

**FRATERNITY/SORORITY HOUSE
MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("MOU") is entered on the _____ day of _____, 2012 by and between [Full Legal Name of Alumni Corporation] ("Organization"), and Clarkson University, an institution of higher education duly chartered and existing under the Education Law of the State of New York, having its principal place of business at 8 Clarkson Avenue, Potsdam, New York 13699 ("Clarkson").

1. **Purpose of MOU.** Clarkson recognizes the unique contributions that fraternity and sorority residential organizations make to the campus community and to the undergraduate educational experience. In order to help strengthen the fraternity and sorority system, Clarkson intends to chapter houses on its campus located in Potsdam, New York for occupancy by recognized fraternities and sororities. Clarkson is willing to consider the construction of such a chapter house (the "Facility") for occupancy by members of [Full Legal Name of Undergraduate Chapter] (the "Chapter") and, if it elects to proceed with construction of the Facility, to permit occupancy by the Chapter and its members, subject to the terms, conditions and assurances set forth in this MOU. The parties are entering into this MOU in order to set forth the terms under which the Organization would cause the Chapter to occupy the Facility, and under which Clarkson would permit the Chapter to occupy the Facility, if the Facility is contracted.

2. **Clarkson Discretion.** It is understood that Clarkson will seek to obtain funding in a financially responsible manner to build fraternity and sorority houses on its campus. As such, Clarkson can give no assurance as to the construction of a Facility. If and when Clarkson does elect to proceed, it shall construct a Facility that will accommodate a minimum of 20 students, with a design intended to complement the other special interest houses on campus and provide for the priorities of Organization. Organization will provide input related to the design elements of the Facility (i.e., number of single/double bedrooms, commercial kitchen, living/meeting space, and design features) that will be unique to the particular Facility, and Clarkson will give good faith consideration to this input. Upon completion of construction, Organization shall

cause the Chapter occupy the Facility throughout the remaining term of this MOU, subject to the terms and conditions set forth herein.

3. Financial Responsibility. If and when Clarkson constructs the Facility, Organization shall guarantee revenues during each Clarkson Fiscal Year, as follows:

- a. Organization shall allow only those numbers of beds authorized by Clarkson. For each authorized bed, Clarkson will bill the students occupying the Facility at a rate equal to the premium on-campus housing rates established for University housing. Organization is responsible for generating revenues equal to 95 percent of full occupancy at the aforementioned premium on-campus housing rates ("Expected Revenues"). If, in any Clarkson Fiscal Year, the aggregate housing fees actually collected by Clarkson from Facility occupants for occupancy of the Facility ("Revenues") are less than the Expected Revenues for that Clarkson Fiscal Year, Organization shall be responsible for charging and collecting from Facility occupants, and shall pay Clarkson on or before the last day of that Clarkson Fiscal Year, the difference between the Revenues and the Expected Revenues. The Expected Revenues shall be binding upon and may be relied upon by both parties.
- b. Clarkson reserves the right to assign empty beds in the Facility to Clarkson students who are not members of the Chapter to help meet the Expected Revenues, but shall not be obligated to do so. If Organization wishes to designate specific students who are not members of the Chapter for such occupancy, Clarkson shall assign the empty beds to those students if and to the extent that such occupancy is consistent with its generally-applicable policies, procedures, rules and regulations as in effect from time to time (e.g., academic standing requirements for residence in the Facility).
- c. If, in any Clarkson Fiscal Year, the Revenues exceed the Expected Revenues, the surplus shall be held and applied by Clarkson to the next Clarkson Fiscal

Year in which a deficit occurs. Organization, in consultation with and upon written permission from Clarkson, can use these surplus funds for maintenance projects independent of the necessary maintenance projects at the Facility for which Clarkson is responsible under the terms of this MOU.

- d. As between Clarkson and Organization, Ownership of the Facility shall at all times remain with Clarkson.
- e. Organization may establish its own reserve, independent of the Clarkson reserve funds, to support the maintenance of the Facility.

4. Maintenance.

- a. Damages to individual student rooms shall be the responsibility of the individual occupants thereof. Clarkson may repair such damages and charge the occupant (s) for the costs thereof in accordance with Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time.
- b. All damages to occupant, Chapter or Organization personal property shall be the responsibility of the occupant thereof. Refer to Section 10 for insurance requirements.
- c. Damages beyond reasonable wear and tear to common areas shall be the responsibility of the Organization. Clarkson may repair such damages and charge the Organization for the costs thereof.
- d. The Chapter shall be responsible for the cleanliness and housekeeping duties for all areas of the Facility in accordance with proper health and safety standards.
- e. The Chapter shall be responsible for maintaining interior Facility spaces in accordance with all applicable fire safety codes.
- f. Clarkson shall be responsible for maintenance of reasonable wear and tear of the Facility, including major maintenance resulting from such wear and tear.
- g. Clarkson shall be responsible for lawn/landscaping maintenance and snow removal related to the Facility.

- h. Clarkson shall have the right to conduct periodic health, safety, and fire inspections of the Facility per New York State Regulations, or its own generally-applicable policies, procedures, rules and regulations in effect from time to time.
- i. The Organization shall not make, and shall not permit the Chapter to make, any alterations to the Facility without prior written consent from appropriate University personnel, including but not limited to the Office of Student Organizations and the Office of Facilities and Services. The Organization shall be financially responsible for the cost of approved alterations.

5. **Occupancy Management.**

- a. All occupants of the Facility must meet applicable eligibility requirements as set forth in Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time.
- b. A housing roster must be submitted to the Office of Student Organizations per Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time.
- c. If a Facility resident's membership status in the Chapter is terminated (by the individual or by the Chapter) and/or the resident is voluntarily or involuntarily separated from Clarkson, the student shall vacate the Facility as of the date determined pursuant to Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time.
- d. Subject to Section 3(b), vacancies in the Facility occurring during an academic year must be filled in accordance with Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time. At present, Clarkson policy permits the filling of such vacancies as follows:
 - i. At any time during a semester by student members of the Chapter residing off-campus.

ii. Up to and including the first day of classes of either semester by student members of the Chapter residing in other on-campus residential facilities.

6. Observation of Laws, Policies, Etc.

- a. Members of the Chapter and members of the Organization, and their respective invitees, shall comply with Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time, and all applicable federal, state and municipal laws, rules and regulations, with respect to their use and occupancy, and presence at, the Facility.
- b. The Chapter, the Organization, and their respective members shall comply with all Clarkson directives and shall fully cooperate in the investigation of alleged violations of Clarkson policies, procedures, rules or regulations and/or federal, state or municipal laws, rules or regulations, and in any resulting Clarkson disciplinary processes and/or sanctions.

7. Meal Plan.

- a. If the Chapter has provided for adequate kitchen and/or dining facilities, students residing in the Facility are not required to purchase a University meal plan, but may do so at their choosing.
- b. Organization is not required to purchase food supplies from Clarkson's food vendor, but may seek to contract with the vendor at its choosing.
- c. Clarkson will not supply a cook. Organization can contract with an individual or organization for this service at its choosing.

8. Entry to the Facility.

- a. Clarkson shall have the right to enter the Facility at any time, subject to compliance with any applicable policies, procedures, rules and regulations in effect from time to time.
- b. Organization may request that routine maintenance, safety inspections and other regularly scheduled entry by Clarkson personnel not be scheduled during

limited times when ritual is being practiced or conducted. Such requests shall be filed with the Office of Student Organizations not less than 48 hours prior to the requested effective date. The foregoing shall in no way restrict access by authorized Clarkson personnel for purposes of responding to emergencies or investigating suspected violations of Clarkson policies, procedures, rules or regulations or federal, state or municipal laws, rules or regulations.

- c. Entrance to the Facility by members of the Chapter not residing in the Facility may be granted through card access upon approval by Clarkson's Office of Student Organizations.

9. **Supervision.** Clarkson does not require a Resident Assistant, Resident Director or professional Residence Life staff member in residence within the Facility. Organization, at its discretion, may provide for such an opportunity with the approval of the Office of Student Organizations and the Office of Residence Life. Adding a residence life staff member does not alter the liability as set forth elsewhere in this MOU.

10. **Insurance; Indemnity.**

- a. Clarkson shall procure such first-party property insurance for the Facility as it deems advisable. Organization shall, at its sole cost and expense, maintain personal injury and property damage liability insurance as and to the extent required by Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time. Clarkson and its officers, trustees, employees and agents shall be named as additional insureds. The Organization's personal liability and property damage liability insurance shall be primary insurance over any other contributing coverage maintained by Clarkson.
- b. Subject to Section 10(c), costs not covered by insurance (including costs beyond policy limits, costs for which coverage is excluded by the applicable policy, and costs subject to deductibles, self-insured retentions or similar features) shall be

the responsibility of University for the structure of the Facility, and the responsibility of the Organization for personal property.

- c. Organization shall defend with competent counsel, indemnify and hold harmless Clarkson and Clarkson's trustees, officers, employees, agents and representatives from and against all claims, demands, actions, suits and proceedings (whether civil, criminal or administrative), and all liability, loss, expense (including reasonable attorneys' fees), costs or damages, which are proximately caused by (i) Organization's breach of its obligations under this MOU, (ii) failure by the Chapter and/or any of its members to abide by the terms of this MOU, or (iii) the intentional or negligent act or omission of Organization, the Chapter, or any of their respective officers, directors, members, employees, agents, representatives, contractors or invitees in connection with the use or occupancy of the Facility by Organization and/or the Chapter.
- d. Clarkson shall defend with competent counsel, indemnify and hold harmless Organization and Organization's directors, officers, employees, agents and representatives from and against all claims, demands, actions, suits and proceedings (whether civil, criminal or administrative), and all liability, loss, expense (including reasonable attorneys' fees), costs or damages, which are proximately caused by (i) Clarkson's breach of its obligations under this MOU, or (ii) the intentional or negligent act or omission of Clarkson or any of its trustees, officers, employees, agents, representatives or contractors in connection with the use or occupancy of the Facility by Organization and/or the Chapter.

11. Casualty.

- a. If the Facility is destroyed or substantially destroyed by fire or other casualty and Clarkson elects not to rebuild the Facility, then this MOU shall terminate and Clarkson shall use reasonable efforts to transition Facility residents to alternate living quarters, provided that the foregoing shall not obligate Clarkson to provide

or locate contiguous housing or a special interest house comparable to the Facility.

- b. In the event of damage or destruction by fire or other casualty that does not destroy or substantially destroy the Facility, or if the Facility is destroyed or substantially destroyed by fire or other casualty and Clarkson elects to rebuild the Facility, Clarkson shall repair and restore the Facility to at least the condition as existed before such casualty to the extent of any insurance proceeds (plus the amount of any deductible or self insurance), and this MOU shall continue in full force and effect.

12. Sole Agreement. This MOU represents the entire understanding of the parties with respect to its subject matter, and it supersedes all prior agreements, understandings or representations, whether oral or written, by either party with respect thereto. No amendment or modification of this MOU shall be valid or enforceable unless made in writing and signed by the parties.

13. Assignment; Binding Effect. This MOU may not be assigned by Organization without the prior written consent of Clarkson, and any purported assignment without such consent shall be void. Subject to the preceding sentence, this MOU shall be binding upon and shall benefit the parties and their respective successors and assigns. Organization shall ensure that the Chapter and its members comply with the requirements and prohibitions attributed to them under this MOU, and shall be responsible for any breach of such requirements and/or prohibitions by the Chapter and/or its members.

14. Notices. Any notice or other communication required or permitted under this MOU shall be in writing and shall be given by personal delivery, overnight delivery service, or by registered or certified mail, return receipt requested, to a party at the address first set forth above, or to such other address as a party may designate in accordance with this Section. Notices shall be effective (a) if personally or overnight service delivered, upon delivery, or (b) if mailed, five days after mailing.

15. **Applicable Law.** This MOU shall be governed by, and construed and enforced in accordance with, the laws of New York State, without regard to principles of conflicts of law.

16. **Relationship of Parties.**

a. This MOU is not a lease, does not create an interest in real property, and is not intended to create the relationship of landlord and tenant or any relationship other than that of independent contractors.

b. Organization shall be responsible for disclosing the terms of this MOU to the Chapter and its members, and shall obtain the consent of the Chapter and its members to the terms hereof. Without limiting the preceding sentence, Organization shall ensure that the Chapter and its members understand and agree that in addition to paying the premium on-campus housing rate, the Chapter and/or its members may be responsible for funding a shortfall between Revenues and Expected Revenues, and that the amount of this additional obligation may vary significantly from year to year.

17. **Severability.** If any provision of this MOU is held by a court of competent jurisdiction to be illegal or unenforceable, the remaining provisions of this MOU shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the MOU did not contain the particular provision held to be invalid, unless to do so would contravene the present valid and legal intent of the parties.

18. **Counterparts.** This MOU may be executed separately by the parties in counterparts, each of which shall be deemed an original, but all of which together shall collectively constitute but one and the same agreement.

19. **Term; Termination.**

a. The term of this MOU shall commence _____ and shall continue in force and effect until June 30, 2032 unless sooner terminated as provided herein. The term shall be extended effective July 1, 2032 and July 1 of each year thereafter for successive additional one-year renewal terms (subject to

termination as provided herein) unless either party notifies the other party in writing, at least 180 days prior to the applicable renewal date, of its election not to renew. Upon expiration of this MOU, housing for the Chapter and its members shall thereafter be determined pursuant to the terms of Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time.

- b. This MOU shall terminate automatically in the event that a Facility is not constructed on or before _____, 20____.
- c. Either party may terminate this MOU upon 30 days' prior written notice of a material breach by the other party, unless the breaching party cures the breach to the reasonable satisfaction of the non-breaching party within such 30 day period. In the event of a termination pursuant to this Section 19(c), housing for the Chapter and its members shall thereafter be determined pursuant to the terms of Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time.
- d. This MOU shall terminate automatically if the Chapter's recognition by Clarkson is revoked or suspended, and housing for Chapter members shall thereafter be determined pursuant to the terms of Clarkson's generally-applicable policies, procedures, rules and regulations in effect from time to time.
- e. In the event that this MOU is terminated pursuant to Section 19(d) based on the Chapter's loss of recognition, the Chapter shall have the right to re-occupy the Facility if it obtains re-recognition within seven years from the effective date of the termination, such occupancy to be effective as of the first day of the first full academic year for which recognition is restored. In the event the Chapter is to reoccupy the Facility pursuant to the preceding sentence, Organization shall notify Clarkson of its intent to cause such occupancy by December 31 of the preceding academic year.

- f. In the event that this MOU is terminated pursuant to Section 19(c) based on Organization's breach or pursuant to Section 19(d), Organization shall remain responsible for payment of, and shall pay to Clarkson upon demand, the difference between Revenues and Expected Revenues for the remainder of the otherwise applicable term; provided, however, that this obligation shall be suspended during any time that Clarkson permits another recognized organization to occupy the Facility and such organization agrees in writing to assume Organization's obligations under this MOU. Clarkson shall use its reasonable good faith efforts, to the extent consistent with its then current educational mission, programming, operational requirements, policies, procedures, rules and regulations, to arrange for such occupancy by another recognized organization.

The Parties have caused this MOU to be signed as of the date first set forth above by their duly authorized representatives.

CLARKSON UNIVERSITY

[NAME OF ORGANIZATION]

By: _____
[Name]
[Title]

By: _____
[Name]
[Title]