OPERATION, MAINTENANCE AND USE AGREEMENT
YMCA HEALTH AND WELLNESS FACILITY
AT WICHITA STATE UNIVERSITY

THIS OPERATION AND MAINTENANCE AGREEMENT (the "Agreement"), is made and entered at Wichita, Kansas, to be effective as of December 28, 2017 (the "Effective Date"), by and between The Young Men's Christian Association of Wichita, Kansas, a Kansas not for profit corporation (the "YMCA") and Wichita State University, a state educational institution of Kansas ("WSU") (collectively, the "Parties").

RECITALS

WHEREAS, WSU leased land to Wichita State Innovation Alliance, Inc. ("WSIA") for the development of a Health, Wellness and Fitness Facility for the benefit of WSU students, faculty, staff, visitors and the surrounding community (the "Health, Wellness and Fitness Facility"), pursuant to a master ground lease effective December 28, 2017 (the "Master Ground Lease"); and

WHEREAS, the YMCA is a not-for-profit organization dedicated to serving the community by nurturing youth development, healthy living and social responsibility throughout the community. The YMCA is experienced in the construction and operation of buildings and facilities that are used for recreational, fitness and wellness programs that service the needs of the greater Wichita community; and

WHEREAS, the YMCA shares a common mission with WSU to provide recreational, educational, and cultural activities that serve and enrich the local community. In furtherance of the common mission of the Parties to provide recreational, educational and cultural activities that serve and enrich WSU and the surrounding community, Wichita State Innovation Alliance, Inc. ("WSIA") subleased the same land that is covered by the Master Ground Lease to be used as a Health, Wellness and Fitness Facility to the YMCA pursuant to a ground sublease effective December 28, 2017 ("Ground Sublease"). The parties agree and acknowledge that they have received a copy of the Ground Sublease referred herein; and

WHEREAS, the YMCA has agreed to provide such services in connection with the Health, Wellness and Fitness Facility subject to the terms and conditions set forth in this Agreement; and

WHEREAS, WSU seeks to expand and improve its health and wellness facilities, offerings and resources and has agreed to lease, occupy and use a portion of the Health, Wellness and Fitness Facility for the purpose of providing student health and wellness services.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

ARTICLE 1. TERM

1.01 Term. The term of this Agreement shall commence on the Effective Date and shall continue for an initial period of fifty (50) years ("Initial Term"); provided, however, that unless this Agreement has been earlier terminated, the term may be extended by the Parties for up to five (5) additional periods, each period consisting of ten (10) years, commencing on the day after the expiration of the Initial Term and continuing thereafter until terminated as set forth in this
Agreement ("Renewal Terms") (collectively, the Initial Term and all Renewal Terms referred herein as "Term"). Notwithstanding the foregoing, this Agreement may be terminated as specified by, and in accordance with, Article 9 below.

ARTICLE 2. APPOINTMENT OF REPRESENTATIVES

2.01 Appointment of Representatives. The YMCA and WSU shall each designate a representative ("Designated Representative") to act on its behalf in overseeing and communicating regarding the performance of this Agreement. The Parties may change their respective Designated Representatives upon written notice to the other Party given as provided in this Agreement. Designated Representatives shall be the primary means for communications and all other interactions between the YMCA and WSU that are required under this Agreement. Nothing in this paragraph is intended to in any way restrict or prohibit communication between the Parties by individuals who are not Designated Representatives.

ARTICLE 3. RESPONSIBILITIES AND COMMITMENTS

3.01 Responsibilities and Commitments by the YMCA. The YMCA shall:

3.01.01 Construct, operate, maintain and manage the Health, Wellness and Fitness Facility as more specifically set forth in Appendix A. The YMCA shall use, operate and maintain the Health, Wellness and Fitness Facility as a multi-purpose recreation, fitness and community facility. The standards to which the Health, Wellness and Fitness Facility shall be used, operated and maintained by the YMCA will be comparable to the other facilities operated by the YMCA in the Wichita area and shall further: (a) comply with terms of this Agreement; (b) provide for the good order, condition and repair of the Health, Wellness and Fitness Facility; and (c) be consistent with industry-standard practices for similar recreational and community centers;

3.01.02 Lease to WSU approximately 15,000 to 18,000 square feet of space within the Health, Wellness and Fitness Facility (the "WSU Building Lease") for the purpose of allowing WSU to expand its health, wellness and fitness programs. The WSU Building Lease shall have the same Initial Term and Renewal Term option as this Agreement and shall be subject to the provisions of this Agreement and to the mutually agreed upon terms and conditions to be included in the WSU Building Lease. The parties acknowledge and agree that the total cost expended by the YMCA in connection with the cost of constructing, furnishing and equipping the 15,000 to 18,000 square feet of space within the Health, Wellness and Fitness Facility to be covered by the WSU Building Lease shall in no event exceed $3,500,000.

3.01.03 Provide a "Drop-In Kid Zone" program for use by children ranging in age from six (6) weeks to seven (7) years and whose parents are YMCA members. Under the Drop-In Kid Zone program, the YMCA will watch each child for up to three (3) hours at a time while a parent is utilizing the programs offered at the Health, Wellness and Fitness Facility, except as otherwise set forth herein. The Drop-In Kid Zone program will be administered in accordance with the YMCA's policies, provided, however, parents that are also enrolled as WSU students or are employed as WSU faculty or staff will not be required to remain in the Health, Wellness and Fitness Facility while using the program. YMCA members using the child watch services may be assessed a fee by the YMCA for
the service;

3.01.04 Construct a parking lot on the Building Site, as defined in the Ground Sublease, to be used in connection with the Health, Wellness and Fitness Facility. The parking lot shall be constructed by the YMCA in accordance with the terms and conditions set forth in the Ground Sublease;

3.01.05 Provide YMCA memberships, free of charge, to WSU Qualified Students, allowing such parties access and use of all of the YMCA's recreational and fitness facilities located in the Wichita area, beginning on August 21, 2017 and continuing thereafter during the Term of the Building Lease. For purposes of this Article 3, "Qualified Students" shall be enrolled WSU students who are designated by WSU as qualified to receive the YMCA membership;

3.01.06 Obtain and maintain the various types of insurance policies in the amounts and subject to the requirements as specified in the Ground Sublease, except that WSU shall be named as an additional insured in addition to WSI A;

3.01.07 Subject to the terms of the Ground Sublease, be responsible for the payment of the real property and ad valorem taxes levied against the Health, Wellness and Fitness Facility under the laws of the state of Kansas and the payment of all personal property taxes assessed on any personal property purchased or owned by the YMCA, if any, whether located within the Health, Wellness and Fitness Facility or otherwise; and

3.01.08 Provide sufficient and reasonable evidence of available financing and funding required for the YMCA to fulfill its obligations set forth in this Agreement.

3.02 Responsibilities and Commitments by WSU. WSU shall:

3.02.01 Cooperate with the YMCA and otherwise provide input and feedback to the YMCA in connection with the design and construction of the Health, Wellness and Fitness Facility and the programs offered by the YMCA in the Facility, except that such "input and feedback" shall not in any way be binding on WSU, the YMCA or any contractor, nor shall it be construed as a purchase or order of services, materials, equipment, or property;

3.02.02 Enter into the WSU Building Lease with the YMCA whereby WSU will lease approximately 15,000 to 18,000 square feet of space within the Health, Wellness and Fitness Facility for the same Initial Term as the Ground Sublease. The WSU Building Lease shall include payments by WSU for its proportionate maintenance and operational costs in connection with the WSU leased space. WSU shall continuously use, operate and maintain its leased space in furtherance of its health, wellness and fitness programs in accordance with the terms of this Agreement and the WSU Building Lease. The standards by which WSU will use, operate and maintain its leased space will equal the standards by which WSU operates and maintains its other buildings and facilities located upon the WSU campus.

3.02.03 Provide telecommunication infrastructure and connectivity as set forth in the Ground Sublease;

3.02.04 Maintain and operate the parking lot constructed by the YMCA to
service the Health, Wellness and Fitness Facility, free of charge to the YMCA and its members when such members are utilizing the Health, Wellness and Fitness Facility. The maintenance and operation of the parking lot shall be governed by the terms of the Ground Sublease. WSU may, in consultation with the YMCA, require a parking permit program and/or set parking rules in an effort to control unauthorized parking. In addition, the parties acknowledge that WSIA shall provide free of charge to Tenant and its patrons, convenient and sufficient parking on the Parking Lot, and, if needed and in the sole discretion of WSIA, additional parking on the WSU campus within close proximity of the Health, Wellness and Fitness Facility and comply with any local laws, regulations or codes applicable to the Health, Wellness and Fitness Facility;

3.02.05 Provide exterior landscaping, lawn care, snow removal, and irrigation for the benefit of the Health, Wellness and Fitness Facility, subject to the terms of the Ground Sublease and the CC&Rs. Such services shall be provided at WSU’s cost and expense and in a manner consistent with the standards set by WSU for other WSU facilities;

3.02.06 Secure all insurance necessary and as allowed or required by law to provide for sufficient coverage against any claims for injury to WSU employees or invitees or damages to WSU property, except that nothing in this paragraph shall be construed as a waiver by WSU of any rights, defenses or obligations under the Kansas Tort Claims Act, K.S.A. 75-6101, et seq.;

3.02.07 Be responsible for any property special or general assessments levied by any governmental subdivision, agency or neighborhood entity; whether levied against the Health, Wellness and Fitness Facility or otherwise, except that nothing in this Section 3.02.07 shall be construed as limiting the YMCA’s obligation to pay real or personal property taxes;

3.02.08 Be responsible for all personal property taxes assessed on any personal property purchased or owned by WSU, if any, whether located within the Health, Wellness and Fitness Facility or otherwise; and

3.02.09 Provide sufficient and reasonable evidence of available financing and funding to fulfill the obligations set forth in this Agreement.

ARTICLE 4. COMPENSATION AND PAYMENT

4.01 Payments. In furtherance of its commitment to the Health, Wellness and Fitness Facility and as compensation to the YMCA for its obligations as set forth in Article 3, WSU shall pay to the YMCA the following on the date(s) and/or upon the events as stated below:

4.01.01 Five million dollars ($5,000,000), paid over a multi-year period with first payment in the amount of $1,250,000 made on the latter date of July 31, 2018 or the date of the Health, Wellness and Fitness Facility groundbreaking ceremony. If the parties determine that a groundbreaking ceremony shall not be held, the parties shall reach an agreement on the date that the groundbreaking occurred. The second payment in the amount of $1,250,000 made on the latter date of July 31, 2019 or twelve (12) months following the Health, Wellness and Fitness Facility groundbreaking ceremony. The third and final payment in the amount of $2,500,000 will be made the latter date of July 31, 2020 or six (6) months following the opening of Health, Wellness and Fitness Facility to
the general public.

4.01.02 In addition to the payments described in subsection 4.01.01 above, WSU will pay the sum of One Million Two Hundred Fifty Thousand Dollars ($1,250,000) to the YMCA twice annually, with the first payment in the amount of $1,250,000 to be made on or about December 31, 2017 or as soon thereafter as agreed to by the parties, and the second payment of $1,250,000 to be made on or about May 1, 2018 for the purpose of assisting the YMCA with the cost of operating and maintaining the Health, Wellness and Fitness Facility (the “Operation Costs”). The bi-annual payments, each in the amount of $1,250,000, shall thereafter be made on May 1 and December 1 of each subsequent year and shall continue through the earlier termination or expiration of this Agreement or the WSU Building Lease (the “Operational Cost Payments”). Such Operational Cost Payments are subject to increase by the YMCA after December 1, 2019, but not more than once annually. Any increase in the Operational Cost Payments must be commiserate with an increase in the YMCA membership fees for the Wichita area network (the “Member Increase”). In addition to the Member Increase, the Operational Cost Payments may be increased at a rate of two percent (2%) of the prior years’ Operational Costs for every 1,000 WSU Qualified Students enrolled over 16,000 in any semester of the year prior (the “Enrollment Increase”). The total Operational Cost Payment increases, including the Member Increase and the Enrollment Increase, may not exceed a 5% increase over the prior year’s Operational Costs.

ARTICLE 5. CONTINUED PARTNERSHIPS

5.01 Promotion and Support of Mutually-Beneficial Opportunities. It is the intent of the Parties to maximize any opportunity to further the non-profit and public missions and visions of the Parties. The Parties recognize the opportunity to share in facilities, equipment, and personnel; health, fitness and wellness programming; in the educational, training and applied learning opportunities related to fitness, health and wellness; testing and counseling services. Further, the Parties seek to minimize repetition and inefficiencies in duplicate programming and facility and equipment offerings. To this end, the Parties agree to pursue, in good faith and consistent with its public and non-profit mission, future facility, programming and equipment expansion or partnership opportunities, including opportunities that promote the growth and sustainability of the student enrollment at WSU and the paid memberships with the YMCA. The Parties agree to pursue in good faith and in due course all mutually-beneficial opportunities that support their respective missions and strategic plans including and opportunities that support the community. Finally, the YMCA agrees to provide an applied learning opportunity to WSU students within the areas of study related to health, wellness and fitness and to enter into an agreement with WSU memorializing such partnership.

ARTICLE 6. Compliance with Laws and Restrictive Covenants.

6.01 Compliance. The Parties agree to comply with all laws, ordinances, statutes, restrictive covenants, by-laws, codes or regulations and orders of all federal, state and local governments and quasi-governmental agencies having jurisdiction applicable to the Parties’ performance under this Agreement. Subject to the terms, conditions and limitations set forth in the Ground Sublease and to the extent applicable, the parties shall comply with “Declaration of Restrictive Covenants” first recorded June 8, 2015, against the Innovation Campus in the Sedgwick County Register of Deeds Office at Doc.##/Flm-Pg: 29531979, as restated and amended by the “Declaration of Restrictive Covenants” recorded October 7, 2015, in the
Sedgwick County Register of Deeds Office at Doc.#/File-Pg: 29562395, as amended by the "Amendment to the Declaration of Restrictive Covenants" recorded November 24, 2015, with corrected legal description refiled, and as further amended by the "Second Amendment to the Declaration of Restrictive Covenants" recorded October 4, 2016, and as amended from time to time by WSU.

ARTICLE 7. THIRD PARTY PARTNERSHIPS AND AGREEMENTS

7.01 Recreational, Community and Contractor Services. The YMCA reserves the right to provide any recreational or community service at the Health, Wellness and Fitness Facility (i.e., programs, teen outreach, or other typical YMCA services), WSU and The YMCA may, jointly or individually, enter into third party relationships for contractor services (such as janitorial, maintenance, food, event, etc.) except that no agreement shall violate either party’s policies, procedures or governing laws and regulations, or any pre-existing contractual obligation or restriction.

ARTICLE 8. EXCHANGE AND DISCLOSURE OF STUDENT INFORMATION

8.01 Obligations and Responsibilities. The Parties agree that it may be necessary to exchange student information that may be considered to be protected under the Family Education Rights and Privacy Act (FERPA). The Parties agree that such information shall only be shared as set forth in the Partner Membership Agreement, and any future shared services agreement, executed between the Parties.

ARTICLE 9. EVENT OF DEFAULT AND TERMINATION

9.01 Event of Default. For purposes of this Agreement only, an “Event of Default” shall mean:

9.01.01 A material breach of any covenant, obligation or agreement set forth in this Agreement where such breach goes uncured after a thirty-day (30) right to cure following receipt of written notice of such breach from the non-breaching Party, except that if such material breach cannot be cured within thirty (30) days, then such additional period as shall be reasonable as long as the breaching Party is capable of curing same and is diligently proceeding to cure such material breach;

9.01.02 Any violation or consent to a violation of any laws applicable to either Party’s obligations under this Agreement where the violation has or may have a material adverse effect on the other Party and such violation is not cured or cannot be cured within sixty (60) days following notice of such violation;

9.01.03 Dissolution or termination of the corporate existence of the YMCA by merger, consolidation or otherwise;

9.01.04 Cessation by the YMCA to continue to do business;

9.01.05 Bankruptcy, insolvency, or assignment for the benefit of the creditors of either Party; and

9.02 Termination for Default. Either Party may terminate this Agreement upon an
Event of Default following all required notice and cure periods.

9.03 Immediate Termination. In addition to termination for an Event of Default, either Party may immediately terminate this Agreement upon termination of the Ground Sublease or the WSU Building Lease.

9.04 Obligations of the Parties Following Expiration of Term or Termination of the Agreement. Upon the expiration of the Term as set forth in Section 1.01, or the earlier termination hereof pursuant to this Article 9, the Parties shall continue to be obligated to pay all of their respective obligations (including, in the case of WSU, the payment of the fees and other amounts as set forth in Article 4) which have accrued through the date of termination. This provision shall survive the expiration or earlier termination of this Agreement.

9.05 Remedies. Upon an Event of Default, the non-breaching Party shall be permitted to pursue any and remedies available to such Party, whether at law or in equity.

ARTICLE 10. MATERIAL DAMAGE OR DESTRUCTION OF FACILITY

10.01 Facility Damage. If, during the Term, there occurs any material damage to or destruction of the Health, Wellness and Fitness Facility or any substantial part thereof resulting from any cause whatsoever ("Facility Damage"), the YMCA shall give prompt notice thereof to WSU and the YMCA shall immediately take such action, as is reasonably necessary and at the YMCA's sole cost and expense, to assure that the Health, Wellness and Fitness Facility does not constitute a nuisance or present a health or safety hazard, and is operable for business by the YMCA and WSU. The foregoing obligation shall not be contingent upon the availability of any insurance proceeds; however, the YMCA shall be reimbursed for such work out of any insurance proceeds the YMCA receives or is entitled to receive as a result of the damage or destruction.

10.02 Notice of Intent to Rebuild or Raze. Within ninety (90) days of the date of Facility Damage, the YMCA, in its sole discretion, shall elect to either rebuild the Health, Wellness and Fitness Facility as set forth in Section 10.03 or terminate this Agreement and raze the building improvements remaining on the Building Site as set forth in Section 10.04, and in either case provide notice thereof to WSU within those same 90 days. In the event the YMCA fails to provide such notice within 90-day period, the parties shall deem the election to be that the YMCA shall rebuild the Health, Wellness and Fitness Facility as set forth in Section 10.03.

10.03 Restoration and Rebuild. In the event the YMCA elects to restore and rebuild the Health, Wellness and Fitness Facility pursuant to this Article 10, the YMCA shall, at its sole cost and expense, restore the Health, Wellness and Fitness Facility to the same design, specifications, quality and character as prior to the Facility Damage, unless otherwise agreed to in writing by the parties. The YMCA shall commence such restoration, repair and rebuilding of the Health, Wellness and Fitness Facility with all due diligence and shall complete such restoration, repair and rebuilding on or before two hundred and forty (240) days following the YMCA's notice of its intent to rebuild. In the event the YMCA's fails to meet its obligations in this Section 10.03 within the 240-day period, WSU may, in its sole discretion, cure such failure at the sole cost and expense of the YMCA following written notice and a thirty (30) day right to cure. During the period of restoration, repair or rebuild, and so long as neither party is in default or breach of this Agreement, this Agreement, the Ground Sublease and the WSU Building Lease shall continue in full force and effect, provided, however, in the event the damage and destruction to the Health, Wellness and Fitness Facility renders it completely unusable or unavailable for use by the WSU Qualified Students for a period of time exceeding 180 days from the date of the damage and
destruction, such determination to be made in good faith by the YMCA and WSU, the Operational Cost Payments by WSU shall be abated and the free YMCA memberships provided to the WSU Qualified Students shall be suspended for the period of time the Health, Wellness and Fitness Facility is completely unusable or unavailable for the WSU Qualified Students. The parties agree that they shall work in good faith with one another to reach an agreement to continue the free YMCA membership benefits in exchange for a fair and equitable partial payment of the Operational Cost Payments. Such agreement shall be reduced to writing and signed by both parties.

10.04  Raze and Terminate. In the event the YMCA elects not to restore or rebuild the Health, Wellness and Fitness Facility pursuant to this Article 10, then within 180 days after such notice of election, the YMCA shall, at its sole cost and expense, raze and level the then existing building improvements on the Building Site, clear the Building Site of such debris and rubble, and convert the Building Site into a parking area or level grassed area, at WSU’s election, and upon completion of such work, monies shall be paid to WSU as set forth in Section 10.05. Upon satisfactory completion of its obligations under Sections 10.04 and 10.05 of this Agreement, the Ground Sublease and the WSU Building Lease shall terminate and, except as otherwise expressly stated in said agreements, the parties shall be relieved of their respective rights and obligations set forth herein and therein. In no event shall WSU or WSCIA be obligated to make any further payments as set forth in Article 4 of this Agreement upon notice by the YMCA of its election to not restore or rebuild the Health, Wellness and Fitness Facility. In the event the YMCA fails to meet its obligations in this Section 10.04 within the 180-day period, WSU may, in its sole discretion, cure such failure at the sole cost and expense of the YMCA.

10.05 Loss Reimbursement and Proceeds. In the event the YMCA elects not to restore or rebuild the Health, Wellness and Fitness Facility pursuant to this Article 10, then within 180 days after such notice of election, the YMCA shall pay to WSU an amount as set forth in this Section 10.05 (“Loss Payment”). If the material damage or destruction of the Health, Wellness and Fitness Facility occurs on or before the last day of the thirty-sixth (36th) month after the opening of the Health, Wellness and Fitness Facility to the general public, the YMCA shall pay to WSU five million dollars ($5,000,000). If the material damage or destruction of the Health, Wellness and Fitness Facility occurs at any time after the last day of the thirty-sixth (36th) month after the opening of the Health, Wellness and Fitness Facility to the general public, the YMCA shall pay to WSU an amortized amount that is calculated as follows based on the date the damage or destruction occurred after the 36-month period: [($5,000,000 - (based on the date of the destruction or the damage, the number of full or partial months following the 36-month period * $24,510))] = Loss Payment. For illustration purposes only: if the damage or destruction occurred on the 15th of the 45th month after the opening of the Health, Wellness and Fitness Facility to the general public, the YMCA shall pay to WSU as calculated: [($5,000,000 - (9 mos. * $24,510))] = $4,779,410.

ARTICLE 11. GENERAL PROVISIONS

11.01 Notices. Any notice or communication hereunder must be in writing, and may be given by personal delivery; by private courier with an acknowledged receipt; by registered or certified mail; by a nationally recognized overnight delivery service (such as Federal Express, UPS Next Day Air, or Airborne Express); or by e-mail to the e-mail address provided by the YMCA or WSU, as applicable (provided that a copy of such notice is also delivered within 24 hours to the party by one of the other methods listed herein). Notices sent via personal delivery, private courier, overnight delivery, telecopy, or email shall be deemed to have been given when delivered to the Party to whom it is addressed and if given by registered or certified mail, the notice shall be
deemed to have been given and received three (3) business days after a registered or certified
document containing such notice, properly addressed, with postage prepaid, is deposited in the
United States mail. Such notices or communications shall be given to the Parties hereto at the
addresses set forth opposite the names of the respective Parties on the signature page hereof.
Any party hereto may at any time, by giving ten (10) days written notice to the other Party hereto,
designate any other address in substitution of the foregoing address to which such notice or
communication shall be given.

11.02 Governing Law and Jurisdiction. This Agreement shall be governed by and
construed and interpreted in accordance with the laws of the State of Kansas with jurisdiction in
Sedgwick County, Kansas, without giving effect to conflict of laws principles.

11.03 Interpretation. The various captions and Section headings in this Agreement are
for the sole purpose of ready identification and reference for the convenience of the Parties hereto
and will not be considered or construed as part of this Agreement or be utilized or considered in
interpreting or construing the same. This Agreement may not be construed more or less favorably
with respect to either party as a consequence of this Agreement or various provisions hereof
having been drafted by one of the Parties hereto.

11.04 Severability. If any term, covenant or condition of this Agreement or the
application thereof to any person or circumstance shall, to any extent, be invalid, unenforceable,
the remainder of this Agreement or such other documents, or the application of such term,
covenant or condition to persons or circumstances other than those as to which it is held invalid
or unenforceable, shall not be affected thereby, and each term, covenant or condition of this
Agreement or such other documents shall be valid and shall be enforced to the fullest extent
permitted by law.

11.05 No Joint Venture or Partnership. The Parties hereby agree that nothing
contained herein or in any document executed in connection herewith shall be construed as
making the Parties joint ventures or partners.

11.06 Total Agreement. This Agreement is a total and complete integration of any and
all agreements existing between the Parties and supersedes any prior oral or written agreements,
promises or representations between them.

11.07 Successors and Assigns. This Agreement shall be binding upon and shall inure
to the benefit of the Parties hereto and their permitted successors and assigns. Neither party may
assign this Agreement without the prior written consent of the other party, which may be withheld
in such other party's sole discretion.

11.08 Authority. The undersigned both represent and warrant they have authority to
bind the respective Parties to all of the terms of this Lease.

11.09 Counterparts. This Agreement may be executed in multiple counterparts, all of
which, when taken together, shall constitute one and the same document. Facsimile signatures
are binding on the party providing them.

11.10 Execution. Signature pages may be executed via "wet" signature, authorized
signature stamp, or electronic mark or signature. If an electronic signature is used, the Parties
agree that it is the legally binding equivalent to the signing Party's handwritten
signature. Whenever either Party executes an electronic signature on this Lease, it has the same

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validity and meaning as a handwritten signature. The Parties agree that neither Party will, at any
time in the future, repudiate the meaning of an electronic signature or claim that an electronic
signature is not legally binding. The executed signature pages may be delivered using pdf or
similar file type transmitted via electronic mail, cloud based server, e-signature technology or
other similar electronic means.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.

SIGNATURE PAGE IMMEDIATELY Follows.
IN WITNESS WHEREOF, the party below has executed this Agreement as of the day and year first above written.

THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF WICHITA, KANSAS

"THE YMCA"

Ronn McMahon, President & CEO

Steve Cox, Chairman of the Board

Greater Wichita YMCA
402 N Market
Wichita, Kansas 67202

Address for Notices
IN WITNESS WHEREOF, the party below has executed this Agreement as of the day and year first above written.

WICHITA STATE UNIVERSITY

“WSU”

__________________________
Signature

Werner M. Golling

Name

VP for Finance & Administration

Title

Attn: General Counsel
1845 Fairmount Street
Wichita, Kansas 67260-0205
GCContracts@wichita.edu

Address for Notices
APPENDIX A
CONSTRUCTION, OPERATION AND MAINTENANCE

The YMCA agrees to:

1. Construct a Health, Wellness and Fitness Facility to be approximately 50,000 to 65,000 square feet, to include cardio and weight rooms, group exercise rooms, a gymnasium, locker rooms, offices, child watch space, and other related and necessary spaces and amenities, as determined by the Parties. Such size and design of the Health, Wellness and Fitness Facility shall be determined by the Parties when all funding is secured and committed;

2. Assume all risk and responsibilities for the design, construction, and opening of the Health, Wellness and Fitness Facility, including, without limitation, all contractor, architect, engineering, attorney, accounting, licensing, testing, code enforcement, and inspection costs, except to the extent that any costs associated with any losses or damages that result from the negligence or willful misconduct of WSU, or are determined by a court of competent jurisdiction, to be outside of the control or knowledge of the YMCA;

3. Perform all regular maintenance and necessary repairs to the interior and exterior of the Health, Wellness and Fitness Facility, including, but not limited to, janitorial services; routine, scheduled, and contracted repairs and maintenance; pest control; fire, alarm, security, and elevator inspections, monitoring, repair and maintenance; equipment servicing maintenance, repair, and replacement; and all warranty and non-warranty repairs and maintenance to the Health, Wellness and Fitness Facility, except that the YMCA may allocate certain of such costs any tenant, including WSU, as deemed by the respective Parties to be fair and equitable;

4. Pay for all utility costs incurred at the Health, Wellness and Fitness Facility, including, but not limited to, electrical, gas, water, trash and recycling, except that the YMCA may charge back to WSU or any other tenants its share of costs proportioned to their occupied square-footage;

5. Install and pay for all installation, deposits, use and service costs and expenses for all telecommunication, internet and cable services, equipment, repair and maintenance, except that the YMCA may allocate costs to WSU or any tenant as deemed by the respective Parties to be fair and equitable.