

STATE OF NORTH CAROLINA

WAKE COUNTY

Rev. 12/11

**NORTH CAROLINA STATE UNIVERSITY
ATHLETICS FACILITY USE AGREEMENT FOR UNIVERSITY USERS**

This Use Agreement is made and entered into this ____ day of _____, 20____, by and between North Carolina State University, c/o Athletics Department (“NC STATE”) and _____, (“USER”), which is a college, school, division, department, organization or program of NC STATE UNIVERSITY.

Whereas NC STATE owns and operates, or lawfully controls the use of, the athletic facility (“FACILITY”) described below, and USER desires to use said FACILITY, NC STATE agrees to make said FACILITY and no other available to USER at the following date(s) and time(s) and for the purposes referenced below and no other:

FACILITY: _____

Date(s): _____

Time(s): _____

Purposes of Use: _____

_____ (“EVENT”).

In consideration for being permitted to use the FACILITY for the stated EVENT, the USER agrees to pay the following fees and abide by the following conditions:

ARTICLE 1: USE FEE AND OTHER PAYMENTS

1.1 For use of the FACILITY, the USER agrees to pay NC STATE the sum of \$ _____.

This USE FEE includes charges for existing electric lights, heat and water as may be needed for presentation of the EVENT, but only in places and amounts as now installed in the FACILITY.

1.2 In addition to the USE FEE described above, the USER will be responsible for paying all OPERATING EXPENSES, if any, of the EVENT. A schedule of estimated expenses is as follows:

Campus Police \$ _____

Parking Services	\$ _____
Setup	\$ _____
Cleanup	\$ _____
Dumpsters/Trash Removal	\$ _____
First Aid	\$ _____
Other (specify)	\$ _____
 TOTAL ESTIMATED OPERATING EXPENSES:	 \$ _____

This estimate is for budgeting purposes. Actual expenses will be charged at the conclusion of the EVENT.

1.3 All amounts due under this Agreement are due and payable at the immediate conclusion of the EVENT, and no later than two days after the EVENT.

1.4 In order to provide a safe and secure environment for the campus community and visitors, when there is a threat of disruption of the EVENT, for protection of university property when there is a threat of damage, and to maintain public order for large events, security will be provided for the EVENT as necessary based on a security assessment by University Police. If University Police determine that special event security is required for the EVENT, USER shall be responsible for paying all costs for the security personnel and for other security measures including, but not limited to, barricades, metal detectors and parking control measures, as specified by the University Police Chief or designee.

ARTICLE 2: TERMS & CONDITIONS

2.1 All portions of the sidewalks, entries, doors, passages, vestibules, halls, corridors, stairways, passageways, and all ways of access to public utilities of the premises shall be kept unobstructed by the USER and shall not be used for any purpose other than ingress or egress to and from the premises by the USER.

2.2 The USER agrees to have a person present for load in and load out. NC STATE will not sign for any items shipped for the USER nor take any responsibility for them unless prior arrangements have been agreed upon.

2.3 All rights to sell concessions at the EVENT are reserved by NC STATE, and the USER will not be permitted to sell any beverages, confections, tobacco, or food for consumption at the FACILITY, except as specifically granted to in this or additional written agreements. The sale and distribution of alcohol to the general public is strictly prohibited. All rights to sell

merchandise at the EVENT are reserved by NC STATE, and the USER will not be permitted to sell merchandise, programs, souvenirs, or other personal property unless expressly agreed to in this or additional written agreements.

2.4 The USER agrees to use and occupy the FACILITY in accordance with all NC STATE policies, regulations, rules, and practices and with all applicable municipal, state, and federal laws, including but not limited to fire codes.

2.5 The USER is responsible for providing all necessary and appropriate safety instruction to all participants and attendees at USER's activity. The USER is responsible for any and all damages to buildings, grounds, fields, and equipment caused by participants and attendees. If the use of the FACILITY is open to any non-members, then no one shall be denied the equal privileges and enjoyment of having free and open access to the FACILITY on the basis of race, color, national origin, religion, age, veteran's status, sex, or disability.

2.6 If any material, composition or name to be used or performed at the EVENT is copyrighted, the USER is responsible for securing, before using or employing such material, composition or name, the assent in writing, of the owner or licensee of such copyright. The USER agrees to be fully responsible for any fees, royalties and licenses in connection therewith.

2.7 All watchmen or other protective service desired by the USER must be arranged for by special agreement with NC STATE and the USER is responsible for all such costs.

2.8 It is understood and agreed that the NC STATE ATHLETIC DEPARTMENT hereby reserves the right to control and manage the FACILITY and to enforce all necessary and proper rules for the management and operation of the same. The NC STATE ATHLETIC DEPARTMENT, its employees, and its agents shall have free access at all times to all space occupied by the USER. Design of the staging is to be approved by the NC STATE ATHLETIC DEPARTMENT.

2.9 Any property left in the FACILITY shall, after a period of ten days from the last day of use hereunder, be deemed abandoned and shall become property of NC STATE to be disposed of or utilized at NC STATE's sole discretion.

2.10 The USER shall be responsible for all damage to buildings, grounds, fields, and equipment incident to the USER's use of said FACILITY. USER shall make no temporary or permanent modifications to the FACILITY without the prior written consent of NC STATE.

2.11 NC STATE may terminate this agreement at any time in its discretion. If NC STATE terminates because USER has violated the terms of this agreement, or because participants or attendees have violated laws or NC STATE policies, the USER is obligated to make full payment of all fees under this agreement. Otherwise, termination by NC STATE shall result in a pro rata refund of the applicable fee, based on the portion of the use period that was actually used but less any expenses incurred by NC STATE.

2.12 If the FACILITY is rendered unsuitable for the conduct of the EVENT by reason of Force Majeure, NC STATE and the USER are released from their obligations as they pertain to the EVENT. Force Majeure shall mean fire, earthquake, hurricane, flood, act of God, strikes, work stoppages, or other labor disturbances, riots or civil commotions, war or other act of any foreign nation, power of government, or governmental agency or authority, or any other cause like or unlike any cause mentioned which is beyond the control of NC STATE.

2.13 This Agreement is personal, and the USER shall not assign this Agreement nor sublet the FACILITY without the prior written consent of NC STATE.

2.14 The USER shall indemnify and save harmless NC STATE, its officers, its agents, and its employees from all loss, cost, and expense arising out of any liability or claim of liability for injury or damages to persons or property sustained or claimed to have been sustained by any one whomsoever, by reason of the use or occupancy of the FACILITY, whether such use is authorized or not, or by any act or omission of USER or any of its officers, agents, employees, guests, patrons, or invitees. USER shall pay for any and all damage to the property of NC STATE, or loss or theft of such property, done or caused by such persons.

2.15 The State or NC STATE auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with North Carolina General Statute §147-64.7 and Session Law 2010-194, Section 21.

2.16 If NC STATE provides the USER with personal identifiers as listed in N.C.G.S. §132-1.10 and in N.C.G.S. §14-113.20(b) or any other legally confidential information, USER hereby certifies that collection of this information from NC STATE is necessary for the performance of USER's duties and responsibilities on behalf of NC STATE under this Contract. USER further certifies that it shall maintain the confidential and exempt status of any social security number information, as required by N.C.G.S. §132-1.10(c)(1), and that it shall not re-disclose personally identifiable information as directed by State and Federal laws. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with USER for a period of at least five (5) years from date of violation. If USER experiences a security breach, as defined in N.C.G.S. §75.61(14), relating to this information, in addition to the USER's responsibilities under the NC Identity Theft Protection Act, USER shall immediately notify NC STATE with the information listed in N.C.G.S. §75-65(d)(1-4) and shall fully cooperate with NC STATE. USER shall indemnify NC STATE for any breach of confidentiality or failure of its responsibilities to protect confidential information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of NC STATE data provided to USER pursuant to the Contract.

2.17 If NC STATE provides the USER with "personally identifiable information" from a student's education record as defined by the Family Educational Rights and Privacy Act ("FERPA") and its implementing regulation 34 CFR §99.3, USER hereby certifies that collection of this information from NC STATE is necessary for the performance of USER's duties and responsibilities on behalf of NC STATE under this Contract. In this instance, NC STATE considers USER a school official with a legitimate educational interest under FERPA. USER

further certifies that it shall maintain the confidential status of education records in their custody, and that it shall not re-disclose personally identifiable information as directed by FERPA. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with USER for a period of at least five (5) years from date of violation. If USER experiences a security breach relating to this information or if USER re-discloses the information, USER shall immediately notify NC STATE. USER shall indemnify NC STATE for any breach of confidentiality or failure of its responsibilities to protect the personally identifiable information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of NC STATE data provided to USER pursuant to the Contract.

2.18 If NC STATE provides any data to USER pursuant to this Agreement then USER shall preserve and maintain the data for a period of three (3) years or as indicated in a litigation hold letter issued by NC STATE, to fulfill NC STATE's obligations under the North Carolina Public Records Act and under the Federal and North Carolina Rules of Civil Procedure. USER shall immediately preserve and maintain data (and any generated email correspondence) upon NC STATE's request or upon notice of litigation or audit and further USER shall make available all data that NC STATE may specify within the time limits required.

North Carolina State University
c/o Athletics Department

User

Name: _____
Assistant Facilities and Game Operations
Coordinator
Date: _____
Campus Box 8502
Phone: 513-1362
Fax: 513-2935

Name: _____
Title: _____
Date: _____

Contact's Name: _____
Campus Address: _____
Campus Phone Number: _____
Campus Fax Number: _____