

F.Y.	Cost Center	Obj. Code	Amount	Vendor#	P.O #



MINNESOTA STATE

FACILITIES USE AGREEMENT OFF-CAMPUS FACILITIES ONLY

THIS FACILITIES USE AGREEMENT is between **Independent School District #709** ("Licensor"), 215 N 1st Ave East, Duluth MN 55802-2069 ("Licensor") and the State of Minnesota, by and through the Board of Trustees of the Minnesota State Colleges and Universities, on behalf of **Lake Superior College, 2101 trinity Road, Duluth MN 55811** ("Minnesota State").

1. **PERMITTED USE.** Licensor agrees to allow Minnesota State use of the following (hereinafter defined as the "Space"):

Location: *Ordean – East Middle School, 2900 E. 4th St, Duluth MN 55812
Gymnasium
See Exhibit A for sketch/map identifying location*

Date and Time: *Dec. 7 & Dec. 14, 2018 4:30 – 9:30pm, Jan. 19th, 2019 11 am – 6:00 pm, & Feb. 20, 2019 4:00 – 9:30 pm*

**Description
of Activity or Event:** *MCAC & NJCAA sanctioned collegiate basketball games for both
men's and women's LSC Basketball teams.*

2. **FEE.** For its use of the Space, Minnesota State agrees to pay to Licensor a fee of *One thousand eight hundred forty five dollars 00/100 (\$1,845.00)* which shall be payable in arrears within thirty (30) days of Minnesota State's receipt of Licensor's invoice, in the amount of \$1,845.00, *Payment shall be made within 30 days of receipt of invoice. Prepayment by Minnesota State is prohibited by Minnesota Statute.*
3. **TERM OF AGREEMENT; CANCELLATION.** This agreement shall be effective as of *Dec. 6, 2018* or the date when the final required signature is obtained by Minnesota State, and shall remain in effect until March 30, 2019. This agreement may be canceled by either party at any time, for any reason, upon 30 (*thirty*) days written notice to the other party. Licensor expressly understands and agrees that this agreement is not intended to and does not create a landlord-tenant relationship between the parties.

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4. **AUTHORIZED REPRESENTATIVES.**

All notices, requests, and other communications between Licensor and Minnesota State that are required or that Licensor or Minnesota State elect to deliver shall be deemed sufficiently given or rendered if in writing and delivered to either party personally, by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, (return receipt required) addressed as follows:

Minnesota State's authorized agent:
Name/Title: Mike Seymour, VP of ASA
Address: 2101 Trinity Road, Duluth, MN 55811
Telephone: 218-733-7628

With a copy to: Minnesota State
ATTN: Real Estate Services
30 E. 7th Street, Suite 350
St. Paul, MN 55101

Licensor's authorized agent:
Name: Cathy Erickson, CFO
Address: 215 N 1st Ave E, Duluth, MN 55802
Telephone: 218.336.8704

5. **MAINTENANCE OF SPACE.** Minnesota State agrees to maintain the Space in a reasonably clean and sanitary condition. Licensor shall provide the following:

- a. all utilities reasonably required to use the Space, including heating, cooling, and electricity;
- b. parking consisting of ISD709 parking lot outside of Ordean-East Middle School
- c. building security customarily provided by Licensor; Minnesota State may provide additional security at its own expense;
- d. janitorial services;
- e. any necessary keys or access codes;
- f. other: use of gymnasium, locker rooms, scoreboard, bleacher seating for basketball games, table and space for LSC provided gate attendant immediately outside of gymnasium entrance.

Licensor shall allow Minnesota State to place temporary signs directing students and other attendees to its event.

6. **BUILDING HOURS.** The building hours are 4:30 – 9:30 PM on weekdays and 11:00 – 6:00pm on Saturdays. Minnesota State may access the space during the specified hours.

7. **RULES AND REGULATIONS.** Minnesota State agrees to comply with the building rules and regulations during its use of the Space which are not inconsistent with this agreement, Minnesota State board policies and applicable laws.
8. **LIABILITY.** Each party shall be responsible for its own acts and omissions and the results thereof to the extent authorized by law and shall not be responsible for the other party's acts and omissions and the results thereof. The State's and Minnesota State's liability under this Agreement is governed by the Minnesota Tort Claims Act, Minnesota Statutes §3.736 and other applicable laws.
9. **INSURANCE.** Minnesota State maintains commercial general liability insurance in compliance with the Tort Claims limits set forth in Minn. Stat. §3.736, subd. 4, as amended. Minnesota State shall name Licensor as an additional insured upon request. Minnesota State shall maintain this coverage at its sole expense during its use of the Space. For purposes of this Agreement, Licensor shall maintain applicable insurance coverage consistent with the coverages outlined on **Exhibit B**, attached hereto and made a part of this Facilities Use Agreement. Licensor shall maintain coverages at its sole expense during the term of this Agreement. Minnesota State and Licensor shall provide each other with certificates of insurance, upon request. Coverage afforded under these policies shall not be cancelled without at least thirty (30) days advance written notice to the certificate holder. Each party, at its sole expense, shall provide and maintain workers' compensation insurance as such party may be required to obtain by law. Minnesota State is self-insured for workers' compensation purposes, and any such insurance extends only to employees of Minnesota State, not to students.
10. **MINNESOTA DATA PRACTICES ACT.** Minnesota State and Licensor agree to comply with the terms of the Minnesota Data Practices Act, Minnesota Statutes, Chapter 13, with regard to data related to this Agreement.
11. **AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE.** Licensor is responsible for complying with the Americans with Disabilities Act, 42 U.S.C. section 12101, et seq., and any regulations promulgated pursuant to the Act.
12. **AUDIT.** The books, records, documents, and accounting procedures and practices of the Licensor relevant to this contract shall be subject to examination by Minnesota State and the Legislative Auditor for a minimum of six (6) years from the end of the agreement.
13. **ASSIGNMENT; AMENDMENTS.** Neither party shall assign nor transfer any rights or obligations under this agreement without the prior written consent of the other party. All amendments to this agreement shall be in writing and executed by a duly authorized representative of each party.
14. **BREACH.** In the event that Licensor breaches this Agreement, Minnesota State shall

have the right to immediately terminate this Agreement, as well as any other remedy available at law or equity.

15. **GOVERNING LAW; VENUE.** This Agreement, including all exhibits, amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.
16. **ENTIRE AGREEMENT.** This Agreement (including all exhibits, as shown below intended by the parties as the final and binding expression of their agreement and as the complete and exclusive statement of its terms. This Agreement supersedes all prior negotiations, representations and agreements between the parties, whether oral or written, relating to the subject matter of this Agreement.
- Agreement
 - **EXHIBIT A,** Facilities sketch/map identifying Location
 - **EXHIBIT B,** General Insurance Requirements
 - **EXHIBIT C,** Rules (if applicable)
 - **Any Subsequent amendments, addendum properly executed by the parties.**
17. **SPECIAL PROVISIONS.** [If none, write *NONE*]:

SIGNATURE BLOCK IS ON NEXT PAGE

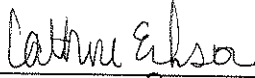
Signature Page for Facilities Use Agreement – Off-Campus Facilities Only

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed intending to be bound thereby.

APPROVED:

1. LICENSOR: ISD 709, Duluth Public Schools

Licensor certifies that the appropriate person(s) have executed the Agreement on behalf of Licensor as required by applicable articles, bylaws, resolutions, or ordinances.

By (authorized signature)

Title CFO
Date 1-17-19

2. Minnesota State: STATE OF MINNESOTA BY AND THROUGH THE BOARD OF TRUSTEES OF MINNESOTA STATE COLLEGES AND UNIVERSITIES, ON BEHALF OF Lake Superior College

By (authorized signature)
Michael Seymour
Title VP of Academic & Student Affairs
Date

3. AS TO ENCUMBRANCE:

By (authorized signature)
Title
Date

4. AS TO FORM AND EXECUTION:

By (authorized signature)
Title
Date

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EXHIBIT A

Facilities Sketch/Map Identifying Location (including suite or room numbers)

– See attached Facilities Agreement

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Facilities Agreement

Last Edited: 1/16/19 at 4:16pm

From: Ordean E Community School

2900 E 4th St

Phone: 218-336-8760 X1

Duluth, MN 55812

Contact/Billing Person: Kirsten Bowman

Address: 2101 Trinity Road, Duluth, MN 55811

Day Phone: (218) 733-6923 Email: kirsten.bowman@lsc.edu

EVENT NAME: Lake Superior College Basketball Games
To: Lake Superior College

Date/Time	Location/Activity/Detail	Units	Rate	Subtotal
Fri 12/7/2018 Ordean East Middle School - Gym (Court B middle)				
4:00pm - 5:30pm	Setup	1.50	\$ 0.00	\$ 0.00
5:30pm - 10:30pm	Lake Superior College Basketball Games	0.00	\$ 0.00	\$ 0.00
5:30pm - 10:30pm	Custodial Fee Mon-Sat	6.50	\$ 45.00	\$ 292.50
5:30pm - 10:30pm	Site Manager (M-Sat)	6.50	\$ 25.00	\$ 162.50
Fri 12/14/2018 Ordean East Middle School - Gym (Court B middle)				
4:00pm - 5:30pm	Setup	1.50	\$ 0.00	\$ 0.00
5:30pm - 10:30pm	Lake Superior College Basketball Games	0.00	\$ 0.00	\$ 0.00
5:30pm - 10:30pm	Custodial Fee Mon-Sat	6.50	\$ 45.00	\$ 292.50
5:30pm - 10:30pm	Site Manager (M-Sat)	6.50	\$ 25.00	\$ 162.50
Sat 1/19/2019 Ordean East Middle School - Gym (Court B middle)				
12:00pm - 6:00pm	Lake Superior College Basketball Games	0.00	\$ 0.00	\$ 0.00
12:00pm - 6:00pm	Custodial Fee Mon-Sat	6.00	\$ 45.00	\$ 270.00
12:00pm - 6:00pm	Site Manager (Sun-Holiday)	6.00	\$ 35.00	\$ 210.00
Sat 2/16/2019 Ordean East Middle School - Gym (Court B middle)				
Cancelled on 01/16/2019				
11:00am - 12:00pm	Setup	1.00	\$ 0.00	\$ 0.00
12:00pm - 6:00pm	Lake Superior College Basketball Games	0.00	\$ 0.00	\$ 0.00
12:00pm - 6:00pm	Custodial Fee Mon-Sat	7.00	\$ 45.00	\$ 315.00
12:00pm - 6:00pm	Site Manager (M-Sat)	7.00	\$ 25.00	\$ 175.00
Wed 2/20/2019 Ordean East Middle School - Gym (Court B middle)				
4:00pm - 5:30pm	Setup	1.50	\$ 0.00	\$ 0.00
5:30pm - 10:30pm	Lake Superior College Basketball Games	0.00	\$ 0.00	\$ 0.00
5:30pm - 10:30pm	Custodial Fee Mon-Sat	6.50	\$ 45.00	\$ 292.50

5:30pm - 10:30pm

Site Manager (M-Sat)

6.50

\$ 25.00

\$ 162.50

Summary

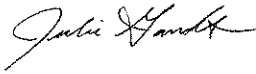
Facilities Rental:	\$ 0.00
Other Needs:	\$ 0.00
Extra Charges:	\$ 1845.00

Estimated Total Charges:	\$ 1845.00
Balance Due:	\$ 1845.00
Total Amount Paid:	\$ 0.00
Remaining Balance Due:	\$ 1845.00

Other Conditions:

Gym sound system is not available for use. Group will need to provide their own microphone.

The undersigned is the representative of Lake Superior College, the organization, group or person requesting use of the Woodland Middle School facilities as noted in this contract. I have the authority to legally bind this organization and hereby obligate the organization to provide liability insurance coverage in the amount of at least \$1,000,000 and to indemnify the school district and hold it harmless from any liability arising from our use of the school district property. Our organization will be responsible for any and all damages to the school district property arising from our use. The organization has familiarized itself with the Facilities Use Policy of the District and agrees to comply with all conditions of that policy. The organization accepts that the school district may have to preempt our scheduled use of district facilities in which case we understand the district will give as much advance notice as possible and that any money we have paid for use of the facilities will be refunded.



Signature
Julie Gandt
Ordean E Community School

Attachments:
Summary of Policies and Regulations
Insurance Certificate Letter

Signature
Kirsten Bowman
Lake Superior College

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**EXHIBIT B
GENERAL INSURANCE REQUIREMENTS**

1. Workers' Compensation Insurance

A. Statutory Compensation Coverage

B. Coverage B – Employers Liability with limits of not less than:

\$100,000 Bodily Injury by Disease per Employee

\$500,000 Bodily Injury by Disease Aggregate

\$100,000 Bodily Injury by Accident

2. General Liability Insurance

A. Minimum Limits of Liability:

\$2,000,000 – Per Occurrence

\$2,000,000 – Annual Aggregate

\$2,000,000 – Annual Aggregate applying to Products/Completed Operations

B. Coverages:

Premises and Operations Bodily Injury and Property Damage

Personal & Advertising Injury

Blanket Contractual

Products and Completed Operations

Other; if applicable, please list _____

State of Minnesota or Minnesota State Colleges and Universities named as Additional Insured

Additional Insurance Conditions

- Licensor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of the Licensor's performance under this Agreement.
- Licensor agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless Licensor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota
- Licensor is responsible for payment of Agreement related insurance premiums and deductibles.
- If Licensor is self-insured, a Certification of Self-Insurance must be attached.
- Licensor's policy(ies) shall include legal defense fees in addition to the liability policy limits.
- Licensor shall obtain insurance policy(ies) from insurance company(ies) having an "AM Best" rating of A- (minus), Financial Size Category of VII or better, and authorized to do business in the State of Minnesota.
- An Umbrella or Excess Liability insurance policy may be used to supplement the Licensor's policy limits to satisfy the full policy limits required by the Agreement.

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EXHIBIT C
RULES AND REGULATIONS

- See attached Summary of Policies and Regulations for Use of School Facilities

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Independent School District No. 709 - Duluth Public Schools

Summary of Policies and Regulations for Use of School Facilities

School facilities are an integral part of the community and may be used to promote school, civic, or social goals in accordance with policies and regulations. The requirements of the school program will receive priority in the assignment of school facilities. Charges for use of facilities and equipment shall be made in accordance with schedules established by the School Board.

- The School Board reserves the right to deny or cancel use of school facilities at any time. All rules, regulations and rates are subject to change as determined by the School Board.
- Final approval of unusual events, either in character or length of time, will be granted by the Superintendent or Director of Community Education.
- Permit holders must be responsible persons at least 18 years of age. Recreational leaders and instructors must be responsible and qualified individuals. No leader may place a substitute in charge of a group without securing approval from the building principal and/or the community education coordinator.
- Users of school facilities may be subject to rental fees as determined by the School Board and published in a separate fee schedule. Payment for use of building facilities should be made to Independent School District No.709, Central Administration Building, 215 North First Avenue East, Duluth, MN 55802.
- Responsibility and liability for injury to person or damage to school board property must be assumed by the organization or individual signing the application.
- No group, organization or individual may sublet use of the building/facility to any other group.
- All requests for special equipment or services shall be made when applying for a facility use permit.
- A permit may be cancelled by the building principal and/or the community education coordinator if warranted by conduct or infractions of rules.
- The custodian-engineer on duty will supervise the operation of the physical plant and will not be required to supervise groups or activities.
- Smoking is not permitted on school premises.
- Alcoholic beverages are not permitted on school premises.
- Gambling is not allowed on school property.

The school reserves the right to cancel all or a portion of the building use permit due to the following reasons:

- School events
- Poor weather
- Damage
- Lack of supervision
- Noncompliance with permit times
- Noncompliance with school district policy
- Noncompliance with associated fees (if any)
- When school or youth groups need the use of the facility

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