

**CUSTODIAL AGREEMENT  
(EXCESS TDT REVENUES)**

**Among**

**THE UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES,**

**UCF STADIUM CORPORATION**

**and**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Custodian**

**Dated November [ ], 2024**

**CUSTODIAL AGREEMENT  
(TDT REVENUES)**

This Custodial Agreement (TDT Revenues) is dated November [ ], 2024 (this “**Agreement**”) and is among **THE UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES**, a public body corporate (the “**University Board**”), **UCF STADIUM CORPORATION**, a Florida not-for-profit corporation and a direct support organization of the University Board (the “**Stadium Corporation**” and together with the University Board, “**UCF**”) and **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, a national banking association duly established and validly existing under and by virtue of the laws of the United States, with a corporate trust office located in Jacksonville, Florida, as Custodian (the “**Custodian**”).

**WITNESSETH:**

**WHEREAS**, the University Board, Stadium Corporation, and the Orange County Board of County Commissions (the “**County**”) have entered into a Funding Agreement with an effective date of May 21, 2024 (the “**Funding Agreement**”), pursuant to which the County has agreed to contribute a total aggregate amount not to exceed Ninety Million Dollars (\$90,000,000) (the “**County Contribution**”) solely from Excess TDT Revenues (as defined in the Funding Agreement), for the Stadium Improvements (as defined in the Funding Agreement);

**WHEREAS**, pursuant to the Funding Agreement the Excess TDT Revenues will be deposited with the Custodian on December 1<sup>st</sup> of each year commencing December 1, 2024 in accordance with the Excess TDT Revenue amounts set forth on Exhibit B to the Funding Agreement until such time as the full County Contribution has been paid, in accordance with the terms of the Funding Agreement;

**WHEREAS**, the parties hereto desire to enter into this Agreement as required by Section 3 of the Funding Agreement in order to administer the disbursement of the Excess TDT Revenues deposited by the County as detailed herein; and

**WHEREAS**, the Custodian has determined that it is willing to enter into this Agreement and to carry out the duties set forth herein;

**Section 1. Establishment of Excess TDT Revenues Fund.**

The Excess TDT Revenues Fund (the “**Excess TDT Revenues Fund**”) is hereby established with the Custodian. The Custodian agrees to serve as the Custodian of the Excess TDT Revenues under the Funding Agreement pursuant to this Agreement. Notwithstanding anything herein, the Funding Agreement or any other agreement to the contrary, the Custodian shall have no duty or obligation to determine whether any funds deposited with it pursuant to this Agreement constitute Excess TDT Revenues.

The Excess TDT Revenues Fund established hereby shall become the property of the UCF subject to the terms and conditions of the Funding Agreement. The Custodian shall have custody of the Excess TDT Revenues Fund, which shall be held on behalf of UCF and kept separate from the other assets of the Custodian and other assets of UCF, and the money on deposit in the Excess

TDT Revenues Fund shall be held, invested and disbursed as directed by the Authorized Officer of UCF pursuant to this Agreement.

## **Section 2. Deposits and Revenues.**

(a) Commencing December 1, 2024, the County shall remit to the Custodian, for deposit to the Excess TDT Revenues Fund, the Excess TDT Revenues contributed pursuant to the Funding Agreement.

(b) Upon receipt of Excess TDT Revenues the Custodian shall deposit such funds to the Excess TDT Revenues Fund.

## **Section 3. Investments.**

(a) The Custodian agrees to invest and reinvest funds in the Excess TDT Revenues Fund as directed in writing by the Authorized Officer of the Stadium Corporation in a Permitted Investment (as defined below).

**“Permitted Investments”** shall mean cash and U.S. Treasury Government Obligations.

(b) Custodian may deposit securities with, and hold securities in, any securities depository, settlement system, dematerialized book entry system or similar system (together a “Securities Depository”) on such terms as are customary for such systems, and UCF will provide Custodian with such documentation or acknowledgements that Custodian may require to hold the securities in such systems. Custodian will have no responsibility for any act or omission by (or the insolvency of) any Securities Depository. In the event UCF incurs a loss due to the negligence, willful misconduct, or insolvency of a Securities Depository, Custodian will make reasonable endeavors, in its discretion and at the expense of UCF, to seek recovery from the Securities Depository.

(c) Custodian is authorized to hold in bearer form, such securities as are customarily held in bearer form and to register in the name of the University Board, Custodian, a Securities Depository or their respective nominees, such securities as are customarily held in registered form. UCF authorizes Custodian to hold securities in omnibus accounts and will accept delivery of securities of the same class and denomination as those deposited with Custodian.

(d) Each of the other parties hereto recognize and agree that the Custodian will not provide supervision, recommendations or advice relating to either the investment of moneys held in the Excess TDT Revenues Fund or the purchase, sale, retention or other disposition of any Permitted Investment. UCF shall be solely responsible for complying with the provisions of any law, rule or regulation concerning the investment of public funds. Earnings on Permitted Investments shall be added to the Excess TDT Revenues Fund. The Custodian shall be under no obligation to invest moneys in the Excess TDT Revenues Fund other than as directed in writing by UCF.

(e) The Custodian is hereby authorized to trade with itself and any affiliated entity in the purchase and sale of securities for investment and is authorized to execute purchases and sales of Permitted Investments through the facilities of its own trading or capital markets operations or

those of any affiliated entity. Although each of the other parties hereto recognize that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, each of the other parties hereto hereby agree that confirmations of Permitted Investments are not required to be issued by the Custodian so long as the Custodian provides statements as required by this Agreement.

(f) Each of the other parties hereto acknowledge and agree that the delivery of the funds held hereunder is subject to the sale and final settlement of Permitted Investments. Proceeds of a sale of Permitted Investments will be delivered on the business day on which the appropriate instructions are delivered to the Depository if received prior to the deadline for same day sale of such Permitted Investments. If such instructions are received after the applicable deadline, proceeds will be delivered on the next succeeding business day.

#### **Section 4. Designation of Authorized Officer.**

The Chief Executive Officer and the Treasurer of Stadium Corporation or the their respective designee are hereby designated as the Authorized Officer of UCF for all purposes of this Agreement.

#### **Section 5. Disbursement of The Excess TDT Revenues.**

The Funding Agreement authorizes amounts on deposit in the Excess TDT Revenues Fund to be withdrawn by UCF to pay for capital costs associated with the design, architectural, construction, principal, interest payments, and associated financing costs on related debt obligations for the Stadium Improvements as set forth in the Scope attached to the Funding Agreement as Exhibit A, and for certain Stadium-related expenses incurred prior to the effective date of the Funding Agreement, all in accordance with Section 125.0104(5)(a)l.a., Florida Statutes ("Permitted Costs"). UCF may requisition funds from the Excess TDT Revenues Fund no more frequently than twice per month, and copies of such requisitions shall be provided to the County and County Comptroller simultaneously with the request to the Custodian in accordance with Section 3 of the Funding Agreement.

Payments from the Excess TDT Revenues Fund will be made by the Custodian in lawful money of the United States by check or interbank transfer of funds, as directed by UCF on receipt by the Custodian of an application for payment substantially in the form attached to this Agreement as Exhibit A and upon which the Custodian shall conclusively rely. The Custodian may act in conclusive reliance on any instrument or signature reasonably believed by it to be genuine and authorized and is not required to confirm or otherwise investigate any factual statements made therein. UCF hereby covenants and agrees to the extent provided by law to indemnify and save harmless the Custodian and their respective officers, directors, members, agents, and employees from any liability incurred in connection with any application for payment, which indemnification will survive the termination of this Agreement.

Prior to requisitioning amounts from the Excess TDT Revenues Fund the UCF certifies that it shall have included such amounts in a report previously filed with the County as required by Section 13 of the Funding Agreement.

## **Section 6. Recordkeeping.**

The Custodian shall keep records as to all deposits made into the Excess TDT Revenues Fund and disbursements therefrom, along with records of all investments made with respect thereto, and no less frequently than quarterly or otherwise upon reasonable written request of the County or the University Board, the Custodian shall provide or otherwise make available to the County or the University Board with copies of such records.

## **Section 7. Concerning the Custodian.**

Notwithstanding any provision contained herein to the contrary, the Custodian, including its officers, directors, employees and agents, shall:

(a) not be liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence;

(b) have no responsibility to inquire into or determine the genuineness, authenticity or sufficiency of any securities, checks or other documents or instruments submitted to it in connection with its duties hereunder;

(c) be entitled to deem the signatories of any documents or instruments submitted to it hereunder as being those purported to be authorized to sign such documents or instruments on behalf of UCF and shall be entitled to conclusively rely upon the genuineness of the signatures of such signatories without inquiry and without requiring substantiating evidence of any kind;

(d) have no responsibility or liability for any diminution in value of any assets held hereunder which may result from any investments or reinvestment made in accordance with any provision which may be contained herein;

(e) be entitled to compensation for its services hereunder as per **Exhibit B** attached hereto, which is made a part hereof, and for reimbursement of its out-of-pocket expenses including, but not by way of limitation, the fees, costs and expenses of attorneys or agents which it may find necessary to engage in performance of its duties hereunder, all to be paid by the Stadium Corporation, and the Custodian shall have, and is hereby granted, to the extent permitted by law, a prior lien upon any property, cash, or assets of the Excess TDT Revenues Fund, with respect to its unpaid fees and unreimbursed expenses, superior to the interests of any other persons or entities;

(f) be entitled and is hereby granted the right to set off and deduct any unpaid fees and/or unreimbursed expenses from amounts on deposit in the Excess TDT Revenues Fund;

(g) be, and to the extent provided by law, hereby is indemnified and saved harmless by the Stadium Corporation from all losses, liabilities, costs and expenses, including attorney fees, costs and expenses, which may be incurred by it as a result of its acceptance of the Excess TDT Revenues Fund or arising from the performance of its duties hereunder, unless such losses, liabilities, costs and expenses shall have been finally adjudicated to

have resulted from the willful misconduct or gross negligence of the Custodian, and such indemnification shall survive its resignation or removal, or the termination of this Agreement; provided, nothing contained herein shall be construed as a waiver of any immunity or limitation of liability the Stadium Corporation may be entitled to under the doctrine of sovereign immunity or section 768.28, Florida Statutes.

(h) be under no obligation to institute any suit or action or other proceeding under this Agreement or to enter any appearance in any suit, action or proceeding in which it may be a defendant or to take any steps in the enforcement of its rights and powers hereunder, nor shall be deemed to have failed to take any such action, unless and until it shall have been indemnified by the Stadium Corporation to its satisfaction against any and all costs and expenses, outlays, counsel fees and expenses, and other disbursements, including its own reasonable fees, and if any judgment, decree or recovery be obtained by the Custodian, payment of all sums due it, as aforesaid, shall be a first charge against the amount of any such judgment, decree or recovery; and no provision of this Agreement shall require the Custodian to risk or expend its own funds;

(i) have only those duties as are specifically provided herein and shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument or document between the other parties hereto, in connection herewith;

(j) have the right, but not the obligation, to consult with counsel of choice and shall not be liable for action taken or omitted to be taken by Custodian either in accordance with the advice of such counsel or in accordance with any opinion of counsel to the Stadium Corporation addressed and delivered to the Custodian;

(k) not have any liability or obligation with respect to any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; pandemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental actions; it being understood that the Custodian shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances; and

(l) have the right to perform any of its duties hereunder through agents, attorneys, custodians or nominees, and shall not be responsible for the misconduct or negligence of such agents, attorneys, custodians and nominees appointed by it with due care.

This Agreement sets forth all matters pertinent to the Excess TDT Revenues Fund, and no additional obligations of the Custodian shall be inferred from the terms of this Agreement, the Funding Agreement or any other agreement. **IN NO EVENT SHALL THE CUSTODIAN BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY (i) DAMAGES OR EXPENSES ARISING OUT OF THE SERVICES PROVIDED HEREUNDER, OTHER THAN DAMAGES WHICH RESULT FROM THE CUSTODIAN'S FAILURE TO ACT IN**

**ACCORDANCE WITH THE STANDARDS SET FORTH IN THIS AGREEMENT, OR (ii) SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, EVEN IF THE CUSTODIAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

The Custodian shall have the right to accept and act upon directions or instructions, including funds transfer instructions (collectively, "Instructions"), given pursuant to Agreement and delivered using Electronic Means (defined below); provided, however, that the Stadium Corporation or the University Board, as the case may be, shall provide to the Custodian an incumbency certificate listing Authorized Officers with the authority to provide such directions or instructions (each an "Authorized Officer") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Stadium Corporation or the University Board elects to give the Custodian Instructions using Electronic Means and the Custodian in its discretion elects to act upon such Instructions, the Custodians' understanding of such Instructions shall be deemed controlling. The Stadium Corporation and the University Board each understands and agrees that the Custodian cannot determine the identity of the actual sender of such Instructions and that the Custodian shall conclusively presume that Instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Custodian have been sent by such Authorized Officer. The Stadium Corporation and the University Board, as the case may be, shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Custodian and that the Stadium Corporation, the University Board and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Stadium Corporation and/or the University Board, as applicable. The Custodian shall not be liable for any losses, costs or expenses arising directly or indirectly from the Custodian's reliance upon and compliance with such Instructions notwithstanding such Instructions conflict or are inconsistent with a subsequent written direction or written instruction. Each of the Stadium Corporation and the University Board agree: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Custodian, including without limitation the risk of the Custodian acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Custodian and that there may be more secure methods of transmitting Instructions; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances and (iv) to notify the Custodian immediately upon learning of any compromise or unauthorized use of the security procedures.

"Electronic Means" shall mean the following communications methods: e-mail, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Custodian as available for use in connection with its services hereunder.

Any banking association or corporation into which the Custodian may be merged, converted or with which the Custodian may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Custodian shall be a party, or any banking association or corporation to which all or substantially all of the corporate trust business of the Custodian shall be transferred, shall succeed to all the Custodian's rights, obligations and

immunities hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

**Section 8. Resignation or Removal of Custodian.**

UCF and the Custodian may terminate this Agreement by giving 30 days prior written notice to the other party and the County. If UCF, with the County's consent, has not named a successor custodian upon the expiration of such thirty (30) day notice period, Custodian will have no further obligations under this Agreement, except to hold the assets as a depository, subject to the immediately following sentence. Upon written notification by UCF, including the County's consent, of the appointment of a successor custodian, Custodian shall promptly deliver assets and all materials, records and instruments in Custodian's possession that relate to the assets to such successor custodian, and the duties of the resigning Custodian will terminate in all respects, and the resigning Custodian will be released and discharged from all further obligations set forth in this Agreement or otherwise created by this Agreement. Custodian is entitled to withhold an amount equal to any undisputed amount due and owing to Custodian pursuant to this Agreement.

**Section 9. Notices.**

Any notice, direction or request to be given in connection with any of the terms or provisions of this Agreement shall be in writing and be given in person, by Electronic Means, courier delivery service or by mail, and shall become effective (a) on delivery if given in person, (b) on the date of delivery if sent by facsimile or by courier delivery service, or (c) four business days after being deposited in the mails, with proper postage for first-class registered or certified mail, prepaid.

Until notified in writing by the appropriate party of a change to a different address, notices shall be addressed as follows:

If to the Stadium Corporation:  
UCF Stadium Corporation  
c/o University of Central Florida  
4635 Andromeda Loop North  
Millican Hall MH 384  
Orlando, Florida 32816  
Attention: Chief Executive Officer

If to the Custodian:  
The Bank of New York Mellon Trust Company, N.A.  
4655 Salisbury Road, Suite 300  
Jacksonville, Florida 32256  
Attention: Corporate Trust Division

If to the County:  
Orange County Administrator  
201 S. Rosalind Avenue, 5<sup>th</sup> floor  
Orlando, Florida 32801

If to the Comptroller  
Orange County Comptroller  
Director of Finance & Accounting



201 S. Rosalind Avenue, 4<sup>th</sup> Floor  
Orlando, Florida 32801

**Section 10. Governing Law, Counterparts.**

This Agreement shall be construed in accordance with the laws of the State of Florida, without regard to conflict of law principles. It may be executed in several counterparts, each one of which shall constitute an original and all collectively shall constitute but one instrument.

**Section 11. Amendment, Modification or Waiver.**

This Agreement may be amended or modified and any term of this Agreement may be waived if such amendment, modification or waiver is in writing and signed by all parties; provided, however no amendment or modification may be made without the prior written consent of the County Administrator.

**Section 12. Assignments of Interests.**

No assignment of the interest of either of the parties hereto shall be binding in the absence of the written consent of the other party.

**Section 13. Waiver of Trial by Jury**

Each party hereto hereby agrees not to elect a trial by jury of any issue triable of right by jury, and waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist with regard to this Agreement, or any claim, counterclaim or other action arising in connection herewith. This waiver of right to trial by jury is given knowingly and voluntarily by each party, and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue.

[Signatures commence on following page]

**IN WITNESS WHEREOF**, the parties have been duly executed this Custodial Agreement as of the date first written above.

**THE UNIVERSITY OF CENTRAL FLORIDA  
BOARD OF TRUSTEES,**  
A public body corporate

By: \_\_\_\_\_  
President

**UCF STADIUM CORPORATION**

By: \_\_\_\_\_  
Chief Executive Officer

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.,**  
as Custodian

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**Disbursement Direction**

To: The Bank of New York Mellon Trust Company, N.A., as Custodian  
Attention: Corporate Trust Division

Re: Custodial Agreement (Excess TDT Revenues) dated November {\_\_}, 2024  
among The University of Central Florida Board of Trustees, the UCF  
Stadium Corporation, and The Bank of New York Mellon Trust Company,  
N.A., as Custodian (the “**Custodial Agreement**”)

Requisition No.: \_\_\_\_\_

Requisition Date: \_\_\_\_\_

Total Requisition Amount: \$ \_\_\_\_\_

Ladies and Gentlemen:

You are hereby authorized and directed as Custodian under the above-referenced Custodial Agreement to requisition from the Excess TDT Revenues Fund the amounts as set forth on Schedule A attached to this certificate, to the payees listed on Schedule A, all as provided therein.

The undersigned makes the following representations for the benefit of the Custodian and the County:

- a) The amounts being requisitioned have not been included in any prior requisition;
- b) The amounts being requisitioned have been included in a report filed with the County Administrator and the Comptroller’s office;
- c) [For draws of the initial \$10,000,000 deposited with the Custodian on December 1, 2024] The amounts being requisitioned represent capital costs associated with the design, architectural, and construction costs for the Stadium Improvements as set forth in the Scope attached to the Funding Agreement as Exhibit A or for certain Stadium-related expenses incurred prior to the effective date of the Funding Agreement, all in accordance with Section 125.0104(5)(a)l.a., Florida Statutes, and to pay associated financing costs on related debt obligation incurred by UCF to finance the Stadium Improvements; and
- d) [For draws of amounts in excess of the initial \$10,000,000 on December 1, 2024 and thereafter] The amounts being requisitioned are for principal, and interest payments on related debt obligation incurred by Stadium Corporation to finance the Stadium Improvements.

**THE UNIVERSITY OF CENTRAL FLORIDA  
BOARD OF TRUSTEES,**

By: \_\_\_\_\_  
Name: Gerald Hector  
Title: Chief Executive Officer

**EXHIBIT B**

**Fee Schedule**