

FACILITIES USE AGREEMENT

Effective Date: November 28, 2022

Sponsor: Intergovernmental Cooperation Authority

Sponsor Address: 922 N. 3rd Street, Harrisburg, PA 17102

Facility: Temple University Harrisburg, 234 Strawberry Square, Harrisburg, PA 17101

THIS FACILITIES USE AGREEMENT (“Agreement”) is effective as of the Effective Date set forth above, by and between Temple University – Of The Commonwealth System of Higher Education (“Temple”) and the Sponsor identified above.

Background:

A. Temple is the owner or lessor of the Facility identified above

B. Sponsor desires to use the Facility for the Event, as described on Exhibit A, and Temple is willing to permit Sponsor to use the Facility for the Event on the following terms and conditions.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally bound hereby, Temple and the Sponsor agree as follows:

1. Temple hereby grants to Sponsor, and to no other person or entity, a license to use the Facility for the Event for the time period specified in Exhibit A, in accordance with the provisions of this Agreement. Temple may revoke or modify Sponsor’s permission to use the Facility in whole or in part if at any time: (i) Sponsor fails, neglects or refuses to perform to Temple’s satisfaction any of Sponsor’s duties or obligations as set forth in this Agreement; (ii) the Facility is closed or is otherwise unavailable for any reason; or (iii) Temple determines in its sole judgment that it is unsafe to hold the Event at the Facility.

2. Sponsor’s use of the Facility for the Event shall be exercised in a manner that does not interfere with Temple’s other use or occupation of the Facility or Temple’s other property or premises. Sponsor shall comply with all applicable policies and procedures of Temple, including without limitation any policies or procedures related to security. Temple may impose supplemental guidelines for use of a particular Facility, which shall be incorporated herein by reference upon notice to Sponsor.

3. If the Event involves the participation of minors, Sponsor represents and warrants that Sponsor has read and shall comply with the Pennsylvania Child Protective Services Law, Title 23 Pa. Cons. Stat. Chapter 63, (the “CPSL”), and Temple’s Policy on the Safety of Minors (Temple University Policy Number 04.61.12) available at <http://policies.temple.edu>. Sponsor shall at its own cost and expense have performed, prior to the Event, the following minimum screening requirements for all individuals who will have direct contact with minors as part of the Event: (i) a Criminal History Record check through the Pennsylvania State Police; (ii) a Child Abuse History Certification through the Pennsylvania Department of Human Services; and (iii) a Federal Criminal History Record (fingerprint-based) submitted through the Pennsylvania State Police or its authorized agent. Sponsor shall exclude from the Event any individual whose screening results would disqualify such person from employment or participation in any program, activity or service under the CPSL. Sponsor shall, to the fullest extent of the law, indemnify, defend and hold harmless Temple from any claims, losses, liabilities, fines, penalties, costs and expenses (including reasonable attorney’s fees) arising from or related to Sponsor’s breach of this paragraph 3.

4. Sponsor has inspected and accepts the Facility “as is,” and agrees that Temple shall have no responsibility for the condition of the Facility to Sponsor or to any of Sponsor’s invitees or guests. Sponsor acknowledges that it is licensing the Facility without any warranty or representation by Temple as to the condition of the Facility or the fitness of the Facility for Sponsor’s Event.

5. Sponsor agrees that it shall be obligated to maintain the Facility for the safe exercise of the Event at Sponsor’s sole cost and expense in accordance with the provisions of this Agreement. Upon completion of the Event, Sponsor shall deliver the Facility to Temple in substantially the same condition as existed immediately prior to Sponsor’s use. Sponsor agrees that if its use of the Facility causes damage to the Facility or any part thereof, at Temple’s option Sponsor shall promptly repair and restore any such damage or Temple may have the work done and Sponsor shall reimburse Temple for the cost thereof.

6. Sponsor shall obtain, at its sole cost and expense, any additional permits and licenses that are necessary or required for Sponsor's use of the Facility. Sponsor shall not install any improvements or make any alterations to the Facility without the prior written approval of Temple.

7. Sponsor shall not use or allow the Facility or any part thereof to be used or occupied for any purpose other than the Event as set forth in Exhibit A, nor for any unlawful purpose, and Sponsor shall not allow any act to be done or condition to exist in the Facility or any part thereof or any article to be brought thereon, which may be dangerous, unless safeguarded as required by law, or which may make void or voidable any insurance then in force or required under this Agreement.

8. Sponsor shall abide by all State, Federal, and local regulations, directives and restrictions relating to public health, as well as any applicable Temple policies and protocols relating to public health, including without limitation those related to COVID-19, in each case as same may be amended or revised from time to time. In the event that Sponsor fails to abide by any such regulations, directives, restrictions, policies, or protocols (including without limitation physical distancing requirements, mask usage, hygiene requirements, or health monitoring): (i) Sponsor shall be in material breach of this Agreement without the need for Temple to provide any further notice or any period to cure such breach; and (ii) in addition to any other rights or remedies which Temple may have under this Agreement or at law, Temple in its sole and absolute discretion may immediately suspend Sponsor's use of the Facility, impose additional or different requirements and/or restrictions on Sponsor's use of the Facility at Sponsor's sole expense, and/or terminate this Agreement, effective immediately upon notice to Sponsor.

9. At no time shall Sponsor permit the number of individuals occupying the Facility to exceed the Maximum Occupancy set forth in Exhibit A, nor shall Sponsor fail to maintain an adequate minimum ratio of adults to minors, if applicable. Sponsor shall carefully survey the Facility for any dangerous conditions or hazards prior to each separate time it enters and exits the Facility and shall notify Temple promptly of any conditions that Sponsor deems to present a danger or hazard.

10. **Sponsor shall comply with the following insurance requirements:**

(a) At its sole cost and expense, Sponsor shall obtain and maintain in effect insurance policies and coverages acceptable to Temple for Sponsor's use of the Facility for the Event. At a minimum, Sponsor shall obtain and maintain in effect the following coverages: Workers' Compensation and Employer's Liability coverages which equal or exceed the requirements of the Commonwealth of Pennsylvania (if such coverage is applicable), Comprehensive/Commercial General Liability coverage in an amount not less than \$1,000,000 per occurrence, and any additional insurance requirements set forth by Temple in Exhibit A. Sponsor acknowledges and agrees that Temple reserves the right to require higher insurance limits for Events based upon the nature of the Event, the venue, and /or the anticipated number of attendees. For those events involving minor participants, the General Liability policy shall not exclude coverage for sexual assault/molestation. Sponsor further agrees that Temple shall not provide, and Sponsor shall be solely responsible for obtaining any property and casualty insurance with respect to personal property of Sponsor or its officers, members, agents, guests, invitees or employees.

(b) Concurrently with the execution of this Agreement, Sponsor shall deliver to Temple, certificate(s) of insurance evidencing the insurance required pursuant to this Agreement, including, for events involving minor participants, a statement that coverage for sexual assault/sexual molestation is not excluded, and naming "Temple University – Of The Commonwealth System of Higher Education, its trustees, officers, employees and agents" as additional insureds on all policies except Workers' Compensation and Employers' Liability (if such coverage is applicable). Such insurance may not be canceled, amended or permitted to lapse except upon a minimum of thirty (30) days' prior written notice to Temple.

(c) Sponsor shall be solely responsible for payment of premiums and any deductible required by such insurance.

(d) The minimum insurance coverage required hereunder shall not limit Sponsor's liability under this Agreement.

11. Nothing in this Agreement shall be deemed or construed as creating a relationship of principal and agent, partnership, joint venture, or landlord and tenant, between the parties, it being understood that nothing contained in this Agreement, or any acts of the parties hereto, shall be deemed to create any relationship other than an independent contractor relationship between Temple and Sponsor.

12. In addition to Temple's express or implied right of entry under any other provision of this Agreement, Sponsor shall permit Temple to enter the Facility at any time for the purposes of, but not limited to: (a) inspecting the Facility to determine whether Sponsor has complied or is complying with the provisions of this Agreement; (b) performing any duties pursuant to applicable law or governmental regulations; and (c) carrying out any purpose necessary, incidental or connected with the performance of any Temple obligation under this Agreement.

13. Notwithstanding any contrary provision in this Agreement, Sponsor shall indemnify, defend and save harmless Temple and its trustees, officers, employees and agents (collectively, "Indemnitees"), from and against any and all losses, expenses (including, without limitation, litigation costs and reasonable attorney fees), claims and liabilities in law or in equity, except those due to the gross negligence or willful misconduct of Temple, which may be imposed upon or incurred by or asserted against Temple based upon or arising out of, in whole or in part, any act or omission of Sponsor (including its officers, members, agents, guests, invitees and employees) in connection with this Agreement or Sponsor's use of the Facility, or of Sponsor's failure to keep, observe or perform any of its responsibilities under this Agreement or of any of the following that occurs during the times permitted for use of the Facility by Sponsor for its Event:

- (a) any activity in or about the Facility, or any part thereof, by Sponsor or any of its officers, members, agents, guests, invitees or employees.
- (b) any use, possession, occupation, condition, operation, maintenance or management of the Facility, or any part thereof, by Sponsor or any of its officers, members, agents, guests, invitees or employees.
- (c) any accident, injury or damage to any person or property occurring in or about the Facility or other Temple property in going to or from the Facility in connection with the Event.
- (d) any damage or loss to or relating to any personal property of Sponsor or any of its officers, members, agents, guests, invitees, or employees.
- (e) without limiting the generality of any of the foregoing, any failure by Sponsor to comply with Sponsor's responsibilities and obligations contained in paragraph 8 above.

In the event that Sponsor is a governmental entity that is legally restricted or prohibited from promising to indemnify another party, Sponsor agrees that it will indemnify the Indemnitees as provided in this paragraph 13 to the fullest extent permitted by law.

If any action or proceeding is brought against Indemnitees relating to any matter for which the Sponsor has indemnified Indemnitees, Sponsor shall, upon written notice from Temple, at Sponsor's sole cost and expense (including, without limitation, reasonable attorneys' fees and costs), resist or defend such action or proceeding by counsel approved by Temple in writing, but Temple's approval of counsel shall not be required when the claim is resisted or defended by counsel of an insurance carrier obligated to resist or defend such claim. In any and all claims against Indemnitees by any employee of Sponsor or anyone else for whose acts Sponsor may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Sponsor or other party under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

14. Sponsor shall not use any trademark, service mark, logo, or other indicia of Temple without the prior written consent of an authorized representative of Temple. Such consent may be revoked at any time without cause.

15. This Agreement sets forth all the promises, conditions and understandings between Temple and Sponsor relating to the Facility. There are no promises, conditions, and understandings, either oral or written, between Temple and Sponsor other than those set forth in this Agreement. No subsequent modification or agreement with respect to the terms of this Agreement shall be effective, unless such subsequent modification or agreement is in writing executed by both Sponsor and Temple. No oral representation, whenever made, by any official or employee of Temple shall be effective to modify the provisions of this Agreement. This Agreement shall be binding upon the parties hereto, their successors and assigns. This Agreement may not be assigned by Sponsor without the prior written consent of Temple.

16. All notices from either party to the other under this Agreement shall be in writing and either hand delivered with receipt obtained or sent by nationally recognized overnight delivery service or by United States certified or registered mail, postage prepaid with receipt obtained, addressed to the other party at the address provided above or such other address as the party to receive the notification may subsequently designate by written notice to the other.

17. If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, and the application of such provision to parties or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. Each of the persons signing below represents and warrants that he/she has the authority to legally bind the party on whose behalf he/she signs.

[signatures on next page]

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

“Temple”
Temple University – Of the Commonwealth
System of Higher Education

Signed: _____

By:

“Sponsor”

Intergovernmental Cooperation Authority

Signed:  _____

Printed: Jeffrey Stonehill

Title: Authority Manager

*[This agreement shall be a valid and binding obligation
Of Temple only if executed in accordance with Policy
04.50.01, Contract Signing – Authorized Signatures]*

Section II – to be completed by Temple

Lydia Husband, Manager of Operations 717-232-6400
Temple Contact Telephone

lydia.husband@temple.edu 717-221-1634
Email Address Fax

234 Strawberry Square, Harrisburg, PA 17110
Property – Street Address, City, State, Zip

Classroom 233 72 Persons
Facility - Room/Suite/Floor/etc. Maximum Occupancy

Meeting
Event (approved use or purpose) – Meeting/Conference/Seminar/Other (Explain)

January 25, 2023 4:00pm – 6:00pm
Event Date Event Time(s)

2/22/23, 3/22/23, 4/26/23, 5/24/23, 6/28/23, 7/26/23, 8/23/23, 9/27/23, 10/25/23, 11/15/23, 12/20/23 – Same times
Additional Date(s)/Time(s)

Insurance Requirements (circle all that apply): GL Workers' Compensation Other

If "Other," please describe: _____

Increased Insured Limits Required: YES NO

Waived A-V if needed
License Fee Other Fees

50% Deposit _____ Received By _____ Date _____

***CANCELLATION REFUND SCHEDULE:**

| <u># Days Advance Written Notice to Temple University</u> | <u>% of License Fee Refund</u> |
|---|--------------------------------|
| <u>7 or more</u> | <u>100%</u> |
| <u>3 to 6</u> | <u>50%</u> |

*No refund of deposit if written notice of cancellation is received less than seven (7) days prior to the event. Temple must receive all fees by date of event.

Special conditions: _____

Sponsor Initials: LS
Temple Initials: _____