

SHARED USE AND OCCUPANCY AGREEMENT

This is an Agreement entered into between the _____
PRESBYTERIAN CHURCH, a New York Religious Corporation with offices at
_____, _____, New York _____ (hereinafter the
"Church"), and _____, a New York {*Not-for-Profit*} {*Business*}
Corporation with offices at _____, _____, New York
(hereinafter the "Occupant")

RELEVANT INFORMATION ABOUT THE PARTIES

Ownership of Property

The Church is the Owner of real property known as _____, in the
of _____, _____ County, New York, which is improved by worship, Christian
education and fellowship facilities, parking lot(s), and other structures and improvements
customarily used in the operation and mission of a religious organization (hereinafter the
"Premises"). The Church is willing to permit the Occupant to use and occupy certain portions of
the Premises on the terms and conditions contained in this Agreement.

Separate Entities

The parties represent and affirm that the Church and the Occupant are separate legal
entities, operating independently of each other. In particular, it is hereby represented and
affirmed that the Church exercises no control or discretion over the hiring, training and/or
supervision of any employee or staff member of Occupant.

TERMS AND CONDITIONS

1. Portion of Premises Subject to Agreement.

A. Exclusive Space. The Church hereby agrees that the Occupant shall have
Exclusive Use of that portion of the Premises described in Schedule A, annexed hereto,

subject to the terms and conditions of this Agreement, during the hours ____ am to ____ pm, Monday through Friday of each week.

[If the Occupant is not to have “exclusive” use of any portion of the Premises, then the following may be used: “Occupant shall not have exclusive use of any portion of the Church Premises.”]

B. Shared Space. The Church hereby agrees that the Occupant shall have Shared Use of that portion of the Premises described in Schedule B, annexed hereto, subject to the terms and conditions of this Agreement, during the hours _____ to _____, on _____ of each week, during the term of this Agreement, as specified in Paragraph 3 below, together with rights of ingress and egress, and use in common of entryways and hallways, sidewalks, driveways and parking lots. The Church may designate in writing reasonable restrictions on the use of common areas.

C. Other Space. Except as described in A or B above, the Occupant shall not have any rights of use or occupancy in other areas of the Premises, and it shall take such steps as are necessary and appropriate to ensure that its visitors, guests, employees, agents and staff do not enter or remain within any areas of the Premises not included in the Exclusive Space or Shared Space. This shall not prevent the parties from entering into such agreements as shall be appropriate for use by the Occupant of other portions of the Premises for special events or on an occasional basis.

2. Use of Space.

A. The Occupant shall use and occupy the Space solely for the following purpose:
. Such use and occupancy shall be in compliance with all applicable laws, ordinances, codes, rules and regulations relating to such uses and occupancies, and in such manner as shall not result in the Premises being found in violation of any applicable law, ordinance, code, rule or regulation.

B. Occupant acknowledges that Church is a religious organization which uses the Premises for the conduct of worship, religious education, fellowship, recreational and other activities customarily conducted by a church. Occupant covenants that it will exercise its good

faith efforts to use the Premises in such manner as will avoid any unreasonably interference with or disruption of Church activities, particularly during Church worship services.

C. *[If the Church Sanctuary is to be used by the Occupant, the following language is suggested:]* Occupant acknowledges that the Church Sanctuary (“Worship Space”) is the primary consecrated space used by the Church for worship as a congregation associated with the Presbyterian Church (U.S.A.), and Occupant covenants to use such space in a manner respecting the principles of worship and celebration of faith practiced by such congregation. No permanent changes will be made to the Worship Space and all temporary or portable furniture, equipment, symbols, icons or decorations will be removed and the worship space returned to its original condition at the completion of each use by Occupant of the Worship Space, unless previously agreed to by the Church Session, in writing. It is understood and acknowledged that the parties may wish to mutually enjoy certain decorations or symbols of special seasons or celebrations of the religious calendar observed by both.

D. *[C – if C above is not used.]* The Church may establish additional reasonable rules, regulations and policies relating to the use and occupancy of the Premises, consistent with the shared use of such facilities by other organizations and groups.

3. **Term of Agreement.**

This Agreement shall commence on _____, 20____, and end on _____, 20____. *[You may wish to add the following: “Notwithstanding the foregoing, this Agreement may be terminated by either party on written notice given at least _____ days prior to the date on which termination is to occur.”]*

[Add the following language if the Occupant leases the Sanctuary or the lease is for a term of longer than 5-years] This Use and Occupancy Agreement and any renewals thereof requires the prior approval of Presbytery Genesee Valley (the "Presbytery"). Any provisions hereof disapproved by Presbytery shall have no further force or effect. Any occupancy of the premises prior to the approval of the Presbytery shall be considered a tenancy-at-will and shall immediately terminate without further liability to any party if such approval is denied.

4. Use and Occupancy Fees; Additional Charges.

The Occupant shall pay to the Church the sum of \$_____ on the first day of each month. Monthly payments not made by the fifth day of the month shall be subject to a late fee of \$_____. The Occupant shall be responsible for any costs relating to telephone service and cable television service, if any, provided to its space. If the Occupant wishes to install or use window-unit type air conditioners or space heaters, the Occupant shall be responsible for any increased utility costs relating to such use, as reasonably determined by the Church, which shall be paid within 20 days of written notice by the Church of the amount of such cost.

5. Maintenance and Custodial Services.

A. The Church shall be responsible for all maintenance relating to the structure and exterior of the building, and the plumbing, heating and electrical systems; provided, however, that the Occupant shall be responsible for and shall reimburse the Church for any costs relating to damages caused by its visitors, guests, employees and staff.

B. The Church *[will] [will not]* provide custodial services for the Exclusive Space. The Church will provide custodial services for the Shared Space; provided, however, that following use of the space described in Schedule B, the Occupant shall be responsible for leaving such space (and any facilities, fixtures or appliances which may have been used in such space) in a clean, orderly condition, at least equivalent to the condition it was in prior to such use.

6. Utilities and Services.

Except as otherwise provided in this Agreement, the Church shall pay for all utilities, including electricity, gas or oil, water and pure waters, together with real property assessments, if any, refuse removal and snow removal. The Church agrees to keep the premises heated to a minimum temperature of 68^E Fahrenheit during the times which the Occupant is using the building, unless prevented by any cause beyond its control.

7. Renovations and Decoration; [Signage].

Prior to performing any renovation, change or decoration (including repainting, etc.), the Occupant shall provide the Church with such drawings, plans and specifications as the Church may reasonably require, and no such renovations, changes or decorations shall be performed until the Church has given its approval in writing, which approval shall not be unreasonably withheld. The Occupant shall be responsible for obtaining any permits which may be required for such work, and shall be solely obligated for any costs relating to such work. The Occupant shall do nothing, or fail to do anything, which results in a lien or encumbrance against the Premises, and failure to remove any lien or encumbrance within 15 days of written notice from the Church shall constitute grounds for immediate termination of this Agreement. All work shall be done in a good, workmanlike manner, and in compliance with all applicable codes, rules and regulations. Any such renovations or improvements shall remain the property of the Church upon termination of this Agreement, unless otherwise agreed between the parties in writing.

[If the Occupant proposes to erect signs on the outside of the Building, it is suggested that the following be added as Paragraph B, with the preceding paragraph designated as Paragraph A.] B. Any signage relating to the use of the Premises by Occupant shall comply with all applicable municipal regulations and requirements, and Occupant shall be responsible for any costs relating to the obtaining of municipal approvals or permits. Any signage shall be clearly secondary to Church signs and shall be approved by the Session as to location and compatibility, in terms of design and materials, with existing Church signs.

8. Fixtures and Equipment.

Any fixtures or equipment installed or used by the Occupant shall remain the property of the Occupant, and may be removed upon termination of this Agreement, provided that any repairs which may be necessary because of the removal of such fixtures or equipment shall be the responsibility of and shall be paid for by the Occupant.

9. Security.

The Occupant shall provide the Church with a list of all staff members or employees who have keys to the Premises and/or possess any security code and/or password for any alarm system. The Occupant shall promptly notify the Church of any change in this list, and shall obtain the return of any key in the event that a person ceases to be an employee or staff person.

10. Sexual Misconduct Policy.

The Church is committed to providing a safe environment for all persons using Church facilities, and in particular one which is free of sexual harassment, sexual malfeasance, and sexual abuse. It has adopted a Policy which, among other things, provides that outside groups using the Church facilities will receive a copy of the Policy and acknowledge their understanding that the occurrence of any conduct or any event, associated with that group, contrary to the General Principles and intent espoused in the Policy will be grounds for immediate termination of permission to use the facilities. Occupant is encouraged to partner with the Church in appropriate prevention and intervention actions. Reports of suspected sexual misconduct or sexual abuse, especially if involving a child, may be made to the Church pastor (Rev. _____, Tel.: 585- _____) or, in the event the Church Pastor is involved, to the Church's Clerk of Session (Tel.: 585-_____).

11. Insurance.

A. The Church shall maintain fire and hazard insurance and comprehensive public liability insurance with respect to the Premises.

B. The Occupant shall maintain comprehensive public liability insurance and all-risk personal property insurance with respect to its occupancy and use of the premises and its personal property within the premises, and coverage for sexual misconduct of any officer, employee or agent. The public liability insurance shall have a single limit of not less than \$1,000,000 for any one occurrence, for personal injury, bodily injury and death, as well as for damage or injury to, destruction of, or loss of use of property. At the beginning of the term of this Agreement, and at least annually thereafter Occupant shall provide the Church with a

certificate of such insurance. Such policies shall name the Church as an additional insured (except in the case of the Occupant's personal property coverage), and shall provide for 30 days notice to the Church prior to any amendment, change, modification, lapse or cancellation of coverage.

D. *[Insert this language if the Occupant is leasing the Sanctuary or the lease is for a term of longer than 5-years]* The Occupant shall name Presbytery Genesee Valley as an "additional insured" on all policies of insurance maintained for the premises. The Occupant shall indemnify and hold Presbytery Genesee Valley harmless from and against any and all claims arising from the Occupant's use of the premises or from any activity, work or thing done, permitted or suffered by the Occupant, its officers, employees, agents and invitees, including, without limitation, any injury to any employee of the Occupant or any other person entering or using the premises in connection with the Occupant's use and occupancy thereof.

12. Indemnification.

The Occupant shall indemnify and hold harmless the Church *[Include "and Presbytery Genesee Valley" if the Occupant is leasing the Sanctuary or the lease is for a term of longer than 5-years]* from any and all damages, costs, expenses and liabilities for anything and everything whatsoever arising from or out of its use and occupancy of the Premises, whether caused by the employees, staff, agents, guests or visitors of the Occupant or otherwise, and from any loss or damage arising from any default or negligence, or the failure to comply with any term or conditions of this Agreement, by the Occupant.

13. Assignment; Subletting.

This Agreement may not be assigned by the Occupant, nor may the Occupant sublet any portion of the Space which is the subject of this Agreement.

14. Termination.

Upon termination of this Agreement for any reason, Occupant shall surrender the Space to the Church in the same condition as it was in at the beginning of the occupancy period, normal wear and tear excepted.

15. Defaults.

A. This Agreement and the occupancy hereunder are subject to termination by the Church upon the occurrence of any one or more of the following events (herein called an "event of default"):

1. If Occupant shall fail to pay any occupancy fee or additional charges when they are due and payable, and such failure shall continue for ten (10) days. No notice of default from the Church to the Occupant under this subsection shall be required.

2. If Occupant shall vacate or abandon the Premises and permit the same to remain unoccupied or unused for the purposes specified in Paragraph 2 for more than thirty (30) days.

3. If any petition for bankruptcy, reorganization, composition, extension, arrangement, or insolvency proceedings shall be filed by or against the Occupant and such proceeding is not be dismissed within ninety (90) days after the institution of the same.

4. If in any proceedings a receiver or trustee be appointed for Occupant's property, and such receivership or trusteeship shall not be vacated or set aside within ninety (90) days after the appointment of such receiver or trustee.

5. If Occupant shall fail to perform or observe any other requirement of this Agreement, or shall violate any condition, rule or regulation of this Agreement, and such failure or violation shall continue for thirty (30) days after notice thereof from the Church to the Occupant, unless the failure or violation is of such nature as to be unable to be cured within said 30-day period, provided that Occupant is diligently pursuing remedy of the failure or violation.

B. Upon the happening of any one or more of the events of default described in Paragraph A of this section, and the expiration of any period of time prescribed above, the Church may give the Occupant a notice of termination, effective at the expiration of five (5) days from the date of service of such notice, and at the expiration of such five (5) days, this Agreement and the term hereof, as well as all of the right, title and interest of Occupant hereunder, shall wholly cease and expire in the same manner and with the same force and effect as if the date of expiration of such five (5) day period were the date originally specified

herein for the expiration of this Agreement. Occupant shall then quit and surrender the Premises to the Church, but shall remain liable for any unpaid occupancy fees for the full term of the Agreement, and for any damages, cost or expense resulting from Occupant's failure or violation, including but not limited to the cost of any litigation or proceeding relating to the enforcement of the Church's rights hereunder, including but not limited to reasonable attorney's fees.

This Agreement is entered into on the _____ day of _____, 20_____

_____PRESBYTERIAN CHURCH

By: _____
(Signature of Officer)

(Name – Printed) (Position)

(Name of Organization or Group)

By: _____
(Signature of Officer)

(Name – Printed) (Position)

ACKNOWLEDGMENT AS TO SEXUAL MISCONDUCT POLICY

The undersigned, on behalf of the _____ *[Insert name of Occupant]* hereby acknowledge receipt of a a copy of the Sexual Misconduct Policy adopted by the Session of the _____ Presbyterian Church, and, further, hereby acknowledge that any occurrence of conduct or an event, arising out of or in any way relating to Occupant’s use of the Premises, and contrary to the General Principles and intent espoused in such Policy shall be grounds for immediate termination of this Agreement.

Dated: _____
_____ *(Name of Organization or Group)*

By: _____
_____ *(Signature of Officer)*

(Name – Printed) (Position)