

**License Agreement**

**With**

**“[Insert Licensee Name]”**

**Parties:** THIS AGREEMENT is made as of , 2021 by and between Mercy College, located at 555 Broadway, Dobbs Ferry, New York 10522 (hereinafter referred to as the “College”), and(hereinafter referred to as “Licensee”).

**Contact information:**

**Property:** 555 Broadway, Dobbs Ferry, New York 10522.

**Licensed Area:** *[Insert description]*located within the Property. Licensee shall maintain the Licensed Area in a clean and orderly manner at Licensee’s sole cost and expense. Licensee shall not disturb or commit any waste or nuisance on the Licensed Area and shall not use the Licensed Area for anything other than the Permitted Use. Licensee’s use of the Licensed Area shall not interfere with the operation of the College in the ordinary course. Licensee shall not make any alterations to the Licensed Area without the prior written consent of the College, which the College may withhold in its sole and absolute discretion.

**License Term:** *[Insert term of license]*

**Permitted Use:** The College hereby grants Licensee a non-exclusive/exclusive *[choose one]* license to use the Licensed Area, in its “as is” condition, for the sole purpose of *[insert use].*

**Permitted number of occupants of the Licensed Area:**

**License Fee:** *[Insert total amount of Fee]*

**Signage:** All signage must be reviewed and approved by the College and comply with the Regulations (as defined below).

**Parking:** *[Insert, if applicable. Otherwise insert Not Applicable]*

**Payment Policy**: A non-refundable deposit of 25% of the License Fee will be due concurrent with submission of this Agreement (the “Deposit”). The balance of the License Fee is due two weeks prior to the commencement of the License Term. Any additional charges and payments, if any, due under this Agreement will be billed and due on demand.Licensee’s obligation to pay such amounts will survive the expiration or sooner termination of this Agreement. *(Please put “License Agreement and date” in the note section of the checks)*. The signed Agreement and all payments made **payable to Mercy College** should be sent to:

Lisa Mills-Campbell

Director of Community Programs and Events

Mercy College

555 Broadway, VH 34

Dobbs Ferry, NY 10522

**Cancellation Policy:**  Licensee may terminate this Agreement and receive a return of any portion of the License Fee paid, less the Deposit, provided that Licensee provides written notice of termination no later than 90 days prior to the commencement of the License Term (the “Cancellation Condition”). Upon satisfaction of the Cancellation Condition, this Agreement will be and will be deemed to be terminated and neither party will have any further obligation to the other except as expressly survives the termination hereof. If Licensee fails to comply with the Cancellation Condition, then Licensee shall be responsible for the entire License Fee and the College will have no obligation to return any portion of the License Fee paid by Licensee. Licensee acknowledges that a breach of this provision would result in substantial damage to the College, and Licensee acknowledges that the precise amount of damages for its failure to comply with the Cancellation Condition in the event of the cancellation of this Agreement would be impossible to determine. Accordingly, the Parties agree that a breach of the provisions of this paragraph would, in addition to any other remedy the College may have, entitle the College to liquidated damages in the amount equal to the License Fee. Licensee’s obligations hereunder shall survive the termination of the License Term.

The College may cancel this Agreement for any reason by giving thirty (30) calendar days’ notice prior to the commencement of the License Term. The College also reserves the right to cancel this Agreement if the use may be in violation of local, state or federal law, ordinance, regulation or executive order, or if the College determines the event poses an unacceptable security risk. In such cases, the College shall return the portion of the License Fee paid by Licensee, less the Deposit. The College may also return the Deposit, which will be determined on a case-by-case basis. This Agreement will then be deemed terminated and of no further force and effect.

**Termination:** The College has the right to terminate this Agreement upon the Licensee’s failure to comply with, or breach of, any provision of this Agreement. In the event this Agreement is terminated in accordance with the terms hereof, the Licensee will remain responsible for the entire License Fee. The Licensee will also be liable for any other damages, costs or expenses arising from the breach of this Agreement, including but not limited to reasonable attorney’s fees.

**Force Majeure:** Except for payment obligations, if either Party is prevented from performing or is unable to perform any of its obligations under the Agreement as a result of a Force Majeure Event (as defined below), then such Party (the “Claiming Party”) shall promptly provide notice of the Force Majeure Event to the other Party (the “Non-Claiming Party”), which notice will describe the Force Majeure Event, the anticipated duration of the Force Majeure Event (if known), and actions to be taken by the Claiming Party to end the Force Majeure Event and/or minimize its impact to the Claiming Party’s performance.  Upon receipt by the Non-Claiming Party of the aforesaid notice, the Claiming Party’s performance shall be excused during the continuance of the Force Majeure Event, provided, that the Claiming Party resumes its obligations under this Agreement upon the earlier of: (a) the termination/cessation of the Force Majeure Event; or (b) upon such time as a hypothetical party similarly situated to the Claiming Party is reasonably able to resume performance of its obligations under this Agreement.  **Force Majeure Event(s)**: (i) acts of God, pandemics (including but not limited to COVID-19), tornadoes or other severe windstorms, hurricanes, floods, fires and other comparable casualties, landslides, earthquakes or any unusually severe and extreme weather; (ii) acts of war, terrorism, blockades, insurrection or national, regional and local calamities, civil commotion, riots, strikes, lockouts, picketing, or other labor disputes; and (iii) any other delays resulting from causes beyond the control of the a hypothetical party similarly situated to the Claiming Party, including, without limitation, public health emergencies and governmental action.

**Surrender:**  Upon the expiration or sooner termination of the License Term, Licensee shall (i) peaceably surrender the Licensed Area, in broom-clean and good condition and repair, and in the same condition as it is as of the date hereof, except for ordinary wear and tear, and (ii) remove from the Licensed Area all of its property. Any property not so removed, may, at the College’s election, be deemed abandoned and the cost of removal paid by Licensee. Licensee shall defend, indemnify and hold harmless the College, its agents, employees, members and officers from and against all liabilities, losses, damages, costs and expenses, including reasonable attorneys’ fees, arising out of Licensee’s holding over after the termination or expiration of this Agreement. Licensee acknowledges that a breach of this provision would result in substantial damage to the College, and Licensee acknowledges that the precise amount of damages for its continued use of the Licensed Area after the effective date of termination of the License Term would be impossible to determine. Consequently, Licensee shall pay the College for all fees, costs and expenses incurred by the College in connection with any action or proceeding to compel Licensee to surrender possession of the Licensed Area or otherwise remove Licensee from occupying the Licensed Area. Nothing contained herein shall be deemed to authorize Licensee to remain in occupancy of the Licensed Area after the termination of this Agreement. Licensee’s obligations hereunder shall survive the termination of the License Term.

**Concessions:** The Licensee shall not sell food, beverages or any other items on the Property.

**Publications**: The name “Mercy College” as well as all College logos and trademarks are the sole property of the College. If the Licensee would like to use a Mercy College logo or trademark for Licensee’s publications, prior approval of the Director of Public Relations at the College is required, such approval to be granted at its sole discretion. No advertisement, statement or communication of any kind shall assert or imply the College supports, approves, or endorses any conduct, product, service, interest, position, or ideology of the Licensee, unless the advertisement, statement or communication has been approved in advance and in writing by the Director of Public Relations at the College.

**Regulations:** The Licensee and all attendees shall comply with all applicable federal, state and local laws, all College building rules and regulations, and all College rules and regulations while on the Property, including, without limitation, all environmental laws relating to the Licensed Area and the rights granted herein (collectively, the “Regulations”).

**Smoking:** Smoking is prohibited inside the Property. Smoking areas are outside in designated areas, and are located 25 feet from any building.

**Pets:** No pets of any kind may be brought inside the Property. This prohibition does not apply to service animals that are present to assist an individual with a disability.

**Key Replacement**: The Licensee will be responsible for the replacement of any lost keys.

**Fire Safety:** All College facilities are equipped with fire safety systems. All participants must leave the Building immediately when the fire alarm sounds. Misuse of or damage to fire safety equipment is strictly forbidden and may result in damage charges to Licensee and to prosecution

**Notice:** Notices and other communications to be given hereunder shall be in writing and only delivered by (i) hand, (ii) postage paid certified mail, return receipt requested, or (iii) nationally recognized overnight courier delivering against a signed receipt (e.g., Federal Express) as follows:

To the College: Mercy College

555 Broadway, VH 34

Dobbs Ferry, NY 10522

Attention: Lisa Mills-Campbell

 To Licensee:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 With a copy to:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Communications sent in compliance with this Section shall be deemed given and received on the date of delivery or when delivery was first rejected or refused. Addresses for notices may be changed by providing notice in accordance with this Section.

**Assignment and Delegation:** Licensee may not assign, delegate or transfer this Agreement or any rights or obligations arising hereunder without the prior written consent of the College, which the College may withhold in its sole and absolute discretion.

**Authority to Enter Into This Agreement:** If the Licensee is a group or other entity – that is, anything other than a single individual – the person signing this Agreement on behalf of the Licensee represents and warrants that he is fully authorized by the Licensee to enter into this Agreement on its behalf, binding the Licensee and any members thereof to the terms of this Agreement.

**Defense and Indemnification:** The Licensee hereby agrees, to the fullest extent permitted by law, to defend, with counsel reasonably acceptable to the College, indemnify and hold harmless the College and its landlords, lessors, partners, members, managers, affiliates, officers, directors, employees, trustees and agents (the "Mercy College Indemnitees") from and against any and all claims, damages, liabilities, losses, costs, proceedings (including any brought in or before any court, administrative body, arbitration panel or other tribunal), fines, penalties and expenses (including attorneys' fees and disbursements), causes of action or the like (including claims relating to bodily injury, including mental injury or death, other personal injury, including violation of civil rights, defamation, wrongful arrest and invasion of privacy, and property damage, including loss of use or value, or theft, or damage to the environment) in any way deriving from a claim made by a third party (including any governmental or quasi-governmental party) against any Mercy College Indemnitee arising from or out of, or in connection with, or relating to, directly or indirectly, in whole or in part (i) the Licensee entering into this Agreement, (ii) any act or omission of the Licensee, its agents, subcontractors or suppliers or their respective owners, partners, members, managers, shareholders, affiliates, officers, directors, employees, trustees or agents (the "Licensee Parties") in connection with this Agreement, (iii) the breach of any obligation of the Licensee hereunder (and, without limiting the foregoing, the Licensee shall be liable to the Mercy College Indemnitees for any costs and expenses, including attorneys’ fees and expenses, incurred by any Mercy College Indemnitee in the enforcement of its rights under this Agreement, including a demand for indemnification hereunder), (iv) a misrepresentation made by the Licensee hereunder, or (v) the use of the Licensed Area. These indemnification obligations shall survive the expiration or termination of the Agreement.

**Liability:** Licensee shall assume full and complete responsibility for the supervision and control of any and all persons entering upon the Licensed Area, and shall supply all necessary signs or directions and controls. Licensee acknowledges that the College shall not be responsible for any loss or damage to any person or property in connection with the rights granted herein.

**Insurance:** The College requires the Licensee to maintain certain insurance coverage and to provide certification of such insurance. Those requirements are attached and incorporated as an essential element of this Agreement. The College must be named as an additional insured on the certificate of insurance. See Appendix with Insurance Requirements.

**Entire Agreement:** This Agreement, including any insurance requirements attached hereto, sets forth the entire agreement between the parties with respect to any of the matters addressed herein. It supersedes any prior or contemporaneous communications between the parties with respect to the matters addressed herein. This Agreement may be modified or amended only by a writing signed by both parties. This Agreement may be executed in counterparts, any of which may be executed and transmitted by facsimile or other electronic method, and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**Severability:**  The provisions of this Agreement are severable. If a court of competent jurisdiction rules that any provision of this Agreement is invalid or unenforceable, such provision shall be replaced by another provision which is valid and enforceable and most closely approximates and gives effect to the intent of the invalid or unenforceable provision. Furthermore, such ruling shall not affect the validity or enforceability of any other provision of this Agreement.

**No Other Rights/Non-Recording:** This Agreement does not and shall not be deemed to constitute a lease, easement or a conveyance of any of the Property nor shall the License confer upon Licensee any right, title, interest or estate in the Property other than the License. Neither this Agreement nor any memorandum or other short form of this Agreement shall be recorded.

**Governing Law:** This Agreement and the rights and obligations of the Parties shall be governed by and construed in accordance with the laws of the State of New York, without regard to any provisions pertaining to choice of law.

**Dispute Resolution:**

Notice of Claim. In the event of any controversy or claim arising out of or relating to this Agreement, its interpretation or performance or enforcement, or the breach or alleged breach thereof (defined herein as “Claim”), the party asserting any such Claim shall provide written notice of the existence of the Claim (the “Notice”).

Negotiation. Within 10days of the receipt of the Notice, or unless the Parties jointly agree to a different timeframe, pursuant to the Notice provisions of this Agreement, the Parties, or representatives of the Parties with full authority to negotiate and resolve the Claim or Controversy shall meet to negotiate in good faith to attempt to resolve the Claim.

Mediation. To the extent the Parties cannot resolve the Claim by negotiation, then the Parties shall agree to attend at least one mediation session within 30 days of the Notice, unless the Parties jointly agree to a different timeframe for the mediation.

Arbitration.  Subject to compliance with the provisions set forth herein, if the Claim is not resolved by the processes prescribed herein, then the Claim shall be decided by arbitration held before a single arbitrator under the auspices of the City of White Plains, New York under its then existing rules.  The Laws of the State of New York shall apply to the resolution of the Claim.

Exception for Injunctive Relief/Limitations:  The parties may not commence any litigation, arbitration or other judicial or quasi-judicial proceeding as permitted by this Agreement (“Proceeding”) prior to complying with the negotiation and mediation provisions herein, except that any party may commence a Proceeding prior to the negotiation and/or mediation if: (i) by operation of law the Proceeding must be commenced in order for the Proceeding to be timely under applicable statute(s) of limitations, in which event the parties shall take no further action in the Proceeding post-filing and the Proceeding will be stayed by agreement until seven days following the mediation session; and/or (ii) the party commencing the Proceeding is seeking temporary and/or preliminary injunctive relief, providing that the party alleges in good faith and with specificity that the grounds for injunctive relief are satisfied, including that the absence of the granting of the requested injunctive relief will cause the moving party irreparable harm.

**NAME OF ORGANIZATION**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Print and sign name)

Title: \_\_\_\_\_\_\_\_­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**MERCY COLLEGE**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Thomas R. Simmonds

Title: Vice President Operations and Facilities