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**Instructions for Facilities Use Agreement – Off-Campus Facilities Only**

**Use:** This Facilities Use Agreement - Off-Campus Facilities Only is designed for short-term (from 1 day to a semester) use of an off-campus facility owned by a third party. Examples: when a campus holds class(es) at a high school, community center, conference center, or other special purpose facility located off-campus.

# System Procedure 6.7.3: Use of Non-College and University Facilities (College or University as Lessee/Tenant). [http://www.mnscu.edu/board/procedure/607p3.html](http://www.google.com/url?q=http%3A%2F%2Fwww.mnscu.edu%2Fboard%2Fprocedure%2F607p3.html&sa=D&sntz=1&usg=AFQjCNGIlfWZj7PU_3ZflWqTxBcRkoCeqg)

**Related Documents:** Checklist 6.7.3.1 Leasing and Using Off-Campus Facilities

 [**http://www.mnscu.edu/board/procedure/6-07p3g1.pdf**](http://www.mnscu.edu/board/procedure/6-07p3g1.pdf)

**Document Details:**

* **Agreement Numbering** – Use “O” (for “Off-Campus”) followed by the three digit campus ID, the last two digits of the fiscal year that the agreement starts, and sequential numbering based on the order the agreement was started.
	+ (example: O-203-1301 refers to the first facilities agreement entered into by Alexandria Technical College in FY13)
	+ With more than one agreement starting at the same time, use the largest agreement (in square footage) as the first number.
* **Approval authority –** Check signature authority. College and university presidents and the Director, Capital Development, may enter into Facilities Agreements on campus that are valued at $100,000 or less and for five (5) years or less in length (including all renewal options), using MnSCU standard forms. This form, *Facilities Use Agreement – Off-Campus Only*, is designed for short-term (1 day to a semester) use only. If a term of over one year is contemplated, consider the *MnsCU as Tenant Lease Agreement* forms, (with or without leasehold improvements), or contact Real Estate Services for assistance. The College or University shall maintain copies of all Agreements. Agreements expected to last one year or longer shall be provided to the system office after execution. Agreements lasting less than one year may be provided at the discretion of a College or University or upon request from the system office.
* **Vice Chancellor - Chief Financial Officer approval -** Required for all Agreements where the overall value is greater than $100,000 or is expected to last longer than five (5) years, including all options to renew. The Vice-Chancellor - Chief Financial Officer signs all easements and licenses, or may delegate that authority as appropriate.
* **Board of Trustees approval** is required for all Agreements where the overall value is greater than three million dollars ($3,000,000), including renewal of existing agreements.
* **Conflict of Interest** - Does an employee, their relative, or anyone affiliated with MnSCU, have a financial interest in this property? If so, disclose this information to, and seek advice from, the Office of General Counsel prior to proceeding.

**Special Notes:**

* Not a Lease. The agreement is not a lease and is not designed to create a landlord – tenant relationship, and should not be used when a lease is more appropriate.
* Questions. Users with questions about this agreement should contact the System Office Real Estate Services, 651.201.1775 or 651.201.1911

**Instructions for Completion of MnSCU approved template:**

* Instructions for completing this form are in italics and brackets. Please complete every field and delete all instructions, including the brackets.
* Any modification of forms approved by the System Office or the use of a non-system office form requires review by Real Estate Services and/or system legal counsel and approval of the Vice Chancellor – Chief Financial Officer. System legal counsel includes either the Minnesota State Colleges and Universities General Counsel or the Minnesota Attorney General's Office. Real Estate Services is located within Facilities in the System Office - Finance Division.

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**FACILITIES USE AGREEMENT**

**OFF-CAMPUS FACILITIES ONLY**

THIS FACILITIES USE AGREEMENT is between the **[*insert legal name of Owner/Licensor]*** (“Licensor”), *[insert LICENSOR legal address including city and state. This may or may not be different from location of the space]* and the State of Minnesota, by and through the Board of Trustees of the Minnesota State Colleges and Universities, on behalf of ***[insert COLLEGE / UNIVERSITY NAME and address]*** (“MnSCU”).

1. **PERMITTED USE**. Licensor agrees to allow MnSCU use of the following (hereinafter defined as the “Space”):

 **Location:** ***[Insert Full Address, including any suite or room numbers]***

 *See* ***Exhibit A*** *for sketch/map identifying location*

**Date and Time:** ***[Insert Date(s) / Time (start and end) -- include set up and take down times]***

 **Description**

 **of Activity or Event: *[Insert Description of Activity or Event – Describe in detail what will be happening during the College / University’s use]***

(Attach additional pages as necessary)

1. **FEE**. For its use of the Space, MnSCU agrees to pay to Licensor a fee of *[INSERT DOLLAR AMOUNT IN WORDS AND NUMBERS (e.g. One Hundred Twenty and 00/100 Dollars ($120.00). IF NONE, INSERT “Zero Dollars ($0.00)]*($ )which shall be payable in arrears within thirty (30) days of MnSCU’s receipt of Licensor’s invoice, in the amount of $\_\_\_\_\_\_\_\_\_\_, *[insert when payment shall be made – for example, 7 days after event, monthly, or similar]*. *Prepayment by MnSCU is prohibited by Minnesota Statute.*
2. **TERM OF AGREEMENT; CANCELLATION**. This agreement shall be effective as of ***[insert start date-month, day, year]*** or the date when the final required signature is obtained by MnSCU, and shall remain in effect until [***insert end date-month, day, year****]*. This agreement may be canceled by either party at any time, for any reason, upon 30 (thirty) days written notice to the other party. Licensor expressly understands and agrees that this agreement is not intended to and does not create a landlord-tenant relationship between the parties.
3. **AUTHORIZED REPRESENTATIVES**. [*complete each area below*]

All notices, requests, and other communications between Licensor and MnSCU that are required or that Licensor or MnSCU elect to deliver shall be deemed sufficiently given or rendered if in writing and delivered to either party personally, by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, (return receipt required) addressed as follows:

 MnSCU’s authorized agent:

 Name/Title:

 Address:

 Telephone:

 With a copy to: Minnesota State Colleges and Universities

 ATTN: Real Estate Services

 30 E. 7th Street, Suite 350

 St. Paul, MN 55101

 Licensor’s authorized agent:

 Name:

 Address:

 Telephone:

1. **MAINTENANCE OF SPACE**. MnSCU agrees to maintain the Space in a reasonably clean and sanitary condition. Licensor shall provide the following:

a. all utilities reasonably required to use the Space, including heating, cooling, and electricity;

b. parking consisting of [*describe*]

c. building security customarily provided by Licensor; MnSCU may provide additional security at its own expense;

d. janitorial services;

e. any necessary keys or access codes;

f. other: [*insert if applicable the use of freight elevators or any other needed services or “none”*]*.*

Licensor shall allow MnSCU to place temporary signs directing students and other attendees to its event.

1. **BUILDING HOURS**. The building hours are [insert details]. MnSCU may access the space during the specified hours.
2. **RULES AND REGULATIONS**. MnSCU agrees to comply with the building rules and regulations attached as **Exhibit C**during its use of the Space which are not inconsistent with this agreement, MnSCU board policies and applicable laws.
3. **LIABILITY**. Each party shall be responsible for its own acts and omissions and the results thereof to the extent authorized by law and shall not be responsible for the other party’s acts and omissions and the results thereof. The State’s and MnSCU’s liability under this Agreement is governed by the Minnesota Tort Claims Act, Minnesota Statutes §3.736 and other applicable laws.
4. **INSURANCE**. MnSCU maintains commercial general liability insurance in compliance with the Tort Claims limits set forth in Minn. Stat. §3.736, subd. 4, as amended. MnSCU shall name Licensor as an additional insured upon request. MnSCU shall maintain this coverage at its sole expense during its use of the Space. For purposes of this Agreement, Licensor shall maintain applicable insurance coverage consistent with the coverages outlined on **Exhibit B*,*** attached hereto and made a part of this Facilities Use Agreement. Licensor shall maintain coverages at its sole expense during the term of this Agreement. MnSCU and Licensor shall provide each other with certificates of insurance, upon request. Coverage afforded under these policies shall not be cancelled without at least thirty (30) days advance written notice to the certificate holder. Each party, at its sole expense, shall provide and maintain workers’ compensation insurance as such party may be required to obtain by law. MnSCU is self-insured for workers’ compensation purposes, and any such insurance extends only to employees of MnSCU, not to students.
5. **MINNESOTA DATA PRACTICES ACT**. MnSCU and Licensor agree to comply with the terms of the Minnesota Data Practices Act, Minnesota Statutes, Chapter 13, with regard to data related to this Agreement.
6. **AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE**. Licensor is responsible for complying with the Americans with Disabilities Act, 42 U.S.C. section 12101, et seq., and any regulations promulgated pursuant to the Act.
7. **AUDIT**. The books, records, documents, and accounting procedures and practices of the Licensor relevant to this contract shall be subject to examination by MnSCU and the Legislative Auditor for a minimum of six (6) years from the end of the agreement.
8. **ASSIGNMENT; AMENDMENTS**. Neither party shall assign nor transfer any rights or obligations under this agreement without the prior written consent of the other party. All amendments to this agreement shall be in writing and executed by a duly authorized representative of each party.
9. **BREACH.** In the event that Licensor breaches this Agreement, MnSCU shall have the right to immediately terminate this Agreement, as well as any other remedy available at law or equity.

15. **GOVERNING LAW; VENUE.** This Agreement, including all exhibits, amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

1. **ENTIRE AGREEMENT.** This Agreement (including all exhibits, as shown below) is intended by the parties as the final and binding expression of their agreement and as the complete and exclusive statement of its terms. This Agreement supersedes all prior negotiations, representations and agreements between the parties, whether oral or written, relating to the subject matter of this Agreement.
* Agreement
* **EXHIBIT A**, Facilities sketch/map identifying Location
* **EXHIBIT B**, General Insurance Requirements
* **EXHIBIT C**, Rules (if applicable)
* **Any Subsequent amendments, addendum properly executed by the parties.**
1. **SPECIAL PROVISIONS**. [If none, write *NONE]*:

*SIGNATURE BLOCK IS ON NEXT PAGE*

***Signature Page for Facilities Use Agreement – Off-Campus Facilities Only***

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed intending to be bound thereby.

**APPROVED:**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **1. LICENSOR: [insert legal name]**Licensor certifies that the appropriate person(s) have executed the Agreement on behalf of Licensor as required by applicable articles, bylaws, resolutions, or ordinances.

|  |
| --- |
| By (authorized signature) |
| Title  |
| Date |

 | **2. MNSCU: STATE OF MINNESOTA BY AND THROUGH THE BOARD OF TRUSTEES OF MINNESOTA STATE COLLEGES AND UNIVERSITIES, ON BEHALF OF [*Insert College/University Name]***

|  |
| --- |
| By (authorized signature) |
| Title |
| Date |

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| **3. AS TO ENCUMBRANCE:**

|  |
| --- |
| By (authorized signature) |
| Title |
| Date |

 | **4. AS TO FORM AND EXECUTION:**

|  |
| --- |
| By (authorized signature) |
| Title |
| Date |

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**EXHIBIT A**

Facilities Sketch/Map Identifying Location (including suite or room numbers)

**EXHIBIT B**

**GENERAL INSURANCE REQUIREMENTS**

1. Workers’ Compensation Insurance

A. Statutory Compensation Coverage

B. Coverage B – Employers Liability with limits of not less than:

$100,000 Bodily Injury by Disease per Employee

$500,000 Bodily Injury by Disease Aggregate

$100,000 Bodily Injury by Accident

2. General Liability Insurance

A. Minimum Limits of Liability:

$2,000,000 – Per Occurrence

$2,000,000 – Annual Aggregate

$2,000,000 – Annual Aggregate applying to Products/Completed Operations

B. Coverages:

X Premises and Operations Bodily Injury and Property Damage

X Personal & Advertising Injury

X Blanket Contractual

X Products and Completed Operations

X Other; if applicable, please list\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

X State of Minnesota or Minnesota State Colleges and Universities named as Additional Insured

Additional Insurance Conditions

• Licensor’s policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of the Licensor’s performance under this Agreement.

• Licensor agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless Licensor’s policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota

• Licensor is responsible for payment of Agreement related insurance premiums and deductibles.

• If Licensor is self-insured, a Certification of Self-Insurance must be attached.

**•** Licensor’s policy(ies) shall include legal defense fees in addition to the liability policy limits.

**•** Licensor shall obtain insurance policy(ies) from insurance company(ies) having an “AM Best” rating of A- (minus), Financial Size Category of VII or better, and authorized to do business in the State of Minnesota.

• An Umbrella or Excess Liability insurance policy may be used to supplement the Licensor’s policy limits to satisfy the full policy limits required by the Agreement.

**EXHIBIT C**

RULES AND REGULATIONS