



UNION OF PAN ASIAN COMMUNITIES
FACILITY USE AGREEMENT
(ENTITY)

This Facility Use Agreement (“*Agreement*”) is entered into on the date designated below, by and between Union of Pan Asian Communities (“*UPAC*”) and the entity designated below as “*User*”, to allow User’s temporary non-exclusive use of the multipurpose community room known as the “*Gathering Place*” situated in the UPAC Neighborhood Enterprise Center (“*Facility*”), located at 5296 University Avenue, Suites A & B, San Diego, CA 92105, according to the terms and conditions of this Agreement.

Date of Agreement: _____

User Name: _____

Legal type of business: For Profit Corporation Nonprofit Corporation LLC
 Partnership Other _____

Address: _____

Phone: (_____) _____ **Email:** (_____) _____

User’s Contact Person: _____ **Phone:** (_____) _____

[The person who will handle all communications and transactions with UPAC and be on-site during the entire Time of Use of the Space]

Mobile Phone: (_____) _____ **Email:** _____

UPAC Contact Person: _____ **Phone:** (_____) _____

Space in Facility Allowed for Use: Gathering Place community room and restrooms only.

Purpose of Use: _____

Date of Use: _____ **Time of Use:** from _____ [AM/PM] to _____ [AM/PM]

Use Fee: Hourly Use Fee at \$_____ per hour x _____ hours = \$_____

Use Fee Deposit: 50% of Use Fee, due upon signing Agreement \$_____

Security Deposit: \$_____

1. Grant of License. This Agreement grants a revocable license to User to use the community room space and restrooms (“*Space*”) in the Facility only for the Purpose of Use, on the Date of Use, and during the Time of Use as stated above. User is responsible for all set-up of equipment and furniture for the Space beyond the normal set up of chairs and tables provided by UPAC. User is responsible for all clean-up of the Space as provided in this Agreement. All set-up and clean-up is accomplished within the

Time of Use specified above. Except as expressly stated in this Agreement, User shall have no rights to use or access any other part of the Facility, and shall have no rights as a “tenant” to possession or occupancy of the Space or Facility or any part thereof.

2. Use Fee, Use Fee Deposit and Security Deposit. User will pay UPAC a Use Fee for use of the Space in the amount specified above. User will pay UPAC a Use Fee Deposit equal to 50% of the Use Fee upon signing this Agreement which will reserve the Space for the Date of Use and Time of Use and will be applied to the Use Fee upon completion of this Agreement. The balance of the Use Fee and the full amount of the Security Deposit shall be paid by User to UPAC **at least seven (7) calendar days before the Date of Use**. UPAC shall be entitled to apply the Security Deposit for cleanup of the Space, to pay for any loss or damage to the Space or Facility or any part thereof, including UPAC’s furniture and equipment, or any other amounts owing by User to UPAC. Any portion of the Security Deposit not applied will be refunded to User within ten (10) business days after the Date of Use. User understands and agrees that User is fully responsible for all loss or damage regardless of the amount of the Security Deposit.

3. Cancellation. Either UPAC or User may cancel and terminate this Agreement without obligation by notifying the other party **in writing at least seven (7) calendar days before the Date of Use**, and User’s Use Fee and Security Deposit shall be refunded in full. If User cancels this Agreement any time after seven (7) calendar days before the Date of Use, UPAC shall be entitled to retain all of the Use Fee Deposit which shall be **non-refundable**. Notwithstanding anything in this Agreement, UPAC may cancel and terminate this Agreement immediately, without prior notice, and without obligation to User if (i) User fails to timely pay any Deposits, Use Fee or other charges payable under this Agreement; (ii) User violates any of the terms or conditions of this Agreement, including rules related to use of the Space; and/or (iii) in UPAC’s sole discretion and judgment, cancellation and termination is necessary to prevent any injury to persons or damage to or loss of property. If the event the Space is not available to User on the Date of Use due to any of the following affecting the Space: natural disasters; unforeseen catastrophic circumstances; acts of nature; fire, flood, explosion or other calamity; disruption in utilities serving the Facility; local, state or national emergencies; acts of civil or military authorities, acts of insurrection, civil disobedience, war or terrorism; or labor shortages or difficulties, UPAC will reschedule User’s Date of Use to another available date and Use Fee Deposit and Security Deposit will be applied to the rescheduled Date of Use. UPAC shall not be liable for any costs or expenses of any kind incurred by User as a result of such rescheduling.

4. Compliance Laws, Rules and Regulations. User (which includes all of User’s guests, contractors, employees, agents and visitors) shall comply with all written and verbal directions of any UPAC employee or representative related to use of the Facility and Space, and shall comply with all of UPAC’s rules for the use of the Facility or Space, including the Facility Rules on Exhibit A, attached hereto and incorporated herein. User shall comply with all applicable local, state and federal laws and regulations related to the use of the Facility and Space. User shall not bring or allow to be brought into the Facility or any adjacent areas including, but not limited to walkways and parking areas, any materials or substances that are considered hazardous or illegal under any governmental rule, guideline, or regulation. User shall **not** allow in the Facility at any time: weapons of any type, alcoholic beverages or the consumption of alcohol, illegal drugs or the consumption of any illegal drugs, smoking or vaping of any substance, or any open fires (including candles and incense). User shall leave the Space in a clean and orderly condition, and shall restore the Space to the original condition it was prior to the use including,

but not limited to, removing all items brought into the Space and trash created during the use, and returning all furniture and equipment to its original location. All persons using the Space in connection with User, including guests, contractors, employees, agents and visitors, shall be under User's care, custody and control during the entire Time of Use, and User shall be responsible for all acts or omissions of such persons.

5. **Insurance.** User shall, at its sole cost and expense, obtain and maintain the following insurance during all use of the Space:

A. Commercial General Liability insurance (including contractual liability) in an amount not less than \$1,000,000 per occurrence, \$3,000,000 annual aggregate. Such coverage shall include protection for bodily injury, property damage, personal & advertising injury and products and completed operations. Such coverage shall be primary to any insurance carried by UPAC and not contributing with any insurance maintained by UPAC. User shall provide primary and non-contributory endorsement and provide additional insured status in favor of UPAC.

B. Sexual Abuse Liability insurance in an amount of not less than \$1,000,000 per occurrence, \$3,000,000 annual aggregate. User shall provide additional insured status in favor of UPAC.

C. Commercial Umbrella insurance in an amount of not less than \$5,000,000 per occurrence, \$5,000,000 annual aggregate.

D. Workers Compensation and Employer's Liability insurance. Workers Compensation insurance must be maintained by User protecting all of its employees. Employers liability shall be in an amount not less than \$1,000,000 each accident and disease. User must include a waiver of subrogation in favor of UPAC.

All insurance must be carried with companies licensed to do business in the State of California, reasonably satisfactory to UPAC, shall be non-cancelable and not subject to material change except after thirty (30) days written notice to UPAC. **At least seven (7) calendar days before the Date of Use, User shall deliver to UPAC a duly executed certificate of insurance naming UPAC as an additional insured.** Such insurance shall be primary and noncontributing with any other insurance in effect for UPAC. Notwithstanding such insurance, User, and not UPAC, shall be fully responsible for all property loss or damage and all injuries or death to any persons related to or arising from User's use of the Space.

6. **Indemnification.** To the maximum extent permitted by law, User shall indemnify, defend and hold UPAC and all of its officers, directors, employees, agents, and affiliates, and all owners of the Facility and the property where the Facility is located, free and harmless from any and all obligations, costs, claims, demands, expenses, losses, causes of action, liabilities, damages, attachments and judgments, including attorneys' fees and legal costs, personal injuries, death, and property loss or damage, arising from, growing out of, or in any way related to User's use of the Space and Facility or any part thereof. User shall be solely responsible for all acts and omissions of User's employees, agents, representatives, guests, invitees, contractors, and all other persons in or about the Facility. User's indemnification obligations shall survive the termination of this Agreement.

7. Waivers. User, for itself and its agents, employees, affiliates, successors and assigns, hereby releases and forever discharges UPAC and its officers, directors, employees, agents, affiliates, successors and assigns from, and waives any right to proceed against UPAC and such UPAC-related persons and entities for, any and all costs, expenses, claims, liabilities and demands (including attorney's fees and costs) at law or in equity, whether known or unknown, arising from, growing out of, or in any way related to the physical, environmental, economic, legal, or other condition of the Facility or Space, or User's use of the Facility or Space or any part thereof, which User or any of its agents, employees, affiliates, successors or assigns, has or may have at any time or in the future. Without limiting the foregoing, User hereby specifically waives the provisions of Section 1542 of the California Civil Code which provide: "**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**"

8. Limitation of Liability. IN NO EVENT WILL UPAC BE LIABLE TO USER OR ANYONE CLAIMING BY OR UNDER USER FOR ANY LOSS OF PROFITS, LOSS OF REVENUES, LOSS OF USE, OR PUNITIVE, INCIDENTAL, SPECIAL, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, EVEN IF UPAC WAS INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS WILL APPLY REGARDLESS OF WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BY OPERATION OF LAW, OR OTHERWISE. UPAC'S SOLE LIABILITY TO USER OR ANYONE CLAIMING BY OR UNDER USER FOR ALL CLAIMS, CAUSES OF ACTION, LOSSES, DAMAGES, COSTS, OBLIGATIONS, ATTORNEYS' FEES, JUDGMENTS AND ATTACHMENTS, PERSONAL INJURY, DEATH OR PROPERTY DAMAGE, SHALL BE LIMITED TO THE SUM OF \$3,000 (OR IF SUCH SUM IS FOUND BY A COURT OF COMPETENT JURISDICTION TO BE UNENFORCEABLE, THE LIMITS OF LIABILITY OF UPAC'S APPLICABLE INSURANCE). THE PARTIES ACKNOWLEDGE AND AGREE THAT THEY HAVE NEGOTIATED AND EXPRESSLY AGREED TO THIS LIMITATION OF LIABILITY.

9. Condition. User has inspected the Facility and the Space and determined that the Space is acceptable for the intended use, and accepts the Space in its current "as-is" condition "with all faults".

10. No Assignment. This Agreement is specific to User and is not transferable or assignable, in whole or in part. User shall not assign this Agreement or any rights or obligations under this Agreement, or otherwise transfer or sublicense use of the Space or Facility or any part thereof or permit the use of the Space or Facility or any part thereof by anyone other than User.

11. Noninterference. User shall not create any unreasonable noise in its use of the Space, and shall not interfere with others' use or enjoyment of portions of the Facility, or the building or business/shopping center where the Facility is located.

12. Security; User's Contact Person. UPAC shall have no responsibility for providing any security at any time during User's use of the Space. All arrangements for security must be made by User at its sole expense. User's Contact Person designated above will handle all communications and transactions with UPAC, and must be on-site on the Date of Use during the entire Time of Use.

13. Damages. User shall be fully responsible for all loss and damage to the Space and Facility and any of UPAC's property therein, and will pay UPAC upon request all costs for repair, or at UPAC's option, all costs for replacement without regard to depreciation or age of the lost or damaged property.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

15. Entire Agreement. This Agreement contains all of the covenants and agreements and supersedes any and all other agreements, whether oral or written, between the parties hereto with respect to the subject matter hereof. Each party acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. This Agreement shall be construed in accordance with its fair meaning and intent and not against any party who drafted this Agreement.

16. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Any signature to this Agreement transmitted via facsimile (or other electronic means) or other electronic signature shall be deemed an original signature and be binding upon the parties. Any facsimile or other electronic signature shall have the same force and effect as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as the Date of Agreement written above.

UPAC:

UNION OF PAN ASIAN COMMUNITIES

By: _____

Name Printed: _____

Title: _____

USER:

[Full legal name]

By: _____
[signature]

Name Printed: _____

Title: _____

EXHIBIT A - FACILITY RULES

Room Capacity: The maximum number of people allowed in the Space is 58; User will not exceed this limit at any time. User must comply with all fire and safety codes and must not block any doors, windows or exits.

User's Contact Person: User's Contact Person designated in the Agreement must handle all communications and transactions with UPAC and be on-site during the entire Time of Use of the Space.

Supervision of Minors: Any minors present in the Space must be supervised by responsible adults at all times.

Equipment: Use of the Space includes tables and chairs and may include a projector and audiovisual equipment if arranged with UPAC in advance. UPAC does not provide any linens, glassware or tableware or other food or beverage service supplies.

Clean Up and Trash Disposal: Use of the Space is for the Time of Use agreed upon only. User is responsible for all set-up and clean-up not normally provided by UPAC, and all set-up and clean-up must be accomplished within the Time of Use. User is responsible for cleaning the Space and removing all trash and returning the Space to its original condition at the end of use. The Space must be cleared of all items brought to the Space by User including all trash. No trash may be left at the Space or Facility. User is responsible for removing and properly disposing of all trash.

Food and Beverages: Light refreshments may be served during use of the Space. User is responsible to provide all food and nonalcoholic beverages, supplies and equipment for serving refreshments. No alcohol may be consumed in or brought into the Space or Facility.

Decorations: No signs, posters, displays, or decorations may be put on the any wall, window, floor or ceiling without the express permission of UPAC. Use of nails, screws, staples, etc. on walls is prohibited. User may not affix decorations or signs in a manner that causes damage to walls, floors, ceilings, windows, or other surfaces or furnishings in the Facility. Some types of low-adhesive tape may be used as long User obtains UPAC's prior approval. Glitter, rice, confetti, sand or any substance that causes litter or debris inside or outside the Facility is prohibited. No candles except dripless candles may be used at any time and only if approved by UPAC in advance. If candles are approved for use, User must supervise their use to prevent fires or mishaps. All decorations and equipment brought into the Space must be removed by User at the end of the Time of Use unless other arrangements have been made in advance with UPAC.

No Smoking; Drug Free Zone: Smoking or use of any tobacco product, or vaping any substance is not allowed in the Space or Facility or near any entrances, exits or other areas immediately adjacent to the Facility. No drugs or illegal substances may be consumed at any time or brought into the Space or Facility.

Security; Compliance with Law: UPAC has no responsibility for providing any security during use of Space or Facility. User has been advised to provide its own security. No firearms, ordnance or weapons of any kind are permitted in the Space or Facility. Any activity in the Space or Facility that is in violation

of federal, state, or local laws, codes, or ordinances, or in violation of UPAC's rules and regulations is prohibited.

Damage: User is responsible for and assumes all liability for damage to or loss of UPAC property.

User's and Other's Property: UPAC is not responsible for any property brought into or left in the Space or Facility, and is not responsible for any damage or loss of any property, including vehicles, of User or any of its guests, employees, contractors, invitees, or visitors.

Responsible Behavior; Removal for Disruptive Behavior: User and its guests, visitors and invitees must observe and help enforce common rules concerning social behavior. For example, there shall be respect for the personal and property rights of others, and avoidance of unnecessary noise (including music) which might disturb others using the Facility or persons doing business or residing near the Facility and adjacent areas. User will comply with any neighborhood curfews or regulations. Failure to immediately comply with security or UPAC management requests, violation of rules and regulations, or disruptive behavior may result User's removal from the Space and Facility and/or contacting of law enforcement agencies.

Modification of Rules: UPAC had the right to add to or modify these rules at any time and without notice.