



Site License MOU

Not-for-Profit:	Habitat for Humanity Riverside
Property Owner:	City of Riverside
Over the Edge Event Site:	Riverside City Hall 3900 Main Street Riverside CA 92522
Organizer	Over the Edge USA Inc. 6555 Sugarloaf Parkway, Suite 307-180 Duluth, GA 30097
Event Dates:	June 1/2, 2018

WHEREAS, the Not-for-Profit desires to use the Over the Edge Event Site, owned by the Property Owner, for an Over the Edge Event (as hereinafter defined) in connection with, and for the benefit of, a Not-for-Profit fundraising which includes the Over the Edge Event (as defined below) (the “NFP Event”).

WHEREAS, the Property Owner has agreed to allow the Not-for-Profit to organize, host a NFP Event and for the Organizer to manage an Over the Edge Event at the Over the Edge Event Site listed above which, in each case, shall take place on the Event Dates between the hours specified above and pursuant to the following terms and conditions.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged by each party to this Agreement (collectively, the “Parties”)



Terms and Conditions

PART I - PROVISIONS APPLYING EXCLUSIVELY TO PROPERTY OWNER AND ORGANIZER

The provisions of this Part I concern the relations between the Property Owner and the Organizer as to the Over the Edge Event. Only the Property Owner and the Organizers are parties to this Part I. The Not-for Profit is not a party to this Part I and may not rely on any of its provisions.

1. For the purposes of this MOU, Over the Edge Event means the rappelling of individuals down a vertical surface and the direct rappelling related activities, as more fully described in the Site Inspection & Safety Plan ("SISP") developed by the Organizer for the Over the Edge Event, which is incorporated herein by reference, including but not limited to: training, harnessing, roof top and base exclusion zones and staging areas that are supervised by the Organizer.
2. The Organizer represents and warrants that all of its obligations hereunder with respect to the Over the Edge Event shall be carried out in a professional manner, consistent with all safety and other standards set forth in the SISP. The Organizer shall comply with all laws, rules, ordinances and regulations of all federal, state or local political bodies having jurisdiction over the Over the Edge Event; and the Organizer shall obtain all necessary federal and state qualifications, permits and licenses for the Organizer to execute its duties under Schedule A.
3. Subject to the conditions stated in Section 4 below, the Organizer shall indemnify, defend and hold the Property Owner Entities, all of the Property Owner Entities' employees, affiliates, officers, directors, mortgagees, agents and representatives (collectively, the "Property Owner Parties") completely harmless against all losses, claims, damages, costs and expenses (including reasonable attorney's fees) related to bodily injury (including death), personal injury, and property damage arising out of the Over the Edge Event including, without limitation, any participant's participation in the Over the Edge Event (collectively, "Claims") on account of (a) any negligence of the Organizer or the Not-for-Profit or any of their agents, employees, mortgagees, subcontractors, volunteers and others for whom either is responsible; or (b) the gross negligence or wilful misconduct of Organizer; provided, however the foregoing indemnification obligation does not apply to any Claims arising from the gross negligence or wilful misconduct of any of the Property Owner Parties. For purposes of this MOU, the "Property Owner Entities" are the Property Owner and The City of Riverside, Its Officers, employees and agents.



4. For purposes of this MOU, each of the Property Owner Parties is an "Indemnified Party". The Organizer shall be obligated to indemnify an Indemnified Party under Section 3 as to a Claim only if such Indemnified Party timely and materially complies with the reasonable requests of the Organizer and/or the Organizer's insurers for purposes of documenting, processing and evaluating any such Claim for insurance coverage purposes. For avoidance of doubt, a request of the Organizer shall be reasonable if such request relates to any item or action required by any of the Organizer's insurers as a condition of providing insurance coverage for such Claim. If the Indemnified Party so complies, and if a Claim is brought against an Indemnified Party for which indemnity is provided to such Indemnified Party under Section 3 above, Organizer, upon notice from such party, shall resist and defend such action or proceeding, at Organizer's sole cost and expense. The obligations and conditions under Sections 3 and 4 shall survive the expiration or termination of this MOU. Organizers shall provide a defense immediately upon notice from Property Owner and with well qualified, adequate insured, and experience legal counsel acceptable to Property Owner.
5. The Organizer shall obtain and keep in force through the Event Date and during the term of this Agreement: (i) policies of commercial general liability insurance with reputable carriers with a minimum rating of A- (AM Best) and authorized to do business in the state in which the Over the Edge Event Site is located, with a minimum coverage of \$10,000,000.00, including coverage for bodily injury, death and property damage liability against claims arising out of the Over the Edge Event; and (ii) workers' compensation and employer's liability insurance to meet Local and State requirements. The Property Owner and the Not-for-Profit shall be named as additional insureds. The Organizer shall provide the Property Owner with a certificate evidencing such insurance 14 days prior to the Event Date. The Organizer's insurance is primary and non-contributory
6. To the extent the building (including the roof thereof) or common areas of the Over the Edge Event Site sustain damage as a result of the Over the Edge Event, the Organizer shall be responsible for reimbursing Property Owner upon demand for the reasonable costs incurred by Property Owner in repairing any such damage or restoring or replacing the damaged portion of the building to the reasonable satisfaction of the Property Owner. The obligations of the Organizer under this provision shall survive the expiration or termination of this MOU.
7. Organizer has inspected the Over the Edge Event Site, including its roof and all other areas within which the Organizer shall execute its duties as listed in Schedule A hereof and found each to be suitable for the Over the Edge Event. Organizer accepts the roof of the building at the Over the Edge Event Site (including without limitation any roof anchors or other similar equipment existing on the roof) and each of such other areas in its as-is, where-is, with all faults condition, and



acknowledges that Property Owner makes no representation or warranty of any kind with respect to the condition thereof. To the maximum extent permitted by applicable law, the Property Owner hereby disclaims, and the Organizer waives the benefit of, any and all implied warranties, including implied warranties of fitness or suitability for a particular purpose.

8. Organizer specifically acknowledges that: (i) it is the Organizer's obligation, at its sole expense and risk, to provide the proper equipment to conduct the Over the Edge Event according to the SISP for purposes of ensuring the safety of the volunteers, instructors, and participants (for example, and not by limitation, Organizer is responsible for providing, installing and ensuring the proper use of a rappelling system); (ii) Organizer is not relying on the building at the Over the Edge Event Site containing any roof anchors or other similar equipment; and (iii) if any roof anchors or other similar equipment exist on the roof of the building at the Over the Edge Event Site, the use of such roof anchors or equipment by Organizer is at its sole risk without any representation or warranty by Property Owner as to the condition, capacity or soundness thereof.
9. Organizer must obtain the prior written consent of Property Owner for all equipment and systems to be used on the roof in connection with the Over the Edge Event and the manner in which such equipment and systems will be installed and used on the roof; however, Property Owner's approval of any such equipment or systems or the manner in which they will be installed and used shall in no way be deemed a representation or warranty by Property Owner that: (i) such equipment or systems are compliant with applicable laws or codes; (ii) are satisfactory for providing for the safety of Organizer or any volunteer, instructor or participant; and/or (iii) are satisfactory for providing for the protection of the building's roofing system. Organizer, at its sole expense and risk, shall be responsible for installing and operating all such equipment and systems in compliance with all applicable laws and codes and all safety and other standards set forth in the SISP.

The Organizer shall not penetrate the roofing system of the building at the Over the Edge Event Site without the prior written consent of Property Owner (which consent may be withheld in Property Owner's sole discretion). Organizer agrees, if required by Property Owner, to use Property Owner's roofing contractor and pay such contractor's reasonable charges to make any penetrations to the building's roofing system.

10. The right of Organizer to use the Over the Edge Event Site in accordance with this MOU shall constitute a revocable license only and shall not grant Organizer any property or ownership rights in the Over the Edge Event Site or create a partnership or joint venture between Organizer and Property Owner.



PART II – PROVISIONS APPLYING TO ALL PARTIES

The provisions of this Part II apply to the Property Owner, the Organizer, and the Not-for Profit.

1. The term of this Site License MOU (this “MOU”) will begin on the date it is signed by the Parties and will end thirty (30) days post-event day (“Term”), unless excepted, extended, or otherwise agreed upon by the written agreement of the Parties. This MOU may be terminated immediately by either Party upon notice to the other Party if that other Party: (i) becomes insolvent; (ii) files a petition in bankruptcy; or (iii) makes an assignment for the benefit of its creditors.
2. Schedule A hereof contains a schedule of tasks and responsibilities related to the Over the Edge Event. Each Party will have the obligations for which such Party is designated in Schedule A hereof. For avoidance of doubt, the duties of each Party under this MOU are not conditioned upon performance by the Not-for-Profit of its designated duties under Schedule A hereof.
3. None of the parties shall be deemed to be in default of any provision of this MOU for failures in performance resulting from acts or events beyond its reasonable control (a “Force Majeure Event”) for the duration of the Force Majeure Event. Such Force Majeure Events shall include but not be limited to, acts of God, civil or military authority, terrorists, civil disturbance, war, strikes, fires, other catastrophes, labor disputes, parts shortages, or other events beyond a party’s reasonable control.
4. **Anti-Terrorism Statement.** Property Owner hereby certifies that it does not advocate, support, assist or engage in, and has not advocated, supported, assisted or engaged in, any illegal or terrorist activity. Property Owner further certifies that it does not employ, support, assist or otherwise associate with any entities, organizations or individuals that Property Owner knows, or has reason to know, support terrorism, or that appear on any official terrorist lists published by the U.S. Government, the United Nations, the European Union, or the Property Owner’s government. Not-for-Profit represents that it shall supply a list of the rappelling participants to the respective State Office of Emergency Management and Homeland Security, and to any other city organizations that request the list, so that they may determine, to the extent such entities deem it necessary, whether any participants pose a threat or appear on any official terrorist lists published by the U.S. Government, the United Nations, the European Union, or the Property Owner’s government.
5. If any of the provisions of this MOU, or the application thereof to any person or circumstances, shall to any extent, be invalid or unenforceable, the remainder of this MOU, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it



is held invalid or unenforceable, shall not be affected thereby and every provision of this MOU shall be valid and enforceable to the fullest extent permitted by law.

6. This MOU is made under, and shall be governed, construed, and interpreted by, and in accordance with, the laws of the State of which the Over the Edge Event Site exists, without regard to its choice of law or conflict of law provisions. Any action at law or equity brought by any of the parties for the purpose of enforcing this MOU shall be tried in the Superior Court of California, County of Riverside.
7. Property Owner, Organizer, and Not-for-Profit hereby warrant and represent to each other that each has the power and authority to enter into this MOU and the person executing this MOU on behalf of Property Owner, Organizer or Not-for-Profit, respectively, personally warrant and represent that he or she has the requisite authority to execute this MOU on behalf of Property Owner, Organizer, or Not-for-Profit.
8. This MOU may be executed in multiple counterparts, each of which, when assembled to include an original signature for each party contemplated to sign this MOU, will constitute a complete and fully executed original. All such fully executed counterparts will collectively constitute a single agreement.
9. Property Owner, Organizer, and Not-for-Profit expressly agree that if the signature of Property Owner and/or Organizer and/or Not-for-Profit on this MOU is not an original, but is a digital, mechanical or electronic reproduction (such as, but not limited to, a photocopy, fax, e-mail, PDF, Adobe image, JPEG, telegram, telex or telecopy), then such digital, mechanical or electronic reproduction shall be as enforceable, valid and binding as, and the legal equivalent to, an authentic and traditional ink-on-paper original wet signature penned manually by its signatory.
10. Subject only to Section 11 of this Part II, this MOU contains the entire understanding of the parties hereto with respect to the subject matter hereof.
11. This MOU may contain provisions that conflict with terms of Event Contract between the Organizer and the Not-for Profit (the "Event Contract"). Solely for purposes of determining the agreement of the Organizer and the Not-for-Profit as to the subject matter hereof, any such conflict shall be resolved in favor of the terms under the Event Contract.

[Signatures on following page]



Property Owner: Riverside City Hall By: _____ Name: Marianna Marysheva Title: Assistant City Manager on behalf of City Manager Date: _____	Property Owner: Riverside City Hall By: _____ Name: _____ Title: _____ Date: _____
SOLELY FOR PURPOSES OF PART II: Habitat for Humanity Riverside By:  Name: Kathryn McMillan Title: Executive Director Date: 2/20/18	SOLELY FOR PURPOSES OF PART II: Habitat for Humanity Riverside By:  Name: David A. De Arce Title: Board Vice President Date: 2/20/18
Over the Edge USA, Inc. By:  Name: Melissa Lifsches Title: Controller Date: Feb 9, 2018	Over the Edge USA, Inc. By:  Name: Mike Magee Title: President Date: Feb 9, 2018

CERTIFIED AS TO FUNDS AVAILABILITY:

BY: 
Chief Financial Officer/ City Treasurer

APPROVED AS TO FORM:

BY: 
ASSISTANT CITY ATTORNEY

Schedule A

PROPERTY OWNER DUTIES

- Adhere to the recommendations in the Site Inspection & Safety Plan
- Attend 45 & 7 Day Meetings at building's discretion (15 min duration, conference call)
- Coordinate with Not-for-Profit and OTE technical staff on davit arm set-up if necessary
- Provide a registration area & staging area where participants can don their gear
- Attend On-Site Safety Meeting upon arrival of OTE (1 hour duration – OTE provides agenda):
Not-for-Profit Rep, Property Owner/Rep, Chief Engineer, Security
- Provide advance confirmation of Event Schedule as found in Onsite Meeting Agenda
- Provide emergency phone numbers and contacts
- Provide available staff person with keys/access to all storage, staging, roof, training, passages/elevators between locations assigned to OTE staff, both the day prior to and the day of the event
- Provide cart or dolly for OTE technical staff to haul equipment to roof (crates stay in one place)
- Notify Over the Edge of any roof work done between first point of contact and Event Day

NOT-FOR-PROFIT DUTIES

- Obtain permits for any municipal ordinances
- Work with Property Owner to provide rooftop security person
- Accept shipment and provide secure storage of gear: two 4*4 pallets (unless 3 or 4 rope event), approximately 750 – 1000 lbs up to approximately 7-10 days prior to the event
- Send information to all Event Volunteers 30 days prior to Event Day outlining parking, lunch, directions, etc.; must include Event Map
- Provide signage for outlining travel routes within the Event Map
- Provide street/sidewalk/patio barriers if any closures are necessary
- Provide name and address of nearest hospital



- Attend On-Site Meeting upon arrival of OTE staff (1 hour duration – OTE provides agenda): Not-for-Profit Rep, Property Owner/Rep, Chief Engineer, Security
- Upon OTE's arrival, please supply:
 - Complete Media/VIP Schedule (5 copies)
 - Event Day Schedule (5 copies)
 - Event Volunteer Schedule (2 copies)
- For staging area, please have available in the room **by 7:30 am Media/VIP Day:**
 - 5 six foot tables, 2 chairs (set up in staging room)
 - Access to internet or confirmed wireless signal to monitor weather
 - Minimum of 3 electrical outlets in the staging room/area
- Staging area: displays, music, video, décor, food (whatever you want to do to make it a welcoming area where participants will be)
- Provide lunch for OTE technical staff and ropes volunteers on both days of event
- Provide any additional items that need to be in place at building, per Site Inspection & Safety Plan or at the request of the building, prior to OTE arrival on site (i.e. plywood walkway on roof, step at railing, scaffolding, etc.)
- Distribute "Volunteer Duties" handout to volunteers and take escorts on a site-walk before event starts
- Provide name tags for ALL participants/staff/volunteers on event site (Avery brand stick on) – to be put on participants, NOT on helmets
- Have copies of Participant Waiver at registration for all media, participants and volunteers to sign; originals collected by OTE Staging Manager; copies required by Building or Non-Profit responsibility of Not-for-Profit staff before techs leave event site
- Name as additional insured on your event insurance certificate:
 - Over the Edge USA Inc., 6555 Sugarloaf Parkway, Suite 307-180, Duluth, GA 30097
- **Provide water on site in staging area, training area, exclusion zones and on roof – please have available on both days for the whole day**
- Provide 4 sawhorses/police barriers for exclusion zones at bottom of rappels



- Provide 3 garbage cans – staging, training, roof
- Provide lunch for all event/ropes volunteers and OTE staff on Event Day
- Have someone present for crate pick-up after event (weekday)

OVER THE EDGE DUTIES

- Responsible for all rappelling related activities associated or with this event, including but not limited to the roof top area, training area, and staging area
- Ensure all participants, media and volunteers sign a Participant Waiver. OTE will keep the originals in their possession. Copies will be sent to Not-for-Profit if requested.
- Provide the Site Inspection & Safety Plan
- Perform the rigging of the ropes and the technical equipment for the event
- Clearly identify and pad hazards
- Inspect the building façade prior to and post event
- Provide barrier tape
- Provide personal protection equipment for media and VIP spectators
- Work with Not-for-Profit to determine the best location for registration/staging
- Name Not-for-Profit and Building entities as additional insured on insurance certificate for the event
- Provide the Agenda for the On-Site Meeting
- Abide by Organizer's a zero footprint policy as it relates to the site. There should be no trace of the event or activities leading up to event on the property within 24 hours after the event has ended. Organizer will clean up all applicable equipment and items related to its specific duties after the Over the Edge Event in order to leave the Event Site in such condition.