

This contract expires 10 days from the date of receipt by USER if not executed.

**North Carolina State University Centennial Campus  
Facility Use Agreement for Non-University Users**

This Use Agreement is made and entered into as of the date of the last signature below, by and between North Carolina State University, c/o Centennial Campus Development Office (“UNIVERSITY”) and \_\_\_\_\_, (“USER”), whose principal place of business is \_\_\_\_\_, telephone: \_\_\_\_\_, and fax number: \_\_\_\_\_.

Whereas UNIVERSITY owns and operates, or lawfully controls, the outdoor area or facility (“FACILITY”) described below, and USER desires to use said FACILITY. UNIVERSITY agrees to make said FACILITY and no other available to USER at the date(s) and time(s) and for the purposes referenced below and no other.

FACILITY: \_\_\_\_\_

Date(s): \_\_\_\_\_

Time(s): \_\_\_\_\_

Purpose 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 USE FEE - For use of the FACILITY, the USER agrees to pay the UNIVERSITY the sum of: \$ \_\_\_\_\_ .00 USER acknowledges that no electricity, lights, heat or water are provided by the UNIVERSITY, and USER will need to make separate arrangements for those services if needed for the EVENT.
- 1.2 OPERATING EXPENSES – In addition to the USE FEE described above, the USER will be responsible for paying all OPERATING EXPENSES, if any, of the EVENT. OPERATING EXPENSES include, but are not limited to, the following: other fees, door guards, trash and recycling containers, cleanup, police, EMT services, parking, parking control, and special stage security. UNIVERSITY may allow USER to provide some

services provided USER gets prior written permission to provide the services. If USER does not provide workers, UNIVERSITY will provide workers and their wages shall be set in accordance with State and UNIVERSITY hiring and wage guidelines. A schedule of estimated expenses is as follows:

Campus Police/Traffic Control	\$ _____
Parking Services	\$ _____
Cleanup	\$ _____
Dumpsters/Trash Removal	\$ _____
First Aid/EMT Services	\$ _____
Other (specify)	\$ _____
<b>TOTAL ESTIMATED OPERATING EXPENSES:</b>	<b>\$ _____</b>

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

- 1.3 RESERVATION DEPOSIT - An advance deposit of 50% of the USE FEE and of the TOTAL ESTIMATED OPERATING EXPENSES, is required for the reservation of the FACILITY and shall be submitted with and become a part of this Agreement. The RESERVATION DEPOSIT is equal to the amount of \$ \_\_\_\_\_.00 and is **non-refundable** except in accordance with section 3.6.
- 1.4 DUE - All amounts due under this Agreement, other than the DEPOSIT, are due and payable at the immediate conclusion of the EVENT, and in no event later than two (2) weeks after the EVENT.
- 1.5 TAXES - The UNIVERSITY shall not be responsible for the payment of any taxes arising out of or connected with the use of the FACILITY by the USER. The USER shall be responsible and be required to pay upon demand to the UNIVERSITY an amount sufficient to discharge all taxes that may arise from or in connection with the USER's use of the FACILITY.
- 1.6 SECURITY OF PAYMENT - All Use Fees, expenses, charges and other sums to be paid by the USER, whether due or not due, shall be and constitute a first lien on all of the USER's property that is in or upon the FACILITY at the time of any default under this agreement by the USER, the USER hereby mortgages or pledges said property for the purpose of securing the payment of all rents, charges and other sums herein provided to be paid. In the event of such default the UNIVERSITY may take possession of any and all of said property, including box office receipts and hold the same until such default has been remedied, and if not remedied or satisfied within ten days of such default, the

UNIVERSITY may advertise said property for sale and upon such sale shall apply the proceeds there from to the satisfaction of any amounts due the UNIVERSITY. If there are sums remaining after the satisfaction of any amounts due the UNIVERSITY, the said sums will be paid to USER. This remedy is not exclusive and the UNIVERSITY may, at its discretion, pursue any appropriate remedy to recover all or any deficits remaining of the above mentioned rents, charges, and other sums.

- 1.7 SECURITY - 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 AND CONDITIONS**

- 2.1 INGRESS/EGRESS - All portions of the sidewalks, entries, doors, passages, vestibules, halls, corridors, stairways, passageways, roads, 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. Note that the campus buildings, greenways, and public areas must remain open and accessible at ALL times to tenants, homeowners, facilities and utilities employees, and other campus users. Parking by USER and participants shall be permitted in legal marked parking spaces only.
- 2.2 CONCESSIONS AND MERCHANDISE - All rights to sell concessions at the EVENT are reserved by the UNIVERSITY, 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. If allowed, USER is responsible to obtain any all permits necessary per local, state and federal laws and/or University policies (including, but not limited to a hot work permit from the NCSU Fire Marshal for any open flames or cooking). The sale and distribution of alcohol to the general public is strictly prohibited. All rights to sell merchandise at the EVENT are reserved by the UNIVERSITY, 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.
- 2.3 DELIVERY AND SET-UP - The USER agrees to have a person present for load in and load out. The UNIVERSITY will not sign for any items shipped for the USER nor take any responsibility for them unless prior arrangements have been agreed upon. Set up is to be completed outside of normal business hours (Monday-Friday 8am-5pm) to limit the disruption to campus unless expressly agreed to in this or additional written agreements.

- 2.4 SAFETY COMPLIANCE - The USER agrees to use and occupy the FACILITY in accordance with all UNIVERSITY policies, regulations, rules, and practices and with all applicable municipal, state, and federal laws, including but not limited to fire codes, alcohol regulations and policies, fundraising policies, brick and turf regulations, Wake County Health Department food safety regulations and permitting requirements. The UNIVERSITY assumes no responsibility whatsoever, for any property placed in said FACILITY by USER, its employees, its agents, its guests, its patrons, and its invitees, and the UNIVERSITY is hereby expressly released and discharged from any and all liabilities for any loss, injury or damages to person or property that may be sustained by reason of the use of said FACILITY under this Agreement.
- 2.5 PARTICIPANTS AND ATTENDEES – The USER is responsible for providing all necessary and appropriate safety instruction to all participants and attendees at USER’s activity. USER shall provide properly trained, and where appropriate, certified, staff/volunteers for the Event. 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 SECURITY - All watchmen or other protective service desired by the USER must be arranged for by special agreement with the UNIVERSITY and the USER is responsible for all such costs.

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.

- 2.7 MANAGEMENT RIGHTS - It is understood and agreed that the UNIVERSITY 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 UNIVERSITY, 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 UNIVERSITY.
- 2.8 TRASH/LITTER REMOVAL – USER shall use appropriate care on campus to store, label and remove trash and recycling materials (which includes, but is not limited to cups, bottles, napkins, papers, boxes and signage.) UNIVERSITY may provide garbage and recycling cans, with USER responsible for collecting and gathering items, and then sorting them into the proper cans. USER will reimburse the UNIVERSITY the costs for removal and staff time (with an estimate provided in OPERATING EXPENSES, Section 1.2).

- 2.9 AQUATIC EVENTS: UNIVERSITY does not warrant the biological quality, fitness or safety of the waters within Lake Raleigh. It shall be the responsibility of the USER (and their chosen vendor expert) to test such water and it is the responsibility and duty of USER group to determine whether to proceed with aquatic event within Lake Raleigh.
- 2.10 ABANDONED PROPERTY - 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 the UNIVERSITY to be disposed of or utilized at UNIVERSITY's sole discretion. Costs for disposal shall be charged to USER and/or paid out of Damage Deposit (defined below) or billed to USER after event if no Damage Deposit is collected.
- 2.11 REPAIRS - 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 the UNIVERSITY. USER shall not operate trucks, forklifts and other non-passenger vehicles outside of areas designated by the UNIVERSITY. A Damage Deposit, in an amount equal to the Reservation Deposit, shall be paid at the same time the Reservation Deposit is paid and shall be withheld until such time as the costs of repairs, if any, have been determined. The amount will be refunded, less any reasonable expenses, within ten business days. USER shall be responsible for any damages that exceed the Damage Deposit. USER shall pay the cost for any additional damages within ten days of receipt of an invoice for the additional damages from the University.
- 2.12 CANCELLATION OR POSTPONEMENT OF CONTRACT - USER agrees that cancellation or postponement of the EVENT, unless permitted by the UNIVERSITY in writing, may be considered by the UNIVERSITY as breach of the Agreement and all deposits, costs, advances, use fees, and charges shall be due upon demand by the UNIVERSITY from the USER.
- 2.13 SEVERE WEATHER PLANS – USER is strongly encouraged to prepare and provide a severe weather plan if EVENT is to occur rain or shine. Considerations for safe areas and notification of participants/volunteers/staff should be included for common weather occurrences such as thunder storms with lightning strikes nearby, tornadoes and others.
- 2.14 EVENT SET UP – The set-up and location of all tents, vendors, tables, carts, signage, cables, cords, platforms, stages, temporary fencing and other equipment and property for the EVENT is subject to UNIVERSITY's prior written approval. USER must submit to UNIVERSITY its written request for set-up approval at least two (2) weeks prior to the EVENT. Such request shall include drawings of all signage and the proposed location of all equipment (“Set-up Map”). If (i) USER does not deliver its proposed Set-Up Map, (ii) Set-Up Map does not meet with UNIVERSITY's approval, (iii) any equipment does not comply with the approved Set-Up Map or (iv) UNIVERSITY policies, rules and regulations are not being adhered to, UNIVERSITY shall, at its option, have the right to immediately terminate this Agreement and/or require the removal of, or remove any

equipment that does not comply with the approved Set-Up Map, and collect the cost for removal in the manner set forth in this Use Agreement.

- 2.15 **TERMINATION** - The UNIVERSITY may terminate this agreement at any time in its discretion. If the UNIVERSITY terminates because USER has violated the terms of this agreement, or because participants or attendees have violated laws or UNIVERSITY policies, the USER is obligated to make full payment of all fees under this agreement. Otherwise, termination by the UNIVERSITY 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 the UNIVERSITY.

### **ARTICLE 3: INDEMNIFICATION, HOLD HARMLESS, AND INSURANCE**

- 3.1 **INDEMNIFICATION** - The USER shall indemnify and save harmless the UNIVERSITY, 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 the UNIVERSITY, or loss or theft of such property, done or caused by such persons.
- 3.2 **HOLD HARMLESS** - The USER expressly waives any and all claims for compensation for any and all losses or damage sustained by reason of any defect, deficiency, failure or impairment of the water supply system, drainage system or electrical system leading to or on the demise of the FACILITY. In the event the FACILITY or any part thereof is damaged by fire or if for any other reason, including strikes, failures of utilities, or any act of God, which, in the judgment of the UNIVERSITY renders the fulfillment of this Agreement by the UNIVERSITY impossible, the USER hereby expressly releases, discharges, and will save harmless the UNIVERSITY, its officers, its agents, and its employees from any and all demands, claims, actions and causes of actions arising out of any of the causes aforesaid.
- 3.3 **COPYRIGHT FEES, ROYALTIES AND OTHER LICENSES** - If any material, composition or name to be used or performed under this AGREEMENT is copyrighted, the USER shall be 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 licensees in connection therewith. Furthermore, the USER shall indemnify and save the UNIVERSITY harmless from any and all claims, expenses or suits for copyright infringements that may arise from the performance of this Agreement.
- 3.4 **DOCUMENT LIABILITY** - The USER certifies and attests that it has a valid, properly executed, and compatible contract with any performers whose services form the basis for its desire to use the FACILITY. Upon request of the UNIVERSITY, USER shall submit a copy of the performers' contract within 5 business days after the request.

- 3.5 INSURANCE - USER further agrees to purchase at its own expense a comprehensive general liability insurance policy, including coverage for public liability, bodily injury and property damage, written by a company licensed to do business in the State of North Carolina and acceptable to the UNIVERSITY, covering premises, operations hereunder, products liability, and productions therein with combined single coverage limits of no less than **\$1,000,000.00 per occurrence**. The UNIVERSITY and the State of North Carolina shall be named as additional insureds in any insurance policy required hereunder. The USER agrees that the insurance purchased hereunder shall be primary coverage and will contain no terms allowing the insurer to be subrogated to the rights of any injured or damaged person or entity.
- 3.6 PROOF OF INSURANCE - A certificate evidencing the insurance as required under this Agreement shall be delivered to the UNIVERSITY no later than **four (4) weeks** prior to the start of the EVENT. Each such certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed, or modified without giving ten days written notice to the UNIVERSITY. USER shall name the State of North Carolina and the UNIVERSITY as additional insureds on the policy. Providing and maintaining insurance coverage are a material term of this contract.
- 3.6 FORCE MAJEURE - If the FACILITY is rendered unsuitable for the conduct of the EVENT by reason of Force Majeure, the UNIVERSITY and the USER are released from their obligations as they pertain to the EVENT. The UNIVERSITY shall not be responsible for any damages sustained by USER but USER shall be entitled to a refund of the DEPOSIT. 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 the UNIVERSITY.

#### **ARTICLE 4 - MISCELLANEOUS**

- 4.1 RESERVATION - All matters not authorized expressly by the terms of this contract shall be reserved to the discretion of the UNIVERSITY. The USER shall be subject to the terms and conditions of the Policies, Rules and Regulations of the UNIVERSITY, which can be found online at [www.policies.ncsu.edu](http://www.policies.ncsu.edu).
- 4.2 PERSONAL - This Agreement is personal, and the USER shall not assign this Agreement nor sublet the FACILITY without the prior written consent of the UNIVERSITY.
- 4.3 SUCCESSORS AND ASSIGNS - This Agreement and all and each of its terms and conditions shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

- 4.4 RELATIONSHIP OF THE PARTIES - It is agreed that the USER, its promoter, its members, its agents, and its employees are independent contractors and have no employment relationship, no joint venture nor partnership with the UNIVERSITY with respect to the subject matter of this Agreement.
- 4.5 WHOLE AGREEMENT – This writing contains the whole and complete agreement between the UNIVERSITY and USER.
- 4.6 SEVERABILITY - The terms of this Agreement are severable such that if one or more provisions are declared illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.
- 4.7 GOVERNING LAW - This Agreement shall be governed by and construed under the laws of the State of North Carolina, which shall also be the forum for any lawsuit arising from or incident to this Agreement.

**IN WITNESS WHEREOF**, the parties have duly executed this instrument as of the date of the last signature below.

NORTH CAROLINA STATE UNIVERSITY                      USER  
 c/o Centennial Development Office

\_\_\_\_\_  
 Project Coordinator

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

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

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

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

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

\_\_\_\_\_  
 Michael A. Harwood, Associate Vice Chancellor  
 Centennial Campus Development

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