

FACILITY USE LICENSE AGREEMENT

This Agreement is entered into between the Arizona Board of Regents for and on behalf of Northern Arizona University, hereinafter known as "University" and [Click here to enter text.](#) , hereinafter known as "Licensee".

1. FACILITY USE

- 1.1. Subject to the terms and conditions of this Agreement, and if applicable the receipt of approved insurance per section 2 of this Agreement, the University hereby grants to Licensee a license to use those portions of the facility detailed on "Exhibit A", attached hereto, made a part hereof and hereinafter known as "Facility", subject to availability as determined by the University, for the purpose of [use of/ programming on the NAU Challenge Course or Climbing Wall](#) for the dates beginning on [Click here to enter text](#) and ending on [Click here to enter text](#).
- 1.2. Based upon the schedule set forth in Section 1.1 and "Exhibit A", the estimated base cost for use of the Facility is [Click here to enter text](#) and is payable in full, less any deposit amount paid as set forth in Section 1.3, fifteen (15) business days after receipt of the invoice. Licensee agrees to pay the final billing on the end date as set forth in Section 1.1. The final bill shall be a reconciliation of the estimated charges and the actual charges as well as any additional charges that may apply as set forth in this Agreement.
- 1.3. A deposit equal to twenty-percent (25%) of the total estimated base cost(s) is due and payable upon execution of this Agreement.
- 1.4. Acceptable forms of payment include: checks made payable to "Northern Arizona University", Visa, MasterCard, or American Express. The interest rate on outstanding balances shall be eighteen percent (18%) per annum.
- 1.5. Licensee shall have access to the Facility according to the times set forth in the "Exhibit A". Unless Licensee has received prior written approval from the University, Licensee shall not have extended access to the Facility for any reason including but not limited to early arrival, setup/takedown of equipment and late departure. In the case the University approves extended access, any part of an

hour shall be charged as a full hour. Licensee and University shall meet upon Licensee's arrival to discuss how setup and takedown of the Facility and equipment will occur throughout the term of the Agreement. If agreed, Licensee shall assist as necessary with such process.

- 1.6. Requests by Licensee to extend this Agreement past the end date as outlined in Section 1.1 may be approved by the University in its sole discretion and shall require an amendment to this Agreement signed by both parties. Licensee agrees to pay any and all additional fees as determined by the University.
- 1.7. Any additional charges, including but not limited to, an extension of this Agreement, Facility or other University property damage, equipment damage, or extraordinary clean-up, in any way related to Licensee's or its employee's, agent's, or invitee's activities, acts, or omissions will be determined by the University, in its sole discretion, and included in the final billing.
- 1.8. Cancellations received from Licensee more than 30 days prior to the event will receive a full refund of their deposit. Cancellations received less than 30 days prior to the event will receive no refund of their deposit. The University, in its sole discretion, may cancel, reduce, or postpone the use of the Facility. If cancellation is, in whole or in part, a result of failure of Licensee to comply with the terms of this Agreement, Licensee will be entitled to no refund of their deposit. If cancellation is solely at the discretion, or for the convenience, of the University, the deposit will be refunded in full. This will be the sole remedy available to the Licensee for cancellation, or reduction or postponement of use, by the University.
- 1.9. Authorized University employees shall have access to the Facility at all times and have final authority in all matters regarding the use and scheduling of the Facility.
- 1.10. Licensee is responsible for proper usage of University facilities and equipment and all personal property and equipment brought in by Licensee, its employees, agents or invitees, adherence to safety rules and regulations, and compliance with University operational procedures. Licensee agrees to follow the Facility Rules and Regulations attached hereto and incorporated herein by reference.
- 1.11. Any equipment or other personal property brought into Facility by Licensee that is deemed unsafe by the University must be removed from the Facility immediately.
- 1.12. Any Licensee equipment or property remaining at the University for more than three (3) days after the termination of this Agreement will be deemed abandoned, and may be disposed of

through the University's Property Surplus department.

- 1.13. Licensee shall not allow a larger number of persons to use the Facility in excess of the capacity established for the Facility.
- 1.14. Staff areas, mechanical rooms, offices, phones, or any other area designated by the University, are off limits to Licensee unless otherwise stated in writing by the University.
- 1.15. All accidents/injuries/incidents shall be reported immediately to the Facility Manager. This requirement does not replace notification to emergency responders should the incident be life threatening. Licensee acknowledges that the University Police Department ("NAU PD") is the primary law enforcement agency for the University. All crimes occurring on campus should be reported to the NAU PD. In life threatening situations, a 911 call will result in an emergency response.
- 1.16. University activities take precedence over use under this Agreement. The University and Licensee recognize that developments may occur during the term of this Agreement which may necessitate modifications to this Agreement by the University. Notice will be provided of any modifications, cancellations, or schedule changes initiated by the University as soon as is practicable. The University will have no liability and the Licensee no recourse for such modifications, cancellations or changes beyond that set forth in Section 1.8.
- 1.17. Licensee shall not advertise any Event or the appearance of any performer at the Facility until contracts between all parties involved have been properly executed and, if applicable, a certificate of insurance is accepted by the University. All advertising and publicity pertaining to the Event must state the total price, including service charges and fees.
- 1.18. If an event requires a ticket or donation for entrance, Licensee must contact ticketing services at NAU Central Ticketing Office, 928-523-5661, at least fourteen (14) days prior to the time of the event.
- 1.19. Flagstaff is at an elevation of 7,000 feet above sea level. If Licensee will require oxygen, arrangements must be made directly between the Licensee and an appropriate vendor.
- 1.20. Licensee agrees to arrange food and beverage service through NAU Dining Services when food or beverages are to be served at any functions, events and activities held on University property, unless expressly granted a waiver by NAU Dining Services. All requests for waivers must be submitted to the facility coordinator at least ten (10) days prior to the function, event or activity.

1.21.If Licensee's group includes off-campus participants, parking passes must be obtained from parking services, 928-523-6623. www.nau.edu/parking.

2. INSURANCE REQUIREMENTS

If applicable, Licensee shall provide the University with a Certificate of Insurance. The Certificate of Insurance shall be from an insurance carrier lawfully authorized to do business in the State of Arizona, and rated at least an A-, VII (7) in the current AM BEST KEY RATING GUIDE. The Certificate shall include the following minimum insurance coverages and endorsements:

Commercial General Liability of \$1,000,000 minimum combined single limit (SCL) each occurrence and \$2,000,000 general aggregate, to include the following: bodily injury, property damage, personal injury and broad form contractual liability coverage, \$2,000,000 General Aggregate, \$1,000,000 Products/ Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury, \$1,000,000 Blanket Contractual Liability/Written and Oral, \$50,000 Fire Legal Liability, and \$1,000,000 Each Occurrence.

Commercial Automobile Liability of \$1,000,000 minimum combined single limit (SCL) each occurrence, to include either "ANY AUTO" or "SCHEDULED, HIRED, OWNED, NON-OWNED AUTOS".

Workers' Compensation coverage for all employees which meets Arizona statutory benefits; including Employers Liability with minimum limits of \$500,000 each accident, \$500,000 each employee/disease, \$1,000,000 policy limit/disease.

Certificate Holder: The State of Arizona, Arizona Board of Regents, and Northern Arizona University shall be named as the certificate holder.

Additional Insured: The certificate shall name the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees as Additional Insureds. The Additional Insured applies to Commercial General Liability and Automobile Liability.

Primary Coverage: The following statement shall be included - "The coverage afforded under this certificate shall be primary and any insurance carried by Northern Arizona University, The Arizona Board of Regents, or the State of Arizona shall be excess and not contributory insurance to that

provided by the named insured."

Waiver of Subrogation: Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from performance under this Agreement by or on behalf of the Licensee. The waiver of subrogation applies to Commercial General Liability, Auto Liability, and Workers' Compensation.

The Licensee shall either: 1) request and secure an endorsement to the policy to provide notice of cancellation to the Additional Insured or Certificate Holder; or 2) Licensee must notify Northern Arizona University in writing in the event of a policy cancellation, with thirty (30) days notice.

Each insurance policy required by this Agreement must be in effect at or prior to arrival and remain in effect for the duration of the event. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of this Agreement.

All certificates required by this Agreement shall be sent directly to Northern Arizona University. Event description shall be noted on the certificate of insurance. The University reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time. Do not send certificates of insurance to the state of Arizona's Risk Management section.

3. INDEMNIFICATION CLAUSE

3.1 If Licensee is not an agency of the State of Arizona or an Arizona Public Entity, Licensee shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and their officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Licensee or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Licensee to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Licensee from and against any and all claims. It is agreed that Licensee will be responsible for primary loss

investigation, defense and judgment costs where this indemnification is applicable. The Licensee agrees to waive all rights of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and their officers, officials, agents and employees for losses arising from Licensee's performance under this Agreement.

3.2 If Licensee is an Arizona Public Entity, Licensee and Licensor ("Each party as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officer, officials, agents, employees, or volunteers."

3.3 If the Licensee is an agency of the State of Arizona, this section 3 does not apply under this Agreement.

4. GENERAL TERMS AND CONDITIONS

4.1. Licensee shall comply with all applicable Federal, State and Local laws, regulations, rules, and ordinances and with all University policies, regulations, rules, and directives. All general and specific Facility guidelines will be followed by Licensee. Any violation shall, at the University's sole discretion, result in cancellation of this Agreement and immediate removal of Licensee, its employees, agents or invitees.

4.2. The University's name shall not be used to suggest co-sponsorship or endorsement of any event or activity, unless prior written University approval has been received from the University president or designee.

4.3. Licensee shall not make audio or video recordings or televise or broadcast any event or any portion thereof without prior written University approval.

4.4. No donations or collections, whether for charity or otherwise, shall be made, attempted or announced on University property without prior written approval of the University.

4.5. The Facility shall be under control of the University at all times. The University reserves the right to impose additional rules and regulations, or to set special use arrangements whether or not expressly provided herein, which shall be binding upon the Licensee.

- 4.6. In the event that Licensee shall fail to perform its obligations or violates any term of this Agreement, the Agreement may be terminated at the sole option of the University. Licensee shall then vacate the facility and shall have no right to further operate therein and shall forfeit all rights under this Agreement to any monies due or paid in the form of estimated base fees, deposits, charges, and all other sums and shall immediately pay any amounts due to the University.
- 4.7. This Agreement may be cancelled without any further obligation on the part of the Arizona Board of Regents and Northern Arizona University in the event that sufficient appropriated funding is unavailable to assure full performance of its terms. Licensee shall be notified in writing of such non-appropriations at the earliest opportunity.
- 4.8. The University may by written notice, stating the extent and effective date terminate this Agreement for convenience in whole or in part, at any time. In such event, Licensee will be entitled to only the remedy set forth in Section 1.8
- 4.9. The University may resort to any and all legal remedies or combinations of remedies which it may desire to assert and to which it may be entitled.
- 4.10. The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.
- 4.11. This Agreement may be cancelled for conflict of interest in accordance with A.R.S.38-511.
- 4.12. Pursuant to A.R.S. §§35-391.06(A) and 35-393.06(B), Licensee certifies that it does not have a “scrutinized business operation” in either Sudan or Iran, as that term is defined in ARS §§ 35-391(15) and 35-393(12), respectively.
- 4.13. This Agreement can only be amended or rescinded as provided herein by a writing signed by the parties or their duly authorized agents.
- 4.14. This Agreement, together with “Exhibit A” and the Facility Rules and Regulations, constitute the entire agreement between the parties. No prior written or oral commitments shall be binding on either party.
- 4.15. This Agreement shall be construed in accordance with the laws of the State of Arizona.

4.16. The University shall not be held responsible for any losses resulting if the fulfillment of any terms or provisions of the contract are delayed or prevented by any cause not within the control of the University and by the exercise of reasonable diligence the University is unable to prevent.

Licensee

The Arizona Board of Regents
For and on behalf of
Northern Arizona University

Attn:
E-mail:
Phone:
Fax:

By _____

By _____

Its _____

Its _____

Date _____

Date _____