

Terms & Conditions:

NO GUNS ALLOWED ON PROPERTY!

Signing a rental agreement with MSU Horticulture Gardens constitutes your agreement to the following Terms and Conditions (“Terms”). Revisions to the following terms and conditions may occur periodically. As such, you should check these Terms periodically.

Payment Schedule:

Down Payment Amount Due within 5 days of Contract Signing: 30% of total estimated.

70% of Balance Due 3 weeks before event.

The parties agree as follows.

1. License. On the terms and conditions of this Agreement, MSU grants Client a license to use the space at the location (the “Site”) for the event (the “Event”) on the dates and during the time periods (the “Use Period”), set forth on Exhibit A attached to this Agreement. Client acknowledges and agrees that the Site is open to the public and consists of shared use facilities in which MSU and other third parties will have and exercise rights of use.
2. Use Fee. Client shall pay MSU the fees, including the site deposit and the damage deposit, as well as any applicable equipment rental fees (collectively, the “Use Fee”), in the amounts and in accordance with the instructions set forth on Exhibit A attached to this Agreement. Subject to Sections 7 and 8 below, the damage deposit is refundable. Subject to Section 12 below, the site deposit is not refundable.
3. Site Condition. Client acknowledges that it has inspected the Site and deemed it suitable for the Event. By taking possession of the Site upon commencement of the Use Period, Client accepts the Site “as is” at such time. **Client shall not make alterations, improvements, or material changes to the Site. No modifications will be made to the Gardens by MSU to satisfy any requests by the Client.**
4. Event Policies. Client acknowledges and agrees to comply with the event policies set forth on Exhibit B attached to this Agreement. If the Event involves the service of alcohol, Client shall complete Exhibit C attached to this Agreement to indicate Client’s acknowledgment and agreement to the matters therein.
5. Compliance with Law; Care of Site. Client shall:
 - (a) comply with all applicable federal, state, and local laws, as amended from time to time;
 - (b) comply with all applicable ordinances, policies, and procedures established by MSU, as amended from time to time;
 - (c) not damage any part of the Site or surrounding areas;
 - (d) not permit any trade or occupation which is unlawful or any activity which would (i) create a hazard or otherwise adversely affect any insurance in or on the Site or (ii) unreasonably interfere with the use of the Site by MSU or other permitted users;
 - (e) not use the Site in such a way as to interfere with the other activities of MSU, including but not limited to classroom instruction and research;
 - (f) not bring any substances onto the Site that could emit strong odors or fumes;
 - (g) not bring onto the Site any hazardous materials regulated by applicable environmental laws; and

6. Health and Safety. Client agrees to, and agrees to cause its guests and invitees to, comply with (i) all applicable federal, state, and local laws; (ii) all applicable ordinances, policies, and procedures established by Michigan State University; and (iii) all rules of the MSU Horticulture Gardens related to guest conduct, including, without limitation, rules designed to prevent the spread of the novel coronavirus or other infectious disease. In furtherance and without limitation of the foregoing, Client shall notify the MSU Horticulture Gardens as soon as practicable if Client becomes aware that any of its guests or invitees is identified with a confirmed case of COVID-19 within 14 days of attending the event contemplated by this contract. In furtherance and without limitation of its other rights under this contract, the MSU Horticulture Gardens may reassign space, alter the method for providing food and beverages, and take other precautionary measures designed to prevent the spread of the novel coronavirus or other infectious disease.

7. Conclusion of Use Period. Prior to conclusion of the Use Period, Client shall (a) vacate the Site and cause its guests and invitees to vacate the Site, and (b) remove any personal property brought onto MSU property by Client in connection with its use of the Site. Client shall pay MSU at the rate of \$300 per hour for every hour or partial hour during which Client fails to timely comply with this Section 7. Client acknowledges and agrees that MSU will apply the damage deposit in satisfaction of Client's obligations under this Section 7, and Client will be responsible for any excess amounts owed to MSU pursuant to this Section 7.

8. Damage Policy. Client shall reimburse and hold harmless MSU for the fair value of any damages or losses caused to the Site or to third persons or their property by Client or its guests or invitees. Such damages may include, but are not limited to, harm to:

Parking lots and grounds (flowers trampled, trash left out, etc.)

Plant and Soil Sciences building or the Food Toxicology building

Event sites: North Garden, Conservatory, South Garden, or Arboretum (this includes nailing things into the wood, irremovable tape, etc.)

Rental equipment

Plant materials moved or altered in any way (no cutting, rearranging, etc.)

Excess amounts of trash left in the bridal rooms, in the Conservatory, or at the event site

Messes left uncleaned (spilled alcohol, pop, food left out, etc.)

Anything thrown other than what is allowed (only birdseed, real flower petals, and bubbles are allowed)

Client acknowledges and agrees that MSU will apply the damage deposit in satisfaction of Client's obligations under this Section 8, and Client will be responsible for any excess amounts owed to MSU pursuant to this Section 8.

9. Assumption of Responsibility. Client assumes full responsibility for the character, acts, and conduct of Client and its guests and invitees. MSU reserves the right to eject any objectionable person(s) from the Site and, upon the exercise of this authority through authorized agents or employees of MSU, Client hereby waives any right to, and all claims for, damages.

10. Indemnification. Client shall indemnify MSU from any claims of damage to any person or property caused by any breach of this Agreement by Client or by any act, omission, or neglect of Client or its guests or invitees. MSU will not be liable to Client or its guests or invitees for any damage to any person or property that occurs in connection with Client's use of the Site pursuant hereto, however caused, and Client expressly releases MSU and agrees to indemnify MSU from any such claims.

11. Client Default. The occurrence of any one or more of the following events will constitute a default by Client under this Agreement (a "Default"): (y) **failure to pay the Use Fee or any part thereof when due**; or (z) failure to observe or perform any of its other obligations under this Agreement. In addition to all other rights or remedies provided for at law or in equity, upon the occurrence of a Default, MSU may take one or more of the following actions:

(a) MSU may terminate this Agreement and revoke all rights granted under this Agreement. In such event, MSU may (i) recover from Client all amounts due and owing to MSU as of the effective date of termination, as well as any additional

amounts provided for by law (including attorneys' fees) or this Agreement for which Client is liable or for which it has agreed to indemnify MSU, and (ii) exclude Client from the Site and use or allow others to use the Site in its discretion.

(b) MSU may apply any or all of any prepaid amounts to satisfy in whole or in part any obligations owed by Client to MSU under this Agreement.

(c) MSU may take such other action as it deems necessary or appropriate to address a violation of the health, safety, or operational policies of the Site.

(d) **Use Period is subject to cancellation if balance due is not paid in full 21 days prior to the start of the Use Period.**

12. Cancellation Policy; Rescheduling Policy; Other Changes to Use Period.

(a) Client may cancel the Event (thereby terminating this Agreement) by submitting a written request to the Event Coordinator. In such event, MSU will not refund the site deposit, and Client shall pay MSU the applicable cancellation fee, as set forth in the table below

| Date of Cancellation Request | Applicable Cancellation Fee* |
|---|---|
| 8 months or more before the Event date | \$0 |
| 7 months or more before the Event date | Lesser of \$250 or remaining site balance |
| 5 months or more before the Event date | Lesser of \$500 or remaining site balance |
| 1 month or more before the Event date | Lesser of \$750 or remaining site balance |
| Less than 1 month before the Event date | Lesser of \$1,000 or remaining site balance |

*Cancellation fees are not cumulative. In any case, only one cancellation fee will apply.

(b) Client may reschedule the Event for a later date (thereby terminating this Agreement) by submitting a written request to the Event Coordinator, but only if such request is received at least 8 months before the originally scheduled Event date. In such event, Client shall pay MSU a \$150 rescheduling fee, and any other payments previously made by Client will be credited to Client's account in relation to the rescheduled Event.

(c) Client may decrease the Use Period by submitting a written request to the Event Coordinator, but only if such request is received at least 6 months before the Event date. In such event, Client will be responsible for payment of 50% of the hourly rate for each hour by which the Use Period is decreased.

(d) Should the client choose to reschedule or cancel the Event due to the COVID-19 pandemic, MSU will transfer all payments made to the new Event or issue a refund of all payments made by the Client.

(e) The dates, meeting space, and guest rooms reflected in this contract are subject to space modifications, rate change, or cancellation if adjustments occur to the MSU football schedule. Replacement dates may not be available or guaranteed.

(f) If the Event is canceled for any reason, MSU may use or allow others to use the Site and any preparations made for the Event in MSU's sole and absolute discretion, with or without charge to any other party, and without any obligation, liability, or compensation to Client.

13. Contacts and Communications. The contact information for MSU's Event Coordinator is provided in Exhibit A. Client must complete Exhibit A to provide its contact information. MSU and the Event Coordinator will not communicate with, or take direction from, anyone other than Client, unless Client provides in Exhibit A the names and contact information for any representative of Client ("Client Representative") that is authorized to communicate with MSU and the Event Coordinator. MSU and the Event Coordinator may rely upon any information or requests received from a Client Representative as if such information or request was delivered by Client, and MSU may consider any communication delivered by MSU to a Client Representative as also being delivered to Client.

14. Force Majeure. MSU will not be liable for any failure of or delay in performance under this Agreement following the occurrence of an event that makes it impossible or impracticable for MSU to perform its obligations under this Agreement (a "Force Majeure Event"). Force Majeure Events include, without limitation:

- Changes in MSU events (e.g., athletic events, graduation, Wharton Center events)
- Natural disasters (e.g., tornadoes, floods, wildfires, winter storms)
- Building disasters (e.g., water main breaks, mechanical errors, fires, power outages)
- Unexpected construction
- Emergency campus-wide closures
- Epidemics, pandemics, or other disease outbreak
- Acts or threats of terrorism

Notwithstanding anything to the contrary in this contract, if an event, beyond either party's control, renders the event contemplated by this contract prohibited by government order or law (including restrictions imposed by MSU administration), then neither party will be liable for any failure to perform its obligations under this contract (and for the avoidance of doubt, you will not be obligated to pay the cancellation fee).

MSU shall notify Client as promptly as practicable following the occurrence of a Force Majeure Event. In such event, MSU may cancel the Event or reschedule the Event for a date/time mutually agreeable to MSU and Client. If MSU cancels the Event or the Event cannot be rescheduled for a date/time mutually agreeable to MSU and Client, this Agreement will terminate, and MSU will refund in full all payments made by Client on or before the effective date of termination.

15. Limitations of Remedies and Damages. MSU will be in default of this Agreement if it fails to perform any of its obligations under this Agreement, and upon such default, Client may terminate this Agreement. CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY SUCH FAILURE TO PERFORM OR DEFAULT BY MSU IS TERMINATION OF THIS AGREEMENT. IN NO EVENT WILL MSU'S LIABILITY OF ANY KIND INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF MSU MAY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

16. Miscellaneous.

(a) Client shall not assign its rights or delegate its performance under this Agreement. Any purported assignment or delegation in violation of this Section is void and without force or effect.

(b) This Agreement does not create an employment, agency, partnership, or joint venture relationship between the parties. Client shall not use any trademark, service mark, trade name, or iconic imagery of MSU, nor shall Client hold itself out as having any business affiliation with MSU, in any case without MSU's prior written consent.

(c) Any failure or neglect by either party to assert or enforce any rights or remedies because of any breach or default by the other party under this Agreement will not prejudice any rights or remedies with respect to any existing or subsequent breaches or defaults. Acceptance of any partial payment from Client will not waive MSU's right to pursue Client for any remaining balance due nor will any endorsement or statement on any check or any letter which acknowledges a check or payment as rent be deemed an accord and satisfaction.

(d) The laws of Michigan (without giving effect to its conflicts of law principles) govern all matters arising under and relating to this Agreement. Notwithstanding anything in this Agreement or any other agreement between Client and MSU to the contrary, the parties do not, and have not, waived any immunity from liability granted to them under applicable law.

(e) This Agreement constitutes the final, exclusive agreement between the parties on the matters contained in this Agreement. All earlier and contemporaneous negotiations and agreements between the parties on the matters contained in this

Agreement are expressly merged into and superseded by this Agreement. This Agreement may only be modified in a writing and must be signed by Client and an authorized representative of MSU.