Occupancy Agreement

[Organization Name]

[Year-Year] Academic Year

THIS OCCUPANCY AGREEMENT (“Agreement”) IS A LEGALLY BINDING CONTRACT. Upon completion and signature, you will become obligated to make all payments in the manner set forth herein. Failure to comply with all terms of this Agreement may result in collection proceedings, legal action, loss of fraternity privileges, as well as, eviction from the premises. **DO NOT SIGN ON LAST PAGE UNTIL YOU HAVE FULLY READ AND UNDERSTAND THE TERMS HEREIN**.

This Agreement is made by and between: *[First and Last Name]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

hereinafter referred to as “Occupant”, and [organization name], a(n) [state] non-profit corporation located at [address], hereinafter referred to as “Owner”.

# TERMS

That for and in consideration of the mutual promises, covenants, and conditions hereinafter set forth, Owner and Occupant agree as follows:

1. DESCRIPTION: Owner does hereby lease to Occupant and Occupant does hereby lease from Owner, a room (“Room”) in the Beta Theta Pi Fraternity house located at [address] (the “Fraternity House”), to be used by Occupant for residential purposes only. Owner has the right to assign Occupant to any Room in the Fraternity House at the beginning of the term of this Agreement. Occupant acknowledges that he is not leasing any particular space within the Fraternity House; instead, Occupant shall have the right to a space within the Fraternity House subject to the rights of Owner to move Occupant and the other limitations on Occupant’s rights as described in this Agreement. Occupant is also entitled to make reasonable use of the common areas of the Fraternity House, subject to the rules and regulations of Auburn University (the “School”), the School’s Inter-Fraternity Council, Beta Theta Pi Fraternity, Owner and the terms of this Agreement. Owner shall deliver the Room to Occupant and Occupant shall accept the Room in its existing “AS IS, WHERE IS” and “WITH ALL FAULTS” condition, it being understood and agreed that Owner shall have no obligation to otherwise perform any work with respect to the Room. Occupant acknowledges that Occupant has had sufficient opportunity to investigate and inspect the physical condition of the Room. This Agreement does not grant or guarantee Occupant continuance of or any right of a view or an easement for light or air over any property adjoining the Room or the Fraternity House.

Notwithstanding anything to the contrary in this Agreement, Owner may, upon 30 days’ notice to Occupant, require Occupant to relocate, at Owner’s expense, into another room in the Fraternity House for the unexpired Term. Occupant shall surrender possession of the Room in accordance with the terms and provisions of this Agreement. In no event shall Owner be liable to Occupant for any damages as a result of any such relocation.

2. TERM: The term of this Agreement begins on the move-in date of, [start date] and terminates on the move-out date of [end date] (the “Term”). The Term of the Agreement does not include periods of time between the School’s academic semesters, [start date], through [end date], when the Fraternity House will be closed.

3. RENT: Occupant agrees to pay Owner, or its designated agent, rent (which includes parlor fee, and Board) and Security Deposit, without demand or set-off, in the following manner and in the following sums (collectively, “Rent”):

Rent totaling $\_\_\_\_\_\_\_\_ will be paid in the following manner:

* First Semester Rent will post [date] in the amount of $\_\_\_\_\_\_, due [date]
* First Semester Board will post [date] in the amount of $\_\_\_\_\_\_, due [date]
* Second Semester Rent will post [date] in the amount of $\_\_\_\_\_\_, due [date].
* Second Semester Board will post [date] in the amount of $\_\_\_\_\_\_, due [date].

“Security Deposit” due upon signing of this Agreement in the amount of $\_\_\_\_\_\_.

*“Board” shall mean 5 continental style breakfasts, 5 prepared lunches (Monday through Friday), and 5 prepared dinners, per week (served Sunday through Thursday). Lunches and Dinners will be delivered to the Fraternity House.*

Rent shall be payable in lawful money of the United States, without any setoff or deduction whatsoever and without relief from valuation and appraisement laws and with costs of collection and reasonable attorneys’ fees. All such payments shall be made payable through Occupant’s account in Billhighway and shall be delivered on or before the due date and without notice or demand.

Occupant acknowledges that Owner shall incur certain additional unanticipated administrative and legal costs and expenses if Occupant fails to pay timely any payment required hereunder. Therefore, in addition to the other remedies available to Owner hereunder, if any installment of Rent or any other amount payable by Occupant hereunder is not received by Owner when due, then Occupant shall pay a late fee of 3.5% of the billed amount 15 days after the bill is due. In addition, such unpaid amount shall bear interest from the due date thereof to the date of payment at the rate of 12% per annum. The parties agree that such late charge and interest represents a fair and reasonable estimate of the costs that Owner will incur by reason of any late payment as hereinabove referred to by Occupant, and the payment of late charges and interest are distinct and separate in that the payment of interest is to compensate Owner for the use of Owner’s money by Occupant, while the payment of late charges is to compensate Owner for Owner’s processing, administrative, and other costs incurred by Owner as a result of Occupant’s delinquent payments. Acceptance of a late charge or interest shall not constitute a waiver of Occupant’s default with respect to the overdue amount or prevent Owner from exercising any of the other rights and remedies available to Owner under this Agreement or at law or in equity now or hereafter in effect.

No receipt of moneys by Owner from Occupant after termination of this Agreement or Occupant’s right to possession, or after the giving of any notice of termination of this Agreement or Occupant’s right to possession, shall reinstate, continue, or extend the Term or affect any notice theretofore given to Occupant, or operate as a waiver of the right of Owner to enforce the payment of Rent and any other sum or sums of money and other charges herein reserved and agreed to be paid by Occupant then due or thereafter falling due, or operate as a waiver of the right of Owner to recover possession of the Room by proper remedy, except as herein otherwise expressly provided, it being agreed that after the service of notice to terminate this Agreement or Occupant’s right to possession or the commencement of suit or summary proceedings, or after final order or judgment for the possession of the Room, Owner may demand, receive, and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit, or judgment, except as herein otherwise specifically provided, all such monies collected being deemed payments on account of the use and occupation of the Room, or at the election of Owner, on account of Occupant’s liability hereunder. Further, no payment by Occupant or receipt by Owner of a lesser amount than any installment or payment of Rent due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or payment of Rent shall be deemed an accord and satisfaction. Owner may accept, deposit, and retain such check or payment without being bound by such endorsement or statement and without prejudice to Owner’s right to recover the balance of such installment or payment of Rent, or pursue any other remedies available to Owner.

Occupant may request to be put on a monthly payment plan option, no later than 30 days before the beginning of the term.

All utilities will be paid for by Owner. Owner reserves the right to suspend service of the HVAC, elevators, plumbing, electrical, or other mechanical systems within the Fraternity House when necessary by reason of governmental regulations, civil commotion, or riot, accident, or emergency, or for repairs, alterations of improvements that, in the reasonable judgment of Owner, are desirable or necessary, or for any other reason (including, without limitation, the unavailability of fuel or energy or compliance by Owner with any applicable laws), without liability in damages therefor. The exercise of such right by Owner shall not constitute an actual or constructive eviction in whole or in part or entitle Occupant to any abatement or diminution of Rent or relieve Occupant from any of Occupant’s obligations under this Agreement or impose any liability upon Owner or its agents by reason of inconvenience or annoyance to Occupant or injury to or interruption of Occupant’s business or otherwise. Owner shall not in any way be liable or responsible to Occupant for any loss, damage, or expense that Occupant may sustain or incur if, during the Term, either the quality, quantity, or character of electric current or other utility or service is changed or is no longer available or suitable for Occupant’s requirements.

4. RIGHT OF ENTRY: Owner and/or its agents shall have the right to enter the Room by passkey or otherwise at all reasonable and necessary times without notice to inspect the Room, as well as, any personal property of Occupant for any purpose, including, but not limited to, the purpose of ensuring compliance and non-violation of Section 18 of this Agreement. It is further agreed that any locking devices or impediments to such a search shall be readily opened by Occupant. Owner shall incur no liability to Occupant for such entry, nor shall such entry constitute an eviction of Occupant or a termination of this Agreement, or entitle Occupant to any abatement of Rent.

5. DEFAULT: If Occupant fails to pay the Rent when due as set forth herein, or if Occupant fails to reimburse Owner for damages or extraordinary repairs due under this Agreement, or if Occupant or Occupant’s guests violate this Agreement or applicable State of [state] (“State”) or local laws, or if Occupant abandons (leave for more than 30 days during the Term, without notice) the Room, then Owner may have all remedies legally permissible at law or equity, including termination of this Agreement and eviction of Occupant. All rights and remedies herein created for the benefit of Owner are cumulative and resort to any remedy shall not prevent Owner’s resort to any other available remedy.

If this Agreement is so terminated, Occupant’s right to occupancy of the Room shall terminate; however, said election by Owner shall not result in a forfeiture of rents due under this Agreement or in a waiver of any promise, agreement or covenant of Occupant under this Agreement., It is expressly understood and agreed that the security deposit is not intended to be a sum fixed and agreed upon by the parties as liquidated damages in the event of default, breach or failure of Occupant to perform all of the terms, conditions, covenants and agreements contained herein. However, the parties hereto do covenant and agree that in the event Occupant vacates or abandons the Room prior to the expiration of the term of this Agreement, Owner shall sustain damages due to the fact that Owner shall be obligated to re-advertise the Room, re-rent the Room, redecorate and re-condition the Room and therefore, the minimum damages which shall be sustained by Owner shall be equal to the amount of the security deposit and any accrued interest thereto. This provision shall not be construed to prohibit Owner from establishing damages in excess of the security deposit.

Owner and Occupant acknowledge and agree that this Agreement concerns “occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization”, and as set forth in (State) Code § \_\_\_\_\_, the relationship between Owner and Occupant is not governed by (State) Code Chapter \_\_\_\_\_ (the Uniform Residential Landlord and Tenant Act). Notwithstanding the foregoing sentence, Owner and Occupant further agree that any eviction contemplated by this Agreement shall be completed in accordance with (State) Code Chapter \_\_\_\_ (Forcible Entry and Detainer), and that this Agreement shall be considered a “lease” as that term is used in such Chapter.

If a default should occur, Occupant shall reimburse Owner for all legal fees, costs, and expenses legally recoverable and for all damages caused by Occupant’s default. Occupant agrees that any failure by Owner to insist upon strict observance of any covenant, provision or condition of this Agreement in any one or more instances shall not constitute or be deemed a waiver, at that time or thereafter, of such or any other covenant, provision or condition of this Agreement.

The failure of Owner to seek redress for violation of, or to insist upon strict and timely performance of, any covenant or condition of this Agreement or any of the rules of the Fraternity House set forth herein or hereafter adopted by Owner, shall not constitute a waiver of any such violation or prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation. No provision of this Agreement shall be deemed to have been waived by Owner unless such waiver be in writing signed by Owner.

6. CONDUCT: Occupant agrees that the conduct of himself, his guests and invitees shall never be disorderly or unlawful and shall not disturb the rights, comforts or conveniences of other persons in the Fraternity House and shall, at all times, comply with the provisions of Section 18 of this Agreement. Any actions to the contrary may be deemed misconduct by Owner, to be determined in Owner’s sole discretion, and may result in the termination of this Agreement by Owner, or fine. Misconduct on the part of Occupant shall include, but is not limited to, the following:

1. Maintaining a nuisance within the Room, Fraternity House or its surrounding areas;
2. Disorderly or illegal behavior on the part of Occupant or Occupant’s guests;
3. Keeping any handguns, firearms or weapons of any type, or any explosive, inflammable or any hazardous substances, or any article or thing of a dangerous nature on the premises;
4. Violating the provisions of Section 18 regarding alcohol and Controlled Substances;
5. Violations of any of the covenants or conditions of this Agreement;
6. Violations of any Beta Theta Pi Fraternity’s (or the local chapter’s) Bylaws and/or Bylaws and Administrative Policies and Procedures of Beta Theta Pi Fraternity;
7. Loss of Occupant’s status as an occupant or new occupant of Beta Theta Pi Fraternity as prescribed in the Bylaws and Administrative Policies and Procedures of Beta Theta Pi Fraternity; and/or

Occupant further agrees:

* 1. Not to enter upon any roof of the Fraternity House.
  2. Not to place or install furniture, benches, equipment, or other devices on any roof or porch of the Fraternity House.
  3. Not to obstruct the sidewalks, entry passage, halls, public corridors, and stairways, or use them for any purpose other than ingress or egress.
  4. Not to place additional locks upon any door.
  5. Not to knowingly do any act which would increase the cost of any insurance policy of the Fraternity House.
  6. To use only white plastitac or equivalent in any pictures or posters on the walls of the Fraternity House, and shall be liable for any damages caused therefrom. Affixing objects to walls with anything other than plastitac or equivalent such as nail, screws, glue, etc. is forbidden.
  7. To be responsible for normal Room maintenance, including such repairs as replacement of light bulbs and cleaning of floors and carpets.
  8. That no waterbeds are to be brought in or used in any rooms or Fraternity House.
  9. Not to make any changes in the nature of the Room or Fraternity House including changes to the walls, flooring, lighting, or other physical changes of the room, without first obtaining written consent from Owner, which consent may be withheld in Owner’s sole discretion. Occupant agrees to permit Owner or agent to enter and leave the Fraternity House to make repairs, decorations, alterations, improvements, deliver parcels, conduct inspections, or supply necessary or agreed services.
  10. Not hang, install, display, or maintain any signs, banners, bedsheets, or other similar items on the exterior of any portion of the Fraternity House or otherwise visible outside of the Fraternity House, without first obtaining written consent from Owner, which consent may be withheld in Owner’s sole discretion.
  11. To park cars and any other vehicles only in permitted areas and not on the lawn.
  12. To clean his Room before leaving the university campus at semester breaks and vacations, properly disposing of any garbage, trash or debris, and further agrees not to hold Owner responsible for any property or personal belongings left in any room and not to re-enter any room of Fraternity House after the Fraternity House is closed without prior written consent of Owner.
  13. Not to bring on the premises Agreement any firearm, fireworks, pellet or other type of gun (including handgun, rifle, B-B gun, pellet, or any weapons capable of expelling or propelling a projectile of any kind and also including any explosive or incendiary device).
  14. Not to burn candles or incense in any part of the Fraternity House Agreement.
  15. Not to use or occupy, nor permit any other person to use or occupy, the Fraternity House or any part thereof, for any purpose or in any manner which might violate any laws.
  16. Not cause or maintain a public or private nuisance in or on the Room or the Fraternity House.
  17. Not use, generate, manufacture, refine, produce, process, store, or dispose of any Hazardous Materials in, on, under or about the Room or the Fraternity House or transport any Hazardous Materials to or from the Room or the Fraternity House. “Hazardous Materials” shall mean any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive, or corrosive, including petroleum, PCBs, mold, asbestos, materials known to cause cancer or reproductive problems, and all other materials, substances, and/or wastes (including infectious, medical, and potentially infectious biomedical waste), which are or later become regulated by any local governmental authority, the State of [state], or the United States, including substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or “hazardous wastes” under any applicable hazardous materials or environmental laws.
  18. Not to create, or permit to be created, any sound pressure level that would interfere with the enjoyment of any portion of the Fraternity House outside the Room or any real estate outside of the Fraternity House.

7. CONDITION OF ROOM: Prior to occupancy, Occupant will examine the Room and Occupant agrees to accept the Room in the present condition, and agrees to keep the same in good repair during the term of this Agreement. Occupant shall have the right to report defects or damages to Owner, or designated agent, in writing or email within 24 hours after Occupant is given Possession of the Room and is given a MOVE-IN INVENTORY AND CONDITION form for the Room. Occupant further agrees to repay Owner, on demand, the cost or repair or service made necessary by the negligent or careless use of the Room by Occupant, his agents, family, invitees and/or guests. Occupant covenants to commit no waste in or about the Room and to surrender the same to Owner in as good a condition as existed in at the commencement of Occupant’s possession of the Room or may be placed during the Term, ordinary wear and tear and damage by fire or other casualty excepted, failing which Owner may restore the Room to such condition and state of repair and Occupant shall pay to Owner the cost thereof on demand.

In addition, Occupant shall be responsible for and liable to Owner for all damage to, defacement of, or removal of property from the common areas of the Fraternity House caused by Occupant, his family, invitees, and/or guests. In the event of the person(s) responsible for the damage cannot be ascertained by Owner after reasonable inquiry then all Occupants, which have an agreement for a Room in the Fraternity House, agree to repay Owner, on demand, the pro-rata cost or repair or service made necessary by the negligent or careless use of the common areas of the Fraternity House.

8. LIABILITY: Owner, its officers, directors employees or agents shall not be responsible or liable to Occupant for any personal injury and/or property damage or loss that may be occasioned by or through acts or omission of other occupants, their guests or invitees, or of persons who are trespassers. Owner shall not be responsible or liable for any personal injury and/or property damage or loss from theft, vandalism, fire, water, rain, storms, explosions, act or omission of any other occupants, sonic booms or other causes whatsoever. Owner shall not be liable for loss or damage resulting from failure, interruptions or malfunctions of the utilities provided Occupant under this Agreement nor shall such failure, interruption or malfunction in any way operate as a release from the prompt and punctual performance by Occupant of the covenants contained within this Agreement. Occupant agrees to and hereby does indemnify Owner against loss or damage resulting from any claim or claims asserted against Owner by any other person or persons for the loss of or damage to property or injury to persons based upon alleged acts, omissions, or negligence of Occupant and his agents, guests or invitees, in or in connection with the use and/or occupancy of the premises by Occupant. Owner shall not be responsible for, and shall not be obligated to insure against, any loss of or damage to any personal property, including, without limitation, equipment, machinery, furniture, and business supplies, of Occupant or that Occupant may have in the Fraternity House or the Room, for which Occupant shall maintain throughout the Term renter’s insurance for the full replacement value thereof against all risks, including, without limitation, vandalism and sprinkler leakage, with extended coverage, and Owner shall not be responsible for any loss or damage to such property, regardless of cause, including the negligence of Owner and its employees, agents, customers, invitees, and any other lessees of the Fraternity House.

9. WAIVER OF SUBROGATION: Each party releases the other party from and liability for loss, damage or injury caused by fire or other casualty for which insurance (permitting waiver of liability and waiver of insurer of rights of subrogation) is carried by the insured party, to the extent of any recovery by the insured party under such policy.

Occupant’s property will not be covered under Owner’s insurance policies. Occupant, at its cost, shall purchase and maintain throughout the Term of this Agreement a separate renter’s policy insuring all of Occupant’s personal property, furniture, fixtures, equipment, cash, and other belongings located on or about the Fraternity House from time to time. A renter’s insurance policy may provide coverage for Occupant’s property, such as personal property or electronic equipment, in case of perils such as fire, theft, vandalism, wind damage, flood or other cause.

10. DAMAGE OR DESTRUCTION OF PREMISES: If, in the sole discretion of Owner, the Room and/or the Fraternity House should become untenable during the Term of this Agreement because of damage or destruction by fire or other casualty for any other reason, Owner shall have the right to terminate this Agreement, or move Occupant to similar accommodations within the Fraternity House and repair and restore the Room and/or Fraternity House (as applicable). In the event of such damage or destruction to the Room or Fraternity House without the fault of Occupant, his agents, guests or invitees, Occupant’s obligation to pay Rent hereunder shall be abated if Owner terminates this Agreement, or does not furnish Occupant similar accommodations within the Fraternity House.

11. ASSIGNMENT PROHIBITED: Occupant shall not assign this Agreement nor sublet the whole or any part of the Room or any other portion of the Fraternity House without Owner’s prior written consent.

12. ANIMALS: ANIMALS WILL NOT BE PERMITTED IN THE FRATERNITY HOUSE. THE PRESENCE OF ANIMALS WILL BE SUFFICIENT REASON FOR TERMINATION OF THIS AGREEMENT AND/OR EVICTION.

13. RIGHT OF REFUSAL / PARENTAL GUARANTY: Submission of this instrument for examination or signature to Occupant does not constitute a reservation of or option for lease, and is not effective as a lease or otherwise until execution by and delivery to both Owner and Occupant. Until Owner has executed this Agreement, Owner shall have the right to refuse acceptance of Occupant for any reason whatsoever provided; however, such refusal shall not be based on Occupant’s race, religion, or national origin. In the event of a refusal, Owner shall refund to Occupant, if applicable, the security deposit and any other previously paid Rent.

14. NON-OCCUPANCY BY OCCUPANT: Occupant agrees, if he ceases to reside in the Fraternity House for any reason, whether on his own account or at the request of Owner, before the end of the School year, he will pay the full amount of this Agreement, including but not limited to rent and board fees, for the remainder of the Term. Circumstances include, but are not limited to:

a. the termination of Occupant's right to occupancy by Owner pursuant to this Agreement,

b. Occupant being academically ineligible to enroll,

c. Occupant withdrawing from the School,

d. Occupant withdrawing, being suspended or terminated from Beta Theta Pi Fraternity, or

e. Occupant is studying abroad.

15. REMOVAL OF GOODS: At the end of the Term, Occupant must remove all personal goods or effects no later than 12:01 p.m. on the last day of the Term. Occupant shall not hold over possession of the Room or any other portion of the Fraternity House beyond such day and time. In the event of any such holdover, Occupant shall pay to Owner 300% of the rent payable as of the end of the Term, and Owner shall have all rights and remedies available at law or in equity, including, without limitation, eviction, removal of persons and property, changing of locks, and damages. The holdover rent payable under this Section 15 shall be on a full-month basis, regardless the number of days in such month that Occupant holds over, and such payment shall not entitle Occupant to hold over for the full month. Occupant hereby waives any right Occupant may have under State law to holdover beyond the expiration of the Term or to post a written undertaking to remain in possession of the Room or any other portion of the Fraternity House after the expiration of the Term. Any personal goods or effects left behind after the Occupant vacates the property or is evicted shall become property of Owner. Any disposal costs associated with removal of goods or effects shall be borne by Occupant.

Occupant further covenants and agrees that if Owner shall remove Occupant's goods or effects, pursuant to the terms hereof or of any court order, Owner shall not be liable or responsible for any loss of or damage to Occupant's goods or effects, and Owner's act of so removing such goods or effects shall be deemed to be the act of and for the account of Occupant.

16. RETURN OF SECURITY DEPOSIT: Owner may deduct from the Security Deposit amounts sufficient to pay (1) any damages sustained by Owner as a result of Occupant's nonpayment of rent or non-fulfillment of the terms of this Agreement; (2) any damages to the Room or Fraternity House for which Occupant is responsible; (3) any unpaid fees or dues owed Owner; (4) any court costs incurred by Owner in connection with terminating the tenancy and/or evicting the Occupant; and (5) any other damages of Owner which may then be a permitted use of the Security Deposit under the laws of the State of [state]. After having deducted the above amount (as applicable), Owner shall refund to Occupant the balance of the Security Deposit together with a full accurate accounting of the amounts withheld, within thirty (30) days after the expiration of the Term. The Security Deposit will be mailed to the last address on record, and Occupant is obligated to provide a forwarding address for the purpose of this refund. Owner may retain the Security Deposit, or any portion thereof, in accordance with the terms of Section 18 of this Agreement. Occupant shall not be entitled to any interest on the Security Deposit.

17. GOVERNING LAW: This Agreement shall be governed by, and construed in accordance with, the laws of the State of [state].

18. SUBSTANCE-FREE CHAPTER FACILITY: Occupant represents and warrants to Owner that Occupant accepts, acknowledges and agrees to be bound by the following terms and conditions concerning the use, distribution, consumption, manufacture, storage and/or possession (collectively, “Use and Consumption”) of all alcohol, tobacco, and Controlled Substances. For purposes of this Agreement, the term “Controlled Substance” shall mean all illegal and illicit substances and drugs, marijuana or any other controlled substances without an appropriate prescription issued to the user by a licensed professional under federal, state and local laws. Controlled Substance includes, but is not limited to, the Use and Consumption of a prescription drug by Occupant for which Occupant does not have a prescription from a licensed physician written in his individual name. For purposes of this Agreement, the term “Occupant Guest” shall mean any invitee, guest, agent, or any other person permitted to enter the Fraternity House by Occupant.

A. Controlled Substances. At all times, the Use and Consumption of a Controlled Substance by Occupant in any manner in any area of the Fraternity House (including Occupant’s Room) is strictly prohibited. Occupant is responsible for ensuring that all Occupant Guests comply with the terms of this Section 18(A), and failure of any Occupant Guest to comply with this paragraph shall constitute a default of this Agreement by Occupant.

B. Alcohol. At all times, and regardless of whether Occupant or any Occupant Guest is under or over the age of 21, the Use and Consumption of alcohol in any manner by any person is strictly prohibited in all areas of the Fraternity House, including but not limited to Occupant’s Room, all common, interior and exterior areas of the Fraternity House, chapter rooms, parlors, social halls, kitchens, libraries, restrooms, locker rooms, changing rooms, alumni rooms, dens, social media rooms, exterior yards, porches, roofs, and parking lots. Occupant is responsible for ensuring that all Occupant Guests comply with the terms of this Section 18(B) and that no Occupant Guests consume alcohol in any area of the Fraternity House including but not limited to those rooms and areas listed in the preceding sentence. Failure of Occupant or any Occupant Guest to comply with the terms of this Section 18(B) shall constitute a default of this Agreement by Occupant.

C. The Fraternity’s Substance-Free Policies. Occupant must abide by the terms of the substance-free housing policy in Beta Theta Pi’s risk management policy (the “Substance-Free Policies”). The Use and Consumption of all alcohol and Controlled Substances in the Fraternity House shall be in strict accordance with all applicable law, the terms of this Section 18 of this Agreement and the Substance-Free Policies. The execution of this Agreement by Occupant constitutes Occupant’s agreement to be bound by the terms and conditions of the Substance-Free Policies. Owner’s remedies against Occupant for violating this Section 18 shall be in addition to any disciplinary action that Beta Theta Pi Fraternity may impose against Occupant as occupant of the Beta Theta Pi Fraternity.

D. Owner’s Right to Terminate. If Occupant violates any condition set forth in this Section 18 of the Agreement, then, in addition to all other remedies provided to Owner under this Agreement and/or by law or equity, Owner shall have the immediate right to terminate this Agreement by giving Occupant written notice of such termination (“Termination Notice”), in which case Occupant shall surrender its Room within five (5) days of receiving such Termination Notice and forfeit the Security Deposit (notwithstanding any provision of Section 16) and any rents that have already been paid or pre-paid as of the date of the Termination Notice. In the event the residential Owner/Occupant laws of the State applies to this Agreement and requires a longer notice period prior to termination, Occupant shall be provided the shortest amount of notice allowed under the law prior to being required to surrender the Room. For the sake of clarity, if Owner terminates the Agreement in accordance with the terms of this Section 18, Occupant shall have no right to reimbursement of the Security Deposit, or any part thereof, or to any rent (whether in advance or in arrears) paid as of the date of the Termination Notice. Any rent that is due and owing, but not yet paid, as of the date of the Termination Notice shall be due and payable within ten (10) days of the date of such Termination Notice.

19. CLOSURE EVENTS / EXERCISE OF RIGHTS: Owner may close the Fraternity House for periods of time in which the School campus closes and suspends all in-person/onsite learning, converts all course to online/distant learning; or the local chapter’s charter is suspended or revoked by Beta Theta Pi Fraternity. The reasonable exercise of any right reserved to Owner under the terms of this Agreement shall never be deemed to constitute a constructive eviction of Occupant or a trespass by Owner or any of its contractors, agents, or employees, and Occupant shall not be entitled to any abatement or reduction in Rent by reason thereof.

20. OWNER DEFAULTS: Owner shall be in default if it fails to perform in all material respect any term, condition, covenant, or obligation required under this Agreement for more than 30 days after written notice thereof from Occupant to Owner; provided that, if the term, condition, covenant, or obligation to be performed by Owner is such that it cannot reasonably be performed within 30 days, then such default shall be deemed to have been cured if Owner commences such performance within such 30-day period and thereafter diligently undertakes to complete the same. Upon the occurrence of any such default, Occupant may sue for injunctive relief or to recover damages for any loss directly resulting from the breach, but in no event shall Occupant be entitled to terminate this Agreement or withhold, offset, or abate any sums due hereunder. If Owner shall fail to perform any term, condition, covenant, or obligation required to be performed by it under this Agreement, and if Occupant shall, as a consequence thereof, recover a money judgment against Owner, then Occupant agrees that: (a) it shall look solely to Owner’s right, title, and interest in and to the Fraternity House for the collection of such judgment; and (b) no other assets of Owner shall be subject to levy, execution, or other process for the satisfaction of Occupant’s judgment. In no event shall Owner be liable to Occupant for any consequential or punitive damages that may arise in connection with this Agreement. Occupant hereby waives its right to plead any counterclaim unrelated to this Agreement or Occupant’s occupancy of the Room, or to seek an offset, in any action or proceeding brought by Owner against Occupant for non-payment of Rent or default hereunder. In no event shall Owner be liable for consequential or punitive damages with respect to this Agreement.

21. MANDATORY ARBITRATION / WAIVER OF JURY TRIAL: Unless otherwise prohibited by law or specified in this Agreement, all disputes, claims, and causes of action, in law or equity, arising from or relating to this Agreement or its enforcement, performance, breach, or interpretation shall be resolved solely and exclusively by final and binding arbitration through the AAA under the then-existing AAA arbitration rules. However, nothing in this section is intended to prevent either party from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration.

TO THE EXTENT THAT THE ARBITRATION PROVISIONS ARE HELD UNENFORCEABLE OR THE PARTIES OTHERWISE LITIGATE ANY CLAIM OR DISPUTE IN STATE OR FEDERAL COURT, OWNER AND OCCUPANT EACH AGREE TO AND THEY HEREBY DO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF OWNER AND OCCUPANT, OCCUPANT’S USE OR OCCUPANCY OF THE ROOM AND/OR THE FRATERNITY HOUSE, AND/OR ANY CLAIM OF INJURY OR DAMAGE, AND ANY STATUTORY REMEDY.

22. NO LIENS: Occupant shall not cause or permit any lien or Statement of Intention to Hold a Mechanic’s Lien to be filed against the Room or the Fraternity House or any part thereof, nor against any interest or estate therein by reason of labor, services or materials claimed to have been performed or furnished to or for Occupant, or otherwise on account of any act or failure to act on the part of Occupant. If any mechanic’s lien shall be filed, then Owner, at its option, may compel the prosecution of an action for the foreclosure of such mechanic’s lien by the lienor. If any such mechanic’s lien shall be filed and an action commenced to foreclose the lien, then Occupant, upon demand by Owner, shall cause the lien to be released by the filing of a written undertaking with a surety approved by the court and obtain an order from the court releasing the Fraternity House from such lien. If any lien shall attach to the Fraternity House or any part thereof or interest or estate therein, as aforesaid, then Owner shall have the right, but shall not be obligated, to pay up to the full amount of such lien to cause its release, and such amount, together with interest thereon at the rate of 18% per annum, shall be deemed additional rent due and payable by Occupant immediately. Nothing in this Agreement shall be deemed or construed to constitute consent to or request to any party for the performance of any labor or services or the furnishing of any materials for the improvement, alteration or repairing of the Room, nor as giving Occupant the right or authority to contract for, authorize or permit the performance of any labor or services or the furnishing of any material that would permit the attaching of a valid mechanic’s lien.

23. NOTICES: All notices permitted or required to be given hereunder shall be given to Occupant at the Fraternity House or to such other address as may be identified in writing by Occupant to Owner.

24. MISCELLANEOUS: Neither this Agreement, nor any memorandum, affidavit, or other writing with respect thereto shall be recorded by Occupant or by anyone acting through, under, or on behalf of Occupant, and the recording thereof in violation of this provision shall make this Agreement null and void at Owner’s election. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof, and may be modified only by a written agreement signed by all of the parties hereto. This Agreement shall not be construed to create a contractual relationship with, give rights or benefits to, or create a cause of action in favor of, anyone other than the parties hereto. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. If this Agreement is executed in multiple counterparts, then all counterparts taken together shall constitute this Agreement. A facsimile counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms hereof.

[Remainder of page intentionally left blank; signatures follow.]

[Signature Page – Occupancy Agreement]

**OCCUPANT:**  **OWNER:**

[Organization Name]

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

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_