



**Cal Poly Pomona  
Foundation**

# **FACILITIES USE AGREEMENT**

# AORMA Recommended - Facilities Use Agreement

This Facilities Use Agreement (“Agreement”) is made and entered into on \_\_\_\_\_ (“Effective Date”) between \_\_\_\_\_ (“Auxiliary”) and \_\_\_\_\_ (“User”). The Auxiliary and the User are sometimes referred to collectively as the “Parties.”

Auxiliary, a California non-profit organization is located at: \_\_\_\_\_ (“Campus”). User, a \_\_\_\_\_ is located at:

\_\_\_\_\_  
For and in consideration of the following promises, covenants and conditions, Auxiliary and User hereby agree as follows:

**Use of Facility.** Auxiliary hereby permits User to use the following premises:

\_\_\_\_\_  
which is located at \_\_\_\_\_ (the “Facility”). User shall use the Facility for the following event or purpose:

\_\_\_\_\_  
(the “Event”) **only and for no other event or purpose.** User acknowledges that use of the Facility is conditioned on User and Auxiliary’s execution of this Agreement and User’s payment of the required Deposit and Facility Use Fee. User acknowledges and understands that no binding or enforceable agreement regarding use of the Facility shall exist until and unless (1) this Agreement has been signed by User and received by Auxiliary and (2) User has paid the required Deposit and Facility Use Fee.

**Date and Time of Use.** User shall be permitted to use the Facility on \_\_\_\_\_ between the hours of \_\_\_\_\_ am pm and \_\_\_\_\_ am pm (the “Event Date”) only.

**Access and Event Times.** The Facility access and use must be within the time specified above. Date and use times include individual/organization preparation, decorating, and or rehearsal time, as well as time after the Event to remove decoration, User equipment, and other items.

**Deposit and Facility Use Fee.** User agrees to pay to Auxiliary a Deposit of \$ \_\_\_\_\_ within five business days of the execution of this Agreement. User agrees to pay to Auxiliary a Facility Use Fee in the amount of \$ \_\_\_\_\_ for the use of the Facility. The Facility Use Fee must be received by the Auxiliary at least \_\_\_\_\_ days before the Event Date. If either the Deposit or Facility Use Fee is not timely received by the Auxiliary, this Agreement shall be automatically void and User shall have no right to use the Facility.

The deposit is non-refundable and non-transferable. If the User cancels the Event, User shall forfeit the deposit. Cancellations must be received \_\_\_\_\_ business days prior to Event Date, or no refund of the Facility Use Fee will be provided.

**Responsible Party/Event Coordinating Deadline.** The person(s) who completes and signs this Agreement shall be the Responsible Party. The Responsible Party shall coordinate all Event details with the Auxiliary and agrees to complete this coordination no later than \_\_\_\_\_ days prior to the Event Date. The Responsible Party must be the host and in attendance throughout the Event. The Responsible Party shall take all reasonable actions to assure event safety, to prevent damage to the Facility and equipment, and to see that these conditions and other policies and regulations, outlined in this Agreement are met.

**User's Obligations.**

- a. User shall not violate any Federal, State, or local law, or rules of the Auxiliary, the Trustees of the California State University, or the Campus. User shall not allow any Federal, State, local law, or rules of the Auxiliary, the Trustees or the Campus to be violated.
- b. User shall not make any alterations to the Facility, any fixtures, building systems, or equipment. At the end of the Event, the Facility shall be left in a clean, safe condition. The User shall remove from the Facility all property and materials belonging to the User. If User damages the Facility, Auxiliary shall have the option of either (i) requiring User, at User's own expense and risk, to restore the Facility to the condition existing prior to the Event, or (ii) itself making the repairs and restorations to the Facility. Auxiliary shall have sole and complete discretion in deciding which option to exercise. If Auxiliary decides to itself make the repairs and restorations to the Facility, the costs for same shall be borne solely by User. User shall reimburse Auxiliary for any repairs or restoration necessary to repair damages to the Facility caused by User or the attendees of the Event no later than \_\_\_\_\_ business days after Auxiliary presents User with a written statement or invoice reflecting the nature and costs of the repairs.
- c. User shall exercise care in the use of the Facility and adjacent Campus areas and shall comply with guidelines to reduce excessive wear or damage. User agrees to keep the Facility and adjacent areas on the Campus in a clean and orderly condition and to remove all waste material at the conclusion of the Event, unless Auxiliary agrees, in writing, to be responsible for cleanup, removal of waste or recycling.
- d. Specific limitations apply as to the use of tape, balloons, glitter, candles, markers, tack, nails, other such materials, and signage. Decorations must be fire retardant. User should consult with the Auxiliary for a full overview of allowable decorations and signage items and to appropriately accommodate User's needs. Decorations/signage which causes damage or additional cleaning requirements will result in additional charges to the User. All decorations and all outdoor and indoor directional signage must be removed by the User immediately following the Event.

**User's Property.** Neither the Auxiliary nor Campus insure the personal property of the User its employees, agents, guests or attendees against damage or loss by any means. User assumes the risk of any such damage or loss.

**No Assignment or Subletting.** This Agreement is non-assignable and non-transferable.

**Right to Enter.** Auxiliary reserves the right to enter and inspect the Facility at any time for any purpose during the Event. User shall follow all directives from Auxiliary staff.

**Indemnification and Hold Harmless.** User shall hold harmless, defend and indemnify the State of California, the Trustees of the California State University, the \_\_\_\_\_, the Auxiliary, and their employees, officers, directors, volunteers and agents (collectively, the "University") from and against any and all liability, loss, damage, expense, costs (including without limitation costs, attorney's fees and fees of litigation) of every nature arising out of, or in connection with, or relating to User's use of the Facility or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the Auxiliary.

**Insurance Requirements.** User shall procure and maintain for the duration of the rental period insurance against claims for injuries to persons or damages to property which may arise from or in connection with the rental of the facilities and the activities of the renter, his guests, agents, representatives, employees, or subcontractors. The cost of such insurance shall be borne by User.

Coverage shall be at least as broad as Insurance Services Office Form CG 00 01 covering Commercial General Liability (CGL) on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence.

**Other Insurance Provisions.** The general liability policy is to contain, or be endorsed to contain, the following provisions:

- a) The State of California, the Trustees of the California State University, the California State University, \_\_\_\_\_, the Auxiliary, and their employees, officers, directors, volunteers and agents ("University") are to be covered as additional insureds with respect to liability arising out of the rental of the facility, including work or operations performed by or on behalf of the User and materials, parts or equipment furnished in connection with such work or operations.
- b) For claims arising out of liability arising out of this Agreement and the User's use of the Facility, the User's insurance coverage shall be primary insurance as respects the Auxiliary and the University and any insurance or self-insurance maintained by the Auxiliary or the University shall be excess of the User's insurance and shall not contribute with it.

c) The User's Insurance Company agrees to waive all rights of subrogation against the Auxiliary and the University for losses paid under the terms of any policy covering the facility rental or any activities of the User, its guests, agents, representatives, employees or subcontractors.

**Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Auxiliary.

**Verification of Coverage.** User shall furnish the Auxiliary with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements must be actually received by the Auxiliary at least \_\_\_\_\_ days before the Event Date. If the certificates and endorsements are not timely delivered to and received by the Auxiliary, this Agreement shall be automatically and immediately void and User shall have no right to use the Facility. Auxiliary may in its sole discretion, decide not to approve or accept User's insurance coverage in which event this Agreement shall be automatically and immediately void and User shall have no right to use the Facility.

**Liquor Liability.** If User will be supplying alcoholic beverages, the general liability insurance shall include host liquor liability coverage. If User is using a caterer or other vendor to supply alcohol that vendor must have liquor liability coverage. If User intends to sell alcohol either the User or vendor providing the alcohol for sale must have a valid liquor sales license and liquor liability insurance covering the sale of alcohol.

**Homeowners Insurance.** In some cases the User's homeowner's liability insurance may provide coverage sufficient to meet these requirements. User should provide these requirements to his or her agent to confirm and provide verification to the Auxiliary.

**Special Events Coverage.** Special events coverage may be available for an additional fee to provide the liability insurance required by this Agreement. User can obtain additional information and cost from the Auxiliary.

**Right to Modify.** Auxiliary reserves the right to modify these insurance requirements at any time without any advance notice, including limits, based on the nature of the risk, prior experience, prior events, insurer, coverage, or other special circumstances.

**No Weapons/Firearms.** All weapons and firearms are strictly prohibited at the Facility and on the Campus.

**Reassignment of Facilities.** Should the Facility become unavailable due to an emergency, the Auxiliary reserves the right to reassign the User to another Campus facility.

**Termination/Cancellation.** This Agreement to use the Facility is granted subject to observance of regulations. The Auxiliary may revoke this Agreement effective immediately upon User's

failure to timely comply with any pre-Event requirement, for any violation of use conditions or regulations required by the Auxiliary or governmental agency, or at any time for misrepresentation. The Auxiliary may terminate any part of this Agreement without notice in the event of an emergency which, in the opinion and sole discretion of the Auxiliary, would make the Event unfeasible. Refunds of any Deposits and/or Facility Use Fees paid will be determined at the discretion of the Auxiliary, on a case by case basis.

**Modification of this Agreement.** This Agreement contains the entire agreement and any modifications, changes or amendments to this Agreement must be written and signed by all the Parties to this Agreement. Notwithstanding the above, the Parties to this Agreement incorporate by reference, as though fully set forth herein, those specific paragraphs initialed by the Parties in the attached Facilities Use Agreement Addendum.

**Acceptance of Terms.** I have read and understand the above terms and conditions and agree to abide by these terms and conditions.

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

Name and Title: \_\_\_\_\_

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

Name and Title: \_\_\_\_\_

**AORMA Recommended - Facilities Use Agreement  
Facilities Use Agreement Addendum**

**Auxiliary:** \_\_\_\_\_  
**User:** \_\_\_\_\_  
**Event / Date:** \_\_\_\_\_  
**Campus:** \_\_\_\_\_

By initialing below, Auxiliary and User agree the following paragraphs are incorporated into the attached Facilities Use Agreement as if fully set forth therein.

**User / Auxiliary**

\_\_\_\_ / \_\_\_\_ **Special Equipment.** The Auxiliary, Campus and University assume no responsibility for equipment used at the Event which is supplied by the User or any other party. The Auxiliary reserves the right to approve equipment and equipment providers.

**User / Auxiliary**

\_\_\_\_ / \_\_\_\_ **Publicity/Advertising.** All forms of Advertising and Publicity must be submitted to the Auxiliary for approval \_\_\_\_\_ days in advance of posting or communication. When the Campus, University or Auxiliary name is used in conjunction with publicity, inclusion of non-endorsement statement may be required. The Auxiliary will furnish User with such a statement. Posting of any materials on Campus bulletin boards must be approved in accordance with Auxiliary, Campus and University Policy.

**User / Auxiliary**

\_\_\_\_ / \_\_\_\_ **Additional Charges for Security/Police.** Campus Police shall solely determine and control security arrangements for the Event including, but not limited to, the type and number of security personnel and placement and use of security personnel. The cost of such service shall be paid by the User in addition to the Deposit and Facility Use Fee mentioned above.

**User / Auxiliary**

\_\_\_\_ / \_\_\_\_ **Vehicle Parking/Unloading.** User and its guests must abide by all Auxiliary, Campus and University parking/traffic requirements, including but not limited to passenger and equipment loading and unloading regulations, observance of authorized parking locations, payment of required fees, and display of vehicle parking permits. Payments of citations which result from parking/traffic violations are the sole responsibility of the User and its guests. If applicable, upon approval from Auxiliary, User must use the Facility loading dock and freight elevator to bring in and take out equipment from the Facility.

**User / Auxiliary**

\_\_\_\_ / \_\_\_\_ **Unsupervised Minors.** Unsupervised minors (persons under the age of 18) are not permitted at the User's Event(s).

User / Auxiliary

\_\_\_\_\_ / \_\_\_\_\_ **No Smoking.** Smoking is prohibited in the Facility and outdoors within 20 feet of the Facility as well as at any other designated No Smoking area.

User / Auxiliary

\_\_\_\_\_ / \_\_\_\_\_ **Animals.** Except for animals certified to assist disabled persons, animals are prohibited in the Facility.

User / Auxiliary

\_\_\_\_\_ / \_\_\_\_\_ **No Flames/Fire/Smoke/Fog.** Open flames and the burning of any materials, including incense is prohibited. Use of candles must receive advance approval and meet fire code regulations. Fog/smoke machines or other equipment, which may activate fire alarms, are prohibited in the Facility.

User / Auxiliary

\_\_\_\_\_ / \_\_\_\_\_ **No Bare Feet.** Bare feet are prohibited in the building and on the grounds of the Facility.

User / Auxiliary

\_\_\_\_\_ / \_\_\_\_\_ **Conduct.** The User and guests shall not interfere with the regular use of the Facility, the building and the adjacent areas on Campus by the public or other facility guests. Excessive noise or other disruptive behavior is prohibited.

User / Auxiliary

\_\_\_\_ / \_\_\_\_ **Technology Needs.** If the User has extraordinary need for bandwidth, technology equipment or access to the Campus' technology resources. User must submit a written request explaining its particular technology needs to Auxiliary within five business days of the execution of this Agreement. Auxiliary and/or Campus, in its/their sole discretion, shall approve or deny User's request.

User / Auxiliary

\_\_\_\_ / \_\_\_\_ **Other:** \_\_\_\_\_

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

Name and Title: \_\_\_\_\_

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

Name and Title: \_\_\_\_\_

# Facilities Use Agreement Handbook

## 1. Introduction

This handbook is general and is intended only to provide basic information.

A Facilities Use Agreement is intended for short-term rentals of Auxiliary or University rooms, auditoriums, grounds or other related facilities for a specific Event, such as a concert. The Facilities Use Agreement is a legal contract which sets forth the duties and obligations of the Auxiliary and User in connection with the User's Event, which is being held in or on property owned or controlled by the Auxiliary or the University.

## 2. Facilities Use Agreement

### A. Purpose

The *Facilities Use Agreement* is a contract in which the User agrees to abide by specific terms and conditions in order to hold a particular Event at a facility owned or controlled by an Auxiliary Organization or the University.

### B. Elements

- Identification of the parties to the Agreement, the location, date and time of the Event.
- Facility Use Fee and Deposit.
- Identification of a Responsible Party representing the User.
- The obligations the User must adhere to as a condition of using the Facility, including conduct, decorations, use restrictions and cleanup.
- An indemnification and hold harmless clause whereby the User agrees to pay the Auxiliary Organization and University for any losses it may suffer as a result of the User's use of the Facility or as a result of an accident that occurs at the Event.
- Specific insurance requirements the User must satisfy in order to use the Facility.
- A list of addenda which may be included in the Agreement as necessary.

### 3. Procedures/Strategies for Risk Management

Although the Facilities Use Agreement contains an indemnification/hold harmless clause, it should not be relied upon solely to reduce the exposure to risk. The Auxiliary Organization bears responsibility for the condition of its facilities and for conducting its activities and events in a manner that reasonably protects the health and safety of students or other participants. For this reason, the following risk control measures should be utilized in addition to the use of a release:

- Conduct a risk assessment of the program/activity/Event prior to executing the Facilities Use Agreement.
- Inspect Facilities and equipment for safety hazards frequently and take action to correct. Document actions taken.
- Train staff in emergency response procedures such as first aid and CPR.
- Train staff and participants on how to properly use facilities and equipment.
- Develop and enforce policies and procedures that minimize risk.
- Design programs that reflect the relevant safety standards of the given activity.
- Consider purchasing or requiring others to purchase appropriate insurance coverage as applicable.

### 4. Instructions

Identifying Information. Upon receipt of an application to use an Auxiliary Organization's Facility, the necessary information can be inserted into the Facilities Use Agreement. This information includes:

- The name and address of the User – *make sure this information is accurate and correct;*
- The specific Facility where the Event is to take place;
- A description of or purpose of the Event – *make sure there are enough specific details to accurately reflect what activity is taking place;* and
- The Date and Time of the Event.

Deposit and Fees. The User must pay a deposit within five business days of the Auxiliary executing the Facilities Use Agreement. The User must pay the total Facility Use Fee no later than 45 days before the Event. Importantly, the User must also submit for Auxiliary review and approval, all necessary insurance paperwork no later than 45 days before the Event. *Note; 45 days is the recommended timeframe only; your particular event may require that this timeframe be shortened.*

Responsible Party. The person who signs the Facilities Use Agreement on behalf of the User is deemed the “Responsible Party.” That person shall serve as the primary contact between the Auxiliary and the User group. The Responsible Party is required to coordinate all Event details with the Auxiliary no later than 21 days before the Event and must be in attendance at the entire Event. The Responsible Party is also charged with making sure the Event runs smoothly and safely and to assure the User adheres to the terms and conditions of the Facilities Use Agreement. *Note; 21 days is the recommended timeframe only; your particular event may require that this timeframe be shortened.*

User’s Obligations. In general, the User agrees to abide by Federal, State and local laws, as well as the rules of the Auxiliary, and the University. The User also agrees that it shall not make any permanent alterations to the Facility and shall exercise care in setting up and cleanup after the Event. If the User damages the Facility, the User is responsible for paying to repair the damages. Unless otherwise agreed to in writing, the User is responsible for cleanup, including removal of garbage and recycling efforts. If for any reason the Auxiliary wants to control waste removal or recycling, the Auxiliary should confirm same in writing to the User – this can be done via the Addendum provisions attached to the Facility Use Agreement or in a separate writing signed by the User and the Auxiliary.

No Assignment. The Agreement is not assignable or transferable, unless the Agreement is modified in writing.

Auxiliary’s Right to Enter. The Auxiliary maintains a right to enter the Facility during the Event for any reasonable purpose.

Indemnification and Hold Harmless. There is an indemnification and hold harmless provision in which the User agrees to waive and release any and all claims against the Auxiliary, University, etc., from any liability, damages and loss related to or arising out of the Event or the use of the Facility. The exception is any loss or damage which is caused by the sole negligence or willful misconduct of the Auxiliary.

Insurance requirements. User must have and maintain insurance for injuries to persons and damages to property before and throughout the Event. The User must submit the required insurance policy information to the Auxiliary no later than 45 days before the Event; this is the same deadline as the payment of the Facility Use Fee. The Auxiliary must review the insurance paperwork submitted by the User to confirm that it meets the requirements specified in the Facilities Use Agreement. The Auxiliary must approve the insurance paperwork submitted in order for the Event to take place. Pay special attention if the User will be supplying alcoholic beverages at the Event. If so, the general liability insurance coverage must include host liquor liability coverage. If the User is using a caterer or other vendor to supply alcohol, that vendor must have liquor liability coverage. If the User intends to sell alcohol, either the User or vendor providing the alcohol for sale, must have a valid

liquor sales license and liquor liability insurance covering the sale of alcohol. *Note; 45 days is the recommended timeframe only; your particular event may require that this timeframe be shortened.*

**Special Events Coverage.** Special events coverage may be available for an additional fee to provide the liability insurance required by this Agreement. User can obtain additional information and cost from the Auxiliary.

**Right to Modify.** Auxiliary reserves the right to modify these insurance requirements at any time without any advance notice, including limits, based on the nature of the risk, prior experience, prior events, insurer, coverage, or other special circumstances.

**Reassignment of Facility.** The Auxiliary reserves the right to reassign the User to another Campus facility.

**Termination.** The Auxiliary may revoke the Facilities Use Agreement if the User fails to timely comply with any pre-Event requirement, for any violation of use conditions or regulations, or at any time for misrepresentation. The Auxiliary may also terminate the Facilities Use Agreement in the event of an emergency.

**Entire Agreement / Modification.** The Facilities Use Agreement contains all of the written provisions making up the contract between the Auxiliary and the User. No oral promises or other outside agreements will have any force or effect unless they are in writing and signed by both the Auxiliary and User. Therefore, the Auxiliary should not make any representations to the User which are outside of the terms and conditions of the Facilities Use Agreement. For example, do not represent to the User that they will be allowed to hold their Event without timely providing the required insurance paperwork.

**Addendum Provisions.** Attached to the Facilities Use Agreement is a Facilities Use Agreement Addendum containing additional provisions which may be incorporated into the Facilities Use Agreement if necessary or appropriate. To be effective, the provisions must be initialed by the Auxiliary and the User. The addendum provisions include:

- The Special Equipment and/or Technology needs;
- Campus Police and Security arrangements;
- Vehicle Parking / Traffic / Unloading;
- Unsupervised Minors; and
- Smoking restrictions.

Depending on the location and nature of the Event, the provisions listed in the Facilities Use Agreement Addendum should be initialed so they become incorporated into the Facilities Use Agreement. For example, if the Event is taking place at a Facility indoors then the No Smoking addenda should be initialed so it is incorporated into the Agreement.

Failure to Execute Agreement. Any User who refuses to sign the Facilities Use Agreement shall not be allowed to hold their Event in an Auxiliary or University Facility. The opportunity to hold an Event at an Auxiliary or University Facility is exchanged for the User's execution of the Facilities Use Agreement, which thereby obligates the User to faithfully abide by its terms and conditions. Occasionally, an User may sign the Agreement after crossing out certain portions that they do not like or adding words to modify the Agreement. This is not acceptable.

## **5. Electronic Signatures**

Electronic signatures and acknowledgements can only be used if Government Code section 16.5 and California Code of Regulations section 22000 are adhered to and the User's signature and acknowledgement can be authenticated and a copy of the authentication and process can be produced upon request. It is recommended that the Auxiliary utilize existing security applications and access protocol when establishing an electronic signature process.

The electronic signature or acknowledgement must be stronger than simply clicking "I Agree." It should require the full name of the User / Responsible Party that is signing along with an acknowledgement by the User / Responsible Party that by clicking / checking the subject electronic signature button, that they have read, understood and are accepting all of the terms of the Facilities Use Agreement.

If these additional electronic safeguards cannot be initiated, then the use of a paper waiver / release with a "wet" signature must be used.

Facility Use Agreements sent with an electronic signature or acknowledgement should be stored in electronic form. It is sensible to regularly backup or store waivers that are in electronic form on other media (i.e. burning to a CD) in case of hard drive failure.

## **6. Retention and Storage**

The Facilities Use Agreements and any related addenda or modifications must be stored for at least four years after the Event. It is best practices to store the Agreements and related documents by Event Date in alphabetical order by User name. Doing so greatly expedites retrieval if the Agreement is needed for a legal proceeding. If space becomes a problem, the documents may be stored electronically in lieu of hard copies, but we recommend keeping wet signatures for at least two years after the Event if possible.