



An SMG Managed Facility

BB&T Arena

USE LICENSE AGREEMENT

BY AND BETWEEN

SMG AND LARRY A. RYLE HIGH SCHOOL

DATED MAY 14, 2018

USE LICENSE AGREEMENT

THIS USE LICENSE AGREEMENT (together with the Exhibits attached hereto, the “**Agreement**”) is dated as of the 14th day of May, 2018, by and between SMG, a Pennsylvania general partnership, with an address at 300 Conshohocken State Road, Suite 450, West Conshohocken, PA 19428 (“**SMG**”), and Larry A. Ryle High School, Kentucky USA Educational Institution whose current address is 10379 US Highway 42, Union, KY 41091 (the “**Licensee**”).

BACKGROUND

SMG is a party to a certain management agreement (the “**Management Agreement**”) dated as of October 15, 2005 with Northern Kentucky University (the “**Owner**”), whereby SMG has been retained to act as Owner’s managing agent in respect of a facility commonly known as BB&T Arena at NKU (the “**Facility**”), located at 500 Nunn Drive, Highland Heights, Kentucky 41099, which is owned by Owner. Licensee desires to use all or a portion of the Facility, as set forth below, for the purposes stated herein. Pursuant to the Management Agreement, SMG has the express authority to enter into agreements on Owner’s behalf relating to the use of the Facility. Accordingly, SMG, as agent for Owner, desires to grant to Licensee, and Licensee hereby accepts from SMG, a license to use certain areas of the Facility in accordance with the terms and conditions set forth herein.

SMG is the manager of a facility commonly known as BB&T Arena at Northern Kentucky University (the “**Facility**”), located at 500 Nunn Drive, Highland Heights, Kentucky 41099, which is owned by Northern Kentucky University (the “**Owner**”). Licensee desires to use all or a portion of the Facility, as set forth below, for the purposes stated herein. Accordingly, SMG desires to grant to Licensee, and Licensee hereby accepts from SMG, a license to use certain areas of the Facility in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants, and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Use of the Facility.

(a) SMG hereby grants Licensee, upon the terms and conditions hereinafter expressed, a license to use those areas of the Facility described on Exhibit A attached hereto (the “**Authorized Areas**”), including all improvements, furniture, fixtures, easements, rights of ingress and egress, and appurtenances thereto, during the dates and times set forth on Exhibit A (each such date and time, an “**Event**”). It is expressly understood by the parties hereto that the Facility shall be vacated by Licensee and all persons participating in or attending an Event hereunder on or prior to the end-time of the last Event listed on Exhibit A hereto (the “**Expiration Time**”) and, as such, Licensee shall arrange to have all Events and activities related thereto cease within a reasonable time prior to the Expiration Time to allow ample time for the Facility to be completely vacated on or prior to the Expiration Time.

(b) In the event Licensee desires to use the Authorized Areas or any other portion of the Facility at any time other than during the dates and times delineated on Exhibit A, Licensee shall request from SMG prior written permission to use such areas of the Facility. In the event such permission is granted, Licensee shall pay as additional rent an amount equal to the sum of SMG's actual costs for performing its obligations under this Agreement during the date(s) and time(s) requested, and a fee in an amount determined by SMG to represent a fair value for use of such additional areas of the Facility during such date(s) and time(s).

(c) Licensee acknowledges that, in connection with SMG's management and operation of the Facility, SMG utilizes the services of certain third-party independent contractors (the "**Third-Party Contractors**").

(d) Floor Plans, Descriptions, and Set-Up.

(i) Prior to the first Event, Licensee shall provide to SMG, for SMG's and/or the Central Campbell County Fire Marshall's approval, a copy of a full and complete floor plan for the Event. Based upon a review by SMG and/or such Fire Marshall of the foregoing plan, SMG may request Licensee, by written notice within ten (10) days after receiving the materials, to make such changes, deletions, and/or additions as SMG may, in its reasonable discretion, deem necessary or desirable. Failure by Licensee to make any such reasonable changes, deletions, or additions after receipt of written notice thereof shall constitute a breach of this Agreement.

(ii) In addition to the floor plan delivered under clause (i) above prior to the first Event, Licensee shall provide to SMG, for SMG's review (and/or the review of any consultant or representative engaged by SMG), a copy of a full and complete description of all set-up (including, without limitation, any staging, lighting, video boards, and/or rigging from or to the physical structure of the Facility or any fixture thereto required for the Event), electrical, communications systems, and plumbing work anticipated to be needed for the Event.

(iii) Prior to the first Event, Licensee shall provide to SMG information relating to room or hall set-up(s), staging, event personnel requirements, and food and beverage requirements.

2. Purpose.

(a) The Facility is to be used solely for the purpose of the **Ryle High School Prom**. Licensee shall not use the Facility, or permit the Facility to be used by any of its officers, directors, agents, employees, licensees, or invitees, for any unlawful or immoral purpose or in any manner so as to injure persons or property in, on, or near the Facility.

(b) Licensee shall be liable for any and all losses, liabilities, claims, damages and expenses (including reasonable costs of investigation and attorneys' fees) (collectively, the "**Losses**") occurring at the Facility (whether within or without an Authorized Area) caused to SMG, Owner and/or persons and/or property in, on, or near the Facility before, during, or after

an Event, by (i) Licensee's failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, constitutional provisions, and common laws (collectively, the "Laws") applicable to Licensee's performance of this Agreement and/or activities at the Facility, (ii) any unlawful acts on the part of Licensee or its officers, directors, agents, employees, subcontractors, licensees, or invitees, (iii) the negligence or the willful misconduct of Licensee or its officers, directors, agents, employees, subcontractors, licensees, or invitees, (iv) the material breach or default by Licensee or its officers, directors, agents, or employees of any provisions of this Agreement, including, without limitation, the provisions of Section 14(m) hereof (relating to intellectual property matters), Section 15 hereof (relating to the Civil Rights Act), and Section 16 hereof (relating to the Americans with Disabilities Act), except to the extent caused by (1) force majeure, (2) any structural defect of the facility or (3) the negligence or willful misconduct of SMG or the stagehands retained by SMG to assemble Licensee's equipment or systems.

(c) Licensee shall conduct business in the Facility in a dignified and orderly manner with full regard for public safety and in conformity with SMG's General Rules and Regulations, including fire and safety rules as required by SMG and/or local fire regulations, as such may exist from time to time. Without limiting the foregoing, Licensee shall obtain prior written approval from SMG's General Manager at the Facility for any pyrotechnic displays which Licensee anticipates may be performed at the Facility during the term of this Agreement. Licensee agrees that it will not allow any officer, agent, employee, licensee or invitee at, in or about the Facility who shall, upon reasonable grounds, be objected to by SMG and such person's right to use the Facility may be revoked immediately by SMG.

3. Condition of Facility.

(a) Licensee acknowledges that Licensee has not inspected the Facility and that SMG represents that the licensed premises in their present condition are safe and suitable for the presentation of the event..

(b) SMG shall have the continuing obligation and responsibility to maintain and keep the Facility in good order and repair, normal wear and tear excepted; provided, however, that (i) the failure by SMG to accomplish the foregoing, said failure resulting from circumstances beyond the control of SMG, shall not be considered a breach of this Agreement by SMG, and (ii) any damages to the Facility and its appurtenances caused by the negligence or willful misconduct of Licensee or its officers, directors, agents, employees, subcontractors, licensees, or invitees shall be paid for by Licensee at the actual or estimated cost of repair, as elected by SMG.

(c) Licensee shall not make any alterations or improvements to the Facility without the prior written consent of SMG. Any alterations or improvements of whatever nature made or placed by Licensee to or on the Facility, except movable trade fixtures, shall, at the option of SMG, (i) be removed by Licensee, at Licensee's expense, immediately upon the conclusion of the Event, or (ii) become the property of SMG. SMG may, at its election, accept delivery of property addressed to Licensee only as a service to Licensee, and Licensee will indemnify, defend, and hold harmless SMG for any loss or damage to such property in the

receipt, handling, care, and custody of such property at any time, except to the extent such loss or damage arises out of SMG's negligence or willful misconduct.

4. Term of License. The license granted in Section 1 above will be effective as of the date and time set forth on Exhibit A and will continue in effect, unless earlier terminated as set forth in Section 12, until the date and time set forth on Exhibit A.

5. License Fee, Merchandising Fee, Broadcast Fee, and Reimbursable Service Expenses and Complimentary Tickets. In consideration of the grant of the license in Section 1 above, Licensee shall pay to SMG a license fee, merchandising fee, broadcast fee, and shall reimburse SMG for certain service expenditures, all as calculated in accordance with the provisions set forth below and in accordance with generally accepted accounting principles, consistently applied:

(a) License Fee. Licensee shall pay a license fee (the "**License Fee**") equal to the tier structure outline below –

- **Twenty-Three Thousand Dollars (\$23,000)** for up to **Five Hundred and Fifty (550)** people (meals).
- **Twenty-Four Thousand Dollars (\$24,000)** for between **Five Hundred and Fifty One (551)** people (meals) to **Six Hundred (600)** people (meals).
- **Twenty-Five Thousand Dollars (\$25,000)** for between **Six Hundred and One (601)** people (meals) to **Six Hundred and Fifty (650)** people (meals).
 - Should the attendance exceed **Six Hundred and Fifty (650)** people (meals), the license fee would stay the same, but food and beverage would charge the Licensee **Twenty-Two Dollars and Four Cents (\$22.04)** per plate in 2019.
 - There will be a standard Three Percent (3%) increase each year for the per plate meals over 650 people, which would make the per plate meal **Twenty-Two Dollars and Seventy Cents (\$22.70)** in 2020.
 - If BB&T Arena has to rent any additional equipment for an attendance over **Six Hundred and Fifty (650)** people (meals), the Licensee will be charged for those specific additional equipment rentals.

(Additional details as outlined in Exhibit B)

(b) Merchandising Fee. Licensee shall pay a merchandising fee (the "**Merchandising Fee**") equal to **Zero Percent (0%)** of gross novelty and merchandising revenue, **Zero (0%)** on recorded material, less all applicable taxes, generated in connection with the Event. SMG to sell. **(Additional details as outlined in Exhibit B)**

(c) Broadcast Fee. Licensee warrants that event will not be broadcast.

(d) Reimbursable Service Expenses.

(i) SMG shall provide, as required for each Event, the following services (collectively, the "**Services**"), the expenditures for which are reimbursable by Licensee

to SMG (“**Reimbursable Service Expenses**”): ticket takers, box office services, ticket seller labor, ushers, supervisors, and receptionists; medical services for Event attendees, which services shall include ambulances, doctors, nurses, operations, supervisors, and paramedics; food and beverage services; security personnel; utilities, including electricity, gas, lighting, water, heating, ventilating, air conditioning, hot and cold water facilities, and waste removal services; electricians and mechanical plant staff; custodial services; scoreboard operations; audio services; and special facilities, equipment and materials, or extra services furnished by SMG at the request of Licensee. **(Additional details as outlined in Exhibit B)**

(ii) SMG shall determine the level of staffing for such Services at each Event after consultation with, and input from, Licensee. Licensee acknowledges and understands that many of the Services are contracted services, the costs of which are subject to change. Licensee shall reimburse SMG for actual costs incurred by SMG in connection with the Services as provided in Section 6 below. SMG shall be responsible for preparing and implementing a security plan to protect all persons within the Facility and areas adjacent thereto (e.g. parking lots, plaza areas, etc.), and SMG shall hire, direct, supervise and assume responsibility for all security personnel. SMG agrees and acknowledges that at no time and under no circumstances shall Licensee be liable or responsible for the activities and/or actions of the parties providing such security services.

(e) Complimentary Tickets. In addition to the License Fee, Merchandising Fee, Broadcast Fee and Reimbursable Service Expenses, complimentary tickets for promotional purposes shall be available as follows:

(i) SMG shall be entitled to **Zero (0)** tickets at no charge.

(ii) Licensee shall be entitled to **Zero (0)** tickets at no charge except those used in conjunction with marketing the event.

6. Payment Terms.

(a) License Fee, Merchandising Fee, and Broadcast Fee. The License Fee, Merchandising Fee, and Broadcast Fee set forth in Sections 5(a), (b), and (c) of this Agreement shall be paid by Licensee.

(b) Reimbursable Service Expenses. At settlement, after the conclusion of the Event, SMG shall deliver to Licensee an expense report setting forth the expenses actually incurred by SMG for the Services (“**Actual Expense Report**”). In the event the amount reflected in the Actual Expense Report exceeds the amount reflected in the Expense Report Estimate, Licensee shall promptly pay to SMG the amount of the excess. In the event the amount reflected in the Expense Report Estimate exceeds the amount reflected in the Actual Expense Report, SMG will promptly pay to Licensee the amount of such excess. Notwithstanding anything to the contrary set forth in this Agreement, SMG’s failure to deliver either the Expense Report Estimate or the Actual Expense Report shall not excuse Licensee’s obligation to pay any amounts due hereunder.

(c) Late Charges. If Licensee fails to pay any amounts when due under this Agreement, Licensee shall pay to SMG a late charge of 1.5% per month on the unpaid balance.

7. Revenues and Costs. SMG shall retain one hundred percent (100%) of all revenues generated in connection with parking lot fees and the sale of food and beverages at the Facility. **(Additional details as outlined in Exhibit B)** In addition to payment of the Reimbursable Service Expenses above, Licensee shall bear all expenses incurred by Licensee in connection with the holding of an Event at the Facility, including, but not limited to, all costs arising from the use of patented, trademarked or copyrighted materials, equipment, devices, processes or dramatic rights used on or incorporated in the conduct of an Event.

8. Records, Reports, and Audits.

(a) Records. Licensee shall maintain accurate books and records with respect to its activities at the Facility, including, but not limited to, the costs and revenues of each Event. Licensee shall keep and preserve such books and records at all times during the term of this Agreement and for at least three (3) years following the expiration or termination hereof.

(b) Reports. Licensee shall deliver to SMG no later than **at settlement** of the date of a revenue-generating Event for the account of SMG a detailed written notice of the amounts claimed to be due to SMG pursuant to Sections 5(a), 5(b), 5(c), and 6(a) of this Agreement (each a “**Statement**”). Each Statement shall detail (i) with respect to ticket sales, all tickets sold and all amounts collected by Licensee, with all deductions (sales tax, etc.) therefrom, (ii) with respect to novelty and merchandizing revenue, all items sold and all amounts collected by Licensee, with all deductions (sales tax, etc.) therefrom, and (iii) with respect to broadcast revenues, a detail of all broadcast revenues collected by Licensee, with all deductions (sales tax, etc.) therefrom. Statements shall be deemed incontestable unless objected to by either party, in writing, specifying the nature of and reasons for such objection, within twelve (12) months after receipt by the requesting party.

(c) Audits. Licensee shall give SMG and its representative’s access to the books and records Licensee maintains pursuant to Section 8(a) above at any time when so requested by SMG. Licensee shall also provide, at Licensee’s own expense, a copy of any such book or record upon request. To the extent that any Statement prepared by Licensee has become contestable, SMG shall have the right to cause nationally recognized independent auditors to audit all of the books and records of Licensee relating to such Statement. If any such audit demonstrates that the revenues or expenses reflected in any Statement are understated (in the case of revenues) or overstated (in the case of expenses), in either case by more than five percent (5%), Licensee shall pay to SMG the reasonable cost of such audit. In any event, Licensee shall promptly pay to SMG the portion of any License Fee, Merchandising Fee, or Broadcast Fee due to SMG as a consequence of such overstatement or understatement.

9. Taxes. SMG shall not be liable for the payment of taxes, late charges, or penalties of any nature relating to any Event or any revenue received by, or payments made to, Licensee in respect of any Event, except as otherwise provided by law. Licensee shall pay and discharge as

they become due, promptly and before delinquency, all taxes, assessments, rates, damages, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extraordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge against this Agreement or any other improvements now or hereafter owned by Licensee.

10. Insurance.

(a) Licensee shall, at its own expense, secure and deliver to SMG prior to the first Event set forth on Exhibit A and shall keep in force at all times during the term of this Agreement:

(i) a comprehensive general liability insurance policy in form acceptable to SMG, including public liability and property damage, covering its activities hereunder, in an amount not less than **One Million Dollars (\$1,000,000)** for bodily injury and **One Million Dollars (\$1,000,000)** for property damage, including blanket contractual liability, independent contractors, and products and completed operations. The foregoing general liability insurance policy shall not contain exclusions from coverage relating to the following participants, legal liability activities or issues related to the Event hereunder: sporting events, high risk events (including, without limitation, rap concerts), performers, volunteers, animals, off-premise activities, and fireworks or other pyrotechnical devices;

(ii) comprehensive automotive bodily injury and property damage insurance in form acceptable to SMG for business use covering all vehicles operated by Licensee, its officers, directors, agents and employees in connection with its activities hereunder, whether owned by Licensee, SMG, or otherwise, with a combined single limit of not less than One Million Dollars (\$1,000,000) (including an extension of hired and non-owned coverage); and

(iii) Applicable workers compensation insurance for Licensee's employees, as required by applicable law.

(b) The following shall apply to the insurance policies described in clauses (i) and (ii) above:

(i) **SMG, Northern Kentucky University, its employees and their Board of Regents** shall be named as additional insureds thereunder. Prior to the first Event set forth on Exhibit A, Licensee shall deliver to SMG certificates of insurance evidencing the existence thereof, all in such form as SMG may reasonably require. Each such policy or certificate shall contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to each of SMG, Risk Management Director, 300 Four Falls Corporate Center, 300 Conshohocken State Road, Suite 450, West Conshohocken, PA 19428, and Northern Kentucky University, Andy Meeks, 500 Nunn Drive, Highland Heights, KY 41099." If any of the insurance policies covered by the foregoing certificates of insurance will expire prior to or during

the time of an Event, Licensee shall deliver to SMG at least fourteen (14) days prior to such expiration a certificate of insurance evidencing the renewal of such policy or policies.

(ii) The coverage provided under such policies shall be occurrence-based, not claims made.

(iii) The coverage limits contained on such policies shall be on a per-occurrence basis only.

(iv) Licensee hereby acknowledges that the coverage limits contained in any policy, whether such limits are per occurrence or in the aggregate, shall in no way limit the liabilities or obligations of Licensee under this Agreement, including, without limitation, Licensee's indemnification obligations under Section 11 below.

(c) The terms of all insurance policies referred to in this Section 10 shall preclude subrogation claims against SMG and Owner and their respective officers, directors, employees, and agents.

(d) The failure of the Licensee to provide insurance in accordance with this Section 10 shall be a breach of this Agreement and shall, notwithstanding any cure period set forth in Section 12 below, preclude the Event from taking place.

11. Indemnification.

(a) Licensee shall indemnify, defend, and hold harmless SMG, Owner, and their respective officers, directors, agents, and employees (the "Indemnitees") from and against any and all Losses arising from (i) the matters described in Section 1(e)(iii) hereof, (ii) the matters described in Section 2(b) hereof, and/or (iii) personal or bodily injury to or death of persons or damage to the property of SMG or Owner to the extent caused by the negligent acts, errors and/or omissions or the willful misconduct of Licensee or its officers, directors, agents, employees, subcontractors, licensees, or invitees.

(b) SMG shall indemnify, defend and hold harmless Licensee, its respective officers, directors, agents, subcontractors and employees (the "Licensee Indemnitees") from and against any and all losses arising from (i) the matters described in Section 1(d)(iii) hereof, (ii) the matters described in Section 2(b) hereof and/or (iii) personal or bodily injury to or death of persons or damage to the property of Licensee to the extent caused by negligent acts, errors and/or omissions or the willful misconduct of SMG, Owner or its officers, directors, agents, employees, subcontractors, licensees or invitees.

(c) The provisions set forth in subparagraph (a) above shall survive termination or expiration of this Agreement.

12. Default, Termination and Other Remedies.

(a) Default. Licensee shall be in default under this Agreement if any of the following occur: (i) Licensee fails (A) to pay any amount due hereunder (including, without limitation, the Licensee Fee or the Reimbursable Service Expenses) when the same are required to be paid hereunder or (B) to provide the security required under Section 6(d) hereof by the date when due, (ii) Licensee or any of its officers, directors, employees or agents fails to perform or fulfill any other material term, covenant, or condition contained in this Agreement and Licensee fails to commence a cure thereof within five (5) business days after Licensee has been served with written notice of such default, or (iii) Licensee makes a general assignment for the benefit of creditors. SMG shall be in default under this Agreement if SMG fails to perform or fulfill any term, covenant, or condition contained in this Agreement and SMG fails to commence a cure thereof within five (5) business days after SMG has been served with written notice of such default. Nothing herein shall be construed as excusing either party from diligently commencing and pursuing a cure within a lesser time if reasonably possible. Notwithstanding clause (ii) above, if the breach by Licensee or any of its officers, directors, employees, or agents of such other term, covenant, or condition is such that it threatens the health, welfare, or safety of any person or property, then SMG may, in its discretion, require that such breach be cured in less than five (5) business days or immediately.

(b) Termination by Reason of Default. Upon a default pursuant to Section 12(a) hereof, the nonbreaching party may, at its option, upon written notice or demand upon the other party, cancel and terminate the license granted in Section 1 hereof and the obligations of the parties with respect thereto. In addition to the foregoing, if Licensee fails to comply with any of the material provisions of this Agreement, SMG may, in its reasonable discretion, delay and/or withhold payment and/or settlement of all accounts and funds related to monies collected or received by SMG for the benefit of Licensee hereunder until the completion of an investigation relating to such violation.

(c) Termination by Reason of Labor Dispute. In addition to the remedies provided elsewhere in this Agreement, SMG shall have the right to terminate this Agreement in the event that a dispute occurs between Licensee and its employees or between Licensee and any union or group of employees by reason of the union affiliation or lack of union affiliation of persons employed by Licensee or any one with whom Licensee contracts, which would materially impair Licensee's performance of its obligation in connection with the event.

(d) Injunctive Relief. In addition to any other remedy available at law, equity, or otherwise, SMG shall have the right to seek to enjoin any breach or threatened breach and/or obtain specific performance of this Agreement by Licensee upon meeting its burden of proof of such material breach as required by applicable statute or rule of law.

(e) Unique Qualities. The parties agree and acknowledge that the Licensee is a unique entity and, therefore, the rights and benefits that will accrue to SMG by reason of this Agreement are unique and that SMG may not be adequately compensated in money damages for Licensee's failure to comply with the material obligations of Licensee under this Agreement and that therefore SMG, at its option, shall have the right to recovery of all show-related out-of-pocket

expenses in the event that Licensee violates its obligation to hold an Event at the Facility, or to provide evidence of fulfillment of its material obligations under Section 14(m) of this Agreement.

13. Representations and Warranties. Each party hereby represents and warrants to the other party, and agrees as follows:

(a) It has the full power and authority to enter into this Agreement and perform each of its obligations hereunder;

(b) It is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery, and performance of this Agreement; and

(c) No litigation or pending or threatened claims of litigation exist which do or might adversely affect its ability to fully perform its obligations hereunder or the rights granted by it to the other party under this Agreement.

14. Covenants. Licensee hereby covenants as follows:

(a) Licensee shall not occupy or use the Facility except as provided in this Agreement.

(b) Licensee shall comply with all legal requirements which arise in respect of the Facility and the use and occupation thereof.

(c) Licensee shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to and from the Facility. "**Hazardous Material**" shall mean, without limitation, those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in any applicable state or federal environmental law.

(d) Licensee shall not advertise, paint, post, or exhibit, nor allow to be advertised, painted, posted, or exhibited, signs, advertisements, show bills, lithographs, posters, or cards of any description inside or outside or on any part of the Facility except upon written permission of SMG.

(e) Licensee shall not broadcast by television or radio any Event scheduled to be presented in the Facility under the terms of this Agreement without the prior written approval of SMG. If approval is granted by SMG, then all monies received from such broadcast will be considered as broadcast revenues for the purpose of determining the Broadcast Fee due to SMG.

(f) Licensee shall not cause or permit beer, wine, or liquors of any kind to be sold, given away, or used upon the Facility except upon prior written permission of SMG.

(g) Licensee shall not operate any equipment or materials belonging to SMG without the prior written approval of SMG.

(h) Licensee, its officers, directors, employees, agents, members, or other representatives shall not “scalp” tickets for an Event, to the extent applicable. Licensee and its representatives may provide assistance to SMG in its efforts to control and prevent such ticket “scalping”.

(i) No portion of any passageway or exit shall be blocked or obstructed in any manner whatsoever, and no exit door or any exit shall be locked, blocked, or bolted while the Facility is in use. Moreover, all designated exitways shall be maintained in such manner as to be visible at all times.

(j) If the Licensee Fee includes a percentage of revenue generated from an Event, then no collections, whether for charity or otherwise, shall be made, attempted, or announced at the Facility, without first having made a written request and received the prior written consent of SMG. In such event, donations or collections are granted by SMG in lieu of an admission ticket, then all such monies received from such collections or donations will be considered as ticket revenues for the purpose of determining the License Fee due to SMG.

(k) Licensee shall abide by and conform to all rules and regulations adopted or prescribed by SMG pursuant to a certain operating handbook titled BB&T Arena Policies and Procedures, a copy of which has been provided to Licensee and the terms of which are incorporated by reference herein.

(l) Licensee shall not encumber, hypothecate, or otherwise use as security its interests in this Agreement for any purpose whatsoever without the express written consent of SMG.

(m) With respect to any Event at the Facility, Licensee shall comply fully with any and all local, state, and federal laws, regulations, rules, constitutional provisions, common laws, and rights of others applicable to the reproduction or performance of proprietary or copyrighted materials and works of third parties (the “Works”), and to the protection of the intellectual property rights associated with such Works. The fees payable by Licensee under this Agreement do not include royalty, copyright or other payments which may be payable on behalf of third party owners of such Works, and Licensee agrees hereby to make any and all such payments to third parties and/or clearinghouse agencies as may be necessary to lawfully perform, publish or reproduce any such Works. Licensee specifically agrees, undertakes, and assumes the responsibility to make any and all reports to such agencies and/or parties, including specifically by way of example only (and not by way of limitation) ASCAP, BMI, SAG, SESAC and other similar agencies. Licensee agrees hereby to produce evidence of such reports and payments to SMG, including evidence of compliance with the requirements of this paragraph to be provided to SMG in advance of any such Event. Provision of such evidence is a material condition of this Agreement. Licensee agrees to indemnify, defend, protect and hold harmless SMG and all other Indemnitees (as defined in this Agreement) of and from all and all manner of Losses arising in any way from the use by Licensee of proprietary intellectual property of third parties (whether such claims are actual or threatened) under the copyright or other laws of the United States. The foregoing indemnity shall apply regardless of the means of publication or performance by Licensee, and shall include specifically and without limitation the use of recordings, audio

broadcasts, video broadcasts, Works on other magnetic media, sounds or images transmitted via the worldwide web, chat rooms, webcast, or on-line service providers, satellite or cable, and all other publication or performance means whatsoever, whether now known or developed after the date of this Agreement.

(n) Licensee shall not engage in the sale and/or distribution of food and/or beverages at the Facility.

(o) Licensee shall use the Facility's logo (the "**Facility Logo**") in all advertising controlled by or done on behalf of Licensee relating to an Event, including, but not limited to, television, internet, newspaper, magazine, and outdoor advertising. Licensee's right to use the Facility Logo shall be limited to the specific, express purpose set forth in the foregoing sentence and/or as otherwise authorized by SMG in writing prior to the use thereof. In connection with Licensee's use of the Facility Logo as permitted in this Section 14(o), Licensee shall use only the form of the Facility Logo as provided by SMG to Licensee in any artwork or other depiction thereof.

15. Civil Rights Act. During the performance of this Agreement, Licensee shall comply fully with Title VI and Title VII of the Civil Rights Act of 1964, as amended, and all other regulations promulgated thereunder, in addition to all applicable state and local ordinances concerning Civil Rights.

16. Americans With Disabilities Act. With respect to any Event at the Facility, Licensee recognizes that it is subject to the provisions of Title III of the Americans With Disabilities Act, as amended, and all similar applicable state and local laws (collectively, the "**ADA**"). Licensee represents that it has viewed or otherwise appraised itself of the access into the Facility, together with the common areas inside, and accepts such access, common areas, and other conditions of the Facility as adequate for Licensee's responsibilities under the ADA. Licensee shall be responsible for ensuring that the Facility complies and continues to comply in all respects with the ADA, including accessibility, usability, and configuration insofar as Licensee modifies, rearranges or sets up in the Facility in order to accommodate Licensee's usage. Licensee shall be responsible for any violations of the ADA, including, without limitation, those that arise from Licensee's reconfiguration of the seating areas or modification of other portions of the Facility in order to accommodate Licensee's usage. Licensee shall be responsible for providing auxiliary aids and services that are ancillary to its usage and for ensuring that the policies, practices, and procedures it applies in connection with an Event are in compliance with the ADA.

17. Use of Information. Licensee hereby acknowledges and agrees that SMG shall have the right to disclose to recognized industry sources that track event activity information relating to any Event, including, without limitation, the identity of performers or other participants of the Event, attendance figures, and gross ticket revenue for the Event.

18. Construction of this Agreement

(a) Choice of Law. This Agreement shall be deemed to be made, governed by, and construed in accordance with the laws of the Commonwealth of Kentucky, without giving effect to the conflict of law principles thereof.

(b) Paragraph Headings. The paragraph headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit, or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.

(c) Entire Agreement; Amendments. This Agreement (including all Exhibits and other documents and matters annexed hereto or made a part hereof by reference) contains all of the representations, warranties, covenants, agreements, terms, provisions, and conditions relating to the rights and obligations of SMG and Licensee with respect to the Facility and the Event. No alterations, amendments, or modifications hereof shall be valid unless executed by an instrument in writing by the parties hereto. **WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE PARTIES HERETO THAT NO OFFICER, DIRECTOR, EMPLOYEE, AGENT, REPRESENTATIVE, OR SALES PERSON OF EITHER PARTY HERETO, OR OF THE OWNER OR ANY THIRD PARTY HAS THE AUTHORITY TO MAKE, HAS MADE, OR WILL BE DEEMED TO HAVE MADE, ANY REPRESENTATION, WARRANTY, COVENANT, AGREEMENT, GUARANTEE, OR PROMISE WITH RESPECT TO THE FINANCIAL SUCCESS OR PERFORMANCE, AND/OR OTHER SUCCESS, OF THE EVENT. THE LICENSEE HEREBY ACKNOWLEDGES AND AGREES THAT ANY ASSESSMENT OF THE FINANCIAL SUCCESS OR PERFORMANCE, AND/OR OTHER SUCCESS, OF THE EVENT IS SOLELY THAT OF THE LICENSEE'S OWN DETERMINATION AND JUDGMENT.**

(d) Severability. If any provision or a portion of any provision of this Agreement is held to be unenforceable or invalid by a court of competent jurisdiction, the validity and enforceability of the enforceable portion of any such provision and/or the remaining provisions shall not be affected thereby.

(e) Time. Time is of the essence hereof, and every term, covenant, and condition shall be deemed to be of the essence hereof.

(f) Successors. This Agreement shall be binding upon, and shall inure to, the benefit of the successors and assigns of SMG, and to such successors and assigns of Licensee as are permitted to succeed to the Licensee's right upon and subject to the terms hereof.

(g) Independent Contractor; No Partnership. SMG and Licensee shall each be and remain an independent contractor with respect to all rights and obligations arising under this Agreement. Nothing herein contained shall make, or be construed to make, SMG or Licensee a partner of one another, nor shall this Agreement be construed to create a partnership or joint venture between and of the parties hereto or referred to herein.

(h) Singular and Plural. Whenever the context shall so require, the singular shall include the plural, and the plural shall include the singular.

19. Miscellaneous.

(a) Waiver. The failure of any party to enforce any of the provisions of this Agreement, or any rights with respect hereto, or the failure to exercise any election provided for herein, will in no way be considered a waiver of such provisions, rights, or elections, or in any way affect the validity of this Agreement. The failure of any party to enforce any of such provisions, rights, or elections will not prejudice such party from later enforcing or exercising the same or any other provisions, rights, or elections which it may have under this Agreement.

(b) Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned or transferred, except to a parent or an affiliate under common control, in any manner whatsoever by Licensee without the prior written consent of SMG. SMG shall be entitled to assign its rights and obligations hereunder to Owner or to any other management company retained by Owner to manage the Facility, and in such event, SMG shall have no further liability to Licensee hereunder for the performance of any obligations or duties arising after the date of such assignment. To the extent Owner retains another management company to manage the Facility, any references to SMG herein shall be deemed changed to reference such management company, as independent contractor for Owner.

(c) Notices. Any notice, consent, or other communication given pursuant to this Agreement shall be in writing and shall be effective either (i) when delivered personally to the party for whom intended, (ii) upon delivery by an overnight courier services that is generally recognized as reliable, and the written records maintained by the courier shall be prima facie evidence of delivery, or (iii) on delivery (or attempted delivery) by certified or registered mail, return receipt requested, postage prepaid, as of the date shown by the return receipt; in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

If to SMG: SMG
BB&T Arena
500 Nunn Drive
Highland Heights, KY 41099
Attention: Molly Pascucci, General Manager

With a copy to: SMG
300 Conshohocken State Road, Suite 450
West Conshohocken, PA 19428
Attention: Director of Risk Management

If to Licensee: Larry A. Ryle High School
Boone County School District
10379 US 42
Union, KY 41091

(d) Non-Exclusive Use. SMG shall have the right, in its sole discretion, to use or permit the use of any portion of the Facility other than the Authorized Areas to any person, firm or other entity regardless of the nature of the use of such other space, as long as the use of the other portions of the facility does not disrupt or interfere with the event.

(e) Force Majeure. If the Facility is damaged from any cause whatsoever or if any other casualty or unforeseeable cause beyond the control of SMG and Licensee, including, without limitation, acts of God, fires, floods, epidemics, quarantine restrictions, terrorist acts, strikes, labor disputes, failure of public utilities, or unusually severe weather, prevents occupancy and use, or either, as granted in this Agreement, SMG and Licensee are hereby released by the other party from any damage so caused thereby.

(f) Acts and Omissions of Third Parties. SMG shall not be liable in any way for any acts and/or omissions of any third party to this Agreement, including, without limitation, any ticket agency used by SMG in connection with the sale of tickets for any Event.

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

SMG, for Northern Kentucky University, owner of
BB&T Arena at NKU, 500 Nunn Drive, Highland
Heights, KY 41099

By: _____

Name: Darren Stearns

Title: General Manager

Larry A. Ryle High School

By: _____

Name: _____

Title: _____

EXHIBIT B TO USE LICENSE AGREEMENT
BB&T Arena at Northern Kentucky University

1. Additional Reimbursable Service Expenses. At the request of Licensee, the following special facilities, equipment, materials, and extra services will be furnished by SMG for the Event. They are included in the License Fee: stage, table linens, tables, chairs, catering of a single entrée buffet for the number of guests provided based on the tiered license fee structure, a chocolate fountain for the number of guests provided based on the tiered license fee structure, soft drinks and water for all attendees throughout the evening of the event, use of facility's battery operated candlelight for each table, and parking in Lot O.

2. Payment of License Fee, Merchandising Fee, and Broadcast Fee.
Licensee shall pay a license fee (the "License Fee") equal to the tier structure outline below:
 - **Twenty-Three Thousand Dollars (\$23,000)** for up to **Five Hundred and Fifty (550)** people (meals).
 - **Twenty-Four Thousand Dollars (\$24,000)** for between **Five Hundred and Fifty One (551)** people (meals) to **Six Hundred (600)** people (meals).
 - **Twenty-Five Thousand Dollars (\$25,000)** for between **Six Hundred and One (601)** people (meals) to **Six Hundred and Fifty (650)** people (meals).
 - Should the attendance exceed **Six Hundred and Fifty (650)** people (meals), the license fee would stay the same, but food and beverage would charge the Licensee **Twenty-two Dollars and Four Cents (\$22.04)** per plate in 2019.
 - There will be standard Three Percent (3%) increase each year for the per plate meals over 650 people, which would make the per plate meal **Twenty-Two Dollars and Seventy Cents (\$22.70)** in 2020.
 - If BB&T Arena has to rent any additional equipment for an attendance over **Six Hundred and Fifty (650)** people (meals), the Licensee will be charged for those specific additional equipment rentals.

Percentage Payable

2019

\$1,000

Remainder License Fee Balance

Payment Due Date

Upon signing this Use License Agreement
Three (3) weeks prior to start of the Event

2020

\$1,000

Remainder License Fee Balance

By December 1, 2019
Three (3) weeks prior to start of the Event

EXHIBIT A TO USE LICENSE AGREEMENT

<u>Authorized Area</u>	<u>Day</u>	<u>Date</u>	<u>Time of Use</u>	<u>Purpose</u>
Arena	Saturday	May 4, 2019	TBD	Move-In, Event and Move-Out
Arena	TBD	TBD, 2020	TBD	Move-In, Event and Move-Out