
USE LICENSE AGREEMENT

BY AND BETWEEN

SMG AND BROKEN ARROW PUBLIC SCHOOLS

DATED 11/16/2022

BROKEN ARROW GRADUATION

USE LICENSE AGREEMENT

THIS USE LICENSE AGREEMENT (together with the Exhibits attached hereto, the "Agreement") is dated as of the 16th day of November, 2022, by and between SMG, an Oklahoma general partnership, with an address at 200 South Denver Avenue, Tulsa, OK 74103 (together with its parent company, ASM Global, "SMG"), and Broken Arrow Public Schools whose current address is 701 S. Main Street, Broken Arrow, OK 74012 (the "Licensee").

BACKGROUND

SMG is a party to a certain management agreement (the "Management Agreement") with the City of Tulsa (the "City"), with an effective date of March 10, 2006, as amended on March 1, 2007 and as assigned to the City of Tulsa and the Tulsa Public Facilities Authority (the "TPFA") effective July 1, 2007, whereby SMG has been retained to act as managing agent in respect of a facility commonly known as SMG-BOK Center (the "Facility"), located at 200 SOUTH DENVER, TULSA, OK 74103, which is owned by City and leased to TPFA effective July 1, 2007. 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 behalf of City and TPFA relating to the use of the Facility. Accordingly, SMG grants 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 consent 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"). Licensee hereby agrees that SMG and Licensee shall not be responsible in any way for the acts and/or omissions of any one or all of the Third-Party Contractors.

(d) Licensee acknowledges that the Facility is one component of a planned complex that includes, without limitation, BOK Center (such other non-Facility areas are collectively referred to herein as the "Complex"). Licensee further acknowledges that SMG will use reasonable efforts to minimize for Licensee any inconvenience or disturbance which may result from the operation, construction, expansion, renovation, and/or other use of the Complex, to the extent that the foregoing activities are within SMG's reasonable control. Licensee hereby agrees to hold SMG, City, TPFA, and their respective officers, directors, agents, and employees harmless from and against any and all losses, liabilities, claims, damages, and expenses (including reasonable costs of investigation and attorneys' fees) (collectively, the "Losses") arising out of any of the foregoing activities occurring at the Complex except to the extent such losses, liabilities, claims, damages and expenses arise from SMG's negligence or willful misconduct.

2. Purpose.

(a) The Facility is to be used solely for the purpose of a **BROKEN ARROW GRADUATION**. 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, City, TPFA, 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 Licensee's 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 negligent acts, errors and/or omissions 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(N) 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 its officers, directors, agents, employees, subcontractors, licensees, or invitees necessitated by and/or performed with respect to the Event. Licensee reserves the right to remedy any alleged breach before being subject to termination of this agreement

(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 consent 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, non-discriminatory 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 SMG represents that the Facility is safe and suitable for the Event in its present condition.

(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, licensees, or invitees shall be paid for by Licensee at the actual or estimated cost of repair.

(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 City. 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 from 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 (i) **\$35,000** including front of house staffing (ushers, ticket taker, police, fire marshals, medical, etc.), building equipment (available to the extent of facility inventory), scoreboard, LED ribbon board, conversion, clean-up, 2 phone lines and 1 internet line. Rent does not include catering, stagehands, scoreboard/ribbon board operators, confetti clean-up, all security (backstage security, magnetometer security, etc...) advertising, insurance, runners, dressing room furniture, additional phones, additional data per port and any other special production needs.

(b) Tickets. Intentionally deleted.

(c) Merchandising Fee. N/A

(d) Broadcast Fee. SMG shall retain all television, film, radio and/or recording rights to any Events which take place in or at the Facility. Licensee may purchase such rights from SMG for a broadcast fee (the "Broadcast Fee") equal to the greater of (i) **\$0**, or (ii) in the event that Licensee desires to sell such rights to a third party after purchasing them from SMG pursuant to this clause (c), **0%** of all amounts received by Licensee from such third party under the applicable written contract between Licensee and such third party. **There will be no charge to broadcast this event over the internet.** Said contract shall be delivered to SMG not less than 24 hours prior to the commencement of any such television, broadcast, film or recording activity of any Event in or at the Facility, and shall be accompanied by a written and signed statement by Licensee that no other agreement, express or implied, written or oral, has, to its knowledge, been reached or is in the process of being reached wherein Licensee shall receive any additional monies for such rights.

(e) Reimbursable Service Expenses.

(i) SMG shall provide, as required for each Event, the following services (collectively, the "Services"): ticket takers, box office services, ticket seller labor, ushers, supervisors, and receptionists; medical services for Event attendees, 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; custodial services; scoreboard operations.

(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.

(f) 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 0 tickets at no charge.

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) At the conclusion of an Event, SMG shall deliver to Licensee an expense report setting forth the expenses actually incurred by SMG for the Services ("Actual Expense Report").

(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.

(d) Security for Payment. In order to ensure the payment to SMG of the License Fee, Merchandising Fee, Broadcast Fee, the Reimbursable Service Expenses, and any other amounts as may accrue from time to time under this Agreement, Licensee shall deliver into the custody of SMG, at least ten (10) days prior to the first Event, a certified check payable to SMG, performance bond, letter of credit, ticket sales escrow, or other security acceptable to SMG, in the amount of \$0. Should Licensee fail to pay the License Fee, Merchandising Fee, Broadcast Fee, the Reimbursable Service Expenses, or any other amounts due to SMG in accordance with the terms of this Agreement, then SMG may apply the proceeds of said check, performance bond, letter of credit, ticket sales escrow, or other security in settlement thereof. The remedy provided under this Section 6(d) shall be non-exclusive and shall be in addition to any other remedy available to SMG in this Agreement or in law or equity.

7. Revenues and Costs. SMG shall retain one hundred percent (100%) of all revenues and shall pay one hundred percent (100%) of all costs generated in connection with the sale of food and beverages at the Facility. In addition to payment of the Reimbursable Service Expenses above, if any, 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. INTENTIONALLY DELETED.

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.

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 may contain exclusions from coverage relating to the following participants, legal liability activities or issues not related to the Event hereunder: sporting events, high risk events (including, without limitation, rap concerts), 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, City and TPFA shall be named as additional insured 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 ten (10) days' written notice thereof to each of SMG, Risk Management Director, 701 Market Street, 4th Floor, Philadelphia, PA, 19106, and City of Tulsa, 200 Civic Center, Tulsa, OK 74103." 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 thirty (30) 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, City and TPFA 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, and their respective officers, directors, agents, and employees (the "Indemnities") 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, City or TPFA 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.

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

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

12. Default, Termination and Other Remedies.

(a) Default. Except for an instance of a Force Majeure Event (as defined below), 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, if any) 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 material 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.

(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 breach or threatened 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 pursue any remedy available at law, equity, or otherwise, including the recovery of money damages and/or the right to seek equitable relief (whether it be injunctive relief, specific performance or otherwise) 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 consent of SMG. If consent 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 consent 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 shall provide assistance to SMG in its efforts to control and prevent such ticket "scalping".

(i) Licensee shall not block or obstruct any portion of any passageway or exit in any manner whatsoever, and shall not lock, block, or bolt any exit door or any exit while the Facility is in use. Moreover, Licensee shall not interfere with designated exit ways in a manner that would affect such designated exit ways from being visible at all times.

(j) If the Licensee Fee includes a percentage of revenue generated from an Event, then Licensee shall not make, attempt, or announce collections at the Facility, whether for charity or otherwise, 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 not encumber, hypothecate, or otherwise use as security its interests in this Agreement for any purpose whatsoever without the express written consent of SMG.

(l) 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, display, 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, display 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, Copyright Clearance Center, and other similar agencies. Licensee agrees hereby to obtain and maintain evidence of such reports and any necessary payments, including evidence of compliance with the requirements of this paragraph. Licensee further agrees hereby to provide to SMG any such compliance evidence as may be requested by SMG in advance of or after any such Event. Licensee agrees that the obtaining and maintaining of such evidence by Licensee is a material condition of this Agreement. Licensee agrees to indemnify, defend, protect, and hold harmless SMG, City and TPFA and all other Indemnities (as that term is defined in the 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, display, 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, webcasts, or on-line service providers, satellite or cable, and all other publication, display or performance means whatsoever, whether now known or developed after the date of this Agreement.

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

(n) Licensee may 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, 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 apprised 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. SMG shall have the right to disclose 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, without Licensee's prior written consent.

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 State of Oklahoma without giving effect to the conflict of law principles thereof. The parties agree that venue of any action arising out of this Agreement or incident thereto shall be proper in a court of competent jurisdiction in Tulsa County, Oklahoma and each party waives any objection to such venue.

(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 city, TPFA 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 in any manner whatsoever by Licensee without the prior written consent of SMG except to a parent or affiliate of Licensee that is under common control or ownership of Licensee. SMG shall be entitled to assign its rights and obligations hereunder to City and/or TPFA or to any other management company retained by City and/or TPFA 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.

(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-BOK Center
200 SOUTH DENVER AVENUE, TULSA, OK 74103
Attention: **Bryan Crowe**

If to Licensee: **Broken Arrow Public Schools**
Attn:
701 S. Main Street
Broken Arrow, OK 74012

(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 provided such use does not unreasonably interfere with the presentation of 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 the parties, including, without limitation, acts of God, fires, floods, epidemics (including health epidemics, and without limitation, the COVID-19 pandemic), quarantine restrictions imposed by government officials, terrorist acts, strikes or labor disputes (though not of the employees of the Licensee), failure of public utilities, death, disability or injury of the Headline Artist(s) and/or their immediate family or dangerous weather conditions, prevents occupancy and use, or either, as granted in this Agreement, then the parties shall be relieved of their respective obligations hereunder. In the event performance is excused in accordance with the foregoing provisions, SMG shall refund to Licensee any deposits paid by Licensee.

(f) Security. Except with respect to security directly engaged by Licensee and/or the Artist, 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 circumstance shall Licensee be liable or responsible for the activities and/or actions of the parties providing such security services.

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

SMG, Manager of SMG-BOK Center
200 SOUTH DENVER
TULSA, OK 74103

Broken Arrow Public Schools

By: _____
Name: **Bryan Crowe**
Title: **General Manager**
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A TO USE LICENSE AGREEMENT

<u>Authorized Area</u>	<u>Day</u>	<u>Date</u>	<u>Event time</u>	<u>Purpose</u>
BOK Center	Tuesday	5/23/2023	TBD	B.A. Graduation
Suite/Loge Boxes/ Club Seats:	Complimentary use of four (4) party suites (20-person capacity)			
Catering:	Catering must be provided by SMG-Savor. All catering charges may be allocated to a separate PO/Invoice per the request of the client.			
Concessions:	BOK Center/SMG-Savor to sell soda and water only at the event.			
Sponsorship:	All sponsorships involved in the presentation of the event must be submitted to BOK Center in writing 30 days prior to full execution of this contract. Certain restrictions of the sponsorship presence in or on the grounds of the BOK Center may be limited based on sponsorship contracts already in existence at the venue.			
Payment Terms:	Receipt of a proper itemized invoice will be issued following the event. Payment will be made forty-five (45) days after the event takes place.			