



JASON E. MUMPOWER
Comptroller

TENNESSEE STATE SCHOOL BOND AUTHORITY

September 20, 2023

AGENDA

1. Call meeting to order, establish that there is a physical quorum, and receive public comment on actionable agenda items in accordance with 2023 Public Chapter 300 and Board guidelines
2. Approval of minutes from the July 25, 2023, meeting
3. Consideration and approval of the Resolution to Approve the Borrowing of Money by Another Method for Middle Tennessee State University – Azure Airport Development Sublease
4. Consideration and approval of the Resolution to Approve the Borrowing of Money by Another Method for University of Tennessee Knoxville – 617 W Main Street Lease
5. Report on Tennessee State School Bond Authority Bond and Revolving Credit Facility Indebtedness
6. Adjourn

TENNESSEE STATE SCHOOL BOND AUTHORITY

July 25, 2023

The Tennessee State School Bond Authority (“TSSBA”, or the “Authority”) met on Tuesday, July 25, 2023, at 8:00 a.m., in House Hearing Room II, 1st Floor, Cordell Hull Building, Nashville, Tennessee. The Honorable Jason Mumpower, Comptroller of the Treasury, participated telephonically, as authorized by Tennessee Code Annotated § 8-44-108, and presided over the meeting.

The following members were physically present:

Jamie Wayman, proxy for the Honorable David H. Lillard, Jr., State Treasurer
The Honorable Tre Hargett, Secretary of State
Commissioner Jim Bryson, Department of Finance and Administration
Luke Lybrand, proxy for Randy Boyd, President, University of Tennessee
Mike Batson, proxy for Dr. Flora Tydings, Chancellor, Tennessee Board of Regents

The following member was absent:

The Honorable Bill Lee, Governor

Mr. Mumpower noted the presence of a physical quorum, with himself participating telephonically, and asked Ms. Sandi Thompson, Director of the Division of State Government Finance (“SGF”), to call the roll. Ms. Thompson called the roll:

Mr. Hargett – Present
Mr. Bryson – Present
Mr. Wayman – Present
Mr. Lybrand – Present
Mr. Batson – Present
Mr. Mumpower – Present

Mr. Mumpower then asked Ms. Thompson, in accordance with Public Chapter 300 and guidelines previously passed by the Authority, whether any requests for public comment had been received. Ms. Thompson responded that no requests for public comment had been received.

Mr. Mumpower stated that the first item on the agenda was the consideration and approval of the minutes from the June 27, 2023, meeting of the Authority. Mr. Mumpower asked if there were any questions or discussion regarding the minutes. Hearing none, Mr. Hargett made a motion to approve the minutes, Mr. Bryson seconded the motion, and Ms. Thompson took the roll:

Mr. Hargett – Aye
Mr. Bryson – Aye
Mr. Wayman – Aye
Mr. Lybrand – Aye
Mr. Batson – Aye
Mr. Mumpower – Aye

The minutes were approved unanimously.

Mr. Mumpower stated that the next item on the agenda was the Consideration of a Resolution to Approve the Borrowing of Money by Another Method for Tennessee State University (“TSU”) – Red Roof Inn lease. Mr. Mumpower recognized Mr. Douglas Allen II, Vice President for Business & Finance at TSU, to present the request. Mr. Allen introduced Jason Evans, TSU’s new Chief Operating Officer, and William Radford, Assistant Vice President of University Design & Construction, and mentioned that General Counsel Laurence Pendleton and Vice President Frank Stevenson were present as well.

Mr. Mumpower asked if there were any questions and recognized Mr. Bryson. Mr. Bryson pointed out that the pro forma indicated there would be a revenue shortfall on the operation of the hotel leases for the year

and asked if TSU planned to cover the deficit. Mr. Allen responded that TSU did have sufficient plant funds to cover the deficit. Mr. Mumpower asked if TSU had filled the hotel space. Mr. Allen stated that the rooms in the hotels had not been committed to students as the hotel leases had not yet been approved, but stated that once approved, the rooms would be filled. Mr. Mumpower asked if TSU anticipated filling both hotels completely. Mr. Allen responded affirmatively that he did anticipate TSU would fill both hotels.

Mr. Mumpower asked whether TSU would need to lease both hotels in the spring, and if both hotels were anticipated to be filled in the spring. Mr. Allen responded affirmatively that he did expect both hotels would be needed in the spring. Mr. Allen stated that although attrition would impact enrollment from fall to spring, it would not necessarily impact TSU's housing needs. Mr. Allen stated that TSU would have the option to terminate the lease of one of the hotels in the spring depending on the housing need, with a 30-day notice to the lessor.

Mr. Mumpower stated that staff of both the TSSBA and the Comptroller's Division of State Audit had worked very diligently over the past month with TSU to evaluate housing scenarios and plant fund balances. Mr. Mumpower stated that he was concerned that sufficient plant funds would be available to cover current needs, without even considering the hotel leases operating at a deficit during the academic year. Mr. Mumpower stated that he wanted to do everything he could to support TSU, but he questioned if committing funds to the hotel leases was the right thing to do given the projects TSU currently had in the pipeline. Mr. Mumpower stated that he had discussions with auditors in his office who expressed that while the numbers were unaudited, they were concerned that the funds would not be sufficient to meet obligations that would be due.

Mr. Allen stated that he respectfully disagreed and that TSU worked with TSSBA staff to provide additional information requested during the past month. Mr. Allen stated that in a worst-case scenario if TSU needed to transfer \$31 million from plant funds, they would still have about \$10 million in unexpended plant funds, not including the \$14 million in Renewal and Replacement (R&R) plant funds. Mr. Allen stated that he knew TSU had the funds and had provided the information to show that TSU could cover the expenditures. Mr. Allen stated that the net impact of both leases was a \$120,000 difference for the academic year due to a decrease in the debt service expense which would result in additional spring housing revenues.

Mr. Mumpower stated that his understanding was that TSU currently had 18 active capital projects that had been approved by the state building commission and had committed approximately \$22.8 million in plant funds or other campus resources to pay for the projects. Mr. Mumpower stated that there were contracted obligations for \$11.8 million of which TSU had deposited \$8.7 million for payment, leaving a current balance due of \$3.1 million. There was also the potential for another \$10.9 million in process to be contracted out. Mr. Mumpower stated that while he understood that TSU could expend its \$14.1 million in R&R plant funds on the hotel leases, he thought it would be inadvisable due to the need for those funds to be used for repairs and replacements on existing buildings on campus.

Mr. Allen stated that TSU only had unfunded LGIP commitments of \$3.6 million due at that time and stated that to his knowledge TSU could use the R&R funds, although the R&R funds had not been used in the past eight to ten years. Mr. Allen stated that he was discussing being able to cover a \$1 million deficit that would be covered by additional revenues in the spring semester. Mr. Allen stated that he would not have brought the request forward if he had not reviewed the numbers, and that he was comfortable that TSU did have the reserves to cover a \$1 million deficit. Mr. Mumpower stated that he had concerns about R&R funds being used to cover a deficit and not spent on known R&R needs on campus.

Mr. Hargett stated that the Authority was aware last year that TSU would be requesting hotel leases in some capacity for the 2023-2024 academic year. Mr. Hargett stated that TSU's request had been revised from five hotel leases in the fall of 2022 to two hotel leases in the fall of 2023. Mr. Hargett asked TSU where they envisioned being a year from now. Mr. Allen stated that TSU's goal was to bring new residence halls online, however, he expected that TSU would need hotel housing again in 2024. Mr. Allen asked Mr. Stevenson to respond to the question given his role overseeing housing on campus. Mr. Stevenson stated that TSU was very intentional in terms of managing enrollment. Mr. Stevenson stated that due to the large

freshman class in 2022, they knew it would need hotel leases for housing space. Mr. Stevenson stated that with the same enrollment management in future years, TSU hoped to not need hotel leases. Mr. Stevenson acknowledged that housing students off campus in hotels was expensive and that TSU did not want to continue to house students in hotels.

Mr. Hargett asked when TSU would be able to accommodate the size of freshman class they would like to have without having to lease hotels. Mr. Stevenson stated that he expected that would likely be three to four years in the future when new residence halls were built. Mr. Hargett asked Mr. Allen to explain the difference between the deficit between the fall and the spring. Mr. Allen explained that TSU would potentially have a deficit of \$1 million in the fall and \$120,000 cumulatively for the year. Mr. Hargett asked what the balance of the R&R reserves was. Mr. Allen stated that the R&R balance was about \$14 million, and that TSU had not used the funds in the past. Mr. Hargett asked if Mr. Allen would be prepared to provide a certification to the Authority to attest that TSU had sufficient plant funds without using the R&R funds to cover the deficit. Mr. Hargett emphasized that the Authority both wanted and needed TSU to be successful.

Mr. Bryson asked what the difference was between the larger deficit in the fall versus a smaller one in the spring. Mr. Allen stated that TSU would bring in more revenues in the spring semester. Mr. Radford stated that TSU had to pay debt service in the fall semester, leading to larger deficit. Mr. Radford stated that during the spring semester more housing revenue would go towards the bottom line. Mr. Radford stated that if TSU only operated one hotel in the spring semester that the cumulative housing operation would produce a net profit of over \$500,000. Mr. Bryson asked what was the source of the debt service. Mr. Allen stated that TSU had housing revenues pledged to pay the debt service on the residence halls. Mr. Allen stated that the lower debt service in the spring contributed to a lower net deficit with the hotel leases.

Mr. Bryson asked what prior freshman enrollment had been and what was projected for this year's freshman enrollment. Mr. Stevenson stated that in 2022 TSU enrolled over 3,200 first-time freshmen while for fall of 2023, TSU expected to have 1,600 first-time freshmen. Mr. Bryson then asked what was TSU's total enrollment. Mr. Stevenson stated that total enrollment in 2022 was approximately 9,100. Mr. Hargett asked what size the sophomore class was at TSU. Mr. Stevenson stated that TSU was still going through the enrollment process, and he did not have an exact number at that time. Mr. Stevenson stated that it was reasonable to estimate that 65-70% of the students would return.

Mr. Batson asked if the \$120,000 deficit in the spring was calculated assuming 100% occupancy. Mr. Allen responded affirmatively. Mr. Batson asked what TSU would do if there was a reduction in occupancy that was not large enough to end one hotel lease. Mr. Allen stated that TSU would not operate an entire hotel lease with low occupancy and would seek alternate housing if necessary. Mr. Batson stated that he would also feel better with a certification given the estimates used.

Mr. Mumpower stated that in regard to the certification that Mr. Hargett and Mr. Batson had referenced, he thought it would be best if the University President signed the certification verifying that TSU had sufficient plant fund reserves to cover any deficits from the hotel leases. Mr. Mumpower also stated that he thought it would be best if the Attorney General's ("AG") office drafted such a certification and that any motion today on the two items was contingent upon receipt of such signed certification from the University President.

Mr. Hargett made a motion to take up item number three, the Red Roof Inn lease, and item number four, the Best Western lease, together with approval of both contingent upon receipt of the signed certification from the TSU President as prepared by the AG's office. Mr. Batson made a motion to amend Mr. Hargett's motion for the TSU certification letter to include a statement that TSU had sufficient plant fund reserves to cover the approximately \$10.9 million in obligations not yet contracted for TSU capital projects. Mr. Hargett requested to hear from the AG's office on the matter of the certification letter. Mr. Mumpower recognized Mr. David Burn, Senior Assistant Attorney General in the AG's Financial Division. Mr. Burn stated that the AG's office would draft a certification, however, a simple certification would be preferable. Mr. Batson stated that he understood the concerns and withdrew his motion to amend Mr. Hargett's motion.

Mr. Mumpower clarified that the motion before the Authority was to approve both hotel leases together contingent upon receipt of a written certification drafted by the AG's office and signed by the TSU President stating that TSU had sufficient plant fund reserves to cover any deficits. Mr. Mumpower stated for the record that he would not be voting in favor of the items because he had not yet seen adequate documentation of TSU's plant fund reserves as well as current and future obligations. Mr. Mumpower reiterated that he wanted to support TSU, but without audited numbers he was unsure if TSU had the funds, regardless of a certification. Mr. Hargett expressed his concern that TSSBA staff would include the item on the agenda when the Comptroller felt unsure of the information to the point that he would choose to abstain from voting in favor of the item. Mr. Mumpower stated that in accordance with the law, members of the Authority could not and had not discussed the item beforehand. Mr. Mumpower stated that staff had polled the members of the Authority and that there was support for including the item on the agenda. Mr. Mumpower asked Ms. Thompson to take the roll:

Mr. Hargett – Aye
Mr. Bryson – Aye
Mr. Wayman – Aye
Mr. Lybrand – Aye
Mr. Batson – Aye
Mr. Mumpower – Pass

The motion was approved by a vote of 5-0-1.

Mr. Mumpower stated that the next item on the agenda was the Consideration of a Resolution to Approve the Borrowing of Money by Another Method for Tennessee State University – Stadium Lease Amendment. Mr. Mumpower recognized Mr. Laurence Pendleton, General Counsel at TSU, to present the request. Mr. Pendleton stated that he would discuss the amendment to the current stadium lease and the lease for the new Tennessee Titans (the "Titans") stadium yet to be built. Mr. Pendleton stated that TSU had a longstanding relationship with the Titans of the National Football League ("NFL") dating back to 1997 when TSU entered into a lease agreement to play their home football games in the current Titans stadium. Mr. Pendleton stated that the amendment to the current contract reflected the terms agreed to during the negotiation of the new lease. Mr. Pendleton stated that the new lease and amendment waived the TSU's annual rent of \$131,522 that it was currently required to pay. In addition, Mr. Pendleton stated that TSU would recognize cost savings in the lease of approximately \$526,000 annually. Mr. Pendleton explained that the terms of the new lease would also grant TSU additional merchandising opportunities to sell TSU products and apparel.

Mr. Pendleton stated that the new lease would also grant additional revenue streams to TSU. Mr. Pendleton explained that the lease would allow promotion of TSU during the Titans home games through three separate one-minute intervals. Mr. Pendleton stated that there would be a concourse section of the new stadium dedicated to the promotion of TSU. Mr. Pendleton stated that Titans management had agreed to cohost an event with TSU each year that includes revenue and cost sharing. Mr. Pendleton explained that the new lease offered significant cost savings to TSU and as well as a \$150,000 incentive for choosing to play a home game away from the Titans stadium. Mr. Pendleton stated that the Titans had entered into a series of community partnership agreements, including with TSU. Mr. Pendleton explained that this would include cooperation such as providing scholarships, hosting receptions, and allowing Titans executives to be available at TSU as adjunct faculty. Mr. Pendleton stated that this lease agreement was built on a strong existing relationship with the Titans.

Mr. Mumpower made a motion to approve item number five, Stadium Lease Amendment, and item number six, Stadium Lease, together. Mr. Bryson seconded the motion. Mr. Hargett congratulated TSU on the negotiations with the Titans and stated that the agreement seemed like a great deal for both parties. Mr. Bryson thanked the Titans organization for their support of TSU's athletic and academic missions and their support for the students. Mr. Pendleton stated that TSU's theme was to enhance and elevate the existing relationship to both TSU and the state of Tennessee's benefit. Mr. Mumpower asked Ms. Thompson to call the roll:

Mr. Hargett – Aye
Mr. Bryson – Aye
Mr. Wayman – Aye
Mr. Lybrand – Aye
Mr. Batson – Aye
Mr. Mumpower – Aye

The motion was approved unanimously.

Mr. Mumpower stated that the next item on the agenda was the Consideration of a Resolution to Approve the Borrowing of Money by Another Method for the University of Tennessee Health Science Center (“UTHSC”) – Corporate Quarters Lease. Mr. Mumpower recognized Mr. Austin Oakes, Assistant Vice President of the Office of Capital Projects at the University of Tennessee (“UT”) to present the request. Mr. Oakes explained that this lease would provide ten, two-bedroom units, for a total of 20 beds, for medical students performing clinical rotations in Knoxville. Mr. Oakes explained that the lease term would be for one year beginning in August of 2023, with an estimated total cost of \$420,900.

Mr. Bryson made a motion to approve the request, and Mr. Mumpower seconded the motion. Mr. Mumpower asked if there were any questions or discussion on the request. Mr. Hargett asked what the source of the funds would be for payment of the lease. Mr. Oakes explained that medical student fees anticipate that medical students will rotate through clinical programs during the academic program. Mr. Oakes stated the fees generated would cover the lease expense. Mr. Mumpower asked Ms. Thompson to call the roll:

Mr. Hargett – Aye
Mr. Bryson – Aye
Mr. Wayman – Aye
Mr. Lybrand – Aye
Mr. Batson – Aye
Mr. Mumpower – Aye

The motion was approved unanimously.

Mr. Mumpower stated that the next item on the agenda was consideration of a project for the University of Tennessee at Knoxville. Mr. Mumpower recognized Mr. Oakes to present the request.

- University of Tennessee, Knoxville – Lindsey Nelson Stadium Renovations (A99); Cost: \$95,800,000 of which \$85,000,000 will be financed through TSSBA; Term of Financing: \$72,500,000 to be financed over 30 years as long-term financing at an assumed taxable rate and \$12,500,000 to be financed over 10 years as short-term financing at an assumed taxable rate.

Mr. Oakes stated that gifts and athletic funds were included in the project budget. Mr. Oakes noted that this stadium renovation project was independent of the baseball practice facility currently included in UT’s Public Private Partnership (“PPP”) planning process. Mr. Hargett made a motion to approve the item and Mr. Bryson seconded the motion. Mr. Mumpower asked Ms. Thompson if SGF had conducted a feasibility analysis on the project. Ms. Thompson stated that SGF had performed a feasibility analysis and determined the revenues pledged would be sufficient to cover the maximum annual debt service on the project. Mr. Mumpower asked Mr. Oakes what private gifts UT expected in regard to the project. Mr. Oakes stated that UT anticipated gifts would be a part of the budget, would contribute to repayment of the 10-year borrowing, and that gifts were both in-hand and pledged towards the project. Mr. Mumpower asked Ms. Thompson to call the roll:

Mr. Hargett – Aye
Mr. Bryson – Aye
Mr. Wayman – Aye
Mr. Lybrand – Aye

Mr. Batson – Aye
Mr. Mumpower – Aye

The motion was approved unanimously.

Mr. Mumpower stated that the next item on the agenda was consideration of a project for the University of Tennessee at Knoxville. Mr. Mumpower recognized Mr. Oakes to present the request.

- University of Tennessee Knoxville – Neyland Stadium South Renovations (A94); Increase in cost of \$49,000,000 for total funding of \$337,000,000 of which \$279,300,000 (includes an increase of \$46,700,000) will be financed by TSSBA; Term of Financing: \$200,200,000 to be financed for 30 years as long-term financing at an assumed tax-exempt rate and \$79,100,000 to be financed over 10 years as short-term financing at an assumed tax-exempt rate.

Mr. Oakes stated that this request included reducing the project's 10-year financing by \$20,400,000 and increased the project's 30-year financing by \$67,100,000. Mr. Oakes stated that in conjunction with gifts and other athletic funds this would bring the total project budget to \$337 million. Mr. Bryson made a motion to approve the project and Mr. Hargett seconded the motion. Mr. Mumpower asked if SGF had conducted a feasibility analysis. Ms. Thompson stated that SGF had performed a feasibility analysis and determined the revenues pledged would be sufficient to cover the additional maximum annual debt service on the project. Mr. Mumpower asked Mr. Oakes about private donations as a part of the project. Mr. Oakes explained that UT already had over \$30 million in private gifts in-hand for the project and anticipated additional gifts to be used towards the repayment of the 10-year financing. Mr. Mumpower asked if there was any further discussion, hearing none, Mr. Mumpower asked Ms. Thompson to call the roll:

Mr. Hargett – Aye
Mr. Bryson – Aye
Mr. Wayman – Aye
Mr. Lybrand – Aye
Mr. Batson – Aye
Mr. Mumpower – Aye

The motion was approved unanimously.

Mr. Mumpower stated that concluded the business on the agenda. Mr. Bryson made a motion to adjourn, and Mr. Wayman seconded the motion. Mr. Mumpower asked Ms. Thompson to call the roll:

Mr. Hargett – Aye
Mr. Bryson – Aye
Mr. Wayman – Aye
Mr. Lybrand – Aye
Mr. Batson – Aye
Mr. Mumpower – Aye

The motion was approved unanimously.
The meeting was adjourned.

Approved on this ____ day of _____, 2023.

Respectfully submitted,

Sandra Thompson
Assistant Secretary

**RESOLUTION TO APPROVE THE
BORROWING OF MONEY BY ANOTHER METHOD BY
MIDDLE TENNESSEE STATE UNIVERSITY**

Recitals

Whereas, Middle Tennessee State University (“MTSU”) is asking that it be allowed to enter a sublease (the “Sublease”) for real property (the “Property”) between it and Azure Airport Development SYI LLC (“Azure”); and

Whereas, the Property is approximately 7 acres and is located on land currently owned by the Shelbyville Municipal Airport and leased to Azure; and

Whereas, the Property is directly adjacent and to the east of an existing sixteen (16) acre tract (the “Sixteen Acres”) which is being leased by MTSU pursuant to approval given by the Tennessee State School Bond Authority (the “Authority”) in May, 2023; and

Whereas, the Sublease will allow a portion of the MTSU aviation fleet to be re-located to the Shelbyville Airport with flight operations ongoing through the construction of the MTSU Aerospace Campus project which will provide additional improvements (aircraft tie-down, apron, and taxiways) on the Sixteen Acres that, combined with the Property, will support the current and future needs of MTSU Aerospace Professional Pilot flight operations; and

Whereas, as part of the Sublease, Azure will construct improvements to the Property, including paved aircraft tie-down, apron, and taxiways for the MTSU Aerospace Professional-Pilot program; and

Whereas, additional site improvements to the Property will include vehicular parking and site utility installation to support a small temporary building for MTSU Aerospace staff and student pilot flight planning and briefing with instructors, with the temporary modular building to be leased by MTSU for approximately 30 months or until permanent facilities are constructed with the Aerospace Campus project; and

Whereas, per Federal Aviation Administration regulations, land and improvements serving flight operation activities are required to be located on leased land within the security perimeter of the Shelbyville Airport and cannot be purchased fee simple; and

Whereas, MTSU’s plan is to enter into the Sublease with Azure for land and improvements needed to support MTSU flight operations and once improvements by Azure are completed, MTSU will have the option for an early buy-out of the leasehold improvements from Azure with the existing lease agreement between Azure and the Shelbyville Airport to then be assigned to MTSU for the remainder of the forty-year lease term at the standard Shelbyville Airport base rental rate of \$0.35/square foot monthly; and

Whereas, the proposed Sublease term is for forty (40) years with a prepayment of eight hundred and sixty-eight thousand dollars (\$868,000) at the effective date and a monthly

base Sublease payment amount of sixty-one thousand five hundred twelve dollars and three cents (\$61,512.03) for the first five (5) years of the Sublease term or until an earlier planned leasehold improvement buy-out; and

Whereas, the monthly base Sublease payment amount will be ten thousand seven hundred twenty-five dollars (\$10,725) for years six (6) through forty (40) and all Sublease payments during the term of the Sublease will be paid through the use of Non-auxiliary (A) plant funds.

BE IT RESOLVED BY THE TENNESSEE STATE SCHOOL BOND AUTHORITY:

1. In accordance with the authority provided by Tennessee Code Annotated Section 49-3-1205(11), the Authority gives its approval for MTSU to enter into the Sublease.

BE IF FURTHER RESOLVED that all resolutions or parts of resolutions in conflict are repealed, and the resolution shall be effective as of September 20, 2023.

Adopted by the Authority at its meeting on September 20, 2023.

JASON E. MUMPOWER, SECRETARY
TENNESSEE STATE SCHOOL BOND AUTHORITY



Campus Planning
MTSU Box 44 – Holmes Building
1672 Greenland Drive
Murfreesboro, TN 37132
615-898-2411

Ms. Sandi Thompson
Director State Government Finance
Tennessee Comptroller of the Treasury
425 Rep. John Lewis Way N.
Nashville, TN 37243-3400

Ms. Thompson:

Middle Tennessee State University requests TSSBA approval of a sublease between Middle Tennessee State University and Azure Airport Development SYI LLC. The sublease parcel is approximately 7 acres and is located on land currently owned by the Shelbyville Municipal Airport and leased to Azure Development. The land is located directly adjacent and to the east of the existing 16 acres of MTSU leased land approved by the TSSBA in May and the SBC in June for the MTSU Aerospace Campus Project (SBC# 366/009-04-2023). The proposed sublease will allow a portion of the MTSU aviation fleet to be re-located to the Shelbyville Airport with flight operations ongoing through the construction of the MTSU Aerospace Campus project. The Aerospace Campus project will provide additional improvements (aircraft tie-down, apron, and taxiways) on the existing 16-acre MTSU leased parcel that, combined with this requested 7-acre Azure sublease area, will support the current and future needs of MTSU Aerospace Professional Pilot flight operations.

As part of the lease agreement, Azure Airport Development will construct improvements to the lease area including paved aircraft tie-down, apron, and taxiways for the MTSU Aerospace Professional-Pilot program. Additional site improvements include vehicular parking and site utility installation to support a small temporary building for MTSU Aerospace staff and student pilot flight planning and briefing with instructors. The modular building will be leased by MTSU for approximately 30 months or until permanent facilities are constructed with the Aerospace Campus project.

Per FAA regulations, the land and improvements serving flight operation activities are required to be located on leased land within the security perimeter of the Shelbyville Airport and cannot be purchased fee simple. MTSU's plan is to enter into the proposed sublease with Azure Development for land and improvements needed to support MTSU flight operations. Once improvements by Azure are completed, MTSU has the option for an early buy-out of the leasehold improvements with Azure. The existing lease agreement between Azure and the Shelbyville Airport will then be assigned to MTSU for the remainder of the forty-year lease term at the standard Shelbyville Airport base rental rate of \$0.35/square foot monthly.

The proposed sublease term is for forty years with a prepayment of \$868,000 at the effective date and a monthly base rent amount of \$61,512.03 for the first five years of the lease term or until earlier planned leasehold improvement buy-out. The monthly base rent amount will be \$10,725 for years six through forty. Non-auxiliary plant funds are to be used for lease payments.

Thank you for your consideration and please don't hesitate to reach out if you have questions or need additional information as part of this request.

William Waits, Architect
Assistant VP for Campus Planning

MIDDLE TENNESSEE STATE UNIVERSITY

Acquisition – Lease (land)

Requested Action: **Approval of a lease**

Transaction Description: Transaction No. 23-05-502

• **Proposed Lease**

- **Location:** Bedford County – 2828 Highway 231-North, Shelbyville, TN 37160
- **Landlord:** City of Shelbyville, TN
- **Term:** Forty (40) years from execution
- **Area / Costs:** 6.33 acres / \$868,000 prepayment due at the sublease effective date plus \$738,144.36 per year for first five years and \$128,700 per year for the remaining 35 years (Shelbyville Municipal Airport base rental rate of \$.35/square foot per month)

• **Source of Funding:** Plant Funds (Non-Aux) (A)

• **Procurement Method:** Negotiated

Comment: This sublease with Azure Airport Development will provide additional land and improvements needed to support the MTSU Aerospace Professional Pilot flight training program's move to the Shelbyville Municipal Airport from the Murfreesboro Municipal Airport. This land is located on airport property and directly adjacent to the existing 16 acres of MTSU leased land approved by the State Building Commission on June 20, 2023 that will be developed with the MTSU Aerospace Campus Project (SBC# 366/009-04-2023).

As part of the sublease agreement, Azure Airport Development will construct improvements to the lease area including paved aircraft tie-down, apron, and taxiways for the MTSU Aerospace Professional-Pilot program flight operations. Additional site improvements include vehicular parking and site utility installation to support a small temporary building for MTSU Aerospace staff and student pilot flight planning and briefing with instructors. The modular building will be leased by MTSU for approximately 30 months or until permanent facilities are constructed with the Aerospace Campus project.

Per FAA regulations, the land and improvements serving flight operation activities are required to be located on leased land within the security perimeter of the Shelbyville Airport and cannot be purchased fee simple. The requested sublease includes the option for an early buy-out of the leasehold improvements with Azure and future assignment of the leased land to MTSU for the remainder of Azure's forty-year lease term with the City of Shelbyville, TN.

Funding for lease payments will be with MTSU non-auxiliary plant funds.

The lease agreement was approved by the Tennessee State School Bond Authority on September XX, 2023

Executive Summary

October 2023 ESC Lease approval request

MTSU Sublease with Azure Airport Development SYI LLC

Middle Tennessee State University requests State Building Commission approval of a sublease between Middle Tennessee State University and Azure Airport Development SYI LLC. The sublease parcel is 6.33 acres and is located on land currently owned by the Shelbyville Municipal Airport and leased to Azure Airport Development. The requested leased land is located directly adjacent and to the east of the existing 16 acres of MTSU leased land with the City of Shelbyville, TN and approved by the TSSBA in May and the SBC in June for the MTSU Aerospace Campus Project (SBC# 366/009-04-2023).

The proposed sublease allows for a portion of the existing MTSU aviation fleet to be re-located to the Shelbyville Airport. This allows flight training operations at Shelbyville to be carried out through the construction of the MTSU Aerospace Campus project. The Aerospace Campus project will provide additional improvements (aircraft tie-down, apron, and taxiways) on the existing 16-acre MTSU leased parcel that, combined with this requested 6.33-acre Azure sublease area, will support the current and future needs of MTSU Aerospace Professional Pilot flight operations.

As part of the sublease agreement, Azure Airport Development will provide improvements to the lease area including paved aircraft tie-down, apron, and taxiways for the MTSU Aerospace Professional-Pilot program. Additional site improvements include vehicular parking and site utility installation to support a small temporary building for MTSU Aerospace staff and student pilot flight planning and briefing with instructors. The modular building will be leased by MTSU for approximately 30 months or until permanent facilities are constructed with the Aerospace Campus project.

Per FAA regulations, the land and improvements serving flight operation activities are required to be located on leased land within the security perimeter of the Shelbyville Airport and cannot be purchased fee simple. Once improvements by Azure Airport Development are completed, MTSU has the option for an early buy-out of the leasehold improvements with Azure. The existing lease agreement between Azure and the Shelbyville Airport will then be assigned to MTSU for the remainder of the forty-year lease term with the City of Shelbyville and at the standard Shelbyville Airport base rental rate of \$0.35/square foot per month.

The sublease term is forty years with a prepayment of \$868,000 at the sublease effective date and a monthly base rent amount of \$61,512.03 for the first five years of the lease term or until earlier planned leasehold improvement buy-out. The monthly base rent amount will be \$10,725 for years six through forty. Non-auxiliary plant funds are to be used for lease payments.

Thank you for your consideration and please don't hesitate to reach out if you have questions or need additional information as part of this request.



William Waits, Architect
Assistant VP for Campus Planning
Middle Tennessee State University

SUBLEASE AGREEMENT

BY AND BETWEEN

Azure Airport Development SYI, LLC

and

Middle Tennessee State University

DATED AS OF _____

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (the “Sublease”) is made and entered into as of _____ (the “Effective Date”), by and between Azure Airport Development SYI, LLC, a limited liability company authorized to do business in the State of Tennessee (“Azure”), and Middle Tennessee State University, a Tennessee public institution of higher education (“MTSU”).

WITNESSETH:

WHEREAS, the City of Shelbyville, the owner and operator of the Shelbyville Municipal Airport (the “City”) leased approximately 6.33 acres (275,850 square feet) of undeveloped land located on the Shelbyville Municipal Airport (the “Airport”) in Bedford County, Tennessee (the “Leased Premises”) to Azure pursuant to a certain Lease Agreement (the “Lease”), dated July 13, 2023 and expiring forty (40) years from the Commencement Date set forth in the Lease. A copy of the Lease is attached hereto as Exhibit A and is incorporated herein by this reference; and

WHEREAS, Azure desires to sublet the Leased Premises to MTSU (the “Subleased Premises”) and has the consent from the City to do so, which Subleased Premises are more particularly described in Exhibit B attached hereto and incorporated herein; and

WHEREAS, Azure shall construct aviation-related facilities and improvements on and to the Subleased Premises; and

WHEREAS, it is the intent of Azure to grant, demise and let unto MTSU, and MTSU intends to sublease, accept and rent from Azure, the above referenced Subleased Premises;

WHEREAS, this Sublease is contingent upon Azure obtaining written consent from the City for Azure to convey, pledge or encumber, by deed of trust, mortgage or similar instrument (the “Approved Leasehold Mortgage”) of Azure’s leasehold interest in and to the Subleased Premises in favor of Azure’s Approved Leasehold Mortgagee, and permission for Azure to assign the Lease and Sublease as collateral security for such Approved Leasehold Mortgage and all rights given to the Approved Leasehold Mortgagee as provided in Article 30 of the Lease; and

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth in this Sublease, and other good and valuable consideration, the receipt of which is hereby acknowledged, Azure does hereby sublease the Subleased Premises to MTSU on the following terms and conditions:

ARTICLE 1 **DEFINITIONS**

For purposes of this Sublease, the following terms are defined as follows, unless the context clearly indicates otherwise:

1.1 “Applicable Laws” shall mean the following:

- a. All present and future ordinances, statutes, orders, directives, rules, codes, regulations and decrees of federal, state and municipal authorities and agencies and their respective agencies, departments, authorities and commissions;
- b. All present and future grant assurances provided by the City to any Governmental Authority, including the State of Tennessee, the United States Department of Transportation, the Federal Aviation Administration (the “FAA”) and the Transportation Security Administration (the “TSA”), in connection with the City’s ownership or operation of the Airport; and
- c. All generally applicable rules, regulations, policies and procedures of the City, as the same may be amended, modified or updated from time to time, including the Rules and Regulations of the Airport.

- 1.2 “Business Day” shall mean each day other than a Saturday, a Sunday or any other legal holiday on which commercial banks in the State of Tennessee are authorized to close under Applicable Laws, or any Middle Tennessee State University school-wide closure.
- 1.3 “Sublease Year” shall mean the 12-month period corresponding to Azure’s Lease Year under its Lease with the City, with the period of time from the Effective Date of this Sublease to the beginning of the next Lease Year being a Partial Sublease Year.
- 1.4 “Subleased Premises” shall have the meanings set forth in the second recital paragraph hereof and shall include all unimproved and improved property, now existing or as may be constructed during the Term (as defined in Section 2.1 below) of this Sublease, on, in or under the Subleased Premises area as depicted on Exhibit B, attached hereto.
- 1.5 “Person” shall mean a natural person, corporation, partnership, trust, joint venture, association, limited liability company or other entity.
- 1.6 “Residual Value Amount” shall mean the remaining cost for the Construction Costs at the time of termination of this Lease, calculated by a monthly straight-line depreciation of the Construction Costs over the Lease Term, commencing upon completion of the Azure Improvements. For purposes of this paragraph, Construction Costs shall include actual costs incurred to construct the Azure Improvements and shall not include architectural and engineering fees, attorney fees, or the cost to obtain applicable permits.

ARTICLE 2

TERM

2.1 Term.

Subject to the earlier termination of this Sublease as permitted by the terms hereof, the term of this Sublease (the “Term”) shall commence on the Effective Date and shall end at twelve o’clock midnight, Shelbyville, Tennessee time, on the date that the Lease terminates.

2.2 Early Buy-Out or Termination of Sublease.

Notwithstanding the Term set forth herein, at any time after the Effective Date of the Sublease and prior to the termination date, MTSU has the right to a) terminate the Sublease upon six (6) months prior written notice to Azure, or b) assume Azure’s Lease with the City upon six (6) months prior written notice to Azure, or with less notice if the parties so agree, and upon such assumption this Sublease would terminate (the “Buy-Out”). Notwithstanding the above, the termination date will be the last day of the month in which the six (6) month notice date falls. In consideration of the Buy-Out or early termination of the Sublease, MTSU must, prior to the effective date of the Buy-Out or early termination, prepay the applicable Buyout or Early Termination Amount as set forth in Column C of Exhibit D attached hereto and incorporated herein by reference, without discount to Azure but not to include interest that has not accrued on the principal being paid; however the foregoing payment obligation by MTSU shall not apply if MTSU terminates the Sublease due to a Delayed Delivery Term, as that term is later defined.

ARTICLE 3

SUBLEASE SUBORDINATION

This Sublease and all of MTSU’s rights hereunder are expressly subject to and subordinate to all of the terms of the Lease. Except as expressly provided in this Sublease, MTSU does not assume any of the obligations of Azure under the Lease. Azure shall perform for the benefit of MTSU all of the obligations of Azure under the Lease. Azure agrees that Azure shall, when necessary, cause the City to perform its obligations under the Lease. The parties acknowledge that any termination of the Lease will result in termination of this Sublease. Azure shall

provide MTSU a copy of any notice it receives under the Lease from the City within three (3) days of Azure's receipt of such notice in order to provide MTSU the opportunity to cure a breach by Azure. If Azure does not perform any of its obligations under the Lease, MTSU shall have the right, but not the obligation, to perform Azure's obligations and any cost of said performance shall be reimbursed by Azure to MTSU within ten (10) days after receipt of notice from MTSU.

ARTICLE 4

IMPROVEMENTS & DELIVERY DATE

4.1 Improvements.

MTSU has requested Azure to construct certain improvements on the Subleased Premises as generally described on Exhibit C hereof and incorporated herein by this reference (the "Azure Improvements"). Azure shall complete, at its cost, the Azure Improvements in a good and workmanlike manner using materials of a first grade and quality and according to the requirements of the existing codes and regulations of the City of Shelbyville and Bedford County, Tennessee, requirements of any authority having jurisdiction, and in accordance with applicable federal regulations. Within forty-five (45) days from the Effective Date of this Sublease, Azure shall deliver civil construction plans for the construction of the Azure Improvements (the "Construction Plans") for MTSU's written approval. MTSU will provide notification of its approval or disapproval of the plans within fourteen (14) days after receipt. Upon receipt of MTSU's written approval, which approval shall not be unreasonably withheld or delayed, Azure shall promptly submit the Construction Plans to the City for approval and once obtained, Azure shall promptly submit the Construction Plans to the applicable governmental authorities (the City and all other applicable governmental authorities are hereinafter referred to as the "Governmental Approvals") and thereafter use diligent, good faith efforts to obtain all necessary approvals and permits from governmental and regulatory authorities for Azure to complete the Azure Improvements.

4.2 Delivery Date.

- a) Azure shall use commercially reasonable efforts to deliver the Subleased Premises to MTSU on the earlier of i) the day that the Delivery Conditions are met or ii) May 1, 2024, which shall be defined as the "Delivery Date"; however, it is understood that Azure may be prevented from completing the Azure Improvements by the Delivery Date due to Unavoidable Delays as hereinafter defined. Should Azure fail to deliver the Subleased Premises on or before the Delivery Date, except due to an Unavoidable Delay, MTSU may assess liquidated damages in the amount of \$1,000.00 per day of delay. Azure shall provide quarterly updates to MTSU of the completion status and shall explain all Unavoidable Delays that might prevent Azure from completing the Azure Improvements on or before the Delivery Date. Notwithstanding the foregoing, or any other provision hereof, in the event that: (i) this Lease has not been fully executed and all Governmental Approvals for the plans have not been obtained on or before December 1, 2023 (the "Lease and Governmental Approvals Date") and/or (ii) Azure is delayed in the timely fulfillment of any of its obligations hereunder, or is delayed or unable to complete the Azure Improvements, and such delay or inability is a direct result of any action or inaction by MTSU, including, but not limited to, MTSU's failure to timely provide any items required to be provided by MTSU to Azure (a "MTSU Delay"), Azure may extend the Delivery Date and the Extended Delivery Date as hereinafter defined for an amount of time commensurate with delay in obtaining the Lease and Governmental Approvals and such MTSU Delay.
- b) Unavoidable Delays shall be defined as any strikes, lockouts, or labor disputes, inability to obtain labor, materials, or reasonable substitutes therefor, or acts of God, including without limitation, rain or storms sufficient to delay work for one (1) or more days, terrorism, governmental restrictions, regulations or controls that were not reasonably known by Azure at the time of execution of this Sublease, enemy or hostile governmental action, civil commotion, fire or other casualty or other conditions similar or dissimilar to those enumerated in this Section beyond the reasonable control of Azure and not due to the fault or negligence of Azure or MTSU. If Azure or MTSU shall, as a result of any Unavoidable Delay, fail punctually to perform any obligation on its part to be performed under this Sublease, then such failure shall be excused and not be a breach of this Sublease, but only to the extent occasioned by such event.
- c) Except as provided in paragraph 4.2(a) relating to the MTSU Delay and/or the Lease and Governmental Approvals, should Azure's delivery of the Subleased Premises be delayed beyond July 1, 2024 (the "Extended Delivery Date") for any reason, other than an Unavoidable Delay, MTSU may terminate this

Sublease without penalty and Azure shall refund to MTSU any and all amounts paid to Azure by MTSU under this Sublease, including but not limited to any Prepayment (Paragraph 5.1) and Base Rent (Paragraph 5.2), plus any accrued liquidated damages arising as a result of Azure's delay ("Delayed Delivery Termination").

4.3 Delivery Conditions.

On or before the Delivery Date, Azure shall have satisfied the following delivery conditions (hereinafter collectively referred to as the "Delivery Conditions"):

- a) The Azure Improvements shall be complete, to include asphalt underneath the temporary structure to be provided by MTSU;
- b) All materials used in the construction of the Azure Improvements must be new and of the quality called for pursuant to the Construction Plans.
- c) All utilities, including (1) water, (2) gas, (3) sewer, (4) electricity (meeting MTSU's AMP service specifications), and (5) the fire sprinkler system including monitoring panel, have been separated and connected to the improvements, including the temporary structure provided by MTSU, in good working order and in compliance with current applicable laws and of sufficient standards and capacity to enable MTSU to complete any work necessary for MTSU to open and operate in the Subleased Premises without the need for modification or enhancement, and Azure shall have paid all fees and charges necessary to obtain said utility connections. For those utilities that are separately metered to the Subleased Premises, MTSU shall pay all utility deposits and activation fees associated with opening an account;
- d) MTSU shall be permitted to select its own telecommunications and internet provider; however, Azure will be responsible for providing fiber optic connectivity to the Subleased Premises;
- e) The site improvements serving the Subleased Premises from the public streets and adjacent property shall be complete and accessible, including (1) all paving and striping, and (2) all required parking lot lighting meeting lighting specifications of the Applicable Laws;
- f) Azure will deliver, or cause to be delivered, evidence satisfactory to MTSU that establishes commercially reasonable, as determined by MTSU in its sole discretion, legal and physical ingress and egress between the Subleased Premises and taxiways and publicly dedicated roadways; which will be satisfied by the Easements provided by the City to Azure and then assigned to MTSU as set forth on the Azure Improvement construction plans;
- g) If the Subleased Premises comprises a newly-constructed or newly-separated space, Azure shall obtain a new address from the Post Office and/or municipality to identify the Subleased Premises;
- h) Azure shall deliver a temporary or conditional certificate of occupancy (or equivalent), if available from any applicable governmental authority with respect to any improvements, including the temporary structure provided by MTSU, and if applicable, all final zoning variances, conditional use permits or similar permits necessary to enable MTSU to occupy the Subleased Premises for the Permitted Use (the "variances/permits");
- i) Azure shall prepare and submit to MTSU a single complete package consisting of three (3) hard-copy sets and a PDF file of the final civil plans and three (3) hard-copy sets and a PDF file of the construction drawings, including but not limited to architectural, structural, mechanical, plumbing, and electrical drawings, all of which may be used by MTSU regardless of who prepared them, and Azure shall make reasonable efforts to obtain a license from the design professionals granting to MTSU the unrestricted right to use any or all parts of such plans for future additions or alterations, provided that all reference to the originating professionals and their practices is removed from the subsequently-altered plans. Civil site plans and surveys shall be supplied to MTSU in an electronic format (.dwg file) to be used to facilitate design and development of the adjacent land;
- j) MTSU must cooperate fully with Azure in obtaining all variances/permits; and
- k) Upon Azure's completion of the Azure Improvements, Azure will provide MTSU a copy of the as-built survey Azure is required to have prepared pursuant to the Lease and a final accounting of the actual Construction Costs incurred by Azure. It is acknowledged that the date for Azure to provide MTSU a copy of the as-built survey and a final accounting of the actual Construction Costs incurred by Azure are not a delivery condition that must be accomplished before Delivery Date and that Azure will have a reasonable amount of time past the Delivery Date to provide these documents to MTSU.

4.4 Walkthrough.

Not later than five (5) days after the Delivery Date, MTSU, Azure, Azure's contractor, and MTSU's architect or other third-party consultant, if any, shall conduct a walkthrough inspection ("Walkthrough") and shall generate a punch list setting forth defective work or additional work remaining to be completed on the Subleased Premises in accordance with the requirements of this Sublease ("Punch List"). Azure shall promptly commence and proceed with due diligence to perform and complete the work set forth on said Punch List. Azure shall complete or correct all items on the Punch List within thirty (30) business days following the Walkthrough ("Punch List Completion Date") and shall provide MTSU with photographs (transmitted to MTSU via electronic mail as of the date such Punch List item was completed). Azure will provide MTSU with reasonable prior notice to schedule a follow-up Punch List inspection and walk-through. In the event of Azure's failure to complete said Punch List items on or before the Punch List Completion Date, except for those items beyond Azure's control, then at MTSU's sole option, MTSU may either complete such Punch List items, in which event MTSU shall be reimbursed for the cost of the Punch List items that MTSU completes or seek any other legal remedies available to MTSU. MTSU shall furnish an accounting of the Punch List items to Azure, along with copies of the receipts for each item with a request for reimbursement. In the event MTSU elects to complete such Punch List items and Azure fails to reimburse MTSU for all reasonable and actual costs and expenses incurred by MTSU in the completion thereof within thirty (30) days after written demand has been made to Azure, MTSU may then deduct such costs and expenses from any Rent due or to become due to Azure. MTSU shall have the right, from time to time during the first thirty (30) days after the Delivery Date, to add to such Punch List any items which MTSU later discovers remain to be done, and Azure shall have a reasonable time in which to complete such item or items, not to exceed thirty (30) business days.

ARTICLE 5

RENT

5.1 Prepayment

Within fifteen (15) days of the Effective Date, MTSU shall pay Azure the sum of Eight Hundred Sixty-Eight Thousand Dollars (\$868,000) as reflected in Column A on Exhibit D attached hereto and incorporated herein by reference.

5.2. Base Rent.

In addition, MTSU shall pay the annual rent without prior notice or demand in equal monthly installments in advance, on the first day of the month, as set forth in Column B on Exhibit D, subject to the provisions of this Sublease (the "Base Rent"). Such Base Rent payment shall be prorated if the due date of the rental payment is not on the first date of a month. If any Base Rent or other amount owed by MTSU to Azure is not paid within 15 days following the due date, Azure may, in its sole discretion, impose interest on MTSU, which shall not exceed 1.5% per month calculated in the manner provided in the Tennessee Prompt Pay Act. § 12-4-701 et seq

5.3. Additional Rent.

Any sum (other than the Rent amounts required above) that MTSU is obligated to pay to Azure pursuant to Article 10 of this Sublease constitutes Additional Rent.

ARTICLE 6

ALTERATIONS AND REMOVAL

6.1. Alterations.

MTSU shall have the right to make interior changes or alterations which are non-structural, and which do not affect the mechanical, electrical or plumbing systems in the Subleased Premises without Azure's approval or consent. Examples of allowable improvements include painting, installation of detached furniture, furniture attached to walls, carpet replacement, ceiling tile replacement, and appliance replacements.

6.2. Removal.

Any temporary structures, trade fixtures, signs and other personal property of MTSU not permanently affixed to the Subleased Premises shall remain the property of MTSU and shall so remain unless MTSU shall fail within ten

(10) days following the termination of this Sublease to remove its temporary structures, trade fixtures, signs and other personal property not permanently affixed to the Subleased Premises, in which event, at the option of Azure, title to the same shall vest in Azure, at no cost to Azure, or Azure may elect to exercise its rights as set forth in this Agreement. MTSU shall be responsible for making repairs at its sole cost and expense for any damage resulting from the removal by MTSU of its furniture, trade fixtures, or other personal property.

ARTICLE 7

USE OF SUBLEASED PREMISES

7.1 Permitted Use.

During the Term of this Sublease, and subject to MTSU's obligations hereunder, MTSU shall have the right to perform at and provide from the Subleased Premises aeronautical uses permitted under the applicable Airport Rules and Regulations, to include but not be limited to flight training, aircraft storage, aircraft fueling, and aircraft maintenance and repair (the "Permitted Use"). MTSU's right to provide the Permitted Use shall be non-exclusive.

7.2 Supervision.

Azure and MTSU hereby agree that the management, maintenance and operation of the Subleased Premises shall at all times be under the supervision and direction of MTSU and its active and qualified employees. The actions of MTSU, and its employees, invitees, suppliers and contractors, shall be conducted in an orderly and proper manner so as not to unreasonably annoy, disturb or be offensive to others beyond that typical for the Permitted Use.

7.3 Cease Operations.

Should the City, or any successor entity, prevent MTSU from using the Subleased Premises for a period of ninety (90) days or longer or cease operation of the Airport in whole or in part for a period of ninety (90) days or longer such that MTSU is prevented from using the Subleased Premises for its Permitted Use, then MTSU may elect, in its sole discretion, to terminate this Sublease by providing Azure with at least thirty (30) days prior notice of its intent to terminate. Upon the date of termination, MTSU shall have no further obligations under this Sublease. Azure shall pay any Residual Value Amount, if applicable, to MTSU.

ARTICLE 8

ACCESS

Subject to all Applicable Laws, MTSU shall have access to the Subleased Premises twenty-four (24) hours per day, seven (7) days a week. MTSU shall have the right of ingress to and egress from the Subleased Premises for MTSU and MTSU's officers, employees, agents, servants, customers, vendors, suppliers, patrons and invitees. Such right of ingress and egress shall include, but not be limited to, the non-exclusive right to use all existing and hereafter created means of access to the Airport through, across, over and by the unimpeded use of all presently existing or hereafter relocated or installed taxiways, runways, roads, bridges, overpasses, causeways and highways providing access within, to and from the Airport. The right of ingress and egress shall be used jointly with other tenants of the Airport. Azure recognizes that MTSU's access to the runways and taxiways on the Airport are critical for MTSU's operations, and Azure will secure access easements via separate document with the City for Azure and MTSU's benefit.

ARTICLE 9

REPAIRS AND MAINTENANCE

9.1 Repairs.

During the Term, MTSU, at MTSU's sole cost and expense, shall be responsible for all repairs and maintenance of the Subleased Premises and shall keep and maintain all of the Subleased Premises, including buildings, aircraft ramp and apron areas, roadways, driveways, automobile parking areas, sidewalks, fencing, gates, lighting, underground detention/retention ponds, drainage and utility facilities and all other improvements located on, in or under the Subleased Premises, in a state of good condition and repair in accordance with the reasonable requirements of

Azure and all Applicable Laws, and shall make all necessary repairs, replacements and renewals, whether structural or nonstructural, foreseen or unforeseen and ordinary or extraordinary, in order to maintain such state of condition and repair; it being the intention of the parties that Azure shall have no liability for any of the foregoing. MTSU shall be responsible for keeping the Subleased Premises in a good, clean, safe and sanitary condition, to include the provision of janitorial services, supplies, and trash removal.

9.2 Emergency Blockage Only.

Except in an emergency, Azure will not permit or cause any blockage into or out of the Subleased Premises, nor will Azure permit any blockage of any taxiways, runways, roads, bridges, overpasses, causeways and highways providing access within, to and from the Airport.

ARTICLE 10 **COMPLIANCE WITH LAWS**

In MTSU's use and occupancy of the Subleased Premises during the Term, MTSU and Azure, their respective officers, agents, servants, employees, contractors, licensees, invitees, and any other person whom either MTSU or Azure controls or has the right to control shall comply with all Applicable Laws, and each party shall pay its respective costs, expenses, liabilities, losses, fines, penalties, claims and demands, including reasonable attorneys' fees, that may in any way arise out of or be imposed because of the failure of that respective party to comply with any Applicable Laws.

ARTICLE 11 **ENVIRONMENTAL COMPLIANCE**

11.1 Definitions.

- a) "Hazardous Wastes" means all waste materials subject to regulation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (including the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. §§ 9601, *et seq.*; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. §§ 2601, *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. §§ 300f, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101, *et seq.*; the Clean Air Act, 42 U.S.C. §§ 7401, *et seq.*; the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*; the Tennessee Hazardous Waste Management Act, Tennessee Code Annotated §§ 68-212-101, *et seq.*, the Tennessee Hazardous Waste Management Act of 1983, Tennessee Code Annotated §§ 68-212-201, *et seq.*; and the Tennessee Petroleum Underground Storage Tank Act, Tennessee Code Annotated §§ 68-215-101, *et seq.*, all as amended, and any other materials, wastes, pollutants, oils or governmentally regulated substances or contaminants defined or designated as hazardous, radioactive, dangerous or any other similar term in or under any of the Environmental Laws.
- b) "Toxic Substances" means and includes any materials that have been shown to have significant adverse effects on human health or which are subject to regulation under the Toxic Substances Control Act, 15 U.S.C. §§ 2601, *et seq.*, as amended, or any other Applicable Laws now in force or hereafter enacted relating to toxic substances. "Toxic Substances" includes asbestos, polychlorinated biphenyls (PCBs), petroleum products, lead-based paints, flammable explosives, radioactive materials and any other pollutants and any hazardous, toxic or dangerous waste, substance, material or pollutant defined as such in (or for purposes of) the Environmental Laws or listed as such by the United States Environmental Protection Agency.
- c) "Hazardous Materials" means Hazardous Wastes and Toxic Substances, collectively.
- d) "Environmental Laws" means and includes all current and future laws relating to Hazardous Materials together with all other Applicable Laws, and any judicial or administrative interpretations thereof, relating to health, safety or environmental matters.

11.2 MTSU Responsibilities.

MTSU (including its agents, contractors, employees, and any other entities for which MTSU is responsible), in its use of the Subleased Premises shall comply with all federal, state, and local statutes, ordinances, regulations, rules, policies, codes, or guidelines now or hereafter in effect, as they may be amended from time to time, that govern Hazardous Materials (as defined above) or relate to the protection of human health, safety, or the environment and represents and agrees that:

- a) It shall not give authorization or consent for any activity at or near the Subleased Premises which could involve or lead to the use, manufacture, storage or disposal of any Hazardous Materials, except for the types, and in the amounts, used in the ordinary course of the business of MTSU within the Subleased Premises;
- b) It shall keep the Subleased Premises free and clear of any liens imposed pursuant to any applicable Environmental Laws as a result of MTSU's use of the Subleased Premises;
- c) All licenses, permits and other governmental or regulatory actions necessary for operations that MTSU conducts at the Subleased Premises to comply with Environmental Laws shall be obtained and maintained and MTSU shall ensure compliance therewith;
- d) It shall promptly notify Azure in the event of the discovery of any Hazardous Materials on the Subleased Premises not permitted hereunder or any violation of any of the Environmental Laws; and
- e) Subject to the terms of this Article, it will promptly forward to Azure copies of all orders, notices, permits, applications or other communications and reports (individually, an "Order") that MTSU receives and that relate to any violation of Environmental Laws applicable to the Subleased Premises or any discharge, spillage, use or discovery of any Hazardous Materials or any other matter relating to the Environmental Laws as it may affect the Subleased Premises, and shall promptly comply with each such Order and remediate such violation. In the event that an Order is subject to an attorney/client or attorney work product privilege, MTSU shall not be required to provide such Order to Azure; provided, however, that MTSU shall promptly provide the notice required under this Sublease regardless of the source of such information, including an Order subject to an attorney/client or attorney work product privilege. Upon the receipt of any such notice or Order, Azure and any environmental consultant or other Person designated by Azure shall have the right, but not the obligation, to enter upon the Subleased Premises at reasonable times to assess the environmental condition of the Subleased Premises and its use, including conducting an environmental assessment or audit (the scope of which shall be determined in the sole and absolute discretion of the party conducting the assessment) and taking samples of soil, groundwater or other water, air or building materials; provided, however, that, (i) except in the event of an emergency, any such entry by Azure or any environmental consultant or other Person designated by Azure shall occur between the hours of 8:00 a.m. and 5:00 p.m. after not less than 48 hours prior notice to MTSU, and (ii) Azure shall repair and restore any damage to the Subleased Premises resulting from such entry upon the Subleased Premises by Azure or any environmental consultant or other Person designated by Azure. MTSU shall reasonably cooperate with and provide access to Azure and any environmental consultant or other Person designated by Azure.

11.3 Obligation to Remediate.

In making the representations and agreements set forth in this Sublease, MTSU does not undertake any obligation to remediate, or take any other action with respect to, or incur any liability for the cost of remediating or taking other action with respect to, any environmental condition affecting the Subleased Premises that (i) has resulted from the migration of Hazardous Materials to the Subleased Premises from off-site sources or adjacent parcels and is not attributable to the activities of MTSU or any of its officers, contractors, subcontractors, invitees, agents, representatives or employees or any of their respective officers, contractors, subcontractors, invitees, agents, representatives or employees, or (ii) is not attributable to the activities of MTSU or any of its officers, contractors, subcontractors, invitees, agents, representatives or employees; provided, however, that Azure and MTSU do not intend this Article to limit Azure's right to seek contribution or cost-sharing under any applicable Environmental

Laws for costs that it may incur in connection with inspections, investigations, studies, design, construction, remediation or operations or maintenance of remedial activities at, on or near the Subleased Premises from parties responsible for any contamination occurring at, on or near the Subleased Premises. The foregoing express right of Azure to seek contribution or cost-sharing shall in no way increase and alter MTSU's liability as set forth elsewhere in this Sublease.

11.4 Azure Remedies.

If MTSU shall fail to comply with any of the requirements of the Environmental Laws, Azure may, in addition to the other remedies for MTSU's default set forth herein, at Azure's election but without the obligation to do so, (i) give such notices, (ii) cause such work to be performed on the Subleased Premises, and (iii) take any and all other actions as Azure shall deem necessary or advisable in order to abate, remove or remediate any Hazardous Materials or otherwise cure MTSU's noncompliance, with the costs thereof that are attributable to the actions of MTSU, to be reimbursed to Azure within sixty (60) days of demand in accordance with the Tennessee Prompt Pay Act, Tenn. Code Ann. § 12-4-701 et seq., and interest on any past due amounts shall not exceed 1.5% per month calculated in the manner provided in the Tennessee Prompt Pay Act.

ARTICLE 12 **LIENS AND TAXES**

12.1 No Liens.

MTSU shall not do or suffer anything to be done by which the Subleased Premises, or any part thereof, may be encumbered by a lien of any kind, and any claim against MTSU is governed by the Tennessee Claims Commission. Azure shall have the right at all times to post and keep posted on the Subleased Premises any notices permitted or required by law, or which Azure shall deem proper, for the protection of Azure, the Subleased Premises and any other party having an interest therein from mechanic's or materialmen's liens.

12.2 Taxes.

MTSU will pay all lawfully imposed taxes in accordance with Tennessee law.

ARTICLE 13 **UTILITIES**

The City will provide adequate utility service to Azure for Azure's use and accessible at or immediately adjacent to the Subleased Premises within sixty (60) days from the Commencement Date of the Lease between the City and Azure. The installation of meters and connection to the City-provided utility service shall be included in the Azure Improvements and Azure will provide material, labor and equipment to connect utility service to the proposed temporary structure provided by MTSU. After utility service is provided and connected, MTSU shall, at its sole cost and expense, pay for all utility services required for the Permitted Use during the Term, including gas, electricity, water, sewer, heat/air, internet, cable/TV services, and telephone, and all charges associated with any of the foregoing.

ARTICLE 14 **INDEMNIFICATION**

MTSU will be responsible for any and all damages, injury, and claims which may result from MTSU's use, occupancy or condition of the Subleased Premises to the extent that such liability is imposed by the Tenn. Code Ann. § 9-8-101 et seq. MTSU shall be responsible for its own negligence and shall be liable for actual damages only. Azure shall indemnify, save harmless and defend MTSU from and against any and all claims, losses, damages, liabilities, penalties, including, without limitation, all costs, expenses, court costs and reasonable attorneys' fees, resulting from or arising out of any breach by Azure of its obligations under this Sublease.

ARTICLE 15 **INSURANCE**

MTSU will obtain and maintain in full force and effect during the Term of this Sublease, and all extensions and amendments thereto, at least the following insurance:

15.1 Self-Insured.

The State's self-insurance program insures all liability created under Title 9, Chapter 8 of the Tennessee Code Annotated, for all State departments, agencies and institutions, including State institutions of higher education, and any entity deemed by the General Assembly to be a State agency for the purpose of participating in the State's self-insurance program. The State of Tennessee self-insures its exposures in general liability, automobile liability, professional malpractice, and workers' compensation. The limits of liability for general liability, professional malpractice, and automobile liability are \$300,000 per person and \$1 million per occurrence. The limits of liability under workers' compensation are those set forth in T.C.A. §50-6-101 et seq. Statutes that authorize actions against the State of Tennessee, establish the State's limit of liability, and authorize self-insurance through the Risk Management Fund, are set forth in T.C.A § 9-8-101 et seq.

15.2 Insurance.

MTSU shall purchase Aviation Liability Insurance with a limit of not less than \$3,000,000 per each occurrence and shall name Azure and the City as additional insureds. Such insurance shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, liability assumed under an insured contract, and if applicable, mobile equipment coverage. If such aviation liability insurance does not contain the standard ISO separation of insureds provision (also known as a severability of interests clause), or a substantially similar clause, they shall be endorsed to provide cross liability coverage.

ARTICLE 16
DAMAGE AND DESTRUCTION

In the event of total or partial damage or destruction by fire, explosion, tornado or other casualty of the Azure Improvements, or any portion thereof, Azure will repair or rebuild the Azure Improvements, or the portion that is damaged or destroyed, at its sole cost and expense.

ARTICLE 17
CONDEMNATION

In the event of any condemnation proceeding in which all or any part of the Subleased Premises is taken, all compensation from such proceeding shall be paid to Azure. Additionally, MTSU may pursue a claim against the condemnor for the value of the improvements on the Subleased Premises that are owned by MTSU, and MTSU's Subleasehold interests. In the event of a partial taking that leaves MTSU with a sufficient remaining portion such that MTSU can utilize the Subleased Premises for the Permitted Use, Azure shall reduce the Rent payable by MTSU on a pro rata basis for the portions of the Subleased Premises taken. If, however, the Subleased Premises is rendered unusable for the Permitted Use, in MTSU's reasonable discretion, MTSU may terminate this Sublease by giving Azure a written notice of termination, and after payment by MTSU to Azure the applicable Buyout or Early Termination Amount as specified in Column C in Exhibit D, and payment by Azure to MTSU any applicable Residual Value Amount, this Lease shall terminate at the time specified in the notice (which shall not be less than thirty (30) days after the date of such notice).

ARTICLE 18
ASSIGNMENT AND SUBLETTING

MTSU shall not assign or transfer any portion of the interest under the Sublease without the prior written approval of Azure and the City which shall not be unreasonably withheld. Upon completion of an approved assignment, MTSU shall be released from all liabilities and obligations under this Sublease arising or accruing after the effective date of such assignment. Notwithstanding the foregoing, MTSU's use of vendors or other contracted service providers shall not be considered an assignment or transfer of interest under this Sublease.

ARTICLE 19
DEFAULT AND REMEDIES

19.1 Event of Default.

Any of the following occurrences or acts shall constitute an event of default (an “Event of Default”) under this Sublease:

- a) By MTSU: (i) MTSU fails to pay when due Rent or any other amount to be paid under this Sublease by MTSU, and the failure continues for thirty (30) days after written notice from Azure; or (ii) MTSU materially fails to perform or observe any other covenant or condition to be performed or complied with by MTSU under this Sublease, and the failure continues for thirty (30) days after written notice by Azure to MTSU, or, (iii) if the default complained of is of such a nature that it cannot reasonably be completely cured or remedied within such 30-day period, MTSU fails to commence to cure the default during the 30-day period, or does not thereafter diligently prosecute such remedy or cure to completion.
- b) By Azure: (i) Azure fails to perform or observe any covenant or condition to be performed or complied with by Azure under this Sublease, and the failure continues for thirty (30) days after written notice by MTSU to Azure, or (ii) if the default complained of is of such a nature that it cannot reasonably be completely cured or remedied within such thirty (30) day period, Azure fails to commence to cure the default during the thirty (30) day period, or does not thereafter diligently prosecute such remedy or cure to completion.

19.2 Right to Cure Defaults.

The parties have the following respective right to cure defaults:

- a) If MTSU shall fail to make any payment of Additional Rent, or perform any other act required to be made or performed under this Sublease, and the applicable grace period for cure by MTSU shall have expired, Azure, without waiving or releasing any obligation or default, may (but shall be under no obligation to) upon notice to MTSU, make the payment or perform the act for the account and at the expense of MTSU. All sums so paid by Azure, together with interest thereon, shall constitute additional rent and shall be paid by MTSU to Azure on demand.
- b) If Azure shall fail to make any payment or perform any other act required to be made or performed under this Sublease, and the applicable grace period for cure by Azure shall have expired, MTSU, without waiving or releasing any obligation or default, may (but shall be under no obligation to) upon notice to Azure, make the payment or perform the act for the account and at the expense of Azure. All sums so paid by MTSU, together with interest thereon, shall be paid by Azure to MTSU on demand or MTSU, at its option, may deduct from the payment of any Rent any such sums paid by MTSU.

19.3 Upon Default.

- a) Upon the occurrence of an Event of Default, the non-defaulting party shall be entitled to all rights and remedies available at law or in equity and shall be entitled to recover and collect from the defaulting party all damages that may be available under the laws of the State of Tennessee. Termination of the Sublease by either party pursuant to an Event of Default shall result in the payment by MTSU to Azure of the applicable Buyout or Early Termination Amount as specified in Column C in Exhibit D, and the payment by Azure to MTSU the applicable Residual Value Amount. Termination of the Sublease shall be effective no less than sixty (60) days from delivery of such notice to terminate. After payment of the applicable Buyout or Early Termination Amount as specified in Column C in Exhibit D and the Residual Value Amount, if applicable, this Sublease shall expire and terminate on the date set forth in such notice as fully and completely and with the same effect as if such date were the date herein fixed for the expiration of the Term, and all rights of both parties hereunder shall expire and terminate.
- b) Following a default by MTSU under the Sublease, Azure shall exercise commercially reasonable, good faith efforts to mitigate its damages as required by applicable Tennessee law.

ARTICLE 20
HOLDING OVER AND SURRENDER OF SUBLEASED PREMISES

In the event MTSU remains in possession of the Subleased Premises after the expiration or earlier termination of the Term, or any extension thereof, this Sublease shall be automatically extended on a month-to-month basis, subject to termination by either party on one month's notice, and otherwise on the terms and conditions herein specified, so far as applicable. Notwithstanding the above, if the rental rate charged by the City to Azure increases as a result of the holdover, MTSU's rent under this Sublease will be increased by a corresponding amount. At the expiration or earlier termination of the Term, MTSU shall surrender the Subleased Premises to Azure in substantially the same condition, order and repair as at the Effective Date, except for ordinary wear and tear, obsolescence and deterioration occurring on account of normal use and aging.

ARTICLE 21
QUIET ENJOYMENT

Azure warrants to MTSU that Azure has full power to enter into this Sublease, and that MTSU shall have and enjoy full, exclusive, quiet and peaceful possession of the Subleased Premises during the Term, subject to the provisions of this Sublease.

ARTICLE 22
NOTICES

All notices, approvals, consents, requests, demands and other communications required or permitted by this Sublease (individually, a "Notice") must be in writing to be effective and personally delivered or sent by certified United States Mail, postage prepaid, or by a recognized delivery service that provides registered and verifiable shipment or air bill tracking and delivery record, with costs prepaid, to the addresses set forth below:

If to Azure:

Azure Airport Development SYI, LLC
276 Doug Warpoole Road
Smyrna, TN 37167
Attn: Chief Manager

If to MTSU:

Middle Tennessee State University
1301 E. Main Street
Murfreesboro, TN 37132
Attention: Alan R. Thomas, Vice President, Business & Finance

With a copy to:

Middle Tennessee State University
1301 E. Main Street
Murfreesboro, TN 37132
Attention: Greg Van Patten, Dean, College of Basic and Applied Sciences

The person and place to which a Notice is to be sent may be changed by a party hereto upon written notice to the other. A Notice shall be deemed received and effective on the date that is three (3) days after the date on which the Notice is deposited in the United States Mail if sent by certified mail, or, if personally delivered, on the date such personal delivery is made. If a Notice is sent by a recognized delivery service, then the Notice shall be deemed received by the addressee on the date on which the signature receipt is recorded by such recognized delivery service.

ARTICLE 23

WAIVER OF COVENANTS, ETC.

No waiver of any condition or covenant of this Sublease shall be deemed to imply or constitute a further waiver of the same or any other like condition or covenant, and nothing herein contained shall be construed to be a waiver on the part of a party of any right or remedy in law or otherwise, and all of a party's remedies herein provided for shall be deemed to be cumulative.

ARTICLE 24 **ESTOPPEL CERTIFICATES**

At any time and from time to time, either party, on or before the date specified in a request therefor made by the other party, which date shall not be earlier than thirty (30) days from the making of such request, shall execute, acknowledge and deliver to the other a certificate stating (i) whether this Sublease is in full force and effect; (ii) whether this Sublease has been amended in any way and, if so, including any such amendments; (iii) whether, to the knowledge of such party, there are any existing Events of Default hereunder and specifying the nature thereof; (iv) the then-current Base Rent and the date to which Base Rent has been paid; and (v) such other facts with respect to this Sublease or the Subleased Premises as Azure or MTSU may reasonably request. Each certificate delivered pursuant to this Article may be relied on by any prospective purchaser, mortgagee or transferee of the Subleased Premises or of Azure's or MTSU's interest hereunder.

ARTICLE 25 **MISCELLANEOUS PROVISIONS**

- a) The headings used in this Sublease are inserted for convenience and are not to be considered in the construction of the provisions of this Sublease.
- b) All exhibits referred to are attached and made a part of this Sublease.
- c) Bracketed provisions in the forms of instruments included in exhibits hereto shall be conformed and/or completed as appropriate for the execution versions thereof.
- d) This Sublease and the exhibits constitute the entire agreement of the parties with respect to the Subleased Premises and all prior understandings and agreements relating to the subject matter hereof are hereby superseded.
- e) This Sublease and all the terms and conditions hereof shall be binding on and inure to the benefit of MTSU and its successors and assigns.
- f) This Sublease may not be amended or modified except by agreement in writing signed by both parties. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms, and personal pronouns may be read as masculine, feminine and neuter.
- g) References to statutes, regulations or ordinances are to be construed as including all provisions consolidating, amending or replacing the referenced statute, regulation or ordinance, and references to agreements and other contracts shall be deemed to include all subsequent amendments to or changes in such agreements or instruments entered into in accordance with their respective terms.
- h) Use of the term "include" or "including" means to include or including without limitation.
- i) Each of the parties hereto represents to the other that no brokers were involved in the negotiations of this Sublease or in introducing one party to the other.
- j) Azure shall maintain documentation for all charges against MTSU under this Lease. The books, records and documentation of Azure, insofar as they relate to reimbursement by MTSU for costs incurred, whether in whole or in part, shall be maintained for a period of five (5) full years from the date of what amounts to the final payment under this Sublease, and shall be subject to the review, at any reasonable time and upon reasonable notice by the appointed representatives of MTSU or State Comptroller of the Treasury.
- k) Time is of the essence to this Sublease and the obligations and requirements set forth herein.
- l) In the event any clause, term or condition of this Sublease shall be declared null and void, this Sublease shall remain in full force and effect as to all other terms, conditions and provisions.

- m) This Sublease may be executed in counterparts and each will be deemed an original but all counterparts together will constitute one instrument. The parties will fully execute a minimum of two copies of this Sublease, with one fully executed original copy being retained by each party.

ARTICLE 26

APPROVALS

Azure fully understands that this Sublease is not binding except and until all appropriate State officials' signatures have been fully obtained, approval of this Sublease has been given by the State Building Commission, if applicable, and the fully executed document returned to Azure.

ARTICLE 27

GOVERNING LAW

This Sublease shall be governed, construed, and enforced in accordance with the laws of the State of Tennessee. The parties hereto agree that any legal actions filed in connection with this Sublease shall be filed and maintained in the Courts of the State of Tennessee in Bedford County or in a federal court whose district encompasses Bedford County, provided however, any and all monetary claims against MTSU shall be submitted to the Board of Claims or the Claims Commission of the State of Tennessee and shall be limited to those provided for in Tenn. Code Ann. § 9-8-307.

ARTICLE 28

RELATIONSHIP OF PARTIES

This Sublease vests an estate to MTSU for the Term of this Sublease. Nothing herein contained shall cause the parties to be deemed or considered as partners or joint venturers in the operation of MTSU's business or otherwise, nor shall either party be deemed to be the agent of the other except as may be herein specifically provided, and the sole relationship between the parties shall be that of Azure as Azure and MTSU as MTSU.

ARTICLE 29

SIGNAGE

At any time and from time to time during the Term, upon the City's and Azure's prior consent, which consent may not be unreasonably delayed, conditioned or withheld, MTSU, at its sole cost and expense, may install signage on the Subleased Premises so long as such signage complies with Applicable Laws.

ARTICLE 30

NONDISCRIMINATION AND GOVERNMENTAL MATTERS

a) During the term of this agreement:

- (1) Each party agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates each party for the period during which Federal assistance is extended to the Airport through the Airport Improvement Program.

In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

- (a) The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - (b) The period during which the airport sponsor or any transferee retains ownership or possession of the property.
- (2) Each party covenants and agrees that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that each party shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- b) Nothing herein contained shall be deemed to grant either party any exclusive right or privilege within the meaning of Article 308 of the Federal Aviation Act of 1958, as amended (the "Federal Aviation Act"), in the conduct of any activity at the Airport, except that, subject to the terms and provisions hereof, each party shall have the rights with respect to the Subleased Premises under the provisions of this Sublease.
- c) This Sublease is subject and subordinate to the provisions of any agreement heretofore or hereafter made between the City and the United States government relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to the City for Airport purposes, or the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act.
- d) Each party will comply with all security regulations established or amended by, but not limited to the City, Department of Homeland Security, Customs and Border Protection, TSA and the FAA. If the City or Azure incurs any fines and/or penalties imposed by the Federal Aviation Administration and/or the Transportation Security Administration, or any expense in enforcing the regulations of Federal Aviation Regulations Part 1542 and/or the Airport Security Program, as a result of the acts or omissions of MTSU, MTSU agrees to pay and/or reimburse all such costs and expense. MTSU further agrees to rectify any security deficiency as may be determined as such by the City, the Federal Aviation Administration and/or the Transportation Security Administration. Azure reserves the right to take whatever action necessary to rectify any security deficiency as may be determined as such by the City, the Federal Aviation Administration and/or the Transportation Security Administration, in the event MTSU fails to remedy the security deficiency.
- e) Each party hereby represents that, as of the Effective Date, neither party nor any officer, employee, representative or agent of that party has given or donated, or promised to give or donate, either directly or indirectly, to any official, employee or commissioner of the City or to anyone else for its benefit, any sum of money or other thing of value to aid or assist in obtaining this Sublease.

ARTICLE 31 **FORCE MAJEURE**

Any prevention, delay or stoppage attributable to strikes, lockouts, terrorism, labor disputes, civil commotion, fire or other casualty not caused directly or indirectly by a party hereto, and acts of God, will excuse the performance of that party for a period equal to the duration of the prevention, delay or stoppage; provided,

however, that these provisions will not apply to the obligations imposed with regard to Rent and other charges MTSU must pay in accordance with the terms of this Sublease, including the applicable Buyout or Early Termination Amount as specified in Column C in Exhibit D, or to the payment by Azure of any Residual Value Amount, if any.

ARTICLE 32
BOYCOTT OF ISRAEL ACT

Pursuant to Tenn. Code Ann. § 12-4-119, Azure certifies that it is not currently engaged in, and will not for the duration of the Sublease or any extensions thereof, engage in a boycott of Israel, as defined by Tenn. Code Ann. § 12-4-119(a)(1).


ARTICLE 33
IRAN DIVESTMENT ACT

The requirement of Tenn. Code Ann. § 12-12-101, et seq., addressing contracting with persons with investment activities in Iran, shall be a material provision of this Sublease. Azure agrees, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Sublease as of the day and date first written above.

Azure Airport Development SYI, LLC:

By:  August 1, 2023

Name: James Allen Howell

Title: President / CEO

Middle Tennessee State University:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A
LEASE BETWEEN AZURE AND CITY OF SHELBYVILLE

See attached.

LEASE AGREEMENT

BY AND BETWEEN

City of Shelbyville

AND

Azure Airport Development SYI, LLC

DATED AS OF July 13, 2023

LEASE AGREEMENT

THIS LEASE AGREEMENT (the “Lease”) is made and entered into as of July ____, 2023, by and between the City of Shelbyville, a municipality existing under the laws of the State of Tennessee (the “Landlord”), and Azure Airport Development SYI, LLC, a limited liability company authorized to do business in the State of Tennessee (the “Tenant”).

WITNESSETH:

WHEREAS, Landlord is the owner and operator of the Shelbyville Municipal Airport, located in Shelbyville, Tennessee, hereinafter referred to as “the Airport”; and

WHEREAS, Tenant desires to enter into a ground lease of approximately six and 33/100 (6.33) acres (275,850 square feet) of undeveloped land (the “Parcel”) for aviation use, as shown as “Approximate Lease Limits” on the attached “Hangar/Offices for MTSU Aviation Facility” site plan as depicted in the attached diagram on Exhibit A; and

WHEREAS, Tenant shall construct aviation-related facilities as more fully depicted on Exhibit B, and shall make all necessary site and infrastructure improvements as defined in this Lease, in accordance with the requirements therein, and operate such improvements at its sole cost and expense; and

WHEREAS, it is the intent of Landlord to grant, demise and let unto Tenant, and Tenant intends to lease, accept and rent from Landlord, the above referenced Parcel; and

WHEREAS, Tenant intends to sublease the Parcel to Middle Tennessee State University (“MTSU”), an agency of the State of Tennessee, and provide MTSU a right to assume this lease, and several provisions of this Lease reflect that intent; and

WHEREAS, Tenant’s obligations hereunder are contingent upon the execution of a sublease relating to the Parcel with MTSU (the “MTSU Sublease”); and

NOW, THEREFORE, for and in consideration of the use and occupancy of the Parcel, benefits, covenants and agreements contained herein, and in consideration of the rents to be paid to Landlord, Landlord does hereby lease the Parcel to Tenant on the following terms and conditions:

ARTICLE 1 **DEFINITIONS**

For purposes of this Lease, the following terms are defined as follows, unless the context clearly indicates otherwise:

1. “Applicable Laws” shall mean the following:

- a. All present and future ordinances, statutes, orders, directives, rules, codes, regulations and decrees of federal, state and municipal authorities and agencies and their respective agencies, departments, authorities and commissions;
 - b. All present and future grant assurances provided by Landlord to any Governmental Authority, including the State of Tennessee, the United States Department of Transportation, the Federal Aviation Administration (the "FAA") and the Transportation Security Administration (the "TSA"), in connection with Landlord's ownership or operation of the Airport; and
 - c. All generally applicable rules, regulations, policies and procedures of Landlord, as the same may be amended, modified or updated from time to time, including the Rules and Regulations of the Airport.
2. "Business Day" shall mean each day other than a Saturday, a Sunday or any other legal holiday on which commercial banks in the State of Tennessee are authorized to close under Applicable Laws.
 3. "Lease Year" shall mean the 12-month period beginning on the Commencement Date of this Lease, as hereinafter defined, and each annual anniversary thereof.
 4. "Parcel" shall have the meanings set forth in the second recital paragraph hereof and shall include all unimproved and improved property, now existing or as may be constructed during the Term of this Lease, on, in or under the leasehold area as depicted on Exhibit A, attached hereto.
 5. "Person" shall mean a natural person, corporation, partnership, trust, joint venture, association, limited liability company or other entity.
 6. "Residual Value Amount" shall mean the Project Costs remaining at the time of termination of this Lease, calculated by a monthly straight-line depreciation of the Project Costs over the Lease Term, commencing upon completion of the Project or permanent improvement, as applicable.

ARTICLE 2

TERM

Subject to the earlier termination of this Lease as permitted by the terms hereof, the initial term of this lease (the "Term") shall commence on the Commencement Date which date will be reflected on an addendum to this Lease as the date the MTSU Sublease is fully executed, and shall end at twelve o'clock midnight, Shelbyville, Tennessee time, on the date which is forty (40) Lease Years from the Commencement Date.

ARTICLE 3

RENT

Rent shall commence on the Commencement Date of this Lease. Tenant shall pay the annual "Base Rent" or "Rent" of Thirty-Five Cents (\$0.35) per square foot of the Parcel as finally determined by the

As-Built Survey pursuant to Article 5, in equal monthly installments in advance, on the first day of the month, subject to the provisions of this Lease. Until the As-Built Survey is approved, Tenant shall pay monthly rent installments in the amount of Eight Thousand Forty-Five and 63/100 Dollars (\$8,045.63), which amount will be adjusted from the Commencement Date in the subsequent monthly installment upon approval of the As-Built Survey. Time is of the essence in the performance of all of Tenant's and Landlord's obligations hereunder. If any Rent or other amounts owed by Tenant to Landlord hereunder are not paid within fifteen (15) days following the due date, Landlord may, in its sole discretion, impose on Tenant a late fee equal to five percent (5%) of the outstanding amount (the "Late Fee"). The Late Fee shall become due and payable from Tenant to Landlord with the next monthly rental installment. Notwithstanding the foregoing, should MTSU assume this Lease, in accordance with the Tennessee Prompt Pay Act, Tenn. Code Ann. § 12-4-701 et seq., interest on any past due amounts shall not exceed 1.5% per month calculated in the manner provided in the Tennessee Prompt Pay Act.

ARTICLE 4

TENANT IMPROVEMENTS

- A. Tenant anticipates making the capital improvements to the Parcel as shown on Exhibit B, attached hereto, which may be revised as necessary as set forth in paragraph B below, including expansion of the ramp and improvement of the existing ramp, installation of aircraft tie-downs, and temporary structures (the "Project").
- B. In addition to the Project, Tenant shall have the right to install or erect additional improvements on the Parcel, provided however, that construction of all such improvements, including the capital improvements for the Project, shall commence only after plans and specifications have been submitted to and approved in writing by the Landlord, which approval shall not be unreasonably withheld, delayed or conditioned. Once approved, no material changes or alterations shall be made without the Landlord's prior written approval of such change, which approval shall not be unreasonably withheld, conditioned, or delayed. Any such alterations shall be without cost to the Landlord except for any applicable Residual Value Amount, and shall be completed in a timely manner and with the least disturbance possible to the public. All improvements made by Tenant to the Parcel shall be of good quality and workmanship. All charges, including installation cost, meter deposits and all service charges for water, electricity, and other utility services to and within the Parcel shall be paid by Tenant. All improvements and equipment constructed or installed by Tenant, its agents, or contractors, including the plans and specifications shall conform to all Applicable Laws.
- C. Landlord's approval of any plans or specifications submitted by Tenant shall refer only to the conformity of such plans and specifications to existing improvements at the Airport and Landlord requirements. Such plans and specifications are not approved for architectural or engineering design or compliance with Applicable Laws, and the Landlord, by approving such plans and specifications, assumes no liability or responsibility for any defect in any structure or improvement constructed according to such plans and specifications.

- D. Copies of the architectural drawings, as-builts, or other final documents for all improvements or subsequent changes therein or alterations thereof to the Parcel shall be submitted to the Landlord within ninety (90) days following completion of the Project, in such form as requested by Landlord. Upon completion of the Project or any other additional permanent improvements, Tenant shall provide Landlord with a true and correct statement of the actual cost of the Project or additional permanent improvements, if applicable, to include architectural and engineering fees, construction management, the cost to obtain the applicable permits, construction costs, and the purchase and installation of improvements, but not including the cost of any temporary structures which will be removed by Tenant or subtenant (the "Project Costs").
- E. Notwithstanding the foregoing, Tenant shall have the right to make interior changes or alterations which are non-structural, and which do not affect the mechanical, electrical or plumbing systems in the Parcel without the Landlord's approval or consent. Examples of allowable improvements include painting, installation of detached furniture, furniture attached to walls, carpet replacement, ceiling tile replacement, and appliance replacements.
- F. All improvements made to the Parcel and additions and alterations thereto by Tenant shall be and remain the property of Tenant until the termination of this Agreement (whether by expiration of the term, default, termination, forfeiture, or otherwise), whichever first occurs; at which time the said improvements shall become the property of Landlord, after payment of any Residual Value Amount, if applicable, provided, however, that any temporary structures, trade fixtures, signs and other personal property of Tenant or any subtenant not permanently affixed to the Parcel shall remain the property of Tenant or its subtenant and shall so remain unless Tenant shall fail within ten (10) days following the termination of this Agreement to remove its temporary structures, trade fixtures, signs and other personal property not permanently affixed to the Parcel, in which event, at the option of Landlord, title to the same shall vest in Landlord, at no cost to Landlord, or Landlord may elect to exercise its rights as set forth in this Agreement.
- G. Tenant shall not remove or demolish, in whole or in part, any permanent improvements upon the Parcel without the prior written consent of the Landlord, which may be conditioned upon the obligation of Tenant to replace the same by an improvement specified in such consent, and which shall not be unreasonably withheld.
- H. Tenant shall be responsible for making repairs at its sole cost and expense for any damage resulting from the removal by Tenant of its furniture, trade fixtures, or other personal property.
- I. In the event that the Landlord is required to pay the Residual Value Amount under any provision of this Lease, the Landlord shall pay the Residual Value Amount in full to Tenant immediately upon the event giving rise to Landlord's obligation to pay the Residual Value Amount.

ARTICLE 5
SURVEY

Upon Tenant's completion of the Project, Tenant, at Tenant's sole cost and expense, shall cause an as-built survey (the "As-Built Survey") to be prepared by a licensed surveyor, satisfactory to both parties, reflecting an accurate metes and bounds description of the Parcel, setting forth the acreage and square footage of the Parcel, and the location and square footage of the Project constructed on the Parcel.

ARTICLE 6
USE OF PARCEL

- A. **Permitted Use.** Landlord makes no representations or warranties, either express or implied, as to the condition of the Parcel or the suitability of the Parcel for the use intended by Tenant. Tenant takes the Parcel in an "as is" condition and accepts its suitability and sufficiency for Tenant's intended use. During the Term of this Lease, and subject to Tenant's obligations hereunder, Tenant shall have the right, on a non-exclusive basis, to perform at and provide from the Parcel aeronautical uses permitted under the applicable Airport Rules and Regulations, to include but not be limited to flight training, aircraft storage, aircraft fueling, and aircraft maintenance and repair (the "Permitted Use"). Subject to the terms and conditions contained herein, the Permitted Use shall include Tenant's right to:
- (1) Engage in the development of the Parcel, to include, but not limited to, construction of hangars, office, classroom, and maintenance space, aircraft ramp/apron and taxiways, automobile ingress/egress and parking, and other improvements that have been approved in writing by the Landlord; and
 - (2) Engage in the subleasing of space to others.
- B. Landlord and Tenant hereby agree that the management, maintenance and operation of the Parcel shall at all times be under the supervision and direction of active, and qualified personnel who shall at all times be subject to the direction and control of Tenant and its employees. The actions of Tenant, and its employees, invitees, suppliers and contractors, shall be conducted in an orderly and proper manner so as not to unreasonably annoy, disturb or be offensive to others beyond that typical for the Permitted Use.
- C. Should Landlord, or any successor entity prevent Tenant from using the Parcel for a period of ninety (90) days or longer or cease operation of the Airport in whole or in part for a period of ninety (90) days or longer such that Tenant is prevented from using the Parcel for its Permitted Use, then Tenant may elect, in its sole discretion, to terminate this Lease by providing Landlord with at least thirty (30) days prior notice of its intent to terminate. Upon the date of termination, Tenant shall have no further obligations under this Lease. Landlord shall pay any Residual Value Amount, if applicable, to Tenant.

ARTICLE 7

ACCESS

Subject to all Applicable Laws, Tenant shall have access to the Parcel twenty-four (24) hours per day, seven (7) days a week. Tenant shall have the right of ingress to and egress from the Parcel for Tenant, any subtenants, and Tenant or subtenant's officers, employees, agents, servants, customers, vendors, suppliers, patrons and invitees, subject, however, to all statutes, ordinances, rules and regulations from time to time enacted or established by the Airport Authority, the FAA, or any other governmental agency or authority. Such right of ingress and egress shall include, but not be limited to, the non-exclusive right to use all existing and hereafter created means of access to the Airport through, across, over and by the unimpeded use of all presently existing or hereafter relocated or installed taxiways, runways, roads, bridges, overpasses, causeways and highways providing access within, to and from the Airport. The right of ingress and egress shall be used jointly with other subtenants and tenants of the Airport.

ARTICLE 8

REPAIRS AND MAINTENANCE

- A. During the Term, Tenant, at Tenant's sole cost and expense, shall be responsible for all repairs and maintenance of the Parcel and shall keep and maintain all of the Parcel, including buildings, aircraft ramp and apron areas, roadways, driveways, automobile parking areas, sidewalks, fencing, gates, lighting, under-ground detention/retention ponds, drainage and utility facilities and all other improvements located on, in or under the Parcel, in a state of good condition and repair in accordance with the reasonable requirements of Landlord and all Applicable Laws, and shall make all necessary repairs, replacements and renewals, whether structural or nonstructural, foreseen or unforeseen and ordinary or extraordinary, in order to maintain such state of condition and repair; it being the intention of the parties that Landlord shall have no liability for any of the foregoing. Notwithstanding the foregoing, Landlord is responsible for landscaping of the Parcel, including installation and maintenance of any landscaping.
- B. Tenant shall be responsible for keeping the Parcel in a good, clean, safe and sanitary condition, reasonable wear and tear excepted. This shall include the provision of janitorial services, supplies, and trash removal.
- C. Except in an emergency, the Landlord will not permit or cause any blockage into or out of the Parcel, nor will Landlord permit any blockage of any taxiways, runways, roads, bridges, overpasses, causeways and highways providing access within, to and from the Airport.

ARTICLE 9

COMPLIANCE WITH LAWS

In its use and occupancy of the Parcel during the Term, Tenant, its officers, agents, servants, employees, contractors, licensees, invitees, and any other person whom Tenant controls or has the right to control shall comply with all Applicable Laws that are applicable to Tenant's use and occupancy of the

Parcel, and Landlord, its officers, agents, servants, employees, contractors, licensees, invitees, and any other person whom Landlord controls or has the right to control, shall comply with all Applicable Laws that are applicable to Landlord's ownership of the Parcel. Each party shall pay all costs, expenses, liabilities, losses, fines, penalties, claims and demands, including reasonable attorneys' fees, that may in any way arise out of or be imposed because of the failure of said party to comply with any Applicable Laws.

ARTICLE 10

ENVIRONMENTAL COMPLIANCE

A. As used herein:

- (1) "Hazardous Wastes" means all waste materials subject to regulation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (including the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. §§ 9601, *et seq.*; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. §§ 2601, *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. §§ 300f, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101, *et seq.*; the Clean Air Act, 42 U.S.C. §§ 7401, *et seq.*; the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*; the Tennessee Hazardous Waste Management Act, Tennessee Code Annotated §§ 68-212-101, *et seq.*, the Tennessee Hazardous Waste Management Act of 1983, Tennessee Code Annotated §§ 68-212-201, *et seq.*; and the Tennessee Petroleum Underground Storage Tank Act, Tennessee Code Annotated §§ 68-215-101, *et seq.*, all as amended, and any other materials, wastes, pollutants, oils or governmentally regulated substances or contaminants defined or designated as hazardous, radioactive, dangerous or any other similar term in or under any of the Environmental Laws.
- (2) "Toxic Substances" means and includes any materials that have been shown to have significant adverse effects on human health or which are subject to regulation under the Toxic Substances Control Act, 15 U.S.C. §§ 2601, *et seq.*, as amended, or any other Applicable Laws now in force or hereafter enacted relating to toxic substances. "Toxic Substances" includes asbestos, polychlorinated biphenyls (PCBs), petroleum products, lead-based paints, flammable explosives, radioactive materials and any other pollutants and any hazardous, toxic or dangerous waste, substance, material or pollutant defined as such in (or for purposes of) the Environmental Laws or listed as such by the United States Environmental Protection Agency.
- (3) "Hazardous Materials" means Hazardous Wastes and Toxic Substances, collectively.
- (4) "Environmental Laws" means and includes all current and future laws relating to Hazardous Materials together with all other Applicable Laws, and any judicial or administrative interpretations thereof, relating to health, safety or environmental matters.

- B. Tenant (including its agents, contractors, employees, and any other entities for which Tenant is responsible), in its use of the Parcel shall comply with all federal, state, and local statutes, ordinances, regulations, rules, policies, codes, or guidelines now or hereafter in effect, as they may be amended from time to time, that govern Hazardous Materials (as defined above) or relate to the protection of human health, safety, or the environment and represents and agrees that:
- (1) It shall not give authorization or consent for any activity at or near the Parcel which could involve or lead to the use, manufacture, storage or disposal of any Hazardous Materials, except for the types, and in the amounts, used in the ordinary course of the business of Tenant within the Parcel;
 - (2) It shall keep the Parcel free and clear of any liens imposed pursuant to any applicable Environmental Laws as a result of Tenant's use of the Parcel;
 - (3) All licenses, permits and other governmental or regulatory actions necessary for operations that Tenant conducts at the Parcel to comply with Environmental Laws shall be obtained and maintained and Tenant shall ensure compliance therewith;
 - (4) It shall promptly notify Landlord in the event of the discovery of any Hazardous Materials on the Parcel not permitted hereunder or any violation of any of the Environmental Laws; and
 - (5) Subject to the terms of this Article, it will promptly forward to Landlord copies of all orders, notices, permits, applications or other communications and reports (individually, an "Order") that Tenant receives and that relate to any violation of Environmental Laws applicable to the Parcel or any discharge, spillage, use or discovery of any Hazardous Materials or any other matter relating to the Environmental Laws as it may affect the Parcel, and shall promptly comply with each such Order and remediate such violation. In the event that an Order is subject to an attorney/client or attorney work product privilege, Tenant shall not be required to provide such Order to Landlord; provided, however, that Tenant shall promptly provide the notice required under this Lease regardless of the source of such information, including an Order subject to an attorney/client or attorney work product privilege. Upon the receipt of any such notice or Order, Landlord and any environmental consultant or other Person designated by Landlord shall have the right, but not the obligation, to enter upon the Parcel at reasonable times to assess the environmental condition of the Parcel and its use, including conducting an environmental assessment or audit (the scope of which shall be determined in the sole and absolute discretion of the party conducting the assessment) and taking samples of soil, groundwater or other water, air or building materials; provided, however, that, (i) except in the event of an emergency, any such entry by Landlord or any environmental consultant or other Person designated by Landlord shall occur between the hours of 8:00 a.m. and 5:00 p.m. after not less than 48 hours prior notice to Tenant, and (ii) Landlord shall repair and restore any damage to the Parcel resulting from such entry upon the Parcel by Landlord or any environmental consultant or other Person designated by Landlord. Tenant shall

reasonably cooperate with and provide access to Landlord and any environmental consultant or other Person designated by Landlord.

- C. In making the representations and agreements set forth in this Lease and the indemnification obligations, Tenant does not undertake any obligation to remediate, or take any other action with respect to, or incur any liability for the cost of remediating or taking other action with respect to, any environmental condition affecting the Parcel that (i) has resulted from the migration of Hazardous Materials to the Parcel from off-site sources or adjacent parcel and is not attributable to the activities of Tenant or any of its officers, contractors, subcontractors, invitees, agents, representatives or employees or any of their respective officers, contractors, subcontractors, invitees, agents, representatives or employees, or (ii) is not attributable to the activities of Tenant or any of its officers, contractors, subcontractors, invitees, agents, representatives or employees or any of their respective officers, contractors, subcontractors, invitees, agents, representatives or employees; provided, however, that Landlord and Tenant do not intend this Article to limit Landlord's right to seek contribution or cost-sharing under any applicable Environmental Laws for costs that it may incur in connection with inspections, investigations, studies, design, construction, remediation or operations or maintenance of remedial activities at, on or near the Parcel from parties responsible for any contamination occurring at, on or near the Parcel. The foregoing express right of Landlord to seek contribution or cost-sharing shall in no way increase and alter Tenant's liability as set forth elsewhere in this Lease.
- D. If Tenant shall fail to comply with any of the requirements of the Environmental Laws, Landlord may, in addition to the other remedies for Tenant's default set forth herein, at Landlord's election but without the obligation to do so, (i) give such notices, (ii) cause such work to be performed on the Parcel, and (iii) take any and all other actions as Landlord shall deem necessary or advisable in order to abate, remove or remediate any Hazardous Materials or otherwise cure Tenant's noncompliance, with the costs thereof to be reimbursed to Landlord within sixty (60) days of demand, together with interest thereon from the date of payment until paid at the interest rate (the "Interest Rate") equal to the lesser of (i) the maximum lawful rate of interest permitted to be charged under Applicable Laws of Governmental Authorities or (ii) the interest rate equal to 2% per annum above the prime rate of interest as published from time to time by *The Wall Street Journal*. Notwithstanding the foregoing, should MTSU assume this Lease, MTSU will reimburse such costs in accordance with the Tennessee Prompt Pay Act, Tenn. Code Ann. § 12-4-701 et seq., and interest on any past due amounts shall not exceed 1.5% per month calculated in the manner provided in the Tennessee Prompt Pay Act.

ARTICLE 11

LIENS

- A. Tenant shall not do or suffer anything to be done by which the Parcel, or any part thereof, may be encumbered by a lien of any kind. In the event that any mechanic's or materialmen's lien or other lien, purporting to be for or on account of any labor done or materials or services furnished in connection with any work on or about the Parcel or any part of any thereof done by, for or under the

Landlord of Tenant, or anyone claiming by, through or under Tenant, is filed against the Parcel or any part of any thereof, Tenant shall commence action to discharge the same of record within sixty (60) business days after service upon Tenant of notice of the filing thereof; provided, however, that Tenant shall have the right to remove the lien by bonding against the same in accordance with Applicable Laws and to contest any such lien; provided, further, that Tenant shall diligently prosecute any such contest, at all times effectively staying or preventing any official or judicial sale of the Parcel or any part of any thereof under execution or otherwise, and, if unsuccessful, Tenant shall satisfy any final judgment against Tenant adjudging or enforcing such lien or, if successful, Tenant shall obtain a record satisfaction or release thereof. In the event Tenant fails to comply with this Article, Landlord, in addition to all other remedies provided herein or otherwise, shall have the right, but not the obligation, to cause the lien to be released by such means as it shall deem proper, including payment of the claim giving rise to the lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith, including reasonable attorneys' fees and costs, shall be immediately payable to Landlord by Tenant with interest thereon at the Interest Rate from the date of payment by Landlord until Landlord receives payment from Tenant. Landlord shall have the right at all times to post and keep posted on the Parcel any notices permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord, the Parcel and any other party having an interest therein from mechanic's or materialmen's liens. Notwithstanding the foregoing, should MTSU assume this lease, MTSU shall not be responsible for the payment of attorney's fees and costs to any other party. MTSU's liability is limited to actual damages only as determined by the Tennessee Claims Commission.

- B. All Persons furnishing labor or materials to Tenant in connection with the Project or any subsequent alterations or additions thereto are hereby notified that the filing of any mechanic's or materialmen's lien shall attach only to Tenant's leasehold estate in the Parcel.

ARTICLE 12

TAXES

- A. Tenant shall pay, not less than thirty (30) days prior to delinquency all taxes, assessments, levies, fees, fines, penalties and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which during the Term are imposed or levied upon or assessed against (i) the Parcel, (ii) any Rent (except for taxes generally classified as income or franchise taxes assessed against Landlord), or (iii) this Lease, the leasehold estate hereby created or the operation, possession or use of the Parcel; and
- B. All ad valorem real estate taxes and personal property taxes (and in-lieu of tax or tax equivalent charges) that are assessed against the Parcel with respect to any portion of the Term shall be prorated for the first and last years of the Term. Tenant shall be responsible for and shall pay the portion of such taxes or charges relating to the period beginning with the Commencement Date through and including the expiration or earlier termination of the Term.

- C. Notwithstanding the foregoing, should MTSU assume this Lease, MTSU will pay all lawfully imposed taxes in accordance with Tennessee law.

ARTICLE 13

UTILITIES

Landlord will provide adequate utility service to Tenant for Tenant's use and accessible at or immediately adjacent to the Parcel within sixty (60) days from the Commencement Date of this Lease. Tenant shall install additional meters for any or all the utilities provided to it. Tenant shall bear the full cost of any meter installations and tap fees that Tenant may require to connect to the available utilities. Tenant shall submit detailed plans of any intended installations to Landlord. All such installations shall have the prior written approval of the Landlord before being undertaken, which approval shall not be unreasonably withheld, conditioned, or delayed. Tenant shall, at its sole cost and expense, pay for all utility services required for the Permitted Use during the Term, including gas, electricity, water, sewer, heat/air, internet, cable/TV services, and telephone, and all charges associated with any of the foregoing.

ARTICLE 14

INDEMNIFICATION

- A. For purposes of this Lease, the term "Indemnified Party" shall mean Landlord and each of its commissioners, officers, employees, agents, representatives, successors and assigns.

Tenant agrees to defend, indemnify and hold the Indemnified Party harmless from and against any and all suits, losses, costs, claims, damages, demands, penalties, fines, settlements, liabilities and expenses (including reasonable attorneys' fees, court costs and litigation expenses) (the "Claims") arising out of or related to (i) Tenant's use, occupancy or condition of the Parcel, or (ii) any reckless or negligent act or omission of Tenant or any of Tenant's officers, contractors, subcontractors, invitees, agents, representatives or employees; provided, however, that Tenant shall have no obligation to defend, indemnify and hold the Indemnified Party harmless from and against any such suits, losses, costs, claims, damages, demands, penalties, fines, settlements, liabilities or expenses arising solely and directly from such Indemnified Party's gross negligence or willful misconduct. Tenant shall use attorneys, experts, and professionals that are reasonably acceptable to Landlord in carrying out these obligations.

- B. Except as otherwise provided herein, it is expressly understood and agreed that Tenant's obligations under this Article shall survive the expiration or earlier termination of this Lease for any reason but shall not continue beyond the end of any statute of limitations.
- C. Notwithstanding the foregoing, should MTSU assume this Lease, the foregoing provisions shall not apply, but shall be replaced by the following provision: MTSU will be responsible for any and all damages, injury, and claims which may result from MTSU's use, occupancy or condition of the Parcel to the extent that such liability is imposed by the Tenn. Code Ann. § 9-8-101 et seq. MTSU shall be responsible for its own negligence and shall be liable for actual damages only.

ARTICLE 15

INSURANCE

Tenant will, or will cause its Subtenant, to obtain and maintain at its sole cost and expense in full force and effect during the Term of this Lease, and all extensions and amendments thereto, at least the following insurance. Each insurance policy shall name Landlord and its commissioners, officers and employees, and Tenant, if applicable, as additional insureds and shall provide that such insurance policy shall be considered primary insurance as to any other valid and collectible insurance or self-insured retention Landlord may possess or retain. Each insurance policy shall provide contractual liability coverage under which the issuing insurance company agrees to insure any other liability that Tenant has under this Lease for which such insurance policy would otherwise provide coverage. Each insurance company issuing an insurance policy shall be (a) admitted to do business in the State of Tennessee and rated not less than the Minimum Rating, unless otherwise approved by Landlord in its sole discretion.

- A. Aviation general liability insurance coverage (the “AGL Coverage”), with coverage limits of not less than Three Million Dollars (\$3,000,000) per occurrence.
- B. Automobile liability insurance coverage (the “Auto Coverage”), with a coverage limit of not less than Five Hundred Thousand Dollars (\$500,000) for “any auto” per occurrence for vehicles used on the Parcel, which insures against claims, damages, losses and liabilities arising from automobile-related bodily injury, death and/or property damage, including any such claims, damages, losses and liabilities arising from or relating to the Parcel or the leasehold interest in and/or occupancy of the Parcel by Tenant.
- C. Worker’s compensation insurance coverage (the “WC Coverage”) in accordance with statutory requirements and providing employer’s liability coverage with limits of not less than One Million Dollars (\$1,000,000) for bodily injury by accident, One Million Dollars (\$1,000,000) for bodily injury by disease, and One Million Dollars (\$1,000,000) policy limit for disease, including any claims, damages, losses and liabilities arising from or relating to Tenant’s operations or presence on the Parcel.
- D. Pollution liability insurance coverage (the “Pollution Coverage”), with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) in aggregate, that insures against claims, damages, losses and liabilities arising from a discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, Hazardous Material, smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste and waste materials, into or upon land or any structure on land, the atmosphere or any watercourse or body of water that results from activities of Tenant or others for which Tenant is responsible, including any such claims, damages, losses and liabilities arising from or relating to Tenant’s operations or presence on the Parcel. Policy limits may be achieved through either primary or excess insurance placements. The aggregate deductible amount under the insurance policy or policies providing the Pollution Coverage shall not exceed One Hundred Thousand Dollars (\$100,000) per occurrence.

- E. Property insurance coverage (the "PC Coverage") with respect to all improvements on the Parcel (inclusive of the Project) for one hundred percent (100%) of the insurable replacement value of the improvements on the Parcel with no co-insurance penalty, that provides (i) special form property insurance at least as broad as that provided by form CP 10 30 (© ISO Properties, Inc.), together with builder's risk (with respect to the construction or alteration of or addition to Improvements during the Term) with any deductible in excess of Two Hundred Thousand Dollars (\$200,000) to be approved by Landlord, and (ii) ordinance and law coverage including coverage parts "b" and "c" with limits of insurance equal to the replacement cost of the building.
- F. For purposes of this Lease, the AGL Coverage, the Auto Coverage, the WC Coverage, the Pollution Coverage, the Property Coverage, and any Umbrella Coverage are collectively referred to as the "Insurance Coverages". Tenant agrees that each insurance policy providing any of the Insurance Coverages (i) shall not be altered, modified, cancelled or replaced without not less than thirty (30) days prior written notice from Tenant to Landlord; (ii) shall provide for a waiver of subrogation by the issuing insurance company as to claims against Landlord and its commissioners, officers and employees; (iii) shall provide that any "other insurance" clause in such insurance policy shall exclude any policies of insurance maintained by Landlord and that such insurance policy shall not be brought into contribution with any insurance maintained by Landlord; and (iv) shall have a term of not less than one year.
- G. In addition to the above Insurance Coverages, during the construction phase of the Project, Tenant will ensure that the general contractor making the capital improvements obtains and maintains continuously in effect at all times during the construction phase, a Builders Risk policy naming Landlord and Tenant as additional insureds.
- H. Landlord shall have the right to change the terms and required coverage amounts of any of the Insurance Coverages if such changes are recommended or imposed by Landlord's insurers as long as such insurance is available, so long as Landlord agrees to reimburse Tenant for any increases in insurance premium costs resulting solely from any such change (except that Tenant shall be solely responsible for increases in premium costs resulting from any changes to the requirements for the Insurance Coverages that are reasonably required as a result of relevant insurance market conditions or practices, increases in the CPI, or the requirements of present or future Applicable Laws). Tenant shall provide, prior to the Commencement Date, one or more certificates of insurance which shall indicate that Tenant maintains the Insurance Coverages and that the insurance policy or policies referenced or described in each such certificate of insurance comply with the requirements of this Lease. Tenant shall give to Landlord written notice of the cancellation or non-renewal or if coverage limits decrease below the minimums required in this Lease for each such insurance policy not less than thirty (30) days prior to the effective date of the expiration or earlier cancellation of such insurance policy. Upon receipt of a request from Landlord, Tenant also agrees to make copies of any or all of the insurance policies providing the Insurance Coverages available for the Landlord to view, at the Parcel. The certificate(s) of insurance provided by Tenant to evidence the WC Coverage shall specifically certify that the insurance

policy or policies which provide the WC Coverage cover Tenant's activities in the State of Tennessee.

- I. If Tenant, or its Subtenant, shall at any time fail to obtain or maintain any of the Insurance Coverages, Landlord may take, but shall not be obligated to take, all actions necessary to effect or maintain such Insurance Coverages, and all monies expended by it for that purpose shall be reimbursed to Landlord by Tenant upon demand therefor or set-off by Landlord against funds of Tenant held by Landlord or funds due to Tenant. Tenant hereby grants, approves of and consents to such right of set-off for Landlord. If any of the Insurance Coverages cannot be obtained for any reason, Landlord may require Tenant to cease any activity on the Parcel until all Insurance Coverages are obtained.
- J. The term "Minimum Rating" shall mean a rating (if A.M. Best Company is the Rating Service) of A- (Financial Size: X) based upon the criteria for financial strength and financial size ratings utilized by A.M. Best Company on the Commencement Date, or such equivalent rating (if A.M. Best Company is not the Rating Service or if A.M. Best Company subsequently revises its criteria for financial strength and financial size ratings) as determined in the sole discretion of the Landlord.
- K. It is expressly understood and agreed that the minimum limits set forth in the Insurance Coverages shall not limit the liability of Tenant for its acts or omissions as provided in this Lease.
- L. Notwithstanding the foregoing, should MTSU assume this Lease, the foregoing provisions shall not apply, but shall be replaced by the following provisions:
 - i. The State's self-insurance program insures all liability created under Title 9, Chapter 8 of the Tennessee Code Annotated, for all State departments, agencies and institutions, including State institutions of higher education, and any entity deemed by the General Assembly to be a State agency for the purpose of participating in the State's self-insurance program. The State of Tennessee self-insures its exposures in general liability, automobile liability, professional malpractice, and workers' compensation. The limits of liability for general liability, professional malpractice, and automobile liability are \$300,000 per person and \$1 million per occurrence. The limits of liability under workers' compensation are those set forth in T.C.A. §50-6-101 et seq. Statutes that authorize actions against the State of Tennessee, establish the State's limit of liability, and authorize self-insurance through the Risk Management Fund, are set forth in T.C.A § 9-8-101 et seq.
 - ii. MTSU shall purchase Aviation general liability insurance with a limit of not less than \$3,000,000 per each occurrence. Such insurance shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, liability assumed under an insured contract, and if applicable, mobile equipment coverage. If such aviation general liability insurance does not contain the standard ISO separation of insureds provision (also known as a severability of interests clause), or a

substantially similar clause, they shall be endorsed to provide cross liability coverage.

ARTICLE 16
DAMAGE AND DESTRUCTION

- A. Except as hereinafter provided, if, during the Term, any of the improvements on the Parcel shall be damaged or destroyed by fire or any other casualty, Tenant shall, at Tenant's sole cost and expense, repair or rebuild all the improvements on the Parcel or such portion thereof which were damaged, in a good and workmanlike manner using materials of first grade and quality, to the original condition of the improvements on the Parcel or such portion thereof at the time of such fire or other casualty. Notwithstanding the foregoing, however, in the event the improvements on the Parcel are damaged or destroyed at any time during the final five (5) Lease Years of the Term and if either (i) the cost to repair or replace the improvements on the Parcel, as estimated by a contractor, architect or other construction consultant selected by Tenant and approved by Landlord, exceeds fifty percent (50%) of the full replacement value of all improvements located on the Parcel, or (ii) such repair and replacement cannot reasonably be completed within one hundred eighty (180) days after the date of the damage or destruction, as estimated by a contractor, architect or other construction consultant selected by Tenant and approved by Landlord, then Tenant may terminate this Lease upon such date as is set forth in a notice given to Landlord within thirty (30) days after the date of the damage or destruction; provided, however, that the date of termination shall be no less than five (5) and no more than sixty (60) days after the effectiveness of such notice and in no event shall Tenant terminate this Lease upon the occurrence of damage or destruction of the improvements on the Parcel unless (a) it has maintained the PC Coverage in the manner required by this Lease and (b) it pays over to Landlord all insurance proceeds from such PC Coverage and the amount of any deductible or self-insurance retention amount with respect to such PC Coverage. Unless this Lease is so terminated, Tenant shall proceed with repair or rebuilding and Landlord shall make the net insurance proceeds of such PC Coverage payable with respect to such fire or other casualty available to Tenant on a commercially reasonable basis to pay the costs of such repair and rebuilding, and all costs of such repair or rebuilding in excess of the net insurance proceeds shall be paid by Tenant. If Tenant terminates the Lease as provided in this Paragraph 16(A), Landlord shall pay Tenant the Residual Value Amount.
- B. In no event shall Landlord be liable for any loss or damage sustained by Tenant by reason of any casualty to the Parcel except to the extent such loss or damage arises from the gross negligence or willful misconduct of Landlord and / or its employees, contractors, and agents.
- C. Should MTSU assume this Lease, Article 16(A) shall not apply.

ARTICLE 17
CONDEMNATION

In the event of any condemnation proceeding in which all or any part of the Parcel is taken (by a condemnor other than the Landlord), all compensation from such proceeding shall be paid to Landlord and Landlord shall remit to Tenant the portion of the compensation equal to the value of the improvements. Additionally, Tenant may pursue a claim against the condemnor for the value of Tenant's leasehold interest, and any subtenants may pursue a claim against the condemnor for the value of their subtenancy interests. In the event of a partial taking that leaves Tenant with a sufficient remaining portion such that Tenant can utilize the Parcel for the Permitted Use, Landlord shall reduce the Rent payable by Tenant on a pro rata basis for the portions of the Parcel taken. If, however, the Parcel is rendered unusable for the Permitted Use, in Tenant's reasonable discretion, Tenant may terminate this Lease by giving Landlord a written notice of termination, and after payment of the Residual Value Amount by Landlord to Tenant, if applicable, this Lease shall terminate at the time specified in the notice (which shall not be less than thirty (30) days after the date of such notice).

ARTICLE 18
ASSIGNMENT AND SUBLETTING

Tenant shall not assign or transfer any portion of the interest under the Lease without the prior written approval of the Landlord which shall not be unreasonably withheld.

Notwithstanding the above, Tenant may assign this Lease, in whole or in part to MTSU; provided, that (i) Tenant gives Landlord written notice of such assignment or sublease not later than thirty (30) days prior to the effective date of such assignment or transfer, (ii) in the event of an assignment, MTSU assumes this Lease by delivery to Landlord of a written assumption agreement providing among other things that both parties agree to release Tenant from all future liability hereunder and (iii) the use of the Premises by MTSU will not violate this Lease. It is acknowledged by the Landlord that Tenant will sublease the Parcel to MTSU beginning with the Commencement Date of this Lease.

ARTICLE 19
DEFAULT AND REMEDIES

A. Any of the following occurrences or acts shall constitute an event of default (an "Event of Default") under this Lease:

(1) By Tenant, if Tenant shall:

(a) Fail to pay any Rent under this Lease as and when required to be paid by Tenant and such failure shall continue for a period of thirty (30) days following Tenant's receipt of written notice from Landlord of such failure to pay Rent; or

- (b) Breach or materially fail to observe or perform any of its covenants, agreement or obligations, and such breach or failure shall continue for thirty (30) days after notice from Landlord to Tenant of such breach or failure; provided, however, that if any such breach or failure is such that it cannot be cured or remedied within such thirty (30) day period, then such breach or failure shall not constitute an Event of Default if corrective action is instituted by Tenant within such thirty (30) day period and diligently pursued until such breach or failure is corrected.
- (c) Except as otherwise provided in this Lease, if Tenant (i) shall make an assignment for the benefit of creditors or petition or apply to any tribunal for the appointment of a custodian, receiver or trustee for it, the Parcel or a substantial part of its assets; or (ii) shall commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or shall have had any such petition or application filed or any such proceeding commenced against it that is not dismissed within thirty (30) days of the filing or commencement thereof; or (iii) shall indicate, by any act or omission, its consent to, approval of or acquiescence to any such petition, application or proceeding or the appointment of a custodian, receiver or trustee for it, the Parcel or a substantial part of its assets; or (iv) shall suffer any such custodianship, receivership or trusteeship to continue undischarged for a period of thirty (30) days or more; or
- (d) If a receiver, trustee or liquidator of Tenant or of all or substantially all of the assets of Tenant or of the Parcel or Tenant's leasehold interest therein shall be appointed in any proceeding brought by Tenant, or if any such receiver, trustee or liquidator shall be appointed in any proceeding brought against Tenant and shall not be discharged within sixty (60) days after Tenant's receipt of notice of such appointment, or if Tenant shall consent to or acquiesce in such appointment.

(2) By Landlord, if Landlord (i) fails to perform or observe any covenant or condition to be performed or complied with by Landlord under this Lease, and the failure continues for thirty (30) days after written notice by Tenant to Landlord, or (ii) if the default complained of is of such a nature that it cannot reasonably be completely cured or remedied within such thirty (30) day period, Landlord fails to commence to cure the default during the thirty (30) day period, or does not thereafter diligently prosecute such remedy or cure to completion.

B. Right to Cure Defaults.

The parties have the following respective right to cure defaults:

(1) If Tenant shall fail to make any payment of applicable taxes, assessments or other charges, or perform any other act required to be made or performed under this Lease, and the applicable grace period for cure by Tenant shall have expired, Landlord, without waiving or releasing any obligation or default, may (but shall be under no obligation to) upon notice to Tenant, make the payment or perform the act for the account and at the expense of Tenant. All sums so paid by Landlord, together with interest thereon, shall constitute additional rent and shall be paid by Tenant to Landlord on demand.

(2) If Landlord shall fail to make any payment or perform any other act required to be made or performed under this Lease, and the applicable grace period for cure by Landlord shall have expired, Tenant, without waiving or releasing any obligation or default, may (but shall be under no obligation to) upon notice to Landlord, make the payment or perform the act for the account and at the expense of Landlord. All sums so paid by Tenant, together with interest thereon, shall be paid by Landlord to Tenant on demand or Tenant, at its option, may deduct from the payment of any Rent any such sums paid by Tenant.

C. Upon Default.

(1) Upon the occurrence of an Event of Default, the non-defaulting party shall be entitled to all rights and remedies available at law or in equity and shall be entitled to recover and collect from the defaulting party all damages that may be available under the laws of the State of Tennessee. Termination of the Lease by either party pursuant to an Event of Default shall result in the payment by Landlord to Tenant the applicable Residual Value Amount. Termination of the Lease shall be effective no less than sixty (60) days from delivery of such notice to terminate. After payment of the Residual Value Amount, if applicable, this Lease shall expire and terminate on the date set forth in such notice as fully and completely and with the same effect as if such date were the date herein fixed for the expiration of the Term, and all rights of Tenant hereunder shall expire and terminate.

(2) Following a default by Tenant under the Lease, Landlord shall exercise commercially reasonable, good faith efforts to mitigate its damages as required by applicable Tennessee law.

ARTICLE 20

HOLDING OVER AND SURRENDER OF LEASED PARCEL

- A. If Tenant continues to hold and occupy the Parcel after the expiration or earlier termination of the Term, such holding over shall operate as an extension of this Lease on the same terms and conditions as herein provided, except for duration and except that the Base Rent payable hereunder during such holding over shall be paid monthly in advance in an amount equal to one hundred twenty five percent (125%) of the monthly installment of Base Rent payable during the final Lease Year of the Term. Tenant shall then be considered a Tenant-at-will, and Landlord may terminate this Lease at any time by giving one month's notice.
- B. At the expiration or earlier termination of the Term, Tenant shall surrender the Parcel to Landlord in substantially the same condition, order and repair as at the Commencement Date, except for the approved Project, ordinary wear and tear, obsolescence and deterioration occurring on account of normal use and aging.

ARTICLE 21
QUIET ENJOYMENT

Landlord warrants to Tenant that Landlord has full power to enter into this Lease, and that Tenant shall have and enjoy full, quiet and peaceful possession of the Parcel during the Term, subject to the provisions of this Lease.

ARTICLE 22
NOTICES

All notices, approvals, consents, requests, demands and other communications required or permitted by this Lease (individually, a "Notice") must be in writing to be effective and personally delivered or sent by certified United States Mail, postage prepaid, or by a recognized delivery service that provides registered and verifiable shipment or air bill tracking and delivery record, with costs prepaid, to the addresses set forth below:

If to Tenant:
Azure Airport Development SYI, LLC
276 Doug Warpoole Road
Smyrna, TN 37167
Attn: Chief Manager

If to Landlord:
Shelbyville Airport Director
Shelbyville Municipal Airport
2828 Highway 231 North
Shelbyville, TN 37160

with a copy to:
Shelbyville City Recorder
Shelbyville City Hall
P.O. Box 185
Shelbyville, TN 37162

The person and place to which a Notice is to be sent may be changed by a party hereto upon written notice to the other. A Notice shall be deemed received and effective on the date that is three days after the date on which the Notice is deposited in the United States Mail if sent by certified mail, or, if personally delivered, on the date such personal delivery is made. If a Notice is sent by a recognized delivery service, then the Notice shall be deemed received by the addressee on the date on which the signature receipt is recorded by such recognized delivery service.

ARTICLE 23
WAIVER OF COVENANTS, ETC.

No waiver of any condition or covenant of this Lease shall be deemed to imply or constitute a further waiver of the same or any other like condition or covenant, and nothing herein contained shall be construed to be a waiver on the part of a party of any right or remedy in law or otherwise, and all of a party's remedies herein provided for shall be deemed to be cumulative.

ARTICLE 24
ESTOPPEL CERTIFICATES

At any time and from time to time, either party, on or before the date specified in a request therefor made by the other party, which date shall not be earlier than thirty (30) days from the making of such request, shall execute, acknowledge and deliver to the other a certificate stating (i) whether this Lease is in full force and effect; (ii) whether this Lease has been amended in any way and, if so, including any such amendments; (iii) whether, to the knowledge of such party, there are any existing Events of Default hereunder and specifying the nature thereof; (iv) the then-current Base Rent and the date to which Base Rent has been paid; and (v) such other facts with respect to this Lease or the Parcel as Landlord or Tenant may reasonably request. Each certificate delivered pursuant to this Article may be relied on by any prospective purchaser, mortgagee or transferee of the Parcel or of Landlord's or Tenant's interest hereunder.

ARTICLE 25
MISCELLANEOUS PROVISIONS

The headings used in this Lease are inserted for convenience and are not to be considered in the construction of the provisions of this Lease. The word "Landlord" means only the owner of the Parcel from time to time, including its authorized agencies such as the Shelbyville Airport Authority, and, in the event of any transfer of the Parcel by the owner thereof, the transferring owner of the Parcel shall be released from all covenants, agreements and conditions as the Landlord hereunder and without further agreement between the parties, and the transferee owner of the Parcel shall be deemed to have assumed all covenants, agreements and conditions of Landlord hereunder. Such transferee owner of the Parcel shall be subject to Tenant's rights of use and possession under this Lease, so long as no Event of Default has occurred and is continuing hereunder. All exhibits referred to are attached and made a part of this Lease. Bracketed provisions in the forms of instruments included in exhibits hereto shall be conformed and/or completed as appropriate for the execution versions thereof. This Lease and the exhibits constitute the entire agreement of the parties with respect to the Parcel and all prior understandings and agreements relating to the subject matter hereof are hereby superseded. This Lease and all the terms and conditions hereof shall be binding on and inure to the benefit of Tenant and its successors and assigns. This Lease may not be amended or modified except by agreement in writing signed by both parties. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms, and personal pronouns may be read as masculine, feminine and neuter. References to statutes, regulations or ordinances are to be construed as including all provisions consolidating, amending, or replacing the referenced statute, regulation or ordinance, and references to agreements and other contracts shall be deemed to include all

subsequent amendments to or changes in such agreements or instruments entered into in accordance with their respective terms. Use of the term “include” or “including” means to include or including without limitation.

ARTICLE 26
PARTIAL INVALIDITY

In the event any clause, term or condition of this Lease shall be declared null and void, this Lease shall remain in full force and effect as to all other terms, conditions and provisions.

ARTICLE 27
GOVERNING LAW

This Lease shall be governed, construed, and enforced in accordance with the laws of the State of Tennessee.

ARTICLE 28
TIME OF ESSENCE

Time is of the essence to this Lease and the obligations and requirements set forth herein.

ARTICLE 29
RELATIONSHIP OF PARTIES

This Lease vests an estate to Tenant for the Term of this Agreement. Nothing herein contained shall cause the parties to be deemed or considered as partners or joint venturers in the operation of Tenant’s business or otherwise, nor shall either party be deemed to be the agent of the other except as may be herein specifically provided, and the sole relationship between the parties shall be that of Landlord as Landlord and Tenant as Tenant.

ARTICLE 30
MORTGAGE OF LEASEHOLD ESTATE

- A. With the prior consent of Landlord, and subject to the terms and conditions of this Lease, Tenant may convey, pledge or encumber, by deed of trust, mortgage or similar instrument (the “Approved Leasehold Mortgage”), its leasehold interest in and to the Parcel in favor of a lender (the “Approved Leasehold Mortgagee”), and Tenant may assign this Lease as collateral security for such Approved Leasehold Mortgage. Any such Approved Leasehold Mortgage, and all rights under or relating thereto, shall be subject to each of the covenants, conditions and restrictions set forth herein, and to all rights of Landlord hereunder and will always be subordinate to the rights of Landlord under this Lease and the Parcel.

- B. If an Approved Leasehold Mortgagee shall give Landlord notice of such Approved Leasehold Mortgagee's interest in the Parcel and such notice shall contain the address to which notices to such Approved Leasehold Mortgagee are to be sent, Landlord will thereafter send to such Approved Leasehold Mortgagee, at the address so given, and in the manner set forth in this Lease, a copy of any notice of default which Landlord may thereafter deliver or send to Tenant. Within the time permitted for the curing or commencing the curing of any default under this Lease, such Approved Leasehold Mortgagee, at its option, may pay any amount due or do any other act or thing required of Tenant by the terms of this Lease, and all amounts so paid or other acts so done by such Approved Leasehold Mortgagee shall be as effective to cure such default as the same would have been if paid or done by Tenant.
- C. An Approved Leasehold Mortgagee shall not become liable for Tenant's obligations under this Lease unless and until such Approved Leasehold Mortgagee becomes the owner of the leasehold estate established hereby by foreclosure, assignment in lieu of foreclosure or otherwise, or if such Approved Leasehold Mortgagee gives notice to Landlord that such Approved Leasehold Mortgagee will assume Tenant's obligations under this Lease. An Approved Leasehold Mortgagee shall remain liable for the obligations of Tenant under this Lease only for so long as it remains the owner of the leasehold estate established hereby.
- D. If any default or event of default occurs under an Approved Leasehold Mortgage, the Approved Leasehold Mortgagee and Tenant shall immediately notify Landlord of the same in writing.
- E. If a non-monetary default by Tenant under this Lease is susceptible of being cured by an Approved Leasehold Mortgagee only after such Approved Leasehold Mortgagee has obtained possession of the Parcel, then an Approved Leasehold Mortgagee shall have an additional period not to exceed thirty (30) days to cure a non-monetary default after obtaining possession of the Parcel; provided, however, that (i) such Approved Leasehold Mortgagee initiated all necessary actions to obtain possession of the Parcel, including the initiation of foreclosure proceedings under its Approved Leasehold Mortgage, within thirty (30) days after the earlier of the date on which such Approved Leasehold Mortgagee became aware of such non-monetary default or the date on which such Approved Leasehold Mortgagee received notice from Landlord of such non-monetary default; (ii) such Approved Leasehold Mortgagee shall have pursued such actions with reasonable diligence; (iii) such Approved Leasehold Mortgagee, within any applicable cure period provided in this Lease, shall have paid all Rent and other sums then due to Landlord under this Lease; and (iv) such Approved Leasehold Mortgagee shall have cured any other defaults by Tenant under this Lease that are susceptible of being cured by such Approved Leasehold Mortgagee without obtaining possession of the Parcel. Notwithstanding the foregoing, the rights granted to an Approved Leasehold Mortgagee in this Article shall not impair any right granted to Landlord in this Lease (a) to perform any obligations under this Lease that Tenant is required, but fails, to perform, and (b) to obtain reimbursement from Tenant of Landlord's costs and expenses incurred in so performing and, subject to rights granted to an Approved Leasehold Mortgagee, to declare an Event of Default if Tenant fails so to reimburse within any applicable cure period.

- F. Nothing contained herein shall release Tenant from any of its obligations under this Lease that may not have been discharged or fully performed by an Approved Leasehold Mortgagee.

ARTICLE 31

SIGNAGE

At any time and from time to time during the Term, upon Landlord's prior consent, which consent may not be unreasonably delayed, conditioned or withheld, Tenant, at its sole cost and expense, may install signage on the Parcel so long as such signage complies with Landlord's published standards and all other Applicable Laws.

ARTICLE 32

NONDISCRIMINATION AND GOVERNMENTAL MATTERS

- A. During the term of this agreement:

- (1) Tenant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates Tenant for the period during which Federal assistance is extended to the Airport through the Airport Improvement Program.

In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

- (a) The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - (b) The period during which the airport sponsor or any transferee retains ownership or possession of the property.
- (2) Tenant covenants and agrees that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that Tenant shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-

discrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

- B. Nothing herein contained shall be deemed to grant Tenant any exclusive right or privilege within the meaning of Article 308 of the Federal Aviation Act of 1958, as amended (the "Federal Aviation Act"), in the conduct of any activity at the Airport, except that, subject to the terms and provisions hereof, Tenant shall have the rights with respect to the Parcel under the provisions of this Lease.
- C. This Lease is subject and subordinate to the provisions of any agreement heretofore or hereafter made between Landlord and the United States government relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to Landlord for Airport purposes, or the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act.
- D. Tenant will comply with all security regulations established or amended by, but not limited to the Landlord, Department of Homeland Security, Customs and Border Protection, TSA and the FAA. If Landlord incurs any fines and/or penalties imposed by the Federal Aviation Administration and/or the Transportation Security Administration, or any expense in enforcing the regulations of Federal Aviation Regulations Part 1542 and/or the Airport Security Program, as a result of the acts or omissions of Tenant, Tenant agrees to pay and/or reimburse all such costs and expense. Tenant further agrees to rectify any security deficiency as may be determined as such by Landlord, the Federal Aviation Administration and/or the Transportation Security Administration. Landlord reserves the right to take whatever action necessary to rectify any security deficiency as may be determined as such by Landlord, the Federal Aviation Administration and/or the Transportation Security Administration, in the event Tenant fails to remedy the security deficiency.
- E. Tenant hereby represents that, as of the Commencement Date, neither Tenant nor any officer, employee, representative or agent of Tenant has given or donated, or promised to give or donate, either directly or indirectly, to any official, employee or commissioner of Landlord or to anyone else for its benefit, any sum of money or other thing of value to aid or assist in obtaining this Lease.

ARTICLE 33

FORCE MAJEURE

Any prevention, delay or stoppage attributable to strikes, lockouts, terrorism, labor disputes, civil commotion, fire or other casualty not caused directly or indirectly by a party hereto, and acts of God, will excuse the performance of that party for a period equal to the duration of the prevention, delay or stoppage; provided, however, that these provisions will not apply to the obligations imposed with regard to Rent and other charges Tenant must pay in accordance with the terms of this Lease or to the payment by the Landlord of any applicable Residual Value Amount.

ARTICLE 34
INTEREST AND OTHER CHARGES

Notwithstanding any provision of this Lease to the contrary relating to the payment of interest, it is the intent of Landlord and Tenant that Landlord shall not be entitled to receive, collect, reserve, or apply, as interest, any amount in excess of the maximum amount of interest permitted to be charged under Applicable Laws. In the event this Lease requires a payment of interest that exceeds the maximum amount of interest permitted to be charged under Applicable Laws, such interest shall not be received, collected, charged, or reserved until such time as that interest, together with all other interest then payable, falls within the maximum amount of interest permitted to be charged under Applicable Laws. In the event Landlord receives any such interest in excess of the maximum amount of interest permitted to be charged under Applicable Laws, Landlord shall refund to Tenant the amount of such excess and, in such event, Landlord shall not be subject to any penalties provided by Applicable Laws for contracting for, charging, reserving, collecting or receiving interest in excess of the maximum amount of interest permitted to be charged under Applicable Laws. Notwithstanding the foregoing, should MTSU assume this Lease, in accordance with the Tennessee Prompt Pay Act, Tenn. Code Ann. § 12-4-701 et seq., interest on any past due amounts shall not exceed 1.5% per month calculated in the manner provided in the Tennessee Prompt Pay Act.

ARTICLE 35
GOVERNMENTAL REQUIREMENTS

The parties incorporate herein by reference all provisions lawfully required to be contained herein by any Governmental Landlord. In the event that a Governmental Landlord requires modifications or changes to this Lease as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, Tenant shall make or agree to such amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Lease as may be reasonably required and any expenses resulting from such amendments, modifications, revisions, supplements or deletions shall be paid by Landlord.

ARTICLE 36
EASEMENTS

Landlord shall cooperate with Tenant in obtaining and providing, as applicable, all necessary easements, rights of way, utility feeds and conduit connections, permits and governmental and quasi-governmental approvals or consents reasonably necessary to develop the Project on the Parcel. In addition, Landlord recognizes that Tenant's access to the runways and taxiways on the Airport are critical for Tenant and subtenant operations, and Landlord will provide access easements via separate document to Tenant for Tenant and subtenant's benefit. Should MTSU assume this Lease, Landlord will assign any such easements or rights of way to MTSU upon MTSU's request.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and date first written above.

LANDLORD: CITY OF SHELBYVILLE

By: 

Name: Randy Carroll

Title: Mayor

Date: 7/13/23

ATTESTED:

By: 

Name: Lisa Smith

Title: City Recorder

Date: 7/13/2023

Approved as to form:

By: _____

Name: Ginger Bobo Shofner



Title: City Attorney

Date: 7/13/23

TENANT: AZURE AIRPORT DEVELOPMENT SYI, LLC

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

LANDLORD: CITY OF SHELBYVILLE

ATTESTED :

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Name: Ginger Shofner

Title: City Attorney

Date: _____

TENANT: AZURE AIRPORT DEVELOPMENT SYI, LLC

By: James Allen Howell

By: _____

Name: JAMES ALLEN HOWELL

Name: _____

Title: PRESIDENT

Title: _____

Date: July 31, 2023

Date: _____

LANDLORD: CITY OF SHELBYVILLE

By: _____

Name: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Name: Ginger Shofner

Title: City Attorney

Date: _____

TENANT: AZURE AIRPORT DEVELOPMENT SYI, LLC

By: _____

Name: _____

Title: _____

Date: _____

ATTESTED:

By: _____

Name: _____

Title: _____

By:  _____

Name: David J. Augustin

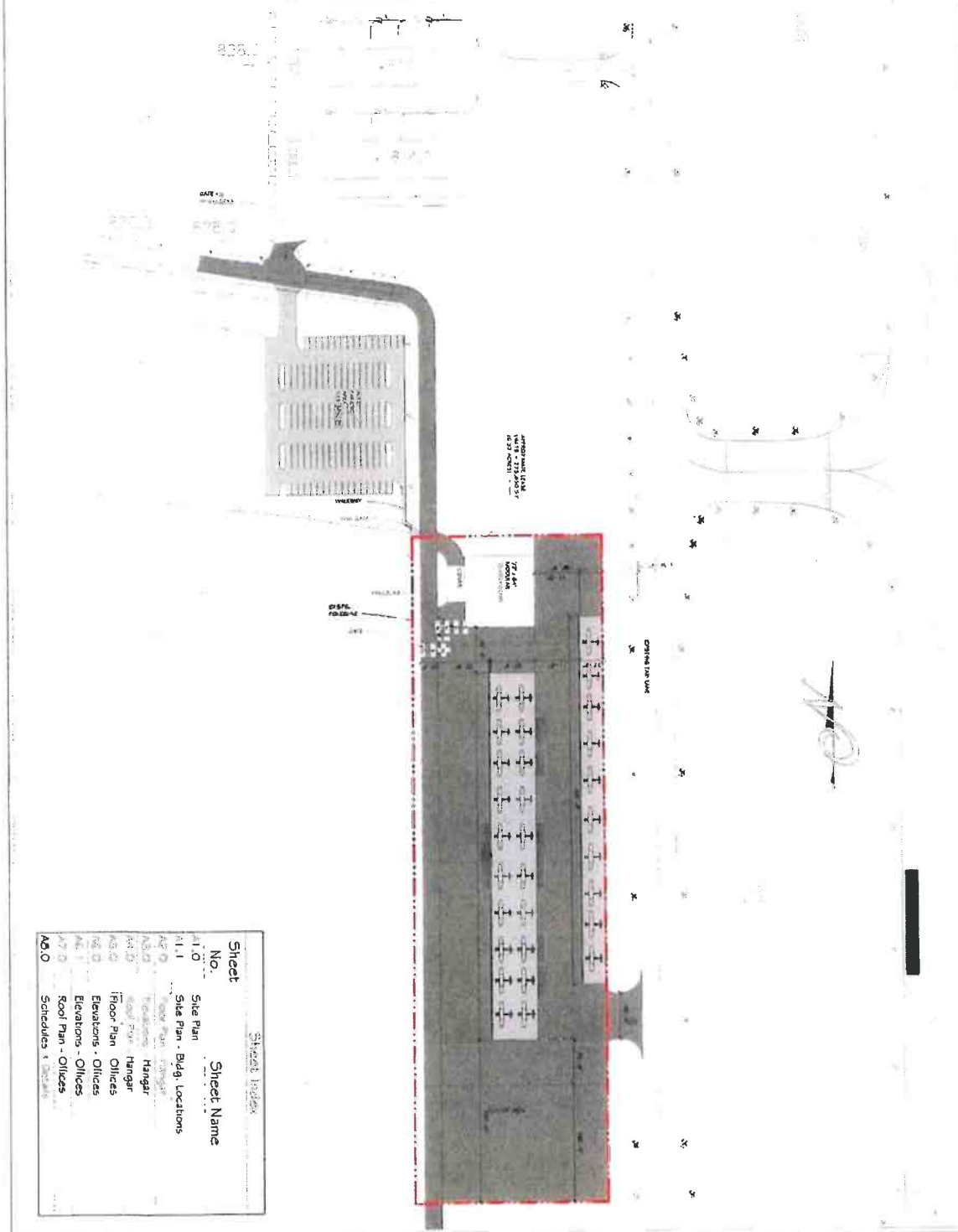
Title: Secretary

Date: July 31, 2023

EXHIBIT A
PARCEL AND PROJECT DEPICTION

See attached drawing.

Site Plan
1" = 60'



Sheet Index	
Sheet No.	Sheet Name
A1.0	Site Plan - Bldg. Locations
A2.0	Site Plan - Hangar
A3.0	Floor Plan - Offices
A4.0	Elevations - Offices
A5.0	Roof Plan - Offices
A6.0	Schedules & Details

HANGAR / OFFICES FOR:
 MTSU Aviation Facility
 Shelbyville Municipal Airport - 5Y1
 2828 US-231
 Shelbyville, TN 37160



A1.0
1" = 60'

Project Name
Site Plan

NOT FOR CONSTRUCTION

EXHIBIT B
DESCRIPTION OF IMPROVEMENTS

See attached.



Proposal for Preliminary Design/Build Services

For

***Azure Aviation / MTSU Aviation
Shelbyville, TN***

J&S Construction Company, Inc. of Cookeville, TN is delighted to submit this design and construction narrative the pre-proposal of the Design/Build Services for your project which includes at the airfield in Shelbyville, Tennessee.

J&S Construction Company's T.E.A.M. Build approach to construction is a sophisticated, cost effective approach that develops an effective team of professionals comprised of the Owner, Designers and Contractor working together toward the same goal, a successful project. Our team approach allows the designers and construction professionals to implement value design measures into the project during the planning stages in order to achieve the most cost effective and functional design. In addition, valuable time can be saved in the design and bidding phases of the project substantially reducing the dollars expended on design fees.

J&S Construction proposes to provide the following based upon the preliminary design drawing A1.0 titled "Hangar / Offices for: MTSU Aviation Facility; Shelbyville Municipal Airport – SYI; 2828 US-231; Shelbyville, TN 37160" dated 8/01/2023:

- 1. Site Work / Grading / Erosion Control** – J&S shall provide material labor and equipment to cut approximately 9,120 cubic yards of existing material on site and replace that fill material along with 6,453 cubic yards of additional fill material for a total 15,573 cubic yards. Additionally, J&S shall provide preconstruction stormwater erosion control measures including but not limited to check dams, fencing, and total maintenance. All stripped topsoil that is not respread and seeded and strawed will be stockpiled for future use. The grade shall be provided to the Owner with no more than 2% slope over 200'-0" of grade to allow the finished site to slope to existing stormwater measures currently located on site. The Contractor has not yet been provide a geotechnical report of the site or existing topographical survey so these values are conceptual. All removal and replacement of rock is excluded which can not be removed and replaced with the existing equipment on site.
- 2. Light Duty Asphalt Paving** – J&S shall provide material, labor and equipment to furnish approximately 26,406 square yards (SY) of light duty paving. Light duty paving shall be 2-1/2" asphalt topping over a 6" granular base per the direction of a TN licensed engineer.
- 3. Heavy Duty Asphalt Paving** - J&S shall provide material, labor and equipment to furnish approximately 3,750 square yards (SY) of heavy duty paving. Heavy duty paving shall be 2" of

asphalt binder, asphalt tack coat, and 1-1/2" of asphalt topping over a 8" granular base per the direction of a TN licensed engineer.

4. **Aircraft Tie Downs** – J&S shall furnish material, labor, and equipment to pour in place sixty (60 ea) 2'-0" x 2'-0" x 2'-0" concrete piers with #4 rebar each way on 12" centers and one (1) aircraft tie down per pier.
5. **Utilities** – J&S shall provide material labor and equipment to connect the proposed modular office facility to the sewer and water services provided to site by the City of Shelbyville.
6. **Exclusions** – All other work not specified above.

The documentation prepared as part of the Preliminary Design/Build Services is for the purpose of depicting the design and scope of work to the Owner and to enable J&S Construction Company, Inc. to prepare a detailed estimate in order to **guarantee the cost for construction**. These schematic plans will be converted to final construction documents in the construction phase and that expense is a part of the final guaranteed price.

J&S Construction Company, Inc. anticipates that the completion of this scope of work from construction design drawings, to permitting, to completion will take 3 months upon the execution of a Notice to Proceed or Contract for Services.

If you have any questions, please don't hesitate to contact me at your earliest convenience.

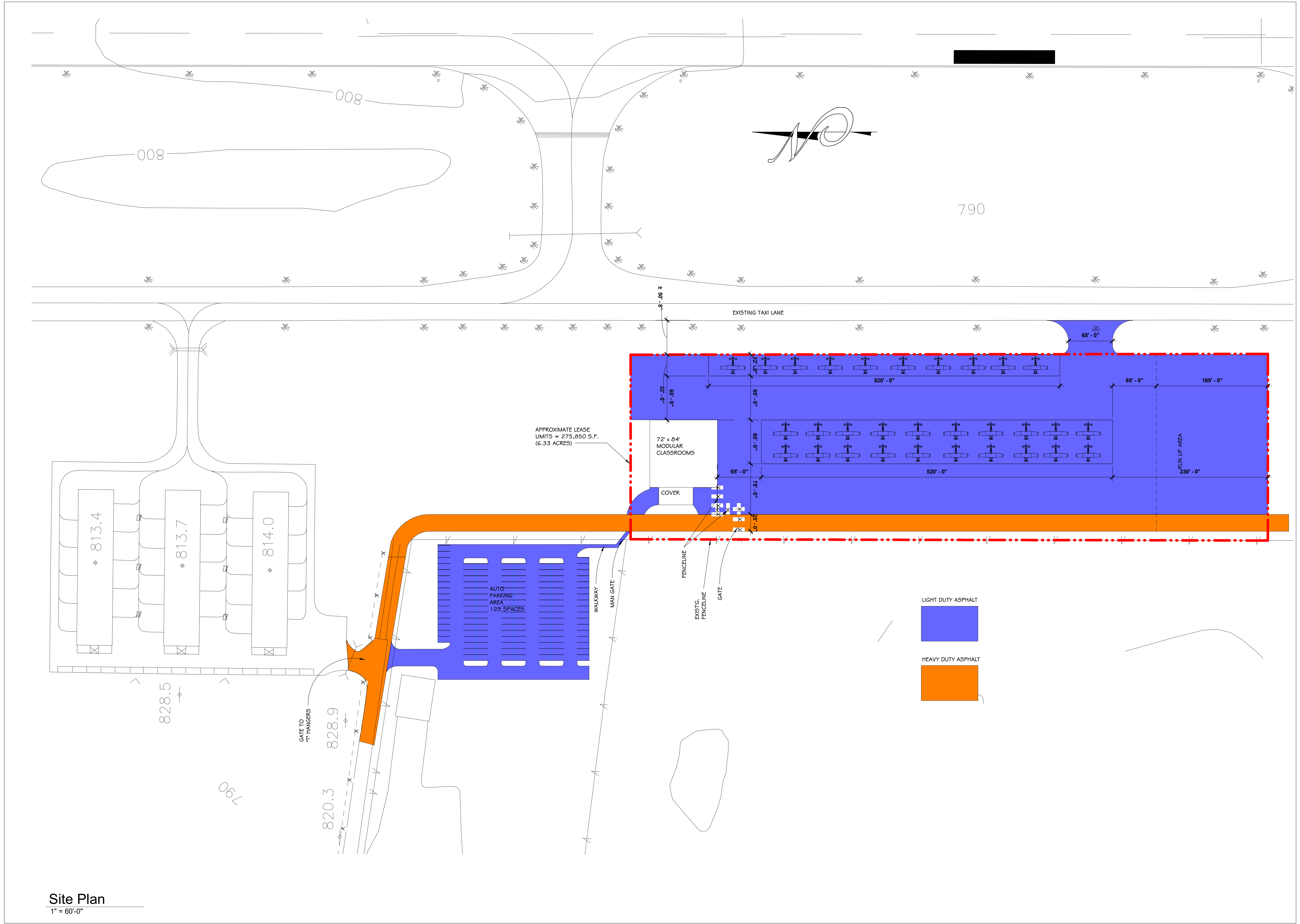
Sincerely,

Ryan Williams, Director of Business
Development J&S Construction Company, Inc.

EXHIBIT B
DESCRIPTION OF SUBLEASED PREMISES
[Leased Premises Outlined in Red]

See attached.

J:\Ryan Williams\2022\Shelbyville Airport\Revised\Shelbyville_13-Classrooms Only.rvt



Site Plan
1" = 60'-0"

Approver



1843 Foreman Drive
Cookeville, Tennessee
931-528-7475
jsconstruction.com

© 2022 BY J&S CONSTRUCTION CO., INC.



No.	Description	Date

NOT FOR
CONSTRUCTION

HANGAR / OFFICES FOR:

MTSU Aviation Facility
Shelbyville Municipal Airport - SY1
2828 US-231
Shelbyville, TN 37160

Project Status

Site Plan

Project number 22-494

Date 7/12/23

Drawn by DCW

Checked by Checker

A1.0

Scale 1" = 60'-0"

7/12/2023 8:15:42 AM

EXHIBIT C
DESCRIPTION OF IMPROVEMENTS

See attached.



Proposal for Preliminary Design/Build Services

For

***Azure Aviation / MTSU Aviation
Shelbyville, TN***

J&S Construction Company, Inc. of Cookeville, TN is delighted to submit this design and construction narrative the pre-proposal of the Design/Build Services for your project which includes at the airfield in Shelbyville, Tennessee.

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J&S Construction proposes to provide the following based upon the preliminary design drawing A1.0 titled "Hangar / Offices for: MTSU Aviation Facility; Shelbyville Municipal Airport – SYI; 2828 US-231; Shelbyville, TN 37160" dated 8/01/2023:

- 1. *Site Work / Grading / Erosion Control*** – J&S shall provide material labor and equipment to cut approximately 9,120 cubic yards of existing material on site and replace that fill material along with 6,453 cubic yards of additional fill material for a total 15,573 cubic yards. Additionally, J&S shall provide preconstruction stormwater erosion control measures including but not limited to check dams, fencing, and total maintenance. All stripped topsoil that is not respread and seeded and strawed will be stockpiled for future use. The grade shall be provided to the Owner with no more than 2% slope over 200'-0" of grade to allow the finished site to slope to existing stormwater measures currently located on site. The Contractor has not yet been provide a geotechnical report of the site or existing topographical survey so these values are conceptual. All removal and replacement of rock is excluded which can not be removed and replaced with the existing equipment on site.
- 2. *Light Duty Asphalt Paving*** – J&S shall provide material, labor and equipment to furnish approximately 26,406 square yards (SY) of light duty paving. Light duty paving shall be 2-1/2" asphalt topping over a 6" granular base per the direction of a TN licensed engineer.
- 3. *Heavy Duty Asphalt Paving*** - J&S shall provide material, labor and equipment to furnish approximately 3,750 square yards (SY) of heavy duty paving. Heavy duty paving shall be 2" of

asphalt binder, asphalt tact coat, and 1-1/2" of asphalt topping over a 8" granular base per the direction of a TN licensed engineer.

4. **Aircraft Tie Downs** – J&S shall furnish material, labor, and equipment to pour in place ninety (90 ea.) 2'-0" x 2'-0" x 2'-0" concrete piers with #4 rebar each way on 12" centers and one (1) aircraft tie down per pier.
5. **Low Voltage** – J&S shall furnish material, labor, and equipment to install direct bury underground low voltage wiring and fixtures to extend the existing taxilane and apron lighting for the new aircraft apron and entrance to the existing taxilane. J&S number of new low voltage lights shall not exceed six (6) total.
6. **Parking Lot Lighting** – J&S shall provide material, labor, and equipment to install ten (10) 20'-0" light poles with concrete bases for the new automobile parking lot. Six (6) of the new pole lights will feature two (2) 100W equivalent LED lights while the remaining four (4) will feature one (1) 100W equivalent LED light. The entire lighting system will be controlled by a single photocell.
7. **Utilities** – J&S shall provide material labor and equipment to connect the proposed modular office facility to the sewer and water services provided to site by the City of Shelbyville.
8. **Exclusions** – All other work not specified above.

The documentation prepared as part of the Preliminary Design/Build Services is for the purpose of depicting the design and scope of work to the Owner and to enable J&S Construction Company, Inc. to prepare a detailed estimate in order to **guarantee the cost for construction**. These schematic plans will be converted to final construction documents in the construction phase and that expense is a part of the final guaranteed price.

J&S Construction Company, Inc. anticipates that the completion of this scope of work from construction design drawings, to permitting, to completion will take 3 months upon the execution of a Notice to Proceed or Contract for Services.

If you have any questions, please don't hesitate to contact me at your earliest convenience.

Sincerely,

Ryan Williams, Director of Business Development

J&S Construction Company, Inc.

EXHIBIT D
RENT PAYMENT SCHEDULE

See attached.

LEASE AGREEMENT
BY AND BETWEEN

Azure Airport Development SYI, LLC
AND
Middle Tennessee State University

RENT PAYMENT SCHEDULE

	A	B	C
Month	Initial Prepayment	Base Rent	Buyout or Early Termination Amount
Beginning Balance			\$ 3,472,000.00
Initial Prepayment	\$ 868,000.00		2,604,000.00
1		\$ 61,512.03	2,568,560.27
2		61,512.03	2,532,884.27
3		61,512.03	2,496,970.44
4		61,512.03	2,460,817.18
5		61,512.03	2,424,422.89
6		61,512.03	2,387,785.98
7		61,512.03	2,350,904.83
8		61,512.03	2,313,777.79
9		61,512.03	2,276,403.25
10		61,512.03	2,238,779.54
11		61,512.03	2,200,905.00
12		61,512.03	2,162,777.97
13		61,512.03	2,124,396.76
14		61,512.03	2,085,759.68
15		61,512.03	2,046,865.01
16		61,512.03	2,007,711.05
17		61,512.03	1,968,296.06
18		61,512.03	1,928,618.30
19		61,512.03	1,888,676.02
20		61,512.03	1,848,467.47
21		61,512.03	1,807,990.85
22		61,512.03	1,767,244.39
23		61,512.03	1,726,226.29
24		61,512.03	1,684,934.74
25		61,512.03	1,643,367.91
26		61,512.03	1,601,523.96
27		61,512.03	1,559,401.06
28		61,512.03	1,516,997.33
29		61,512.03	1,474,310.92
30		61,512.03	1,431,339.93
31		61,512.03	1,388,082.46
32		61,512.03	1,344,536.61
33		61,512.03	1,300,700.46
34		61,512.03	1,256,572.07
35		61,512.03	1,212,149.48

LEASE AGREEMENT
BY AND BETWEEN

Azure Airport Development SYI, LLC
AND
Middle Tennessee State University

RENT PAYMENT SCHEDULE

	A	B	C
Month	Initial Prepayment	Base Rent	Buyout or Early Termination Amount
36		61,512.03	1,167,430.75
37		61,512.03	1,122,413.89
38		61,512.03	1,077,096.92
39		61,512.03	1,031,477.83
40		61,512.03	985,554.62
41		61,512.03	939,325.26
42		61,512.03	892,787.69
43		61,512.03	845,939.88
44		61,512.03	798,779.75
45		61,512.03	751,305.22
46		61,512.03	703,514.19
47		61,512.03	655,404.55
48		61,512.03	606,974.18
49		61,512.03	558,220.95
50		61,512.03	509,142.69
51		61,512.03	459,737.24
52		61,512.03	410,002.43
53		61,512.03	359,936.05
54		61,512.03	309,535.89
55		61,512.03	258,799.73
56		61,512.03	207,725.33
57		61,512.03	156,310.44
58		61,512.03	104,552.78
59		61,512.03	52,450.06
60		61,512.03	-
61 through the conclusion of the lease		10,725.00	-

**RESOLUTION TO APPROVE THE
BORROWING OF MONEY BY ANOTHER METHOD BY
THE UNIVERSITY OF TENNESSEE**

Recitals

Whereas, the University of Tennessee (“UT”), on behalf of its Knoxville campus (“UTK”) proposes to lease (the “Lease”) from Cadillac Sixteen, LLC (“Landlord”), up to 29,775 square feet of office space located at 617 West Main Street, Knoxville, Tennessee (the “Facility”); and

Whereas, UTK will use the Facility to house its Vols Online program, an effort to expand the educational network initiatives that are critical in achieving UTK strategic goals; and

Whereas, the Facility is 0.3 miles from the main UTK campus providing ideal proximity for Vols Online to remain engaged with faculty and students; and

Whereas, the term of the Lease is three (3) years, with two (2) 1-year renewal options; and

Whereas, the first-year contract rent for the Lease is seven hundred fourteen thousand six hundred dollars and no cents (\$714,600.00) and increases three percent (3%) per year, for an average annual contract rent of seven hundred fifty-eight thousand seven hundred eighty-six dollars and ten cents (\$758,786.10); and

Whereas, UT will be responsible for janitorial services, utilities, certain maintenance costs, and its pro-rata share of excess operating expenses, and Landlord will provide a seventeen dollar and no cents (\$17.00) per square foot tenant improvement allowance; and

Whereas, the estimated total annual effective cost of the Lease is eight hundred forty-three thousand six hundred forty-four dollars and eighty-five cents (\$843,644.85); and

Whereas, UT may terminate the Lease upon one hundred twenty (120) days’ notice for convenience, but must reimburse Landlord for the unamortized balance of the tenant improvement allowance; and

Whereas, the Lease will be by UTK from Plant Funds (Non-Auxiliary) (A).

BE IT RESOLVED BY THE TENNESSEE STATE SCHOOL BOND AUTHORITY:

1. In accordance with the authority provided by Tennessee Code Annotated Section 49-3-1205(11), the Tennessee State School Bond Authority (the “Authority”) gives its approval for UT to enter into the Lease.

BE IF FURTHER RESOLVED that all resolutions or parts of resolutions in conflict are repealed, and the resolution shall be effective as of September 20, 2023.

Adopted by the Authority at its meeting on September 20, 2023.

JASON E. MUMPOWER, SECRETARY
TENNESSEE STATE SCHOOL BOND AUTHORITY

UNIVERSITY OF TENNESSEE

Acquisition – Lease (Space)

Requested Action: Approval of a lease

Transaction Description: Transaction No. 2022-10-001

- **Proposed Lease**

- **Location:** University of Tennessee – Knoxville (UTK), Knox County, Tennessee
617 West Main Street, Knoxville, TN
- **Landlord:** Cadillac Sixteen, LLC
- **Term:** 3 years (July 1, 2023 – June 30, 2025) with two (2) 1-year renewals
- **Area / Costs:** 29,775 Square Feet

First Year Contract Rent:	\$714,600.00	\$24.00/sf
Average Annual Contract Rent	\$758,786.10	\$25.48/sf
Estimated Annual Utility Cost	52,106.25	1.75/sf
Estimated Annual Janitorial Cost	32,752.50	1.10/sf
Total Annual Effective Cost	<u>\$843,644.85</u>	<u>\$28.33/sf</u>

- **Source of Funding:** Plant Funds (Non-Auxiliary) (A)
- **Procurement Method:** Negotiated

Comment: The University of Tennessee, on behalf of its Knoxville campus (UTK), proposes to enter into a lease agreement for office space at 617 West Main Street, Knoxville, TN.

The UTK campus is advancing its digital immersion programs globally (referred to as Vols Online) to further enhance the academic outreach offerings. Vols Online is an effort to expand the educational network initiatives that are critical in achieving UTK strategic goals. Vols Online will utilize data-informed methods to heighten access through digitally-based programs, which supports a diverse student population and provides solutions to confounding, ambiguous, and complex challenges faced both today and tomorrow.

The office complex located at 617 Main Street, Knoxville, TN 37902 is 0.3 miles from the main UT Knoxville campus providing ideal proximity for Vols Online to remain engaged with faculty and students. This is the only available building located in an urban setting this close to campus that can offer a large amount of space to support the collaborative nature of UTK's Vols Online initiative.

Previous Action: 11/21/2022 Approval of waiver of advertisement

SSC Report:

EXECUTIVE SUMMARY

BACKGROUND:

The University of Tennessee, on behalf of its Knoxville campus (UTK), proposes to enter into a lease agreement for office space at 617 West Main Street, Knoxville, TN.

The UTK campus is advancing its digital immersion programs globally (referred to as Vols Online) to further enhance the academic outreach offerings. Vols Online is an effort to expand the educational network initiatives that are critical in achieving UTK strategic goals. Vols Online will utilize data-informed methods to heighten access through digitally-based programs, which supports a diverse student population and provides solutions to confounding, ambiguous, and complex challenges faced both today and tomorrow. Currently, there are 15 positions supporting this initiative with the need to add another 15 positions during Fall 2023. UTK anticipates robust annual growth in Vols Online, resulting in several more positions needed starting in early 2024.

The office complex located at 617 Main Street, Knoxville, TN 37902 is 0.3 miles from the main UT Knoxville campus providing ideal proximity for Vols Online to remain engaged with faculty and students. This is the only available building located in an urban setting this close to campus and that can offer a large amount of space to support the collaborative nature of UTK's Vols Online initiative within close reach of the main campus.

TERMS:

The University proposes to lease 29,775 square feet at this location under a three (3) year agreement with two (2) 1-year renewal options. The rent/month in year 1 will be \$59,550.00, or \$714,600.00 annually, with 3% escalation beginning in year 2. The total rent payable under the lease, if both renewal options are exercised would be \$3,793,930.50.

FUNDING:

Funding for the lease payments will be provided by UTK from Plant Funds (Non-Auxiliary) (A).

REQUEST:

Request approval to enter into a lease agreement.

AGENCY:	
ALLOTMENT CODE:	COST CENTER:

This Instrument Prepared By:

University of Tennessee

UT Tower, 9th Floor
505 Summer Place-UTT 990
Knoxville, Tennessee 37902

LE NO.

NOTE: No hand written or interlineated changes to this Lease will override the printed text of this Lease.

This lease document is not effective or binding unless approved in accordance with all applicable laws.

LEASE

1. Date of this Lease: _____

Name and Address of Building:

617 West Main St
Knoxville, TN 37902

2. Tenant: **University of Tennessee**

Landlord Name and Address:

Cadillac Sixteen, LLC
123 S. Gay Street
Knoxville, TN 37902

3. Leased Premises: space in the Building as identified herein and more particularly described on Exhibit B

4. Rentable Square Feet: 29,775 sf

5. Initial Term of Lease: 3 year(s) and 0 month(s)
Commencement Date of Lease Term
(and of the obligations hereunder): _____
Expiration Date of Lease Term: _____

Renewal Option: 2, 1-year renewal options

6. Termination for Convenience: Tenant may terminate this Lease at any time by giving written notice to Landlord at least 120 days prior to the date the termination becomes effective. If Tenant terminates this Lease prior to the Expiration Date for convenience or as outlined in Section 6(b), 6(c), or 6(d), Tenant will pay the unamortized balance of Tenant Improvement Allowance provided by Landlord.

Monthly Rental Installments Table

7. Lease Year(s)	Annual Rental	Monthly Rental Installments	Rental Rate Per Rentable Square Foot
1	\$714,600.00	\$59,550.00	\$24.00
2	\$736,038.00	\$61,336.50	\$24.72
3	\$758,071.50	\$63,172.63	\$25.46
4*	\$780,998.25	\$65,083.19	\$26.23
5*	\$804,222.75	\$67,018.56	\$27.01

*if renewal option(s)
is (are) exercised

8. Utilities & Services:

- ☐ All utilities are included in the Monthly Rental Installments.
☐ The following utilities are not included in the Monthly Rental Installments: _____
☒ Tenant is solely responsible for payment of the following separately metered utilities: ☒ electric ☒ gas ☒ water/sewer
☒ Janitorial services are not included in the Monthly Rental Installments.

9. **Improvements (check any that apply):** Leasehold Improvement Allowance: \$17.00 per Rentable Square Foot

- ☒ A. Existing Space (New Tenant or Renewal) ☒ B. Landlord to build out space pursuant to Exhibit D

10. ☐ This Lease is a sublease pursuant to that certain _____ dated effective _____ by and between _____, as landlord, and Landlord, as tenant. If not checked, this paragraph is not applicable.

11. Attached hereto and incorporated herein for all purposes are the following additional exhibits:

Exhibit A -- Lease Standard Terms and Conditions; Exhibit B -- Floor Plan;

☒ Other -- Exhibit C -- Commencement Date; ☒ Other -- Exhibit D -- Build Out Terms; ☒ Other -- Exhibit E -- Build Out Plans

LANDLORD:	TENANT: UNIVERSITY OF TENNESSEE
By: _____	By: _____ Austin Oakes, Assistant Vice President – Office of Capital Projects
Date: _____	Date: _____
Name: _____	By: _____ Jonathan Skrmetti., Attorney General & Reporter (For Form and Legality)
Title: _____	Date: _____

(Notary Acknowledgements Attached)

LANDLORD NOTARY

STATE OF TENNESSEE
COUNTY OF _____

Before me, _____, Notary Public in and for the County and State aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself/herself to be, the within named Landlord, and that he/she, executed the foregoing instrument for the purposes therein contained

Witness my hand and seal, at office in _____, Tennessee, this the ____ day of _____, 202__.

Notary Public
My Commission Expires: _____

TENANT NOTARY

STATE OF TENNESSEE
COUNTY OF KNOX

Before me, _____, Notary Public in and for the County and State aforesaid, personally appeared **Austin Oakes**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself to be **Assistant Vice President, University of Tennessee Office of Capital Projects**, the within named Tenant, and that he as such representative, executed the foregoing instrument for the purposes therein contained and signed the name of the University of Tennessee, by herself as **Assistant Vice President, University of Tennessee Office of Capital Projects**

Witness my hand and seal, at office in Knoxville, Tennessee, this the ____ day of _____, 202__.

Notary Public
My Commission Expires: _____

[seal]

EXHIBIT A

In consideration of the mutual covenants and representations set forth in the Lease (the "Lease") and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby agree as follows. The capitalized terms used in this Exhibit A shall have the meaning assigned to such terms in the Lease, unless another meaning is assigned to such terms in this Exhibit A.

1. DEMISE. Upon the terms and conditions hereinafter set forth and as set forth in the Lease, Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, the Leased Premises for the Term of the Lease. Landlord represents and warrants to Tenant that Landlord is the fee simple owner of the Leased Premises and has the right to lease the Leased Premises to Tenant pursuant to the terms of the Lease. Landlord further represents and warrants to Tenant that there are no easements, covenants, restrictions or other agreements or instruments encumbering the Leased Premises that (i) contain any pre-approval rights relating to this Lease (including any lender approval rights) which have not been secured by Landlord, or (ii) would interfere with or restrict Tenant's ability to use the Leased Premises for office, storage and any other purpose permissible under applicable law (the "Permitted Use"). Landlord further represents and warrants to Tenant that (x) the use of the Leased Premises for the various purposes for which it is presently being used is permitted under all applicable zoning legal requirements and (y) all utilities necessary for the use of the Leased Premises for the various purposes for which it is presently being used are being supplied to the Building via publicly dedicated utility easement areas.

2. RENT. The Monthly Rental Installments for the Lease of the Leased Premises shall be due and payable on the 1st day of each month and considered late after the 5th day of each month during the term hereof to Landlord at Landlord's address as set forth on the Lease, provided Landlord has submitted a completed the ACH Form (as defined below) to Tenant. Landlord shall not invoice Tenant for services until Landlord has completed this form and submitted it to Tenant. The Monthly Rental Installments shall be prorated for any partial calendar month during the Term.

No payment shall be made by Tenant under this Lease until Tenant has received the following documentation properly completed:

1. Landlord shall complete, sign and present to Tenant an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by Tenant. By doing so, Landlord acknowledges and agrees that, once said form is received by Tenant, all payments to Landlord, under this or any other contract Landlord has with Tenant shall be made by Automated Clearing House (ACH).

2. Landlord shall complete, sign and present to Tenant a "Substitute W-9 Form" provided by Tenant. The taxpayer identification number detailed by said form must agree with Landlord's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Lease.

Landlord agrees that the Rent provided under the terms of this Section 2 is based in part upon the costs of the services, utilities, and supplies to be furnished by Landlord pursuant to Section 3 hereof and that should Tenant vacate the Leased Premises prior to the end of the term of this Lease, or, if after notice in writing from Tenant, all or any part of such services, utilities or supplies for any reason are not used by Tenant, then, in such event, the Monthly Rental Installments as to each month or portion thereof as to which such services, utilities or supplies are not used by Tenant shall be reduced by an amount equal to the average monthly costs of such unused services, utilities or supplies during the six-month period immediately preceding the first month in which such services, utilities or supplies are not used.

3. LANDLORD'S OBLIGATIONS.

A. Utilities:
[Intentionally Deleted]

B. Maintenance
Landlord shall, at Landlord's expense, and as required to keep the Building and the Leased Premises in a good, attractive and safe condition, maintain and repair, in a good and workmanlike manner and in compliance with all replacement and maintenance schedules followed by prudent landlords of commercial buildings, (i) the Building, including, but not limited to, the repair, maintenance and replacement of the roof, foundation and exterior and load-bearing walls; (ii) the mechanical, plumbing and electrical systems, including, but not limited to, air conditioning, heating, plumbing, wiring and piping and all filters, valves and other components; (iii) the exterior of the Building and the land upon which the Building is located,

including any landscaped areas, parking areas and driveways, including, but not be limited to the following: weekly lawn cutting during the growing season, debris pick-up, leaf removal, mulching of planting beds, maintain any landscaping, daily snow and ice removal from parking areas and entrances to the Leased Premises; (iv) elevators, if any; (v) interior of the Building and the Leased Premises, including but not limited to repair, maintenance, patching, mold, mildew, and moisture removal, and, ceilings, and other surfaces; (vi) all lighting components, [not including but not limited to, furnishing and monthly replacement of electrical light bulbs, fluorescent tubes], including ballasts and starters. Tenant reimburses Landlord for prorata share of maintenance expenses over the Base Year as defined in Section 4C.

C. Insurance

Landlord shall, at Landlord's expense, maintain fire and extended coverage insurance on Leased Premises, in an amount not less than the full replacement cost of the Building, and comprehensive general liability insurance coverage in the sum of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) per annual aggregate against any and all liability, loss or damage arising from any injury or damage to any person or property occurring in or about the Leased Premises or the Building resulting from Landlord's negligence or matters arising for reasons beyond Tenant's control. The policies described in this Section shall name Tenant as an additional insured. Annually, Landlord shall furnish Tenant with a certificate of such coverage which shall provide that thirty (30) days' advance written notice shall be given to Tenant in the event of cancellation or material change in the insurance policies maintained as required herein. Tenant reimburses Landlord for prorata share of insurance over the Base Year as defined in Section 4C.

D. Taxes

Landlord shall be responsible for payment of all real estate taxes assessed against the Building or land on which the Building is located, as well as all applicable local, state and federal income taxes which are or may be payable by Landlord. Landlord, by virtue of leasing property to Tenant, does not become a State of Tennessee agency, entity, or employee and is not entitled to any rights, privileges or immunities pertaining to the State or its agencies and instrumentalities. Tenant reimburses Landlord for prorata share of taxes over the Base Year as defined in Section 4C.

E. Janitorial

[Intentionally Deleted]

F. Pest Control

Landlord shall, at Landlord's expense, provide monthly exterior pest extermination services. All such services shall be performed during normal business hours.

4. TENANT'S OBLIGATIONS. In addition to the said rent to be paid, Tenant also agrees to pay directly during the term of the Lease, commencing on the Commencement Date, the following items of expense as the same become due and payable:

A. Utilities

Tenant shall, at Tenant's expense, furnish all utilities to the Leased Premises, including electrical, gas, water and sewer, in capacities sufficient for the Permitted Use; in addition, Tenant shall be responsible for telephone and data services.

B. Maintenance

The Tenant shall maintain, at its sole and direct cost, the Leased Premises in good condition (except for those items stated above under Section 2B) reasonable wear and tear and damage due to casualty excepted. In addition, Tenant shall be responsible for janitorial, cleaning, trash removal, light bulbs, minor electrical and plumbing repairs. Tenant shall also, at Tenant's expense, furnish and maintain appropriate outside trash and refuse receptacles for the disposal of trash and refuse from the Leased Premises.

C. The Tenant's Base Year for Operating Costs for this Lease is calendar year 2023. Accordingly, beginning in 2024, Tenant agrees to pay as Additional Rent its proportionate share of any Operating Costs over and above the actual amount calculated during the Tenant's Base Year (i.e., calendar year 2023), specified in the

preceding sentence and Paragraph 3 Sections (a), (b), and (c), capped at 5% increase/annum over the previous year ("Excess Operating Costs") in the following manner:

Operating Costs shall include taxes; insurance coverage for casualty loss, rent loss, and public liability; contract cleaning and supplies; management fees not exceeding 5% of gross rents and other tenant charges collected; all utilities provided and paid by the Landlord; building payroll; guard and other security services; general maintenance repairs; landscaping; the reasonable amortization of capital improvements which will improve the efficiency of operating, managing, or maintaining the Building or which will reduce the Landlord's operating expenses or the rate of increase thereof.

Taxes shall include all general and special real estate taxes assessed against the real property of which the Leased Premises are a part, all user fees levied or charged by any state, county, municipal or federal government for garbage collection, fire or police protection, sewer surcharge, or the like, and any other rate, levy, charge, assessment, license or fee upon the Landlord by way of capital levy, tax assessment levy, imposition or charge measured by or based in whole or in part upon the Leased Premises and imposed upon the Landlord, or measured by the rent payable upon the Landlord, or measured by the rent payable under this Lease, or by way of a landlord's gross receipts tax, commercial lease tax, sales tax, or any other new tax imposed by the United States of America, any state or municipality or political subdivision thereof of whatever name and kind and whether or not now known or within the contemplation of the parties and however levied, assessed, charged, imposed or computed in any way attributable to the Leased Premises, the Building, property on which it is situated, or the right to receive rent therefrom.

Real estate taxes shall be included in the computation of operating costs on a monthly basis.

All refunds, repayments and recoveries of amounts theretofore included in operating costs shall be included in the computation as a credit during the month received by Landlord. All other operating costs shall be included in the computation in the month when incurred.

Tenant shall pay the proportion of any such Excess Operating Costs that the rentable area of the Leased Premises bears to the total rentable area of the entire Building. Rentable area shall be computed according to the recommended standard method of floor measurement for office buildings issued by the "Building Owners and Managers Association International".

Landlord shall estimate for each calendar year, or any portion of a calendar year at the beginning and end of this Lease, Tenant's proportionate share of the Excess Operating Costs for the forthcoming year. Tenant shall pay, with each monthly installment of rent, one-twelfth (1/12th) of Tenant's estimated annual share of Excess Operating Costs. The amount of any such Excess Operating Costs shall be prorated on a daily basis for any partial month during which this Lease begins and ends.

Within ninety (90) days after the expiration of each calendar year, Landlord shall forward to Tenant a statement showing Tenant's actual pro rata share of the Excess Operating Costs. Should Tenant's actual share differ from the amount actually paid, then, within thirty (30) days after the date of Landlord's statement, either Landlord shall refund to Tenant any amount paid in excess of its actual share or Tenant shall remit to Landlord any amount by which its payments were deficient.

Tenant shall have the right to inspect Landlord's cost records at Landlord's offices during business hours and upon request in advance. No right given Tenant in this provision shall relieve Tenant of the obligation to pay its proportionate part of increase in operating costs as herein provided.

- D. Nothing herein shall be construed so as to require Tenant to pay or be liable for any gift, inheritance, estate, general income, capital gain, or similar tax imposed upon Landlord and not attributable to the property or the rent therefrom as above provided. Nothing herein shall be construed so as to require Landlord to pay or be liable for any taxes separately levied on Tenant's leasehold estate or for taxes on Tenant's personal property, tenant improvements which do not become a part of the real estate or income, business, gross receipts or other taxes on Tenant or Tenant's income or business, all of the foregoing which shall be paid by Tenant.
- E. For the term of this Lease, Tenant shall pay, in addition to Rent, \$100.00 per month (subject to an annual 3% escalation) per parking space for forty-three (43) parking spaces made available to Tenant by Landlord. Tenant may also elect to lease additional parking spaces at the same rate in the adjacent lot owned by Landlord at 607 Main Street at any time over the term of this lease.

5. IMPROVEMENTS. Tenant shall have the right during the existence of the Lease to make alterations, attach fixtures and erect additions, structures or signs in or upon the Leased Premises. Such fixtures, additions, structures or signs so placed in or upon or attached to the Leased Premises under the Lease or any prior lease of the Leased Premises by Tenant shall be and remain the property of Tenant and may be removed therefrom by Tenant prior to the termination or expiration of this Lease or any renewal or extension thereof, or within a reasonable time thereafter. Any signs must have prior written approval from Landlord, which shall not be unreasonably withheld.

6. TERMINATION FOR CAUSE. Tenant may in its sole discretion terminate this Lease at any time for any of the following causes: (a) Landlord's failure to disclose any conflict or potential conflict of interest existing at the date of this Lease or hereafter created; (b) termination or consolidation of Tenant's operations or programs housed in the Leased Premises because of loss of funding; (c) lack of funding by the appropriate Legislative Body for obligations required of Tenant under this Lease; (d) the availability of space in Tenant-owned property, provided that no cancellation for this reason may take place until the Lease has been in effect for one year; and (e) any default by Landlord which is not adequately remedied in accordance with **Section 8** hereof. Notwithstanding the foregoing, all terms and conditions of the Lease are made subject to the continued appropriations by the appropriate Legislative Body. If Tenant terminates this Lease prior to the Expiration Date for convenience or as outlined in Sections 6(b), 6(c), and 6(d), Tenant must pay to Landlord the balance of unamortized tenant improvement allowance from Landlord at time of termination.

7. ENVIRONMENTAL PROVISIONS. Following due inquiry, Landlord represents that there are no hazardous substances or hazardous wastes as defined by the Comprehensive Environmental Response and Liability Act or any hazardous wastes as defined by the Resource Conservation and Recovery Act, or any mold, PCB's, radon or asbestos containing materials, located on, in or about the Leased Premises to be occupied by Tenant. Landlord agrees that should any hazardous wastes, hazardous substances, mold, PCB's, radon or asbestos containing materials be determined to be present as a result of the acts or omissions or negligence of any person or legal entity, other than Tenant, Landlord shall indemnify, hold harmless and defend Tenant from all claims, damages, expenses or litigation resulting from the presence of such materials. If Tenant reasonably believes that hazardous substances may be present in the Leased Premises or the Building, Landlord will engage, at its expense, a qualified third party engineer to conduct an appropriate environmental survey. If hazardous substances are found or such survey indicates a risk of such hazardous substances being present in the Leased Premises or Building, then Landlord, at its expense, will make all necessary changes and/or corrections so that the Building and/or the Leased Premises are in compliance with all environmental laws and regulations. In the event Landlord discovers hazardous materials on the Leased Premises during the Term of this Lease, Landlord shall promptly notify Tenant.

8. DEFAULT. Tenant shall be in default of the terms of the Lease if Tenant shall fail to make a payment of any rent or additional rent, and such rent or additional rent is not paid within ten (10) days of written notice by Landlord to Tenant of non-payment of same, or in the event that Tenant shall otherwise commit an act of default under the terms hereof, and shall not cure such default within thirty (30) days of written notice by Landlord to Tenant of such default, or, if it is not possible to complete the cure by such time, Tenant has not commenced the cure within such 30 day period and does not thereafter diligently pursue the same to completion within a reasonable time thereafter. In the event of default by Tenant hereunder:

- A. Landlord may continue the Lease in full force and effect and shall have the right to collect rent when due. During the term Tenant is in default, Landlord may re-enter the Leased Premises with legal process and relet same, or any part thereof, to third parties for Tenant's account. Tenant shall pay to Landlord the rent due under the Lease on the date such rent is due, less the rent Landlord receives from any reletting. Landlord shall make its best efforts to relet the Leased Premises at a reasonable price. Under this paragraph, Tenant's obligations shall not exceed the total rent due for the remainder of the term.
- B. Landlord may terminate the Lease pursuant to the terms of this Section. Upon termination, Landlord shall have the right to collect an amount equal to all expenses, if any, not including attorneys' fees, incurred by Landlord in recovering possession of the Leased Premises and all reasonable costs and charges for the care of the Leased Premises while vacated by Tenant.

Except as specifically set forth herein, Landlord shall be in default of the terms of the Lease if Landlord shall commit an act of default under the terms hereof, and shall not cure such default within twenty (20) days of written notice by Tenant to Landlord of such default, or, if it is not possible to complete the cure by such time, Landlord has not commenced the cure within such 20 day period and does not thereafter diligently pursue the same to completion within a reasonable time thereafter. In the event of a default by Landlord hereunder, Tenant may, in addition to all rights and remedies available at law or in equity, (i) cure such default and deduct any reasonable and necessary amounts incurred by Tenant in connection therewith from the rent next due by Tenant hereunder with the presentation of receipts for such reasonable and necessary actions, or (ii) terminate the Lease. Notwithstanding the foregoing, in the event that

Tenant is unable, in its reasonable judgment, to operate in the Leased Premises as a result of the failure by Landlord to satisfy its obligations pursuant to Section 3 hereof (A) for a period of more than forty eight (48) consecutive hours, then the rent shall abate during the entire period of the disruption and Tenant shall have the right to terminate the Lease in the event Landlord remains unable to satisfy its obligations pursuant to Section 3 hereof for a period of more than ten (10) consecutive days; or (B) more than ten (10) days during any twelve (12) month period, then Tenant shall have the right to terminate the Lease.

9. **END OF TERM.** At the termination of this Lease, Tenant shall surrender its interest in the Leased Premises to Landlord in as good condition and repair as reasonable use thereof will permit, ordinary wear and tear excepted, and will leave the Leased Premises broom clean. Tenant shall have the right, prior to said termination, to remove any equipment, furniture, trade fixtures or other personal property in the Leased Premises owned by Tenant, provided that Tenant promptly repairs any damage to the Leased Premises caused by such removal. In the event of holding over by Tenant after the expiration or termination of the Term of this Lease, Tenant shall pay rent at the then-current rate for rent as set forth in the Lease, on a monthly basis and the Term of this Lease shall be automatically extended on a month to month basis.

10. **MISCELLANEOUS.** The article captions contained in the Lease are for the convenience of the parties only and shall not be considered in the construction or interpretation of any provision hereof. Landlord and its agents shall have reasonable access to the Leased Premises during all reasonable business hours for the purpose of examining same to ascertain if they are in good repair and to make reasonable repairs which Landlord may be required to make hereunder. The making of repairs by Landlord or its agents shall be coordinated with Tenant to minimize disruptions of Tenant's conduct of business in the Leased Premises. The Lease contains the entire agreement between the parties and supersedes any and all other prior oral and written agreements between the parties regarding the subject matter contained herein and may not be changed or terminated orally but only by agreement in writing and signed by all parties. Landlord and Tenant acknowledge and agree that (i) all exhibits referenced in the Lease (or in any of its exhibits) are incorporated into the Lease by reference, and (ii) any reference to "the Lease," "this Lease," "hereunder," "herein" or words of like import shall mean and be a reference to the Lease including such exhibits. No waiver by either party shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by either party of the same or any other provision. The Lease shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors, assigns, executors and administrators. Landlord has provided to Tenant a list of names and addresses of persons, associations, or corporations who hold any financial interest in the Leased Premises; such list shall be immediately revised in the event of a transfer of any such interest. The Lease Proposal Package from which this lease originated and the Landlord's response to the Lease Proposal Package (collectively, the "Proposal Package") is hereby incorporated in the Lease; provided, however, that in the event of any conflict between the terms of the Proposal Package and the Lease, the terms of the Lease shall control.

11. **DAMAGE OR DESTRUCTION.** If the Leased Premises are damaged by fire or other casualty, the damage shall be repaired by and at the expense of Landlord (excluding any personal property which is owned by Tenant), provided that such repairs can, in Landlord's opinion, be made within sixty (60) days after the occurrence of such damage. Landlord shall notify Tenant within fifteen (15) days of the event of casualty of its determination. Until such repairs are completed, the rent shall be abated in proportion to the part of the Leased Premises rendered unusable, but there shall be no abatement of rent for a period equal to one (1) day or less. If such repairs cannot, in Landlord's opinion, be made within sixty (60) days and Landlord nonetheless chooses to repair, then Tenant may, at its option, continue as Tenant under the Lease until such repairs are completed, during which time all rent shall abate, or Tenant may terminate the Lease. A total destruction of the Building in which the Leased Premises are located shall automatically terminate the Lease. Total destruction of the Building shall be defined as damage greater than fifty percent (50%) of the then replacement value thereof.

12. **NOTICES.** Any notice required or permitted to be given hereunder shall be sufficiently given if personally served, sent by registered or certified mail, or by reputable overnight courier, addressed to the relevant party at the addresses specified in the Lease, for Landlord to: Cadillac Sixteen, LLC 123 South Gay St., Knoxville, TN 37902, and for Tenant to: University of Tennessee, 301 Andy Holt Tower, Knoxville, Tennessee 37996.

13. **QUIET ENJOYMENT.** Landlord warrants and shall defend Tenant in the quiet enjoyment and possession of the Leased Premises during the term and any extension or renewal thereof.

14. **SUBORDINATION, ATTORNMEN AND NON-DISTURBANCE.** Tenant agrees that the Lease and all rights of Tenant hereunder are and shall be subject and subordinate to any ground or underlying lease which may now or hereafter be in effect regarding the Building or any component thereof, to any mortgage now or hereafter encumbering the Leased Premises or the Building or any component thereof, to all advances made or hereafter to be made upon the security of such mortgage, to all amendments, modifications, renewals, consolidations, extensions and restatements of such mortgage, and to any replacements and substitutions for such mortgage (collectively,

"Mortgages"); provided as a condition to such subordination, any holder of the Mortgage must enter into a Subordination, Non-Disturbance and Attornment Agreement with Tenant in form reasonably acceptable to Tenant. In the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under, or in the event of a deed in lieu of foreclosure with respect to any Mortgage covering the Leased Premises or the Building, or in the event of termination of any Lease under which Landlord may hold title, Tenant shall, at the option of transferee, attorn to such transferee and shall recognize and be bound and obligated hereunder to such person as Landlord under the Lease, unless the Lease is terminated. Notwithstanding anything contained herein to the contrary, so long as Tenant is not in default in the payment of rent, or in the performance of any of the other terms, covenants or conditions of the Lease beyond any applicable cure periods, no mortgagee or similar person shall disturb Tenant in its occupancy of the Leased Premises during the original or any renewal term of the Lease notwithstanding any event or proceedings described in this section.

15. **APPROVALS.** Neither this Lease nor any amendment or modification hereto shall be effective or legally binding upon Tenant, unless and until a fully executed, original Lease has been returned to Tenant and the review and approval by all appropriate State officials and the State Building Commission, if applicable has been obtained.

16. **COMPLIANCE WITH LAWS.** Landlord represents and warrants to Tenant that as of the date of execution of this Lease, the Building complies with the provisions of the Americans with Disabilities Act (ADA) in all material respects. Landlord hereby indemnifies and holds harmless Tenant from and against all costs, liabilities, and causes of action occurring or arising as a result of Landlord's failure to comply with any of the requirements of the ADA or similar laws or as a result of any violation of any of the requirements of the ADA or similar laws by Landlord or its agents. Landlord shall provide all life safety equipment, including but not limited to, fire extinguishers and smoke alarms, in compliance with applicable municipal building codes.

17. **FORCE MAJEURE.** With the exception of the obligation of Tenant to pay rent and all other amounts that may be due from time to time under this Lease, if either party shall be delayed or hindered in or prevented from doing or performing any act or thing required hereunder by reason of any matters beyond the reasonable control of such party, then such party shall not be liable or responsible for any such delays and the doing or performing of such act or thing shall be extended for a period equivalent to the period of such delay. In such event, this Lease and the obligations of both parties to perform and comply with all of the other terms and provisions of this Lease shall in no way be affected, impaired, or excused.

18. **RECORDS RETENTION.** Landlord shall maintain documentation for all charges against Tenant under the Lease. The books, records and documentation of Landlord, insofar as they relate to reimbursement by Tenant for costs incurred, whether in whole or in part, shall be maintained in conformity with generally accepted accounting principles for a period of five (5) full years from the date of what amounts to the final payment under this Lease, and shall be subject to audit, at any reasonable time and upon reasonable notice by the Comptroller of the Treasury or his duly appointed representative or a licensed independent public accountant.

19. **SPACE AUDIT.** Landlord certifies that the rentable square feet set forth in the Lease is accurate to the best of its knowledge. Tenant reserves the right to perform physical measurements of the Leased Premises and adjust the Monthly Rental Installments proportionally based upon such measurements. Tenant shall use the current Building Owner's and Manager's Association standards of measurements for either single or multi-tenant occupancy, whichever is applicable.

20. **COMMON AREAS.** During the Term of the Lease, Landlord agrees that Tenant and its employees, agents, invitees and visitors shall have the non-exclusive right to use the Common Areas for their intended purpose. Except for repairs, maintenance and replacements required under this Lease, Landlord shall not materially alter (or permit the material alteration of) any entrances, exits, corridors, sidewalks or hallways providing access to or from the Leased Premises. Landlord represents and warrants to Tenant that the Common Areas include all areas which are necessary for the use of the Leased Premises for its current use. As used herein, "Common Areas" means all portions of the Building intended for the general use or benefit of tenants or owners of the Building, and their employees, agents, and visitors, including, without limitation, all entrances, common corridors, parking areas, loading and unloading areas, trash areas, roadways, walkways, sidewalks and driveways.

21. **IRAN DIVESTMENT ACT.** The requirements of Tenn. Code Ann. § 12-12-101 et. seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, are a material provision of this agreement. Landlord hereby certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

22. **NON-BOYCOTT OF ISRAEL.** Pursuant to Tenn. Code Ann. § 12-4-119, Landlord certifies that it is not currently engaged in, and will not for the duration of the agreement, engage in a boycott of Israel, as defined by

Tenn. Code Ann. § 12-4-119(a)(1).

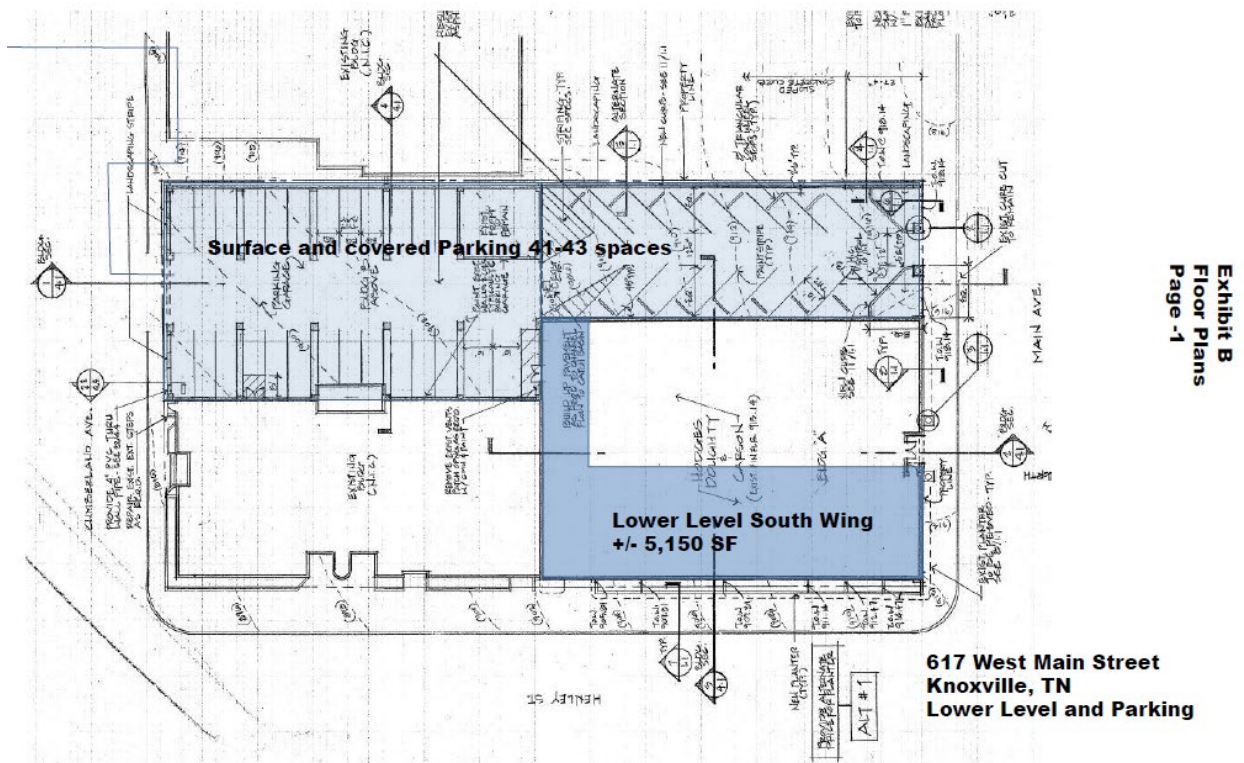
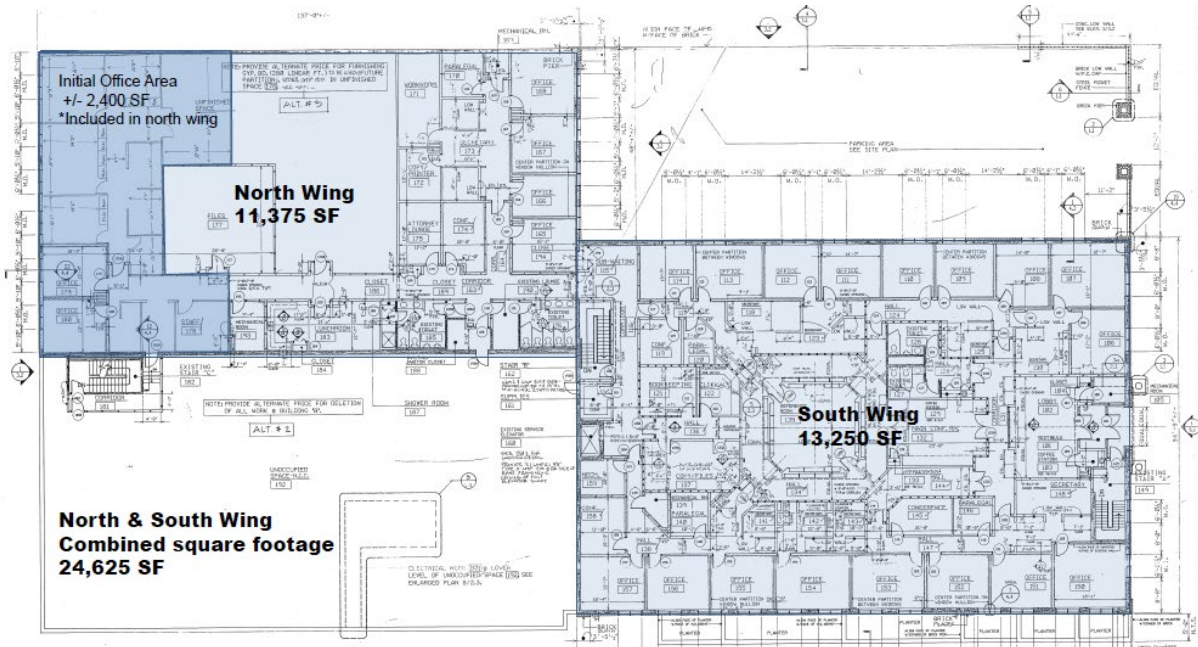
23. PROHIBITION OF ILLEGAL IMMIGRANTS.

- a. The requirements of Public Acts of 2006, Chapter Number 878, of the State of Tennessee, addressing the use of illegal immigrants in the performance of any Agreement to supply goods or services to the State of Tennessee, shall be a material provision of this Agreement, a breach of which shall be grounds for monetary and other penalties, including termination of this Agreement.
- b. The Landlord hereby attests, certifies, warrants, and assures that the Landlord shall not knowingly utilize the services of an illegal immigrant in the performance of this Agreement and shall not knowingly utilize the services of any sub-contractor or consultant who will utilize the services of any illegal immigrant in the performance of this Agreement. The Landlord shall affirm this attestation, in writing, by his signature on this Agreement.
- c. The Landlord understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law provides for the prohibition of a Landlord from any sub-Agreement with, or submitting an offer, proposal, or bid to Agreement with the State of Tennessee to supply goods or services for a period of one year after a Landlord is discovered to have knowingly used the services of illegal immigrants during the performance of this Agreement.
- d. For purposes of this Agreement, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a lawful permanent resident, or a person whose physical presence in the United States is authorized or allowed by the Department of Homeland Security and who, under Federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Agreement.

24. CONFLICTS OF INTEREST. The Landlord warrants that no part amounts under this Agreement shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation or gifts in exchange for acting as an officer, agent, employee, sub-contractor, or consultant to the Landlord in connection with any work contemplated or performed relative to this Agreement.

25. NON-DISCRIMINATION. No person on the grounds of handicap, race, color, religion, sex, or national origin will be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement, or in the employment practices of the Landlord. The Landlord shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notices on non-discrimination.

EXHIBIT B FLOOR PLANS



**EXHIBIT C
COMMENCEMENT DATE**

Commencement Date Agreement

RE: Lease dated as of _____, by and between _____, as
Landlord, and the University of Tennessee, as Tenant.

Dear Sirs:

Pursuant to the terms of the above captioned Lease, please be advised as follows:

1. The Commencement Date of the Lease Term is the ____ day of _____, 202__, and the
Expiration Date of the Lease Term is the ____ day of _____, _____, subject however to
the terms and provisions of the Lease.
2. Terms denoted herein by initial capitalization shall have the meanings ascribed thereto in the Lease.

LANDLORD

By: _____

Title: _____

ACKNOWLEDGED AND AGREED:

University of Tennessee

By: _____

Title: _____

EXHIBIT D
BUILD OUT TERMS

1. Tenant's space needs and conceptual renovations are attached to this Exhibit D. Landlord's architect will meet with Tenant to refine these conceptual renovations. Landlord will provide a schedule for all work within thirty (30) days of execution of this Amendment.
2. Landlord shall cause to be prepared by Landlord's architect or engineer the following:
 - (a) Detailed working drawings and specifications, including mechanical and electrical plans and specifications where necessary for the installation of air conditioning system and ductwork, heating, electrical, plumbing and other engineering plans (collectively, the "Plans"), for Landlord's build-out of the Leased Premises (the "Landlord's Work"); and
 - (b) Any subsequent modifications to the construction documents and specifications required by Landlord or requested by Tenant and agreed to by Landlord.
2. Landlord shall submit for Tenant's approval the Plans within thirty (30) days of the date of this Lease. If Tenant has not approved the Plans within fifteen (15) days of receipt, then the Plans shall be deemed disapproved. If Tenant disapproves the Plans, Landlord shall revise and resubmit the same to Tenant for approval within ten (10) business days following receipt of Tenant's disapproval, which process shall continue until the Plans are approved. A copy of the Plans shall be attached to the Lease as Exhibit E.
3. Any approval by Tenant of or consent by Tenant to any plans, specifications or other items to be submitted to and/or reviewed by Tenant pursuant to this Lease shall be deemed to be strictly limited to an acknowledgment of approval or consent by Tenant thereto and such approval or consent shall not constitute the assumption by Tenant of any responsibility for the accuracy, sufficiency or feasibility of any plans, specifications or other such items and shall not imply any acknowledgment, representation or warranty by Tenant that the design is safe, feasible, structurally sound or will comply with any legal or governmental requirements, and Landlord shall be responsible for all of the same.
4. Landlord will provide a Tenant Improvement Allowance of \$ 17.00 per square foot or \$ 506,175.00 for Landlord's Work. Tenant is responsible for the cost of Landlord's Work that exceeds this amount.
5. Landlord's Work requested by Tenant and approved by Landlord shall be performed (i) by Landlord's contractor or another contractor approved by Landlord, (ii) in a good and workmanlike manner, and (iii) in accordance with all applicable laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Leased Premises. Landlord agrees to request three bids from qualified contractors for the Landlord's work. Preference will be given to the lowest cost option unless this contractor is unable to meet the delivery date, has not demonstrated the ability to meet applicable codes and laws, or other reasons deemed significant by Landlord or Tenant. Prior to executing the construction contract, Landlord will seek approval from Tenant in writing. Once executed, any changes to the scope of work, schedule or budget must be approved by Tenant. Tenant assumes no liability for change orders that were not approved by Tenant prior to the work being completed.
6. During Landlord's work and on a monthly basis, Landlord will provide to Tenant copies of invoices indicating the work that was completed, the percent completion of the work, the amount paid and the remaining balance in the construction contract.
7. Landlord will cause Landlord's Work set forth in the Build Out Plans to be substantially completed and for occupancy within _____ (_____) days of Tenant's approval of the Build Out Plans. If Landlord's Work is not substantially complete and the Certificate of Occupancy has not been received by Landlord by such time, then Tenant, in its sole discretion, shall have the right to terminate the lease.
8. Landlord will allow Tenant's contractor to install telecommunications, fiber optic, and other cabling to support Tenant's audio and video needs while Landlord's Work is occurring.

EXHIBIT E
BUILD OUT PLANS

[To be attached]

Tennessee State School Bond Authority

Debt Programs

As of June 30, 2023

(unaudited)

Higher Educational Facilities Program

	<u>Taxable</u>	<u>Tax-Exempt</u>	<u>Total</u>
Bonds Outstanding	\$906,065,000	\$891,670,000	\$1,797,735,000

	<u>Taxable</u>	<u>Tax-Exempt</u>	<u>Total</u>
Revolving Credit Facility Outstanding	\$8,971,323	\$19,902,784	\$28,874,107

LIBOR/SOFR Rates	2.24314% - 5.69026%	1.79052% - 4.54821%
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Qualified School Construction Bonds Program

	<u>Series 2009</u>	<u>Series 2010</u>	<u>Total</u>
Bonds Outstanding	\$177,000,000	\$212,440,000	\$389,440,000

	<u>Series 2009</u>	<u>Series 2010</u>	<u>Total</u>
Sinking Fund (Book Value)	\$149,910,748	\$165,776,292	\$315,687,040