

FACILITY USE AGREEMENT

This Facility Use Agreement (hereinafter "Agreement") is effective as of _____, 2021 (the "Effective Date") and is made by and between Cornell University, c/o Real Estate Department, Box DH, Ithaca, New York 14853 (hereinafter "University") and ORGANIZATION, a non-profit organization with an official business address at:

_____ .

WHEREAS the University and ORGANIZATION work together to further the mission of the University's Office of Spirituality and Meaning-Making; and

WHEREAS, in order to facilitate such collaborative work, the University is willing to provide ORGANIZATION with programming and/or office space in Anabel Taylor Hall (the "Building") on the University's Ithaca campus, upon the terms and conditions listed below.

Now, therefore, the parties agree as follows:

- 1) ORGANIZATION is granted a license to use rooms XXX in Anabel Taylor Hall, together with meeting rooms, program space and other common areas within the Building (the "Premises"). Use of meeting rooms and program space shall be in common with other University users on a scheduled basis.. The Premises will be used exclusively for student spiritual advising and programming purposes and meetings related to the non-profit mission of ORGANIZATION, *except that* rooms XXX may also be used for ORGANIZATIONS's local office administration (the "Permitted Use"). No use of the Premises other than the Permitted Use is allowed without the prior written consent of the University, in each instance. University reserves the right to relocate ORGANIZATION to alternative space in the Building upon written notice to meet facility and/or programmatic needs as determined by University in its sole discretion.
- 2) The Term of this Agreement shall be (x months/years), commencing on the Effective Date and ending on _____, unless sooner terminated as provided in Section 7.
- 3) ORGANIZATION shall pay License Fee of \$_____, reflecting the Premises' pro-rata share of Building maintenance and utility costs.
- 4) The Premises are currently exempt from real property tax. In the event and to the extent that ORGANIZATION's activities, operations, equipment or uses cause the Premises or the Building to become taxable, ORGANIZATION shall pay such increase in taxes as are attributable to ORGANIZATION's activities, operations, equipment or use.
- 5) ORGANIZATION accepts the Premises in their "as is" condition. University shall not be required to perform any work or furnish any materials in connection with the Premises.
- 6) Parking is not provided.
- 7) Either party may revoke this Agreement at will on six (6) months' prior written notification to the other, for any reason or no reason. In addition, Cornell reserves the right to terminate this Agreement upon written notice if:
 - a. ORGANIZATION breaches a material term of this Agreement and fails to cure the same upon thirty (30) days written notice; or
 - b. Cornell revokes or declines to extend affiliate status for the individual serving as the campus minister representing ORGANIZATION.

- 8) Upon the expiration or sooner termination of this Agreement, ORGANIZATION will remove from the Premises and leave it in as good a condition as at the commencement of the Term, ordinary wear and tear alone excepted. Any real or personal property placed upon the Premises by ORGANIZATION and not removed within twenty-four (24) hours of the expiration or termination of this Agreement shall immediately thereupon become the property of the University.
- 9) University shall provide utilities, internet and routine custodial services to the Premises, at no additional charge to ORGANIZATION. The University shall not be liable for any disruption of services to the Premises.
- 10) University shall, at its own expense, maintain the structural elements of the Premises and the Building and building-wide mechanical systems (including the roof, HVAC, electrical systems, plumbing, overhead lighting, and sprinkler systems) in good condition and repair, provided however that if such repairs or maintenance are necessitated by ORGANIZATION's use or operation within the Premises, ORGANIZATION shall reimburse University the cost for the same. ORGANIZATION will immediately report any damage or items in need of repair to University. ORGANIZATION will reasonably cooperate with the University's maintenance/repair work. The University will coordinate repairs affecting the Premises with ORGANIZATION and will make reasonable efforts to avoid interruptions to ORGANIZATION's activities. University hereby reserves the right at any time to make changes, alterations or additions to the Premises and to the Building. University will provide reasonable prior notice of any such work needing to be performed in Rooms XXX.
- 11) ORGANIZATION may not renovate, install or remove fixtures or make other changes, alterations or additions to the Premises or the Building; any such work desired by ORGANIZATION, if approved by University, shall be conducted by University at ORGANIZATION's expense. Any renovations or installed fixtures, except trade fixtures that can be removed without damage to the Premises, shall be and become the property of the University at the end of the Agreement term or any extension thereof. ORGANIZATION shall be responsible for the cost of repairing any damage to the Premises upon removal of trade fixtures.
- 12) ORGANIZATION will be granted access to the building during posted business hours, available at: <https://scl.cornell.edu/osmm>. University reserves the right to alter posted business hours at any time. ORGANIZATION agrees that use of the building keys and security systems will be limited to ORGANIZATION's staff who have been granted CURW affiliate status, unless prior authorization is granted in each instance by the University.
- 13) Rooms XXX shall be securable by locks that shall be keyed to the University's master key system at all times. University shall have access to Rooms XXX at all times for inspection or repairs or in the event of an emergency. ORGANIZATION shall install no other locks, bolts, or other devices in or about Rooms XXX or the Premises that would prevent University's access by master key.
- 14) The University undertakes to provide no security precautions, measures, security personnel, security equipment, devices or structures of any kind for ORGANIZATION's benefit, and shall not be responsible for any breach in Building security, nor for any trespass, theft, vandalism, loss or damage whatsoever that may occur in the Premises or the Building. The University makes no representation or warranty as to the security of the Premises or the Building. ORGANIZATION acknowledges and agrees that its use of the Premises and Building is at its own risk.

- 15) ORGANIZATION shall comply with all applicable University policies, and all applicable federal, state and local laws and regulations, and shall procure and maintain in force during the Term any permits, authorizations, and licenses necessary for its Permitted Use, including but not limited to the COVID Addendum attached as Exhibit A. The University reserves the right at any time during the term hereof to enact such additional written rules, regulations, or policies for the safety and security of the Building or convenience of the Building occupants as it deems necessary or desirable, and upon written notice, ORGANIZATION agrees to comply with such additional rules, regulations, and policies.
- 16) Prior to taking occupancy of the Premises, ORGANIZATION shall provide a certificate of insurance evidencing the following insurance:
- a. **Statutory Worker's Compensation Insurance** under the laws of the State of New York and any other laws that may be applicable thereto. Coverage "B" Employer's Liability must have limits of at least \$1,000,000 per accident for bodily injury and disease.
 - b. **Commercial General Liability Insurance** written on an occurrence basis, including coverage for bodily injury, property damage, premises liability, personal and advertising injury, contractual liability, and products and completed operations, with limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate or the policy limits, whichever is greater. The policy shall provide coverage for any incidents related or connected to or arising out of Sexual Molestation, sexual or physical assault, or abuse, required and shall NOT include an employee exclusion. The corresponding certificate of insurance must indicate as such.
 - c. **Commercial Automobile Liability Insurance**, including owned, non-owned and hired automobiles, with limits of \$1,000,000 per occurrence, for bodily injury and property damage including coverage for contractual liability.
 - d. **Umbrella/Excess Liability Insurance** Subject to limits of not less than \$5,000,000 per occurrence and follow-form of the primary General Liability, Automobile Liability, and Employers Liability policies. These policies shall contain an endorsement stating that any entity qualifying as an additional insured on the insurance stated in the Schedule of Underlying Insurance shall be an Additional Insured on the Umbrella/Excess liability policy and that they apply immediately upon exhaustion of the insurance stated in the Schedule of Underlying Insurance as respects to the coverage afforded to any Additional Insured.
 - e. **All Risk Property Insurance** providing replacement cost coverage for any damage to ORGANIZATION property brought onto Cornell University premises which is caused by a loss of any kind and description. The University is not responsible for any ORGANIZATION equipment or property that is lost, stolen, or damaged.
 - f. **Professional Liability/Errors & Omission** subject to \$1,000,000 per claim/\$3,000,000 aggregate covering the activities of the ORGANIZATION's representatives. The coverage must be maintained during the term of the agreement and at least three (3) years following its completion.
 - g. All liability policies shall be issued on an "occurrence" basis and shall be primary and non-contributory before any other insurance and self-insurance including deductible, maintained by or provided to the additional insured. The coverage required herein shall not in any way limit the liability of ORGANIZATION, its officers, directors, employees or agents.

- h. Cornell, its trustees, officers, directors, agents, representatives and employees will be added to ORGANIZATION's Commercial General Liability Insurance Policy by endorsement as an Additional Insured and evidence of such will be provided in the Certificate of Insurance.
 - i. All insurance required to be maintained under this Agreement and any amendments thereto shall be from insurers that maintain a rating of A- VII or better by A.M. Best, and all Certificates of Insurance will provide for a minimum of thirty (30) days' notice to Licensor prior to cancellation, non-renewal, or change in policy terms and/or conditions. There shall be no clause to the policy that prohibits University as an additional insured from filing a claim against the named insured and having the required insurance respond.
 - j. The ORGANIZATION agrees to waive all rights of subrogation against the University, and the University's employees or agents, and the insurer for the University, for all loss or damage to the extent covered by the ORGANIZATION's insurance.
- 17) Any damage to the University's property caused by ORGANIZATION's employees, affiliates, contractors, agents, or invitees will be the responsibility of the ORGANIZATION.
- 18) ORGANIZATION shall defend, indemnify and hold Cornell, its trustees, officers, employees, contractors and agents (collectively, the "Indemnified Parties") harmless from and against any and all claims, demands, damages, expenses (including but not limited to reasonable attorneys' fees), injuries, losses, fees, liabilities, suits or actions (collectively, "Losses") caused as a direct or indirect result of (1) the use or occupancy of the Premises by ORGANIZATION, its employees, affiliates, contractors, agents and invitees, or (2) ORGANIZATION's breach of its obligations hereunder, except to the extent such Losses result from the sole and direct negligence or willful misconduct of the Indemnified Parties. Notwithstanding the foregoing, ORGANIZATION shall not be required to indemnify for Losses to the extent they are attributable to the sole and direct negligence or willful misconduct of the Indemnified Parties. This Section 18 shall survive any expiration or termination of this Agreement for so long as any potential liabilities or causes of action related to ORGANIZATION's activities are legally cognizable in any court of law.
- 19) Neither party will assert any claim whatsoever against the other party for loss of profits or any other indirect, special, incidental or consequential damages incurred by such party as a result of such party's use of the Premises or the Building.
- 20) Whenever under this Agreement, provision is made for any demand, notice, or declaration of policy of any kind, or where it is deemed desirable or necessary by either party to give notice to the other, it shall be in writing sent by certified, registered mail, return receipt requested, or commercial overnight delivery service requiring signature of recipient, addressed if to University, to:

Cornell University
c/o Real Estate Department
Box DH – Real Estate
Ithaca, New York 14853

And to:

Office of General Counsel

300 CCC Building
245 Garden Avenue
Ithaca, New York 14853

If to ORGANIZATION:

XXXXX

- 21) No party hereto has made any promises, representations or warranties of any type or nature regarding any matter, nor the present or future relationship by, between or among them, not specifically contained in this Agreement.
- 22) For all purposes relating to this Agreement, neither party shall be considered in breach of or in default of its obligations hereunder in the event of any delay in the performance of such obligations due to causes beyond the control of, and without the fault or negligence of, such party, including, without limitation, any: acts of God; acts of the public enemy; acts of war or terrorism; acts of, or restrictions imposed by, the federal government, New York State or any local governmental entity, including quarantine restrictions; acts of third parties; fires; floods; epidemics; pandemics; strikes; freight embargoes; severe or inclement weather; shortages in labor; supplies or materials; or delays due to any other such like causes (collectively, a "Force Majeure"). In the event of a Force Majeure, the time for performance of the obligations of the party suffering such delay hereunder shall be extended for a period equal to the delay.
- 23) A delay or failure by the University to exercise any right under this Agreement will not constitute a waiver of that or any other future right.
- 24) This Agreement represents the entire agreement of the parties with respect to its subject matter, and may be modified only by a writing signed by both parties.
- 25) This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute a single, fully executed Agreement
- 26) This Agreement shall be governed by and construed and enforced under the laws of the State of New York without regard to the principles of conflict of the laws thereof.
- 27) This Agreement may not be transferred or assigned without the prior written consent of the University.

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have signed this Facility Use License Agreements as of the date first above written.

Signature page follows

FOR CORNELL UNIVERSITY

FOR ORGANIZATION

By: _____

Name: Jeremy E. Thomas

Title: Senior Director Real Estate Department

By: _____

Name:

Title:

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EXHIBIT A
COVID Addendum

ORGANIZATION acknowledges that New York State is operating under “New York Forward,” a series of executive orders and guidance related to COVID-19 pandemic. When using the Premises, ORGANIZATION shall comply with, and shall ensure its contractors, agents, employees and vendors comply with:

1. Applicable New York Forward guidance (<https://forward.ny.gov>) and related NYS Department of Health guidance (<https://coronavirus.health.ny.gov/home>), as well as any future orders, directives and health and safety guidelines issued by New York State in response to the COVID-19 pandemic (collectively, the “NY COVID Regulations”). Compliance with the NY COVID Regulations may include (without limitation) the preparation of site safety plans; premises capacity limits and other physical distancing requirements; protective equipment requirements; hygiene, cleaning and disinfection requirements; health screening requirements; and signage, training, and other communication requirements.
2. Any related orders or restrictions issued by the federal government (including the Center for Disease Control and Prevention) relating to COVID-19.
3. Cornell University’s face covering policy:
 - a. **Outdoors:** All employees, students and visitors are required to have a mask or face covering readily available on their person (e.g., around neck) when on campus outdoors and to put on their mask or face covering when it is NOT feasible to maintain physical/social distancing measures (i.e., at least six-feet of separation between others).
 - b. **Indoors:** Anyone entering a building must put on a mask or face covering prior to entering a building and continue to wear a mask or face covering in common areas such as elevators, lobby and bathrooms when traveling around the building and working in shared spaces. Additionally, masks and face coverings are required in common areas of residence halls, dining halls, community centers, the Cornell Stores, and other retail locations and gathering spaces across campus. Face coverings or masks can only be removed when alone in a cubicle, office or other unit-designated area following social distancing guidelines. (Note: For the intent of this procedure, cubicle is defined as a space with three walls at least five-feet in height.)

ORGANIZATION further acknowledges that Cornell may impose additional health and safety guidelines or require additional health and safety actions to be taken by ORGANIZATION, its employees, contractors or agents when on the Premises or on other University property, upon prior written notice. ORGANIZATION agrees to assume sole responsibility for complying with the foregoing regulations and policies with respect to the Premises, and will certify its compliance in writing upon the University’s request.

If ORGANIZATION fails to comply with this Addendum, or if ORGANIZATION fails to require that its contractors, agents, employees and vendors comply with this Addendum, the same shall be deemed a material breach of this Agreement.

ORGANIZATION shall provide University with a copy of its New York Forward Site Safety Plan for review and approval prior to commencing in-person operations at the Premises, and shall immediately notify University upon discovery that any of its employees, contractors, or agents working at the Premises have tested positive for the coronavirus.

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