**HERITAGE CENTER OF BROOKLYN CENTER**

**6155 Earle Brown Drive ** **Brooklyn Center, Minnesota 55430 (612) 569-6300 ** **(800) 524-0239**

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# FACILITY USE AGREEMENT WITH UNIVERSITY OF MINNESOTA

**Agreement No**. **«ContractNumber»**

This Facility Use Agreement dated **«ContractDate»**, is by and between the Economic Development Authority of Brooklyn Center (hereinafter referred to as “Manager”) to conduct a function at the Heritage Center of Brooklyn Center (hereinafter referred to as “Center”), and **Regents of the University of Minnesota through its <<College/Department>>** a Minnesota Constitutional Corporation of the State of Minnesota (hereinafter referred to as “Occupant”).

WITNESSETH:

# FACILITIES AND PURPOSE

Manager hereby grants permission to use the following areas of the Center (hereinafter referred to as “Rental Premises”): **«Rooms»** for the purpose of presenting an event to be called **«EventType»** and for no other purpose. The Manager has the option to substitute other reasonable rooms as required for scheduling reasons.

# RENTAL PERIOD

Occupant is to use those areas noted, together with standard furnishings, equipment and services. Said use shall be permitted on the following dates, during the hours specified below, which are identified herein as the “Rental Period”. Occupant and all of Occupant’s invitees and equipment must leave the Center by the end of the rental Period noted below. Occupant will be responsible for any damages, costs, or loss of revenue resulting from failure to leave the Center by such time, plus facility use charges of $250 per hour. Occupant will also be responsible for additional rental payments in the event Occupant requests access to the building earlier than the time noted below.

Manager will not accept or store shipments of any materials prior to the event date. All floor plans, logistics, promotional/display materials, and decorations must be finalized and submitted to the Manager a minimum of fourteen (14) days prior to the event date. Fire regulations do not permit open flame in the Center.

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| --- | --- | --- |
| MOVE IN: | **«MoveInDate»** | **«MoveInTime»** |
| EVENT: | **«EventDate»** | **«EventTime»** |
| MOVE OUT: | **«MoveOutDate»** | **«MoveOutTime»** |

# RENTAL FEE

Occupant shall pay to the Manager for use of the Center heretofore described, a Rental Fee in the sum of **«WrittenAmount» and 00/100 ($«NumericalAmount») and, a minimum of «FBWrittenAmount» and 00/100 ($«FBNumericalAmount») in food and beverage revenue exclusive of applicable tax and service charge (24% or prevailing service rate)** computed as follows: For rental of facility as stated above including a one time room set up of facility owned tables, chairs, and house sound system. Incidentals (i.e. audio-visual equipment, microphone, utilities, staging, etc.) are additional and billed following the event.

Fees shall be payable as follows:

* 1. **$«Deposit»** non-refundable deposit at the time of execution of the Facility Use Agreement. Deposit applies to facility use fees and catering charges.
  2. Catering guarantee due 5 (Five) days prior to event. Balance of the fee due 72 hours prior to occupancy of the Center.
  3. Food and Beverage selection(s) may not be removed or changed 10 business days or less prior to the event. Additional menu selections may be added on the condition that we are able to place and receive the order in the appropriate time frame. Additional fees may apply to any menu additions made 10 days or less prior to the event.
  4. Additional payment for services or equipment is due upon receipt of invoice. A finance charge of 1.5% per month, an annual rate of 18%, will be assessed on all past due accounts.

# FOOD AND BEVERAGE:

Manager maintains an exclusive catering management arrangement. All food, liquor, beer and wine must be supplied and prepared through the on-site caterer. All prices are subject to an increase of not more than 15%. Due to fluctuations in markets, University will be consulted on any increase in prices and all agreed upon prices will be guaranteed 30 days prior to your event. Neither the Occupant nor his/her guests may bring to or remove from the Center any food, beverages or service ware (Reference Section 11).

# GUARANTEES:

Occupant’s agreement to hold the function(s) set out above and in the banquet event order is a material consideration. Should Occupant cause any variance in contracted revenues for this event, Manager may elect either to renegotiate charges to the Occupant or to cancel or enforce this Agreement in accordance with Section 18 of the Agreement.

# SCHEDULING OF EVENTS

It is understood that areas of the Center other than the facilities rented for use under this Rental Agreement may be rented for use by other persons during any of the periods covered by this Rental Agreement. If determined by the Manager that it is necessary to prohibit use of the remainder of the facility by any other Occupant in order to provide Occupant peaceable and quiet enjoyment of its Rental Premises and/or to provide security for Occupant’s use of its Rental Premises, then Occupant shall be assessed an additional fee in an amount of twenty-five percent (25%) of the normal rate for such space.

# SUB-LICENSING AND ASSIGNMENT

This Rental Agreement shall not be assigned, transferred or otherwise encumbered without express written approval of the Manager. Occupant may rent portions of the Center to exhibitors provided, however, that Occupant shall remain responsible for compliance with this Rental Agreement and that all such sub-licensees are made subject to the terms and conditions of this Rental Agreement.

# LOSS OR DAMAGE TO PROPERTY

Neither the Manager nor the City shall be responsible for any loss or damage to property of the Occupant or any invitees, exhibitors, suppliers, or vendors, brought in or about the Rental Premises nor for any loss or damage to shipping containers in the spaces provided by the Manager whether or not on the Rental Premises.

# INDEMNIFICATION

Occupant shall indemnify, defend and hold harmless the Economic Development Authority (EDA) of Brooklyn Center, its Manager, its officers, agents and employees from any and all claims which may be made against the EDA by any person for personal injury of property damage resulting from any act, incident or accident occurring in, upon or about the premises of the Heritage Center of Brooklyn Center, as a result of the acts, errors or omissions of the Occupant, its agents or employees or arising in connection with operations, use or occupancy of the premises by the Occupant, unless such claims arise from the acts, errors or omissions of the Center, the City or their directors, employees, agents or representatives. Nothing herein shall be deemed a waiver of limitations or liability provided by law, including Minnesota Statutes, Chapter 466 (for the Center) or Minnesota Statutes, Section 3.736 (for the University).

# INSURANCE

The Occupant agrees to obtain and maintain, at its own cost and expense, commercial general liability insurance with a minimum limit of liability of

$1,000,000 each person/$3,000,000 each occurrence, combined single limit (CSL) bodily injury and property damage liability insurance; the Occupant also agrees to obtain and maintain automobile liability insurance with a minimum limit of liability of $300,000 each person/$1,000,000 each occurrence. The Occupant shall provide the Center with a certificate evidencing the foregoing coverage prior to the use of the Center by Occupant.

Occupant (Regents of the University of Minnesota) is an approved self-insurer by the State of Minnesota for Worker’s Compensation coverage.

# MANAGER SHALL FURNISH

Manager will provide the basic facility for Occupant’s use which shall include normal custodial service and utilities as further described in this Section.

* 1. Utilities; during the operating hours of the Rental Period, the Manager shall supply the Rental Premises with the amounts of general lighting, ventilation and heating or air-conditioning as required during the Rental Period. Such utility needs shall be specified by Occupant at least thirty (30) days in advance of the commencement of the term of the Rental Agreement. Specifications shall not exceed the capacities of the equipment available.
  2. Services; the Manager reserves the exclusive right to furnish, install or provide electric, gas, water, compressed air and steam services. Such services shall be provided on written order at the then prevailing published rates for such services. Occupant or any sub-licensees may contract with persons approved by the Manager for services not available from the Manager provided, however, that such approval shall not be unreasonably withheld.
  3. Housekeeping; the Manager shall turn over the Rental Premises in a clean condition for the commencement of the Rental Period. The Manager, during the Move-In period, will remove debris that can be handled with broom and shovel but other debris will be removed by the Occupant. During the Event Period, the Manager will supply cleaning services for the aisles and during the period of this Rental Agreement shall keep clean and supply the restroom and toilet facilities. The Manager will clean aisles and vacuum exhibits during the Event Period when the Event is not open. If one or more exhibitors produce extra amount of debris requiring extra or special housekeeping services, the Occupant shall pay the published labor and equipment rates for performing such services. The Occupant will also pay for the extra services required to surrender the Rental Premises to the Manager at the termination of this Rental Agreement, in the same Condition as existed prior to the commencement of such Rental Agreement, excepting ordinary wear and tear and a reasonable amount of debris which can be swept up.

# EXTRA SERVICES

Manager will provide, at Occupant’s cost and expense, tables, chairs and such additional items of equipment as the Manager then has available, and ticket takers, ushers, stagehands, security personnel, or other personnel as may be determined necessary by the Manager. Occupant agrees to give the manager at least thirty (30) days written notice as to said personnel and equipment requirements. OCCUPANT SHALL FILE WITH THE MANAGER AT LEAST THIRTY (30) DAYS PRIOR TO THE HOLDING OF ANY EVENT INFORMATION AS MAY BE REQUIRED BY THE MANAGER.

Before any additional facilities are furnished or extra services rendered, the Occupant must furnish to the Manager a written request describing the additional facilities to be furnished or extra services to be performed by Manager. All employees shall be paid the prevailing wage as determined by the Manager. AUXILIARY AID AVAILABLE UPON REQUEST WITH NOTICE OF 72 HOURS.

# SALES ON PREMISES

* 1. The Manager specifically reserves the right to any and all concessions, including but not limited to checking, all food and refreshment privileges, candies, vending machines, souvenirs and sundries, programs, broadcast rights, records and tape recordings. Neither Occupant nor any sub-licensee shall sell, serve or dispense any food, merchandise, beverages or services on the Rental Premises without the express written approval of the Manager; provided however, that nothing herein shall prohibit Occupant or any sub-licensee from taking orders or consummating sales of services or merchandise which are the subject of the exhibit or Event for which the premises are licensed, and provided that nothing herein contained shall prohibit exhibitors from distributing free samples incident to a particular exhibit. Exhibitors distributing free samples of food must have all required food licenses.
  2. Except as provided in subsection (a) of this Section, Occupant must contract for all on-premises food and beverage functions with a Caterer duly authorized by the Manager to cater in the Center.
  3. Occupant agrees that no beer, wine, or intoxicating liquor of any kind or character shall be sold or brought onto the Rental Premises by Occupant, its agents, employees, sub-licensees or invitees. Beer, wine or intoxicating liquor shall be available only through the authorized Caterer who then has a valid liquor license covering the Rental Premises. No employee, agent, sub-licensee or invitee of Occupant may carry opened containers of beer, wine or intoxicating liquor onto the sidewalks, streets or other public ways abutting the Center.
  4. The Occupant shall contract for any decoration services necessary for its Event with a Decorator who has entered into a Decorator Services Agreement with the Manager.

# COMPLIANCE WITH RULES, REGULATIONS AND ORDINANCES

This Rental Agreement is subject to, and the Occupant, its agents and employees shall use and occupy the Rental Premises pursuant to, all reasonable rules and regulations prescribed by the Manager. Occupant shall also conform with all statutes, ordinances, rules, orders, regulations and directions

which are in force or applicable during periods specified herein, issued, adopted or enacted by the federal or state governments or any department, bureau or office thereof, including without limitations all rules, orders and directions of the Minnesota State Fire Marshall, the City Fire Department and the City Building Department, any restrictions of record on the property of the Center and any requirements or conditions of any insurance policy of the Center. All such written rules, orders, regulations, directions, restrictions, requirements or conditions shall be provided to Occupant by Center at the request of Occupant. Occupant shall obtain and pay for any and all permits required for the use of the Rental Premises.

# COPYRIGHTS

Occupant agrees, represents and warrants that nothing contained in the program, promotional materials supplied by Occupant, performance, exhibition or in any other way connected with Occupant’s activities under this Rental Agreement shall violate or infringe upon any copyright, patent, trademark, right of privacy or other statutory or common law right of any person, firm or corporation.

# ENTERTAINMENT LEGALITY

No performance, exhibition or entertainment shall be given or held in the Center which is illegal.

# USE OF LASERS OR OTHER HAZARDOUS ACTIVITIES OR MATERIALS

If Lasers are to be used, they shall be manufactured and operated under United States Food and Drug Administration Compliance Policy Guide statement #22. The Variance Number, as issued by the United States Food and Drug Administration Center for Devices, and its expiration date shall be supplied to the Manager. The use of wild animals, operating vehicles or other equipment and material or the undertaking of other activities which post a substantial risk to the health and welfare of participants or invitees shall be allowed only with express written permission of the Manager and on such terms and conditions as the Manager prescribes. Occupant agrees to provide any additional insurance which Manager may require in connection with such activities.

# TELEVISION, RADIO, CLOSED CIRCUIT BROADCASTING

No event presented in the Center shall be broadcast, televised or in any manner recorded for reproduction without the written consent of the Manager, and then only upon the express condition that all expenses pertaining thereto will be paid in advance. Occupant shall indemnify and hold harmless the Manager and its officers, employees, and agents, against any and all claims, demands, cause of action, damages, costs and liabilities arising from such broadcasting activity. Occupant agrees to furnish any additional insurance which Manager may require in connection with such broadcasting activities.

# FORCE MAJEURE

In the event that the Center or any portion thereof shall be destroyed or damaged by fire or other calamity so as to prevent the use of the Rental Premises for the purposes and during the periods specified herein, or if the Rental Premises cannot be so used because of strikes, Acts of God, national emergency or other cause beyond the control of the Parties, then this Rental Agreement shall terminate and both Parties hereby waive any claim against the other for damages by reason of such termination except that any unearned portion of the rental fee due hereunder shall abate, or, if previously paid, shall be refunded by the Manager to the Occupant. Winter weather cancellation must meet the following criteria: airport closure or freeway closure.

# DEFAULT OR CANCELLATION BY OCCUPANT

Should Occupant default in the performance of any of the terms and conditions of this Rental Agreement, or should Occupant cancel the event described in Section 2 of this Rental Agreement, Manager may at its sole option elect: (1) to cancel the Rental Agreement in which event Occupant shall be released from all liability and obligations under this Rental Agreement except for all expenses incurred by the Manager to date in connection with this Rental Agreement and except for a pro rata share of the Rental Agreement if occupancy of the Center pursuant to this Rental Agreement has begun; or

(2) to enforce all the provisions, terms and conditions of the Rental Agreement, in which event Occupant shall be liable for the full amount of the rental fee provided for herein, plus all reimbursable expenses incurred by Manager in connection with the event. Should Manager elect to enforce the provisions of this Rental Agreement pursuant to this paragraph, Manager reserves the right to execute a subsequent Rental Agreement with a third party for the same period as described in Section 2 hereof and hold Occupant liable for the full amount of the rental fee provided for herein, less the total amount of fees received under the subsequent Rental Agreement, plus all costs and expenses. The execution of a subsequent Rental Agreement pursuant to the provisions of this paragraph shall not constitute a cancellation of this Rental Agreement unless Manager so notifies Occupant in writing. Any deposit made by Occupant to Manager under this Rental Agreement shall be retained by Manager and credited to Occupant’s liabilities and obligations under this Rental Agreement. Manager reserves the right to determine whether to make ticket refunds for cause.

# CONDUCT OF PERSONS

Occupant shall be solely responsible for the orderly conduct of all persons using the Rental Premises by its invitation, either expressed or implied, during all times covered by this Rental Agreement, Manager reserves the right to eject or cause to be ejected from the Rental Premises any person or persons objectionable due to unlawful conduct. Manager shall provide at Occupant’s expense adequate security protection to maintain order on or about the Rental Premises. Manager and Occupant shall determine, on a case by case basis, the number of security officers necessary for a particular event.

# OBSTRUCTIONS

Occupant shall not do, or permit to be done, anything which may interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems or portions thereof in the Center, nor do, or permit to be done, anything which may interfere with free access and passage in the Center, or to the public areas adjacent thereto or to the street or sidewalks or skywalks adjoining.

# DEFACEMENTS

Occupant shall not injure, mar, nor in any manner deface the Rental Premises or any equipment contained therein, and shall not cause or permit anything to be done whereby the Rental Premises or equipment therein shall be in any manner injured, marred or defaced; and will not drive or permit to be driven nails, hooks, tacks, or screws into any party of said building or equipment contained therein, and will not make or allow to be made any alterations of any kind to said building or equipment contained therein, and will not affix or permit to be affixed by adhesives any signs, posters, notices or graphics of any description without written consent of the Manager. Occupant agrees that if the Rental Premises are damaged by the act, default, negligence of the Occupant, patrons, guests or any person admitted to the Rental Premises by the Occupant or Occupant’s agents, then Occupant shall pay to the Manager upon demand such sum as shall be necessary to restore said Rental Premises to their original condition, ordinary wear and tear excepted.

# RELATIONSHIP

This Rental Agreement grants to Occupant a license to use and occupy the portion of the center specified in Section 1 of the Rental Agreement solely for the purpose and periods specified in Section 1 and 2 of the Rental Agreement. Occupant’s right to use and occupy the Center shall continue only so long as Occupant strictly and promptly complies with each and all of the undertakings, provisions, covenants, agreements, stipulations, and conditions herein

contained. Notwithstanding the use of any terms herein, this Rental Agreement does not create a lessor/lessee relationship between the parties to this Rental Agreement. This Rental Agreement shall not be construed to create a joint venture, partnership, or cooperative association between the parties, and Occupant is not and shall not be deemed to be an agent, representative, independent contractor, or employee of the City, EDA or Manager.

# MISREPRESENTATION BY OCCUPANT

Any misrepresentation in obtaining this Agreement shall be grounds for immediate cancellation without any liability to Manager, Center or their officers or employees.

# PROMOTIONAL MATERIALS

Any and all printed programs, promotional materials, and decorations for the event which include the name, logo, likeness, photograph, work mark or copyright of Center or Manager shall be subject to written approval prior to production and dissemination, which approval may be granted or withheld at Center’s sole discretion.

# MISCELLANEOUS COVENANTS

Occupant is not authorized to bind Manager to any contracts or other obligations. Manager shall not be liable for any acts of Occupant or its officers, employees, agents, sub-licensees or contractors in exercising the license granted herein. Occupant is responsible for informing persons who are required to comply with any terms of this Rental Agreement of the existence and contents of the Rental Agreement.

# MANAGER’S AUTHORITY

In managing the Center and in carrying out the terms of this Rental Agreement, Manager is acting on behalf of the EDA. The EDA may at any time notify Occupant that it has designated a new Manager whereupon Occupant’s duties and obligations to the Manager under this Rental Agreement shall be to such newly designated manager.

# CIVIL RIGHTS

Occupant agrees not to illegally discriminate against any employee or any applicant for employment, and further agrees to likewise not illegally discriminate against any persons relative to admission, services or privileges offered to or enjoyed by the general public.

# SIGNATURES REQUIRED

* 1. This Rental Agreement shall have no force or effect whatsoever unless and until it has been executed by the Heritage Center of Brooklyn Center Manager on behalf of the Economic Development Authority of Brooklyn Center and by the Occupant. By the execution of this Rental Agreement, Occupant covenants and agrees that it will faithfully perform and abide by each and every term, condition, and limitation of this Rental Agreement, each of which shall be a condition subsequent to the continuance in effect of this Rental Agreement.
  2. Each person who executes this Rental Agreement on behalf of Occupant, by such signature, represents, covenants and warrants that he/she has to power and authority to execute this Rental Agreement on behalf of Occupant and that all actions have been taken by Occupant to duly authorize and approve the execution and performance of this Rental Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Rental Agreement to be executed as of the date first written above.

ECONOMIC DEVELOPMENT AUTHORITY OF BROOKLYN CENTER, MN

Regents of the University of Minnesota

By

Name For the Heritage Center of Brooklyn Center

Date:

Title

CorpUofMNRent/F&B