

GROUND
LEASE
AGREEMENT

Between

THE MINOT PARK DISTRICT

And

CHILDREN'S MUSEUM OF MINOT, INC.

GROUND LEASE

THIS GROUND LEASE is made and entered into as of the ____ day of _____, 2018, by and between The Minot Park District, a North Dakota municipal corporation, whose address is 420 3rd Avenue SW, Minot, North Dakota 58701 (hereinafter “Park”), and Children’s Museum of Minot, Inc., a North Dakota nonprofit corporation, whose address is P.O. Box 751, Minot, ND 58702-0751 (hereinafter called “Children’s Museum”).

RECITALS

Children’s Museum desires to lease from Park, and Park desires to lease to Children’s Museum, the Premises, for the sum of one dollar (\$1.00) and other good and valuable consideration in accordance with the terms and conditions of this Ground Lease.

AGREEMENTS

NOW, THEREFORE, in consideration of the terms, covenants and conditions herein set forth, Park and Children’s Museum hereby covenant and agree as follows:

ARTICLE 1. BASIC DEFINITIONS

Section 1.1 Effective Date: The date set forth in the introductory paragraph above.

Section 1.2 Governmental Regulations: All applicable laws, building codes, zoning ordinances and other rules and regulations of all federal, state, county and municipal governmental and public authorities and agencies having jurisdiction over the Land.

Section 1.3 Improvements: Buildings, roads, parking lots, driveways, walkways, landscaping and other structures and improvements.

Section 1.4 Land: Certain real property described as a tract of approximately _____ acres of land contained within _____ City of Minot, Ward County, North Dakota. The location of the Land within _____ is shown on the depiction attached as Exhibit A.

Section 1.5 Park: The Minot Park District, a North Dakota municipal corporation, for so long as it retains control of the Land, and thereafter any future owner or lessor of the Land.

Section 1.6 Children’s Museum: Children’s Museum of Minot, Inc., a nonprofit North Dakota corporation, or the permitted successors and/or assigns of its interests under this Ground Lease.

Section 1.7 Ground Lease: This Agreement, as may be hereafter amended by the parties in accordance with its terms.

Section 1.8 Premise: The Land and Improvements, as defined herein.

**ARTICLE 2.
PREMISES**

In consideration of the mutual covenants, conditions and agreements included in this Ground Lease, Park leases to Children’s Museum, and Children’s Museum leases from Park, the Premises together with any and all easements, appurtenances, rights and privileges belonging to the Premises; provided, however, that Children’s Museum's rights under this Ground Lease are subject and subordinate to all matters of record.

**ARTICLE 3.
COMMENCEMENT AND TERM**

This Ground Lease shall begin and be of full force and effect as to both Park and Children’s Museum as of the Effective Date. The term of this Ground Lease shall commence on the Effective Date, and, unless sooner terminated as permitted by this Ground Lease or by law, shall continue for a period of fifty (50) years ("Initial Term"). Upon expiration of the Initial Term, the lease shall automatically continue in full force and effect upon the same terms and conditions for a successive fifty (50) year term.

**ARTICLE 4.
RENT**

Children’s Museum shall pay to Park Base Rent in the amount of one dollar (\$1.00) per year, with the first payment due upon execution of the Ground Lease, and annually thereafter on that same date. In addition to Base Rent, Children’s Museum shall be required to pay annually or more frequently if requested by Children’s Museum their portion of the insurance(s) as required under the Ground Lease.

**ARTICLE 5.
SITE PREPARATION AND LAND DEVELOPMENT**

Section 5.1 Site Preparation. Site preparation shall include the removal of all existing structures or impediments, if any, necessary for the use of the Premises for its intended purpose under this Ground Lease. Park will be responsible for providing water, sewer, and electric trunk infrastructure to the street immediately adjacent to the Children’s Museum’s primary structure. Children’s Museum will be responsible for providing all of the remaining site preparation and utility infrastructure.

Section 5.2 Land Development. Children’s Museum will be responsible for the cost of land development on the Premises. Land development shall include roadways, parking, sidewalks, and other items which are necessary to prepare the Land for its intended purpose under this Ground Lease. The parties will be jointly responsible for the design and construction of all landscaping on the Premises.

Section 5.3 Site Plan. Park shall have the opportunity to review and comment on the proposed site plan for the Premises prior to approval by Children’s Museum.

**ARTICLE 6.
PRE-CONSTRUCTION TERMINATION**

Section 6.1 Start Date. If construction has not started on the Premises on or before June 1, 2021, either party may elect to terminate this Ground Lease, effective June 2, 2021.

Section 6.2 Proposed Costs. If at any time, the proposed costs of construction on the premises exceed Eight Million Five Hundred Thousand and no/100 Dollars (\$8,500,000.00), Children’s Museum may elect to terminate this Ground Lease.

Section 6.3 Fundraising Goals. If Children’s Museum's fundraising goals are not met on or before June 1, 2021, Children’s Museum may elect to terminate this Ground Lease, effective June 2, 2021.

**ARTICLE 7.
CONSTRUCTION OF IMPROVEMENTS**

Section 7.1 Improvements by Children’s Museum. Children’s Museum may, from time to time and at its sole cost and expense, construct or cause to be constructed upon the Land such buildings, sidewalks, parking lots, landscaping and other Structures and Improvements on the premises, as substantially located and identified in the Agreement entered into by Park and Children’s Museum on this same date. Any additional improvements or substantial changes to these Structures and Improvements that have been authorized by Park must be approved by Park prior to construction. All Improvements constructed upon the Land shall be in compliance with Governmental Requirements, in compliance with the provisions of this Ground Lease and not injurious to the adjacent property owned by Park. Without limiting the foregoing, allowable Improvements shall include all facilities and appurtenances necessary for the use and operation of the Premises in the manner required hereunder or as may be desired by Children’s Museum.

Section 7.2 Improvements by Park. Park shall have no obligation to make any improvements or modifications to the Premises or for the benefit of the Premises, except as specifically provided for in Article 5 of this Ground Lease.

Section 7.3 Ownership of Improvements and Fixtures. During the term of this Ground Lease and any extension thereof, Park shall be deemed the owner of the Structures and Improvements. Moveable furniture, trade fixtures, equipment and other personal property not permanently affixed to the Premises, or which can be removed from the Premises without substantial damage to the Premises, which are acquired by Children’s Museum at its expense, shall remain Children’s Museum’s property and may be removed at any time, provided Children’s Museum promptly repairs any damage caused by such removal.

**ARTICLE 8.
USE OF PREMISES**

Children’s Museum intends to construct and operate a Children’s Discovery Center (Museum) on the Premises that may include indoor and outdoor exhibits. Construction of said Children’s Discovery Center will begin when Children’s Museum’s fundraising goals are met and construction financing is secured by Children’s Museum. Once constructed, the Children’s Discovery Center shall be open to the general public as a children’s Museum, with the use and hours of operation to be determined by the Children’s Museum, subject to approval of the Park. Children’s Museum shall be solely responsible for the management, operations and administration of the Children’s Museum.

**ARTICLE 9.
OVERFLOW PARKING**

Children’s Museum shall have the right, from time to time and as necessary, to use and occupy parking spaces on property owned by Park and adjacent to the Premises for the purposes of overflow parking.

**ARTICLE 10.
PAYMENT OF ADDITIONAL RENT, PERSONAL
PROPERTY, TAXES, ETC.**

Section 10.1 Obligations of Children’s Museum. Children’s Museum shall pay to Park and reimburse Park for property insurance premium that Park is required to pay on the Children’s Discovery Museum building and Improvements on the Premises as required of Park under Section 13.2. Upon completion of construction of each Improvement, Park will notify Children’s Museum of the additional annual premium, if any, associated with such Improvement. Thirty days prior to Children’s Museum annual Rent Payment due date, park will provide Children’s Museum with a Statement for the annual property insurance premium associated with all Children’s Museum improvements located on the premises. Children’s Museum shall pay to Park on the same day that the annual Rent payment is due, the insurance premium amount associated with all Children’s Museum Improvements. If the premises is assessed for real estate tax purposes, Children’s Museum shall also pay when due all real estate taxes, assessments and other governmental charges, general and special, ordinary and extraordinary, of any kind and nature, assessed on the Premises while this Ground Lease is in effect.

Section 10.2 Personal Property Taxes and All Other Insurance Premiums. In accordance with applicable Governmental Regulations, Children's Museum shall at all times be responsible for and pay, before delinquency, all taxes levied, assessed or unpaid upon any leasehold interest, any right of occupancy or use, any investment of Children's Museum in the Premises or any personal property of any kind owned, installed or used by Children's Museum, including Children's Museum's leasehold improvements or taxes on Children's Museum's right to occupy or use the Premises. Children's Museum shall also pay when due, before delinquency or cancellation, all other insurance premiums associated with those insurance coverages that are required to be obtained by Children's Museum under Section 13.2 and Article 14.

ARTICLE 11. DISCHARGE OF LIENS

Section 11.1 Liens and Encumbrances. Without the written consent of Park, Children's Museum shall not create, permit to be created or permit to remain, any lien, encumbrance or charge derived from or through Children's Museum which might be or become a lien, encumbrance or charge upon the fee title to the Premises, or any part thereof. Children's Museum shall not suffer any other matter or thing derived from or through Children's Museum whereby the estate, rights and interest of Park or Park's designees in the Premises, or any part thereof, might be impaired; provided however, that any mechanic's and/or materialman's liens filed against the Premises or any part thereof, for which Children's Museum is responsible, may be discharged or bonded in accordance with Section 10.2 of this Ground Lease.

Section 11.2 Construction Liens. Children's Museum shall do all things reasonably necessary to prevent the filing of any construction liens against the Premises, or any part thereof, by reason of work, labor, services or materials furnished or claimed to have been furnished to Children's Museum or anyone occupying the Premises, or any part thereof, by, through or under Children's Museum. If any such construction lien shall at any time be filed against the Premises, or any part thereof, as the result of work, labor, services or materials furnished or claimed to have been furnished to Children's Museum or anyone occupying the Premises, or any part thereof, by, through or under Children's Museum, then Children's Museum shall cause the same to be discharged of record within thirty (30) days after Children's Museum receives written notice from Park of the existence of same. However, if Children's Museum, in its discretion and in good faith, determines that such lien should be contested, Children's Museum shall furnish such security or bond as may be required by law to prevent any foreclosure proceedings against the Premises or any part thereof during the pendency of such contest. Nothing herein contained shall imply any consent or agreement on the part of the Park to subject Park's estate to liability under any construction lien law.

ARTICLE 12.
REPAIRS AND MAINTENANCE

Section 12.1 Obligation of Children's Museum. Children's Museum agrees, at its sole cost and expense, that it will throughout the term of this Ground Lease, take good care of the Premises and keep same in good repair, order and condition, and in a clean and orderly condition, free of rubbish and unlawful obstructions, and that it will make all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen. As used herein, the term "repairs" shall include all necessary replacements, renewals, alterations, additions and betterments. All repairs made by Children's Museum shall be at least equal in quality and utility value to the original work. During the term of this Ground Lease, Park shall not be required to furnish any services or facilities or to make any repairs or alterations with respect to the Premises, and Children's Museum hereby assumes the full and sole responsibility for the condition, operation, repairs, replacement, maintenance and management thereof.

Section 12.2 Site Maintenance. Park shall be responsible for maintaining in good order and repair and in a safe condition, and free of snow, ice, debris, or other obstruction, all parking lots, sidewalks and walkways between parking lots and walking paths of the Premises. Children's Museum shall be required to keep all sidewalks leading from the parking lots and entrances to the structures and buildings free of ice and snow and shall be required to repair and replace walkways and service ways which may become out-of-repair or in a dangerous condition. Park shall, at its expense, maintain in good condition the landscaped areas of the Premises, including, without limitation, periodic mowing, watering, trimming, removal of rubbish and replacement of plants, shrubs and trees, as may be necessary to keep the landscaped areas in good condition, commensurate with the maintenance and condition of the remainder of the Park's property which abuts the Premises.

Section 12.3 Waste or Nuisance. Children's Museum shall not commit or allow to be committed any waste upon the Premises or any nuisance or other act or thing which materially disturbs the quiet enjoyment of any other tenant or occupant of adjacent properties.

ARTICLE 13.
GOVERNMENTAL REQUIREMENTS; INSURANCE STANDARDS

Section 13.1 Governmental Requirements. Throughout the Ground Lease term, Children's Museum agrees, at its sole cost and expense (except as expressly otherwise provided in this Ground Lease), that it will promptly comply in every respect with all Governmental Requirements now in force or that may be duly enacted hereafter, foreseen and unforeseen, whether or not compliance therewith shall require changes to the Improvements and whether or not such changes are structural or nonstructural, interior or exterior, ordinary or extraordinary.

Section 13.2 Insurance Requirements. Children's Museum agrees, at its sole cost and expense (except as expressly otherwise provided in this Ground Lease), that it will promptly comply in every respect with all terms and provisions of its insurance policies covering or applicable to the Premises or any part thereof. Children's Museum agrees, at its sole cost and expense, that it will make all additions, repairs and alterations to the Premises, and other facilities thereon which are or hereafter may be required in order to comply with the foregoing. Further, Children's Museum agrees, at its sole cost and expense (except as expressly otherwise provided in this Ground Lease), that it will observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with respect to the Premises. Children's Museum covenants and agrees to indemnify and save Park harmless from any penalties, damages or charges imposed for any violation of the covenants and obligations of Children's Museum set forth in this Section 13.2, whether occasioned by neglect, omission or willful act of Children's Museum or any person upon the Premises by license or invitation of Children's Museum or holding or occupying the Premises or any part thereof under, or by right of, Children's Museum, unless caused primarily by the neglect, omission or willful act of Park or Park's contractors, agents or employees.

Section 13.3 Children's Museum's Right to Contest. Children's Museum shall have the right to contest by appropriate legal proceedings, without cost or expense to Park, the validity of any law, ordinance, rule or regulation, if such contest does not and would not: (i) subject Park to any fine or any civil or criminal penalty; or (ii) result in a forfeiture or seizure of the Premises. In the event of any such contest, compliance with such law, ordinance, rule or regulation legally contested by Children's Museum may be postponed if permitted by law until the final determination of any such proceeding, provided that all such proceedings shall be prosecuted by Children's Museum with due diligence and dispatch.

ARTICLE 14. INSURANCE AND INDEMNITY

Section 14.1 Construction Insurance. Following the Effective Date and at all times during the making of any Improvements or other construction on the Premises by Children's Museum, or on behalf of Children's Museum, Children's Museum shall have and maintain in full force builder's risk insurance and workers compensation insurance to the extent required by law. The limits of such builder's risk liability insurance shall not be less than two million dollars (\$2,000,000) combined single limit for death, bodily injury and property damage. Prior to the commencement of any construction, Children's Museum shall provide Park a certificate of such insurance evidencing compliance with this Section 14.1.

Section 14.2 Liability Insurance. Following the Effective Date, Children's Museum shall have and maintain at their close cost and keep in full force and effect, or require its subtenant(s) if any have been approved by Park, to keep in full force and effect, a public liability insurance policy with respect to the Premises and the business operated by Children's Museum or any of its subtenants, with a combined single limit of no less

than two million dollars (\$2,000,000), including independent contractor's coverage. Children's Museum shall have the Park listed on this insurance policy as an additional insured, if possible, and this policy shall be primary for any liability claim against the Children's Museum or the Park. A copy of the policy or a certificate of insurance shall be delivered to Park upon written request.

8

Section 14.3 Property Insurance. Park agrees to maintain in full force during the term of this Ground Lease one or more policies of fire and extended coverage, vandalism, malicious mischief and sprinkler leakage insurance covering the Improvements, such insurance to be in an amount equal to the full replacement cost thereof, less the cost of excavations, foundation, footings and underground tanks, conduits, pipes, pilings and other underground items. Except as otherwise provided in this Ground Lease, the proceeds of such insurance shall be used to repair and/or replace the Improvements. Children's Museum shall reimburse Park on an annual basis that portion of the Property Insurance Premium which is attributable to the Improvements as required under Section 10.1.

Section 14.4 Insurance Requirements. All insurance required to be carried by Children's Museum or Children's Museum's subtenant(s) hereunder shall insure Children's Museum and shall name, to the extent permitted by law, as additional insureds or loss payee (as the case may be), Park and such other person or persons designated in writing by Park to Children's Museum that have an insurable interest in the Premises.

Section 14.5 Proof of Insurance. A certificate of all insurance procured by Children's Museum or its subtenant(s) if any have been approved by Park, in compliance with its obligations under this Ground Lease shall be delivered to Park upon request.

Section 14.6 Indemnification. Subject to any effects of the waiver of subrogation provided below, Children's Museum covenants and agrees to indemnify, defend and save Park harmless from and against any and all injury, loss, claims, actions, damages, liability, costs and expenses, including reasonable attorney's fees, resulting from loss of life, personal or bodily injury, damage to property, or litigation arising from or out of any occurrence in, upon or at the Premises or the occupancy or use by Children's Museum of the Premises, or occasioned anywhere, to the extent of the negligence, willful misconduct or breach of this Ground Lease by Children's Museum, its agents, contractors, employees, servants, lessees, concessionaires or guests, excepting agents and employees of the Park.

Subject to any effects of the waiver of subrogation provided below, and as limited or prohibited by law, Park covenants and agrees to indemnify, defend and save Children's Museum harmless from and against any and all injury, loss, claims, actions, damages, liability, costs and expenses, including reasonable attorney's fees, resulting from loss of life, personal or bodily injury, damage to property, or litigation arising from or out of any occurrence in, upon or at the Premises or the occupancy or use by Park of the Premises, or occasioned anywhere, to the extent of the negligence, willful misconduct or breach of this Ground Lease by Park, its agents, contractors, employees, servants, lessees, concessionaires or guests, excepting agents or employees of Children's Museum.

Section 14.7 Waiver of Subrogation. Park and Children's Museum each hereby release and waive any and all rights of recovery from the other party and the officers, employees, agents and representatives of the other party, for any loss or damages which they may suffer

to their person, business or property, or the property of others under their control, arising from any cause insured under any policy of insurance required hereunder, to the extent such loss or damage is insurable thereunder (an "Insured Loss"), and without regard to the negligence of the other party that may have contributed to the loss or damage.

9

**ARTICLE 15.
DAMAGE AND DESTRUCTION**

Section 15.1 Park's Obligation. Except as otherwise provided in this Article 14, if the Improvements are damaged or destroyed by fire, windstorm, or other casualty during the term of this Ground Lease (any such event herein referred to as a "Casualty"), then Park, to the extent of the value of the insurance proceeds received, shall promptly repair and restore same to at least the substantially same condition as existed prior to such Casualty. Park shall consult with Children's Museum at all times during the repair or reconstruction process, to insure that Children's Museum receives a repaired improvement that meets their needs. Such repair and restoration shall be in compliance with all Governmental Requirements.

**ARTICLE 16.
ENVIRONMENTAL CONDITIONS**

If either Park or Children's Museum encounters conditions at the site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those anticipated by the parties or (ii) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in this Ground Lease, Park shall promptly investigate such conditions. If it is determined the conditions differ materially from the parties' reasonable expectations, Park shall take action to correct or remedy such condition(s) so the parties may proceed as anticipated under this Ground Lease.

**ARTICLE 17.
EMINENT DOMAIN**

Section 17.1 Taking of Entire Premises. If the entire Premises shall be taken by any public or quasi-public authority under any statute or under the power of eminent domain or by private sale to the condemning authority, or to its designee, under the threat of eminent domain (hereinafter referred to as a "Taking"), then this Ground Lease shall automatically terminate as of the date Children's Museum is deprived of possession or access to the Premises or the date title thereto vests in the condemning authority, or its designee, whichever date occurs first.

Section 17.2 Partial Taking. If there is a Taking of any part of the Premises so that the Premises, or the remainder thereof, is no longer usable for the purposes for which the Premises is hereby leased, and cannot, as reasonably determined by Park and Children's Museum, be made adequate for such purposes by such repairs or alterations as Children's Museum is obligated to make pursuant to the provisions of this Agreement; or if as the result of a Taking, the Premises no longer has any access to public streets or roads contiguous to the Premises and Park does not provide reasonable alternative legal access; or if, as the result of a Taking, the remaining available parking thereafter is no longer adequate for

the operation of Children's Museum's or its subtenant(s)' business at the Premises, then Children's Museum shall have the right to terminate this Ground Lease within ninety (90) days after the date of such Taking by providing at least thirty (30) days written notice to Park.

10

Section 17.3 Condemnation Award. If allowed by law, Children's Museum shall be allowed to negotiate their own condemnation award (i.e. damages and recovery of costs, etc.). If Children's Museum and Park are required by law to negotiate a condemnation award jointly, an amount equal to the lesser of the condemnation award or the costs incurred by Children's Museum for repairs and/or alterations to the Premises necessitated by such Taking, and the value of Children's Museum's leasehold interest in the Premises for the balance of the current Ground Lease term shall be paid to Children's Museum from any award or damages as the result of a Taking, and the remainder of any such award for damages, after reimbursement to Park and Children's Museum for their respective costs in prosecuting their respective claims in such action, shall be divided between Park and Children's Museum, as their respective interests may appear, in accordance with the applicable Governmental Regulations.

ARTICLE 18. ASSIGNMENT AND SUBLETTING

Section 18.1 Limitation on Right to Assignment. Except as otherwise provided in this Article 18, Children's Museum shall not voluntarily or by operation of law or otherwise: (i) assign or otherwise transfer this Ground Lease and/or (ii) sublet the whole or any part of the Premises to any person without first obtaining in each instance Park's prior written consent thereto, which consent shall not be unreasonably withheld by Park.

Section 18.2 Assignment or Transfer by Park. Park shall be entitled to sell, mortgage, pledge or otherwise transfer its interest in the Premises and/or in this Ground Lease. However, any transfer shall not relieve Park of its obligations under this Ground Lease arising prior to the date of the transfer.

ARTICLE 19. UTILITIES

Children's Museum shall pay or cause to be paid all charges for gas, fuel, electricity, sewer, water, heat, power and other utilities, telephone or other communication service used by, rendered or supplied to, the Premises from and after the Effective Date and thereafter through the last day of the Ground Lease term, and Children's Museum shall indemnify and save Park harmless against any and all, expenses, liability and damages on account of such charges. Except as otherwise required with respect to Park's work, Children's Museum shall, at its sole cost and expense, procure any and all necessary permits, licenses or other authorizations required for the lawful and proper installation and maintenance upon the Premises of wires, pipes, conduits, tubes, meters and other equipment and appliances for use in supplying any such services and facilities to and upon the Premises.

ARTICLE 20.
DEFAULT AND REMEDIES

Section 20.1 Events of Default. Any one or more of the following occurrences shall constitute an event of default under this Ground lease by Children's Museum:

- (a) The bankruptcy or insolvency of Children's Museum or the filing of any debtor proceedings, including petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or any portion of Children's Museum's, or the making of assignment for the benefit of creditors, or the petitioning or entering into an arrangement by Children's Museum or;
- (b) The taking by any party of this Ground Lease by writ of execution or similar process;
- (c) The failure of Children's Museum to keep or perform any of the terms, conditions or covenants of this Ground Lease agreed to be observed or performed by Children's Museum, not otherwise specified as a default or event of default, for more than thirty (30) days after written notice of such default or violation shall have been given to Children's Museum, provided that if the default be of such a nature that it cannot be reasonably cured within said thirty (30) day period, and Children's Museum shall in good faith have properly commenced the curing of such default within such period, then Children's Museum shall be deemed not in default hereunder if it shall diligently proceed to cure such default within a reasonable grace period necessary to promptly cure the default. This provision shall not apply to defaults listed in subparts (a) and (b) of this Section 20.1.

Section 20.2 Remedies for Default. In the event of the occurrence of an event of default, as defined in Section 20.1, in addition to all other rights and remedies available to Park under this Ground Lease or under law, Park shall have the following remedies:

- (a) At any time following an event of default Park may, at Park's option, elect to terminate this Ground Lease by written notice to Children's Museum specifying Park's intention to terminate this Ground Lease, which notice may, but need not be, included in a notice of intention to evict or pleading in an eviction action. Notice of termination shall be served in the manner specified herein, or any manner authorized for service of any pleading or notice of intention to evict.

Termination of this Ground lease will be effective without further notice and without the necessity of any legal suit or action, upon the expiration of the period Children's Museum is allowed to reinstate this Ground Lease. Delivery of Park's notice of termination under this provision is intended to satisfy any common law requirements relating to service of notice of default or demand for payment of rents prior to terminating a lease, and no further notice to quit, vacate demand or legal process shall be necessary to terminate this Ground Lease, whether or not any additional notice may be required by law as a condition to obtaining an order

evicting Children's Museum from the Premises.

12

- (b) Following the effective date of termination, Children's Museum shall have no further interest in the Land and Improvements, or in this Ground Lease.
- (c) At any time following an event of default, Park, shall, at its option, have the immediate right to re-enter the Premises, with or without legal process, and without terminating this Ground Lease. Should Park elect to re-enter, it may take such steps as it deems necessary to secure the Premises and to exclude Children's Museum and its agents and employees therefrom.

Section 20.3 Waiver of Default. The waiver by a party of the breach of any term, covenant or condition herein contained, or the doing of any matter or payment of any sum by another party not required of it by the terms hereof shall not be deemed to be a waiver or amendment of that term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein. No covenant, term or condition of this Ground Lease shall be deemed to have been waived by a party, unless such waiver is in writing and signed by such party.

Section 20.4 Remedies Cumulative. All remedies provided to a party under this Ground Lease are intended to be cumulative, and any one or more may be exercised by a party, at its option. The exercise by a party of any remedy reserved to it under this Ground Lease or provided by law is not intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute

ARTICLE 21. SURRENDER OF PREMISES

Section 21.1 Children's Museum's Obligations. At the expiration of Children's Museum's right to possession of the Premises whether expiration of the term of this Ground Lease, abandonment of the Premises by Children's Museum or as a consequence of the occurrence of an event of default, Children's Museum shall surrender to Park the Premises, including all Improvements, in good condition and order, ordinary wear and tear and damage by insured casualty excepted, and shall turn over to Park all keys for the Premises and shall inform Park of all combinations on locks, safes and vaults, if any, in the Premises. Children's Museum shall, at its expense, remove all its trade fixtures, furniture and signs before surrendering the Premises and shall repair any damage to the Premises caused thereby. The provisions of this Section 21.1 shall survive the expiration or termination of this Ground Lease.

Section 21.2 Holding Over. Any holding over after the expiration of the term of this Ground Lease, without the consent of the Park shall, unless otherwise agreed by the parties in writing, be construed to be a tenancy from month to month, with monthly rent payable at the rate of one dollar (\$1.00) per month, and shall otherwise be on the terms and conditions herein specified, so far as applicable.

ARTICLE 22.
ACCESS TO PREMISES

Section 22.1 Posting Notices. Provided Park gives Children's Museum or Children's Museum's manager at the Premises reasonable prior notice thereof, Children's Museum shall permit Park and the authorized representatives of Park to enter the Premises at all reasonable times (which times shall be selected to minimize interference with Children's Museum's business) for the purpose of inspecting the Premises, or serving, or posting, or keeping posted thereon any notices required by Federal and State laws and for such other lawful purpose which Park may deem reasonably necessary or appropriate for the protection of Park or its interest in the Premises.

Section 22.2 Park's Access to the Land. Park shall be authorized to install, maintain, repair and replace utility facilities, such as water, gas, electric and telephone lines and underground storm and sanitary sewers on the Premises. Construction of any such utility facilities shall be undertaken at the sole cost and expense of Park, and at such times and in a manner so as to minimize any loss of access to or use of buildings or parking on the Premises. Any damage occasioned to the Premises by reason of the installation, maintenance, repair, or replacement of such utilities on the Land shall be repaired by Park. Nothing contained in this provision shall require Park to construct, modify, or repair any utilities servicing the Premises.

It is anticipated Park may have to utilize the Premises as a means to access certain portions of Park's property adjacent to the Premises. If Park causes any portion of the Premises to be damaged in any way, Park shall be responsible to return that portion of the Premises back to the same or substantially similar state it was in prior to the Park's damage.

ARTICLE 23.
PROTECTION OF LENDERS

Section 23.1 Estoppel Certificate. Park and Children's Museum each agree that it will, within twenty (20) business days following written notice by the other party hereto specifying that it is given pursuant to this provision, execute, acknowledge and deliver to the party who gave such notice, a statement, in writing, certifying: (i) this Ground Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications) and (ii) stating whether or not, to the best of knowledge of the signer of such certificate, the other party is in default in performance of any covenant, agreement or condition contained in this Ground Lease, and, if so, specifying each such default of which the signer may have knowledge.

The failure of either party to execute, acknowledge and deliver to the other a statement in accordance with the foregoing provisions within the twenty (20) day period shall constitute an acknowledgment by the party given such notice, which may be relied on by any person holding or proposing to acquire an interest in the Premises or this Ground Lease from or through the other party, that this Ground Lease is unmodified and in full force and effect.

ARTICLE 24.
OTHER PROVISIONS

Section 24.1 Excuse for Non-Performance. Notwithstanding anything in this Ground Lease to the contrary, if performance of any act or obligation is prevented or delayed by an act of god, war, labor disputes, fire, windstorm, explosion, collapse of structure, riot, government regulation, delays by government bodies or any other cause or causes, beyond the reasonable control of Park or Children's Museum (except those unlisted causes relating to the financial status of Park or Children's Museum or general economic conditions), the time for the performance of the act or obligation will be extended for the period that such act or performance is delayed or prevented by any such cause.

Section 24.2 Successors. All rights and liabilities herein given to, or imposed upon, the Park or Children's Museum shall extend to and bind the respective heirs, executors, administrators, successors, and assigns; and if there shall be more than one sublandlord or subtenant, they shall all be bound jointly and severally by the terms, covenants, conditions and agreements herein. No rights, however, shall inure to the benefit of any assignee of Children's Museum required to be approved by Park pursuant to the terms hereof unless the assignment has been approved by Park in writing.

Section 24.3 Consent and Approval. Whenever under this Ground Lease the consent or approval of Park or Children's Museum is required, such consent or approval shall not be unreasonably withheld or delayed.

Section 24.4 Notices. Any notice, demand, request or other instrument required to be given under this Ground Lease shall be delivered in person to a director, Board Member, officer, or executive director, or sent by United States certified mail, postage prepaid, and addressed: (i) if to Park, at Park's address specified herein or at such other address as it may designate in writing, and (ii) if to Children's Museum, at the address specified herein or such other address as Children's Museum shall designate in writing.

Section 24.5 Captions. The captions used as headings for the various subject matters appearing in this Ground Lease are used only as a matter of convenience to help find subject matters and are not to be construed as part of this Ground Lease provisions nor in determining the intent of the parties to this Ground Lease.

Section 24.6 Brokerage. Each of the parties represents and warrants that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Ground Lease, and each of the parties agrees to indemnify the other against, and hold it harmless from, all liabilities arising from any such claim (including, without limitation, the cost of attorney's fees in connection therewith).

Section 24.7 Severability. If any term, covenant or condition of this Ground Lease shall, to any extent, be found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Ground Lease, or the application of such term, covenant or condition to person or circumstances; other than those in respect to which it is held invalid or

unenforceable, shall not be affected thereby and each term, covenant or condition of this Ground Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 24.8 No Option. The submission of this Ground Lease for examination does not constitute a reservation of, or option for, the Premises. This Ground Lease becomes effective upon execution and delivery thereof by Park and Children’s Museum.

Section 24.9 Entire Agreement. This Ground Lease sets forth all the covenants, promises, agreements, conditions and understandings between Park and Children’s Museum concerning the Premises or matters related thereto. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between Park and Children’s Museum and related directly to the ground leasing of the Premises other than those set forth in this Ground Lease. Except as otherwise provided herein, no subsequent alteration, amendment, change or addition to this Ground Lease shall be binding upon Park or Children’s Museum unless reduced to writing and signed by both parties.

IN WITNESS WHEREOF, Park and Children’s Museum have signed this Ground Lease as of the day and year first above written

THE MINOT PARK DISTRICT

CHILDREN’S MUSEUM OF
MINOT, INC.

By:

By:

Its:

Its:

