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<b>Issuance Date:</b>	07/18/06
<b>Effective Date:</b>	07/18/06
<b>Last Review Date:</b>	02/02/92
<b>Scope:</b>	Facility use agreements between UC ANR and a Non UC entity

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## **I. POLICY SUMMARY**

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This section of the Handbook pertains to Facility Use Agreements (FUAs) (also known as “License Agreements”). Specifically, it covers situations in which the University of California (UC), Agriculture and Natural Resources (ANR) will make use of the property of an outside (i.e., non-UC) entity.

From time to time ANR may wish to allow an outside entity to make use of UC-owned property. When this is sought contact the ANR Risk Services office (see contact information above) for assistance.

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## **II. DEFINITIONS**

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## **III. POLICY TEXT**

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Regents policy specifies that UC will not enter into agreements wherein UC assumes liability for persons other than UC officers, agents, employees, students, invitees, and guests, without specific authorization by resolution of The Regents pursuant to [Standing Order 100.4 \(cc\) \(jj\)](#).

FUAs are intended for licensing classroom, studio, theater, and other periodic use space for educational, research, and public service purposes where the total term will not exceed one to three years and the user is not making any improvements to the premises. FUAs should be tailored to fit the unique facts of individual arrangements. (See Appendix A for FUA template.)

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## **IV. COMPLIANCE / RESPONSIBILITIES**

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- A.** The Vice President has been delegated authority to execute FUAs, consistent with Regents policy, covering the use of buildings and facilities for ANR. These include activities that are a part of the Agricultural Extension Service program, and agreements covering the use of buildings or facilities by 4-H. All FUAs should show “The Regents of the University of California.”
- B.** Every effort should be made to bring FUAs into conformity with Regents policy. In some cases exceptions will be made based upon a case-by-case evaluation of the relative risks and benefits.
- C.** County Directors have been delegated authority to execute the following:
  - 1. FUAs that do not contain a hold harmless clause or that contain a hold harmless clause using UC's preferred language (see section III below), or an alternative clause previously approved by UC. These FUAs should be carefully reviewed by the County Director to determine that there are no other provisions that would be detrimental to UC interests. It is also important to remember that hold harmless or other indemnification clauses may be hidden in other clauses and may not be

specifically identified as "indemnification."

2. State of California, Division of Fairs and Expositions, [Agreement No. F31](#) or F34 covering use of fairground facilities.
- D.** If a FUA is received that contains a hold harmless clause not in conformity with the above, the County Director should attempt to negotiate the hold harmless clause preferred by UC. If negotiations are unsuccessful, FUAs should be submitted to the Risk Services Coordinator's office (see contact information above) under the ANR Controller and Business Services Director, for review and further efforts to negotiate an acceptable clause. If this fails, the FUA will be evaluated to determine whether the benefits of using the facility outweigh the risks associated with the FUA. To make a proper determination, it will be necessary to consider the condition of the facility, the nature of the activity to be conducted, the number of persons to use the facility, alternative options available, and other pertinent factors. If a positive determination is made, the FUA will be executed by the Controller and Business Services Director and returned to the County along with any necessary insurance certificate.

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## **V. PROCEDURES**

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### **A. Hold Harmless Clause**

Set forth below is the hold harmless clause language preferred by UC, which recognizes the interests of the property owner while at the same time not placing unacceptable liability on UC. Questions concerning any hold harmless clause should be referred to the ANR Risk Services Coordinator.

The standard clause is as follows:

"The Regents of the University of California shall defend, indemnify, and hold \_\_\_\_\_ its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fee, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the University, its officers, employees, or agents.

\_\_\_\_\_ shall defend, indemnify, and hold The Regents of the University of California, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fee, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the University, its officers, employees, or agents."

### **B. Insurance Certificates**

Many FUAs require the furnishing of an insurance certificate evidencing appropriate insurance coverage by UC. See [Handbook Section 210](#) to determine appropriate coverage requirements. See [ANR Office of Risk Services](#) for details on obtaining a certificate of Insurance.

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## **VI. RELATED INFORMATION**

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- [ANR Office of Risk Services](#)

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## **VII. FREQUENTLY ASKED QUESTIONS**

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### **Does this policy apply to all License Agreements?**

No, the above applies to FUAs only. As described in Item I. above, all other agreements should be forwarded to the office of the Risk Services Coordinator for review and processing.

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## **VIII. REVISION HISTORY**

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### **August 2017:**

Format updated.

## APPENDIX A

### FACILITY USE AGREEMENT THE REGENTS AS LICENSEE

THIS AGREEMENT dated \_\_, 20\_\_, ("Effective Date") is by and between \_\_\_\_\_ ("Owner") and THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ("University").

**WHEREAS**, Owner is the owner of certain real property described as follows: \_\_\_\_\_ and

**WHEREAS**, University seeks to enter and use the following described portion of Owner's real property \_\_\_\_\_ ("Premises") for educational, research or public service purposes,

**NOW, THEREFORE**, Owner and University hereby agree as follows:

#### **ARTICLE 1 – GRANT OF LICENSE**

- 1.1 **Grant:** Owner hereby grants to University and to its agents, employees, guests and invitees an exclusive, revocable license to enter and use the Premises for the purposes, and at the times, set forth in Article 3, below.
- 1.2 **Condition of Premises:** Owner is not aware of any condition in, on, or about the Premises which constitutes a hazard to the safety of any occupant or which violates any governmental law or ordinance intended to protect human safety, except \_\_\_\_\_. Other than as set forth above, University accepts the Premises "as is".

#### **ARTICLE 2 - TERM**

The term of this Agreement shall be for the period from \_\_\_\_\_, to \_\_\_\_\_, ("Term"). ***{Optional: However, either party may terminate this Agreement at any time by giving \_\_\_\_\_ (\_\_) days' written notice to the other.}***

#### **ARTICLE 3 - USE OF PREMISES**

- 3.1 **University Uses:** The University shall use the Premises as follows:  
\_\_\_\_\_  
\_\_\_\_\_

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3.2 Time of Use: The University's use of the Premises shall be at the following times and days of the week:

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**ARTICLE 4 - CONSIDERATION**

As total consideration for its use of the Premises, University shall pay to Owner:

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**ARTICLE 5 - INDEMNIFICATION**

5.1 Owner's Obligation: Owner shall indemnify, defend, and hold harmless University, its officers, agents and employees, from and against any claims, damages, costs, expenses, or liabilities (collectively "Claims") arising out of or in any way connected with this Agreement including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons but only in proportion to and to the extent that such Claims arise from the negligent or intentional acts or omissions of Owner, its officers, agents, partners or employees.

5.2 University's Obligation: University shall indemnify, defend and hold harmless Owner, its officers, agents, partners and employees, from and against any Claims arising out of or in any way connected with this Agreement including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons but only in proportion to and to the extent that such Claims arise from the negligent or intentional acts or omissions of University, its officers, agents, or employees.

**ARTICLE 6 - INSURANCE**

6. Insurance.

6.1 Owner's Insurance: Owner, at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force, and maintain insurance as follows:



- A. Commercial Form General Liability Insurance (contractual liability included) with minimum limits as follows:  
**{Note: Always consult with ANR Risk Services Coordinator to determine amounts of coverage.}**

1. Each Occurrence	\$_____
2. Products/Completed Operations Aggregate	\$_____
3. Personal and Advertising Injury	\$_____
4. General Aggregate	\$_____

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement of the Term of this Agreement.

- B. Business Automobile Liability Insurance for owned, scheduled, non- owned, or hired automobiles with a combined single of not less than \_\_\_\_\_ dollars (\$\_\_\_\_\_ ) per occurrence.
- C. Property Insurance, Fire and Extended Coverage Form in an amount equal to one hundred percent (100%) of the full replacement value of the building in which the Premises are located to conform with then current codes and the costs of demolition and debris removal, excluding land and the footings, foundations and installations below the basement level.
- D. Workers' Compensation as required by California law.

The coverages required herein shall not limit the liability of Owner.

The coverages referred to under A. and B. of this Section 6.1 shall include University as an additional insured. Such a provision shall apply only in proportion to and to the extent of the negligent acts or omissions of Owner, its officers, agents, partners and employees. Owner, upon the execution of this Agreement, shall furnish University with certificates of insurance evidencing compliance with all requirements. Certificates shall provide for thirty (30) days (ten [10] days for non-payment of premium) advance written notice to University of any material modification, change or cancellation of the above insurance coverages.

6.2 University's Insurance: University, at its sole cost and expense, shall insure its

activities in connection with this Agreement and obtain, keep in force and maintain insurance as follows:

- A. General Liability Self-Insurance Program (contractual liability included) with minimum limits as follows:  
**{Note: Always consult with ANR Risk Services Coordinator to determine the appropriate amounts of coverage.}**
  - 1. Each Occurrence \$\_\_\_\_\_
  - 2. Products/Completed Operations Aggregate \$\_\_\_\_\_
  - 3. Personal and Advertising Injury \$\_\_\_\_\_
  - 4. General Aggregate \$\_\_\_\_\_
  
- B. Business Automobile Liability Self-Insurance Program for owned, scheduled, non-owned, or hired automobiles with a combined single limit of not less than \_\_\_\_\_dollars (\$\_\_\_\_) per occurrence.
  
- C. Property, Fire and Extended Coverage Self-Insurance Program in an amount sufficient to reimburse University for all of its equipment, trade fixtures, inventory, fixtures and other personal property located on or in the Premises including improvements hereinafter constructed or installed.
  
- D. Workers' Compensation as required under California State law.  
**{If licensed property is out of California, consult ANR Risk Services Coordinator.}**

The coverages required under this Section 6.2.A, B and C shall not limit the liability of University.

The coverages referred to under this Section 6.2.A and B. shall include Owner as an additional insured. Such a provision shall apply only in proportion to and to the extent of the negligent acts or omissions of University, its officers, employees, and agents. University, upon the execution of this Agreement, shall furnish Owner with certificates of insurance evidencing compliance with all requirements. Certificates shall provide for thirty (30) days advance written notice to Owner of any material modification, change or cancellation of the above insurance coverages.

- 6.3 Waiver of Subrogation: University and Owner hereby waive any right of recovery against the other as a result of loss or damage to the property of either University



or Owner when such loss or damage arises out of an Act of God or any of the property perils insurable under extended coverage, whether or not such peril has been insured, self-insured, or non-insured.

**IN WITNESS WHEREOF**, the parties have executed this Facility Use Agreement as of the date first written above.

OWNER:

\_\_\_\_\_

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

ITS: \_\_\_\_\_

UNIVERSITY:

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

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

ITS: \_\_\_\_\_