the Trustee for deposit in the Bond Fund unless the Holders direct that such amounts be used to restore the Project, in which case all Net Proceeds shall be transferred to the Project Fund.

If the outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, all Net Proceeds will be paid by the Trustee to the Lessee.

Lessor shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof and will to the extent it may lawfully do so permit the Lessee to litigate in any such proceedings in its own name or in the name and on behalf of Lessor (except as such proceedings are by Lessor, in which event the Lessee shall have the right to proceed as if it were the Lessor of the Project). In no event will Lessor voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the written consent of the Lessee.

Section 8.3 Condemnation of Lessee-Owned Property. Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for damages to or takings of its own sole property (not constituting the Project financed with the Bonds).

(End of Article VIII)

ARTICLE IX

FURTHER REPRESENTATIONS AND AGREEMENTS RESPECTING THE PROJECT AND THE LESSEE

Section 9.1 Installation and Removal of Personal Property. The Lessee may from time to time, in its discretion and at its expense, install personal property and trade fixtures, in addition to the Project Facilities, in or upon the Project. All such items so installed shall remain the sole property of the Lessee and shall not be deemed part of the Project for purposes of this Lease. The Lessee may, at any time, remove from the Project any property installed pursuant to this Section. The financed Project Facilities, consisting of real property and fixtures shall not be removed from the Project without notice to and with the consent of Lessor, which consent shall not be unreasonably withheld, conditioned, or delayed; provided however, that such notice and consent shall not be required if such removal does not materially adversely affect the value of the project Facilities, or if such fixtures are timely replaced with fixtures of substantially equivalent quality.

Section 9.2 No Warranty of Condition or Suitability. Lessor does not make any warranty, either express or implied, as to the suitability or utilization of the Leased Premises for the Lease Purposes, or as to the condition of the Leased Premises or that they are or will be suitable for the Lessee's purposes or needs.

Section 9.3 Right of Inspection. Subject to reasonable security and safety regulations and upon reasonable notice and approval of Lessee, the Lessor, the Trustee and any Holders and their respective agents, shall have the right at any time upon reasonable notice and during normal business hours to inspect the Project.

Section 9.4 Representations of the Lessee. The Lessee represents that:

(a) It is duly organized, and is in full force and effect under the laws of the State of Ohio and is duly qualified to do business in the State, and will remain so qualified so long as it is the Lessee under this Lease.

(b) It has full power and authority to execute, deliver and perform this Lease and to enter into and carry out the transactions contemplated hereby. Such execution, delivery and performance do not, and will not, violate any provision of law applicable to the Lessee or the Lessee's organizational documents or Operating Agreement or its Bylaws and do not, and will not, conflict with or result in a default under any agreement or instrument to which the Lessee is a party or by which it is bound, except to the extent that any such violation of applicable law, conflict or default would not materially adversely affect Lessee's ability to enter into and carry out the transactions contemplated hereby. This Lease has, by proper action, been duly authorized, executed and delivered by the Lessee and all steps necessary have been taken to constitute this Lease a valid and binding obligation of the Lessee, enforceable against the Lessee in accordance with its terms.

(c) The financing, acquisition, leasing, construction, equipping, and furnishing provided under this Lease, and commitments therefor made by Lessor, (i) have induced the Lessee

to locate within the area of jurisdiction of Lessor that business of the Lessee to be conducted by use of the Leased Premises and (ii) will carry out and give effect to the public purposes of the Act.

(d) Lessee presently intends to use or operate the Project during the Lease Term in a manner consistent with the Project Purposes and knows of no reason why the Project will not be so operated. If, in the future, there is cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternative use by the Lessee or others which will be consistent with the Act and this Lease.

Section 9.5 The Lessee shall give the Lessor and the Trustee prompt notice of any action, suit or proceeding by it or against it at law or in equity, or before any governmental instrumentality or agency, or of any of the same which may be threatened, which, if adversely determined, would materially impair the right of the Lessee to carry on the business which is contemplated in connection with the Project.

Section 9.6 Notice of Default. The Lessee shall notify the Lessor and the Trustee immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

Section 9.7 Reserved.

Section 9.8 Reserved.

Section 9.9 Lessee Bound by Indenture. The Indenture has been submitted to the Lessee for examination, and the Lessee, by execution of this Lease, acknowledges that it has approved the Indenture and agrees that it is bound by the terms and conditions thereof and covenants and agrees to perform all acts, pay all moneys and give all notices required to be performed, paid and given by it pursuant to the terms of the Indenture.

Section 9.10 Title of Project. The Lessee has caused to be furnished to Lessor written evidence as to the status of title to the Project as of the date of acquisition of the Project by Lessor. The Lessee and Lessor agree that title is satisfactory and that all defects in and liens and encumbrances on such title, as set forth in such evidence as exclusions from coverage and exceptions, do not impair the Lessee's use or the value of the Leased Premises.

(End of Article IX)

ARTICLE X

PREPAYMENT OF BONDS; TERMINATION OF LEASE

Section 10.1 Optional Prepayment. At any time permitted under the Indenture (unless an Event of Default hereunder shall have occurred and be subsisting) and upon the consent of the Holder, but no sooner than five (5) years from the date hereof the Lessee may prepay all of the remaining Rent by paying to the Trustee an amount (the "Prepayment Amount") sufficient pursuant to the Indenture to pay all outstanding principal of and premium with respect to the Bonds and to pay any accrued but unpaid interest on the Bonds to the relevant Interest Payment Date. That option shall be exercised by the Lessee by delivery of the Prepayment Amount, together with written notice of the Authorized Lessee Representative to the Trustee and the Lessor, of the Lessee's irrevocable election to prepay the Rent by causing payment of the Bonds on an Interest Payment Date, specified by the Lessee, occurring at least fifty (50) days after delivery of that notice. Pending application for such purposes, those moneys shall be held by the Trustee in a special account in the Bond Fund and the delivery of those moneys shall not operate to abate or postpone payments of Rent otherwise becoming due or to alter or suspend any other obligations of the Lessee under this Lease.

Section 10.2 Option to Terminate. Reserved.

Section 10.3 Option to Purchase Project Prior to Payment of the Bonds. The Lessee shall have, and is hereby granted, the option to purchase the Project prior to the termination of the Lease Term and prior to the payment and discharge of all the outstanding Bonds in accordance with the provisions of the Indenture, if any of the following shall have occurred:

(a) The Project shall have been damaged or destroyed (i) to such extent that the Project cannot be reasonably restored within a period of six months to the condition thereof immediately preceding such damage or destruction, or (ii) to such extent that the Lessee is thereby prevented from carrying on its normal operations therein or thereon for a period of six months.

(b) Title to, or the temporary use of, all or substantially all of the Project shall have been taken under the exercise of the power of eminent domain by any governmental authority, or person, firm or corporation acting under governmental authority, (i) to such extent that the Project cannot be reasonably restored within a period of six months to a condition of comparable usefulness to that existing prior to such taking, or (ii) such a taking results in the Lessee being thereby prevented from carrying on its normal operations therein or thereon for a period of six months.

To exercise such option, the Lessee shall, within ninety (90) days following the event authorizing the exercise of such option, give notice in writing to Lessor, and to the Trustee if all conditions provided in the Indenture for release of the Indenture are not then met, and shall specify therein the date of closing such purchase, which date shall be not less than fifty (50) nor more than ninety (90) days from the date such notice is mailed, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption, in which arrangements Lessor shall

cooperate. The purchase price payable by the Lessee, in the event of its exercise of the option granted in this Section, shall be the sum of the following:

(i) An amount of money which, when added to the moneys and investments held to the credit of the Bond Fund, will be sufficient pursuant to the provision of the Indenture to pay all outstanding principal of and premium, if any, with respect to the Bonds and to pay any accrued but unpaid interest in the Bonds to an Interest Payment Date designated by the Lessee occurring at least fifty (50) days and not more than ninety (90) days from the date such notice is mailed, selected by the Lessee, on which date the Bonds will be redeemed, plus

(ii) An amount of money equal to the Additional Payments accrued and to accrue until actual final payment and redemption of the Project Bonds, to the Trustee or to the persons to whom such Additional Payments are or will be due, plus

(iii) The sum of \$10,000, plus all Lessor costs, including reasonable attorney fees, to Lessor.

The requirement of (ii) above with respect to Additional Payments may be met if provisions satisfactory to the Trustee and Lessor are made for paying such amounts as they accrue.

The mutual agreements contained in this Section 10.3, are independent of, and constitute an agreement separate and distinct from, any and all provisions of this Lease and shall be unaffected by any fact or circumstance which might impair or be alleged to impair the validity of any other provisions.

Section 10.4 Requirement to Purchase Leased Premises Upon Discharge of Bonds. Following payment and discharge of the outstanding Bonds, in accordance with the provisions of the Indenture, the Lessee shall purchase the Leased Premises for the sum of \$10,000, plus all costs of Lessor, including reasonable attorney fees associated with the transaction, at the expiration or earlier termination of the Lease Term. The Lessee shall exercise such purchase within the time and in the same manner as is provided for exercise of the option to purchase granted in Section 10.2.

Section 10.5 Conveyance on Exercise of Option to Purchase. On exercise of any option to purchase granted herein or the required purchase under Section 10.4, Lessor will upon payment of the purchase price deliver, or cause to be delivered, to the Lessee documents conveying to the Lessee all of Lessor's title to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to said property was subject when conveyed to Lessor; (ii) those liens and encumbrances created by the Lessee or to the creation or suffering of which the Lessee consented in writing, and liens for taxes or special assessments not then delinquent; (iii) those liens and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Lease; and (iv) if the option is exercised pursuant to the provisions of Section 10.3(b) hereof, the rights and title of the condemning authority.

No further action of the Legislative Authority shall be required to authorize or to effect the conveyance contemplated in this Section or as provided in within this Article, and upon the payment by Lessee of all amounts payable by Lessee in connection therewith and upon satisfaction by the Lessee of all other requirements therefore, any officer or officers of the Lessor are authorized and directed hereby to exercise and deliver any instruments and documents necessary or advisable to effect such conveyance.

Section 10.6 Relative Position of this Article and Indenture. So long as all amounts required in connection with prepayment of the Bonds have been paid to the Trustee, the rights and options granted to the Lessee in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Lessee is in default hereunder, provided that such default will not result in nonfulfillment of any condition to the exercise of any such right or option.

(End of Article X)

ARTICLE XI

ASSIGNMENT, SUBLEASING AND SELLING

Section 11.1 Subleasing by Lessee. Subject to the terms of the Bond Purchase Agreement, the Project may be subleased or licensed in whole or in part by the Lessee without the necessity of providing notice to or obtaining the consent of the Lessor, subject, however, to each of the following conditions:

(a) No subletting or licensing shall relieve the Lessee from primary liability for any of its obligations hereunder, and in the event of any such subletting or licensing the Lessee shall continue to remain primarily liable for the payment of the Rent and Additional Payments and for performance and observance of the agreements on its part herein provided to be performed and observed by it.

(b) Any sublease or license from the Lessee must retain for the Lessee such rights and interests as will permit it to perform its obligations under this Lease.

(c) Any sublease or license from the Lessee shall not materially impair fulfillment of the purposes of the Act to be accomplished by operation of the Project.

Section 11.2 Assignment by Lessee. Notwithstanding anything to the contrary, Lessee shall have the right to assign this Lease for all or any part of the Premises without the consent of Lessor to (1) any entity resulting from a merger or consolidation with Lessee or any organization purchasing substantially all of Lessee's assets, (2) any entity succeeding to substantially all the business and assets of Lessee, (3) any subsidiary, affiliate or parent of Lessee, (4) any entity controlling, controlled by or under common control with Lessee, or (5) any entity resulting from the reorganization of Lessee outside of a bankruptcy organization. In such event, Lessee shall notify Lessor of such transfer within fifteen (15) days after such transfer. For purposes of this Lease "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

Section 11.3 Assignment by Lessor. In accordance with applicable law, Lessor shall enter into the Assignment of Lease in favor of the Trustee as security for payment of the principal of and premium, if any, and interest on the Bonds, to which the Lessee expressly consents.

Section 11.4 Restrictions on Transfer and Encumbrance of Leased Premises by Lessor. Lessor agrees that it will not sell, assign, transfer, convey or otherwise dispose of the Project or any portion thereof during the Lease Term, nor will it create or suffer to be created any debt, lien or charge thereon (except the lien or charge for taxes, governmental charges or special assessments) or make any pledge or assignment of or create any lien or encumbrance upon the rents, revenues and receipts derived from the sale, lease or other use or disposition of the Project other than as provided in Section 11.3 hereof, and any sale, assignment, transfer conveyance, disposition, pledge, assignment, lien or encumbrance made or created in violation of this Section 11.4 shall be null and void.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

Section 12.1 Events of Default. Any one or more of the following events shall be an Event of Default under this Lease:

(a) The Lessee shall fail (i) to pay when due any payments of Rent on or prior to the Rental Payment Date, (ii) to pay any Additional Payment within thirty days after receipt of written demand therefor, and the continuance of such non-payment for a period of ten (10) calendar days thereafter, (iii) to pay in full any payment in respect of the prepayment of Rent on or prior to the date established pursuant to Section 10.1 or 10.3, or (iv) fail to satisfy the Insurance Requirements.

(b) The Lessee shall fail to observe or perform any other term, covenant or agreement, on the Lessee's part to be observed or performed under this Lease, and that failure continues for thirty (30) days after written notice of that failure is given to the Lessee by the Lessor or the Trustee, or for such longer period as the Holder and the Lessor or the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it cannot be corrected within the applicable period, that failure shall not constitute an Event of Default so long as the Lessee institutes curative action within the applicable period and diligently pursues that action to completion.

(c) Any representation or warranty by the Lessee contained in this Lease is false or misleading in any material respect;

(d) The Lessee shall: (A) without the prior written consent of the Holder, (i) admit in writing its inability to pay its debts generally as they become due; or (ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act; or (iii) make an assignment for the benefit of creditors; or (iv) consent to the appointment of a receiver for itself or of the whole or any substantial part of its property; or (B) without the prior written consent of the Holder, file a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof; or (C) if a petition in bankruptcy is filed against it, be adjudicated a bankrupt, or have a court of competent jurisdiction enter an order or decree appointing, without the consent of the Lessee, a receiver or trustee for the Lessee or for the whole or substantially all of its property, or any portion of the Project, or have a court of competent jurisdiction enter an order or decree approving a petition filed against it seeking reorganization or arrangement of the Lessee under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, if any such adjudication, order or decree under this clause (C) shall not be vacated or set aside or stayed within ninety (90) days from the date of the entry thereof.

(e) The Lessee shall fail, within ninety (90) days after the commencement of any proceeding against the Lessee seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, to have such proceeding dismissed, or, within 90 days after the appointment without the consent or acquiescence of the Lessee, of any trustee, receiver or liquidator of the Lessee or

any material part of its properties, to have such appointment vacated, or the Lessee shall be adjudicated as a bankrupt or insolvent.

Notwithstanding anything to the contrary, if, by reason of Force Majeure, the Lessee is unable to perform or observe any agreement, term or condition hereof, other than the obligations identified in Section 12.1(a), and (e) or to make any other payments required hereunder, the Lessee shall not be deemed in default during the continuance of such inability. However, the Lessee shall promptly give notice to the Lessor and the Trustee of the existence of an event of Force Majeure and shall use its best efforts to remove the effects thereof, provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

The term Force Majeure shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation.

The declaration of an Event of Default under subsection (d) above, and the exercise of remedies upon any such declaration shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Section 12.2 Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(a) The Lessor may, with the consent of the Trustee and the Holder, and shall at the request of the Trustee or the Holder declare all installments of Rent, together with any Additional Payments and other amounts payable hereunder to be immediately due and payable, (determined as of the date of the redemption of Bonds by the Trustee) together with an amount sufficient to pay all Additional Payments due or to become due hereunder, whereupon to the extent permitted by law, the same shall become immediately due and payable;

(b) The Lessor may, with the consent of the Trustee and the Holder, and shall at the request of the Trustee or the Holder re-enter and take possession of the Project without terminating this Lease and sublease the Project for the account of the Lessee, holding the Lessee liable for the difference between the rent and other amounts payable by such sublessee in such subleasing and the Rent, Additional Payments and other amounts payable by the Lessee hereunder;

(c) The Lessor may, with the consent of the Trustee and the Holder, and shall at the request of the Trustee or the Holder terminate this Lease, exclude the Lessee from possession of the Project and lease the Project to another, but holding the Lessee liable for all Rent, Additional Payments and other amounts payable hereunder up to the effective date of such subleasing;

(d) The Lessor, Holder and the Trustee may have access to, inspect, examine and make copies of the books and records, accounts and financial data of the Lessee pertaining to the Project;

(e) The Lessor, Holder or the Trustee may pursue all remedies now or hereafter existing at law or in equity to collect all the amounts then due and thereafter to become due under this Lease, or to enforce the performance and observance of any other obligation or agreement of the Lessee under this Lease.

Any amounts collected as or applicable to Rent and any other amounts which would be applicable to payment of principal of and premium, if any, and interest on the Bonds collected pursuant to action taken under this Section shall be paid to the Trustee and applied in accordance with the provisions of the Indenture.

The Lessor and the Lessee acknowledge that the Lessor has borrowed money in order to provide the moneys necessary to Develop the Project Facilities and that the Lessor, with the knowledge of the Lessee, has contractually obligated itself to use the payments of Rent to repay its borrowings and that an Event of Default under Section 12.1 hereof would eliminate future Rent and the source to be used to repay the Lessor's borrowings. The Lessor and the Lessee agree that amounts paid pursuant to paragraph (a) of this Section are liquidated damages and not a penalty and will permit the Lessor to repay the borrowings that would have been repaid from payments of Rent during the Lease Term.

Section 12.3 No Remedy Exclusive. No remedy conferred or reserved to the Trustee, Holder or the Lessor by this Lease is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor, Holder or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

Section 12.4 Agreement to Pay Attorneys' Fees and Expenses. If an Event of Default should occur and the Lessor or the Trustee (or any Holder) should incur expenses, including attorneys' fees, in connection with the enforcement of this Lease or the collection of sums due hereunder, the Lessee shall reimburse the Lessor and the Trustee (or any Holder), as applicable, for the expenses so incurred upon demand. If any such expenses are not so reimbursed, the amount thereof, together with interest thereon from the date of demand for payment at the Interest Rate for Advances, to the extent permitted by law, shall be reimbursed and in any action brought to collect such sums, the Lessor or the Trustee (or any Holder), as applicable, shall be entitled to seek recovery of such expenses in such action except as limited by law or by judicial order or decision entered by rule proceedings.

Section 12.5 No Waiver. No failure by the Lessor, Holder or the Trustee to insist upon strict performance by the Lessee of any provision hereof shall constitute a waiver of their right to

strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Lessee to observe or comply with any provision hereof.

Section 12.6 Notice of Default. The Lessee shall notify the Lessor, Holder and the Trustee immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default

(End of Article XII)

ARTICLE XIII

MISCELLANEOUS

Section 13.1 Quiet Enjoyment. Subject at all times to Sections 3.4 and 3.8 hereof, the Lessor covenants with the Lessee that, upon the Lessee's payment of Rent and Additional Payments and the performance and observance of the other covenants and agreements on its part to be performed and observed hereunder, the Lessee shall and may peaceably and quietly have, hold and enjoy the Project without let or hindrance from any person whomsoever.

Section 13.2 Surrender of Project. Subject to Article X, upon the termination or expiration of this Lease, the Lessee shall surrender peaceably and promptly possession of the Project, leaving the same in good condition and repair (ordinary wear and tear excepted).

Section 13.3 Notices. All notices, certificates, requests or other communications hereunder shall be in writing and be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Lessor or the Lessee shall also be given to the Trustee. The Lessee, the Lessor and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 13.4 Binding Effect. This Lease shall inure to the benefit of and shall be binding in accordance with its terms upon the Lessor and the Lessee and their permitted respective successors and assigns.

Section 13.5 Conflict. In the event of any conflict or inconsistency between the provisions of this Lease and the Bond Purchase Agreement, the provisions of the Bond Purchase Agreement shall control in all instances.

Section 13.6 Amendments and Supplements. Except as otherwise expressly provided in this Lease, subsequent to the issuance of the Bonds and prior to all conditions provided for in the Bond Legislation for the discharge and satisfaction of the Bond having been met, this Lease may not be amended or supplemented without the prior written consent of the Trustee.

Section 13.7 Execution Counterparts. This Lease may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 13.8 Severability. If any provision of this Lease, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 13.9 Captions. The captions and headings in this Lease shall be solely for convenience of reference and in no way define, limit or describe the scope or intent of any provisions or Sections of this Lease.

Section 13.10 Governing Law. This Lease shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

(End of Article XIII)

IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Lease to be duly executed in their respective names, all as of the date hereinbefore written.

ERIE COUNTY PORT AUTHORITY
as Lessor

By: _____
James O. Miller, Chair

By: _____
Timothy D. Mayles, Treasurer and
Fiscal Officer

RESORT SCHOOL LLC
as Lessee

By: _____
Name: Adelbert P. Marous, Jr.
Title: Manager

STATE OF OHIO)
)
COUNTY OF ERIE) SS:

On this ___ day of _____ 2019, before me, a Notary Public in and for said County and State, personally appeared James O. Miller and Timothy D. Mayles, Chair and Treasurer/Fiscal Officer, respectively, of the Erie County Port Authority, who acknowledged that, with due authorization, they did execute the foregoing instrument on behalf of the Erie County Port Authority and that the same is their free act and deed individually as such officers and the free act and deed of the Erie County Port Authority.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]

Notary Public

STATE OF OHIO)
)
COUNTY OF LAKE) SS:

On this ___ day of _____ 2019, before me, a Notary Public in and for said County and State, personally appeared Adelbert P. Marous, Jr., the manager of Resort School LLC, who acknowledged that, with due authorization, he/she did execute the foregoing instrument on behalf of Resort School LLC and that the same is his/her free act and deed individually and as such officer and the free act and deed of Resort School LLC.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]

Notary Public

This instrument was prepared by:

Dennis R. Wilcox, Esq.
Climaco, Wilcox, Peca, & Garofoli Co., L.P.A.
55 Public Square, Suite 1950
Cleveland, Ohio 44113

CERTIFICATE

The undersigned, fiscal officer of the Lessor, hereby certifies that the moneys required to meet the obligations of the Lessor during the year 2019 under this Lease have been lawfully appropriated by the Legislative Authority of the Lessor for such purposes and are in the treasury of the Lessor or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

ERIE COUNTY PORT AUTHORITY,
as Lessor

Timothy D. Mayles, Treasurer and Fiscal Officer

Dated: _____, 2019

EXHIBIT A

PROJECT FACILITIES

An approximately 78,000 sq. ft. five (5) floor mixed use development building and related land improvements consisting of (1) the Academic Project for use as the site of a new bachelor's degree program in resort attraction and management by Bowling Green State University, including academic classrooms on the first floor; and (2) the Housing Project for use of approximately 80 rental housing units on floors 2 through 5 and retail on the first floor.

EXHIBIT B

PROJECT SITE
LEGAL DESCRIPTION

EXHIBIT C

INSURANCE REQUIREMENTS

During the Term of this Lease, Lessee shall maintain the following insurance coverage.

(A) Builder's Risk Insurance on an "all risk" basis insuring the Project, including materials in storage or other casualty, vandalism and malicious mischief coverage, bearing a replacement cost agreed amount endorsement (such Builder's Risk Insurance may be included in the coverage provided by the policy of insurance required pursuant to paragraph (C) of this Exhibit).

(B) Comprehensive commercial general public liability insurance, with coverage limits of One Million Dollars (\$1,000,000) per occurrence per person and Two Million Dollars (\$2,000,000) in the aggregate. Lessee shall also carry and maintain umbrella/excess liability coverage in a minimum amount of Three Million Dollars (\$3,000,000) per person and Five Million Dollars (\$5,000,000) per occurrence. Notwithstanding the foregoing provisions of this paragraph (B), Lessee shall be permitted to self-insure for the types and limits of insurance required herein for the duration of the Term of the Lease.

(C) Insurance against loss or damage by fire and such other hazards, casualties and contingencies (including, without limitation, so-called all-risk coverages), in an amount equal to (i) the then full insurable value of the Project Facilities, or (ii) the then total unpaid principal of Bonds outstanding, whichever is less. Notwithstanding the foregoing provisions of this paragraph (C), Lessee shall be permitted to self-insure for the types and limits of insurance required herein for the duration of the Term of the Lease.

(D) Workers compensation or an Ohio certificate of workers compensation self-insurance and employee liability insurance, covering Lessee's employees working on or about the Project Site, and death and/or injury resulting from activity thereat, with liability insurance limits for death of or injury to persons not less than the greater of statutory limits or One Million Dollars (\$1,000,000). Notwithstanding the foregoing provisions of this paragraph (D), Lessee shall be permitted to self-insure for the types and limits of insurance required herein for the duration of the Term of the Lease, provided that Lessee has obtained a certificate of self-insurance issued by the State of Ohio.

(E) If any part of the Project is now or hereafter used for the sale or dispensing of beer, wine or any other alcoholic beverages, so-called "Dram Shop" or "Innkeeper's Liability" insurance against claims or liability arising directly or indirectly to persons or property on account of such sale or dispensing of beer, wine or other alcoholic beverages shall also be furnished, including in such coverage loss of means of support, all in amounts as may be required by law. Notwithstanding the foregoing provisions of this paragraph (E), Lessee shall be permitted to self-insure for the types and limits of insurance required herein for the duration of the Term of the Lease.

EXHIBIT D

PERMITTED ENCUMBRANCES

1. Ground Lease
 2. Access and Utility Easement
 3. Easements, Licenses, and Other rights granted or dedicted by the Ground Lessor pursuant to the Ground Lease.
 4. [TBD from title commitment]
-

Exhibit E

Drafted by and after recording return to:

**SUBORDINATION, RECOGNITION
AND NON-DISTURBANCE AGREEMENT**

THIS AGREEMENT, is made as of the _____ day of _____, 20, between _____ having an office at _____ (hereinafter called "Mortgagee"), _____ having an office at _____ (hereinafter called "Landlord"), and _____, having an office at _____ (hereinafter called "Tenant").

WITNESSETH:

WHEREAS, Mortgagee [has made] [is about to make] a loan to Landlord secured by a mortgage or deed of trust (hereinafter called the "Mortgage") [recorded _____] covering a parcel of land owned by Landlord and described on Exhibit A annexed hereto and made a part hereof, (the "Mortgaged Property"); and

WHEREAS, by a certain ground lease entered into between Landlord and Tenant dated as of _____ (as amended from time to time, the "Lease"), Landlord leased to Tenant all or a portion of the Mortgaged Property (such leased area, exclusive of any improvements located thereon, hereinafter referred to as the "Demised Premises"); and

WHEREAS, a Memorandum of the Lease has been recorded _____; and

WHEREAS, a copy of the Lease has been delivered to Mortgagee, the receipt of which is hereby acknowledged; and

WHEREAS, the parties hereto desire to effect the subordination of the Lease to the lien of the Mortgage and to provide for the non-disturbance of Tenant by Mortgagee.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

Mortgagee hereby consents to and approves the Lease.

Tenant covenants and agrees with Mortgagee that the Lease is hereby made and shall continue hereafter to be subject and subordinate to the lien of the Mortgage (as same may be modified and extended) without regard to the order of priority of recording the Mortgage or the Memorandum of the Lease, subject, however, to the provisions of this Agreement.

Landlord and Tenant certify that the Lease is presently in full force and effect.

Mortgagee agrees that so long as the Lease shall be in full force and effect:

Tenant shall not be named or joined as a party defendant or otherwise in any suit, action or proceeding for the foreclosure of the Mortgage or to enforce any rights under the Mortgage or the bond or note or other obligation secured thereby; and

Tenant's possession of the Demised Premises, and all rights granted or reserved to Tenant under the Lease (including by way of example and not of limitation Tenant's right, title, and interest in and to all buildings and other improvements constructed or installed on the Demised Premises), shall not be disturbed, hindered, affected or impaired by, nor will the Lease or the term thereof be terminated or otherwise affected by: (1) any suit, action or proceeding upon the Mortgage or the bond or note or other obligation secured thereby, or for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage or any other documents held by Mortgagee, or by any judicial sale or execution or other sale of the Mortgaged Property or by any deed given in lieu of foreclosure, or by the exercise of any other rights given to Mortgagee by any other documents or as a matter of law, or (2) any default under the Mortgage or the bond or note or other obligation secured thereby.

All condemnation awards and insurance proceeds paid or payable with respect to the Mortgaged Property shall be applied and paid in the manner set forth in the Lease.

Mortgagee hereby acknowledges and agrees that all fixtures, trade fixtures, furniture, equipment, or any other personal property, whether or not affixed to the Demised Premises and whether owned by Tenant or any subtenant or leased by Tenant from a lessor/owner (hereinafter called the "Equipment Lessor"), installed in or on the Mortgaged Property, regardless of the manner or mode of attachment, shall be and remain the property of Tenant or any such Equipment Lessor, and may be removed by Tenant or any such Equipment Lessor at any time. In no event (including a default under the Lease or Mortgage) shall Mortgagee have any liens, rights or claims in Tenant's or Equipment Lessor's fixtures, equipment or other personal property, whether or not all or any part thereof shall be deemed fixtures; and Mortgagee expressly waives all rights of levy, distraint or execution with respect to said fixtures, equipment and personal property. Mortgagee agrees to execute and deliver to Tenant and Equipment Lessor, within ten (10) days after request therefore, any document required by Tenant or Equipment Lessor in order to evidence the foregoing.

If the Mortgagee shall become the owner of the Mortgaged Property by reason of foreclosure of the Mortgage or by a deed given in lieu of foreclosure or otherwise, or if the Mortgaged Property shall be sold to any third party as a result of any action or proceeding to

foreclose the Mortgage or otherwise, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between Tenant, as tenant thereunder, and the then owner of the Mortgaged Property, as landlord thereunder, upon all of the same terms, covenants and provisions contained in the Lease, and in such event:

Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the Renewal Periods, if Tenant elects or has elected to exercise its options to extend the term) and Tenant hereby agrees to attorn to such new owner and to recognize such new owner as landlord under the Lease; and

Such new owner shall be bound to Tenant under all terms, covenants and provisions of the Lease for the remainder of the term thereof (including the Renewal Periods, if Tenant elects or has elected to exercise its options to extend the term) which terms, covenants and provisions such new owner hereby agrees to assume and perform.

Any notices or communications given under this Agreement shall be in writing and shall be given by registered or certified mail, return receipt requested, postage prepaid, or overnight delivery service or personal delivery (a) if to Mortgagee, at the address of Mortgagee as hereinabove set forth or at such other address as Mortgagee may designate by notice, (b) if to Tenant, to Tenant at the address of Tenant as hereinabove set forth or at such other address as Tenant may designate by notice, with a copy to _____, or (c) if to Landlord, to Landlord at the address of Landlord as hereinabove set forth or at such other address as Landlord may designate by notice. Notices shall be deemed given when received (at any time) or when delivery is first attempted (during normal office business hours), whichever first occurs.

This Agreement shall bind and inure to the benefit of and be enforceable by the parties hereto and their respective heirs, personal representatives, successors and assigns.

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and cannot be changed, modified, waived or canceled except by an agreement in writing executed by the party against whom enforcement of such modification, change, waiver or cancellation is sought.

This Agreement and the covenants herein contained are intended to run with and bind all lands affected thereby.

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

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

[signatures are on the following pages]

Mortgagee:

By: _____

Its: _____

(Street Address)

(City/State/Zip)

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, _____ of _____, a _____ on behalf of said _____.

_____, Notary Public
_____ County, _____
My Commission Expires: _____

Landlord:

By: _____

Its: _____

(Street Address)

(City/State/Zip)

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, _____ of _____, a _____, on behalf of said _____.

_____, Notary Public
_____ County, _____
My Commission Expires: _____

Tenant:

By: _____

Its: _____

(Street Address)

(City/State/Zip)

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, _____ of _____, a _____ on behalf of said _____.

_____, Notary Public
_____ County, _____
My Commission Expires: _____

BGSU-CEDAR FAIR
Master Agreement

Exhibit B

EXHIBIT B

SCHOLARSHIP AGREEMENT

This Scholarship Agreement (the “**Agreement**”), is made and entered into at Bowling Green, Ohio this 3rd day of September, 2019, by and between **Bowling Green State University** (“**BGSU**”) and Cedar Fair, L.P., a Delaware limited partnership (“**Cedar Fair**”) (each, a “**Party**,” and, collectively, the “**Parties**”).

WHEREAS, Cedar Fair and BGSU have agreed to establish a public-private education program to be named and referred to as “the Cedar Fair Resort and Attraction Management Program at Bowling Green State University” (the “**Program**”) that will provide students with instruction leading to the award of a BGSU Bachelor of Science degree; and

WHEREAS, in their Cooperative Agreement that was effective as of March 28, 2018 the Parties agreed to provide financial support to Program students by designing, funding, and implementing a scholarship program;

NOW, THEREFORE, the Parties enter into this Scholarship Agreement to set forth their binding agreement as to the subject matter contained herein.

ARTICLE 1

Number and Amount of Scholarships

- 1.1 During any academic year of the Program, BGSU will provide the equivalent of ten (10) scholarships to full-time students (the “**Scholarship Students**”).
- 1.2 Each scholarship will be for tuition only and will be awarded based on the in-state tuition rate applicable to the Program for the academic year in which it was awarded.
- 1.3 Scholarships may be awarded on a fractional basis between 33 percent and 100 percent. In any academic year there may be more than ten (10) Scholarship Students but the total amount of scholarships awarded in that academic year will not exceed ten (10) times the amount stated in Section 1.2.
- 1.4 BGSU will provide the equivalent of five (5) scholarships to Scholarship Students in the first year cohort of the Program and the equivalent of five (5) scholarships to Scholarship Students in the second year cohort of the Program. Thereafter, BGSU will continue to provide the equivalent of five (5) scholarships to each Program cohort to ensure that the total number of scholarships stated in Section 1.3 are in use each academic year.

ARTICLE 2

Requirements for Award of Scholarships

- 2.1 To be eligible for consideration, an applicant must have been admitted to BGSU as a full-time student and must be admitted to and registered for the Program.

EXHIBIT B

- 2.2 Each applicant must complete a general BGSU scholarship application by the deadline established by BGSU and submit the following required documents:
 - 2.2.1 A resume including work experience, extra-curricular or community service, and leadership positions held.
 - 2.2.2 An essay as specified by the Program director.
 - 2.2.3 Two letters of reference.
- 2.3 Additional requirements for eligibility include the following:
 - 2.3.1 A cumulative grade point average of 2.5 for all post-secondary courses.
 - 2.3.2 The standard terms and conditions for BGSU institutional scholarships.
 - 2.3.3 Such additional terms (such as continuing in the Program or successful completion of a co-op) as may be specified by the Program director.
- 2.4 The Parties may revise the requirements of Sections 2.2 and 2.3 at any time by written agreement.
- 2.5 There is no financial need requirement for these scholarships and both domestic and international students may apply.

ARTICLE 3 Administration

- 3.1 After the application deadline has passed, the BGSU office of Student Financial Aid (SFA) will verify that the information provided by each applicant complies with Article 2.
- 3.2 Each complete application will then be reviewed by a committee to be established by the Program director.
- 3.3 The committee will use criteria to be specified by the Program director to evaluate the applications, select candidates to interview, coordinate invitations and scheduling, and interview the selected candidates.
- 3.4 After all interviews are complete, the committee will notify SFA of the selected Scholarship Students and the amounts of their respective scholarships.
- 3.5 SFA will notify each Scholarship Student of their award and apply the scholarship amount to the appropriate student financial aid account.

EXHIBIT B

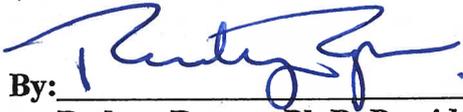
ARTICLE 4
General Terms

- 4.1 The scholarship program established by this Agreement will be in effect for the first ten years of the Program. In the ninth year of the Program the Parties will review the scholarship program to determine if it serves Program needs and is mutually beneficial. During that review each Party may propose renewing, modifying, or ending the scholarship program and the Parties will negotiate any proposed changes.
- 4.2 Sections 5, 6, 7, 8, 9, 10, 11, and 12 of the Cooperative Agreement are incorporated herein by reference.

CEDAR FAIR, L.P

By: 
Name: BRIAN C. WITHROW
Title: C/P & CFO

BOWLING GREEN STATE UNIVERSITY

By: 
Rodney Rogers, Ph.D. President

APPROVED AS TO LEGAL FORM



OFFICE OF GENERAL COUNSEL

EXHIBIT B

Fiscal Officer's Certificate

This is to certify that the amounts needed to meet the obligations of Bowling Green State University under this Agreement have been lawfully appropriated for such purposes and are in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances.

**Bowling Green State University
Chief Financial Officer**

By: _____



Sherideen S. Stoll, CPA
Vice President for Finance and Administration

BGSU-CEDAR FAIR Master Agreement

Exhibit C

Exhibit C

COOPERATIVE/EDUCATION/INTERNSHIP AGREEMENT

**By and Between
CEDAR FAIR L.P.**

and

BOWLING GREEN STATE UNIVERSITY

This Cooperative/Education/Internship Agreement is entered into by and between Cedar Fair, L.P, a Delaware limited partnership (“Cedar Fair”) and Bowling Green State University, an instrumentality of the State of Ohio (“BGSU”), effective as of the effective date of the Parties’ Master Agreement.

RECITALS

Cedar Fair (hereafter, “the Employer”) owns and operates amusement and water parks and hotels in the United States and Canada, including Cedar Point, Cedar Point Shores, Hotel Breakers, Cedar Point Express, and Castaway Bay in addition to other Cedar Fair amusement and hospitality venues in Erie County, Ohio.

Bowling Green State University (hereafter, “BGSU” or “the University”) offers educational opportunities that combine classroom study and paid work experience in students’ chosen fields.

The Employer and the University are establishing a Bachelor of Science degree in Resort and Attraction Management (hereafter, the “Program”) through a public-private partnership that provides for cooperation between the Parties and enhances the success of the Program, with BGSU retaining sole responsibility for the academic curriculum and the Employer making paid Co-Op positions available to Program students at all of its venues, although Program students may fulfill their Co-Op requirements at any location approved by the Program Director.

This agreement sets forth the terms and understanding between the above referenced parties in matters regarding the Cooperative Education experience that the Employer will offer to students who are enrolled in the Program.

PURPOSE OF THE COOPERATIVE AGREEMENT

The purpose of this agreement is for each party to assist the other party in the accomplishing its Program objectives as set forth in the Master Agreement.

EMPLOYER RESPONSIBILITIES

The Employer will:

1. Provide on-boarding of students into the Employer’s work force, including employment document preparation, orientation, training, etc.
2. Establish work schedules which align with the academic calendar of the University/Program and enable students to meet the requirements of both the University

and the Employer for completion of the Program.

3. Process all documents relating to the students employment, and keep all necessary employment records as required by law.
4. Make work assignments related to the academic curriculum and make every effort to maximize the students' learning.
5. Use best efforts to create a positive working/learning environment, including without limitation: (a) providing each student with exposure and interaction to experienced Cedar Fair management in order to maximize the employment / learning experience; (b) placing each student under competent supervisor(s), and (c) orienting each student to the work environment and the conditions governing his/her employment.
6. Conduct mid-point and final evaluations of each student's performance and provide feedback that will improve performance on the job and enhance student learning.
7. Notify in writing the University Co-Op Coordinator and the instructor of the Co-Op course as far in advance as possible of the Employer's intent to terminate or extend a student's employment.
8. Return the students' completed performance evaluations to the University by the dates indicated in the academic calendar of the University/Program.
9. Assure students who are offered part-time, seasonal, or other employment opportunities outside or in addition to the designated Co-Op assignments that they may accept or refuse the optional employment without prejudice or impact on current or future Co-Op assignments or grades.

RESPONSIBILITIES OF BOWLING GREEN STATE UNIVERSITY

The University will:

1. Designate a Co-Op Coordinator who will serve as the liaison to the Employer.
2. Ensure that students are enrolled for the appropriate for-credit Co-Op course before they begin working at their designated Co-Op assignment.
3. Correlate work and study to enhance student experience and learning.
4. Furnish the Employer with requested information about the student's eligibility to participate in the Co-Op Program.
5. Inform the Employer of any change in a student's eligibility status, including failure to maintain required standards of the University and/or Program.
6. Provide the Employer with a performance evaluation instrument with which to evaluate the student's Co-Op performance and on-the-job-learning.
7. Evaluate the student's written report about each Co-Op experience.
8. In consultation with the Co-Op advisor, assign the student the appropriate grade for each Co-Op experience.
9. Report any changes to the Program academic calendar to the Employer to help ensure that Co-Op work schedules align with the academic calendar.

CONDITIONS OF CO-OP EMPLOYMENT

1. Student Eligibility. To participate in the Co-Op experience each student must:
 - a. Be of junior standing or above; or have the permission of the Director
 - b. Be enrolled in the Program
 - c. Be an enrolled student in good standing according to BGSU's policy
 - d. Be enrolled for the appropriate Co-Op course/credit hours as designated by the curriculum.
 - e. Complete the employer hiring process and satisfy all applicable hiring criteria

2. Termination of Co-Op . A student's Co-Op experience may be terminated at any time for any of the following reasons:
 - a. Student's resignation
 - b. Change to a curriculum or academic major which will not qualify the student for the position
 - c. Failure to maintain academic standards
 - d. Suspension, expulsion, withdrawal from the University
 - e. Violation of: (i) University policy or procedure, or (ii) any state or federal law
 - f. Termination by the Employer for unsatisfactory work performance, as documented in written notice to the University
 - g. Failure to comply with all applicable policies, procedures and standards of conduct at the Co- Op site
 - h. Inability of the Employer to retain the student on the job, as documented in written notice to the University.

GENERAL PROVISIONS

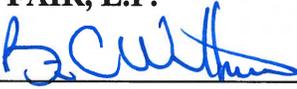
1. This Agreement is to be interpreted in conjunction with the Parties' Master Agreement, which is incorporated herein by reference. If the parties or a court of competent jurisdiction deem any term in this Agreement to be in conflict with any term of the Master Agreement, then the term in this Agreement shall be void and the Master Agreement shall have control.
2. All Co-Op activities conducted pursuant to this Agreement shall be conducted in accordance with the laws and regulations that apply where the activities take place. Each of the parties shall also comply with the laws, regulations, and policies applicable to it, including without limitation, non-discrimination and immigration laws. In the case of Co-Op activities in Ohio, these include the laws of the United States of America and of the State of Ohio, and the rules, regulations, and policies of Cedar Fair and BGSU.
3. Under this Agreement no payment or other thing of value is earned by or owed to either party.
4. If external funding is pursued or obtained for a project, the parties will enter into a separate written agreement to set forth the conditions and agreements between the parties related to such funding.

IN WITNESS WHEREOF the parties hereto have caused their authorized representatives

to execute two original counterparts of this instrument, each of which, when all counterparts are delivered, shall be considered an original.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed.

CEDAR FAIR, L.P.

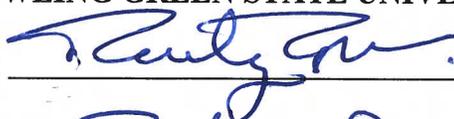
By: 

Name: BRIAN C. WITHEROW

Its: EVP & CFO

Date: _____

BOWLING GREEN STATE UNIVERSITY

By: 

Name: Rodney Rogers

Its: President

Date: 9/3/19

APPROVED AS TO LEGAL FORM



OFFICE OF GENERAL COUNSEL

**BGSU-CEDAR FAIR
Master Agreement**

Exhibit D

JOINT USE AGREEMENT

(For capital funds released to institutions for facilities not owned by the institution)

This Joint Use Agreement ("Agreement") is entered into by and between Bowling Green State University ("BGSU"), an instrumentality of the State of Ohio created under Chapter 3341 of the Ohio Revised Code, whose address is 230 McFall Center, Bowling Green, Ohio, 43403; and the Erie County Port Authority (the "Port Authority"), a body corporate and politic and governmental subdivision of the State of Ohio created under § 4582.21 et seq. of the Ohio Revised Code, whose address is 5002 Timber Commons Dr., Sandusky, Ohio 44870.

WHEREAS, BGSU is an instrumentality of the State of Ohio established under Ohio Revised Code Chapter 3341;

WHEREAS, BGSU offers educational opportunities in Ohio at its main campus in Bowling Green, Ohio; its Firelands campus in Erie County, Ohio; in Perrysburg, Wood County, Ohio and throughout the world through its acclaimed on-line programs;

WHEREAS, the Port Authority is a body corporate and politic and governmental subdivision of the State of Ohio established under Ohio Revised Code Chapter 4582; and

WHEREAS, Cedar Fair, L.P., ("Cedar Fair") is a Delaware limited partnership that owns and operates amusement and water parks and hotels in the United States and Canada, including amusement and hospitality venues in Erie County, Ohio;

WHEREAS, Cedar Fair and BGSU have entered into a Cooperative Agreement to establish a public-private education program referred to with the working title of "the Cedar Fair Resort and Attraction Management Program at BGSU" (the "Program") that will provide students with instruction leading to the award of a BGSU Bachelor of Science degree in Resort and Attraction Management;

WHEREAS, the Program will require physical facilities that will be located within a portion of a new building to be constructed and located at 250 E. Market Street, Sandusky, Ohio;

WHEREAS, the Port Authority desires to cooperate in the creation of the Academic Center;

WHEREAS, Resort School LLC is an Ohio limited liability company ("Resort School"), in which an affiliated entity of Cedar Fair is a member;

WHEREAS, the Port Authority has agreed to issue bonds, own the Building, including the Academic Center and cause the construction of same through Resort School pursuant to a Construction Manager Agreement, and lease the Building to Resort School, which will sublease the Academic Center to Cedar Point Park LLC, and Cedar Point Park LLC will in turn sublease it to BGSU;

WHEREAS, in March 2018 the Ohio General Assembly enacted HB 529, an act that made capital appropriations for fiscal years 2019-20 (the "Act");

WHEREAS, in Section 207.30, Line Item C24062 of the Act, the University was appropriated \$800,000 for the BGSU Hospitality Program (the "Funds");

WHEREAS, BGSU intends to use this appropriation to help fund construction of the Academic Center that will be owned by the Port Authority, leased to Resort School through a Lease Agreement ("Lease") and to be used for the Program;

WHEREAS, Ohio Administrative Code § 3333-1-03(E) requires a public institution to submit to the Chancellor of the Ohio Department of Higher Education a joint use agreement that contains the requirements in (E)(1) -(11) for review and approval; and

WHEREAS, BGSU has demonstrated that the value of the use of the facility or equipment is reasonably related to the amount of appropriation through the worksheet included in this Agreement as Exhibit A.

NOW, THEREFORE, in consideration of the mutual benefits hereunder, it is hereby agreed to between the parties as follows:

1. **Facility or equipment owned, to be built or purchased by nonprofit or public body.**
The Port Authority will own, finance, construct and lease to Resort School a new building to be constructed and located at 250 E. Market Street, Sandusky, Ohio (the "Building"). The physical facilities for the Program will include new construction and access to a selected office facility on the Building's first floor, consisting of approximately 12,753 square feet of first-floor space designed specifically for academic use, the creation of classrooms, conference rooms and computer lab (the "Academic Center" or "Facility"). The entire Building structure, including the Facility, shall be owned by the Port Authority and leased to Resort School, which will sublease the Academic Center to Cedar Point Park LLC, and Cedar Point Park LLC will in turn sublease it to BGSU. A copy of the Lease between the Port Authority and Resort School is attached hereto as Exhibit B. A copy of the Resort School-Cedar Point Park LLC Sublease, as provided by Cedar Point Park LLC to BGSU, is attached hereto as Exhibit C, and a copy of the Cedar Point Park LLC-BGSU Sublease is attached hereto as Exhibit D.
2. **Use of the Facility or equipment by public institution.** The Port Authority and Resort School agree to provide use of the Academic Center to the faculty, staff, and students of BGSU for the provision of educational opportunities through the Program, as reflected in the Joint Use Agreement Worksheet attached hereto as Exhibit A, hereby incorporated. BGSU's right to use the Academic Center will commence when the Facility is fully ready for the use described in Exhibit A and will expire on the 20th annual anniversary of that date.
3. **Reimbursement of funds.**
 - (a) The State of Ohio shall be reimbursed by the Port Authority subject to Section 3 (b) below if BGSU's right to use the Academic Center is terminated by the Port Authority before the expiration of the 20-year term. The State shall be reimbursed the amount calculated by dividing \$800,000 by 20 and multiplying that sum by 20 less the number of full years the Facility is utilized by BGSU.
 - (b) If any transfer of the Academic Center occurs before the expiration of the 20-year term, the Port Authority shall either (i) require the transferee to be a nonprofit organization or a

public body and to accept assignment of this Agreement and be bound by all of its terms and conditions or (ii) provide for reimbursement to the State of Ohio as provided in Section 3(a). It is understood and agreed that this requirement does not apply to the transfer of any other part of the Building. The parties understand that the Port Authority may create a condominium structure for the Building to enable transfer of the Academic Center to a non-profit or other governmental body, yet retaining the right to convey the remainder of the Building to a for-profit entity.

4. **Use of funds.** Funds will only be used for capital improvements as defined in the Act; specifically, to create the Academic Center in the Building suitable for its intended use. Operating costs of any kind will not be funded through this Agreement.

5. **Insurance for facility and hold harmless.** To the extent allowed by Ohio law, the Port Authority shall hold the State of Ohio and BGSU, its officers, trustees, employees, and students harmless from any and all costs, obligations, expenses, liabilities or claims of any kind whatsoever arising out of (1) the construction, operation, and maintenance of the Facility, or (2) an alleged action or omission by the Port Authority, its officers, directors or employees, including, but not limited to the Port Authority's failure or alleged failure to comply with applicable public bidding requirements or any other federal, state or local law, ordinance, rule, order, directive or regulation. The Port Authority will ensure the Facility is fully insured, either directly or through the tenant of the Facility, at market replacement value from and against hazards including, but not limited to, fire and such other forms of property damage as the Port Authority may reasonably determine to be appropriate.

6. **Compliance with federal, state, and local law.** The Port Authority, either directly or through the tenant of the Academic Center, will comply with all pertinent federal, state, and local laws as well as state administrative regulations applicable to the use of the funds hereunder and to the operation of the capital improvement.

7. **Competitive bidding.** For purposes of the expenditure of the \$800,000.00 hereunder, which will be used toward the tenant improvement package portion of the Academic Center to the BGSU-approved design prepared by Vocon Partners LLC, the Port Authority shall follow a competitive bidding process that includes publishing two (2) advertisements in a local newspaper of general circulation in Erie County to seek bids, receiving sealed bids, and awarding contracts to the lowest responsive and responsible bidder as provided in OAC 3333-1-03(E)(9). The Port Authority may utilize an Owner's Representative to administer the competitive bidding process on its behalf. It is understood that the remainder of the Project will follow the Port Authority's designated procedures as provided in R.C. 4582.31(A)(1)(18)(e).

8. **Appropriation Administrative Fee.** BGSU shall receive administrative costs in the amount of \$12,000, a sum equal to 1.5% of the total amount of Funds.

9. **Amendments.** Any and all amendments made to this Agreement shall be in writing, signed by the Port Authority and BGSU, and shall require approval by the Ohio Department of Higher Education before taking effect.

10. **Payment and distribution of funds.** Upon execution of the Agreement, BGSU shall submit to the Controlling Board a formal request for the release of the Funds. After the release of the Funds, the Port Authority and/or Resort School as Construction Manager and agent for the

Port Authority shall submit to BGSU requests for payments of amounts along with documentation of contractor invoices or purchase orders related to obligations incurred by the Port Authority for permitted uses of the Funds as described below. BGSU will disburse funds to the Port Authority or its designee pursuant to properly documented requests for payment consisting of: (a) a sequentially numbered request for payment; (b) the amount requested and the cumulative amount requested and paid to date; (c) the estimated percent completion of the Facility; and (d) copies of original source documentation of the costs incurred for which a disbursement of a portion of the Funds is requested.

11. **Terms and conditions of use.** The Facility shall be used by BGSU faculty, staff, and students for the Program as reflected in the Joint Use Agreement Worksheet attached hereto as Exhibit A.

12. **Governing law.** This Agreement shall be interpreted, controlled, and enforced in accordance with the laws of Ohio.

IN WITNESS WHEREOF, the parties, intending to be legally bound thereby, have executed this Joint Use Agreement on the date indicated below under their respective signatures.

ERIE COUNTY PORT AUTHORITY

BOWLING GREEN STATE UNIVERSITY

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

Joint Use Agreement Worksheet – Exhibit A

The Ohio Department of Higher Education

Project: BGSU Hospitality Program

Date: _____

Section I: State appropriation information.

- 1. Amount of state appropriation provided: \$ 800,000.00
- 2. Estimated annual debt service on the appropriation: \$ 61,500.92
- 3. Term of the state bond, in years: 20 Years

Section II: Estimated value of use of the facility.

| Use(s) of the facility* | Annual value of use | # of years |
|---|----------------------------|-------------------|
| a. <i>Exclusive use of four classrooms, faculty and administrative offices, along with general collaboration/study space for students</i> | \$ 179,294.00 | 1 |
| b. <i>Exclusive use of four classrooms, faculty and administrative offices, along with general collaboration/study space for students</i> | \$ 191,294.00 | 19 |
| c. | \$ | |
| d. | \$ | |
| e. | \$ | |
| f. | \$ | |

(* List additional uses on separate page as needed.)

Section III:

On a separate page, explain how each use listed in Section II was valued for this analysis

Direction: The purpose of this worksheet is to enable a campus to demonstrate how the value of the uses that will be derived from a Joint Use Agreement is reasonably related to the value of the state capital appropriation made to the partner entity. Section I is to be filled out by the staff of the Department of Higher Education. Sections II and III are to be filled out by the partner campus.

Joint Use Agreement Worksheet – Exhibit A

Page 2

BGSU Hospitality Program

Estimated Value of Use Calculations

- a. Academic Facility Rental Rates 12,753 sq.ft. @ \$15 per =
\$191,295.00 - \$12,000.00 - \$1 =
\$179,294.00

This rental rate offset is for the exclusive BGSU use of 12,753 sq.ft. of academic space, made up of four large classrooms, faculty and administrative office space, collaborative study and lounge space, along with a number of breakout/group study rooms. All of this space will be used in support of the classes taught in progress toward the new bachelor degree in the Cedar Fair Resort and Attraction Management Program at BGSU. In this initial year the rate reflects a one-time rental charge for initial costs related to the space, as well as the annual rental charge rate of \$1.

- b. Academic Facility Rental Rates 12,753 sq.ft. @ \$15 per =
\$191,295.00 - \$1 = \$191,294.00

This rental rate offset is for the exclusive BGSU use of 12,753 sq.ft. of academic space, made up of four large classrooms, faculty and administrative office space, collaborative study and lounge space, along with a number of breakout/group study rooms. All of this space will be used in support of the classes taught in progress toward the new bachelor degree in the Cedar Fair Resort and Attraction Management Program at BGSU. In years two through twenty the rate reflects the annual rental charge rate of \$1.

BGSU-CEDAR FAIR
Master Agreement

Exhibit E

Exhibit E

Pro-Forma Program Calendar

For example incoming 2020 students:

Co-Op 1 – May to October 2020
Fall Classes – October to December 2020
Winter Classes – March to May 2021

Co-op 2 - May to October 2021
Fall Classes – October to December 2021
Winter Classes – March to May 2022

Graduation May of 2022.

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (herein called “Lease” or “Sublease”) is entered by and between Resort School LLC, an Ohio limited liability company (“Landlord” or “Resort School LLC”) and Cedar Point Park LLC, a Delaware limited liability company (herein called “Tenant”).

RECITALS

WHEREAS, Cedar Fair, L.P. and Bowling Green State University (“BGSU”) entered into a Cooperative Agreement, effective March 28, 2018 (a copy of which is attached hereto as **Exhibit 1** and made a part hereof), and a Master Agreement, effective _____ (a copy of which is attached hereto as **Exhibit 2** and made a part hereof), to cooperate in establishing a public-private education program to be named and referred to as the “Cedar Fair Resort and Attraction Management Program at BGSU” (hereinafter, “the Program”) that will provide students with instruction leading to the award of a BGSU Bachelor of Science degree in Resort and Attraction Management.

WHEREAS, Resort School LLC has been organized (i) to develop a mixed-use project containing a first-class educational, residential, administrative, and recreational facility that will commonly be known as “the Cedar Fair Resort and Attraction Management Program at BGSU (the “Project”), including all matters related to the acquisition of the Land (as defined below) and the financing and construction of improvements thereon, and (ii) to operate and manage the Project upon the completion of construction; all in furtherance of the Cooperative and Master Agreements with BGSU;

WHEREAS, the Project shall be developed on .803+/- acres of land (“Land”) owned by Resort School, approximately in accordance with the site plan (“Site Plan”) attached hereto as **Exhibit 3** and made a part hereof;

WHEREAS, the Project includes the development of a 78,000+/- square foot building (the “Building”), including 12,753+/- square feet on the Project’s first floor consisting of a resort and attraction management educational school program facility (the “Academic Facility” or “Demised Premises”) attached hereto as **Exhibit 4** and, together with a first floor retail space and apartments lobby, 80+/- apartments on the Project’s second through fifth floors to house 124+/- program participants and to be constructed on the Land (the “Residential Facility”);

WHEREAS, the Project is being financed through a grant from the State of Ohio under a Joint Use Agreement between the Erie County Port Authority (“Port Authority”), a grant from the City of Sandusky, equity funding from the members of Resort School LLC, and bonds issued by the Port Authority and purchased by Tenant;

WHEREAS, in connection with the financing for the Project, the Port Authority is to ground lease the Land from Landlord pursuant to a ground lease (the “Ground Lease”) between Landlord and the Port Authority, lease the Land and improvements thereon, and the Building, including the Demised Premises (Academic Facility) and Common Areas, to Landlord under a Lease Agreement between Landlord and the Port Authority (“ECPA Lease”), and Landlord will

sublease the Academic Facility to Cedar Point Park, LLC, which will in turn sublease it to BGSU; and

WHEREAS, pursuant to the Cooperative Agreement, the Master Agreement, the Joint Use Agreement, and financing-related agreements with the Port Authority, Tenant has entered into a Sublease Agreement to sublease the Academic Facility to BGSU (“BGSU Sublease”), a copy of which is attached hereto as **Exhibit 5** and made a part hereof.

LEASE TERMS

NOW THEREFORE, in consideration of the Demised Premises, the mutual covenants herein contained, and each act to be performed hereunder by the parties, Landlord and Tenant hereby enter into the following Sublease Agreement (herein called “Lease”).

- 1. Definitions:** Unless otherwise specified in this Lease, terms used in this Lease shall have the same definition and meaning as defined and used in the BGSU Sublease.
- 2. Construction of the Project and Improvements.** Landlord shall cause the Project and Project improvements to be constructed in accordance with its obligations to the Port Authority and as provided under the BGSU Sublease.
- 3. Lease.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Demised Premises for a term commencing on the Lease Commencement Date and continuing through the life of the ECPA Lease.
 - a. It is understood and agreed that the scope of this Lease, including parking and use of Common Areas, is intended to be as broad as possible to permit Tenant to perform all its obligations and duties under the BGSU Sublease to BGSU.
 - b. All issues regarding operations of the Demised Premises, including Common Areas, Operating Expenses, taxes, insurance, parking, separation of utilities, eminent domain, and such other matters shall be as provided under the BGSU Sublease.
 - c. Landlord shall exercise its best efforts to ensure that Tenant remains in full compliance with all its obligations and duties under the BGSU Sublease.
- 4. Representations and Warranties.** Tenant shall have the right to rely on all representations made by Landlord to the Port Authority under the ECPA Lease.
- 5. Rent.** Tenant shall pay rent to for the duration of the Lease in one lump sum payment in the amount of Ten Dollars (\$10.00), which shall be paid to Landlord on or before the Rent Commencement Date.
- 6. Operating Expenses.** Landlord acknowledges that Tenant is serving as a pass-through entity between it and BGSU for all Operating Expenses associated with this Lease.

Landlord shall timely invoice Tenant for the Operating Expenses, which shall be paid to Landlord upon BGSU's payment of the invoices to Tenant.

As used in this Lease, "Operating Expenses" pertaining to the Demised Premises shall mean for each calendar year during the Term, all direct and Tenant's proportionate share of expenses, costs and disbursements, of every kind and nature, paid or incurred by Landlord with respect to or for the operation, maintenance, repair and replacement, administration and management of the Land and improvements thereon, the Building, the Demised Premises and Common Areas (all collectively listed below as "Demised Premises and Common Areas" in subparts (a) through (r) below for convenience) in accordance with generally accepted accounting principles and sound management practices. The Operating Expenses shall include (without duplication, mark-up or premium), but shall not be limited to, the following:

- (a) wages, salaries and other direct costs of all employees engaged in the operation, maintenance or security of the Demised Premises and Common Areas, including, without limitation, taxes, insurance and benefits related thereto (the foregoing to be equitably apportioned for employees that also perform work at other properties);
- (b) all supplies and materials used in the operation and maintenance of the Demised Premises and Common Areas;
- (c) cost of all utilities (excluding amounts separately billed to other tenants for utilities consumed in their premises and excluding amounts separately billed to Tenant of use in its Demised Premises and paid for by Tenant), including, but not limited to, the cost of water, sewer, power, heating, air conditioning and ventilating provide to the Common Areas;
- (d) the cost of all maintenance and service agreements, including, but not limited to, security, access control, and energy management services, maintenance contracts, window cleaning, snow removal, elevator maintenance, pest control, landscaping, janitorial service, garbage and trash removal and any additional services not provided to the Demised Premises and Common Areas at the Lease Commencement Date but thereafter provided;
- (e) cost of all insurance, including, but not limited to, the cost of property, liability, rental interruption, and other applicable insurance for the Demised Premises and Common Areas;
- (f) costs incurred by Landlord as a result of or in order to comply with laws not applicable, or not applicable as amended, on the Date of Lease, including, without limitation, laws pertaining to requirements of the Americans with Disabilities Act ("ADA Laws") and energy or natural resource conservation or environmental protection (such as the costs of securing alternative sources of utilities, energy or other products or services) ("Environmental Laws") which apply to the exterior of the Demised Premises and Common Areas;

- (g) Management fees for services provided to the Demised Premises and Common Areas;
- (h) Reasonable professional fees relating to the normal and routine operation, maintenance, repair, administration and management of the Demised Premises and Common Areas, including, without limitation, auditing, accounting, engineering, architectural and reasonable attorneys' fees (collectively, the "Allowed Professional Fees");
- (i) Personal property and sales or use taxes on equipment and supplies used or services provided in connection with the Demised Premises and Common Areas;
- (j) Capitalized Cost of Cost Saving Capital Improvements applicable to the Demised Premises and Common Areas;
- (k) Any costs, charges and expenses which according to generally accepted accounting principles and practice would be regarded as costs to maintain and operate the Demised Premises and Common Areas, and for the exterior of the Building;
- (l) Business taxes and sales taxes on rents relating to the Demised Premises, Common Areas, and the exterior of the Building;
- (m) The amount of any dues or assessments or common area maintenance charges or other payments payable by Landlord with respect to the Land to any property owner's association or under any reciprocal easement agreement, declaration of easements or similar agreement affecting the Land, which payments are made to an unaffiliated third-party or are made to an affiliated party but only to the extent the amount so paid is not in excess of the amount which would have been paid on an arms-length basis to an unrelated third party; and
- (n) The cost of maintenance and repair of the outside grounds (including the cost of gardening and landscaping thereof and snow and ice removal);
- (o) All expenses specifically delineated as Operating Expenses in this Lease;
- (p) Audit expenses arising from a Tenant request for audit;
- (q) The cost of tools and equipment purchased or rented to equip and operate the Demised Premises and Common Areas;
- (r) The preceding list is not exhaustive and is for definitional purposes only and shall not impose any obligation on Landlord to incur such expenses or provide such service unless such obligation is expressly set forth in this Lease.

As provided in the BGSU Sublease, after transfer of ownership of the Demised Premises to a new owner, Operating Expenses shall be the operating expenses or their substitute or

equivalent, as the case may be, depending on the term used in such case, such as Condominium Association Fees, charged by the Condominium Association to the new owner of the Demised Premises or Tenant's new landlord if the Building is not divided into a condominium. It is understood and agreed that the Tenant's intent herein is to continue passing the pro-rata costs and expenses of maintenance and operation, including property taxes and insurance, to BGSU, no matter any changes to the name of such costs and expenses or who charges them based on the change of ownership structure that may happen. Tenant shall pass the Operating Expenses charged to it to BGSU at cost without any additional charges.

All Operating Expenses for the Land and improvements thereon, the Building, the Demised Premises and Common Areas shall be reduced by the amount (net of collection costs) of any insurance reimbursement, discount or allowance received by Landlord in connection with such costs.

The Operating Expenses, other than Operating Expenses directly attributable to the Demised Premises, shall be prorated based on the applicable square footage of the Demised Premises to the remainder of the Building as measured in accordance with the BOMA Standard.

- 7. Governing Law and Jurisdiction.** This Lease shall be governed exclusively by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles of conflicts of laws. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Agreement, and each party consents to the exclusive jurisdiction of such courts. Landlord and Tenant hereby agree not to challenge this Governing Law and Jurisdiction provision, and further agree not to attempt to remove any legal action outside of Erie County for any reason.
- 8. Binding Effect.** This Lease shall inure to the benefit of and shall be binding in accordance with its terms upon the parties and their respective successors and permitted assigns.
- 9. Joint Preparation.** This Lease shall be deemed to have been jointly prepared by all parties hereto, and any ambiguities or uncertainties herein shall not be construed for or against any party.
- 10. Counterparts.** This Lease may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of both parties hereto be contained on any one counterpart hereof. Additionally, the parties hereto agree that for purposes of facilitating the execution of this Agreement, (a) the signature pages taken from the separate individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts and (b) signatures provided by facsimile or in Adobe Portable Document Format (PDF) sent by electronic mail shall be deemed to be original signatures for all purposes. All executed counterparts of this Agreement shall be deemed to be originals, but all such

counterparts taken together or collectively, as the case may be, shall constitute one and the same agreement.

- 11. Incorporation of Recitals:** The Recitals and all exhibits to this Lease are incorporated herein by reference.
- 12. Entire Agreement.** This Lease constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, representations, and understandings of the parties, written or oral.
- 13. Amendments, Changes, Modifications.** This Lease may not be amended, supplemented, changed, modified, or altered except by an instrument in writing executed by all parties to it.
- 14. Severability.** If any provision of this Lease, or any covenant, stipulation, obligation, agreement, act, or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision or any other covenant, stipulation, obligation, agreement, act or action or part thereof, made, assumed, entered into, or taken, each of which shall be construed and enforced as if such illegal or invalid portion were not contained herein. Nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such provision, covenant, stipulation, obligation, agreement, act, or action, or part shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

IN WITNESS WHEREOF, Landlord and Tenant have respectively signed and sealed this Lease.

EXECUTED by Landlord:
RESORT SCHOOL LLC

By: _____
Adelbert P. Marous, Jr.

Its: Manager

Date: _____

EXECUTED by Tenant:
CEDAR POINT PARK LLC

By: _____
Brian C. Witherow

Its: CFO

Date: _____

STATE OF OHIO)
) SS
COUNTY OF LAKE)

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that Adelbert P. Marous, Jr., as Manager of Resort School LLC, an Ohio limited liability company, being personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered this said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF OHIO)
) SS
COUNTY OF ERIE)

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that Brian C. Witherow, as CFO of Cedar Point Park LLC, an Ohio limited liability company, being personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered this said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2019.

Notary Public

My Commission Expires: _____

EXHIBIT 1

COOPERATIVE AGREEMENT

EXHIBIT 2

MASTER AGREEMENT

EXHIBIT 3

SITE PLAN



EXHIBIT 4

ACADEMIC FACILITY / DEMISED PREMISES

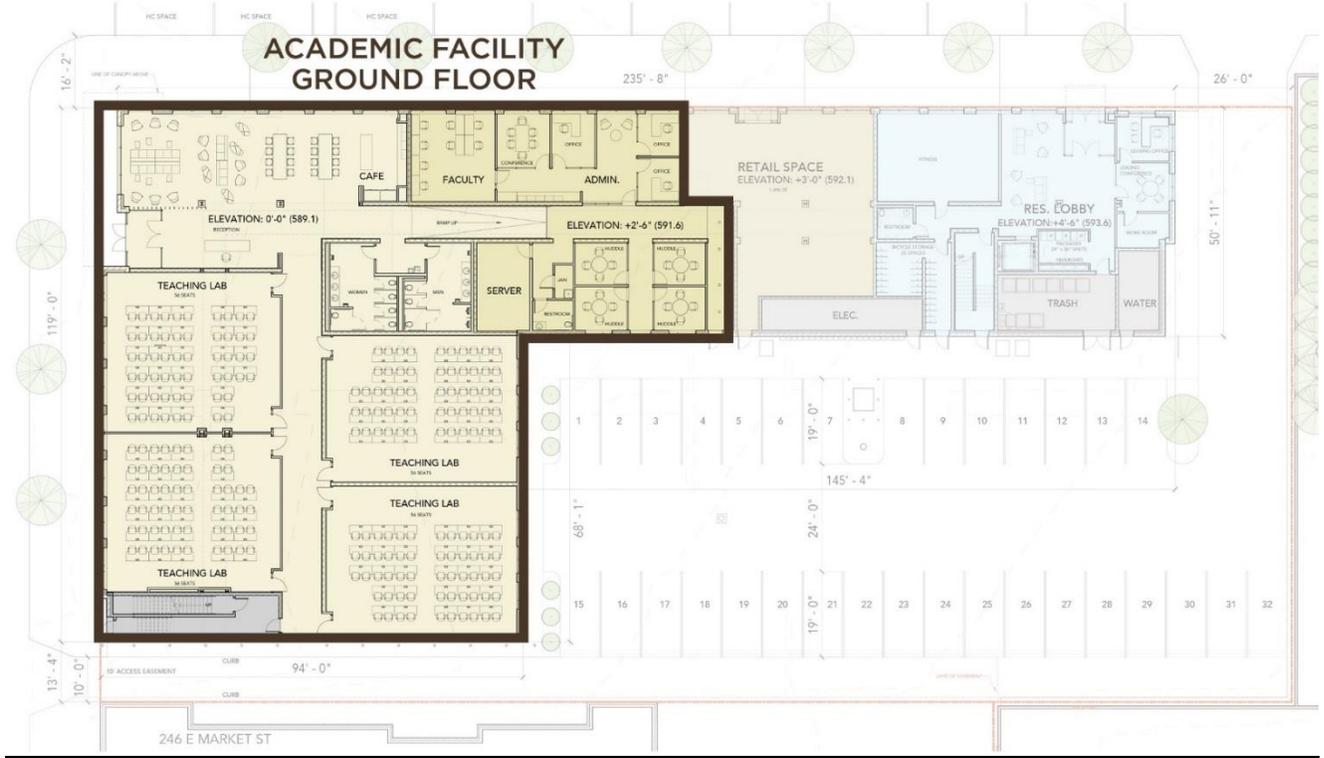


EXHIBIT 5

BGSU SUBLEASE