

NORTH CAROLINA

LEASE AGREEMENT

CUMBERLAND COUNTY

ACK December  
DJH November  
THIS LEASE AGREEMENT (this "Lease"), made and entered into this the 1<sup>st</sup> day of November, 2020, by and between THE METHODIST UNIVERSITY, INC., a North Carolina non-profit corporation, with its principal place of business in Fayetteville, North Carolina (the "Landlord"), and the CITY OF FAYETTEVILLE, a municipal corporation organized and existing under the laws of the State of North Carolina, by and through its FAYETTEVILLE-CUMBERLAND PARKS AND RECREATION DEPARTMENT (the "Tenant").

WITNESSETH:

In consideration of the payment of the rents hereinafter to be paid, and in consideration of the covenants of the parties hereto, one with another, to be performed by them at the time and in the manner hereinafter set forth, Landlord leases to Tenant and Tenant leases from Landlord, upon the terms and conditions hereinafter set forth, certain property and improvements which shall hereinafter be referred to as the "Demised Premises," all as follows:

1. DEMISED PREMISES. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord that certain real property known as the Jordan Soccer Complex located in the City of Fayetteville, and being more particularly described as that certain portion of the larger tract owned by Methodist University, Inc. currently bearing PIN # 0530-91-3792, which leased portion of said larger tract solely comprises the fields, parking area, and building of the Jordan Soccer Complex depicted and more particularly described on Exhibits "A" and "A-1" respectively, both attached hereto and incorporated herein by reference, and with current mailing address of 445 Treetop Drive, Fayetteville, Cumberland County, North Carolina, 28311 (the "Demised Premises").

2. TERM AND TERMINATION.

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(a) The term of this Lease shall be for a period of five (5) years to commence on November 1, 2020 (the "Commencement Date"), and, unless sooner terminated as herein provided, shall exist and continue through 11:59 p.m. on the 31st day of October, 2025 (the "Term").

(b) Nothing herein prohibits the parties from discussing renewal or extension of this Lease during the Term; however, any such renewal or extension of the same can be accomplished only via the mutual agreement of the parties hereto evidenced by a writing, signed by both parties, stating the terms and conditions of any such renewal or extension. For the avoidance of doubt, there is no right or obligation to renew or extend beyond the Term. If any party desires to discuss renewing or extending by mutual agreement, it would be preferable that written notice of the same would be sent to the other party no later than six (6) months before expiration of the Term.

(c) The Term of this Lease is also referred to hereinafter as the "Lease Term." For the avoidance of doubt, as used herein, the "Lease Term" shall mean the sixty (60) month period beginning on the first day of the first full month of the Lease Term and ending on the last day of the sixtieth month thereafter.

(d) In addition to Landlord's right to terminate for cause on the various grounds set forth below, including, but not limited to Tenant's default under this Lease, this Lease may be terminated by either party for convenience and without cause upon six (6) months' written notice to the other party of its intention to terminate same.

3. ACCEPTANCE OF PREMISES. Tenant acknowledges that the act of taking possession of the Demised Premises shall constitute acceptance thereof in its presently existing condition, and conclusive evidence that Tenant has inspected and examined the entire Demised Premises and its utility installations, and that the same were and are in good and satisfactory condition, and Tenant further acknowledges that Landlord has made no warranties with respect to same.

4. USE AND RESTRICTIONS. Tenant shall use the Demised premises for the sole purpose of maintaining, operating, and managing the current facility and surrounding recreational fields for: (i) soccer practices and games, other sports compatible with the nature of the Demised Premises, and related events; and (ii) as a trailhead for the Cape Fear River Trail, and no other use without the prior written permission of the Landlord. Tenant shall be entitled to delegate use coordination activities to a community non-profit (e.g., Fayetteville Soccer Club, Inc. or similar entity) approved by Landlord in writing, upon written request by Tenant, which approval by Landlord shall not be unreasonably withheld.

Tenant shall maintain and operate the facilities on the Demised Premises in accordance with this Lease, and the failure of Tenant to do so according to this Lease shall be a material breach of this Lease. Tenant shall make no other or different use of the Demised Premises without the written consent of Landlord.

Tenant further covenants with Landlord that the use of the Demised Premises is further restricted as follows:

- (i) No billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the Demised Premises nor shall the Demised Premises be used in any way or for any purpose which may endanger the health or safety of any person or Landlord.
- (ii) Tenant shall be responsible for placing all garbage and refuse in garbage containers or receptacles to be kept at all times in the space provided therefor. Tenant shall not burn trash on the Demised Premises. In the event Tenant fails to maintain cleanliness within the Demised Premises Landlord may, in its sole and absolute discretion, elect to perform said maintenance on Tenant’ behalf, in which event Landlord shall pass along to Tenant any maintenance fees incurred in performance thereof, together with supporting documentation of such fees. Payment of said fee shall be due and payable by Tenant within thirty (30 days of billing by Landlord to Tenant. All trash shall be placed in closed receptacles or dumpsters.
- (iii) No noxious, offensive or unlawful use or activity shall be carried on, in or upon any part of the Demised Premises therein leased nor shall anything be done therein tending to cause embarrassment, discomfort, annoyance or nuisance to Landlord.
- (iv) The Tenant shall post and maintain signage indicating that the bathrooms and plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of repairing any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant. If repairs are not completed by the Tenant, Landlord may, in its sole and absolute discretion, elect to perform said repairs, in which event Landlord shall pass along to Tenant any costs and expenses associated with such repair work, together with supporting documentation of same.

5. RENT. Tenant shall pay, without setoff, deduction, notice or demand, rental to Landlord in monthly rental installments as set out in the schedule below:

	Lease Term Rent	Annual Rent	Monthly Rent
Term	\$450,000	\$90,000	\$7,500

All such rental installments shall be due in advance of each calendar month for and during the Term of the within Lease. All rents shall be paid in immediately available funds to Landlord or its authorized agent at the physical address set out in Section 26 below, or at

such other place as may be designated by Landlord from time to time. Delivery and payment of rent shall be deemed made only upon receipt of the applicable rent payment in immediately available funds at the physical address set out in Section 26 below. Placing a rent payment in the mail shall not constitute delivery or payment of the rent. If the Term of this Lease commences other than on the first day of a month, then the rent for such portion of the months shall be prorated at the above rate until the end of that month, with such month's rent being due and payable on or before the date of full execution of this Lease.

6. LATE CHARGES. If a rental payment becomes overdue, Tenant agrees to pay, in addition to such payment, as liquidated damages for such delay, a "late charge" in the amount of ten percent (10%) of the agreed rental payment for each month or fraction thereof that the rental payment becomes overdue. The parties agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of such late payment. Any amount owed by Tenant to Landlord which is not paid when due shall bear interest at the rate of eighteen percent (18%) per annum from the due date of such amount. However, interest shall not be payable on late charges to be paid by Tenant under this Lease. The payment of interest on such amounts shall not excuse or cure any default by Tenant under this Lease. If the interest rate or the late charge rate specified in this Lease is higher than the rate permitted by law, such rate is hereby decreased to the maximum rate or amount permitted by law.

7. MAINTENANCE AND REPAIRS; TENANT DAMAGES. During the Term of this Lease, Tenant shall take good care of the Demised Premises and Landlord's fixtures and appurtenances therein and thereon, and shall perform all maintenance and make all repairs to the Demised Premises and improvements thereon necessary to keep the same in good order and condition, excepting Landlord's willful act or negligence and ordinary wear and tear.

(a) Tenant shall maintain the Demised Premises at all times in a good state of repair, clean, and in presentable condition, including any and all improvements erected or placed thereon, and same shall be surrendered in such state or a better condition at the expiration or other termination of this Lease. Tenant's obligations to maintain and repair shall include, without limitation, maintenance and repair to: (1) the mechanical systems,

plumbing, and sewage systems, and any and all equipment and appliances located on or within the Demised Premises; (2) broken or damaged glass; (3) damage by vandals, (4) the interior walls, ceilings, floors and floor coverings (including carpets and tiles) of any buildings on the Demised Premises; (5) the fields, including the fixtures situated thereon, and soccer goals; (6) irrigation systems; (7) parking lots, paved areas, driveways, curbs, walkways and paths, footbridges, ramps, shrubbery, landscaping, fencing, security systems, and exterior lighting on the Demised Premises; (8) the exterior walls, windows, roof, and interior and exterior appurtenances of any building on the Demised Premises. Without limiting any obligation of Tenant herein, Tenant shall pick up any trash on the Demised Premises as often as necessary in order to keep the Demised Premises in a clean condition.

Landlord reserves the right to act for the Tenant upon Tenant's failure to so act, and Tenant agrees to pay all fair and reasonable costs incurred by Landlord to maintain the Demised Premises, including an additional twenty-five percent (25%) surcharge for supervision. If Tenant has complied with all the terms of this Lease, Tenant shall have the right, at the expiration of the Lease Term, to remove any and all personal property which Tenant installs or locates on the property, provided that Tenant repairs any damage or disfigurement to the Demised Premises caused by such removal. Upon termination of the Lease Term, Tenant shall yield the Demised Premises to Landlord in good condition and repair.

In the event Tenant habitually fails to maintain the Demised Premises in good repair, Landlord may, at its option and in its sole and absolute discretion, declare this Lease in default. As stated below, Tenant shall surrender the Demised Premises at the termination or expiration of this Lease in good and presentable condition, ordinary wear and tear, fire, and other casualties excepted.

(b) Tenant, its agents, invitees, and/or representatives, shall not cause any damage to be committed on any portion of the Demised Premises. Excepting ordinary wear and tear, Tenant is responsible, at its own cost and expense, for all damage it, or its agents, invitees, and/or representatives, causes to the Demised Premises and the fixtures, appurtenances, and systems thereon, including damage that Tenant causes to any such part of the Demised Premises that Tenant is not responsible for maintaining under subsection

7(a) above. Except insofar as Landlord is expressly obligated under this Lease to maintain and repair the Demised Premises, in addition to the maintenance and repair obligations of Tenant otherwise expressly set forth under subsection 7(a) above, Tenant is also obligated to perform, at Tenant's own cost and expense and risk, all other maintenance and repairs necessary or appropriate to cause the Demised Premises to be maintained in good condition and suitable for Tenant's intended use. Tenant shall deliver the Demised Premises to Landlord in as good condition as existed at the Commencement Date of this Lease, ordinary wear and tear excepted, and the cost and expense of any repairs necessary to restore the condition of the Demised Premises shall be borne by Tenant.

8. ADDITIONS, ALTERATIONS, CHANGES AND IMPROVEMENTS. Tenant may, but is under no obligation to, install or construct any improvements, structural or otherwise, deemed necessary or appropriate to its permitted use of the Demised Premises. Tenant shall consult with Landlord as to the final design, location, layout, and specifications of any improvement prior to undertaking any work on making such improvement.

Any alteration, change, addition, or improvement shall not be undertaken by Tenant without Landlord's prior written consent, which shall not be unreasonably withheld. Tenant's maintenance and repair obligations set forth in Section 7 above shall extend to any addition, alteration, change, and improvement made or caused to be made to the Demised Premises by Tenant, such that Tenant shall maintain same in good repair and working condition, replacing any element thereof that requires replacement or any that may be consumed through use. Subject to the paragraph below, Tenant may remove same during or at the expiration of the Term of this Lease.

All improvements, furnishings, and equipment which have been supplied and installed at the sole cost of Tenant shall at all times be and remain the property of Tenant, except that such additions, alterations, and/or improvements as may be installed by Tenant (or Landlord) which are in any manner permanently attached or affixed to the Demised Premises, and any property which, with Landlord's permission, is left on the Demised Premises at the termination of this Lease, shall be the property of Landlord surrendered at such termination. Moreover, Landlord shall have the right to require Tenant, at Tenant's sole cost and expense, to remove any of such alterations, additions, or improvements and to

restore the Demised Premises to the condition they were in at the commencement of Tenant's occupancy thereof. Such right shall be exercised by Landlord giving written notice to Tenant at any time prior to or not later than thirty (30) days after the expiration or earlier termination of this Lease and, upon receipt of such written notice, Tenant shall comply with the requirements specified in such notice on or before the expiration or earlier termination of this Lease or within five (5) days after receipt of such notice by Tenant whichever shall be later. Tenant shall, at its sole cost and expense, repair and/or reimburse Landlord for the cost of repairing any and all damage to the Demised Premises resulting from the removal of such improvements, additions, alterations, furnishings, and/or equipment.

Landlord shall have the right to require Tenant to provide such assurance as Landlord shall reasonably require (such as bonds, escrows, etc.) to protect Landlord against unpaid for work. Tenant shall have no authority or agency to contract for alterations, additions, or improvements to the Demised Premises on behalf of Landlord. All such contracts shall be in Tenant's name only and shall not be as an agent of Landlord. Finally, all such alterations, additions or improvements will comply with all applicable local, state and/or federal laws and/or regulations.

9.     DESTRUCTION OF DEMISED PREMISES. If (a) the Demised Premises are totally destroyed by fire or other casualty, or (b) the Demised Premises are destroyed or damaged by fire or other casualty to such an extent that such damage cannot be repaired within 60 days following such destruction or damage ("Major Damage"), then Landlord may by written notice given as provided below, terminate this Lease, in which event rent paid for the period beyond the date of destruction shall be refunded to Tenant together with any insurance proceeds attributable to the value of any fixtures or equipment installed by Tenant. If the Demised Premises are destroyed or damaged by fire or other casualty but only to an extent that such destruction or damage can be restored or repaired within 60 days following such damage ("Minor Damage"), then Landlord shall not have an option to terminate because of such damage or destruction and this Lease shall continue in full force and effect. If, notwithstanding total destruction or Major Damage, Landlord elects not to terminate or if only Minor Damage occurs, then Landlord shall promptly restore the Demised Premises to substantially the same conditions as they were in immediately prior to the

destruction; provided that Landlord shall be obligated to restore only if the insurance proceeds required under Section 14 of this Lease, together with any other available insurance coverage, will be sufficient for such restoration, or if Tenant makes available additional funds which, when added to insurance proceeds, are sufficient. In the event available proceeds and funds are not sufficient, this Lease shall terminate. In the case of total destruction or Major Damage, Landlord shall exercise its option to terminate, if at all, by notifying Tenant of its election to terminate this Lease within thirty (30) days of Landlord's receiving notice that 150 days (or longer) will be required for restoration or repair. If, during the period of repair or restoration, Tenant reasonably is required to close its operations during repairs, rent shall not abate while so closed, and Landlord shall in such case not have liability for any business delay losses claimed by Tenant.

10. CONDEMNATION. If the whole or any part of the Demised Premises shall be acquired or condemned by eminent domain or like power for any public or quasi-public use or purpose, then this Lease shall terminate as to the part of the Demised Premises so taken, effective on the date possession thereof shall be obtained. All damages awarded for each acquisition or condemnation of the Demised Premises, or any part thereof, shall become the sole and absolute property of Landlord, regardless of whether such damages are awarded as compensation for the diminution in value of the leasehold, or the loss of the fee. Tenant, however, shall be entitled to that portion of the award which is expressly stated to have been given to Tenant for the cost of removal of stock, furniture, fixtures and equipment owned by Tenant.

11. ASSIGNMENT OR SUBLETTING.

(a) Tenant may assign only its athletic/recreational programming and athletic/recreational use coordination activities to a community non-profit (e.g., Fayetteville Soccer Club, Inc. or similar entity) approved by Landlord, which approval shall not be unreasonably withheld.

(b) Otherwise, Tenant may not assign this Lease nor sublet any portion of the Demised Premises without the prior written consent of Landlord upon Tenant's written request to make such assignment or sublease, which consent may be withheld in the sole and absolute discretion of Landlord. The following shall be deemed an assignment of the Lease:



(i) sale or transfer of stock control, if Tenant is a corporation; (ii) the sale or transfer of majority control, if Tenant is a partnership or a limited liability company; (iii) the execution by Tenant of a management contract for the business operating on the Demised Premises; (iv) if Tenant is a corporation, then any transfer of this Lease from Tenant by merger, consolidation or liquidation, or any change in ownership or power to vote of a majority of its outstanding voting stock from the owners of such stock or those controlling the power to vote of such stock as of the date of this Lease; or (v) an assignment for the benefit of creditors or by operation of law. Any such assignment or subletting not permitted under subsection (a) of this Section attempted without consent of the Landlord shall be void and, at the option of Landlord, shall terminate this Lease. Any such assignment or sublease by Tenant, whether or not consented to by Landlord, shall not relieve Tenant of the responsibility for the payment of the rental payments provided by this Lease nor for the performance of all other terms of this Lease.

(c) Tenant shall not permit any other groups, corporations, organization, or individuals other than teams organized by Tenant, or its approved assignee or sub-lessee under subsection (a) of this Section, to use the Demised Premises without the express written consent of Landlord.

(d) Tenant shall not allow any other group, corporation, organization, or individual to sell merchandise, goods, services, beverages, or food without the express written consent and approval of Landlord, which consent and approval shall not be unreasonably withheld, and upon such terms and conditions as Landlord may ascribe.

12. TAXES. To the extent that any ad valorem taxes against the land and improvements constituting the Demised Premises and/or the personal property located on the Demised Premises (whether owned by Landlord, Tenant, or any of Tenant's assignees/sub-lessees) are levied or assessed by any lawful authority during the term of this Lease, Tenant shall pay same when due. Tenant shall pay such ad valorem taxes within ten (10) days after demand therefor by Landlord and presentation of a copy of the ad valorem tax bill.

13. UTILITIES; TRASH REMOVAL. Tenant shall pay all electricity, gas, water, heat and other utilities consumed or used on the Demised Premises. Landlord shall not be in any

way obligated or responsible for the furnishing of utility services, nor shall Landlord have any liability to Tenant for any other party for any inadequacy, cessation, or interruption of any utilities. The lack of availability or the failure of utility services shall not be deemed constructive eviction. Tenant shall pay when due all costs, charges, and deposits related to trash removal from the Demised Premises.

14. PUBLIC LIABILITY AND FIRE INSURANCE.

(a) Tenant shall, at its own cost and expense, obtain and maintain in full force and effect throughout the Term of this Lease a policy of comprehensive/general liability insurance with combined single limit coverage of not less than Two Million Dollars (\$2,000,000) per person, Two Million Dollars (\$2,000,000) per occurrence, and a minimum property damage limit of Two Million Dollars (\$2,000,000) per each occurrence, and no less than Five Million Dollars (\$5,000,000) in the annual aggregate. Tenant shall cause the insurer to name Landlord as added/additional insureds on all such policies.

(b) Tenant shall, at its own cost and expense, obtain and maintain in full force and effect throughout the Term of this Lease full standard fire insurance keeping the Demised Premises and other improvements now or hereafter located on the Demised Premises insured against loss by fire and all of the risks and perils usually covered by an extended coverage endorsement to a policy of fire insurance upon property comparable to the Demised Premises, in an amount equal to and not less than the full replacement value thereof. Such insurance shall be written by a company of recognized financial standing which is authorized to do an insurance business in the State of North Carolina, and shall show Landlord as an additional insured and loss payee. All such insurance proceeds shall be applied to the extent necessary to the repair and restoration of the Demised Premises under the terms of this Lease or as otherwise determined by Landlord in the sole and absolute discretion of Landlord. For the avoidance of doubt, Landlord may require that any insurance proceeds available for any covered loss be paid directly to Landlord in lieu of applying or otherwise using same for repair and/or restoration of the Demised Premises.

(c) Tenant shall, at its own cost and expense, obtain and maintain in full force and effect throughout the Term of this Lease workers' compensation insurance in accordance with all applicable laws, rules, and regulations.

(d) Every such policy required by subsection (a) and (b) above shall contain an agreement by the insurer that it will not cancel such policy except after thirty (30) days' prior written notice to Landlord and that any loss otherwise payable thereunder shall be payable notwithstanding any act or negligence of Landlord which might, absent such agreement, result in a forfeiture of all or a part of such insurance payment.

(e) Upon request, Tenant shall deliver to Landlord certificates of the insurance required to be maintained hereunder by Tenant. Tenant shall also deliver to Landlord, upon Landlord's request, at least twenty (20) days prior to the expiration date of such policy or policies, certificates for the renewal policies of such insurance policy or policies.

(f) Tenant shall be responsible for procuring at its cost hazard insurance for its personal property kept on or in the Demised Premises.

15. WAIVER OF SUBROGATION AND INDEMNIFICATION. Landlord and Tenant hereby agree on behalf of themselves, and all others under them, including any insurer, to waive all claims against each other, including their rights of subrogation, for loss or damage to the Demised Premises arising out of fire and standard extended coverage perils, including without limitation, vandalism, and malicious mischief, and if necessary, agree to obtain such a waiver from any insurer. Tenant agrees to exonerate, protect, indemnify and hold Landlord harmless from and against any and all losses, damages, claims, suits or actions, judgments and costs arising out of any injury to or death of persons or damage to property on or about the Demised Premises attributable, in part or in whole and without regard to the actions of Landlord, to the negligent acts or omissions of Tenant's respective employees, agents or licensees.

16. TENANT'S COMPLIANCE - LIABILITY. Tenant shall comply with all applicable laws, ordinances, and regulations affecting Tenant's use and occupancy of the Demised Premises, and shall hold Landlord harmless from loss, cost or expenses resulting from or occasioned by Tenant's use of the Demised Premises, whether caused by Tenant or by its agents, servants, employees, independent contractors or licensee. For the avoidance of doubt, Tenant is solely responsible for compliance with all such laws, ordinances, and regulations.

17. ENVIRONMENTAL MATTERS.

(a) Tenant shall not use the Demised Premises for the storage, treatment, generation, transportation, processing, handling or disposal of any Hazardous Substance in violation of any Environmental Law (as such terms are defined below). Tenant shall not cause or directly or indirectly contribute to any condition that is or may be characterized by any federal, state, or local government or agency as an actual or potential threat or endangerment to health or the environment.

(b) For the purposes of this paragraph,

- (i) "Hazardous Substance" means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde, foam insulations, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials including, without limitation, those set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended (42 U.S.C. § 9601 *et seq.*), the Hazardous Materials Transportation Act ("HMTA"), as amended (49 U.S.C. § 1801 *et seq.*), the Resource Conservation and Recovery Act ("RCRA"), as amended (42 U.S.C. § 6901 *et seq.*), or any other Environmental Laws or regulations adopted pursuant thereto, or which has been or shall be determined at any time by any agency or court to be a hazardous or toxic substance regulated under any other Environmental Laws (as hereinafter defined).
- (ii) "Environmental Laws" means CERCLA, HMTA, RCRA, the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*, the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, all as amended, and the regulations promulgated thereunder, and any and all other federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes, whether currently in existence or hereafter enacted or promulgated, governing or relating to the protection of the environment generally and the protection of the environment from spilled, deposited, or otherwise emplaced contamination; the control of hazardous or toxic substances or wastes; the use, storage, treatment, generation, transportation, processing, handling, production, discharge, or disposal of Hazardous Substances, toxic substances, or wastes, including building materials; the existence, cleanup and/or remedy of contamination of property; and the rules, regulations, policies, guidelines, interpretations, permits, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

(c) If, at any time during the Lease Term (including, without limitation, any renewal or extension thereof), Landlord believes the Demised Premises may have been contaminated by a Hazardous Substance, and, after the termination of this Lease (whether

or not Landlord believes the Demised Premises may have been contaminated), Landlord shall have the right, but not the obligation, to sample, analyze, inspect, and monitor the air, soil, surface water, groundwater, and any materials or substances in, on, or about the Demised Premises to determine whether any Hazardous Substance is present. If any Hazardous Substance is present on, under, or about the Demised Premises and was caused by use of or activities in the Demised Premises by Tenant, its affiliates, employees, agents, contractors, invitees, successors, sub-lessees, or assigns during the Term of this Lease or during any prior lease between Landlord and Tenant for the Demised Premises, Tenant shall reimburse Landlord for the costs of such assessment, and shall also pay (as additional rent) all costs associated with (i) the removal of any Hazardous Substance from the Demised Premises or any adjoining property, (ii) the disposal of the same strictly in accordance with applicable law, and (iii) any remediation work on the Demised Premises required by Environmental Laws. Landlord or its environmental consultants shall prepare the work plan for such remediation, and Landlord shall retain such engineers or other persons as it deems appropriate to carry out the work. Upon completion of the work, the Demised Premises must be in compliance with existing standards of Environmental Law as determined by Landlord or, if there are no such standards for a particular contaminant, then the Demised Premises shall be at levels which, in the determination of Landlord and its environmental consultant, present no significant environmental or health risk.

(d) Tenant shall not, without the consent of Landlord, disclose to any third party or the public any information obtained through any environmental assessment or investigation of the Demised Premises.

(e) Environmental Indemnity

- (i) Tenant shall defend, indemnify, and hold Landlord harmless from and against any and all claims, response or remediation costs, losses, damages, penalties, other claims, suits, actions, legal or administrative proceedings, judgments, demands, expenses, costs and liabilities of every kind and nature whatsoever (including without limitation, interest and attorneys' and consultants' fees and costs and expenses of investigation, remediation or defense incurred by, claimed, or assessed against Landlord): (A) that arise directly or indirectly from the violation of any Environmental Law by Tenant, its affiliates, employees, agents, contractors, invitees, successors, sub-lessees, or assigns during the term of this Lease or during any prior lease between Landlord and Tenant for the Demised

Premises, or (B) that arise directly or indirectly from the generation, treatment, storage, spillage, handling, disposal or release on, under or from the Demised Premises by Tenant or any of its affiliates, employees, agents, contractors, invitees, successors, sub-lessees, or assigns, during the term of this Lease or during any prior lease between Landlord and Tenant for the Demised Premises, of any Hazardous Substance. This section shall survive the termination or expiration of this Lease.

- (ii) Tenant shall, at its own expense: (A) comply promptly with all applicable Environmental Laws; (B) immediately notify Landlord of any notice of violation, noncompliance or other written communication by any governmental authority or others of any violation of any Environmental Law; and (C) immediately notify Landlord if Tenant becomes aware of or causes a release of Hazardous Substances on the Demised Premises or anywhere in the vicinity thereof.
- (iii) This indemnity specifically includes the direct obligation of Tenant to perform and remedial work or other activities required, ordered, recommended, or requested by any agency, government official, or third party, or otherwise necessary to avoid or minimize injury or liability to any person, or to prevent the spread of pollution, however it came to be located on or emanating from the Demised Premises. Tenant shall perform all such work in its own name in accordance with Environmental Laws.
- (iv) Without waiving its rights hereunder, Landlord may, at its option, perform such remedial or removal work as described in subsection (e)(iii) above, and thereafter seek reimbursement for the costs thereof. Tenant shall permit Landlord unfettered access to the Premises to perform such remedial activities.
- (v) Whenever Landlord has incurred costs described in this Section, Tenant shall, within twenty (20) days of receipt of notice thereof, reimburse Landlord for all such expenses, together with interest from the date of expenditure at the "applicable federal rate" established by the Internal Revenue Service.

(f) Agency or Third-Party Action. Without limiting its obligations under any other paragraph of this lease, Tenant shall be solely and completely responsible for responding to and complying with any administrative notice, order, request, or demand, or any third-party claim, or demand relating to potential or actual contamination on the Demised Premises. The responsibility conferred under this paragraph includes, but is not limited to, responding to such orders on behalf of Landlord and defending against any assertion of Landlord's financial responsibility or individual duty to perform under such orders. Tenant shall assume, pursuant to paragraph (e) above, any liabilities or responsibilities, which are assessed against LANDLORD in any action described under this subsection (f).

(g) Release. Tenant hereby waives, releases, and discharges forever Landlord from all present and future claims, demands, suits, legal and administrative proceedings, and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with Landlord's use, maintenance, ownership, or operation of the Premises, any condition of environmental contamination of the Premises, or the existence of Hazardous Substances in any state on the Premises, however they came to be placed there.

18. GENERAL INDEMNIFICATION OF LANDLORD. Tenant covenants to indemnify and hold Landlord harmless from the claims of any and all persons, firms, partnerships, associations or corporations for personal injury or damage to property or both arising out of or in connection with Tenant's or Tenant's sub-lessee's or assign's use and/or occupancy of the Demised Premises. Tenant agrees to waive, or shall otherwise not assert as a defense, governmental immunity in response to any indemnity claim, whether environmental under Section 17 above or general under this Section 18, arising out of or, or in any way related to, this Lease.

19. SUBORDINATION – ATTORNMENT. This Lease shall be deemed subject and subordinate to any mortgage which may heretofore or hereafter be executed by Landlord covering the Demised Premises, unless the mortgagee requests that this Lease be superior to its mortgage. In the event any proceedings are brought for foreclosure of any mortgage on the Demised Premises, Tenant will attorn to the purchaser at the foreclosure sale and recognize such purchaser as Landlord provided purchaser agrees not to disturb Tenant's possession so long as Tenant is not in default under the terms of this Lease. Tenant shall execute at Landlord's request, and within five (5) days thereof, instruments evidencing the subordinate position of this Lease, and as often as reasonably requested shall sign estoppel certificates setting forth: the date Tenant accepted possession; that Tenant occupies the Demised Premises; the termination date of its Lease; the date to which rent has been paid; the amount of monthly rent in effect as of such certifications; whether or not Tenant has knowledge of any default or breach by Landlord; and that this Lease is in full force and effect except as to modifications, agreements thereto, copies of each of which shall be attached to the certificate. Tenant shall agree to give Landlord's mortgagee notice of and a reasonable

opportunity to cure any Landlord default, and to accept such cure if effected by Landlord's mortgagee, and further shall agree to permit such mortgagee (or the purchaser at any foreclosure sale) on acquiring title to become substitute Landlord with liability only for such Landlord obligations as accrue after title is so acquired. This provision shall apply to any and all existing mortgages and deeds of trust, as well as any and all mortgages or deeds of trust to be entered into during the Term of this Lease, or any renewal or extension thereof.

20. SIGNS AND ADVERTISING. Tenant may install, operate, and maintain such advertising signs as Tenant may deem necessary and as are in compliance with the applicable ordinances and regulations; except that all signs to be erected by Tenant shall be approved by Landlord in writing based upon written application by Tenant, which approval shall not be unreasonably withheld. .

21. LANDLORD'S ACCESS TO DEMISED PREMISES. Landlord shall have the right, either itself or through its authorized agents, to enter the Demised Premises at all reasonable times to: examine same; show them to prospective tenants for the Demised Premises within one hundred eighty (180) days prior to the termination or expiration date hereof; allow inspection by mortgagees; and make such repairs, alterations, or changes as Landlord deems necessary. Tenant reserves the right to accompany Landlord at all times during any entry by Landlord.

22. DEFAULT.

(a) If one or more of the following events (herein called "Events of Default") shall occur:

- (i) If Tenant shall fail to pay any rent or other charge or sum to be paid by Tenant to Landlord when due in accordance with the terms of this Lease; or
- (ii) If Tenant shall make any addition, alteration, or improvement to the Demised Premises in violation of any provision herein; or
- (iii) If Tenant shall use, or permit any use of, the Demised Premises in violation of any terms of this Lease;
- (iv) If Tenant shall fail to keep or perform or abide by any other requirement, term, condition, covenant, promise, or agreement of this Lease, and such default shall continue for a period of ten (10) days after notice to Tenant of default; or
- (v) If Tenant shall file a petition in bankruptcy or take or consent to any other action seeking any such judicial decree, or shall file



any debtor proceeding or a petition for an arrangement, or shall make any assignment for the benefit of his creditors; or

- (vi) If a receiver or trustee is appointed for property of Tenant; or
- (vii) If Tenant's interest in this Lease or the Demised Premises shall be subjected to any attachment, levy, or sale pursuant to any order or decree entered against Tenant in any legal proceeding, and such order or decree shall not be vacated within 15 days of entry thereof; or
- (viii) If Tenant shall vacate or abandon the Demised Premises; then and in any such event Landlord, without declaring a termination of this Lease (which right is, however, unconditionally and absolutely reserved) may at its selection pursue any one or more of the following remedies in addition to any other remedies available to Landlord at law, in equity, or pursuant to the terms of this Lease.

(b) In the event that any such Event of Default shall occur, Landlord, with or without declaring a termination of this Lease (which right is, however, unconditionally and absolutely reserved), may at its election pursue any one or more of the following remedies in addition to any other remedies available to Landlord at law, in equity, or pursuant to the terms of this Lease:

- (i) Landlord shall have the right to continue this Lease in full force and effect, the right to enter the Demised Premises without notice to vacate (any right to which is hereby waived by Tenant) and terminate Tenant's possession and right to possess the Demised Premises and relet the same, including without limitation to the right to change any or all locks on the Demised Premises, all without being liable for forcible entry, trespass, or other tort. Tenant shall be liable immediately to Landlord for all costs Landlord shall incur in reletting the Demised Premises and Tenant shall pay the Lessor all rent and other charges due under this Lease on the date that the same are due, less the rent Lessor receives from any reletting.
- (ii) Landlord shall have the right to terminate this Lease without notice to vacate (any right to which is hereby waived by Tenant) and Tenant's rights to possession of the Demised Premises at any time, and re-enter the Demised Premises, and Landlord shall have the right to accelerate all rentals to be due under this Lease and immediately recover from Tenant the total rent reserved under the remainder of the Lease Term. In such event, Tenant shall be entitled to a credit on such sum, either before or after judgment, for any sums received by Landlord from any reletting during the period constituting the remainder of the Tenant's original Lease Term.
- (iii) Landlord with or without terminating this Lease may immediately or at any other time thereafter re-enter the Demised Premises and cure any Event of Default and/or correct or repair any condition which shall constitute a failure on Tenant's part to perform any obligation to be performed by him

under this Lease, and Tenant shall pay Landlord on demand any and all costs or expenses paid or incurred by the Landlord in making any such cure, correction, or repair.

(c) No course of dealing between Landlord and Tenant or any delay on the part of Landlord in exercising any rights it may have under this Lease shall operate as a waiver of any of the rights of Landlord hereunder, nor shall any waiver of a prior default operate as a waiver of any subsequent default or defaults, and no express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

(d) In the event of any re-entry of the Demised Premises and/or changing of the locks on the Demised Premises and/or termination of this Lease by Landlord pursuant to any of the provisions of this Lease, Tenant hereby waives all claims for damages which may be caused by such re-entry or changing of locks or termination by Landlord, and Tenant shall save Landlord harmless from any loss, cost (including legal expense and reasonable attorney's fees) or damages suffered by Landlord by reason of such re-entry or changing of locks or termination, and no such re-entry or changing of locks shall be considered or construed to be a forcible entry.

(e) The parties hereto agree that damages may not be a sufficient remedy of Landlord for any breach or threatened breach of this Lease and that, therefore, in addition to all remedies available at law, Landlord shall be entitled to specific performance, injunctive relief, declaratory judgment/ancillary relief and/or other equitable remedies, as appropriate. To the fullest extent allowed by law, Tenant further waives any requirement for the posting of bond in conjunction with Landlord's efforts to seek equitable or related remedies.

(f) Notwithstanding anything else herein to the contrary, all powers and remedies available at law and/or in equity, including the right to terminate this Lease shall be cumulative and not exclusive of any other powers and remedies available hereunder and/or at law and/or in equity. No delay or omission in exercising any right or power accruing upon any breach hereof and/or default hereunder shall impair any rights or remedies consequent to any subsequent breach and/or default.

23. ATTORNEYS' FEES. If any party deems it necessary to employ an attorney at law to enforce the terms hereof or declare rights hereunder in any action filed hereunder, on trial or appeal, the prevailing party shall be entitled to collect all costs and expenses incurred in such proceedings, including its reasonable attorneys' fees as determined by a court or tribunal of competent jurisdiction.

24. SECURITY INTEREST AND LIEN ON TENANT'S IMPROVEMENTS AND PERSONAL PROPERTY. Landlord shall have, and Tenant hereby grants to Landlord, a security interest and first lien paramount to all others on every right and interest of Tenant in and to this Lease, and on any building or improvement on or hereafter placed on the Demised Premises, and on any furnishings, equipment, fixtures, or other personal property of any kind belonging to Tenant or the equity of Tenant therein, on the Demised Premises. This security interest and lien are granted for the purpose of securing the payment of rents, taxes, assessments, charges, liens, penalties and damages to be paid by Tenant, and for the purpose of securing the performance of all of Tenant's obligations under this Lease. The security interest and lien shall be in addition to the rights of Landlord given under statutes of this state, which are now or shall hereinafter be in effect. Tenant hereby agrees to sign upon request any financing statements necessary to give record notice to third parties of the security interest granted herein by Tenant to Landlord.

25. QUIET ENJOYMENT. If Tenant promptly and punctually complies with each of its obligations hereunder, Tenant shall peacefully have and enjoy the possession of the Demised Premises during the Term of this Lease and any renewal or extension thereof, providing that no action of Landlord in repairing or restoring the Demised Premises shall be deemed a breach of this covenant, or give Tenant any right to modify this Lease either as to term, rent payable, or other obligations to perform except as provided hereinabove. Landlord represents and warrants that it is seized of the Demised Premises in fee.

26. NOTICES. Any notice which Landlord or Tenant is required or desires to give the other hereunder shall be deemed sufficiently given or rendered if, in writing, is delivered personally, or sent by certified or registered mail, postage prepaid, to the addresses listed after this paragraph. Any notice given herein by personal delivery shall be deemed delivered when received. Any properly addressed notice given herein by certified or registered mail

shall be deemed delivered when the return receipt therefor is signed, or refusal to accept the mailing by the addressee is noted thereon by the postal authorities.

Landlord's Address: The Methodist University, Inc.  
Attn: Sheila Kinsey, VP, Planning & Administration  
5400 Ramsey Street  
Fayetteville, NC 28311

With copy to: James A. McLean, III  
Player McLean, LLP  
Post Office Box 88095  
Fayetteville, NC 28304

Tenant's Address: City of Fayetteville  
Attn: Douglas Hewett, City Manager  
433 Hay Street  
Fayetteville, NC 28301

With copy to: Karen M. McDonald  
City Attorney  
433 Hay Street  
Fayetteville, NC

27. HOLDING OVER. If Tenant remains on the Demised Premises beyond the expiration or earlier termination of the Term of this Lease or any renewal or extension thereof, such holding over in itself shall not constitute a renewal or extension of this Lease, but such holding over shall be on a month-to-month basis upon the same terms and conditions in effect, except monthly rental, which shall be two hundred percent (200%) higher than the rent in effect at the time of such expiration or termination. This provision, however, shall not give Tenant any rights to so hold over, and Landlord may seek to dispossess any such Tenant so holding over, in addition to and without limiting any rights and remedies herein provided and/or provided by law.

28. MISCELLANEOUS.

(a) Headings of paragraphs are for convenience only and shall not be considered in construing the meaning of the contents of such paragraph.

(b) The invalidity of any portion of this Lease shall not have any effect on the balance thereof.

(c) Should Landlord institute any legal proceedings against Tenant for breach of any provisions herein contained, Landlord in such action shall in addition be entitled to recover its costs and expenses from the Tenant including its reasonable attorney fees, as determined by a court or tribunal of competent jurisdiction

(d) This Lease shall be binding upon the respective parties hereto, and upon their successors and assigns.

(e) This Lease supersedes, terminates and cancels all prior negotiations and written lease agreements between the parties with respect to the Demised Premises, and any changes hereto must be in writing signed by both parties.

(f) Provided Landlord is not in default of this Lease, Landlord may sell the Demised Premises without affecting the obligations of Tenant hereunder.

(g) This Lease may not be recorded without Landlord's prior consent, however, Landlord agrees to execute and deliver to Tenant a memorandum hereof.

(h) The singular shall include the plural, and the masculine or neuter include the other.

(i) The waiver by any party of any breach of any provision shall not be construed as a waiver by such party of any other provision. Each party shall have the right to waive fulfillment of a condition or covenant or compliance with a representation or warranty of which it is beneficiary, but such waiver may be made only by written instrument executed by such party. No failure by Landlord to exercise any right hereunder to which Landlord may be entitled shall be deemed a waiver of Landlord's right to subsequently exercise same. Tenant shall gain no rights or become vested with any power to remain in default under the terms hereof by virtue of Landlord's failure to timely assert its rights. No acceleration of rentals, regardless how often occurring, which Landlord chooses to ignore by thereafter accepting rental or other performance by Tenant shall constitute a waiver of the right to thereafter accelerate rentals. No payment by Tenant or receipt by Landlord of a lesser amount than the rent stated shall be other than on account. Any endorsement or statement on a check or any accompanying letter is void, and Landlord may accept such check or payment without prejudice to right to remedy at law or in equity or provided in this Lease.

(j) This Lease may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

(k) This Lease shall be governed by and constructed and enforced in accordance with the laws of the State of North Carolina. This Lease has been produced by negotiation of the parties and, as stated above, the rule of construction against the interest of the drafter shall not apply. Sole and exclusive venue and jurisdiction for any dispute hereunder shall be in the General Court of Justice, Superior Court Division of Cumberland County, North Carolina.

(l) Any obligation, which by its nature is due after this Lease expires or is terminated, shall survive the Lease's expiration or termination. For the avoidance of doubt, this shall include, without limitation, obligations of indemnity, for damages, and the like.

29. SECURITY OBLIGATIONS AND IMPROVEMENT. Tenant shall be solely responsible for providing for security for the Demised Premises and for the safety of Tenant's employees, customers, licensees, and/or invitees (hereinafter the "Security Obligations"). Moreover and without limiting the foregoing, Tenant shall be solely responsible for making all security improvements to the Demised Premises, including, but not limited to, the installation of equipment and fixtures, which Lessee deems necessary to secure the Demised Premises against unlawful intrusion, vandalism, and criminal activity or to provide for the safety of Tenant's employees, customers, licensees, or invitees (hereafter "Security Improvements"). In the event Tenant desires to make Security Improvements, Tenant shall proceed to do so with the approval of Landlord, which approval shall not be unreasonably withheld. Moreover, Tenant has the sole obligation for determining what Security Improvements are necessary and for timely obtaining Landlord's approval. Notwithstanding anything else herein to the contrary, Landlord shall not be liable to any person for any claim or cause of action related to the lack of security at the Demised Premises or the inadequacy, deficiency, or malfunctioning of any security equipment and/or Security Improvements at the Demised Premises. Tenant is solely in possession of the Demised Premises for purposes of securing the Demised Premises, and Landlord disclaims any such liability. To this end, Tenant shall protect, defend, indemnify, and hold Landlord harmless from and against any suits, causes of action, judgments, costs (including, without limitation, attorneys' fees) or penalties arising out of or related in any way to the existence and/or level of security at the Demised Premises.

30. FORCE MAJEURE. In no event shall Landlord be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes or other labor troubles; work stoppages; inability to procure necessary equipment or supplies; accidents; restrictive governmental laws or regulations; riots, insurrection, protests, acts of war, or terrorism; civil or military disturbances; nuclear or natural catastrophes, severe adverse weather, or acts of God; pandemics, epidemics, and/or outbreaks of disease; and/or interruptions, failure of power, or loss or malfunctions of utilities, communications, or computer (software and hardware) services; or other reason of a like nature not the fault of Landlord causing the delay in, hindrance in, or prevention from performing its obligations or doing acts required under the terms of this Lease; it being understood that Landlord shall use reasonable efforts to resume performance as soon as practicable under the circumstances. Without limiting the foregoing, Landlord may suspend or modify the performance of its obligations hereunder during the term of the Force Majeure event.

No Force Majeure event, or anything else contained herein, shall relieve Tenant of its obligation to pay rent. However, to the extent that any such Force Majeure event also constitutes Major Damage under Section 9 of this Lease, the casualty and destruction of Demised Premises provisions shall control. To the extent that a Force Majeure event substantially interferes with Tenant's quiet enjoyment of the Demised Premises for a period of sixty (60) days or more, Tenant may elect to: (i) terminate the Lease upon thirty (30) days' written notice to Landlord; or (ii) continue the Lease without any abatement of rent.

31. INDEPENDENT RELATIONSHIP. Tenant is an independent party with the exclusive right to direct and control the business operation of the Demised Premises. Tenant has no authority to employ anyone as an employee or agent of Landlord for any purpose and/or to otherwise bind Landlord any manner or form.

32. CONDITION OF DEMISED PREMISES UPON TERMINATION. Upon the termination or expiration of this Lease Agreement, Tenant shall return the Demised Premises to Landlord substantially in the same condition as received, ordinary wear and tear and approved improvements excepted. For the avoidance of doubt, Tenant may remove any lighting and seating fixtures that it has installed on the Demised Premises during the Lease

Term so long as it fully repairs any damage or additional wear and tear caused by such removal.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:  
The Methodist University, Inc.

Shula Carr Kinsey  
By: Shula Carr Kinsey  
Its: Vice President for Planning & Administration

ATTEST:  
[Signature] SECRETARY

(CORPORATE SEAL)

TENANT:  
City of Fayetteville

Douglas J. Hewett  
By: Douglas J. Hewett  
Its: City Manager

ATTEST:

Pamela J. Hagill SECRETARY

11/17/2020  
(CORPORATE SEAL)



CITY OF FAYETTEVILLE

This instrument has been pre-audited in full  
Required by the Local Government Budget  
Control Act.

Kimberly Toon  
Kimberly Toon, Purchasing Manager



Exhibit A



A  
Jordan Soccer Complex



# JORDAN SOCCER COMPLEX

445 TREETOP DR., FAYETTEVILLE, NC 28311

Exhibit A-1

