



FACILITIES AND SERVICES AGREEMENT

Single Day

(As of 9/2/2020)

This Facilities and Services Agreement is made and entered into between _____ [Institution], herein called "Institution" and _____, herein called Off-Campus Group ("OCG").

1. **THE EVENT.** This Agreement is for the use of _____. The period of use will begin at _____ AM/PM on _____ and will end at _____ AM/PM on _____, including OCG's set-up and tear down.

2. **PAYMENT.** In consideration for the below-mentioned facilities/services described herein, the OCG agrees to pay [Institution] the sum of \$_____ for the room charge; and \$_____ per person for food service (based on a minimum of _____ people). All checks should be made payable to: _____ and submitted to: _____.

A deposit in the amount of fifty percent (50%) of the estimated billing total of \$_____ is required to confirm this reservation. Only those reservations for which deposits have been received will be guaranteed. Reservation deposits may be refunded in the event of cancellation by an OCG on the following basis:

- When notice is received earlier than thirty (30) days prior to the reserved date(s), fifty percent (50%) of the deposit will be refunded.
- When notice is received thirty (30) days or less prior to the reserved date, no refund will be made.
- Deposits of \$_____ or less will not be refunded.

Full Payment is due ten working days before the day of the event. Any charges incurred above the written estimate of costs will be billed immediately following the event, payable within fifteen (15) calendar days.

3. **SERVICES.** Routine services include use of facilities on an "as is" basis (for instance classrooms arranged in their normal manner.) Facility and equipment set-ups and breakdowns varying from these norms will be considered extra services and will be charged as such for the time required to perform them. Tables and chairs required for OCG registration will be furnished at no charge when requested at least ten working days prior to the event. Furnishing of media equipment (projectors, screens, microphones and amplifying systems, etc.) is considered extra service and is charged for as arranged with the Institution Audio-Visual Center at least ten working days prior to the event. OCG must obtain Institution's written permission prior to bringing any furnishings or equipment on campus. OCG may not dig, hammer stakes, etc. without Institution's written permission. Any damage caused by OCG will be OCG's responsibility.

Regarding providing internet access, select from one of these two paragraphs:

The Institution will not provide any access to the internet to OCG.

- OR -

The Institution will provide [wireless or hardwire] access to the Internet to OCG, using [technology-based devices maintained by the institution and/or personal technology-based devices], provided that the OCG will adhere to the Institution's Acceptable Use Policy (AUP). If the OCG cannot adhere to the institution's AUP, the privilege will be withdrawn and appropriate sanctions, as outlined in the AUP, will be imposed.

4. **FACILITY RULES.** OCG is required to adhere to all Institution policies, regulations, guidelines, and all local, state and federal laws concerning health, safety and public order. A copy of the Institution's regulations will be provided to the OCG upon request.

If the event has minors as attendees, include the following paragraph:

5. EVENTS WITH MINORS AS ATTENDEES. Any OCG having participants or participant dependents under age 21 must provide adequate adult supervision at all times during the OCG scheduled dates on campus. OCG shall present to the Institution upon arrival, a medical release for hospital treatment or treatment by a physician, signed by one or both of the child's parents, to allow for treatment should injury or accident occur for every minor child unaccompanied by a parent.

If the event involves scheduled physical activities, include the following paragraph:

6. EVENTS INVOLVING SCHEDULED PHYSICAL ACTIVITY. OCG shall require all participants and supervisors to sign an assumption and acknowledgement of risk form that includes a detailed description of the event's risks and potential injuries. OCG shall require all participants and supervisors to sign a waiver

form waiving all claims against the "Releases" as described in Section 8. with respect to or arising out of, any death or any injury that may be suffered or sustained by the participant or supervisor as the result of any OCG's actions or inactions, directly or indirectly, or any loss or damage or injury to or theft or loss of any property belonging to participant or supervisor on [Institution] property including but not limited to any property placed by participant or supervisor in or about Institution buildings, properties or facilities.

7. **NOTICE.** OCG agrees to provide timely notice to Institution of any occurrence of personal injury, death, or property loss, damage or destruction arising from the conduct of the event and agrees to make reasonable efforts to mitigate same.

8. **WAIVER OF LIABILITY.** The Institution, including its governing board, trustees, directors, officers, employees, and any Participants, agents or volunteers acting at Institution's direction (collectively referred to as "Releasees") shall not be liable or responsible in any way for, and OCG hereby waives all claims against the [Institution] with respect to or arising out of or related to, any death, injury or illness including any death, injury or illness related to infectious diseases or emerging infectious diseases identified by the CDC or otherwise, that may be suffered or sustained by OCG or any employee, invitee, guest, or agent of OCG or any other person as a result of any OCG's actions or inactions, directly or indirectly, or any loss or damage or injury to or theft or loss of any property belonging to OCG or any employee, invitee, guest, or agent of OCG on Institution property including but not limited to any property placed by OCG in or about Institution buildings, properties or facilities. The provisions of this paragraph shall survive the termination of this Agreement with respect to any damage, injury, illness, or death occurring prior to such termination of this Agreement.

9. **INDEMNIFICATION.** Each party ("Indemnifying Party") agrees, to the fullest extent permitted by law, to indemnify, defend and hold the other party ("Indemnified Party") and its, trustees, directors, officers, employees, agents, affiliates, members, and permitted assigns ("Indemnified Party Indemnitees") harmless, without duplication, from and against any and all losses, injuries, claims, demands, liabilities, obligations, suits, penalties, forfeitures, costs or expenses of every type or kind, including reasonable attorneys' fees actually incurred, disbursements and costs of investigation which are imposed upon, incurred by or asserted against the Indemnified Party Indemnitees arising out of or relating to any of the obligations undertaken in connection with this Agreement, including but not limited to: (i) the breach of this Agreement by Indemnifying Party; including, without limitation, any representation, warranty, covenant or agreement made hereunder; (ii) the negligent act or omission or intentional misconduct of Indemnifying Party or any officer, employee, agent or volunteer under the control or supervision of Indemnifying Party; or (iii) the violation of any applicable laws, regulations or rules by Indemnifying Party or any officer, employee, agent or volunteer under the control or supervision of Indemnifying Party. *[Add the following wording if Sections 5 and / or 6 apply]* and (iv) any Claims arising out of OCG's failure to comply with Section 5. Or 6. of this Agreement. However, nothing in this Paragraph 9 shall require the Indemnifying Party to indemnify the Indemnified Party or any Indemnified Party Indemnitees against any claim or liability which results from any grossly negligent or willful act or omission on the part of such Indemnified Party or its employees, agents or volunteers. The Indemnified Party shall not settle any claim which is the subject of the foregoing indemnification without the prior written consent of the Indemnifying Party, which consent will not be unreasonably withheld or delayed.

10. **INSURANCE.** OCG shall provide a certificate of insurance for the coverages listed in the paragraph below no less than thirty (30) days before the event. The Institution should appear as an additional insured on all policies of insurance except for any required auto and workers compensation insurance. The certificate of insurance shall also indicate that there is no applicable cross suits liability exclusion (allows an insured to sue another insured). All OCG insurance policies shall be primary and non-contributory. OCG and its insurers agree to waive their right of subrogation against the Institution for any general liability, auto liability and workers compensation claims made against OCG's policies. All such insurance should not include any restrictions of governmental immunities built into the insurance coverage and policies.

Limits of Insurance: OCG shall provide evidence of **a)** Commercial General Liability (CGL) insurance or OCG's Liability Insurance (TULIP or Special Events) of an amount of not less than \$1 million per occurrence. If the use of facilities includes physical activities, such as sports camps, the CGL limit shall be \$2 million per occurrence with no athletics activities exclusion. If the Institution's pool is used, the CGL per occurrence limit shall be \$5 million with no athletics activities exclusion. **b)** Owned, Non-owned and Hired Auto Liability insurance of an amount of not less than \$1 million per occurrence. **c)** Any OCG with OCG employees on campus shall provide evidence of statutory Workers Compensation insurance and \$100,000 of Employers Liability insurance. **d)** Any OCG with minors on campus shall provide evidence of Sexual Misconduct / Abuse

Liability insurance of an amount of not less than \$1 million per occurrence. Coverage endorsed onto the General Liability policy is acceptable. **e)** Any OCG serving liquor on campus shall provide evidence of Liquor Liability insurance of an amount of not less than \$ 2 million per occurrence / \$ 2 million in the aggregate. Coverage endorsed onto the General Liability policy is acceptable. **f)** Any OCG providing Athletic Trainers on campus shall provide evidence of Medical Professional Liability insurance of an amount of not less than \$ 2 million per occurrence / \$ 2 million in the aggregate. Coverage endorsed onto the General Liability policy is acceptable. If OCG is a wedding or family reunion only **a)** and **e)** are required. **NOTE: OCGs unable to provide proper evidence of the required insurances can be directed to <https://securerespecialeventinsurance.com/EIIA> to purchase a TULIP policy through the EIIA Special Events program.**

11. TERMINATION. If, through any cause, OCG fails to fulfill in a timely and proper manner any of OCG’s obligations under this agreement, Institution has the unilateral right to terminate this agreement and not permit OCG to utilize Institution’s premises or services for the reasons described above by giving written notice to OCG of such termination. In the event of such cancellation, the contract is null and void and Institution shall be discharged from any obligations to OCG. If Institution cancels this agreement under the terms of this Section, OCG is obligated to immediately pay the full amount of this contract to Institution.

Force Majeure – In the event that Institution buildings, property or facilities shall be destroyed or substantially damaged by fire or other casualty, or in the event other circumstances render the fulfillment of this agreement impractical or impossible, OCG shall be obligated to pay the fees herein above stipulated only for those services, activities and events which shall have occurred prior to said casualty or circumstances. OCG hereby waives any claim for damages or compensation resulting from fire, casualty, or other circumstances causing curtailment of this agreement.

12. ENTIRE AGREEMENT. This Agreement contains all the terms and conditions agreed upon by the parties hereto regarding the subject matter of this Agreement. Any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement not expressly set forth in this Agreement are of no force or effect. No changes, amendments, or alterations shall be effective unless agreed to in writing by both parties. The invalidity or non-enforceability of any terms or provisions hereof shall in no way affect the validity or enforceability of any other term or provision.

13. CHOICE OF LAW. This Agreement shall be interpreted in accordance with the laws of the State of [SPECIFY INSTITUTION’S STATE]. Unless waived by both parties, venue for any action to enforce or interpret the provisions of this Agreement shall be in [INSERT] County, [SPECIFY INSTITUTION’S STATE].

Authorized signature _____
Chief Financial Officer

Organization name _____
[Institution]

Date _____
Date

Table of Changes	
September 2020	Section 8. Added claims related to infectious disease. Section 9. Revised the indemnification provision
August 2019	Section 10. Added all insurance policies shall be primary and non-contributory. Section 10. Corrected grammar for all such insurance should not include any restrictions of governmental immunities built into the insurance coverage and policies.
September 2018	Reformatted.
November 2016	Section 3. Added options to institution providing internet access to OCG.
December 2015	Changed link to purchase a TULIP policy through the EIIA Special Events program.

--	--

This document is presented to EIIA members strictly as a guideline. As individual circumstances may vary, the contents and concepts presented should be reviewed and amended as necessary to properly address your institution's unique exposures. Additionally, it is recommended that the contents and concepts presented be reviewed in the full context of its use with legal counsel prior to implementation.

The information contained herein, including its attachments, contains proprietary and confidential information. Any distribution of these materials to third parties other than current EIIA members is strictly prohibited. ©EIIA, Inc. and/or Hirschfeld Kraemer LLP 2019. All rights reserved.

This document is presented to EIIA members strictly as a guideline. As individual circumstances may vary, the contents and concepts presented should be reviewed and amended as necessary to properly address your institution's unique exposures. Additionally, it is recommended that the contents and concepts presented be reviewed in the full context of its use with legal counsel prior to implementation.

The information contained herein, including its attachments, contains proprietary and confidential information. Any distribution of these materials to third parties other than current EIIA members is strictly prohibited. ©EIIA, Inc. and/or Hirschfeld Kraemer LLP 2019. All rights reserved.