



KEAN

LICENSING AGREEMENT

This **AGREEMENT** (this "Agreement") is made as of November 12, 2024 (the "Effective Date"), between **KEAN UNIVERSITY**, a public urban research university of the State of New Jersey, with its principal office located at 1000 Morris Avenue, Union, New Jersey 07083 ("Kean University") and **TOWNSHIP OF UNION PUBLIC SCHOOLS**, a public school district in Union County, New Jersey, with its principal office located at 2369 Morris Avenue, Union, New Jersey 07083 (the "District"). Kean University and the District shall be referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, Kean University has recently acquired the building located at 1085 Morris Avenue, Union, New Jersey (the "Premises"), comprising approximately 200,000 square feet over five floors; and

WHEREAS, the District has identified a need for approximately 40,000 square feet of space to temporarily accommodate approximately 39 classrooms for kindergarten through upper elementary students due to an environmental hazard existing at its Hannah Caldwell Elementary School; and

WHEREAS, Kean University, as part of its goals to encourage public engagement and act as an anchor institution for the entire community, is willing to make the Premises (hereinafter defined) exclusively available to the District on a limited and temporary basis under the terms and conditions set forth herein;

NOW THEREFORE, based upon the foregoing recitals of fact and purpose, the truthfulness of each of which is hereby confirmed by Kean University and the District, and intending to incorporate such recitals as material and enforceable provisions of this Agreement, and in consideration of the promises and mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of License.
 - A. Kean University hereby grants a temporary license to the District and its agents, employees, students, invitees and licensees, to enter upon and utilize the 4th floor and a portion of the 3rd floor to be agreed on between the Parties, as well as the bathroom on 3rd floor of 1085 Morris Avenue (collectively, the "Premises") for the term of this Agreement subject to the terms, covenants and

conditions set forth in this Agreement.

- B. The purpose for which the Premises is made available is exclusively for the operation of an elementary school, including a pre-school, as determined by the District. Any use other than this stated purpose is expressly prohibited unless previously approved in writing by the University, approval of which is in the University's sole discretion. Such other uses may result in fees to be negotiated and mutually agreed to in advance by the Parties. All uses of the Premises shall be consistent with the University's mission as a public institution of higher education and generally suitable for its campus.
- C. This Agreement shall include the right in common with Kean University and its tenants to use the common areas of 1085 Morris Avenue, consisting of the elevators, stairwells, and first floor lobby and entranceway, the land on which the building is located and the parking garage (collectively, the "Property").
- D. This license does not include access to other portions of 1085 Morris Avenue or any other buildings or outdoor locations on the University's campus.

2. Term. The term (the "Term") of this Agreement shall begin on November 18, 2024 (or such later date as the Parties agree that the Premises are ready for occupancy) and end on the earlier of the date the District deems its original facility safe and ready for re-occupancy or no later than July 31, 2025 (to allow for one month of winding down and relocation of staff and equipment, following the end of the academic year on June 30, 2025). Such Term is subject to renewal upon the mutual written consent of the Parties. Kean University acknowledges that effective November 7, 2024, the District has and shall continue to prepare the Premises for further build-out as permitted by applicable ordinances, codes, regulations and permits.

3. License Fee. Subject to the terms of Section 7 and 8 hereof, there is no license fee to be paid by the District for its use of the Premises during the Term. The District shall meet with the Dean of the College of Education or designee to devise a plan to provide experiential learning opportunities for Kean students during the Term of this Agreement.

4. Use.

- A. The District shall have the right to use the Premises solely for the purposes detailed in Section 1 above (the "Permitted Uses"). The District represents and warrants that the District's intended use of the Premises for the Permitted Uses is permitted under and complies with all applicable statutes, laws (including, without limitation, the Americans with Disabilities Act of 1990), ordinances, codes, regulations, orders, permits, approvals, licenses, judgments, restrictions or rules of any governmental authority or other public or quasi-public body, agency, court, department, bureau, or authority having jurisdiction over the subject matter, as same may be amended from time to time (collectively "Laws").

- B. The District and its agents, employees, students, invitees and licensees shall have the right of entry to the Premises Monday through Friday during standard instructional hours of 7:00 a.m. to 4:00 p.m. The District may identify employees, such as custodial and security staff, who shall have the right of entry to the Premises during operational hours of 7:00 a.m. to 8:00 p.m. A list of employees working during the extended operational hours shall be supplied to Kean University's Police Department prior to the beginning of the Term and any change(s) to such list shall be supplied to Kean University's Police Department prior to the implementation of such change(s) by the District.
- C. The District acknowledges that other portions of 1085 Morris Avenue are occupied and used by the University and its tenants. The District shall undertake its use of the Premises in such a way as to be least disruptive to the University and its tenants and will store its materials, supplies, and equipment in an orderly fashion so as not to interfere with the activities, functions, and educational and other activities of Kean University or its tenants or the work of any of its contractors.
- D. The District shall adhere to any safety, health, and security protocols established by Kean University. Kean University reserves the right to enforce reasonable security measures to ensure the safety of both the University's and the District's personnel, students, and visitors.
- E. The District shall act as Kean's agent in seeking a Temporary/Emergency Change in Use to the building's Certificate of Occupancy. The District shall apply to the New Jersey Department of Community Affairs for a change in business use code, and Kean University shall assist as necessary in supporting the application. The District shall, at all times, abide by the conditions on maximum occupancy allowed on the Premises.
- F. If necessary, the District shall act as Kean's agent in seeking a variance from the Union Township Zoning Board of Adjustment for its use of the Premises, and Kean University shall assist as necessary in supporting the application for a variance.

5. Insurance. The District shall assume all responsibility for its actions and those of anyone else working for it while engaged in any activity connected with this Agreement. The District shall, at its own expense, secure and maintain in force for the Term of the Agreement, insurance coverage provided herein. All insurance coverage is subject to the approval of Kean University and shall be issued by an insurance company authorized to do business in the State of New Jersey and which maintain an A.M. Best rating of A- (VII) or better. Kean University reserves the right to require the District to furnish certified copies of the original policies of all insurance required under this Agreement any time upon ten (10) days prior written notice to the District. The District is responsible for renewing all types of insurance specified in this Agreement before the expiration date of any policy required hereunder. The insurance shall provide for at least twenty (20) days prior written notice to be

given to Kean University in the event coverage is materially changed, not renewed, reduced or canceled, except ten (10) days for non-payment of premium. The District shall provide the following types of insurance coverage:

- A. Worker's Compensation Insurance as required by the laws of the State of New Jersey and applicable federal law to protect the employees of the District and any subcontractor who will be engaged in the performance of this Agreement. This insurance shall include Employers' Liability coverage with a minimum limit of liability of one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) policy limit, and one million dollars (\$1,000,000) each employee.

- B. Comprehensive General Liability with combined single limits for Bodily Injury and Property. The policy shall include an endorsement (broad form) for contractual liability covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement. Coverage for bodily injury and property damage claims arising out of the acts of the District and any subcontractors shall be included. Limits of Liability shall be as follows:
 - \$3,000,000 General Aggregate
 - \$3,000,000 Products Completed Operations Aggregate
 - \$1,000,000 Personal & Advertising Injury
 - \$100,000 Damage to Premises
 - \$5,000 Medical Expenses

- C. Automobile bodily injury and property damage liability insurance covering automobiles owned (if applicable), non-owned and hired with a limit for Bodily Injury or Property Damage of \$1,000,000.

- D. Excess liability, umbrella insurance form, applying excess over the primary commercial general liability, comprehensive automobile liability and employers' liability insurance. The minimum limits of excess liability insurance shall be two million dollars (\$2,000,000).

- E. All insurance required herein, except Workers' Compensation Insurance, shall name Kean University, the State of New Jersey, and their respective Boards of Trustees, officers, agents, employees, and appointees as additional insureds.

6. Notices. Any notice, request, or demand under this Agreement shall be in writing, and shall be considered properly delivered when actually received by the other Party, addressed as hereinafter provided, and sent by: (i) hand delivery; (ii) a nationally recognized overnight courier with return receipt; or (iii) the United States Postal Service, registered or certified mail (return receipt requested). Any notice, request or demand by the District to Kean University shall be addressed to Kean University at the address for Kean University set forth below. Any notice, request or demand by Kean University to the District shall be

addressed to the District at the address for the District set forth below (not to the Premises), until otherwise directed in writing by the District. Notices shall be deemed given on the date of hand delivery, one (1) business day after sending by overnight courier, or the earlier of receipt, refusal of receipt or three (3) days after mailing by registered or certified mail.

Kean University: Dr. Michael Salvatore, Senior Vice President for Administration
Kean University
1000 Morris Avenue
Union, New Jersey 07083

with a copy to: Kristin Ganley, Esq., Vice President and Chief University Counsel
Kean University
1000 Morris Avenue
Union, New Jersey 07083

the District: Dr. Gerry Benaquista, Superintendent of Schools
Township of Union Public Schools
269 Morris Avenue
Union, New Jersey 07083

7. Services Provided by Kean. Except as otherwise provided herein, Kean University shall provide all of the maintenance, mail, internet access, electricity, and utilities to the Premises. The District will be responsible for reimbursing Kean for the costs of these services on a monthly basis, which shall be paid within thirty (30) days upon receipt of an invoice from Kean. Notwithstanding anything to the contrary contained in this Agreement, the District hereby expressly agrees and acknowledges that Kean University shall not be liable in any way to the District as a result of any loss, damage, failure, defect or change in the quantity or character of any utility or service hereunder, the failure of such service to be adequate for the District's needs, or any interruption of any utility service to the Premises.

8. Responsibilities of the District.

- A. Environmental Testing and Compliance. The District shall be responsible for all environmental testing needed for the Property for the Permitted Use, including but not limited to water and radon testing. In the event that Kean University agrees to contract with its vendor for such testing, the District shall reimburse Kean for the costs thereof and such cost shall be added to the monthly invoice to be supplied to the District in accordance with the terms of Section 7 above. The District shall conduct all activities in compliance with all applicable Federal, State and local laws, rules and regulations designed to prevent or control the discharge of substances into the land, water and air and to protect individual health and safety.
- B. Alterations. The District shall only have the right to make improvements, additions, installations, decorations and changes ("Alterations") to the

Premises with the prior consent of Kean University. The Parties agree that the District will be responsible for contracting, permitting and payment for all Alterations made to the Premises. All Alterations shall become Kean University's property at the expiration of the Term unless otherwise agreed to in writing. The District's furniture, equipment, trade fixtures, including, without limitation, moveable partitions, and other personal property are the District's property and shall remain the District's property at the expiration of the Term.

- C. Security. Prior to the start of the Term, the District shall submit to Kean a school security plan that addresses lockdowns, shelter in place and evacuations (and drills) that are aligned with the New Jersey Department of Education's expectations on school security. The District shall be responsible for providing adequate security personnel for the Premises, including security for the first floor lobby and entranceway during instructional hours.
- D. Visitors. Prior to the start of the Term, the District shall submit to Kean its procedures and protocols for visitors, including but not limited to the arrival of parents/guardians, delivery persons and support services, emergency pick up, and early dismissal. Such procedures and protocols must include check in and check out of all visitors, which shall be monitored by security personnel required in Section 8.C. above.
- E. Parking. The District and its employees and visitors shall comply with rules and regulations of Kean University with regard to the parking of any vehicles on campus, including the registration of vehicles and parking only in the parking garage adjacent to the building. Kean University will designate parking spaces for visitors in the parking garage prior to the start of the Term. The District shall reimburse Kean for the costs thereof and such cost shall be added to the monthly invoice to be supplied to the District in accordance with the terms of Section 7 above.
- F. Transportation. The District shall be solely responsible for the transportation of its students to the Property by bus. Prior to the start of the Term, the District shall submit to Kean its procedures and protocols for the safe and efficient drop off and dismissal of its students at the Property.
- G. Furniture and Equipment. The District shall supply and maintain all necessary furniture, equipment, and trade fixtures, including without limitation, moveable partitions, computers/laptops, projectors, whiteboards, network devices, desks, chairs, learning materials, security cameras, and such other items as it deems necessary for its Permitted Use of the Premises.
- H. Food and Water. The District shall be solely responsible for the provision of food services and water for its students, including obtaining any permits that

may be required. The District understands and agrees that the Premises does not contain drinking fountains and must provide its own solutions for drinking water, such as using coolers for bottled water. The District also understands and agrees that portable sinks may be necessary in certain areas of the Premises in order to accommodate the nurse's office and shall maintain any such portable sinks in good working order.

- I. Custodial Maintenance. The District shall be solely responsible for keeping the Premises in a clean condition and shall employ such housekeeping and custodial staff and provide such labor and materials as necessary for such purposes. The District shall be responsible for disposing of all trash at the Premises, including recyclables which shall be separated and placed in clear bags. All trash and recycling must be disposed of in the appropriate dumpsters on the Property provided by Kean University. The District shall reimburse Kean for its share of the cost of the trash pick up for the Premises and such cost shall be added to the monthly invoice to be supplied to the District in accordance with the terms of Section 7 above.

9. Personal Property. Any and all goods, merchandise, equipment, and personal property owned and/or borrowed by the District or owned and/or borrowed by any participant, employee, staff, official, student, contractor, agent, sub-licensee, invitee, volunteer, etc., of the District, which may be on Kean University's property at any time during the performance of this Agreement and in connection therewith, shall be at the sole risk of the District, and Kean University shall not be liable for any loss or damage thereto.

10. Right of Entry, Inspection. Notwithstanding anything to the contrary herein, University facilities personnel and representatives shall have unrestricted access to the Premises in use by the District for both routine and emergency maintenance purposes, with the provision that to the extent possible, such access will be coordinated between the District and Kean University in advance in order to minimize any disruption to the District activities. Upon reasonable notice, Kean University shall have the right to inspect the Premises in order to ensure compliance by the District with the terms and provisions of this Agreement.

11. Liability, Indemnification. The District shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless Kean University, the State of New Jersey, their officers, agents, students, servants and employees from and against any and all claims, demands, suits, actions, recoveries, judgment and costs and expenses in connection therewith on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the operations undertaken on the Premises by the District or from or alleged to have arisen from its violation of any environmental, health or safety laws, rules or regulations that results from the District's operations. This indemnification obligation is not limited by but is in addition to the insurance obligations contained in this Agreement and shall survive the completion or termination of this Agreement.

Kean University is a public higher education institution in the State of New Jersey. As such, this Agreement hereby expressly incorporates the following Statement of

Public Liability Insurance: Any agreement or arrangement signed and entered into on behalf of the State of New Jersey by a State official or employee shall be subject to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. and the availability of appropriations. The State of New Jersey does not carry public liability insurance, but the liability of the State and the obligations of the State to be responsible for tort claims against its employees are covered under the terms and conditions of the New Jersey Tort Claims Act. The Act also creates a special tort claims fund and provides for payment of claims against the State of New Jersey and/or its employees whom the State is obligated to indemnify against tort claims that arise out of the performance of their duties. Claims against the State of New Jersey or its employees arising out of the performance of this Agreement should be referred for handling to the Attorney General, Division of Law, Tort Litigation Section, Hughes Justice Complex, P.O. Box 116, Trenton, New Jersey 08625. Furthermore, the State of New Jersey self-funds for Workers Compensation and Disability.

12. Governing Law. This Agreement, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of New Jersey, including without limitation, the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

13. Force Majeure. Neither Party shall be responsible to the other for any losses resulting from the failure to perform any terms or provisions of this Agreement if the Party's failure to perform is attributable to war, riot, acts of God or the elements or any other unavoidable act not within the control of the party whose performance is interfered with and which by reasonable diligence such party is unable to prevent.

14. End of Term. Upon the expiration of this Agreement after the Term or any subsequent renewal term, the District shall return the Premises to Kean University in the same condition as when the District took possession, excluding: Alterations, ordinary wear and tear, loss from fire or casualty, repairs for which Kean University is responsible, and removal of telephone, electronic, data, computer or similar cabling or wiring installed by or on behalf of the District, unless otherwise provided for herein. Before the expiration of the Term, a District representative shall accompany a University official to inspect the Property to identify any losses or damages. The District shall reimburse Kean for any and all damage to the University's Premises and/or Property arising as a result of the District's wrongful or negligent use of the Premises and/or Property or caused by the District, its employees, students, visitors, agents, or contractors. The assessment of the cost of repairs or replacements for any such damages shall be reasonably determined by Kean in its sole discretion based on actual cost and shall be paid by the District within thirty (30) days of receipt of proof of actual cost.

15. Termination.

A. Unless otherwise required by applicable laws governing bankruptcy, reorganization, liquidation, receivership or similar proceedings, either Party may terminate the Agreement if, at any time, the other Party (a) files for protection under bankruptcy or insolvency laws, (b) makes an assignment for the benefit of creditors, (c) appoints or suffers appointment of a receiver or

trustee over substantially all of its property that is not discharged within ninety (90) days after such filing, (d) files a petition under any bankruptcy or insolvency act or has any such petition filed against that is not discharged within sixty (60) days of the filing thereof, or (e) admits in writing its inability generally to meet its obligations as they fall due in the general course, then the other Party may terminate this Agreement in its entirety effective immediately upon written notice to such Party.

- B. In the event of a breach by the District or any of its agents, contractors, or vendors of any of the covenants, conditions, or representations contained herein, the License permitted by this Agreement shall be revoked with prior written notice from Kean University.

16. Compliance. Both Parties agree to comply with all laws, statutes, and regulations that, to the best of their knowledge, apply to their respective activities under this Agreement.

17. Standards Prohibiting Conflicts Of Interest. The following prohibitions on the District activities shall apply to all contracts made with the State of New Jersey, pursuant to Executive Order No.189 (1988):

- A. The District shall not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13d-13i., of any such officer or employee, or partnership, firm or corporation, with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13d-13g.
- B. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any vendor shall be reported in writing forthwith by the District to the Attorney General and the Executive Commission on Ethical Standards.
- C. The District may not, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities thereof, or with any person, firm or entity with which he is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13d-13g. Any relationships subject to this provision shall be reported in writing forthwith to

the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actual or appearance of a conflict of interest.

- D. The District shall not influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner.
- E. The District shall not cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.
- F. The provisions cited above in paragraph (A) through (C) shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with the District under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph (C).
- G. In addition, the District shall comply with the provisions of the Conflicts of Interest Law, N.J.S.A. 52:13D-12 to -28 and agrees to be bound by the provisions of the Vendor's Code of Ethics and Business Ethics Guide, copies of which are collectively incorporated into this Agreement and can be found at: <https://www.nj.gov/treasury/purchase/pdf/BusinessEthicsGuide.pdf>.

18. EEO/Affirmative Action. The District agrees that it does not discriminate in the hiring or promotion of any minorities, as designated by the Equal Employment Opportunity Commission of the United States of America, or the Department of Civil Rights of the State of New Jersey, and that the District does not discriminate against any person or persons on the basis of race, creed, age, color, sex, national origin or handicap. The District further agrees to abide by all anti-discrimination laws, including but not limited to, those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued there under.

19. Warranty of No Solicitation on Commission or Contingent Fee Basis. The District warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

20. Ownership. Neither Party shall be considered nor hold itself out as an agent of the other, it being acknowledged that neither Party has the authority to bind the other.

21. Entire Agreement. This Agreement is the entire understanding and agreement between Kean University and the District relating to the subject matter herein and supersedes any and all such other agreements and understandings relating to the subject matter herein, provided that the Parties shall also be entering into the Memorandum of Understanding (“MOU”), attached hereto as Exhibit A, and intend to enter into an Affiliation Agreement with respect to an internship program wherein Kean University students will be permitted by the District to observe and/or provide instruction to District students being temporary schooled at the Premises, under District staff supervision . Should there be any inconsistencies between the terms of the MOU and this Licensing Agreement, the Parties agree that the terms of this Licensing Agreement shall control.

22. Amendment. This Agreement may be amended only in writing executed by both Parties.

23. Severability. If any material provision herein is held invalid or unenforceable, this Agreement shall be terminated unless the Parties agree to a new provision or terms within thirty (30) days.

24. Assignment. The District may not assign its rights under this Agreement without Kean University’s consent, which may be withheld in Kean University’s sole discretion.

25. Drug Free Workplace. The District acknowledges and certifies that it understands that the following acts by the District, its employees, and/or agents performing services on State property are prohibited:

- Unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs, including marijuana; and
- Any impairment or incapacitation from the use of alcohol or other drugs, including marijuana.

The District further acknowledges and certifies that it understands that a violation of these prohibitions constitutes a breach of the Agreement and may result in default action being taken by Kean University in addition to any criminal penalties that may result from such conduct.

26. Use and Occupancy. This Agreement does not and shall not be deemed to constitute a lease or a conveyance of the Premises by Licensor or to confer upon Licensee any right, title, estate or interest in the Premises. This Agreement grants to Licensee only a personal privilege to use and occupy the Premises for the Term on the terms and conditions set forth herein.

[Signature Page Follows]

IN WITNESS WHEREOF, Kean University and the District have executed this Agreement as of the date first above written.

KEAN UNIVERSITY

TOWNSHIP OF UNION PUBLIC SCHOOLS

By:

Name:

Title:

By:

Name:

Title: