TEXAS A&M UNIVERSITY

**CITYCENTRE THREE FACILITY USE AGREEMENT FOR TURN-KEY EVENTS**

This Facility Use Agreement (“Agreement”) is made and entered into this day of , 20\_\_\_\_ by and between Texas A&M University, a member of The Texas A&M University System, an agency of the State of Texas, on behalf of its Executive MBA Program (“TAMU”) and (“Licensee”).

WHEREAS, TAMU leases Suite 200 in the facility known as CityCentre Three (the “Building”) located at 842 W. Sam Houston Pkwy N, Suite 200, Houston, TX (the “Premises”) from CITYCENTRE Three Partners, L.P., successor-in-interest to Midway T&C Land Investors, L.P. (“Landlord”); and

WHEREAS, Licensee desires to use portions of the Premises on a short term basis and purchase catering and /or beverage service;

WHEREAS, TAMU desires to grant Licensee a license to use portions of the Premises on a short term basis and provide requested catering, beverage, or other services (the “Other Services”) as set forth herein;

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, the parties agree as follows:

**1. Grant of License:** TAMU grants to Licensee a license to use that portion of the Premises described below, subject to the terms and conditions of this Agreement, for the purpose of (the “Event”).

1. **Licensed Space and Other Services :** This license covers only the following portions of Premises (collectively, the “Licensed Space”):

Class Room 214 (flat) maximum occupancy

Class Room 215 (flat) maximum occupancy

Class Room 224 (tiered) maximum occupancy

Class Room 225 (tiered) maximum occupancy

Dining/Lounge Area w/ prep kitchen 226 & 229 maximum occupancy

Board Room 207 maximum occupancy

Team Room 208 maximum occupancy

Team Room 209 maximum occupancy

Team Room 210 maximum occupancy

Team Room 211 maximum occupancy

Team Room 212 maximum occupancy

Team Room 213 maximum occupancy

Team Room 218 maximum occupancy

Team Room 219 maximum occupancy

Team Room 221 maximum occupancy

Team Room 222 maximum occupancy

Team Room 223 maximum occupancy

This Agreement does not entitle Licensee or Licensee’s officers, employees, agents, contractors, or invitees to occupy, enter or use any area, facility or equipment not included within the above description of the Licensed Space.

Other Services requested by Licensee and detailed in the CITY CENTRE III Rate Schedule and Proposal attached hereto as Schedule “A” and incorporated herein by reference include:

\_\_\_\_ Copying/printing \_\_\_\_\_Beverage Service \_\_\_\_Catering Service

1. **Term:** The period during which Licensee is entitled to use the Licensed Space is herein called the “Term.” All set-up and take-down activities in the Licensed Space shall occur during the Term. The Term of this Agreement is as follows:

Date Commencement Time Termination Time

1. **Fees:** Licensee agrees to pay TAMU $ as consideration for Licensee’s use of the Licensed Space for the purpose described above (the “Use Fee”). Licensee shall also pay any and all service and delivery fee charges by outside vendors related to the Other Services, an 18% service fee for Other Services provided by TAMU, and applicable sales tax on the Other Services. All amounts listed on the attached Rate Schedule and Proposal are estimates only and subject to change based on actual services provided. TAMU will send a final Invoice to Licensee after the Event. The final Invoice shall be paid by Licensee no less than thirty (30) days after receipt of same.
2. **Deposit:** At the time of execution of this Agreement, Licensee shall pay TAMU a non-refundable deposit in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (50% of the Use Fee) which shall be credited toward the amounts due hereunder. If the execution of this Agreement is less than 15 days prior to the Event, a deposit will not be collected, and the full amount of the Proposal must be paid by Licensee upon execution of this Agreement.
3. **Overtime:** Licensee shall pay to TAMU as an additional fee the sum of $ for each hour or fraction of an hour that Licensee or Licensee’s officers, employees, agents, contractors, or invitees remain in the Licensed Space beyond the Term.
4. **Payments:** Licensee shall make all deposits and payments under this Agreement by certified check, bank money order, or business check made payable to “Texas A&M University” and delivered to TAMU at the following address:

Texas A&M University – Sales and Receivables

6000 TAMU

College Station, Texas 77843-6000

1. **Utilities, Operating Personnel, Services, and Equipment:** TAMU shall furnish customary heating, lighting, water, electricity, and air conditioning for the Licensed Space. TAMU shall have the sole right to provide, at Licensee’s expense, personnel and services (including custodial) in connection with Licensee’s use of the Licensed Space. TAMU may also provide, at Licensee’s expense, such equipment as Licensee shall timely and reasonably request at rates specified on the Services and Equipment Schedule attached hereto as Schedule “B” and incorporated herein by reference. Any expenses due from Licensee shall be included in the final Invoice.
2. **Insurance:** Licensee shall purchase and keep in effect during the Term of this Agreement a commercial general liability and property damage insurance policy that designates TAMU, Landlord and Houston CityCentre Property Owner’s Association, Inc. as additional insureds, and that provides coverage in the amount of $100,000.00 per single occurrence for property damage (including TAMU’s property) and $1,000,000.00 per single occurrence and $2,000,000.00 aggregate for injury to or death of any person that results directly or indirectly from the negligent act or omission of Licensee or Licensee’s officers, employees, agents, contractors, or invitees during the Term of this Agreement. The required insurance shall be with an insurance company or companies authorized to do business in the State of Texas and under policy or policies acceptable to TAMU.

Licensee shall provide to TAMU a certificate of insurance attesting to the existence of a policy or policies providing coverage described in the preceding paragraph no later than ten (10) days prior to the Event. Licensee shall provide to TAMU a certified copy of said policy or policies upon request. Failure to comply with these requirements may result in termination of this Agreement for cause by TAMU.

1. **Alcoholic Beverages:** Licensee will not sell or give away or allow beer, wine, or any beverage of alcoholic content to be sold, given away, sampled, or consumed in the Licensed Space or any part of the Premises without prior written consent of TAMU and then only in accordance with the rules and regulations promulgated by TAMU and in compliance with the laws of the State of Texas, including the Policies and Regulations of the Board of Regents of The Texas A&M University System. Licensee agrees that any Event at which beverages of alcoholic content are served will, at TAMU’s sole discretion, be monitored by police or security officers selected by TAMU. Licensee also agrees to obtain Liquor Liability Insurance for the Event if alcoholic beverages will be served. All charges for the services of police or security officers will be reimbursed by Licensee to TAMU at the conclusion of the Event upon invoice from TAMU.
2. **Occupancy Capacity**: Licensee shall not admit to the Licensed Space at any time a larger number of persons than approved by TAMU. For this Event, the maximum approved occupancy for each room is set forth in Section 2 above.
3. **Care of Property**: Licensee shall take good care of the Licensed Space and all property located therein and shall leave the Licensed Space clean and orderly after use. Licensee shall be liable for the cost of any repairs, restorations or replacements to the Licensed Space or TAMU’s property necessitated by Licensee’s or Licensee’s officers, employees, agents, contractors, or invitees’ use, and Licensee shall reimburse TAMU for all such costs within three days after delivery of an invoice therefor.
4. **Notices:** Any notices, consents, or approvals required or permitted hereunder shall be properly given if in writing and personally delivered or delivered by certified mail, return receipt requested, and addressed to the following (unless other provisions specifically set out elsewhere in this Agreement):

To TAMU: Texas A&M University

Mays Business School – MBA Programs Office

ATTN: Michael Alexander

4117 TAMU, 390 Wehner

College Station, TX 77843-1128

To Licensee:

ATTN:

1. **Custody of Property:** In the receipt, handling, care, or custody of property of any kind shipped or otherwise delivered to the Licensed Space by or for Licensee, TAMU shall act solely for the accommodation of Licensee and neither TAMU nor any of its officers, employees or agents shall be a bailee or liable for any loss, damage, or injury to such property.
2. **Control of Premises and Right to Enter:** In permitting the use of the Licensed Space, TAMU does not relinquish custody and control thereof, and specifically retains the right to enforce any and all laws, rules and regulations applicable to the Licensed Space, and representatives of TAMU may enter any portion of the Licensed Space at any time and on any occasion without any restrictions.
3. **Property Restrictions:** Licensee shall not use or permit the Licensed Space to be used for any purpose other than that set forth herein. Licensee further covenants and agrees:
4. Licensee’s use of the Licensed Space shall be in accordance with the TAMU Rules and Standard Administrative Procedures and The Texas A&M University System Policies and Regulations, which can be found at <http://rules.tamu.edu/> and <http://policies.tamus.edu/>.
5. Appropriate standards of dress and behavior will be observed at all times in the Licensed Space. Shirts and shoes shall be worn at all times.
6. All activities in the Licensed Space shall be conducted so as not to endanger any person or damage any property therein.
7. All aisles, corridors, passages, vestibules, elevators, and stairways shall be kept free and clear of obstructions and shall not be used other than for ingress and egress.
8. No alterations shall be made to the Licensed Space.
9. No confetti, glitter, glue, or flammable tissue paper, crepe paper, or material for decorative purposes or any combustible liquid or substance or laser lighting equipment shall be used or permitted unless first been approved by TAMU in writing.
10. No candles are permitted in the Licensed Space.
11. No carts, dollies or other equipment with metal casters are permitted in the Licensed Space or the Premises.
12. No smoking is allowed in or around the Licensed Space or the Premises.
13. No animals (except service animals) are allowed in or around the Licensed Space or the Premises.
14. No signs, messages or other materials may be posted, displayed, distributed, or announced in, on or adjacent to, the Licensed Space without prior written approval of TAMU.
15. Food and drink are permissible in the Licensed Space and must be supplied by a licensed professional caterer.
16. Outside audio-visual equipment such as projectors, etc., may not be brought into the Licensed Space. House equipment, with the exception of computers, must be used and operated by TAMU personnel unless other arrangements are approved by TAMU in writing.
17. Any articles, exhibits, fixtures, materials, or displays of Licensee that have been previously approved by TAMU shall be brought into or taken out of the Building only at such entrances as may be designated by TAMU.
18. **Indemnification:** Licensee agrees to indemnify, defend, and hold harmless Landlord, Houston CityCentre Property Owner’s Association, Inc. and TAMU and their officers, employees, and agents against any and all claims, demands, causes of action, and judgments for taxes, license fees, excises, fines and penalties; for supplies, services, or merchandise purchased by Licensee; for wages or fringe benefits of Licensee’s employees or contractors; or for injury or death of any person or damage to any property that directly or indirectly result from the acts or omissions of, of use of the Premises by, Licensee or Licensee’s officers, employees, agents, contractors, or invitees associated in any way with this Agreement. Licensee will not do or permit to be done anything in or upon any portion of the Licensed Space or bring or keep anything therein or thereon which will in any way conflict with the conditions of any insurance policies insuring the Licensed Space or any part thereof against loss.
19. **Cancellation for Cause by TAMU:** TAMU may cancel this Agreement for cause, such as if Licensee fails to comply with the terms and conditions of this Agreement, fails on request to demonstrate in a manner acceptable to TAMU that Licensee is willing and able to perform adequately all required duties and responsibilities related to the Event, or if any other similar cause occurs that justifies cancellation, in the discretion of TAMU. In any such event, no deposit or fee refund shall be made, and all fees and expenses called for by this Agreement, including reimbursement for any disbursements or expenses incurred by TAMU in connection herewith, shall be made payable immediately to TAMU by Licensee as liquidated damages and not by way of penalty.
20. ***Force Majeure***: TAMU may cancel or temporarily suspend the performance of any part of this Agreement without advance notice upon the occurrence of conditions or events that make performance not feasible, including without limitation, acts or omissions of government or military authority, acts of God, fires, floods, riots, wars, terrorist acts, or the requisitioning of the Licensed Space by any governmental agency (“*Force Majeure*”). In the event of a *Force Majeure*, this Agreement shall terminate and no deposit or fee refund shall be made. Licensee hereby waives any claims for damages or compensation it may have against TAMU should this Agreement be so terminated.
21. **Cancellation by Licensee or Failure to Take Possession:** Unless otherwise agreed to by the parties, if Licensee shall cancel this Agreement or fail to take possession of or use the Licensed Space covered by this Agreement, no deposit or fee refund shall be made, and all fees and expenses called for by this Agreement, including reimbursement for any disbursements or expenses incurred by TAMU in connection herewith, shall be made payable immediately to TAMU by Licensee as liquidated damages and not by way of penalty.
22. **Assumption of Risk:** Licensee assumes the risk of any loss or damage to its property or the property of any person or entity authorized by it to be in the Licensed Space. TAMU and Landlord, and their officers, employees and agents shall not be responsible or liable for any loss of, or damage to, property while in the Licensed Space regardless of how the loss or damage is sustained.
23. **Removal of Property:** In the event Licensee fails, neglects, or refuses to remove its property from the Licensed Space prior to the expiration of the Term, said property shall be deemed abandoned and TAMU shall have the right to move, place in storage, or otherwise dispose of any such property at the sole cost and expense of Licensee. Licensee hereby irrevocably constitutes and appoints TAMU as its special attorney in fact to do and perform all acts necessary in removing, storing, and disposing of said abandoned personal property and to execute and to deliver a bill of sale therefor.
24. **Waivers and Modifications:** No waiver of any provision hereof shall be effective unless stated in writing and signed by TAMU and Licensee. No such waiver shall constitute a waiver of the same provision on a subsequent occasion nor of any other provision of this Agreement. The delay or failure of either party to assert or exercise any right, remedy, or privilege hereunder shall not constitute a waiver of such right, remedy, or privilege.
25. **Miscellaneous Provisions:**
26. This Agreement constitutes the entire agreement between the parties with respect to the subject matter and no prior agreement, written or oral, will be effective to vary the terms of this Agreement.
27. No amendment to this Agreement will be effective unless reduced to writing and signed by an authorized representative of each party.
28. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas.
29. By statute, mandatory venue for all legal proceedings against TAMU is to be in the county in which the primary office of the chief executive officer is located.
30. Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party.
31. All contracts related to the Event, including contracts between Licensee and caterers, speakers, performers, managers and others, must be made available to TAMU for review prior to the Event.
32. Any claim or cause of action that accrues to any party under this Agreement shall survive the termination of this Agreement.
33. Should TAMU commence suit against Licensee under the terms of this Agreement because of Licensee’s breach thereof, Licensee agrees to pay TAMU’s reasonable attorneys’ fees, costs, and expenses.
34. The invalidity or illegality of any part of this Agreement shall not affect the validity or force of any other part hereof.
35. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraphs.
36. Time, and especially time of payment of monies due from Licensee, shall be of the essence of this Agreement.
37. The parties shall be independent contractors in the performance of this Agreement and nothing herein is intended or may be construed to make either party the employee, agent, partner, or representative of the other.
38. **Force and Effect:** This Agreement shall have no force or effect unless fully executed by both parties. The original hereof shall be delivered to TAMU. Licensee covenants and agrees that its failure to fully and faithfully perform all covenants and agreements hereunder shall excuse TAMU’s continued performance.
39. **Status as State Agency:** Licensee expressly acknowledges that TAMU is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by TAMU of its right to claim such exemptions, privileges, and immunities as may be provided by law.
40. **Dispute Resolution:** Licensee must use the dispute resolution process provided in Chapter 2260 of the Texas Government Code to attempt to resolve a dispute arising under this Agreement and is a required prerequisite to suit in accordance with Chapter 107, Texas Civil Practices and Remedies Code. Licensee must submit written notice of a claim of breach of contract to the University Contracts Officer of TAMU, who shall examine Licensee’s claim and any counterclaim and negotiate with Licensee in an effort to resolve the claim.

**ACCEPTED AND AGREED** this day of , 20 :

**TAMU: TEXAS A&M UNIVERSITY** **LICENSEE:**

By:  **MICHAEL ALEXANDER**  Name: Director, Professional MBA Program Title:

Texas A&M University