

## **FACILITIES USE LICENSE AGREEMENT**

### **(Related Entity Version)**

**AGREEMENT** dated as of \_\_\_\_\_, between  
("Licensor"), a New York not-for profit corporation located at address  
and \_\_\_\_\_, a \_\_\_\_\_ with an  
address at \_\_\_\_\_, for itself, its  
successors, and/or its legal representatives ("Licensee").

### **RECITALS**

- A.** Licensee desires to conduct the Event (as hereinafter defined) which requires certain facilities; and
- B.** Licensee has determined that there are facilities on the \_\_\_\_\_ campus that are suitable for Licensee to conduct the Event; and
- C.** Licensor has been granted authority by \_\_\_\_\_ ("College") of The City University of New York ("CUNY") to license such facilities; and
- D.** the parties desire to enter into an agreement whereby Licensor will make the Premises (as hereinafter defined) available to Licensee to conduct the Event.

**THEREFORE**, Licensor and Licensee agree as follows:

- I. FACILITIES.** Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a non-exclusive, revocable license to use the facilities at the College as described on Schedule A annexed to and made a part of this Agreement (hereinafter referred to as the "Premises"), on the date(s) and at the time(s) set forth on Schedule A.
- II. USE.** Licensee may use the Premises for the sole purpose set forth on Schedule A (hereinafter referred to as the "Event") and for no other purpose.
- III. LICENSE AND OTHER FEES; SECURITY DEPOSIT**
- A.** Licensee shall pay Licensor a license fee and additional fees for time, space, equipment and services provided by Licensor in connection with the Event, all as set forth on Schedule B annexed to and made part of this Agreement.
- B.** All fees and sums due Licensor under the terms of this Agreement shall be payable by money order, wire transfer or bank check. Fees are not refundable, except to the extent expressly stated in this Agreement. If any charges and fees due Licensor are not timely paid, then Licensor may, at its sole option and without notice, either: (i) terminate this Agreement and the use permitted hereunder and retain all sums previously paid to Licensor; (ii) elect to continue this Agreement and deduct such fees and charges due, or any part thereof, out of the receipts, if any, from the sale of tickets or subscriptions to the Event; or, (iii) refuse admission to the Premises until such payments have been made. Licensor's election to continue the Event despite all payments not having

been received, shall not constitute a waiver of any sums due, or of the date such are due, and upon any further default in payment by Licensee, Licensor shall retain any money already paid without liability on its part, and Licensee shall be and remain liable to Licensor for any balance remaining to be paid as required under this Agreement. Licensee hereby assigns said receipts and the security deposit set forth in Schedule B to Licensor to the extent of the amount of any outstanding charges due by Licensee under this Agreement.

C. At the time of delivery of an executed copy of this Agreement, Licensee shall pay a security deposit as set forth on Schedule B as security for any damage to the Premises and for the payment of any sums required by (including but not limited to those required pursuant to Section III.E of this Agreement), and the performance of, Licensee's obligations under this Agreement. Provided Licensee has fully complied with all of its obligations under this Agreement and is not in default with respect to any part of this Agreement, the remaining balance (if any) of the security deposit shall be returned to Licensee within thirty (30) days after the later of the date that the Event ends or the date that this Agreement is terminated or revoked.

D. Charges for additional time, space, equipment, and/or services which were not contemplated or ascertainable at the time of execution of this Agreement shall be billed at Licensor's standard rates and shall be payable promptly upon notification by Licensor that such charges are due.

**E. Time shall be of the essence with respect to all payments required pursuant to this Agreement.**

F. Licensee acknowledges and agrees that pursuant to this Agreement, Licensor has reserved the Premises for Licensee's use on the date(s) specified in Schedule A. In reliance thereon, Licensor has declined to pursue and/or has refused offers from others desiring to use the Premises on those dates. If Licensee desires to cancel the Event or change the date(s) thereof, or in any manner terminate this Agreement, Licensee shall provide written notice to Licensor. Irrespective of such notice, Licensor shall have the right to retain any and all fees or deposits paid or provided to Licensor pursuant to this Agreement and, further, Licensee shall be obligated to pay Licensor any remaining balance owed pursuant to this Agreement; provided, however, that if the notice is provided by Licensee to Licensor at least thirty (30) days prior to the Event, then Licensor may, in its discretion, license the Premises to another licensee and, to the extent sufficient revenue from such alternate licensee is received, such remaining balance owed shall not be due.

**IV. EXISTING CAPACITY NOT TO BE EXCEEDED.** Licensee shall not permit entry of more than the number of persons set forth on Schedule A. Notwithstanding the information set forth on Schedule A, in no event shall the number of persons allowed at the Event exceed the existing legal capacity of the Premises, nor shall any persons be allowed to use or occupy any space in the Premises as standing room unless standing room is allowed by a public assembly permit or other government-issued authorization.

**V. COMPLIANCE WITH LAWS/RESTRICTIONS ON USE**

A. Licensee covenants and agrees to abide by, conform to, and comply with all of the applicable laws, rules, and regulations of the United States and the City and State of New York, and the rules, regulations and policies of Licensor, CUNY and the College, and will not do nor allow anything to be done on the Premises during the term of this Agreement in violation of any such laws, rules, regulations or policies.

B. Licensee agrees that one of the express conditions of this Agreement is that Licensee will not use nor attempt to use any part of the Premises for any purpose other than the Event, nor for any use or proposed use which will be contrary to law or detrimental to the reputation of Licensor or CUNY. Licensee further agrees, as an express condition of this Agreement, that if Licensor, in its sole and absolute discretion, deems any proposed or existing use to be contrary to law or detrimental to the reputation of Licensor or CUNY, Licensor may immediately terminate this Agreement, and/or interrupt such use or the Event, and dismiss or cause the attendees or participants to be dismissed. Upon the exercise by Licensor of any such discretion, all rights of Licensee hereunder shall immediately terminate. In any such event, Licensor shall be entitled to retain all money paid or agreed to be paid by Licensee; and, Licensee agrees that any claim by Licensee for damages arising out of any act of Licensor, its agents, or employees, in the exercise of Licensor's discretion under this clause shall be and is hereby waived by Licensee and there shall be no other liability of any kind on the part of Licensor, and Licensor is totally released by Licensee hereby.

C. Licensee agrees to secure in advance of the Event, any and all licenses, certificates and/or permits that may be required for any permitted use and to do all other acts necessary to comply with all laws and requirements of the State of New York, the City of New York, or any department, board or authority thereof governing the Event and the use permitted herein, or otherwise applicable to the Premises.

D. Licensee covenants and agrees that it will not allow any smoking at the Event or on the Premises.

E. Licensee covenants and agrees that no food, or alcoholic or non-alcoholic beverages or other items shall be served, and no articles sold, without the prior written consent of Licensor. In the event Licensor permits Licensee to serve alcoholic beverages, Licensee shall provide liquor liability insurance as indicated in Article VII (Insurance).

F. Licensee agrees not to do or permit anything to be done or placed in or on the Premises that will in any way create a fire hazard.

## **VI. SECURITY**

A. If Licensor or the College determines that the Event requires security, then that requirement and the fee payable for such security will be reflected on Schedule B. All such security shall be under the control and supervision of the College. Only unarmed security guards will be assigned to patrol the Event. In its sole discretion, and at any time before or during the Event, the College may increase the number of security guards assigned to cover the Event, at the cost and expense of Licensee, which cost shall be paid by Licensee promptly upon notification by Licensor or the College of the charges therefor.

B. Licensee agrees that a determination by Licensor or the College that security is required for the Event is not and shall not be deemed to be an assumption by, or transfer to, Licensor or CUNY of liability and that Licensee shall remain liable for the acts and omissions of Licensee and its invitees (including attendees at the Event), employees, agents, and contractors and anyone else affiliated with Licensee or the Event.

## **VII. INSURANCE**

A. Throughout the period of this Agreement, Licensee shall maintain commercial general liability and property damage insurance (hereinafter collectively “insurance”) through a carrier authorized to do business in New York State. Licensee shall provide Licensor with a certificate of insurance at least three (3) days prior to the Event. Licensee shall be required to provide Insurance coverage in no less than the following amounts:

Combined Single Limit – One Million (\$1,000,000.00) Dollars  
 Aggregate - Three Million (\$3,000,000.00) Dollars

B. In the event that Licensor grants Licensee written permission to serve alcoholic beverages or liquor, Licensee shall carry liquor liability insurance in an amount not less than One Million (\$1,000,000.00) Dollars per occurrence and Five Million (\$5,000,000.00) in the aggregate.

C. All insurance policies required hereunder shall be endorsed to and name Licensor, The City University of New York, the Dormitory Authority of the State of New York, the State of New York and the City of New York, as well as their respective officers and employees, as additional insureds (the “Additional Insureds”).

D. To the extent not covered by insurance, Licensee shall be solely responsible for the following, as well as any other applicable insurance:

1. All taxes and remittances to proper authorities;
2. All user fees;
3. Compensation, workers’ compensation, and disability insurance of all persons performing services in connection with the Event (except for Licensor’s or College’s personnel) as required by New York law;
4. Refunds for advance ticket sales to the Event; and
5. Licenses and permits of every kind.

E. The obligations contained in this Article shall survive the expiration or earlier termination of the Agreement.

F. Licensee agrees that if Licensee fails to comply with the requirements of this Article, Licensor shall be entitled to terminate this Agreement and retain any and all payments made by Licensee.

## **VIII. INDEMNIFICATION**

A. Licensee shall indemnify, defend and hold the Additional Insureds, and their respective officers, employees, agents and representatives, harmless against all costs and expenses, actions, lawsuits, judgments, claims, damages, liabilities, penalties, losses, fines, attorneys’ fees and judgments arising out of or relating to the use of the Premises, this Agreement and the Event, except to the extent caused by the gross negligence or intentional misconduct of Licensor. The obligation to indemnify, defend and hold harmless under this Article includes, without limitation, the following: (i) the unauthorized use or performance of any idea, creation, literary, musical or artistic material or intellectual property works or the performing arts in connection with this Agreement; and, (ii) any art done or words spoken by Licensee, its performers, agents or employees during any such performance.

B. The obligations contained in this Article shall survive the expiration or earlier termination of this Agreement.

**IX. UTILITIES.** Licensor agrees to provide all ordinary electricity, water and heat to the Premises, to the extent that same are currently provided to the Premises. Licensor does not guarantee that the air conditioning equipment will be in working order during the term of this Agreement or during the Event.

**X. DAMAGE TO PREMISES.**

A. Licensee shall take good care of the Premises and the fixtures and property located in the Premises.

B. Licensee shall not make any alterations or changes of any kind to the Premises or to anything in the Premises, nor allow any to be made. In case damage of any kind shall be done to the Premises or to the furnishings, fixtures or equipment in the Premises, Licensee agrees to pay, in addition to the sums mentioned above and on Schedule B, the amount of such damage or such amount as shall be necessary to put the Premises in as good order and condition as the same were at the commencement of this Agreement. Licensee shall not do or permit to be done on the Premises anything that will tend to injure, mar or in any manner deface the Premises; and, further agrees not to drive or place any nails, tacks, or screws in or on the Premises. Decorations by Licensee shall only be made under the supervision and with the approval of Licensor.

C. Neither Licensor or CUNY shall be liable for any damage to any property in the Premises at any time caused by water, rain, snow, steam, gas, or electricity, which may leak into, issue or flow from the pipes or plumbing work or wires, or from any part of the building to which the Premises are a part, or from any other place; nor shall Licensor or CUNY be liable to Licensee, its employees, agents or invitees or anyone else for any loss of, damage to, or theft of property from or in the Premises.

D. If the Premises be destroyed either wholly or in part, or damaged by fire or the elements, mob or riot, or if use of any part of the Premises or performance of any part of this Agreement be prevented or interfered with by strikes or any other cause prior to or during the time for which use of the Premises is licensed, Licensor may, at its discretion, terminate this Agreement and return to Licensee any payments that may have been made to Licensor for the proportionate period of use prevented or interrupted. Licensee hereby expressly waives any claims for damages or compensation should the Agreement be so terminated. Neither Licensor or CUNY shall be liable for any loss or damage to personal property or other damage, delay, inconvenience, or annoyance to Licensee arising from or because of strikes, lock-outs, or other labor difficulties.

**XI. REVOCAION.** In an emergency, Licensor may revoke the license granted hereunder and terminate this Agreement immediately and without prior notice, if Licensor determines that it is in its best interest to do so. In the event of revocation and termination by Licensor pursuant to this Article, Licensor shall refund any unused amounts paid by Licensee as a security deposit and/or the license fee if the Event has not occurred, or a pro rata portion of the license fee if the Event has commenced but has not concluded.

**XII. ENTRY BY LICENSOR AND CUNY.** Licensor and CUNY, and the employees, officers, agents, and representatives of each of them, shall have the right at all times to enter any part of the Premises.

**XIII. OBSTRUCTION.** Licensee agrees not to obstruct any portion of the sidewalks, entries, vestibules, halls, elevators, or ways of access to public utilities of the building in which the Premises are located, or to allow them to be used for any purpose other than for ingress and egress to and from the Event.

**XIV. AS IS.** Licensee agrees to accept the Premises “as is” after having inspected the Premises, or waived such inspection, and finds the Premises suitable to use for the Event.

**XV. LABOR DISPUTES.** Licensee agrees that it shall be the distinct obligation of Licensee and of all persons connected with Licensee, not to involve Licensor or CUNY in any labor disputes. In the event that such a labor dispute arises, Licensor has the absolute privilege and right to cancel this Agreement and Licensee shall remain liable for all payments hereunder.

**XVI. ASSIGNMENT PROHIBITED.** Licensee shall not assign nor transfer this Agreement, nor any of the rights, obligations or remedies of Licensee hereunder. Any purported assignment or transfer in violation of this Article will be void.

**XVII. ADVERTISEMENTS**

A. Licensee shall not use any name, logo, trademark or picture of Licensor, CUNY or the College in any advertisement or in any other written or oral communication without Licensor’s or CUNY’s prior written consent, as the case may be, except that Licensee may provide the name and address of the College as the location for the Event.

B. Licensee shall not post, exhibit, or allow to be posted or exhibited any signs, advertisements, show bills, lithographs, posters, cards or flyers of any description on any part of the Premises, or at any other location on the College campus, without prior written approval of Licensor.

**XVIII. RELATIONSHIP OF PARTIES.** Except as expressly set forth herein, neither this Agreement nor any act of the parties shall be construed as creating a partnership, joint venture or association of any kind, nor a relationship of landlord and tenant, nor any other relationship other than licensor and licensee. Licensee shall in no way represent to others, either orally, in writing, or in advertisements or promotional material of any kind that there is any relationship between Licensee on the one hand and Licensor, CUNY and/or the College on the other.

**XIX. USE OF EQUIPMENT.** Licensor must approve the use of any equipment by Licensee in connection with the Event. Licensee agrees that the method of installation and operation of any such equipment shall be subject to the supervision of Licensor. Licensee shall supply a qualified operator or operators at its own expense for the operation of such equipment, unless prohibited by applicable collective bargaining or other agreements. Licensor may agree to allow such equipment to be operated by employees of Licensor, at Licensee’s sole cost expense at rates established by Licensor.

**XX. RECORDING/BROADCASTING.** No audio or video broadcasting and/or recording of the Event shall be allowed without the prior written consent of Licensor. Licensee agrees that the method of installation and operation of any machinery used for permitted broadcasting and recording shall be subject to the supervision of Licensor. Licensee agrees to assume responsibility for, and in accordance with Article VIII (Indemnity) to defend, indemnify and save Licensor and CUNY harmless from any

liability from any claim or cause of action arising out of the broadcasting of the Event or in any recording or publication of the Event, or in any other manner.

**XXI. NOTICES; CONTACT PERSONS**

A. Except as otherwise expressly provided in this Agreement, all notices, demands, requests or other communications which are required or desired to be given hereunder shall be in writing and shall be given personally or by mail through the United States Post Office, addressed to the Party as set forth at the beginning of this Agreement. Licensor hereby designates its Chair as the agent to receive notices intended for Licensor. A copy of all notices sent to Licensor shall also be given at the same time and in the same manner to the CUNY Related Entities Group, Office of Counsel, 205 East 42<sup>nd</sup> Street, 11<sup>th</sup> Floor, New York, New York 10017. Notices shall be deemed given when received, if delivered personally, or on the third (3<sup>rd</sup>) business day after deposit with the United States Post Office, if mailed.

B. Prior to the time that Licensee first enters the Premises pursuant to this Agreement, Licensee and Licensor shall inform each other of the names, titles, email addresses and telephone numbers (including mobile numbers) of their respective representatives who shall be contacted regarding any routine administrative matters and to communicate information or events relating to the Event. The above shall not be in lieu of any formal notice required or desired to be given under this Agreement, which notice shall be given in accordance with Section XXI.A.

**XXII. MODIFICATIONS.** This Agreement may not be changed or modified except by a writing signed by Licensor and Licensee.

**XXIII. ENTIRE AGREEMENT.** This Agreement contains all of the terms of the understanding between Licensor and Licensee and shall not be binding until signed by Licensor and Licensee.

**XXIV. AUTHORIZATION.** Licensor and Licensee represent that the persons signing this Agreement on their behalf have been duly authorized to do so.

**XXV. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

**LICENSEE:**

\_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**LICENSOR:**

\_\_\_\_\_

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

Print Name: \_\_\_\_\_

AEC Title: \_\_\_\_\_

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

**SCHEDULE A**

To the Agreement dated \_\_\_\_\_ between \_\_\_\_\_, as Licensor and \_\_\_\_\_, as Licensee

- A. Description of Use:
  
  
  
  
  
  
  
  
  
  
- B. Location and Description of Facilities:
  
  
  
  
  
  
  
  
  
  
- C. Date(s) and Times:
  
  
  
  
  
  
  
  
  
  
- D. Maximum Capacity/Number of Persons Permitted:

**INITIALS:**      Licensee \_\_\_\_\_      Licensor \_\_\_\_\_



**SCHEDULE B**

**To the Agreement dated \_\_\_\_\_ between \_\_\_\_\_, as Licensor and \_\_\_\_\_, as Licensee**

- I. License Fee, \$ \_\_\_\_\_ payable as follows:
  - \$ \_\_\_\_\_ non-refundable deposit, at time of signing the Agreement
  - \$ \_\_\_\_\_ on or before \_\_\_\_\_
  - \$ \_\_\_\_\_ balance on or before \_\_\_\_\_
  
- II. Security Deposit, \$ \_\_\_\_\_ (payable at time of delivery of a signed copy of the Agreement)
  
- III. Other charges (payable at time of delivery of a signed copy of the Agreement):
  - A. Campus Security: \$ \_\_\_\_\_
    - Rate: \$ \_\_\_\_\_ per \_\_\_\_\_
    - Number of Hours: \_\_\_\_\_
    - Dates/Times: \_\_\_\_\_
  
  - B. Equipment: \$ \_\_\_\_\_
    - Types of Equipment: \_\_\_\_\_
    - Rate: \$ \_\_\_\_\_ per \_\_\_\_\_
    - Dates/Times: \_\_\_\_\_
  
  - C. Other Services: \$ \_\_\_\_\_
    - 1. Custodial/Housekeeping: \$ \_\_\_\_\_
      - Rate: \$ \_\_\_\_\_ per \_\_\_\_\_
      - Dates/Times: \_\_\_\_\_
    - 2. Audio/Visual Aids: \$ \_\_\_\_\_
      - Rate: \$ \_\_\_\_\_ per \_\_\_\_\_
      - Dates/Times: \_\_\_\_\_
    - 3. Laborers: \$ \_\_\_\_\_
      - Rate: \$ \_\_\_\_\_ per \_\_\_\_\_
      - Dates/Times: \_\_\_\_\_
    - 4. Event Personnel (specify type): \$ \_\_\_\_\_
      - Rate: \$ \_\_\_\_\_ per \_\_\_\_\_
      - Dates/Times: \_\_\_\_\_
    - 5. \_\_\_\_\_
      - Rate: \$ \_\_\_\_\_ per \_\_\_\_\_
      - Dates/Times: \_\_\_\_\_

**INITIALS:** Licensee \_\_\_\_\_ Licensor \_\_\_\_\_